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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 56 and 70

[Docket No. PY–98–002]

Egg, Poultry, and Rabbit Grading Increase in Fees and Charges

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is increasing the fees and charges for Federal voluntary egg, poultry, and rabbit grading. These fees and charges are increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Douglas C. Bailey, Chief, Standardization Branch, (202) 720–3506.

SUPPLEMENTARY INFORMATION: The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866. This rule has been determined to be not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget (OMB).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the AMS has considered the economic impact of this action on small entities.

There are about 400 users of Poultry Programs' grading services. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601). This rule raises the fees charged to all businesses for voluntary grading services for eggs, poultry, and rabbits. The AMS estimates that overall this rule will yield an additional $1.5 million during FY 1999. The hourly resident rate for grading services will increase by approximately 4.1 percent while the hourly nonresident rate for grading service will increase by approximately 15 percent. The costs to entities will be proportional to their use of service, so that costs are shared equitably by all users. Furthermore, entities are under no obligation to use grading services as authorized under the Agricultural Marketing Act of 1946.

The AMS regularly reviews its user fee financed programs to determine if the fees are adequate. The existing fee schedule will not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance (four months of costs) as called for by Agency policy (AMS Directive 408.1). The Agency has engaged in streamlining efforts to reduce costs including staff and space reductions or closing of field offices. However, overall, costs are increasing despite these efforts.

Without a fee increase, revenue projections for FY 1999 would be $19.8 million, with costs projected at $22.3 million. The shortfall, if allowed to continue, would translate into an approximate 3.8 month operating reserve at the end of FY 1999 or $7.1 million, which is less than Agency policy requires. With the fee increase, FY 1999 revenue is projected to be $21.3 million and costs are projected at $22.3 million. Trust fund balances would be $8.5 million or 4.3 months.

The AMS has certified that this action will not have a significant impact on a substantial number of small entities, as defined in the RFA (5 U.S.C. 601).

The information collection requirements that appear in the sections to be amended by this rule have been previously approved by OMB and assigned OMB Control Numbers under the Paperwork Reduction Act (44 U.S.C. Chapter 35) as follows: § 56.52(a)(4)—No. 0581–0128; and § 70.77(a)(4)—No. 0581–0127.

Background

The Agricultural Marketing Act (AMA) of 1946 authorizes official grading and certification on a user-fee basis of eggs, poultry, and rabbits. The AMA provides that reasonable fees be collected from users of the program services to cover, as nearly as practicable, the costs of services rendered. AMS regularly reviews these programs to determine if fees are adequate and if costs are reasonable. This rule will amend the schedule for fees and charges for grading services rendered to the egg, poultry, and rabbit industries to reflect the costs currently associated with the program.

Several streamlining actions to be completed in FY 1998 will result in cost savings. They include staff and space reductions or closing of field offices. However, overall, costs are increasing despite these efforts.

Employee salaries and benefits account for approximately 82 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 2.57 to 6.52 percent, depending on locality, became effective in January 1998 and has materially affected program costs. Another general and locality salary increase estimated at 3.0 percent is expected in January 1999. Also, from October 1997 through September 1999, salaries and fringe benefits of federally licensed State employees will have increased by about 6 percent. As a result, the hourly resident rate for grading services will increase by approximately 4.1 percent. The hourly resident rate covers graders' salaries, fringe benefits, and related costs.

Another factor affecting the current fee structure is the increased demand for grading services on a fee basis. Resident grading service is provided by a grader with a regular tour of duty in a plant, while fee grading service is provided by a grader on an intermittent, as-needed basis. Historically, the majority of shell egg and poultry grading has been done on a resident basis according to the official U.S. quality grade standards. In recent years, however, there has been an increase in the volume of shell eggs and poultry being traded according to product-specific purchase requirements where USDA certification is required, and this

work is done predominantly on a fee basis. Fee services for many plants require more supervisory time and travel to staff, train, and supervise graders. As a result, a greater proportion of overhead costs for supervision and support staff must be charged to fee services. Rates to cover these costs were only minimally raised in years prior to the last fee increase effective May 1, 1997. Current analysis shows that these rates need to be increased an additional 15 percent to totally support their fair share of the program's overhead costs.

Additionally, rates for appeal grading and review of a grader's decision are only occasionally used, currently accounting for less than $5,000 revenue annually. A separate rate for this service would be discontinued and these services would be charged using fee service rates for the time required to perform such service. This amendment would simplify the rate structure and any change in revenue would be negligible.

A recent review of the current fee schedule, effective May 1, 1997, revealed that anticipated revenue will not adequately cover increasing program costs. Without a fee increase, projected FY 1999 revenues for grading services are $19.8 million, with costs projected at $22.3 million, and trust fund balances would be $7.1 million, below appropriate levels. With a fee increase, projected FY 1999 revenues would be $21.3 million and costs are projected at $22.3 million. Trust fund balances would be $8.5 million or 4.3 months of operating costs.

The following table compares current fees and charges with proposed fees and charges for egg, poultry, and rabbit grading as found in 7 CFR Parts 56 and 70:

Service	Current	Proposed
Resident Service:		
Inauguration of service	310	310
Hourly charges		
Regular hours	26.56	27.64
Administrative charges—Poultry grading		
Per pound of poultry	.00033	.00034
Minimum per month	225	225
Maximum per month	2,250	2,500
Administrative charges—Shell egg grading		
Per 30-dozen case of shell eggs	.038	.040
Minimum per month	225	225
Maximum per month	2,250	2,500
Administrative charges—Rabbit grading		
Based on 25% of grader's salary, Minimum per month	225	250
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Hourly charges		
Regular hours	26.56	27.64
Administrative charges		
Based on 25% of grader's salary, Minimum per month	225	250
Fee and Appeal Service:		
Hourly charges		
Regular hours	38.96	44.80
Weekend and holiday hours	43.24	51.60

[1] For poultry and shell egg grading.

Comments

Based on an analysis of costs to provide these services, a proposed rule to increase the fees for these services was published in the **Federal Register** (63 FR 31362) on June 9, 1998. Comments on the proposed rule were solicited from interested parties until August 10, 1998.

During the 60-day comment period, the Agency received two comments, one from a State commissioner of agriculture and one from a poultry processor. Both were in opposition to the proposal, expressing a general concern about the cost of the grading program in light of financial difficulties faced by the industry.

The State commissioner of agriculture went on to suggest that the Agency give each State more supervisory grading authority and decrease the number of federal supervisors. The commissioner also suggested that the Agency promote greater consumer demand for graded product as an incentive for industry's continued use of grading services.

A cornerstone of the grading program is the uniform interpretation and application of the official USDA grade standards and grades nationwide. This uniformity enables buyers and sellers to trade graded products sight-unseen in domestic and international marketing channels with confidence. The current supervisory network starts at headquarters and reaches through regional and Federal-State offices to the individual graders. State supervisors are used in conjunction with, but not in lieu of Federal supervisors. The Federal supervisory chain ensures that the training of both Federal and State graders and their application of grade standards and grades is impartial and consistent nationwide. Delegating Federal supervisory functions to State employees would weaken existing supervisory accountability and program uniformity, which over time would likely erode user confidence in the programs.

The issue of explaining the value of grading to consumers has been raised over the years by the Agency and by members of the food industry. In 1996, the Agency conducted focus groups to better understand the issue. Using the focus group findings, the Agency developed new educational materials and strategies targeted at consumers and volume buyers. Although these efforts are expected to provide long-term benefits to users of the grading programs, they do not provide an alternative to a fee increase.

Although the Agency seeks to minimize or negate any fee increases for the poultry, rabbit, and egg grading programs, it must also operate these programs on a sound financial basis. Accordingly, the Agency is implementing the proposed increases to ensure the financial stability of these grading programs.

During the review of the comments and proposal, one error was discovered. In the proposed rule, § 70.72 refers to a fee for laboratory analysis that is no longer performed by this program. References to this service were deleted from § 70.72 in April 1997, but were inadvertently reinserted into the proposed rule. Therefore, the text of the final rule has been corrected by removing the phrase ''laboratory analysis,'' each time it appears in the heading and regulatory text of § 70.72 of the proposed rule.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of the action until 30 days after publication in the **Federal Register**, because the proposed fees need to be implemented on an expedited basis in order to avoid financial losses in the grading program this fiscal year. Also, the effective date of the fee increase will be set to coincide with the next billing cycle.

List of Subjects

7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, Title 7, Code of Federal Regulations, parts 56 and 70 are amended as follows:

PART 56—GRADING OF SHELL EGGS

1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 56.46 is revised to read as follows:

§ 56.46 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $44.80 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $51.60 per hour. Information on legal holidays is available from the Supervisor.

3. Section 56.47 is revised to read as follows:

§ 56.47 Fees for appeal grading or review of a grader's decision.

The cost of an appeal grading or review of a grader's decision shall be borne by the appellant on a fee basis at rates set forth in § 56.46, plus any travel and additional expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

4. In § 56.52, paragraph (a)(4) is revised to read as follows:

§ 56.52 Continuous grading performed on resident basis.

* * * * *

(a) * * *

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $0.040, except that the minimum charge per billing period shall be $225 and the maximum charge shall be $2,500. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

5. In § 56.54, paragraph (a)(2) is revised to read as follows:

§ 56.54 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $250 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

6. The authority citation for part 70 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

7. Section 70.71 is revised to read as follows:

§ 70.71 On a fee basis.

(a) Unless otherwise provided in this part, the fees to be charged and collected for any service performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in this section.

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $44.80 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $51.60 per hour. Information on legal holidays is available from the Supervisor.

8. Section 70.72 is revised to read as follows:

§ 70.72 Fees for appeal grading, or examination or review of a grader's decision.

The costs of an appeal grading, or examination or review of a grader's decision, will be borne by the appellant on a fee basis at rates set forth in § 70.71, plus any travel and additional expenses. If the appeal grading, or examination or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

9. In § 70.76, paragraph (a)(2) is revised to read as follows:

§ 70.76 Charges for continuous poultry grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $250 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

10. In § 70.77, paragraphs (a)(4) and (a)(5) are revised to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $0.00034, except that the minimum charge per billing period shall be $225 and the maximum charge shall be $2,500. The minimum charge also applies where an approved application is in effect and no product is handled.

(5) For rabbit grading: An administrative service charge equal to

25 percent of the grader's total salary costs. A minimum charge of $250 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

Dated: September 25, 1998.

Thomas O'Brien,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 98–26222 Filed 9–29–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AA85

Peanut Crop Insurance Regulations; and Common Crop Insurance Regulations, Peanut Crop Insurance Provisions; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: The document contains a correction to the final regulation which was published Tuesday, June 9, 1998 (63 FR 31331–31337). The regulation pertains to the insurance of peanuts.

EFFECTIVE DATE: September 30, 1998.

FOR FURTHER INFORMATION CONTACT: Gary Johnson, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Background

The final regulation that is the subject of this correction was intended to provide policy changes to better meet the needs of the insured and include the peanut crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms.

Need For Correction

As published, the final regulation contained errors which may prove to be misleading and need to be clarified. Segregation I peanuts should not have been included in the definition of ''average price per pound'' in section 1 of the peanut crop insurance provisions. Removal of Segregation I peanuts from this definition will keep quality adjustment for peanuts under section 14(f) consistent with previous crop years. In section 5 of the crop provisions, the spelling of ''Mullen'' County is being corrected to ''McMullen''.

Correction of Publication

Accordingly, the publication on June 9, 1998, of the final regulation at 63 FR 31331–31337 is corrected as follows:

PART 457—[CORRECTED]

§ 457.134 [Corrected]

On page 31335, in the third column, in § 457.134, section 1, definition of ''average price per pound'', paragraph (2) is corrected to read: ''(2) The highest non-quota price election contained in the Special Provisions for all Segregation II and III peanuts not eligible to be valued as quota peanuts.''

On page 31336, in the last column, in § 457.134, section 5, the county name of ''Mullen'' in the table is corrected to read: ''McMullen.''

Signed in Washington, D.C., on September 24, 1998.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 98–26095 Filed 9–29–98; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 240

[EOIR No. 124I; AG Order No. 2182–98]

RIN 1125–AA25

Suspension of Deportation and Cancellation of Removal

AGENCY: Executive Office for Immigration Review, and Immigration and Naturalization Service, Department of Justice.

ACTION: Interim rule.

SUMMARY: This rule amends the regulations of the Executive Office for Immigration Review (EOIR) and the Immigration and Naturalization Service (Service) by eliminating the conditional grant process at 8 CFR 240.21, and establishing a permanent procedure for processing suspension of deportation and cancellation of removal cases. This rule is necessary to implement the numerical limitation on suspension of deportation and cancellation of removal and adjustment of status imposed by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA).

DATES: *Effective Date:* This interim rule is effective September 30, 1998.

Comment Date: Written comments must be submitted on or before November 30, 1998.

ADDRESSES: Please submit written comments, in triplicate, to Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: For matters relating to the Executive Office for Immigration Review—Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 305–0470. For matters relating to the Immigration and Naturalization Service—Marguerite N. Przybylski, Associate General Counsel, Immigration and Naturalization Service, 425 I Street, NW, Washington, D.C. 20536, telephone (202) 514–2895.

SUPPLEMENTARY INFORMATION: This interim rule amends 8 CFR part 240 by eliminating the interim rule in section 240.21 and creating a new section 240.21.

Background

On September 30, 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208 (IIRIRA). Under section 304(a)(3) of IIRIRA, the Attorney General may not cancel the removal and adjust the status under section 240A(b) of the Immigration and Nationality Act (INA), nor suspend the deportation and adjust the status under section 244(a) of the INA (as in effect before April 1, 1997) of a total of more than 4,000 aliens in any fiscal year. Section 309(c)(7) of IIRIRA provides that this numerical limitation applies regardless of when an alien has applied for the relief, even if before the date of IIRIRA's enactment on September 30, 1996.

By mid-February 1997, EOIR had determined it had essentially reached the fiscal year 1997 numerical limitation on suspension of deportation grants. On February 13, 1997, the Board of Immigration Appeals (Board) issued a directive to defer the adjudication of grants of suspension of deportation until further notice. The Immigration Courts received a directive to reserve decision in suspension of deportation cases that they intended to grant. The instructions were intended to be a temporary measure to give the Department time to consider how best to implement the statutory cap.

On October 3, 1997, the Department issued an interim rule that was published in the **Federal Register** at 62 FR 51760–51762. This rule added 8 CFR 240.21 to the regulations. The rule required immigration judges and the Board to grant only on a conditional basis those applications for suspension of deportation or cancellation of removal that meet the statutory requirements and warrant a favorable exercise of discretion. *See* 8 CFR 240.21(a) (in effect prior to publication of this rule). On October 15, 1997, EOIR instructed immigration judges to begin issuing conditional grants of suspension of deportation or cancellation of removal on decisions reserved in accordance with the February 13, 1997 directive from the Chief Immigration Judge.

On November 19, 1997, the President signed into law the Nicaraguan Adjustment and Central American Relief Act (NACARA), which modified the statutory provisions on the suspension of deportation and cancellation of removal cap. Section 204 of NACARA amended section 240A(e) of the INA. It reaffirmed the existence of the 4,000 annual cap, but made exemptions for certain aliens—those certain nationals of Guatemala, El Salvador, and former Soviet bloc countries as described in section 203(a)(1) of NACARA, and those in deportation proceedings prior to April 1, 1997, who apply for suspension of deportation pursuant to section 244(a)(3) of the INA (as in effect prior to April 1, 1997). It also created a one-time provision for fiscal year 1998 which added to the statutory amount of 4,000 another 4,000 grants, less the number of suspensions and cancellations that were granted in fiscal year 1997 after April 1, 1997. No cancellation of removal or suspension of deportation applications were granted in fiscal year 1997 after April 1, 1997. Therefore, all 4,000 grants can be added to the 4,000 allotment, for a total of 8,000 grants for fiscal year 1998.

The Department has determined that the implementation of the numerical cap on grants of suspension of deportation and cancellation of removal requires resolution of three issues. The first issue concerns how best to convert 8,000 conditional grants to grants before the end of fiscal year 1998, in a way that does not contravene section 240A(e) of the INA. The second issue is how to ensure that all those who received a conditional grant of suspension of deportation or cancellation of removal which could not be granted in fiscal year 1998, have an opportunity to receive a grant of relief. The third issue is how to establish a procedure for future implementation of the cap.

Conversion of 8,000 Conditional Grants for Fiscal Year 1998

Because of the statutory language, it is necessary to devise a procedure that will convert up to 8,000 conditional grants to grants before the end of fiscal year 1998. The statute states that ''[t]he Attorney General may not cancel the removal and adjust the status under this section, nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of [IIRIRA]), of a total of more than 4,000 aliens in any fiscal year.'' INA § 240A(e). The phrase ''in any fiscal year'' has been interpreted to mean that those eligible aliens must be granted relief of suspension of deportation or cancellation of removal during the fiscal year in which they are given a grant under the cap. To implement the 8,000 cap for fiscal year 1998, the Department has determined that the first 8,000 conditional grants (not including Nicaraguan and Cuban nationals with conditional grants) that were made since October 1997 shall be converted to grants of suspension of deportation or cancellation of removal in order of the date the conditional grant was issued by the Immigration Court or the Board, unless the immigration judge's decision is on appeal at the Board, or either party has reserved appeal of an immigration judge's decision and the time for appeal has not run out. Before the end of fiscal year 1998, EOIR will remove the condition and grant suspension of deportation or cancellation of removal and adjustment of status. Conversion from a conditional grant to a grant is not an appealable action. Pursuant to the interim regulation providing for conditional grants at 62 FR 51760 (Oct. 3, 1997), the right of appeal attaches at the time of entry of the conditional grant.

Because this conversion will take place in a short period of time and will not involve review of the merits of the cases, this rule permits the Service to file a motion to reopen within 90 days after an alien is issued a grant of suspension of deportation or cancellation of removal. This rule provides that such motions to reopen are only permitted if, while the applicant was a conditional grantee, he or she committed an act that would have rendered him or her statutorily ineligible for such relief. Motions to reopen based upon evidence that might affect a discretionary finding are not authorized by this rule.

Ability To Travel for Aliens With Conditional Grants

The Service has received several inquiries concerning the effect of travel on an alien's conditional grant. This interim rule, promulgated by the Attorney General, provides a definitive answer to this recurring question. As a result of delays associated with implementation of the statutory cap provision, a significant period of time may have elapsed before an alien's conditional grant is converted to a grant of suspension of deportation or cancellation of removal. Some aliens with conditional grants will have had or will have legitimate needs to travel. Because such aliens are determined at the time of the conditional grant to be statutorily eligible to receive suspension of deportation or cancellation of removal and to warrant a grant on the basis of discretion, it is likely that they will be able to remain permanently in the United States as lawful permanent residents once their conditional grants are converted to grants. Therefore, the Attorney General finds it reasonable to permit conditional grantees to return to the United States after a temporary absence abroad without losing their conditional grant by virtue of their departure.

This interim rule provides that those aliens with conditional grants of suspension of deportation or cancellation of removal who, before publication of this interim rule, temporarily traveled abroad or who are abroad and have not returned, shall not lose their conditional grants as a result of their departure. The Attorney General recognizes the unique nature of the conditional grant and, since it is likely that many of these conditional grantees would not have understood the consequences of departing the United States without advance parole, finds it reasonable to grant this one-time waiver. However, upon publication of this rule in the **Federal Register**, an alien with a conditional grant must first obtain a grant of advance parole from the District Director before he or she leaves the United States. This requirement allows the Service to verify the alien's claims about the purpose of his or her travel and the duration of his or her absence, in order to aid in its determination of whether to grant or deny advance parole.

Eliminate the Conditional Grant Process

In the interim rule published on October 3, 1997, which established a procedure for processing suspension of deportation and cancellation of removal

applications, the Department made clear in the supplementary language that ''[t]his rule is a transitional measure in that conditional grants of suspension of deportation and cancellation of removal will be revisited after the Department determines how best to implement sections 304(a)(3) and 309(c)(7) of IIRIRA.'' 62 FR at 51761. The Department has determined that it will no longer implement the conditional grant process. After review of the statutory cap provision, the Department does not believe that the statute supports a permanent regime based on conditional grants. Instead, future grants of suspension and cancellation of removal will be issued on a ''first in time'' basis, outlined further below.

Conditional Grants From Fiscal Year 1998

Although the cap may not be reached in fiscal year 1998 (not including those Nicaraguans and Cubans eligible for relief under section 202 of NACARA as discussed below), any conditional grants which remain after the fiscal year 1998 grants are issued shall be converted to grants in fiscal year 1999 and will count against the numerical cap for fiscal year 1999. If there are conditional grants that could not be converted in fiscal year 1998 (*e.g.*, if the time for appeal had not run until after the end of fiscal year 1998) such conditional grant will be converted in fiscal year 1999. Accordingly, this procedure will allow for all persons whose cases were adjudicated under the October 3, 1997 interim regulation providing for conditional grants who remain in conditional grant status in fiscal year 1999 to receive a grant of suspension of deportation or cancellation of removal in fiscal year 1999.

Treatment of Certain Nicaraguan and Cuban Nationals With Conditional Grants

In fiscal year 1998, over 1,000 nationals of Nicaragua and Cuba were given conditional grants of suspension of deportation or cancellation of removal. On November 19, 1997, the enactment of NACARA made certain Nicaraguan and Cuban nationals eligible for adjustment of status in addition to other forms of relief. *See* NACARA section 202. In an effort to preserve as many grants as possible under the cap in fiscal year 1998 for aliens for whom suspension of deportation or cancellation of removal was truly the only avenue for relief, the Attorney General has determined that it is appropriate to offer those nationals of Nicaragua and Cuba who have already received a conditional grant of suspension or cancellation an opportunity to first pursue adjustment of status under section 202 of NACARA (NACARA adjustment). These Nicaraguan and Cuban nationals who are processed for adjustment will receive the benefit of an immediate adjudication of their adjustment of status requests before a Service officer on or before December 31, 1998. Further, Nicaraguan and Cuban national spouses and children, including certain unmarried sons and daughters, of NACARA-adjusted aliens, may be immediately eligible for NACARA adjustment themselves. No such derivative benefit accrues from a grant of suspension of deportation or cancellation of removal.

To be eligible for adjustment of status pursuant to NACARA section 202, an alien must be a person who: (1) Is a national of Nicaragua or Cuba; (2) has been physically present in the United States for a period commencing not later than December 1, 1995 and ending not earlier than the date of adjustment (excluding absences totaling not more than 180 days); (3) is not inadmissible under any provision of INA section 212 not specifically excepted by NACARA (*e.g.*, public charge, lack of labor certification, illegal entry, lack of immigrant visa/entry document, and unlawful presence); and (4) applies for such adjustment before April 1, 2000.

By virtue of having received a conditional grant of suspension of deportation or cancellation of removal, which entails successfully demonstrating a lengthy period of continuous physical presence in the United States as well as good moral character during this period, most Nicaraguans and Cubans in this position should easily be able to satisfy the similar eligibility requirements for NACARA adjustment. As a result, the Attorney General has determined that this alternative avenue of relief to suspension/cancellation must be explored by all Cuban and Nicaraguan conditional grantees identified by EOIR. To that end, the Attorney General, in this regulation, deems the application for suspension of deportation or cancellation of removal filed by a national of Nicaragua or Cuba who has received a conditional grant of suspension of deportation or cancellation of removal on or before September 30, 1998 to be a concurrent request for NACARA adjustment.

In order to provide relief in the form of NACARA adjustment to as many conditional suspension/cancellation grantees as possible, the Attorney General has directed the Service to give individual notice to all Cuban and Nicaraguan conditional grantees identified by EOIR. The notice shall inform them of the date, time, and place at which they must appear before a Service officer to perfect their request for NACARA adjustment. Since the file of an applicant for suspension of deportation or cancellation of removal will not invariably contain all of the information necessary to determine an alien's eligibility for NACARA adjustment, the alien will be required to complete a form in which the alien must attest to certain facts regarding his or her eligibility for NACARA adjustment. If the alien is inadmissible to the United States, he or she may apply for any applicable waivers of inadmissibility. Given that this application process has been mandated by the Attorney General, no fees will be charged for perfecting a NACARA adjustment request or for any applications for a waiver of inadmissibility submitted in conjunction with these NACARA adjustment requests. To the extent that a Cuban or Nicaraguan national who received a conditional grant of suspension or cancellation on or before September 30, 1998, applied for NACARA adjustment through the preexisting channels prior to the effective date of this regulation, no refund of the application fees shall be issued.

If the Service officer grants NACARA adjustment, he or she shall create a record of lawful permanent residence, the order granting suspension of deportation or cancellation of removal on a conditional basis shall be vacated, and the alien's deportation or removal proceedings shall be terminated automatically. If, at the time of the alien's appearance before a Service officer, the alien expresses a desire not to be processed for NACARA adjustment, is unable to complete the attestation, or if the Service officer determines that the alien is ineligible for such adjustment, the alien's conditional grant of suspension or cancellation shall be automatically converted to a final grant and the Service will create a record of lawful permanent residence on the basis of that grant. The Service will then notify EOIR that a suspension/cancellation grant has been allotted. For that reason, there is no appeal from a Service officer's determination that an alien is not eligible for NACARA adjustment. If an alien fails to appear before a Service officer when scheduled, his or her conditional grant of suspension of deportation or cancellation of removal shall be automatically converted to a final grant

effective December 31, 1998. After December 31, 1998, an application for suspension of deportation or cancellation of removal filed by a national of Nicaragua or Cuba who received a conditional grant of suspension or cancellation on or before September 30, 1998, shall cease to be considered a request for NACARA adjustment.

The Attorney General has directed that all NACARA eligibility determinations, as outlined above, be completed on or before December 31, 1998, to ensure that covered conditional grantees obtain lawful permanent residence status as soon as possible, be it pursuant to section 202 of NACARA or through a grant of suspension/cancellation. In order to minimize the processing time for these applicants, the Attorney General has deemed the documentary requirements applicable to other NACARA adjustment applicants to be satisfied by the completion of the attestation form noted above. As a result, these applicants will not be required to submit medical examination records or a new set of fingerprints. In addition, the Attorney General has directed that, absent contrary evidence developed in an interview or otherwise, the Service will accept the attestation form as sufficient evidence of an alien's admissibility, including health-related grounds and/or continuous physical presence. The Attorney General has determined that these extraordinary measures are justified in this limited instance because these aliens have already been found eligible to obtain lawful permanent resident status, and in fact will obtain such status on the basis of suspension of deportation or cancellation of removal even if they do not seek or are found ineligible for NACARA adjustment. As a result, there will be little incentive for an alien to misrepresent his or her circumstances to the Service officer. However, any alien found to have misrepresented his or her eligibility for NACARA adjustment will be subject to prosecution and removal from the United States.

Future Implementation of the Cap

Under the first in time process established in this interim rule, the Immigration Court and the Board will issue grants of suspension of deportation or cancellation of removal in chronological order until grants are no longer available in a fiscal year. A grant will be counted against the cap for the fiscal year in which a grant of suspension of deportation or cancellation of removal is final as set forth in 8 CFR 3.1(d)(2) and 3.39. To ensure that the cap is not exceeded in any fiscal year, the Immigration Court and the Board, except as described below, will reserve all decisions on suspension of deportation or cancellation of removal when grants are no longer available in any fiscal year. Those reserved decisions will be completed in the next fiscal year if there are grants available under the cap. If grants are not available in the next fiscal year, decisions will be completed in a fiscal year when grants are available. Persons with reserved decisions will be considered to still be ''in proceedings'' while their decision is reserved. They normally cannot be removed from the country while they are still in proceedings. Neither can they receive any form of relief until the Immigration Court or the Board takes further action.

The requirement to reserve decision once grants are no longer available in a fiscal year will not apply in the following circumstances. Immigration judges and the Board may deny without reserving decision or may pretermit suspension of deportation or cancellation of removal applications because the applicant has failed to establish statutory eligibility for relief. The following is a partial list of examples in which the Immigration Court and the Board may deny without reserving decision or may pretermit suspension of deportation or cancellation of removal applications, because the applicant is ineligible for relief based on statutory bars: (1) The alien is an aggravated felon pursuant to section 101(a)(43) of the INA; (2) the mandatory bar to establishing good moral character pursuant to section 101(f) of the INA applies to the alien; (3) the alien failed to voluntarily depart, was found deportable or removable *in absentia*, or failed to appear for deportation or removal at the time and place ordered as set forth in section 242B(e) of the INA (as in effect prior to April 1, 1997), and sections 240B(d) and 240(b)(7) of the INA; (4) the alien does not have the requisite continuous physical presence for suspension of deportation or cancellation of removal relief pursuant to section 244(a) of the INA (as in effect prior to April 1, 1997) or section 240A(b) of the INA; or (5) (for cancellation cases only) the alien cannot demonstrate that he or she has a qualifying relative as to whom exceptional or extremely unusual hardship must be shown.

However, such denial or pretermission of a suspension or cancellation application shall not be based on any of the following: an unfavorable exercise of discretion, a finding of no good moral character on a ground not specifically noted in section 101(f) of the INA, a failure to establish exceptional or extremely unusual hardship to a qualifying relative in cancellation cases, or a failure to establish extreme hardship to the applicant and/or qualifying relative in suspension cases.

Those Eligible for Other Forms of Relief

Whether or not the cap has been reached, the Immigration Court or the Board shall adjudicate concurrently all other forms of relief for which the alien has applied. If the Immigration Court or the Board grants asylum or adjustment of status, the application for suspension or cancellation shall be denied in the exercise of discretion. If the Immigration Court denies as a matter of discretion an application for suspension of deportation or cancellation of removal on such basis, such decision will be reconsidered if an appeal of the decision granting asylum or adjustment is sustained by the Board.

Interim Rule

The Department's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based upon the exception for rules of agency organization, procedure, or practice in 5 U.S.C. 553(b)(3)(A) and upon the ''good cause'' exception found at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). Immediate implementation is necessary before the end of the fiscal year, because the 8,000 grants under the cap for fiscal year 1998 must be distributed before October 1, 1998 (the beginning of the next fiscal year), or the grants will be lost. The Department has provided for a public comment period on this interim rule of 60 days.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities because it affects individual aliens, not small entities.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by the Small Business Regulatory Enforcement Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

The Attorney General has determined that this rule is a significant regulatory action under Executive Order 12866, and accordingly this rule has been reviewed by the Office of Management and Budget.

Executive Order 12612

The regulation 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 rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 Civil Justice Reform

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

Paperwork Reduction Act of 1995

Section 240.21(b)(2) of this rule requires certain nationals of Nicaragua and Cuba who were granted suspension of deportation or cancellation of removal on a conditional basis on or before September 30, 1998 to complete a new Service Form I–895, Attestation of Alien and Memorandum of Creation of Record of Lawful Permanent Residence. This form is considered an information collection. A delay in issuing this interim rule could have a negative effect on the ability of certain aliens to obtain lawful permanent resident status in a timely manner. Accordingly, the Department of Justice, Immigration and Naturalization Service has submitted an information collection request (ICR) utilizing emergency review procedures to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

Emergency review and approval of this collection has been requested from OMB by October 15, 1998. If granted, the emergency approval is only valid for 180 days. Comments and questions concerning the ICR should be directed to: Office of Information and Regulatory Affairs (OMB), OMB Desk Officer for the Immigration and Naturalization Service, Office of Management and Budget, Room 10235, Washington, DC 20503.

Your comments should address one or more of the following points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

The Service, in calculating the overall burden this requirement will place upon the public, estimates that approximately 1,000 respondents will be completing this form. The Service also estimates that it will take approximately two hours to complete the form. This amounts to 2,000 total burden hours.

List of Subjects in 8 CFR Part 240

Administrative practice and procedure, Aliens, Immigration.

Accordingly, part 240 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 240—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

1. The authority citation for part 240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1224, 1225, 1226, 1227, 1251, 1252 note, 1252a, 1252b, 1362; sec. 202, Pub. L. 105–100 (111 Stat. 2160, 2193); 8 CFR part 2.

2. Section 240.21 is revised in its entirety to read as follows:

§ 240.21 Suspension of Deportation and Adjustment of Status Under Section 244(a) of the Act (as in effect before April 1, 1997) and Cancellation of Removal and Adjustment of Status Under Section 240A(b) of the Act for Certain Nonpermanent Residents.

(a) *Applicability of annual cap on suspension of deportation or cancellation of removal.* (1) As used in this section, the term *cap* means the numerical limitation of 4,000 grants of suspension of deportation or cancellation of removal in any fiscal year (except fiscal year 1998, which has a limitation of 8,000 grants) pursuant to section 240A(e) of the Act.

(2) The provisions of this section apply to grants of suspension of deportation pursuant to section 244(a) of the Act (as in effect before April 1, 1997) or cancellation of removal pursuant to section 240A(b) of the Act that are subject to a numerical limitation in section 240A(e) of the Act for any fiscal year. This section does not apply to grants of suspension of deportation or cancellation of removal to aliens described in section 309(c)(5)(C)(i) of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), as amended by section 203(a)(1) of the Nicaraguan Adjustment and Central American Relief Act (NACARA), or aliens in deportation proceedings prior to April 1, 1997, who apply for suspension of deportation pursuant to section 244(a)(3) of the Act (as in effect prior to April 1, 1997). The Immigration Court and the Board shall no longer issue conditional grants of suspension of deportation or cancellation of removal as provided in 8 CFR 240.21 (as in effect prior to September 30, 1998).

(b) *Conditional grants of suspension of deportation or cancellation of removal in fiscal year 1998 cases.* (1) *Conversion to grants.* Except with respect to cases described in paragraphs (b)(2) and (b)(3) of this section, EOIR shall grant suspension of deportation or cancellation of removal without condition prior to October 1, 1998, to the first 8,000 aliens given conditional grants of suspension of deportation or cancellation of removal (as determined by the date of the immigration judge's order or, if the order was appealed to the Board, the date such order was entered by the Board.)

(2) *Treatment of certain nationals of Nicaragua and Cuba who received conditional grants of suspension of deportation or cancellation of removal on or before September 30, 1998.* (i) *NACARA adjustment request.* An application for suspension of deportation or cancellation of removal filed by a national of Nicaragua or Cuba

that was granted on a conditional basis on or before September 30, 1998, shall be deemed to be a request for adjustment of status pursuant to section 202 of NACARA (''NACARA adjustment'') for the period starting September 30, 1998 and ending December 31, 1998. The Service shall provide the applicant with notice of the date, time, and place at which the applicant must appear before a Service officer to perfect the request for NACARA adjustment. Such notice shall include an attestation form, Attestation of Alien and Memorandum of Creation of Record of Lawful Permanent Residence, Form I–895, regarding the applicant's eligibility for NACARA adjustment.

(ii) *Submission of documentation.* To perfect the request for NACARA adjustment, the applicant must appear before a Service officer on the date scheduled with the following documentation:

(A) The order granting suspension of deportation or cancellation of removal on a conditional basis issued on or before September 30, 1998;

(B) A completed, but unsigned Form I–895, which the applicant shall be required to sign and to attest to the veracity of the information contained therein in the presence of a Service officer;

(C) Any applicable applications for waiver of inadmissibility; and

(D) Two ''ADIT-style'' photographs; meeting the specifications in the instructions attached to Form I–895.

(iii) *Waiver of documentation and fees.* The provisions of § 245.13(e) and (f) of this chapter relating to documentary requirements for NACARA adjustment are waived with respect to an alien seeking to perfect a request for adjustment of status pursuant to paragraph (b)(2) of this section. In addition, the fees for the NACARA adjustment and for any applications for waivers of inadmissibility submitted in conjunction with perfecting a request for NACARA adjustment shall be waived.

(iv) *NACARA adjustment determination.* In determining an applicant's eligibility for NACARA adjustment under the provisions of paragraph (b)(2) of this section, unless the Service officer before whom the applicant appears is not satisfied that the applicant is admissible to the United States in accordance with section 202(a)(1)(B) of NACARA, and has continuously resided in the United States from December 1, 1995, through the date of appearance before the Service officer (not counting an absence or absences from the United States totaling 180 days or less or any absences that occurred pursuant to advance authorization for parole (Form I–512 issued by the Service)), the Service officer shall accept an alien's attestation of admissibility and/or continuous physical presence as sufficient evidence that the applicant has met the admissibility and/or continuous physical presence requirement for NACARA adjustment. If the Service officer grants NACARA adjustment, then the Service officer shall create a record of lawful permanent residence and the prior order granting suspension of deportation or cancellation of removal on a conditional basis shall be automatically vacated and the deportation or removal proceedings shall be automatically terminated. The Service officer (whose decision in this regard is not subject to appeal) shall not adjust the applicant to lawful permanent resident status pursuant to section 202 of NACARA if:

(A) The Service officer is not satisfied that the applicant is eligible for NACARA adjustment and so indicates on the attestation form; or

(B) The applicant indicates on the attestation form that he or she does not wish to receive NACARA adjustment.

(v) *Automatic conversion.* If the Service officer does not adjust the applicant to lawful permanent resident status pursuant to section 202 of NACARA, the applicant's conditional grant of suspension of deportation or cancellation of removal shall be automatically converted to a grant of suspension of deportation or cancellation of removal. Upon such a conversion, the Service shall create a record of lawful permanent residence based upon the grant of suspension of deportation or cancellation of removal.

(vi) *Failure to appear.* An alien who fails to appear to perfect his or her request for NACARA adjustment shall have his or her conditional grant of suspension of deportation or cancellation of removal automatically converted by the Immigration Court or the Board to a grant of suspension of deportation or cancellation of removal effective December 31, 1998.

(3) *Conditional grants not converted in fiscal year 1998.* The provisions of paragraphs (b)(1) and (b)(2) of this section for granting relief shall not apply with respect to:

(i) Any case in which a conditional grant of suspension of deportation or cancellation of removal is pending on appeal before the Board as of September 30, 1998 or, if the right to appeal to the Board has not been waived, the time for an appeal has not expired. After the Board issues its decision or the time for appeal has expired, the conditional grant shall be converted to a grant when a grant is available.

(ii) Any other conditional grant not described in paragraphs (b)(1), (b)(2) or (b)(3)(i) of this section, which was not converted to a grant in fiscal year 1998. Such a conditional grant shall be converted to a grant when a grant is available.

(4) *Motion to reopen.* The Service may file a motion to reopen within 90 days after the alien is issued a grant of suspension of deportation or cancellation of removal pursuant to paragraphs (b)(1), (b)(2), or (b)(3) of this section, if after the issuance of a conditional grant by the Immigration Court or the Board the applicant committed an act that would have rendered him or her ineligible for suspension of deportation or cancellation or removal at the time of the conversion.

(5) *Travel for aliens conditionally granted suspension of deportation or cancellation of removal.* If the Immigration Court or the Board granted suspension of deportation or cancellation of removal on a conditional basis or, if the conditional grant by the Immigration Court was appealed to the Board and the Board issued such a conditional grant, the alien shall retain the conditional grant of suspension of deportation or cancellation of removal upon return to the United States following a temporary absence abroad and be permitted to resume completion of his or her case, provided that:

(i) The alien departed on or before September 30, 1998 with or without a grant of advance parole from the District Director; or

(ii) The alien, prior to his or her departure from the United States after September 30, 1998, obtained a grant of advance parole from the District Director in accordance with section 212(d)(5) of the Act and § 212.5 of this chapter and complied with the terms and conditions of the advance parole.

(c) *Grants of suspension of deportation or cancellation of removal in fiscal years subsequent to fiscal year 1998.* On and after October 1, 1998, the Immigration Court and the Board may grant applications for suspension of deportation and adjustment of status under section 244(a) of the Act (as in effect prior to April 1, 1997) or cancellation of removal and adjustment of status under section 240A(b) of the Act that meet the statutory requirements for such relief and warrant a favorable exercise of discretion until the annual numerical limitation has been reached in that fiscal year. The awarding of such relief shall be determined according to

the date the order granting such relief becomes final as defined in §§ 3.1(d)(2) and 3.39 of this chapter.

(1) *Applicability of the annual cap.* When grants are no longer available in a fiscal year, further decisions to grant or deny such relief shall be reserved until such time as a grant becomes available under the annual limitation in a subsequent fiscal year. Immigration judges and the Board may deny without reserving decision or may pretermit those suspension of deportation or cancellation of removal applications in which the applicant has failed to establish statutory eligibility for relief. The basis of such denial or pretermission may not be based on an unfavorable exercise of discretion, a finding of no good moral character on a ground not specifically noted in section 101(f) of the Act, a failure to establish exceptional or extremely unusual hardship to a qualifying relative in cancellation cases, or a failure to establish extreme hardship to the applicant and/or qualifying relative in suspension cases.

(2) *Aliens applying for additional forms of relief.* Whether or not the cap has been reached, the Immigration Court or the Board shall adjudicate concurrently all other forms of relief for which the alien has applied. Applications for suspension of deportation or cancellation of removal shall be denied in the exercise of discretion if the alien is granted asylum or adjustment of status, including pursuant to section 202 of NACARA, while the suspension of deportation or cancellation of removal application is pending. Where an appeal of a decision granting asylum or adjustment is sustained by the Board, a decision to deny as a matter of discretion an application for suspension of deportation or cancellation of removal on this basis shall be reconsidered.

Dated: September 25, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–26200 Filed 9–29–98; 8:45 am]

BILLING CODE 4410–30–P

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R–0999]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing a final rule to amend Regulation C, which implements the Home Mortgage Disclosure Act. The amendments: modify the Loan Application Register to prepare for Year 2000 data systems conversion; delete the requirement to enter the reporting institution's parent company on the Transmittal Sheet; and make certain other technical changes to the regulation and reporting forms.

EFFECTIVE DATE: September 24, 1998. The amendments apply to data collected for calendar year 1998, to be reported by March 1, 1999.

FOR FURTHER INFORMATION CONTACT: Pamela Morris Blumenthal, Staff Attorney, or John C. Wood, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–2412 or (202) 452–3667; for users of Telecommunications Device for the Deaf (TDD) *only,* contact Diane Jenkins at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Board's Regulation C (12 CFR part 203) implements the Home Mortgage Disclosure Act (HMDA) (12 U.S.C. 2801–2810). The regulation requires most mortgage lenders located in metropolitan statistical areas (MSAs) to report annually to federal supervisory agencies, and disclose to the public, information about their home mortgage and home improvement lending activity. The supervisory agencies include the Board, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Department of Housing and Urban Development.

In February 1998, the Board proposed to amend Regulation C to modify the HMDA Loan Application Register (HMDA–LAR) to prepare for Year 2000 data systems conversion, delete parent company information on the Transmittal Sheet (TS), and make certain other technical changes (63 FR 9453, February 25, 1998). The Board received 16 comments on the proposal. The majority of the commenters favored adoption of the proposal; several commenters suggested changes or clarifications on certain points, as discussed below.

II. Discussion of Final Rule

A. Year 2000 Changes

Among items reported on the HMDA–LAR, institutions are required to enter the date of application and the date action was taken. Currently, these dates are to be entered using two digits for the year, in the form MM/DD/YY. As part of the interagency program related to the Year 2000—Century Date Change, the agencies responsible for HMDA compliance have modified software—to avoid the confusion of a date in the 21st century with a date in the 20th century—by adding two digits to represent the century. For example, January 15, 2000, will be reflected as 01/15/2000 rather than 01/15/00. To carry out this program with regard to HMDA reporting, the HMDA–LAR form and the instructions (Appendix A to Regulation C) have been revised to require the date of application and date of action taken to be entered using four digits for the year.

A few commenters noted that the 1998 data collection has been under way since the beginning of the year using the two-digit format. They stated that making the change to a four-digit year could be burdensome. One institution said that it was in the process of acquiring several other institutions which were collecting data using a two-digit year; these institutions all used different software and different data processing vendors. The commenter believed that it would be difficult for them to convert the HMDA data to a four-digit year for 1998 data.

The Board believes that, for the vast majority of HMDA reporting institutions, use of a four-digit year in reporting 1998 data will not present a problem. The personal computer data entry software available from the supervisory agencies for 1998 data collection already reflects the four-digit year (as well as the deletion of parent company information on the TS, discussed below). The Board believes that private sector software vendors (and institutions that have developed their own software) have modified their HMDA data entry software in a similar manner, or are in the process of doing so.

The Board therefore is adopting the amendments making the Year 2000 program change to the HMDA–LAR form and instructions. The Board recognizes that there could be isolated instances in which an institution may experience difficulty in converting its data base to reflect the four-digit identification for the calendar year 1998. In such cases, the institution should consult with its supervisory agency for further guidance as soon as possible but no later than December 31, 1998. Earlier consultation will enable the agency to work with the institution to resolve the technical difficulties, and

avoid the last-minute need to resubmit the data in a conforming format.

The MM/DD/CCYY format applies to paper submissions only. For institutions submitting data in electronic form, the proper format (as already stated in the 1998 HMDA File Specifications) is CCYYMMDD.

The paper version of the HMDA–LAR model form in Appendix A shows sample transactions that reflect dates from 1992, as do the instructions. To update these examples and instructions, as well as to remind reporting institutions of the change to a four-character year, the amendments replace ''92'' with ''1999'' in the examples and instructions.

B. Deletion of Parent Company Information

The Transmittal Sheet (TS) that accompanies the HMDA–LAR currently calls for the name and address of the parent company of the institution submitting HMDA data. The Board proposed to amend the TS by deleting this requirement, given that in most cases the information is available from the bank structure information already collected by the agencies.

Several commenters suggested that the parent company information is useful in analyzing lending patterns of an entire organization such as a bank holding company and all of its bank and non-bank subsidiaries. Commenters were concerned that the parent company information might not be readily accessible to the public. Information about an institution's parent, subsidiary, and affiliate companies is available through the FFIEC's Web site (at www.ffiec.gov/nic/default.htm), and generally is more accurate and complete than the information from the TS. Users of this Web site can search for institutions by name or location, and, starting with a specific institution, can ascertain the institution's parent, subsidiaries, and affiliates, if any.

The Board believes that the availability of information from the FFIEC Web site makes the continuation of the requirement for parent company information on the TS unnecessary. Accordingly, the Board is deleting the requirement to enter parent company information on the TS.

C. Reassignment of Functions of Farmers Home Administration

One of the items of information reported on the HMDA–LAR about a loan or application is the type of loan. Similarly, for loans sold, the lender reports the type of purchaser of the loan. The code sheet lists the Farmers Home Administration (FmHA) as one of the categories (as an insurer or purchaser of loans).

Reorganization within the Department of Agriculture has resulted in the functions of the FmHA being reassigned to two new units, the Farm Service Agency and the Rural Housing Service. For ''type of loan,'' the Board has replaced the references to the Farmers Home Administration or FmHA (in the code sheet for the HMDA–LAR form and in the instructions regarding type of loan) with a reference to ''Farm Service Agency or Rural Housing Service'' (or ''FSA/RHS''). With regard to ''type of purchaser,'' the successor agencies to FmHA do not purchase loans. A secondary market entity that does purchase loans, the Federal Agricultural Mortgage Corporation, is not currently included in the list. Accordingly, the Board has revised the references to FmHA, as a purchaser of loans, to refer instead to the Federal Agricultural Mortgage Corporation or FAMC.

These changes are effective for the collection and reporting of 1998 data. However, to the extent that forms and software used for reporting purposes do not reflect the changes, institutions should use the existing codes for FmHA to refer to loans guaranteed by FSA or RHS, or to loans that have been sold to FAMC, as applicable.

D. Paperwork Reduction Act Requirements

Regulations issued by the Office of Management and Budget (OMB) to implement the Paperwork Reduction Act (5 CFR Part 1320) contemplate that regulations imposing data collection requirements include control numbers assigned by OMB. Currently, Regulation C, the instructions for the HMDA–LAR and TS, and the TS form itself contain an OMB control number (7100–0247) assigned to the Board in connection with HMDA reporting requirements. The Board is now adopting a technical amendment to the regulation, the instructions, and the TS form—adding the control numbers assigned to the Office of the Comptroller of the Currency (1557–0159), the Federal Deposit Insurance Corporation (3064–0046), and the Office of Thrift Supervision (1550–0021). The National Credit Union Administration and the Department of Housing and Urban Development are in the process of obtaining OMB control numbers; these numbers will be added at a later time. The amendment also includes a number of other minor technical changes in the instructions and the TS form, such as deletion of references to the OMB control number expiration dates on the TS form.

E. Clarification Regarding Coverage of Nondepository Lending Institutions

The Board has adopted a technical amendment to clarify the coverage of nondepository institutions. The definition of ''financial institution'' under Regulation C includes nondepository lending institutions that, in the preceding calendar year, originated home purchase loans or refinancings of home purchase loans in an amount of 10 percent or more of the institution's total loan origination volume, measured in dollars. The definition is stated in section 203.2(e)(2) and in paragraph I.D. of Appendix A to the regulation. Even if a nondepository institution meets the definition of ''financial institution,'' however, it is covered by Regulation C only if the institution either had assets over $10 million or originated 100 or more home purchase loans, including refinancings of home purchase loans, during the preceding calendar year. The instructions (see paragraph I.C. of Appendix A) refer expressly to refinancings, but section 203.3(a)(2)(ii) does not. Some institutions have suggested to the Board that including a reference to refinancings in section 203.3 would be useful.

The Board's notice at the time the 100-loan test was added to Regulation C made clear that refinancings of home purchase loans are included in calculating whether the coverage threshold was reached. (See 57 FR 56963, December 2, 1992.) Accordingly, the Board is adding a reference to refinancings of home purchase loans to section 203.3(a)(2)(ii), to conform to paragraph I.C. of Appendix A.

F. Adjustment in Exemption Threshold for Depository Institutions

The Board adjusts the exemption threshold for depository institutions annually based on the annual percentage change in the Consumer Price Index. In December 1997, the Board adjusted the exemption threshold for depository institutions for 1998 data collection to $29 million (from $28 million) (62 FR 66259, December 18, 1997). The change was incorporated in the Regulation C staff commentary. Thus, depository institutions with assets of $29 million or less as of December 31, 1997, are exempt from data collection in 1998. The Board is amending the regulation and the instructions for the HMDA–LAR to indicate that future adjustments will be included in the staff commentary.

III. Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 604), the Board has reviewed the final amendments to Regulation C. Two of the three requirements of a final regulatory flexibility analysis under this section are (1) a succinct statement of the need for and the objectives of the rule and (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments. These two areas are discussed above. The third requirement of the analysis is a description of significant alternatives to the rule that would minimize the rule's economic impact on small entities and reasons why the alternatives were rejected.

The final amendments will apply to mortgage lending institutions that exceed certain size thresholds (for depository institutions, $29 million in assets; for nondepository institutions, $10 million in assets or the origination of 100 or more home purchase loans or refinancings in the preceding year). In addition, the amendments represent relatively small changes to the existing regulation; in some cases, the amendments clarify rights and duties of covered institutions or reduce economic burden. Accordingly, the amendments should not have a negative economic impact on small institutions, and, therefore, there were no significant alternatives that would have minimized the economic impact on those institutions.

IV. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320, Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number for the Board is 7100–0247.

The collection of information that is revised by this rulemaking is found in 12 CFR 203.1, 203.3, and Appendix A to Part 203. This information collection is mandatory (12 U.S.C. 2801 *et seq.*) under the Home Mortgage Disclosure Act (HMDA). HMDA requires institutions to collect and report data about home purchase and home improvement loans. The purposes of HMDA are threefold. The first is to provide the public and government officials with information that will help determine whether financial institutions are serving the housing needs of the communities in which they are located. The second purpose is to help public officials promote investments in neighborhoods where investment is needed. Finally, the data collected assist in identifying possible discriminatory lending patterns. The respondents/record keepers are all types of financial institutions and other mortgage-lending institutions that meet the coverage tests. Small businesses with assets of $29 million or less, as of December 31, 1997, are not required to report 1998 data. Records must be retained for five years.

No comments specifically addressing the burden estimate were received.

The estimated burden per response varies from 10 to 10,000 hours, depending on individual circumstances, with estimated averages of 202 hours for state member banks and 160 hours for mortgage banking subsidiaries. The amendments will make several technical changes in the reporting requirements and also clarify existing requirements of Regulation C; these changes should have no effect on reporting burden, and in some cases may reduce burden. The Board received HMDA–LARs covering 1997 data from 513 state member banks and 81 mortgage banking subsidiaries. Therefore, the total hour burden for institutions the Federal Reserve supervises is 116,586. There is estimated to be no annual cost burden, associated capital, or start up costs.

The Board has previously determined HMDA data collection and reporting is required by law; completion of the loan/application register, submission to the Board, and disclosure to the public on request are mandatory. The data, as modified according to Appendix A of the regulation, are made publicly available and are not considered confidential. Information that might identify individual borrowers or applicants is given confidential treatment under exemption 6 of the Freedom of Information Act (5 U.S.C. 552(b)(6)).

The Board has a continuing interest in the public's opinions of the Federal Reserve's collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100–0247), Washington, DC 20503.

List of Subjects in 12 CFR Part 203

Banks, banking, Consumer protection, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements.

Text of Revisions

Pursuant to the authority granted in section 305(a) of HMDA, 12 U.S.C. 2804(a), and for the reasons set forth in the preamble, the Board amends 12 CFR Part 203 as set forth below:

PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 2801–2810.

2. Section 203.1 is amended by revising the last sentence of paragraph (a) to read as follows:

§ 203.1 Authority, purpose, and scope.

(a) *Authority.* * * * The information-collection requirements have been approved by the U.S. Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and have been assigned OMB Numbers 1557–0159, 3064–0046, 1550–0021, and 7100–0247 for institutions reporting data to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the Federal Reserve System, respectively; numbers for the National Credit Union Administration and the Department of Housing and Urban Development are pending.

* * * * *

3. Section 203.3 is amended as follows:

a. Paragraphs (a)(1) introductory text and (a)(2) introductory text are republished;

b. Paragraph (a)(1)(ii) is revised; and

c. Paragraph (a)(2)(ii) is revised.

The revisions read as follows:

§ 203.3 Exempt institutions.

(a) *Exemption based on location, asset size, or number of home purchase loans.* (1) A bank, savings association, or credit union is exempt from the requirements of this regulation for a given calendar year if on the preceding December 31:

(i) * * *

(ii) The institution's total assets were at or below the asset threshold established by the Board. The asset threshold was adjusted from $10 million to $28 million as of December 31, 1996. For subsequent years, the Board will adjust the threshold based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not

seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million. The Board will publish any adjustment to the asset figure in December in the staff commentary.

(2) A for-profit mortgage lending institution (other than a bank, savings association, or credit union) is exempt from the requirements of this regulation for a given calendar year if:

(i) * * *

(ii) The institution's total assets combined with those of any parent corporation were $10 million or less on the preceding December 31, and the institution originated fewer than 100 home purchase loans (including refinancings of home purchase loans) in the preceding calendar year.

* * * * *

4. In Appendix A to part 203 under the heading PAPERWORK REDUCTION ACT NOTICE, the undesignated paragraph is revised to read as follows:

Appendix A to Part 203—Form and Instructions for Completion of HMDA Loan/Application Register

Paperwork Reduction Act Notice

This report is required by law (12 U.S.C. 2801–2810 and 12 CFR part 203). An agency may not conduct or sponsor, and an organization is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for this information collection are 1557–0159, 3064–0046, 1550–0021, and 7100–0247 for institutions reporting data to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the Federal Reserve System, respectively; numbers for the National Credit Union Administration and the Department of Housing and Urban Development are pending. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the respective agencies and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

* * * * *

5. Appendix A to Part 203 is amended as follows:

a. Paragraph I.*A*.2. is revised;

b. Paragraphs V.*A*.2. and V.*A*.3. are revised;

c. In paragraph V.*B*.3., the introductory text is revised; and

d. Paragraph V.*E*.1. introductory text is republished and paragraph V.*E*.1.4 is revised.

The revisions read as follows:

I. Who Must File a Report

A. Depository Institutions

1. * * *

2. The asset threshold was adjusted from $10 million to $28 million as of December 31, 1996. Any adjustment to the asset threshold for depository institutions will be published by the Board in December in the staff commentary.

* * * * *

V. Instructions for Completion of Loan/Application Register

A. Application or Loan Information

1. * * *

2. *Date application received*. For paper submissions only, enter the date the loan application was received by your institution by month, day, and year, using numerals in the form MM/DD/CCYY (for example, 01/15/1999). For institutions submitting data in electronic form, the proper format is CCYYMMDD. If your institution normally records the date shown on the application form, you may use that date instead. Enter ''NA'' for loans purchased by your institution.

3. *Type*. Indicate the type of loan or application by entering the applicable code from the following:

1—Conventional (any loan other than FHA, VA, FSA, or RHS loans)
2—FHA-insured (Federal Housing Administration)
3—VA-guaranteed (Veterans Administration)
4—FSA/RHS-guaranteed (Farm Service Agency or Rural Housing Service)

* * * * *

B. Action Taken

* * * * *

3. *Date of action*. For paper submissions only, enter the date by month, day, and year, using numerals in the form MM/DD/CCYY (for example, 02/22/1999). For institutions submitting data in electronic form, the proper format is CCYYMMDD.

* * * * *

E. Type of Purchaser

1. Enter the applicable code to indicate whether a loan that your institution originated or purchased was then sold to a secondary market entity within the same calendar year:

* * * * *

4—FAMC (Federal Agricultural Mortgage Corporation)

* * * * *

6. In Appendix A, the LOAN/APPLICATION REGISTER Transmittal Sheet is revised to read as follows:

BILLING CODE 6210–01–P

LOAN/APPLICATION REGISTER

Form FR HMDA-LAR.
OMB Nos. 1557-0159 (OCC), 3064-0046 (FDIC), 1550-0021 (OTS), and 7100-0247 (FRB); NCUA and HUD numbers pending.

TRANSMITTAL SHEET

You must complete this transmittal sheet (please type or print) and attach it to the Loan/Application Register, required by the Home Mortgage Disclosure Act, that you submit to your supervisory agency.

Reporter's Identification Number	Agency Code	Reporter's Tax Identification Number	Total line entries contained in attached Loan/Application Register
|_|_|_|_|_|_|_|_|_|_|_| -	|_|	|_|_| - |_|_|_|_|_|_|_|	_____

The Loan/Application Register that is attached covers activity during the year _____ and contains a total of ___ pages.

Enter the name and address of your institution. The disclosure statement that is produced by the Federal Financial Institutions Examination Council will be mailed to the address you supply below:

_____
Name of Institution

_____
Address

_____
City, State, ZIP

Enter the name, telephone number, and facsimile number of a person who may be contacted about questions regarding your register:

_____	(___) _____	(___)_____
Name	Telephone Number	Facsimile Number

An officer of your institution must complete the following section:

I certify to the accuracy of the data contained in this register.

_____	_____	_____
Name of Officer	Signature	Date

7. In Appendix A, the LOAN/APPLICATION REGISTER is revised to read as follows:

LOAN/APPLICATION REGISTER Page___of___

Form FR HMDA–LAR

Name of Reporting Institution

City, State, ZIP

Reporter's Identification Number

Agency Code

All columns (except Reasons for Denial) must be completed for each entry. See the instructions for details.

Application or Loan Information						Action Taken		Property Location				Applicant Information A = Applicant CA = Co-Applicant						
												Race or National Origin		Sex				
Application or Loan Number	Date Application Received (mm/dd/ccyy)	Type	Purpose	Owner Occupancy	Loan amount in thousands	Type	Date (mm/dd/ccyy)	Four-Digit MSA Number	Two-Digit State Code	Three-Digit County Code	Six-Digit Census Tract	A	CA	A	CA	Gross Annual Income in thousands	Type of Purchaser of Loan	Reasons for Denial (Optional)
Example of Loan Originated																		
LB-687439	01/15/1999	2	1	1	65	1	02/22/1999	8840	51	059	421.85	3	8	1	4	24	7	
Example of Application Denied																		
0123456789-9876543210	03/20/1999	1	1	1	125	3	04/30/1999	0450	01	015	002.00	5	4	2	1	55	0	415
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BILLING CODE 6210–01–C

8. In Appendix A, the LOAN/APPLICATION REGISTER CODE SHEET is revised to read as follows:

Loan/Application Register Code Sheet

Use the following codes to complete the Loan/Application Register. The instructions to the HMDA–LAR explain the proper use of each code.

Application or Loan Information

Type:
1—Conventional (any loan other than FHA, VA, FSA, or RHS loans)
2—FHA-insured (Federal Housing Administration)
3—VA-guaranteed (Veterans Administration)
4—FSA/RHS-guaranteed (Farm Service Agency or Rural Housing Service)

Purpose:
1—Home purchase (one-to-four family)
2—Home improvement (one-to-four family)
3—Refinancing (home purchase or home improvement, one-to-four family)
4—Multifamily dwelling (home purchase, home improvement, and refinancings)

Owner-Occupancy:
1—Owner-occupied as a principal dwelling
2—Not owner-occupied
3—Not applicable

Action Taken:
1—Loan originated
2—Application approved but not accepted
3—Application denied by financial institution
4—Application withdrawn by applicant
5—File closed for incompleteness
6—Loan purchased by your institution

Applicant Information

Race or National Origin:
1—American Indian or Alaskan Native
2—Asian or Pacific Islander
3—Black
4—Hispanic
5—White
6—Other
7—Information not provided by applicant in mail or telephone application
8—Not applicable

Sex:
1—Male
2—Female
3—Information not provided by applicant in mail or telephone application
4—Not applicable

Type of Purchaser

0—Loan was not originated or was not sold in calendar year covered by register
1—FNMA (Federal National Mortgage Association)
2—GNMA (Government National Mortgage Association)
3—FHLMC (Federal Home Loan Mortgage Corporation)
4—FAMC (Federal Agricultural Mortgage Corporation)
5—Commercial bank
6—Savings bank or savings association
7—Life insurance company
8—Affiliate institution
9—Other type of purchaser

Reasons for Denial (optional)

1—Debt-to-income ratio
2—Employment history
3—Credit history
4—Collateral
5—Insufficient cash (downpayment, closing costs)
6—Unverifiable information
7—Credit application incomplete
8—Mortgage insurance denied
9—Other

By order of the Board of Governors of the Federal Reserve System, September 24, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–26155 Filed 9–29–98; 8:45 am]

BILLING CODE 6210–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701 and 724

Organization and Operation of Federal Credit Unions; Trustees and Custodians of Pension Plans

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final Rule.

SUMMARY: NCUA is adopting as final the interim final amendments to part 724 regarding federal credit unions acting as trustees and custodians of pension and retirement plans and part 701 regarding retirement benefits for federal credit union employees that were issued in March, 1998. The final amendments revise part 724 to authorize federal credit unions to act as trustees and custodians for Roth IRAs and Education IRAs. The final amendments also conform part 701 to be consistent with the changes made to part 724.

DATES: Effective January 1, 1998.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia, 22314–3428.

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, at the above address, or telephone at (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Interim Final Rule

On March 13, 1998, NCUA issued an interim final rule that made the above summarized substantive and conforming revisions to part 724 and part 701. It became effective upon its publication in the **Federal Register** on March 24, 1998. 63 FR 14025, March 24, 1998. In response to a request for comment made in the interim final rule, NCUA received four comment letters, three from trade associations and one from a federal credit union. Each of the four commenters supported the final amendments and also provided additional comments, as discussed below.

The interim final rule provides that federal credit unions are authorized to act as trustees and custodians of Roth IRAs and Education IRAs. Such authority is in addition to those trustee and custodian services that federal credit unions have been authorized to provide for other kinds of pension and retirement plans for approximately the past twenty-three years. Two commenters noted that many federal credit unions began acting as trustees and custodians of Roth IRAs and Education IRAs as early as January 1, 1998, the date on which such accounts were available to consumers, and that many other federal credit unions did the same between January 1, 1998 and March 23, 1998. Each of these two commenters voiced a concern that such action, having been taken by federal credit unions in advance of the effective date of the interim final rule, could leave many federal credit unions and Roth IRA and Education IRA account holders subject to possible tax liability or other regulatory difficulties. Specifically, each of these commenters noted that, because NCUA did not technically provide federal credit unions with regulatory authority to act as trustees and custodians for such accounts prior to March 24, 1998, accounts opened prior to that date might be viewed as failing to qualify for the intended tax treatment under the Internal Revenue Code. Under such circumstances, holders of Roth IRA and Education IRA accounts opened prior to March 24, 1998, with regular contributions or especially via a roll-over from another qualifying plan, could face severe tax consequences and other significant financial hardships. Accordingly, the commenters urged NCUA to make this final rule effective retroactively to January 1, 1998. The tax benefits available to individuals through Roth IRA and Education IRA accounts arise through amendments to the Internal Revenue Code. Those amendments became effective for tax payers as of January 1, 1998. Through the same IRA amendments, FCUs' existing statutory authority was expanded. In the Board's view, any limitation resulting from the wording of NCUA's regulations would raise a technical regulatory violation for an FCU, not a tax problem for individual account holders. Nevertheless, to avoid any undesirable consequences, cure unintended results and relieve federal credit unions acting as trustees and

custodians of Roth IRAs and Education IRAs of unnecessary restrictions, NCUA makes this final rule retroactively effective as of January 1, 1998. 5 U.S.C. 553(d)(1).

The remaining two commenters requested NCUA to amend or otherwise provide clarification regarding the authority of federal credit unions to act as trustees and custodians of state and federal Medical Savings Accounts (MSAs). One of these commenters also indicated its preference for NCUA to move forward in this regard with a request for comment, rather than an advanced notice of proposed rulemaking. As indicated in the interim final rule, NCUA requested comment pertaining only to Roth IRAs and Education IRAs. NCUA made a request for comment in this manner because to amend part 724 and part 701 to address MSAs would entail extensive modifications or possibly a new rule and would unduly delay satisfying the more immediate need to implement the final amendments pertaining to Roth IRAs and Education IRAs. The NCUA agrees with the commenters that the role of federal credit unions with respect to the administration of MSAs is an issue that warrants regulatory review and intends to conduct such a review in a timely fashion.

In summary, NCUA is adopting the interim final amendments in final, without any changes, except to make such amendments effective as of January 1, 1998.

Regulatory Procedures

Regulatory Flexibility Act

This final rule conforms the current regulation to recent changes in the federal tax law and does not expand upon the nature of the activity authorized for federal credit unions. The Board has determined and certifies that this rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, NCUA has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This final rule does not impose any paperwork requirements.

Executive Order 12612

This final rule only applies to federal credit unions. It has no affect on the regulation of state-chartered credit unions.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget has reviewed this rule and has determined that for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 this is not a major rule.

List of Subjects

12 CFR Part 701

Credit unions.

12 CFR Part 724

Credit unions, Pensions, Reporting and recordkeeping requirements, Trusts and trustees.

By the National Credit Union Administration Board, this 23rd day of September, 1998.

Becky Baker,

Secretary, NCUA Board.

For the reasons stated above and in the interim final rule, NCUA amends 12 CFR chapter VII as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701. 31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Revise the second sentence of § 701.19(a) to read as follows:

§ 701.19 Retirement benefits for employees of Federal credit unions.

(a) * * * In those cases where a Federal credit union is to be a plan trustee or custodian, the plan must be authorized and maintained in accordance with the provisions of Part 724 of this chapter.* * *

* * * * *

PART 724—TRUSTEES AND CUSTODIANS OF PENSION PLANS

3. The authority citation for part 724 is revised to read as follows:

Authority: 12 U.S.C. 1757, 1765, 1766 and 1787.

4. In § 724.1, revise the section heading and first sentence to read as follows:

§ 724.1 Federal credit unions acting as trustees and custodians of pension and retirement plans.

A Federal credit union is authorized to act as trustee or custodian, and may receive reasonable compensation for so acting, under any written trust instrument or custodial agreement created or organized in the United States and forming part of a pension or retirement plan which qualifies or qualified for specific tax treatment under sections 401(d), 408, 408A and 530 of the Internal Revenue Code (26 U.S.C. 401(d), 408, 408A and 530), for its members or groups of its members, provided the funds of such plans are invested in share accounts or share certificate accounts of the Federal credit union. * * *

[FR Doc. 98–26114 Filed 9–29–98; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–272–AD; Amendment 39–10808; AD 98–20–40]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, –200, –300, SP, and SR Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 747–100, –200, –300, SP, and SR series airplanes, that requires the installation of shielding and separation of the electrical wiring of the fuel quantity indication system (FQIS). This amendment is prompted by a failure analysis of the FQIS, and by testing results, which revealed that excessive energy levels in the electrical wiring and probes of the fuel system could be induced by electrical transients. The actions specified by this AD are intended to prevent electrical transients, induced by electromagnetic interference (EMI), or electrical short circuit conditions from causing arcing of the FQIS electrical wiring or probes in the fuel tank(s). Such arcing could result in ignition of the fuel tank(s).

EFFECTIVE DATE: November 4, 1998.

ADDRESSES: Information pertaining to this amendment 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: Chris Hartonas, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2864; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing 747–100, –200, and –300 series airplanes was published in the **Federal Register** on December 1, 1997 (62 FR 63624). [An action to reopen the comment period for the proposal was issued on March 23,1998 (63 FR 14850, March 27, 1998).] That action proposed to require the installation of components for the suppression of electrical transients and/or the installation of shielding and separation of the electrical wiring of the fuel quantity indication system (FQIS).

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 Withdraw Proposed AD: Lack of Evidence

Three commenters, including the manufacturer, state that the proposed AD should be withdrawn or significantly delayed, based on the lack of conclusive evidence that the Trans World Airlines Flight 800 accident on July 17, 1996 (hereinafter referred to as TWA Flight 800), which involved a Model 747–100 series airplane, was caused by failure of the FQIS components and wiring that is routed to the tanks. In addition, the manufacturer comments extensively on the features of the existing system that are intended to prevent an ignition source from existing in the fuel tanks due to FQIS wiring or component failures. The manufacturer further comments that it believes that the current design of the FQIS is safe in the originally delivered configuration, when it is maintained in accordance with the manufacturer's approved maintenance documents. The manufacturer states that multiple failures within the FQIS would be required to create an ignition source within a fuel tank.

The FAA does not concur that the proposed AD should be withdrawn or delayed. The FAA agrees that no conclusive evidence exists that failure of the FQIS components or wiring that is routed to the tanks caused the TWA Flight 800 airplane accident. However, during such accidents, evidence that could lead to a conclusive identification of the cause of the accident is often destroyed. Even without the destruction caused by the accident, there often is no specific physical evidence of low-energy electrical arcing. In addition, in consideration of the amount of wiring installed on a Boeing Model 747 series airplane, and in consideration of the amount of damage to the wiring that occurred during the airplane fire, breakup, and subsequent recovery, conclusive identification of a specific wire that was damaged before the fire and breakup is extremely unlikely.

Following the determination that a fire in the center wing fuel tank of the TWA Flight 800 airplane was the initial event in the airplane breakup, and the determination that the fire was not caused by an external source such as a bomb or missile, the National Transportation Safety Board (NTSB) has necessarily used systems analysis methods to determine what systems on the airplane are most likely to have been the source of ignition energy. That analysis included an examination of system failure modes and effects, an examination of service history, and examinations of similar airplanes. It was that analysis that led the FAA to propose the requirements specified in the notice of proposed rulemaking (NPRM).

In commenting on the specific design features of the FQIS on Model 747 series airplanes, the manufacturer points out that multiple independent failures would be required to create an FQIS-related ignition source in the fuel tank, implying that such an event is therefore impossible. The FAA agrees that more than one failure would be required to create an ignition source inside the fuel tank. The fact that fuel tank explosions on Model 747 series airplanes have been rare would seem to support a claim that single failures have not been the cause of fuel tank explosions. However, during the accident investigation, the FQIS safety analysis and the examinations of Model 747 series airplanes performed by the NTSB revealed several scenarios where a combination of a latent failure or aging condition within the fuel tank and a subsequent single failure or electrical interference condition outside the tank can cause an ignition source to occur inside a fuel tank.

Examples of these in-tank and out-of-tank conditions that can contribute to a multiple-failure ignition scenario were found in airplane service records and on airplanes that were inspected by the FAA and the NTSB. Various center wing fuel tanks were found with conductive debris in the tanks, damaged FQIS wire insulation at the fuel probes, and contamination of probes and in-tank wiring by conductive copper/sulfur or silver/sulfur films. Each of these conditions can create latent potential ignition locations inside the fuel tank.

In addition, several conditions have been identified that can lead to sufficient energy in the FQIS wiring to create an ignition source if combined with one of the latent conditions described above. For example, electromagnetic coupling between systems routed together in bundles can occur. In addition, direct short circuit conditions can occur in wire bundles containing FQIS wiring. Airplanes were found with aluminum drill shavings on and inside various wire bundles in several locations between the flight deck and the fuel tank. Such shavings can, with vibration or other motion, cut through wire insulation and provide a conductive path between wires in a bundle. Service history contains records of wire bundle fires, which may have been due to such conditions. An examination of one wire bundle involved in such a fire revealed the presence of aluminum globules, presumably from molten shavings.

The manufacturer also stated that, if a failure in a wire bundle involving the FQIS were to occur, the FQIS indications would be affected and the failure would be noted and repaired. No arc would be created inside the fuel tank due to the inherently safe design of the in-tank components and wiring. The FAA does not agree. If one of the latent in-tank conditions discussed above existed on the accident airplane, the first indication of a wire bundle failure or electromagnetic interference (EMI) event outside the tank may have been ignition of the fuel vapor in the tank. In the minutes immediately preceding the in-flight breakup of the TWA Flight 800 airplane, the cockpit voice recorder indicates that the crew noticed a fuel flow indicator that was providing erratic indications. Such indications could have been due to a failure occurring in a wire bundle. The NTSB investigation determined that the fuel flow indicator wiring was routed in the same wire bundle as FQIS wiring on the TWA Flight 800 airplane.

An examination of the service history for transport category airplanes on which shielding and separation of the

FQIS wiring from other systems have been incorporated has shown that fewer fuel tank fire/explosion events have occurred (a tabulation of transport airplane fuel tank fires was included in the FAA Notice of Request for Comments on NTSB Safety Recommendations published in the **Federal Register** on April 3, 1997 (62 FR 16014)). The two most recent fuel tank explosion accidents—a Boeing Model 737–300 series airplane operated by Philippine Airlines in 1990, and a Boeing Model 747–100 series airplane operated as TWA Flight 800 in 1996—remain unsolved, and both airplane types follow the wiring practices addressed by this rule.

Therefore, the FAA has determined that, to address the potential for fuel tank ignition due to a latent failure plus one subsequent failure, the type design of the Model 747 series airplane must be brought up to the same wiring standards as other transport category airplanes certificated during the same time period that the Model 747 series airplane was certificated. (Similar rulemaking has been proposed for Model 737 series airplanes. Reference Rules Docket No. 98–NM–50–AD (63 FR 38524, April 22, 1998).) No change to this final rule is necessary.

Request To Withdraw Proposed AD: Inaccurate Test Results

Four commenters state that the proposed AD should be withdrawn and the problem studied further. The commenters claim that the results of laboratory EMI testing performed by the manufacturer are not representative of actual conditions on an airplane.

These commenters further state that results of additional testing performed by the manufacturer on an airplane did not agree with the findings obtained in the laboratory, and showed much lower levels of electromagnetic coupling between the FQIS and other systems on the airplane. The FAA does not concur that the proposed AD should be withdrawn. The laboratory testing performed by the manufacturer was based on an industry-accepted procedure (FAA Advisory Circular 21–16C, ''Radio Technical Commission for Aeronautics'' Document DO–160C). The test set-up and procedure re-create a well-known electrical transient event resulting from switching of airplane electrical systems.

The industry-accepted test set-up and procedure were developed by industry with key support from the manufacturer, and were based, in part, on data provided by the manufacturer for typical switching transients on the manufacturer's airplanes.

Also, the FAA has determined that the test procedures used during the manufacturer's airplane test were not representative of all the possible conditions on an airplane in operation. The test was performed on an out-of-service airplane with only some of the relevant systems powered and switched. No attempt was made to represent any system failure conditions or compromised shielding/grounding provisions on the systems that were powered and switched. Also, because of the way airplane wire bundles are manufactured and installed, significant variation in levels of coupling among systems has been seen in the past and would be expected on Model 747 series airplanes.

Moreover, the FAA's determination of the existence of an unsafe condition is not wholly dependent on the results of the tests discussed above. In the FQIS system safety analysis and airplane inspections performed by the NTSB, several tank ignition scenarios were identified involving a combination of a latent failure or aging condition inside the fuel tank and a subsequent failure or electromagnetic coupling outside the tank. Various FAA and NTSB activities identified actual examples of, or the specific potential for, each of those types of contributing conditions. The FAA has proposed a separate AD action to address contributing in-tank failure or aging conditions that have been identified. [Reference Rules Docket No. 98–NM–163–AD (63 FR 39765, dated July 24, 1998).] This final rule is intended to address the out-of-tank contributing conditions that could lead to tank ignition.

By requiring ''best practices'' to be used both inside the tank (to eliminate the possibility for the creation of latent ''spark-gap'' locations in the event of high voltage on the FQIS wires) and outside the tank (to avoid introduction of ignition energy onto the FQIS wires), the FAA believes that the FQIS design of the Model 747 series airplane will meet appropriate fail-safe standards. The modified design will then provide the level of safety (i.e., tank ignition events should never occur) intended by the regulations in place at the time of original certification of the design, and the unsafe condition will be eliminated from this threat. No change to the final rule is necessary.

Request To Withdraw Proposed AD: Potential for Other Safety Problems

Seven commenters state that the proposed rule should be withdrawn and the need for the rule should be studied further. The commenters are concerned that the proposed changes may introduce other unforeseen problems onto an airplane that has an excellent safety record. The commenters are specifically concerned about transient suppression devices reducing the accuracy of the FQIS and the replacement of wiring causing damage to remaining wiring on older airplanes. These commenters also express concern that transient suppression devices could have latent failure conditions under which electrical transients would not be suppressed, and therefore would require added repetitive inspections or tests.

The FAA does not concur that the proposed AD should be withdrawn. However, the FAA agrees with comments from the manufacturer and one of the operators that the use of transient suppression devices to perform a critical function of preventing tank ignition is new, and that the industry should be cautious in exploring that option. Therefore, the FAA is not including a requirement for the incorporation of such devices in the final rule. The FAA instead is requiring that the FQIS wiring be shielded and separated from other wiring, as explained previously. This requirement is merely a subset of those requirements specified in the proposed AD. The modified wiring configuration proposed by the manufacturer caps and stows the existing wiring and requires the new wiring to be installed as a separate bundle in most parts of the airplane. This method minimizes the disturbance of existing wiring, which reduces the likelihood that additional problems will be caused by the modification of the FQIS wiring. The FAA has revised the final rule to eliminate the proposed requirement for installation of transient suppression devices.

Request To Delay Issuance of the AD: Make Service Information Available

Two commenters, including the manufacturer of FQIS components, state that the proposed AD should not be issued until service information to accomplish the required actions is available from the manufacturer. These commenters state that the cost of the proposed rule could not be assessed accurately in the absence of service information, and that a significant portion of the proposed compliance time would be used up in the preparation of service information.

The FAA does not concur. The FAA does not consider that delaying this action until after the release of the service bulletin planned by the manufacturer is warranted because sufficient technology currently exists to devise and install the required features within the compliance time. However,

paragraph (a) of the final rule has been revised to allow 36 months for the modification of airplanes. The extension of the compliance time afforded by this change is intended to allow sufficient time for the preparation of a manufacturer's service bulletin and for the subsequent modification of the affected airplanes during scheduled maintenance. The FAA has determined that this extension of the compliance time will not have a significant adverse effect on the safety of the fleet of Model 747 series airplanes.

At the time the NPRM was issued, the manufacturer had not prepared service information with specific cost information; the FAA estimated the costs based on similar modifications accomplished previously on other airplane models. The cost estimate has been revised based on information provided by the manufacturer, as discussed below.

Request To Delay Issuance of the AD Until a Meeting Is Held

One commenter states that the rule should be withdrawn or delayed until a meeting can be held among representatives of operators, manufacturers, and the FAA. The FAA does not concur. The commenter provided no technical justification for the proposed delay. As indicated previously, the compliance time has been extended from 12 months, as proposed, to 36 months in this final rule. To delay this action further would be inappropriate, since the FAA has determined that an unsafe condition exists and that affected airplanes must be modified to ensure continued safety. No change to the AD is necessary.

Request To Extend Compliance Time

Seven commenters, including the manufacturer, a vendor of transient suppression systems, and several operators, state that a longer compliance time should be allowed to allow modification of airplanes during heavy maintenance activities scheduled previously and to allow time for service information to be prepared. The manufacturer states that 18 to 24 months would be required to prepare service information.

The FAA concurs partially. Although, as explained previously, the FAA does not agree that 18 to 24 months would be required solely to prepare service information, the FAA does agree that schedule interruptions should be minimized in performing the modifications to the Model 747 series airplane fleet. The FAA has attempted to determine a compliance time that provides for the most timely modification possible without causing unnecessary schedule interruptions. As stated previously, the FAA has revised paragraph (a) of the final rule to extend the compliance time to 36 months for accomplishment of the modification. This compliance time is expected to allow sufficient time for preparation of service information, and for the affected airplanes to be modified during scheduled ''C'' or ''D'' checks.

Preference for a Specific Design Solution

Three commenters, including the manufacturer, propose no specific change to the rule, but state a preference for a particular design change to address the unsafe condition. The manufacturer states that it believes that wire separation and shielding is currently the preferable solution because of concerns about transient suppression devices reducing the accuracy of the fuel quantity indication and concerns about those devices having latent failure conditions under which electrical transients would not be suppressed. Another commenter, an operator, prefers that transient suppression alone be used because it would be less costly and disruptive to install. A specific technical and marketing proposal for transient suppression devices was submitted by a vendor of such devices for other types of installations.

The FAA infers that the commenters request that a particular design be required rather than offering optional methods of compliance. The FAA concurs partially. As discussed previously, the FAA agrees that wire separation and shielding provide the preferred design solution. Based on comments from the manufacturer and on its own further analysis, the FAA has determined that transient suppression devices alone may not meet the intent of the rule. The FAA has concerns that transient suppression devices may have latent failure modes that render the transient suppression function inoperative, or may have failure modes that may allow introduction of high voltage signals into the fuel tank that otherwise would not have occurred.

Based on the comments and the FAA's concerns, paragraph (a) of the final rule has been revised to eliminate the general requirement for transient suppression. Operators that have specific design changes other than those required by the AD that may provide an acceptable level of safety may request approval of an alternative method of compliance in accordance with paragraph (b) of the AD.

Request for Inclusion of Optional Method of Compliance

Three commenters suggest that the installation of a BFGoodrich Aerospace FQIS be allowed as an optional method of compliance in the proposed AD. The commenters state that the BFGoodrich system, already approved by a Supplemental Type Certificate and installed on approximately 75 airplanes, incorporates shielding and separation of the FQIS wiring from the wiring for other airplane systems.

The FAA does not concur. Until specific design data are reviewed, the FAA cannot determine whether the BFGoodrich design should be approved as an alternative method of compliance. To delay this action while the FAA reviews the BFGoodrich design would be inappropriate, since the FAA has determined that an unsafe condition exists and that affected airplanes must be modified to ensure continued safety. Interested operators may request approval of an alternative method of compliance in accordance with the provisions of paragraph (b) of the AD. No change to the final rule is necessary.

Request To Revise Cost Estimate of the Proposed AD

Three commenters propose no specific change to the rule, but disagree with the cost estimate in the proposed rule, and offer differing specific cost estimates. One commenter, an operator, states that at least 200 work hours per airplane would be required to perform the proposed modification, and even more hours would be required if the FQIS wire routing is changed significantly. A vendor of FQIS's states that, based on its own experience retrofitting such systems in Model 747 series airplanes, 600 to 1,200 work hours per airplane would be required to perform the proposed modifications. The manufacturer states that 450 work hours and $9,000 for parts would be required to separate and shield the FQIS wiring, and that 16 to 24 work hours and $25,000 for parts would be required to install transient suppression devices.

The FAA infers that the commenters are requesting revision of the cost impact information of the AD. The FAA concurs. At the time the NPRM was issued, the manufacturer had not prepared service information with specific cost information. The FAA made an estimate of the costs based on similar modifications accomplished previously on other airplane models. The cost estimate in this final rule has been revised based on information provided by the manufacturer, and now reflects that modification of affected

Model 747 series airplanes to install shielded FQIS wiring and to separate the FQIS wiring from other wiring is expected to require 450 work hours and $9,000 for parts.

Request for Clarification of Affected Fuel Tanks

One commenter states that the proposed AD refers only to fuel tanks and is not clear as to whether it is intended to apply to all fuel tanks or just the center wing fuel tank. The FAA concurs that clarification is necessary, and has changed the final rule to clearly indicate that it is applicable to all fuel tanks.

Clarification of Systems Affected

Since the issuance of the NPRM, the FAA recognized that the proposed AD may be unclear with respect to which electrical circuits were intended to be affected by the proposed AD. The FAA considers the FQIS wiring to include all electrical circuits associated with the control or indication of the fuel quantity on the airplane. This would include, but is not limited to, the FQIS tank probe circuits, the volumetric shutoff compensator circuits, densitometer circuits, and float switch circuits. The term ''circuits'' is considered by the FAA to include airplane wiring as well as wiring within components. No change to the final rule is necessary.

Clarification of Airplane Models Affected

The NPRM indicated that the airplanes affected by the proposed AD were Boeing Model 747–100, –200, and –300 series airplanes. The proposed AD was intended to apply to all Boeing Model 747 series airplanes that do not have shielded and separated FQIS wiring, including the 747SR and 747SP series airplanes. The estimate of the affected fleet size that was provided in the NPRM included those airplanes, which many, including the manufacturer, consider to be part of the Model 747–100 series. Those models are listed separately on the Model 747 Type Certificate Data Sheet. Therefore, in order to clarify that this AD does apply to those models, the final rule has been revised to list the affected airplanes as Boeing Model 747–100, –200, –300, SP, and SR series.

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 significantly increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 650 Model 747–100, –200, –300, SP, and SR series airplanes of the affected design in the worldwide fleet. The FAA estimates that 202 airplanes of U.S. registry will be affected by this AD, that it will take approximately 450 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $9,000 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $7,272,000, or $36,000 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, 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:

98–20–40 Boeing: Amendment 39–10808. Docket 97–NM–272–AD.

Applicability: All Model 747–100, –200, –300, –SP, and –SR series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical transients induced by electromagnetic interference (EMI) or electrical short circuit conditions from causing arcing of the fuel quantity indication system (FQIS) electrical wiring or probes in the fuel tank(s), which could result in ignition of the fuel tank(s), accomplish the following:

(a) Within 36 months after the effective date of this AD, replace all of the FQIS wiring outside of the fuel tanks and surge tank with shielded wiring, and install that wiring so as to provide separation of that wiring from other airplane systems wiring, in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(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, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

(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) This amendment becomes effective on November 4, 1998.

Issued in Renton, Washington, on September 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–25972 Filed 9–29–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–254–AD; Amendment 39–10751; AD 98–19–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, that currently requires removal of the fuel boost pump wiring in the conduits of the wing and center fuel tanks; an inspection to detect damage of the wiring, and corrective action, if necessary; and eventual installation of Teflon sleeving over the electrical cable. That AD was prompted by reports of severe wear of the fuel boost pump wiring due to chafing between the wiring and the surrounding conduit inside the fuel tank; pin-hole-sized holes in the conduit that appear to be the result of arc-through of the conduit; and exposure of the main tank boost pump wire conductor inside a conduit and signs of arcing to the wall of the conduit. This amendment expands the inspection requirement to include additional airplanes. The actions specified by this AD are intended to detect and correct chafing and electrical arcing between the fuel boost pump wiring and the surrounding conduit, which, if not corrected, could result in arc-through of the conduit, and consequent fire or explosion of the fuel tank.

DATES: Effective October 15, 1998.

The incorporation by reference of Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998, as revised by Notices of Status Change NSC 01, dated May 7, 1998, NSC 02, dated May 8, 1998, and NSC 03, dated May 9, 1998, as listed in the regulations, was previously approved by the Director of the Federal Register on June 29, 1998.

The incorporation by reference of Boeing Alert Service Bulletin 737–28A1120, Revision 1, dated May 28, 1998, as listed in the regulations, is approved by the Director of the Federal Register as of October 15, 1998.

Comments for inclusion in the Rules Docket must be received on or before November 30, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–254–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

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

FOR FURTHER INFORMATION CONTACT: Dorr Anderson, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2684; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On June 12, 1998, the FAA issued AD 98–11–52, amendment 39–10611 (63 FR 34271, June 24, 1998), applicable to all Boeing Model 737–100, –200, –300, –400, and –500 series airplanes, to require removal of the fuel boost pump wiring in the conduits of the wing and center fuel tanks; an inspection to detect damage of the wiring, and corrective action, if necessary; and eventual installation of Teflon sleeving over the electrical cable. That action was prompted by reports of severe wear of the fuel boost pump wiring due to chafing between the wiring and the surrounding conduit inside the fuel tank; pin-hole-sized holes in the conduit that appear to be the result of arc-through of the conduit; and exposure of the main tank boost pump wire conductor inside a conduit and signs of arcing to the wall of the conduit. The actions required by that AD are intended to detect and correct chafing and electrical arcing between the fuel boost pump wiring and the surrounding conduit, which, if not corrected, could result in arc-through of the conduit, and consequent fire or explosion of the fuel tank.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has received reports of severe chafing of the boost pump wiring (with wear of the primary wire insulation between 40 percent and 80 percent) on Boeing Model 737 series airplanes that had accumulated between 29,000 and 35,000 total flight hours. Some of these airplanes had accumulated fewer flight hours than the number of flight hours specified as the inspection threshold in AD 98–11–52.

In light of these findings, the FAA has determined that it is necessary to expand the inspection requirement to include airplanes that have accumulated between 20,000 and 30,000 total flight hours. This is necessary to ensure that these airplanes have not also developed a problem with chafing and electrical arcing between the fuel boost pump wiring and the surrounding conduit.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–28A1120, Revision 1, dated May 28, 1998. The procedures for inspecting the fuel boost pump wiring and installing Teflon sleeving are essentially identical to the procedures described in the original version of the alert service bulletin (referenced in AD 98–11–52). The only change effected by Revision 1 is to provide information concerning revised rework instructions and optional parts and procedures.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 98–11–52 to continue to require removal of the fuel boost pump wiring in the conduits of the wing and center fuel tanks; an inspection to detect damage of the wiring, and corrective action, if necessary; and eventual installation of Teflon sleeving over the electrical cable. This AD expands the inspection requirement to include airplanes that have accumulated between 20,000 and 30,000 total flight hours. The actions are required to be accomplished in accordance with the alert service bulletin described previously. This AD also requires that operators report findings of discrepancies to the manufacturer.

Possible Future Rulemaking Action

The FAA currently is considering further rulemaking action that would supersede this action to additionally require inspection of Model 737 series airplanes that have accumulated less

than 20,000 total flight hours. However, the planned compliance time for the inspection is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–254–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10611 (63 FR 34271, June 24, 1998), and by adding a new airworthiness directive (AD), amendment 39–10751, to read as follows:

98–19–09 Boeing: Amendment 39–10751. Docket 98–NM–254–AD. Supersedes AD 98–11–52, Amendment 39–10611.

Applicability: All Model 737–100, –200, –300, –400, and –500 series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct chafing and electrical arcing between the fuel boost pump wiring and the surrounding conduit, which, if not corrected, could result in arc-through of the conduit, and consequent fire or explosion of the fuel tank, accomplish the following:

Inspections Required by AD 98–11–52

(a) For all airplanes that have accumulated 50,000 or more total flight hours as of June 29, 1998 (the effective date of AD 98–11–52, amendment 39–10611): Prior to further flight, remove the fuel boost pump wiring from the in-tank conduit for the aft boost pumps in main tanks numbers 1 and 2, and perform a detailed visual inspection to detect damage of the wiring, in accordance with the procedures specified in Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998, as revised by Notices of Status Change NSC 01, dated May 7, 1998, NSC 02, dated May 8, 1998, and NSC 03, dated May 9, 1998; or Revision 1, dated May 28, 1998.

(b) For all airplanes that have accumulated less than 50,000 total flight hours as of receipt of telegraphic AD T98–11–51: Prior to the accumulation of 40,000 total flight hours, or within 14 days after June 29, 1998, whichever occurs later, remove the fuel boost pump wiring from the in-tank conduit for the aft boost pumps in main tanks numbers 1 and 2, and perform a detailed visual inspection to detect damage of the wiring, in accordance with the procedures specified in Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998, as revised by Notices of Status Change NSC 01, dated May 7, 1998, NSC 02, dated May 8, 1998, and NSC 03, dated May 9, 1998; or Revision 1, dated May 28, 1998.

(c) For all airplanes: Remove the fuel boost pump wiring from the in-tank conduit for the center tank left and right boost pumps, and perform a detailed visual inspection to detect damage of the wiring, in accordance with the procedures specified in Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998, as revised by Notices of Status Change NSC 01, dated May 7, 1998, NSC 02, dated May 8, 1998, and NSC 03, dated May 9, 1998; or Revision 1, dated May 28, 1998. Accomplish the inspection at the earliest of the times specified in paragraphs (c)(1), (c)(2), and (c)(3).

(1) For Model 737–300, –400, and –500 series airplanes: Inspect prior to the accumulation of 40,000 total flight hours, or within 14 days after June 29, 1998, whichever occurs later.

(2) For Model 737–100 and –200 series airplanes: Inspect prior to the accumulation of 40,000 total flight hours, or within 10 days after June 29, 1998, whichever occurs later.

(3) For all airplanes: Inspect prior to the accumulation of 50,000 total flight hours, or within 5 days after June 29, 1998, whichever occurs later.

(d) For all airplanes: Prior to the accumulation of 30,000 total flight hours or

within 45 days after June 29, 1998, whichever occurs later, remove the fuel boost pump wiring from the in-tank conduit for the aft boost pumps in main tanks numbers 1 and 2, and the center tank left and right boost pumps, and perform a detailed visual inspection to detect damage of the wiring, in accordance with the procedures specified in Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998, as revised by Notices of Status Change NSC 01, dated May 7, 1998, NSC 02, dated May 8, 1998, and NSC 03, dated May 9, 1998; or Revision 1, dated May 28, 1998.

New Inspection Requirement

(e) For airplanes that have accumulated 20,000 or more total flight hours and less than 30,000 total flight hours as of the effective date of this AD: Within 60 days after the effective date of this AD, remove the fuel boost pump wiring from the in-tank conduit for the aft boost pumps in main tanks numbers 1 and 2, and the center tank left and right boost pumps, and perform a detailed visual inspection to detect damage of the wiring; in accordance with the procedures specified in Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998, as revised by Notices of Status Change NSC 01, dated May 7, 1998, NSC 02, dated May 8, 1998, and NSC 03, dated May 9, 1998; or Revision 1, dated May 28, 1998.

Corrective Actions

(f) If red, yellow, blue, or green wire insulation cannot be seen through the outer jacket of the electrical cable during any inspection required by this AD: Prior to further flight, accomplish paragraph (f)(1), (f)(2), or (f)(3) of this AD in accordance with procedures specified in Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998, as revised by Notices of Status Change NSC 01, dated May 7, 1998, NSC 02, dated May 8, 1998, and NSC 03, dated May 9, 1998; or Revision 1, dated May 28, 1998.

(1) Install Teflon sleeving over the electrical cable, and reinstall the cable. Or

(2) Reinstall the electrical cable without Teflon sleeving over the cable. Within 500 flight hours after accomplishment of the reinstallation, repeat the inspection described in paragraph (d) of this AD; and install Teflon sleeving over the cable. Or

(3) Replace the electrical cable with new cable without Teflon sleeving. Within 18 months or 6,000 flight hours, whichever occurs first, repeat the inspection specified in paragraph (d) of this AD, and install Teflon sleeving over the cable.

(g) If red, yellow, blue, or green wire insulation can be seen through the outer jacket of the electrical cable during any inspection required by this AD, but no evidence of electrical arcing is found: Prior to further flight, accomplish either paragraph (g)(1) or (g)(2) of this AD in accordance with the procedures specified in Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998, as revised by Notices of Status Change NSC 01, dated May 7, 1998, NSC 02, dated May 8, 1998, and NSC 03, dated May 9, 1998; or Revision 1, dated May 28, 1998.

(1) Replace the damaged electrical cable with a new cable, install Teflon sleeving over the cable, and reinstall the cable. Or

(2) Replace the electrical cable with a new cable without Teflon sleeving. Within 18 months or 6,000 flight hours, whichever occurs first, repeat the inspection described in paragraph (d) of this AD; and install Teflon sleeving over the cable.

(h) If any evidence of electrical arcing but no evidence of fuel leakage is found on the removed electrical cable during any inspection required by this AD: Prior to further flight, accomplish paragraphs (h)(1) and (h)(2) of this AD in accordance with the procedures specified in Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998, as revised by Notices of Status Change NSC 01, dated May 7, 1998, NSC 02, dated May 8, 1998, and NSC 03, dated May 9, 1998; or Revision 1, dated May 28, 1998.

(1) Verify the integrity of the conduit in accordance with the instructions contained in NSC 03 or Revision 1 of the alert service bulletin. And

(2) Accomplish either paragraph (h)(2)(i) or (h)(2)(ii) of this AD in accordance with the alert service bulletin.

(i) Replace the damaged electrical cable with a new cable, install Teflon sleeving over the cable, and reinstall the cable. Or

(ii) Replace the electrical cable with a new cable without Teflon sleeving. Within 18 months or 6,000 flight hours, whichever occurs first, repeat the inspection described in paragraph (d) of this AD; and install Teflon sleeving over the cable.

(i) If any evidence of fuel is found on the removed electrical cable during any inspection required by this AD: Prior to further flight, accomplish paragraphs (i)(1) and (i)(2) of this AD in accordance with the procedures specified in Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998, as revised by Notices of Status Change NSC 01, dated May 7, 1998, NSC 02, dated May 8, 1998, and NSC 03, dated May 9, 1998; or Revision 1, dated May 28, 1998.

(1) Replace the conduit section where electrical arcing was found. And

(2) Accomplish either paragraph (i)(2)(i) or (i)(2)(ii) of this AD.

(i) Replace the damaged electrical cable with a new cable, install Teflon sleeving over the cable, and reinstall the cable. Or

(ii) Replace the electrical cable with a new cable without Teflon sleeving. Within 18 months or 6,000 flight hours, whichever occurs first, repeat the inspection described in paragraph (d) of this AD; and install Teflon sleeving over the cable.

(j) For Groups 1 and 2 airplanes, as identified in Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998: Concurrent with the first accomplishment of corrective action in accordance with paragraph (f), (g), (h), or (i) of this AD, as applicable, replace the case ground wire with a new wire in accordance with Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998; as revised by Notices of Status Change NSC 01, dated May 7, 1998, NSC 02, dated May 8, 1998, and NSC 03, dated May 9, 1998; or Revision 1, dated May 28, 1998.

(k) Installation of Teflon sleeving over any electrical cable that is new or has been inspected in accordance with paragraph (a), (b), (c), (d), or (e) of this AD, constitutes terminating action for the requirements of this AD.

(l) If any damage specified in paragraph (g), (h), or (i) of this AD is found during any inspection required by this AD, within 10 days after accomplishing the inspection required by paragraph (a), (b), (c), (d), or (e) of this AD, as applicable, accomplish paragraphs (l)(1) and (l)(2) of this AD. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) Submit any damaged electrical cables and conduits to Boeing, in accordance with Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998, as revised by Notices of Status Change NSC 01, dated May 7, 1998, NSC 02, dated May 8, 1998, and NSC 03, dated May 9, 1998; or Revision 1, dated May 28, 1998; include the serial number of the airplane, the number of total flight hours and flight cycles accumulated on the airplane, and the location of the electrical cable on the airplane.

(2) For airplanes that are inspected after June 29, 1998, submit the serial number of the airplane, the number of total flight hours and flight cycles accumulated on the airplane, and the location of the electrical cable on the airplane to the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; fax (425) 227–1181.

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

(m)(2) Alternative methods of compliance, approved previously in accordance with AD 98–11–52 are approved as alternative methods of compliance with this AD.

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

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

(o) Except as provided in paragraph (k)(2) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 737–28A1120, dated April 24, 1998, as revised by Notice of Status Change NSC 01, dated May 7, 1998, Notice of Status Change NSC 02, dated May 8, 1998, and Notice of Status Change NSC 03, dated May 9, 1998; or Boeing Alert Service Bulletin 737–28A1120, Revision 1, dated May 28, 1998.

(1) The incorporation by reference of Boeing Alert Service Bulletin 737–28A1120, Revision 1, dated May 28, 1998, as listed in the regulations, is approved by the Director of the Federal Register as of October 15, 1998.

(2) The incorporation by reference of Boeing Alert Service Bulletin 737–28A1120,

dated April 24, 1998, as revised by Notice of Status Change NSC 01, dated May 7, 1998, Notice of Status Change NSC 02, dated May 8, 1998, and Notice of Status Change NSC 03, dated May 9, 1998, was approved previously by the Director of the Federal Register as of June 29, 1998 (63 FR 34271, June 24, 1998).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(p) This amendment becomes effective on October 15, 1998.

Issued in Renton, Washington, on September 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–25971 Filed 9–29–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 243

[Docket No. OST–95–950]

RIN 2105–AB78

Passenger Manifest Information

AGENCY: Office of the Secretary, DOT.

ACTION: Denial of Petition for Rulemaking.

SUMMARY: The National Air Carrier Association (NACA) filed a petition for reconsideration of DOT's final rule concerning passenger manifests on airline flights to or from the United States. NACA asked that travel agents and tour operators be required to collect the full name of each U.S. citizen passenger and solicit the name and telephone number of a contact. Currently, this is required only of airlines. DOT is denying the petition.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20905; 202 366–9315.

SUPPLEMENTARY INFORMATION:

Background

On February 18, 1998, the Department of Transportation published a final rule (63 FR 8258) requiring certificated air carriers and large foreign air carriers authorized to operate large aircraft to collect the full name of each U.S. citizen traveling on flight segments to or from the United States, and to solicit a contact name and telephone number. In the event of an aviation disaster, airlines would be required to provide the information to the Department of State and, in certain instances, to the National Transportation Safety Board. Each carrier would develop its own collection system. The rule was adopted pursuant to the Aviation Security Improvement Act of 1990. The rule is intended to provide the United States government with prompt and adequate information in the event of an aviation disaster on covered flights.

Petition for Reconsideration

On June 18, 1998, the National Air Carrier Association (NACA), on behalf of American Trans Air, Miami Air International, Omni Air International, Tower Air, and World Airways, filed a Petition for Reconsideration. The petition requested that the Department modify the provisions regarding information collection requirements (§ 243.7) in the final rule to require that tour operators and travel agents, in addition to air carriers, be required to collect the full name of each U.S. citizen and solicit the name and telephone number of a contact for each U.S. citizen passenger boarded on covered flight segments.

NACA argued that the rule would be more successful if all sellers of air transportation are required to participate in the collection of contact information. NACA contended that the psychological environment is more conducive to soliciting the required information at the time the ticket is sold and the reservation made than at boarding, which is often chaotic and confusing. It stated that utilizing the first point of contact to solicit and collect the required information would reduce check-in time at boarding. In addition, NACA stated that passengers are more likely to provide their full name and contact information at the first point of contact rather than at the airport.

NACA asserted that because tour operators normally prepare manifests that include the full name of the traveler, the traveler's ticket number, and other pertinent information, it would be very easy for a tour operator to obtain the contact name and telephone number at the time of sale and include it on the manifest.

Additionally, NACA noted that the Task Force on Assistance to Families of Aviation Disasters recommended that travel agents and tour operators, as well as airlines, be required to obtain the contact information.

Comments on the Petition.

The Air Transport Association of America (ATA) supported NACA's petition. It stated that NACA's proposal would lead to a more efficient system of information collection because the information would be collected in advance of check-in. ATA estimated that over 80 percent of passengers flying on international flights use travel agents to purchase their transportation. ATA said that collecting passenger information at check-in was not desirable because it would delay the processing of passengers, lead to slower and longer check-in lines, and place additional burdens on currently constrained facilities. In conclusion, ATA argued that modifying the rule will enhance the public interest in general and passenger convenience in particular.

The American Association for Families of KAL 007 Victims and the Families of TWA Flight 800 Association jointly filed comments in support of NACA's proposal. In addition, they asked that the tour operators and travel agents be required to share this information with the air carriers on which their passenger clients are actually transported because tour operators and travel agents may be difficult to reach in case of an aviation disaster. These organizations stated that a substantial number of bookings are made via travel agents and tour operators. In the case of charters, the air carrier has no relationship with any of the passengers prior to boarding. The groups argued that the change would be more cost-effective for all parties concerned, and thus, would better fulfill the intent of the rule and provide more accurate information and facilitate post-disaster crisis management operations.

The American Society of Travel Agents (ASTA) opposed the petition on substantive and procedural grounds. It noted that DOT considered this issue at length and would have to begin another rulemaking before making the change. It argued that the petition was untimely because it was filed four months after publication of the final rule in the **Federal Register**. ASTA stated that efficiency would not be enhanced by having travel agents and tour operators collect the information, but rather would result in wasted time because some of those from whom information was collected would ultimately travel on a different flight, or not at all. In other cases, the information will be out-of-date and will need to be updated. ASTA argued that the only way to obtain accurate passenger information is to collect it at the gate. ASTA concluded that the regulation properly assigned the responsibility to collect the information to the business that is actually providing the service.

American Express Travel Related Services (American Express) also opposed the petition. It stated that, as a result of travelers' frequent changes in travel plans, the air carrier is in the best position to know what persons are actually on the flight. American Express also said that because airlines have cut their commissions to travel agents, if the Department of Transportation requires travel agents to collect the necessary information, then the result will be an increase in the service fees that travel agents charge their customers. It noted that travel agents are merely sales agents of the airline principals, and that the legal requirement should remain on the principal.

Apple Vacations (Apple), a major national tour operator, also opposed the petition. Apple stated that its experience with passenger reservations indicated that in order to get accurate and up-to-date contact information, it must be collected at check-in. Apple also observed that passengers currently are asked to complete contact information on the reverse of the boarding card. Apple passengers are asked to check in 2 hours before the flight, which in Apple's opinion provides ample time to fill in the three lines of information on the back of the boarding card. Apple noted that almost 100 percent of its passengers book through a travel agent and more than 80 percent of these bookings are taken by the travel agent over the phone, with inherent mistakes in transmission of the information. It stated that a travel agent would not want to imply that air travel is unsafe and is, therefore, likely to advise the tour operator that it asked for the information, but that the customer declined to provide it.

Apple further observed that each seat in its inventory might turn over four or five times before the reservation is confirmed with a deposit and a participant contract. Collection of the information any time before confirmation would, therefore, be a waste of time for all concerned. In addition, Apple noted that most of its trips are booked several months prior to departure so that some of the contact information would be outdated. As an operational matter, Apple noted that it does not see documents and is, therefore, unable to confirm either the correct name or nationality of its clients. In conclusion, it argued that the petition would make the collection of data unduly complicated, and would decrease both the amount of data collected and its reliability. Apple believes that collection of the data by the airline or its agent at check-in will be accurate and timely, and will not impose any additional or undue burden in either time or manpower.

Reasons for Denial

After careful review of the petition and all comments, the Department of Transportation has decided to deny NACA's request.

Pursuant to the final rule, the covered airline operating a covered flight is ultimately responsible for compliance with this rule and for communicating the information to the Department of State or NTSB. Only the covered airline operating a covered flight is aware of the passengers that ultimately board a covered flight. The Department, moreover, finds no evidence in the record to support NACA's claim that either the psychological environment is more conducive to soliciting the required information at the time the ticket is sold, or that passengers are more likely to provide such information at the first point of contact. Similarly, the Department finds no evidence in the record to support ASTA's claim that the only way to obtain accurate passenger information is to collect it at the gate.

The Department of Transportation believes each airline is in the best position to work out the most efficient manner for soliciting and collecting the information, and we want to give each of them the discretion to do so. For some airlines, this could be to solicit and collect the information at the time of first contact. For others, this might be at the time of booking. In its best business judgment, an airline may or may not choose, as part of its agency contractual relationship, to have travel agents and tour operators collect information, and to work out an appropriate arrangement to ensure that the information is solicited and collected. In the end, it is up to the airline to ensure compliance with the final rule. In their joint comment, the American Association for Families of KAL 007 Victims and the Families of TWA Flight 800 Association contended that the change requested by NACA would be more cost-effective for all parties concerned. If that is the case, there is a commercial motivation for the parties to come to agreement on such a procedure without the need for further rulemaking.

OST's rulemaking procedures are set forth in 49 CFR Part 5. The procedures do not include any explicit process for petitions for reconsideration. We are, therefore, treating this petition for reconsideration as a petition for rulemaking and do not consider it to be filed out of time. I am hereby denying the petition under authority delegated to me by the Secretary of Transportation in 49 CFR 1.57.

Issued in Washington, DC, on September 24, 1998.

Nancy E. McFadden,

General Counsel.

[FR Doc. 98–26252 Filed 9–28–98; 12:34 pm]

BILLING CODE 4910–62–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Distribution of Risk Disclosure Statements by Futures Commission Merchants and Introducing Brokers; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the final rules published in the **Federal Register** of Friday, February 20, 1998 (63 FR 8566). These final rules amended requirements of the Commodity Futures Trading Commission (''Commission'') related to risk disclosures that must be provided by future commission merchants (''FCMs'') and introducing brokers (''IBs'') to customers.

DATES: Effective on April 21, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas E. Joseph, Attorney Adviser, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone (202) 418–5430.

SUPPLEMENTARY INFORMATION:

Background

The final rules that are the subject of this correction amended the Commission's disclosure requirements in order to relieve FCMs and IBs of the obligations to provide certain specifically defined customers with Commission-mandated risk disclosure statements and to receive from such customers a signed acknowledgement of receipt of such statements.

Need for Correction

The instructions to revise Rule 1.55 did not contain a reference to the ''introductory text'' of paragraph (a)(1) of that section when they were published in the **Federal Register** on February 20, 1998. As a result, 17 CFR 1.55(a)(1) (1998) fails to include language that the Commission did not intend to amend or remove by the February 1998 rule change. This

correcting amendment provides the complete language for 17 CFR 1.55(a)(1).

List of Subjects in 17 CFR Part 1

Commodity futures, Customer protection, Risk disclosure statements.

Accordingly, 17 CFR Part 1 is corrected by making the following correcting amendment:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, 24.

2. In § 1.55, paragraph (a)(1) should be correctly revised to read as follows:

§ 1.55 Distribution of ''Risk Disclosure Statement'' by futures commission merchants and introducing brokers.

(a)(1) Except as provided in 1.65, no futures commission merchant, or in the case of an introduced account no introducing broker, may open a commodity futures account for a customer, other than for a customer specified in paragraph (f) of this section, unless the futures commission merchant or introducing broker first:

(i) Furnishes the customer with a separate written disclosure statement containing only the language set forth in paragraph (b) of this section (except for nonsubstantive additions such as captions) or as otherwise approved under paragraph (c) of this section; *Provided, however,* that the disclosure statement may be attached to other documents as the cover page or the first page of such documents and as the only material on such page; and

(ii) Receives from the customer an acknowledgment signed and dated by the customer that he received and understood the disclosure statement.

* * * * *

Issued in Washington, D.C. on September 24, 1998 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–26078 Filed 9–29–98; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Food and Drug Administration

21 CFR Parts 522 and 556

Implantation or Injectable Dosage Form New Animal Drugs; Oxytetracycline Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The supplemental NADA provides for intramuscular, intravenous, and subcutaneous use of oxytetracycline injection in lactating dairy cattle in addition to use in beef cattle, nonlactating dairy cattle, calves including preruminating (veal) calves, and swine.

EFFECTIVE DATE: September 30, 1998.

FOR FURTHER INFORMATION CONTACT: William T. Flynn, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1652.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed supplemental NADA 113–232 that provides for intramuscular, intravenous, and subcutaneous use of Liquamycin® LA–200® (oxytetracycline injection) for treatment of lactating dairy cattle in addition to treatment of beef cattle, nonlactating dairy cattle, calves including preruminating (veal) calves, and swine as in § 522.1660(d)(1) and (d)(2) (21 CFR 522.1660(d)(1) and (d)(2)). The supplemental NADA is approved as of July 21, 1998, and the regulations in § 522.1660(d)(1) are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

Also § 522.1660(c) is revised to cross-reference the tolerances for oxytetracycline in 21 CFR 556.500. In addition, the tolerances are amended to provide for an acceptable daily intake (ADI) (see 61 FR 67453, December 23, 1996) and for a tolerance for residues in milk. Because the December 23, 1996, publication amends tolerances for all tetracyclines (chlortetracycline, oxytetracycline, and tetracycline), this document also amends 21 CFR 556.150 and 556.720 to reflect the tetracycline ADI.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support this approval may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning July 21, 1998, because the supplement contains substantial evidence of effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the supplement and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to use of this drug in lactating dairy cattle for the labeled indications for which the supplemental application is approved.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 522

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 522 and 556 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

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

2. Section 522.1660 is amended by adding paragraph (c), by revising the heading in paragraph (d)(1) and the two last sentences in paragraph (d)(1)(iii) to read as follows:

§ 522.1660 Oxytetracycline injection.

* * * * *

(c) *Related tolerances.* See § 556.500 of this chapter.

(d) * * *

(1) *Beef cattle, dairy cattle, and calves including preruminating (veal) calves.* * * *

(iii) * * * For sponsors 000010, 053389, 059130, and 061623: Not for use in lactating dairy cattle. For sponsor 000069: Milk taken from animals during treatment and for 96 hours after the last treatment must not be used for food; use subcutaneously with a maximum of 10 milliliters per injection site in adult cattle as well as intramuscularly and intravenously.

* * * * *

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

4. Section 556.150 is revised to read as follows:

§ 556.150 Chlortetracycline.

(a) *Acceptable daily intake (ADI).* The ADI for total residues of tetracyclines including chlortetracycline, oxytetracycline, and tetracycline is 25 micrograms per kilogram of body weight per day.

(b) *Beef cattle, nonlactating dairy cows, calves, swine, sheep, chickens, turkeys, and ducks.* Tolerances are established for the sum of residues of the tetracyclines including chlortetracycline, oxytetracycline, and tetracycline, in tissues as follows:

(1) 2 parts per million (ppm) in muscle.

(2) 6 ppm in liver.

(3) 12 ppm in fat and kidney.

5. Section 556.500 is revised to read as follows:

§ 556.500 Oxytetracycline.

(a) *Acceptable daily intake (ADI).* The ADI for total residues of tetracyclines including chlortetracycline, oxytetracycline, and tetracycline is 25 micrograms per kilogram of body weight per day.

(b) *Beef cattle, dairy cattle, calves, swine, sheep, chickens, turkeys, catfish, lobster, and salmonids.* Tolerances are established for the sum of residues of the tetracyclines including chlortetracycline, oxytetracycline, and tetracycline, in tissues and milk as follows:

(1) 2 parts per million (ppm) in muscle.

(2) 6 ppm in liver.

(3) 12 ppm in fat and kidney.

(4) 0.3 ppm in milk.

6. Section 556.720 is revised to read as follows:

§ 556.720 Tetracycline.

(a) *Acceptable daily intake (ADI).* The ADI for total residues of tetracyclines including chlortetracycline, oxytetracycline, and tetracycline is 25 micrograms per kilogram of body weight per day.

(b) *Calves, swine, sheep, chickens, and turkeys.* Tolerances are established for the sum of residues of the tetracyclines including chlortetracycline, oxytetracycline, and tetracycline, in tissues as follows:

(1) 2 parts per million (ppm) in muscle.

(2) 6 ppm in liver.

(3) 12 ppm in fat and kidney.

Dated: September 8, 1998.

Margaret Ann Miller,

Acting Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 98–26081 Filed 9–29–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 2 and 3

RIN 0651–AA87

Miscellaneous Changes to Trademark Trial and Appeal Board Rules; Correction

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the rules relating to discovery, motions, and the fee for recording documents, and to the title of Part 3 of Volume 37 of the Code of Federal Regulations.

EFFECTIVE DATE: September 30, 1998.

FOR FURTHER INFORMATION CONTACT: Ellen J. Seeherman, Administrative Trademark Judge, Trademark Trial and Appeal Board, by telephone at (703) 308–9300, extension 206; or by mail marked to her attention and addressed to Assistant Commissioner for Trademarks, Box TTAB-No Fee, 2900 Crystal Drive, Arlington, Virginia 22202–3513; or by facsimile transmission marked to her attention and sent to (703) 308–9333.

SUPPLEMENTARY INFORMATION: On September 9, 1998, the Patent and Trademark Office published a final rule entitled ''Miscellaneous Changes to Trademark Trial and Appeal Board Rules'' in the **Federal Register** (63 FR 48081).

There is an error on page 48093, column 2, in the discussion of the amendment of Section 2.127(a), which states that ''if a motion for an extension of time to file a brief in response to a motion is denied, the time for responding to the motion for summary judgment may remain as specified under this section.'' The words ''for summary judgment'' should be deleted.

Section 2.120(a) was amended to clarify certain Board practices and to change certain provisions relating to discovery. When the final rule was printed, this section was incorrectly published as two paragraphs instead of one. Section 2.120(a) should appear as a single paragraph.

Section 2.127(a) was amended to, inter alia, provide that the Board may, in its discretion, consider a reply brief. As published, however, a comma was erroneously placed after the word ''Board'' rather than after the word ''may.''

Section 3.41 was amended in order to correct a cross-reference to the section relating to the fee for recording a trademark document. However, an earlier version of § 3.41 was inadvertently inserted. The version of § 3.41 as published in the **Federal Register** on October 10, 1997, 62 FR 53132, 1203 TMOG 63 (October 21, 1997), which became effective December 1, 1997, should be reinserted with the corrected cross-reference.

Finally, the title of Part 3 of Volume 37 of the Code of Federal Regulations was erroneously listed as ''Rules of Practice in Trademark Cases.'' It should remain as ''Assignment, Recording and Rights of Assignee.''

List of Subjects

37 CFR Part 2

Administrative practice and procedure, Patents, Trademarks.

37 CFR Part 3

Administrative practice and procedure, Patents, Trademarks.

Accordingly, 37 CFR Parts 2 and 3 are corrected as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

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

Authority: 15 U.S.C. 1123; 35 U.S.C. 6.

2. Section 2.120(a) is correctly revised to read as follows:

§ 2.120 Discovery.

(a) In general. Wherever appropriate, the provisions of the Federal Rules of Civil Procedure relating to discovery shall apply in opposition, cancellation, interference and concurrent use registration proceedings except as otherwise provided in this section. The provisions of the Federal Rules of Civil Procedure relating to automatic disclosure, scheduling conferences, conferences to discuss settlement and to develop a discovery plan, and transmission to the court of a written report outlining the discovery plan, are not applicable to Board proceedings. The Trademark Trial and Appeal Board will specify the opening and closing dates for the taking of discovery. The trial order setting these dates will be mailed with the notice of institution of the proceeding. The discovery period will be set for a period of 180 days. The parties may stipulate to a shortening of the discovery period. The discovery period may be extended upon stipulation of the parties approved by the Board, or upon motion granted by the Board, or by order of the Board. If a motion for an extension is denied, the discovery period may remain as originally set or as reset. Discovery depositions must be taken, and interrogatories, requests for production of documents and things, and requests for admission must be served, on or before the closing date of the discovery period as originally set or as reset. Responses to interrogatories, requests for production of documents and things, and requests for admission must be served within 30 days from the date of service of such discovery requests. The time to respond may be extended upon stipulation of the parties, or upon motion granted by the Board, or by order of the Board. The resetting of a party's time to respond to an outstanding request for discovery will not result in the automatic rescheduling of the discovery and/or testimony periods; such dates will be rescheduled only upon stipulation of the parties approved by the Board, or upon motion granted by the Board, or by order of the Board.

* * * * *

3. Section 2.127(a) is correctly revised to read as follows:

§ 2.127 Motions.

(a) Every motion shall be made in writing, shall contain a full statement of the grounds, and shall embody or be accompanied by a brief. Except as provided in paragraph (e)(1) of this section, a brief in response to a motion shall be filed within fifteen days from the date of service of the motion unless another time is specified by the Trademark Trial and Appeal Board or the time is extended by stipulation of the parties approved by the Board, or upon motion granted by the Board, or upon order of the Board. If a motion for an extension is denied, the time for responding to the motion may remain as specified under this section. The Board may, in its discretion, consider a reply brief. Except as provided in paragraph (e)(1) of this section, a reply brief, if filed, shall be filed within 15 days from the date of service of the brief in response to the motion.

The time for filing a reply brief will not be extended. No further papers in support of or in opposition to a motion will be considered by the Board. Briefs shall be submitted in typewritten or printed form, double spaced, in at least pica or eleven-point type, on letter-size paper. The brief in support of the motion and the brief in response to the motion shall not exceed 25 pages in length; and a reply brief shall not exceed 10 pages in length. Exhibits submitted in support of or in opposition to the motion shall not be deemed to be part of the brief for purposes of determining the length of the brief. When a party fails to file a brief in response to a motion, the Board may treat the motion as conceded. An oral hearing will not be held on a motion except on order by the Board.

* * * * *

PART 3—ASSIGNMENT, RECORDING AND RIGHTS OF ASSIGNEE

4. The authority citation for Part 3 continues to read as follows:

Authority: 15 U.S.C. 1123; 35 U.S.C. 6.

5. The title of Part 3 is correctly revised to read as follows:

PART 3—ASSIGNMENT, RECORDING AND RIGHTS OF ASSIGNEE

6. Section 3.41 is correctly revised to read as follows:

§ 3.41 Recording fees.

(a) All requests to record documents must be accompanied by the appropriate fee. Except as provided in paragraph (b) of this section, a fee is required for each application, patent and registration against which the document is recorded as identified in the cover sheet. The recording fee is set in § 1.21(h) of this chapter for patents and in § 2.6(b)(6) of this chapter for trademarks.

(b) No fee is required for each patent application and patent against which a document required by Executive Order 9424 is to be filed if:

(1) The document does not affect title and is so identified in the cover sheet (see § 3.31(c)(2)); and (2) The document and cover sheet are mailed to the Office in compliance with § 3.27(b).

Dated: September 24, 1998.

Albin F. Drost,

Deputy Solicitor.

[FR Doc. 98–26160 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–16–P

POSTAL SERVICE

39 CFR Part 233

Reward Increases

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Inspection Service is revising its reward policy and regulations to increase the amounts of rewards that may be paid for information and services leading to the arrest and conviction of persons who have committed certain postal crimes.

EFFECTIVE DATE: This final rule is effective September 30, 1998.

FOR FURTHER INFORMATION CONTACT: Henry J. Bauman, Independent Counsel, Postal Inspection Service, (202) 268–4415.

SUPPLEMENTARY INFORMATION: The Postal Service offers rewards for information and services leading to the arrest and conviction of persons committing postal crimes. Regulations concerning these rewards are published in 39 CFR 233.2, Circulars and rewards, and in Poster 296, Notice of Reward, which appears as a note following § 233.2(b)(2). The Postal Inspection Service has raised the amount of the rewards that may be paid for offenses that involve particular danger of injury or death to postal employees and postal customers. The reward for the offenses of robbery or attempted robbery of a postal employee is increased from $25,000 to $50,000; the reward for the offense of assault of a postal employee is increased from $15,000 to $50,000; the reward for the offense of mailing bombs or explosives is raised from $50,000 to $100,000; the reward for the offense of mailing child pornography is increased from $10,000 to $50,000; and the reward for the offenses of mailing poison, controlled dangerous substances, hazardous materials, illegal drugs, or cash proceeds from illegal drugs is raised from $10,000 to $50,000.

List of Subjects in 39 CFR Part 233

Administrative practice and procedure, Banks, banking, Credit,

Crime, Infants and children, Law enforcement, Penalties, Privacy, Seizures and forfeitures.

Accordingly, 39 CFR 233 is amended as set forth below.

PART 233—INSPECTION SERVICE/ INSPECTOR GENERAL AUTHORITY

1. The authority citation for part 233 is changed to read as follows:

Authority: 39 U.S.C. 101, 102, 202, 204, 401, 402, 403, 404, 406, 410, 411, 1003, 3005(e)(1); 12 U.S.C. 3401–3422; 18 U.S.C. 981, 1956, 1957, 2254, 3061; 21 U.S.C. 881; Omnibus Budget Reconciliation Act of 1996, sec. 662 (Pub. L. No. 104–208).

§ 233.2 [Amended]

2. In § 233.2 amend the Note in paragraph (b)(2) as follows:

a. In the third paragraph, remove ''Assault on Postal Employees, $15,000'' and add ''Assault on Postal Employees, $50,000'' in its place.

b. In the fourth paragraph, remove ''Bombs or Explosives, $50,000'' and add ''Bombs or Explosives, $100,000'' in its place.

c. In the sixth paragraph, remove ''Robbery, $25,000'' and add ''Robbery, $50,000'' in its place.

d. In the eleventh paragraph, remove ''Child Pornography, $10,000'' and add ''Child Pornography, $50,000'' in its place.

e. In the last paragraph, remove ''10,000'' and add $50,000'' in its place.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–25802 Filed 9–29–98; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300724; FRL–6033–4]

RIN 2070–AB78

Fluroxypyr; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of fluroxypyr 1-methylheptyl ester [1-methylheptyl ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetate] and its metabolite fluroxypyr [((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetic acid] in or on the raw agricultural commodities (RAC) wheat, barley, and oats as follows: 0.5 ppm (grain), 12 ppm (straw and forage), 20 ppm (hay), and 0.6 ppm (aspirated grain fractions). Because residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, may occur in animal feeds derived from wheat, barley, and oats, the following meat and milk tolerances are also being established: 0.1 ppm (meat, fat, milk, and meat byproducts except for kidney) and 0.5 ppm (kidney). Dow AgroSciences LLC requested this tolerance under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Pub. L. 104–170).

DATES: This regulation is effective September 30, 1998. [Objections and requests for hearings must be received by EPA on or before November 30, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300724, must 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 identified by the docket control number, [OPP–300724, must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

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 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 objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300724]. 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.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–6224, e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 17, 1997 (62 FR 66083)(FRL–5759–1), EPA, issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide petition (PP) 6F4772 for tolerance by Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268. This notice included a summary of the petition prepared by Dow AgroSciences LLC, the registrant. There were no comments received in response to the notice of filing.

In the **Federal Register** of August 14, 1998 (63 FR 43710)(FRL–6023–3), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), announcing the filing of an amended pesticide petition (PP) 6F4772 for this tolerance petition. The revised petition requested that 40 CFR part 180 be amended by establishing a tolerance for combined residues of the herbicide fluroxypyr 1-methylheptyl ester [1-methylheptyl ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetate] and its metabolite fluroxypyr [((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetic acid] in or on the raw agricultural commodities wheat, barley, and oats as follows: 0.5 ppm (grain), 12 ppm (straw and forage), 20 ppm (hay), and 0.6 ppm (aspirated grain fractions). Because residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, may occur in animal feeds derived from wheat, barley, and oats, the following meat and milk tolerances are also being established: 0.1 ppm (meat, fat, milk, and meat byproducts except for kidney) and 0.5 ppm (kidney).

I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is

reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed adverse effect level'' or ''NOAEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOAEL from the study with the lowest NOAEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100 percent or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOAEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This hundredfold MOE is based on the same rationale as the hundredfold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOAEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute,'' ''short-term,'' ''intermediate term,'' and ''chronic'' risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1–day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1–7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1–7 days exposure, and the toxicological endpoint/NOAEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups

of consumers, including infants and children.The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup was not regionally based.

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of fluroxypyr and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for combined residues of fluroxypyr 1-methylheptyl ester [1-methylheptyl ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetate] and its metabolite fluroxypyr [((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetic acid] in or on the raw agricultural commodities wheat, barley, and oats as follows: 0.5 ppm (grain), 12 ppm (straw and forage), 20 ppm (hay), and 0.6 ppm (aspirated grain fractions), and residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, in meat, fat, milk, and meat byproducts except for kidney at 0.1 ppm and kidney at 0.5 ppm. on at ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by fluroxypyr are discussed below.

1. Several acute toxicology studies places the technical-grade herbicide in Toxicity Category II.

2. A 90–day feeding study in Wistar rats (10/sex/group) administered fluroxypyr (98.5% a.i.) in the diet at 0, 80, 750, 1,000 or 1,500 milligrams/kilogram/day (mg/kg/day) for 13 weeks. Significant nephrotoxicity and deaths were observed at 1,000 and 1,500 mg/kg/day in both sexes, and in males at 750 mg/kg/day. Death was due to renal papillary necrosis. Also observed were signs of ill health, emaciation, decreased food intake, increased kidney weight, histopathological lesions and decreased renal function. Histological changes were observed in the adrenals in both sexes at 1,000 and 1,500 mg/kg/day. In males the NOAEL for this study is 80 mg/kg/day, and the LOEL is 750 mg/kg/day based on kidney effects and death. In females the NOAEL is 750 mg/kg/day, with the LOEL at 1,000 mg/kg/day based on kidney effects and death.

3. A 90–day feeding study in mice (12/sex/group) administered fluroxypyr (99.3% active ingredient (a.i.)) in the diet at levels of 0, 200, 500, 2,500 or 10,000 ppm (males: 0, 26.7, 67.7, 330 or 1,342 mg/kg/day; females: 0, 32.5, 81.7, 418, or 1,748 mg/kg/day) for 13 weeks. Under the conditions of the study, no significant effects were observed at any dose level. The NOAELs are therefore 1,342 and 1,748 mg/kg/day in males and females, respectively, the highest dose level tested, and above the 1,000 mg/kg limit dose. A LOEL could not be established.

4. A 28–day feeding study in Beagle dogs administered Fluroxypyr 98.0% a.i. in the diet at levels of 0, 50, 150 or 450 mg/kg/day for 28 days. Dogs at 500 mg/kg/day exhibited ataxia and hind limb weakness as well as decreases in body weight and food consumption and were sacrificed on days 16/17 of the study. Histopathology showed moderate acute tubular nephrosis and a slight to moderate acute gastroenteritis. Some early signs of acute tubular nephrosis were also seen in both sexes of dogs at 150 mg/kg/day. The NOAEL for the study was 50 mg/kg/day, the LOEL was 150 mg/kg/day based on histopathological lesions in the kidneys, decreased testes weights, and increased adrenal weights in both sexes.

5. In a 21–day dermal study, fluroxypyr (98.5% a.i.) was administered to New Zealand white rabbits (5/sex/group) at levels of 0, 100, 300, or 1,000 mg/kg/day for 3 weeks. Administration was 6 hr/day to an area approx. 10 x 15 cm (10% of body surface area). No dermal or systemic toxicity was observed at any dose level. The NOAEL for males and females is therefore 1,000 mg/kg/day. A LOEL could not be established.

6. In the combined chronic toxicity/carcinogenicity study in rats, fluroxypyr 99.0% a.i. was administered to 50 Fischer 344 rats/sex/dose via the diet at dose levels of 0, 100, 500, and 1,000, females only, mg/kg/day for 24 months 10 rats/sex/dose for 12 months. There was no apparent increase in the incidence of kidney tumors in either sex. With the exception of an increased incidence of parafollicular cell adenomas, single only, in males at 500 mg/kg/day, at the doses tested, there was no apparent treatment-related increase in any tumor type in either sex. The LOEL is 500 mg/kg/day, based on increased kidney weight in both sexes, increased incidence of atrophy, adipose tissue mesenteric tissues in males and an increase in the severity of chronic progressive glomerulonephropathy in the kidney in both sexes. The NOAEL is 100 mg/kg/day. Deaths occurred at 1,000 mg/kg/day in males within the first 90 days on test 2 by day 28 and 3 more by day 56.

7. In the carcinogenicity study in mice, fluroxypyr 98.92% a.i. was administered to 60 CD–1 mice/sex/dose via the diet at dose levels of 0, 100, 300, and 1,000 mg/kg/day for 18 months. There was no apparent treatment-related increase in the incidence of any tumor type in either sex. The LOEL is 1,000 mg/kg/day, based on decreased body weight/gain in males and an increased incidence of kidney lesions in females. The NOAEL is 300 mg/kg/day.

8. In a 1–year chronic feeding study, fluroxypyr 98.0% a.i. was administered to Beagle dogs (4/sex/group) in the diet at 0, 20, 50 or 150 mg/kg/day for 12 months. No adverse effects were observed at any dose level. No abnormalities in hematology, clinical chemistry or urinalysis. No abnormal findings were made at necropsy, nor were there any significant changes in food consumption or body weight. The NOAEL for this study is 150 mg/kg/day, the highest dose level tested. The LOEL could not be established.

9. In a developmental toxicity study, pregnant rats (six/dose group) were administered fluroxypyr (99% a.i.) at oral dose levels of 0, 125, 250, or 500 mg/kg/day in 1% methyl cellulose on days 6 through 19 of gestation. Clinical signs such as salivation and brown facial staining were observed at 250 and 500 mg/kg/day; a 10% increase in mean kidney weight was observed at 500 mg/kg/day, along with renal pelvic dilatation. No adverse effects were observed on food consumption, body weight gain, live young, embryonic deaths, implants, corpora lutea, pre- or post-implantation loss, litter weight or mean fetal weight. In pups, reduced skeletal ossification was observed at the 500 mg/kg/day. No other significant effects were observed on the conceptus. The maternal NOAEL is 125 mg/kg/day, and the LOEL is 250 mg/kg/day based on clinical signs. The developmental NOAEL is 250 mg/kg/day, the LOEL is 500 mg/kg/day based on reduced ossification.

10. In a developmental toxicity study in rats, fluroxypyr methylheptyl ester 95.8% a.i. was administered to 28 naturally-mated female Sprague-Dawley rats/group via gavage at dose levels of 0, 100, 300, and 600 mg/kg/day from days 6 through 15 of gestation. The maternal NOAEL is 300 mg/kg/day, the LOEL is 600 mg/kg/day, based on deaths and decreased body-weight gain and food consumption. The developmental toxicity NOAEL is 300 mg/kg/day, and the LOEL is 600 mg/kg/day, based on an increase in two ossification variations incompletely ossified cervical vertebral transverse processes and pubes.

11. In a developmental toxicity study in rabbits, fluroxypyr methylheptyl ester 95.8% a.i. was administered to 20 naturally-inseminated New Zealand female rabbits/group via gavage at dose levels of 0, 100, 500, and 1,000 mg/kg/day from days 7 through 19 of gestation. The maternal/developmental LOEL is 1,000 mg/kg/day, based on an increased incidence of abortions. The maternal NOAEL is 500 mg/kg/day.

12. In a prenatal developmental toxicity study in rabbits, pregnant New Zealand White rabbits received oral (gavage) administration of fluroxypyr at dose levels of 0, 25, 100, or 400 mg/kg/day during gestation days 6 through 19. Due to a large number of maternal deaths in the 400 mg/kg/day group, a dose level of 250 mg/kg/day was added to the study, and the 400 mg/kg/day dose level was discontinued early. For maternal toxicity, the NOAEL was 250 mg/kg/day and the LOEL was 400 mg/kg/day based on maternal deaths. For developmental toxicity, the NOAEL was 100 mg/kg/day and the LOEL was 250 mg/kg/day, based on increased postimplantation loss.

13. In a 2–generation reproduction study, fluroxypyr 99.0% a.i. was administered to 30 Sprague-Dawley rats/sex/dose via the diet at dose levels of 0, 100, 500, and 750 mg/kg/day males and 0, 100, 500, and 1,000 mg/kg/day females during the pre-mating period of 10 weeks (F_1 generation) 12 weeks (F_2 generation). There was one litter (F_1) in the first generation and two litters (F_{2A} and F_{2B}) in the second generation. The NOAEL for maternal/paternal toxicity is 500/100 mg/kg/day, and the LOEL is 1,000/500 mg/kg/day, based on death in females and increased kidney weight with corresponding gross and microscopic findings papillary atrophy, edema, necrosis, hyperplasia of the pelvic epithelium, degeneration/regeneration of the tubular epithelium, tubulo-interstitial nephritis, and dilatation of the tubules in both sexes. The reproductive NOAEL is 1,000/750 mg/kg/day, the highest dose tested. The neonatal NOAEL is 500 mg/kg/day, and the LOEL is 1,000 mg/kg/day, based on decreased pup body weight/body-weight gain and slightly lower survival.

14. In a *Salmonella typhimurium* reverse gene mutation assay, fluroxypyr was not mutagenic up to a cytotoxic dose (10,000 µg/plate +S9). In a *Salmonella typhimurium/Escherichia* coli reverse gene mutation assay with fluroxypyr methylheptyl ester, independent trials were negative up to insoluble doses with or without S9 activation (≧ 2,500 µg/plate).

15. In a Chinese hamster ovary (CHO) cell Hypoxanthine guanine phosphoribosyl transferase (HGPRT) forward gene mutation assay), fluroxypyr was negative up a cytotoxic concentration (2,000 µg/mL +/-S9). In a Chinese hamster ovary (CHO) cell HGPRT forward gene mutation assay with fluroxypyr methylheptyl ester, independent trials were negative up to cytotoxic concentrations without S9 activation (≧ 30 µg/mL -S9). In the presence of S9 activation, the test was also negative over the entire dose range investigated (100–1,200 µg/mL) in two trials.

16. An *in vitro* chromosome aberration assay in CHO cells with fluroxypyr was negative for damage to structural chromosomes up to doses causing moderate cytotoxicity (500 and 1,000 µg/mL +/-S9). There was, however, marginal and nondose-related evidence of polyploidy under nonactivated and S9-activated conditions. Also, in an *in vitro* unscheduled DNA synthesis (UDS) assay in human embryonic lung fibroblasts, cell line no. 2002 was negative up to nonactivated and S9-activated doses causing precipitation and moderate cytotoxicity. For fluroxypyr methylheptyl ester, in an *in vitro* chromosome aberration assay with rat lymphocytes, independent trials were negative up to cytotoxic concentrations (≧ 270 µg/mL +/-S9). Also, in an *in vivo* bone marrow micronucleus assay, negative results were obtained in CD–1 (ICR) male and female mice receiving single oral gavage administrations of 225–900 mg/kg. Lethality and other clinical signs of toxicity were noted at 900 mg/kg. There was, however, no evidence of bone marrow cytotoxicity at any dose.

17. In a metabolism study, fluroxypyr ^{14}C-methylheptyl ester 95.8% a.i. unlabeled; radiochemical purity 99%; labeled on the methylheptanol portion of the molecule or ^{14}C- methylheptanol 98.9% unlabeled; radiochemical purity 97.5% was administered to 5 plasma/3 balance male Fischer 344 rats/group in single oral equimolar doses of 50 mg fluroxypyr methylheptyl ester/kg body weight or 17.7 mg methylheptanol/kg body weight. The total recovery of the administered dose was 105% and 104%, with the principal route of excretion being expired $^{14}CO_2$, which contained approxiamately (≈) 61% and 63% of the radioactivity for the fluroxypyr and methylheptanol balance groups, respectively. The urine contained ≈ 30% and 27% and the feces contained 5% and 7% of the administered dose for the fluroxypyr and Methylheptanol groups, respectively. At 48 hours post dose, ≈ 7% of the administered dose was recovered in the blood, carcass, and skin of both groups. The overall rates and routes of elimination were comparable between the groups. Each was extensively absorbed and rapidly eliminated. Approximately 52% and 54% of the administered fluroxypyr and Methylheptanol, respectively, was absorbed and expired as $^{14}CO_2$ within 12 hours post dose, and an additional 18% of the administered dose was excreted in the urine within 12 hours post dose. Based on the percentage of the dose in the expired $^{14}CO_2$, urine, and tissues, ≈ 90% of the dose was absorbed by the rats in each case. Once absorbed, both were extensively metabolized (20–22 metabolites) and rapidly expired as $^{14}CO_2$ and eliminated in the urine with a half-life of 6 hours. Fluroxypyr displayed a slower absorption rate than Methylheptanol, but once absorbed, the pharmacokinetic parameters were similar. Peak plasma concentrations of ^{14}C-radioactivity were attained by 7 and 10 hours post dose, and the half-lives for the elimination

phase were ≈ 18.2 and 17.4 hours for fluroxypyr and Methylheptanol, respectively. It was stated that the percentage of radioactivity recovered in the tissues and carcass ≈ 7% suggests ^{14}C-incorporation into the carbon pool that may account for the longer half life in plasma as compared to the urinary half-life of 6 hours. Average area under the curve values were 140 µg equivalent hours/gram (eq hr/g) and 163 µg eq hr/g for the fluroxypyr and Methylheptanol groups, respectively. Clearance values were comparable for these groups also 2.1 and 1.8 mL/min kg. These pharmacokinetic parameters indicate no difference in kinetics of Methylheptanol, based on whether it is labeled alone or as part of the fluroxypyr molecule. Urine profiles were similar and indicated extensive metabolism (20–22 metabolites). Unchanged fluroxypyr was not detected in any of the samples, and the author stated that this ''is consistent with the majority of the dose metabolized to CO_2.'' The data indicate that the fluroxypyr bond is readily hydrolyzed and that the methylheptyl ester portion of fluroxypyr is bioequivalent to Methylheptanol.

B. Toxicological Endpoints

1. *Acute toxicity*. In a prenatal developmental toxicity study, pregnant New Zealand White rabbits received oral (gavage) administration of fluroxypyr (unspecified purity) in 0.5% carboxymethylcellulose (5 mL/kg) at dose levels of 0, 25, 100, or 400 mg/kg/day during gestation days 6 through 19. Due to a large number of maternal deaths in the 400 mg/kg/day group, a dose level of 250 mg/kg/day was added to the study, and the 400 mg/kg/day dose levels was discontinued early. For maternal toxicity, the NOAEL was 250 mg/kg/day and the LOEL was 400 mg/kg/day based on maternal deaths. For developmental toxicity, the NOAEL was 100 mg/kg/day and the LOEL was 250 mg/kg/day, based on increased postimplantation loss. The postimplantation loss is presumed to occur after a single exposure (dose). Appropriate endpoints attributable to a single exposure (dose) for this population were not seen in oral toxicity studies including maternal toxicity in the developmental toxicity studies in rats and rabbits.

EPA determined that the 10X factor to protect infants and children (as required by FQPA) should be reduced to 3X. This conclusion was based on the fact that the developmental toxicity study in rats showed no increased sensitivity in fetuses as compared to maternal animals following *in utero* exposures, the 2–generation reproduction toxicity study in rats showed no increased sensitivity in pups when compared to adults, and the toxicology data base is complete (i.e., no data gaps). However, EPA determined that an uncertainty factor of 300 is required because, in the prenatal developmental toxicity study in rabbits, there is an indication of additional susceptibility following prenatal exposure to fluroxypyr since the developmental NOAEL was less than the maternal NOAEL. The confidence in these data, however, were minimized by the fact that the value is only slightly above the historical control, and because no statistical significance was indicated. Additionally, susceptibility to the offspring was not observed in any of the other prenatal developmental toxicity studies examined, and there is always the possibility that maternal toxicity may have been present (as kidney pathology) but that the relevant endpoint was not examined.

For acute dietary risk assessment, a Margin of Exposure (MOE) of 300 is required. This includes the conventional 100X for inter- and intra-species variation, and 3X for FQPA. This risk assessment is required for females 13+ only, since the endpoint is based on an *in utero* effect. The available data, which include developmental studies in rats and rabbits, a 3–month feeding rat study and a 28–day mouse feeding study, did not demonstrate toxicity which can be observed following one exposure only.

2. *Short - and intermediate - term toxicity*. i. *Dermal absorption*. A dermal absorption study was not available for review. Therefore an absorption factor of 100% will be assumed.

ii. *Short-term toxicity*. Although a 21–day dermal toxicity study with fluroxypyr methylheptyl ester (98.5%) in New Zealand White rabbits with a NOAEL of > 1,000 mg/kg/day is available, the developmental NOAEL from an oral study with fluroxypyr in the same species (rabbits) was selected for this risk assessment because of the concern for developmental effects seen in the oral study with the acid which was not studied with the ester, and because developmental effects are not evaluated in the dermal toxicity study (i.e., the consequence of these effects can not be ascertained for the dermal route of exposure. Since an oral dose was identified, a dermal absorption rate of 100% should be used for dermal risk assessments, to convert to oral equivalents. Therefore, a developmental NOAEL of 100 mg/kg/day based on increased postimplantation loss at 250 mg/kg/day (LOEL) was used for risk assessment.

iii. *Intermediate-term toxicity*. For the reasons discussed above with short-term toxicity, a developmental NOAEL of 100 mg/kg/day based on increased postimplantation loss at 250 mg/kg/day (LOEL) was used for risk assessment.

3. *Chronic toxicity*. EPA has established the RfD for fluroxypyr at 0.5 mg/kg/day. This RfD is based on histopathological lesions in the kidneys, decreased testes weights, and increased adrenal weights in both sexes observed in a 4–week range-finding feeding study in the dog with a NOAEL of 50 mg/kg/day. An uncertainty factor of 100 was used in calculating the RfD to account for both inter- and intra-species variations.

4. *Carcinogenicity*. Based on the lack of evidence of carcinogenicity in mice and rats at doses that were judged to be adequate to assess the carcinogenic potential, fluroxypyr was classified as a ''not likely'' human carcinogen by the EPA's Hazard Identification Assessment Review Committee (document dated December 1, 1997) according to EPA Proposed Guidelines for Carcinogen Risk Assessment (document dated April 10, 1996).

B. Exposures and Risks

1. *From food and feed uses*. No previous tolerances have been established for the combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr. Risk assessments were conducted by EPA to assess dietary exposures and risks from fluroxypyr as follows:

i. *Acute exposure and risk*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. The acute dietary (food only) risk assessment used the theoretical maximum residue contribution (TMRC). By using TMRC in conducting this chronic dietary risk assessment, EPA has made very conservative assumptions: 100% of wheat, oats, and barley RACs having fluroxypyr tolerances will contain fluroxypyr residues and those residues will be at the level of the established tolerance. This results in an overestimate of human dietary exposure. Thus, in making a safety determination for this tolerance, EPA is taking into account this conservative exposure assessment. The exposure estimate for females (13+ years old) results in a dietary (food only) MOE of 50,000. This should be viewed as a conservative risk estimate; refinement using anticipated residue values and percent crop-treated data in conjunction with Monte Carlo analysis would result

in a lower acute dietary exposure estimate.

ii. *Chronic exposure and risk.* In conducting this chronic dietary risk assessment, EPA has made very conservative assumptions -- 100% of wheat, barley, oats and all other commodities having fluroxypyr 1-methylheptyl ester tolerances will contain fluroxypyr 1-methylheptyl ester residues and those residues would be at the level of the tolerance -- which result in an overestimation of human dietary exposure. Thus, in making a safety determination for this tolerance, EPA is taking into account this conservative exposure assessment.

The fluroxypyr 1-methylheptyl ester tolerances result in a TMRC that is equivalent to the following percentages of the RfD:

U.S. Population (48 States)	0.41%
U.S. Population - Fall Season	0.43%
U.S. Population - Winter Season	0.43%
Northeast Region	0.43%
North Central Region	0.43%
Western Region	0.44%
Hispanics	0.48%
Non-Hispanic Whites	0.42%
Non-Hispanic Others	0.43%
Nursing Infants (< 1 year old)	0.39%
Non-Nursing Infants (< 1 year old)	1.55%
Children (1–6 years old)	1.06%
Children (7–12 years old)	0.69%
Males (13–19 years old)	0.46%

The subgroups listed above are: (1) the U.S. population (48 states); (2) those for infants and children; and, (3) the other subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 states).

2. *From drinking water.* In terrestrial and aquatic environments, fluroxypyr 1-methylheptyl ester is rapidly hydrolyzed to fluroxypyr. Fluroxypyr is further degraded (although less rapidly) by microbes to 4-amino-3,5-dichloro-6-fluoro-pyridin-2-ol (''pyridinol'') and 4-amino-3,5-dichloro-6-fluoro-2-methoxypyridine (''methoxypyridine''). In aerobic environments, fluroxypyr, pyridinol, and methoxypyridine are ultimately degraded to carbon dioxide.

There are no established Maximum Contaminant Levels for residues of fluroxypyr 1-methylheptyl ester in drinking water. No health advisory levels for fluroxypyr 1-methylheptyl ester in drinking water have been established. The assessment used SCI-GROW2 for groundwater assessment and Generic expected environmental concentration (GENEEC) Version 1.2 for acute and chronic surface water assessments. Estimated environmental concentrations (EEC's) in surface water reflecting 0.25 lb acid equivalents/A/yr applied by air were 11.2 µg/L for acute and 3.9 µg/L for chronic. EEC's for groundwater were 0.025 µg/L parts per billion (ppb) for acute and chronic. The computer generated EECs represent conservative estimates and should be used only for screening.

i. *Acute exposure and risk.* EPA has calculated drinking water levels of concern (DWLOCs) for acute exposure to fluroxypyr in drinking water for the only relevant population subgroup, females (13+ years old): 9,930 µg/L.

To calculate the DWLOCs for acute exposure relative to an acute toxicity endpoint, the acute dietary food exposure (from the Dietary Exposure Evaluation System (DRES) analysis) was subtracted from the ratio of the acute NOAEL (used for acute dietary assessments) to the acceptable MOE for aggregate exposure to obtain the acceptable acute exposure to fluroxypyr in drinking water. DWLOCs were then calculated using default body weights and drinking water consumption figures.

Estimated maximum concentrations of fluroxypyr in surface and ground water are 11.2 ppb and 0.025 ppb, respectively and the DWLOC is 9,930 µg/L. The estimated maximum concentrations of fluroxypyr in surface and ground water are less than EPA's level of concern for fluroxypyr in drinking water as a contribution to acute aggregate exposure.

Therefore, taking into account present uses and uses proposed in this action, EPA concludes with reasonable certainty that residues of fluroxypyr in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time.

ii. *Chronic exposure and risk.* The ''Interim Guidance for Conducting Drinking Water Exposure and Risk Assessments'' issued on November 24, 1997 was followed for this assessment. Thus, the GENEEC model and the SCI-GROW model were run to produce estimates of fluroxypyr concentrations in surface and ground water, respectively. The primary use of these models is to provide a coarse screen for sorting out pesticides for which EPA has a high degree of confidence that the true levels of the pesticide in drinking water will be less than the human health DWLOCs. A DWLOC is the concentration of a pesticide in drinking water which would be acceptable as an upper limit in light of total aggregate exposure to that chemical from food, water, and non-occupational (residential) sources. The DWLOC for chronic exposure is the concentration in drinking water as a part of the aggregate chronic exposure that occupies no more than 100% of the RfD. The Agency's default body weights and water consumption values used to calculate DWLOCs are as follows: 70 kg/2L (adult male), 60 kg/2L (adult female), and 10 kg/1L (child).

For chronic (non-cancer) exposure to fluroxypyr in surface and ground water, the drinking water levels of concern are 17,400 µg/L for the U.S. population, 14,900 µg/L for females (13+ years old), and 4,950 µg/L for children (1–6 years old). To calculate the DWLOC for chronic (non-cancer) exposure relative to a chronic toxicity endpoint, the chronic dietary food exposure (from DRES) was subtracted from the RfD to obtain the acceptable chronic (non-cancer) exposure to fluroxypyr in drinking water. DWLOCs were then calculated using default body weights and drinking consumption figures.

Estimated average concentrations of fluroxypyr in surface and ground water are 3.9 ppb and 0.025 ppb, respectively. The DWLOCs are 17,400 µg/L for the U.S. population, 14,900 µg/L for females (13+ years old), and 4,950 µg/L for children (1–6 years old). The estimated average concentrations of fluroxypyr in surface and ground water are less than EPA's level of concern for fluroxypyr in drinking water as a contribution to chronic aggregate exposure.

3. *From non-dietary exposure.* There are no registered or proposed residential uses for fluroxypyr 1-methylheptyl ester or its metabolite fluroxypyr.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a

meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether fluroxypyr has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fluroxypyr does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fluroxypyr has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* For the population subgroup of concern, females 13+ years old, the calculated MOE value (food) is 50,000. The Agency acknowledges the potential for exposure to fluroxypyr 1-methylheptyl ester in drinking water, but does not expect that exposure would result in an aggregate MOE (food plus water) that would exceed the Agency's level of concern for acute dietary exposure.

2. *Chronic risk.* Using the TMRC exposure assumptions described Unit II.B.1. of this preamble, EPA has concluded that aggregate exposure to fluroxypyr from food will utilize 0.41% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is discussed below. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to fluroxypyr in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. There are no proposed residential uses for fluroxypyr. Therefore, the short and intermediate aggregate risks are adequately addressed by the chronic aggregate dietary risk assessment.

4. *Aggregate cancer risk for U.S. population.* Fluroxypyr has been classified as a ''not likely'' carcinogenic chemical by the Agency

5. *Conclusion.* EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to fluroxypyr residues.

D. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— a. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of fluroxypyr, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In either case, EPA generally defines the level of appreciable risk as exposure that is greater than 1/100 of the no observed effect level in the animal study appropriate to the particular risk assessment. This hundredfold uncertainty (safety) factor/margin of exposure (safety) is designed to account for inter-species extrapolation and intra-species variability. EPA believes that reliable data support using the hundredfold margin/factor, rather than the thousandfold margin/factor, when EPA has a complete data base under existing guidelines, and when the severity of the effect in infants or children, the potency or unusual toxic properties of a compound, or the quality of the exposure data do not raise concerns regarding the adequacy of the standard margin/factor.

In the case of fluroxypyr, EPA determined that the 10X factor to protect infants and children (as required by FQPA) should be reduced to 3X. This conclusion was based on the fact that the developmental toxicity study in rats showed no increased sensitivity in fetuses as compared to maternal animals following *in utero* exposures, the 2–generation reproduction toxicity study in rats showed no increased sensitivity in pups when compared to adults, and the toxicology data base is complete (i.e., no data gaps). However, EPA determined that an uncertainty factor of 300 is required because, in the prenatal developmental toxicity study in rabbits, there is an indication of additional susceptibility following prenatal exposure to fluroxypyr since the developmental NOAEL was less than the maternal NOAEL. The confidence in these data, however, were minimized by the fact that the value is only slightly above the historical control, and because no statistical significance was indicated. Additionally, susceptibility to the offspring was not observed in any of the other prenatal developmental toxicity studies examined, and there is always the possibility that maternal toxicity may have been present (as kidney pathology) but that the relevant endpoint was not examined.

b. *Developmental toxicity studies.* In the developmental study in rats, the maternal (systemic) NOAEL was 125 mg/kg/day, based on clinical signs at the LOEL of 250 mg/kg/day. The developmental (fetal) NOAEL was 250 mg/kg/day, based on reduced ossification at the LOEL of 500 mg/kg/day.

In the developmental toxicity study in rabbits, the maternal (systemic) NOAEL was 250 mg/kg/day, based on maternal

deaths at the LOEL of 400 mg/kg/day. The developmental (pup) NOAEL was 125 mg/kg/day, based on increased postimplantation loss at the LOEL of 250 mg/kg/day.

c. *Reproductive toxicity study.* In the 2–generation reproductive toxicity study in rats, the maternal (systemic) NOAEL was 100 mg/kg/day, based on increased kidney weights and kidney histopathology at the LOEL of 500 mg/kg/day. The developmental (pup) NOAEL was 500 mg/kg/day, based on decreased body weight at the LOEL of 1,000 mg/kg/day. The reproductive NOAEL was 1,000 mg/kg/day Highest Dose Tested.

d. *Pre- and post-natal sensitivity.* The toxicological data base for evaluating pre- and post-natal toxicity for fluroxypyr is complete with respect to current data requirements. Based on the results of the rabbit developmental toxicity study for fluroxypyr there does appear to be an extra sensitivity for pre-natal effects.

e. *Conclusion.* Based on the above, EPA concludes that reliable data support use of a 300-fold margin of exposure/uncertainty factor, rather than the standard thousandfold margin/factor, to protect infants and children.

2. *Acute risk.* The acute dietary MOE (food) was calculated to be 6,666 for infants (< 1 year old), 10,000 for children (1–6 years old), and 50,000 females 13+ years old (accounts for both maternal and fetal exposure). These MOE calculations were based on the developmental NOAEL in rabbits of 100 mg/kg/day. This risk assessment assumed 100% crop-treated with tolerance level residues on all treated crops consumed, resulting in a significant over estimation of dietary exposure. The large acute dietary MOE calculated for females 13+ years old and the infants < 1 year old subgroup (lowest MOE) provides assurance that there is a reasonable certainty of no harm for females 13+ years old, infants, and children.

EPA acknowledges the potential for exposure to fluroxypyr 1-methylheptyl ester in drinking water, but does not expect that exposure would result in aggregate MOEs (food plus water) that would exceed the Agency's level of concern for acute dietary exposure.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to fluroxypyr from food will utilize from 0.39% of the RfD for nursing infants (< 1 year old) up to 1.55% of the RfD for non-nursing infants (< 1 year old). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to fluroxypyr in drinking water. EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to fluroxypyr residues.

4. *Short- or intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential uses. There are no proposed residential uses for fluroxypyr. Therefore, the short and intermediate aggregate risks are adequately addressed by the chronic aggregate dietary risk assessment.

III. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue in plants and animals is adequately understood. The residues of concern in plants and animals are fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, all expressed as fluroxypyr .

B. Analytical Enforcement Methodology

Adequate enforcement methodology is available for plants (gas chromatography/mass spectrometry (GC/MS) and capillary gas chromatography/MS) to enforce the tolerance expression. The petitioner validated the limit of quantitation at 0.01 ppm for cereal grains and 0.05 ppm for forage, straw, and hay of cereal grains.

Adequate enforcement methodology is available for livestock (gas chromatography/electron capture detection (GC/ECD) and capillary gas chromatography with mass selective detection) to enforce the tolerance expression. The petitioner validated the limit of quantitation of Method GRM 96.03 at 0.01 ppm for all animal substrates.

C. Magnitude of Residues

Residues of fluroxypyr 1-methylheptyl ester and fluroxypyr are not expected to exceed the established tolerance levels in RAC's and processed commodities of wheat, barley, oats, and animal commodities as a result of this use.

D. International Residue Limits

There are no CODEX, Canadian, or Mexican tolerances for residues of fluoroxypyr 1-methylheptyl ester on wheat, barley, or oats.

E. Rotational Crop Restrictions

A confined rotational crop study was conducted in which fluroxypyr was applied at the rate of 8.8 oz acid equivalent/acre (ae/A). Residues in crops planted 120 days after soil treatment were 0.01 to 0.08 ppm; however, based on this study and the use rates, residues of fluroxypyr 1-methylheptyl ester and fluroxypyr are not expected to occur in rotational crops at levels > 0.01 ppm at the 120–day plant-back interval. The end-use product label will contain a statement limiting the planting of rotational crops for at least 120 days after application.

IV. Conclusion

Therefore, the tolerances is are established for combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr in wheat, barley, and oats as follows: 0.5 ppm (grain), 12 ppm (straw and forage), 20 ppm (hay), and 0.6 ppm (aspirated grain fractions), and residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, free and conjugated, in meat, fat, milk, and meat byproducts except for kidney at 0.1 ppm and kidney at 0.5 ppm.

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by November 30, 1998, file written objections to any aspect of this 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 or a request for a waiver as specified by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (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 issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information 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.

VI. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300724 (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 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), 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 Virginia address in ADDRESSES at the beginning of this document.

VII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide

meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: September 23, 1998.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I 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. By revising § 180.535 to read as follows:

§ 180.535 Fluroxypyr 1-methylheptyl ester; tolerances for residues.

(a) *General* . Tolerances are established for combined residues of fluroxypyr 1-methylheptyl ester [1-methylheptyl ((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetate] and its metabolite fluroxypyr [((4-amino-3,5-dichloro-6-fluoro-2-pyridinyl)oxy)acetic acid] in or on the following raw agricultural commodities.

Commodity	Parts per million
Aspirated grain fractions	0.6
Barley, grain	0.5
Barley, forage	12.0
Barley, hay	20.0
Barley, straw	12.0
Cattle, fat	0.1
Cattle, kidney	0.5
Cattle, meat	0.1
Cattle, meat byproducts	0.1
Goats, fat	0.1
Goats, kidney	0.5
Goats, meat	0.1
Goats, meat byproducts	0.1
Hogs, fat	0.1
Hogs, kidney	0.5
Hogs, meat	0.1
Hogs, meat byproducts	0.1
Horses, fat	0.1
Horses, kidney	0.5
Horses, meat	0.1
Horses, meat byproducts	0.1
Milk	0.1
Oats, forage	12.0
Oats, grain	0.5
Oats, hay	20.0
Oats, straw	12.0
Sheep, fat	0.1
Sheep, kidney	0.5
Sheep, meat	0.1
Sheep, meat byproducts	0.1
Wheat, forage	12.0
Wheat, grain	0.5
Wheat, hay	20.0
Wheat, straw	12.0

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for the combined residues of fluroxypyr 1-methylheptyl ester and its metabolite fluroxypyr, in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances will expire and are revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/ Revocation Date
Corn, field, forage	2.0	12/1/99
Corn, field, grain	0.05	12/1/99
Corn, field, stover	2.5	12/1/99
Corn, sweet, forage	2.0	12/1/99
Corn, sweet, K + CWHR	0.05	12/1/99
Corn, sweet, stover	2.5	12/1/99

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 98–26002 Filed 9–29–98; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300721; FRL–6033–3]

RIN 2070–AB78

Tebufenozide; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of tebufenozide in or on cranberries. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on cranberries. This regulation establishes a maximum permissible level for residues of tebufenozide in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on September 30, 1999.

DATES: This regulation is effective September 30, 1998. Objections and requests for hearings must be received by EPA on or before November 30, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300721], must 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 identified by the docket control number, [OPP–300721], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

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 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300721]. 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.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9362, e-mail: schaible.stephen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to sections 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing a tolerance for residues of the insecticide tebufenozide, in or on cranberries at 0.5 part per million (ppm). This tolerance will expire and is revoked on September 30, 1999. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the FFDCA, 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL–5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonablecertainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemptions for Tebufenozide on Cranberries and FFDCATolerances

According to the Applicants, outbreak populations of blackheaded fireworms have been observed in recent years, with severe infestations occurring last year. Blackheaded fireworms feed on flowers, growing shoots and developing fruit, causing yield loss to the existing cranberry crop as well as reducing yield to the following year's crop by affecting flower bud formation. The most effective strategy to manage infestations of blackheaded fireworms is to apply insecticides targeting the first instar stage during the second generation. In Washington, the loss of parathion in 1995 has left growers without an effective registered alternative-chlorpyrifos, diazanon, azinphos-methyl and acephate are all currently used, but fail to control the later instars. Growers do not like to use the organophosphate insecticides during the hatch of the second generation of blackheaded fireworm for fear of killing pollinating honeybee colonies which are placed near the beds at this time. The only two products having better safety to bees, *Bacillus thurengiensis* (Bt) and pyrenone, have poor efficacy against fireworm. Tebufenozide is non-toxic to bees and is the only available chemical that can control fireworms during midbloom of the cranberry crop. EPA has authorized under FIFRA section 18 the use of tebufenozide on cranberries for control of blackheaded fireworm in Massachusetts, New Jersey and Washington. After having reviewed the submission, EPA concurs that emergency conditions exist for these states.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of tebufenozide in or on cranberries. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on September 30, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on cranberries after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions EPA has not made any decisions about whether tebufenozide meets EPA's registration requirements for use on cranberries or whether a permanent tolerance for this use would be appropriate. Under these circumstances,

EPA does not believe that this tolerance serves as a basis for registration of tebufenozide by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Massachusetts, New Jersey and Washington to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for tebufenozide, contact the Agency's Registration Division at the address provided above.

III. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the Final Rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997)(FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action EPA has sufficient data to assess the hazards of tebufenozide and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of tebufenozide on cranberries at 0.5 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by tebufenozide are discussed below.

1. *Chronic toxicity*. EPA has established the Reference dose (RfD) for tebufenozide at 0.018 milligrams/kilogram/day (mg/kg/day). This RfD is based on a No Observed Adverse Effect Level (NOAEL) of 1.8 mg/kg/day, taken from a chronic feeding study in dogs. An uncertainty factor of 100 was used.

2. *Carcinogenicity*. Tebufenozide has been classified by the Agency as a Group E, ''no evidence of carcinogenicity for humans,'' chemical.

B. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.482) for the residues of tebufenozide, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures and risks from tebufenozide as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. This is not the case with this chemical.

ii. *Chronic exposure and risk.* Using conservative Theoretical Maximum Residue Contribution (TMRC) assumptions, chronic dietary exposure from the published and proposed uses of tebufenozide was calculated to represent 31% of the RfD for the U.S. population; the subgroup most highly exposed, non-nursing infants less than 1 year old, has a TMRC which represents 80% of the RfD. Because of the assumptions that 100% of each commodity will have tebufenozide residues and that these residues will be at tolerance level, the resulting exposure and risk values should be viewed as overestimates.

2. *From drinking water.* Submitted environmental fate studies suggest that tebufenozide is moderately persistent to persistent and mobile. Thus, tebufenozide could potentially leach to groundwater and runoff to surface water under certain environmental conditions. There is no established Maximum Contaminant Level (MCL) for residues of tebufenozide in drinking water, nor have drinking water Health Advisories (HAs) been issued.

Using Generic expected environmental concentration (GENEEC) (surface water) and SCIGROW (groundwater) models, the Agency has calculated Tier I Estimated Environmental Concentrations (EECs) for tebufenozide for use in human health risk assessments. These values represent the upper bound estimates of the concentrations of tebufenozide that might be found in surface and ground water assuming the maximum application rate allowed on the label. Due to the wide range of aerobic soil half-life values, GENEEC and SCIGROW were run based on aerobic half-lives of 66 (California Loam) and 729 (worst case soil with low microbial activity) days.

Chronic exposure and risk. Using the GENEEC model, chronic surface water concentrations are 13.3 parts per billion (ppb) and 16.5 ppb for the half-lives of 66 and 729 days, respectively. Chronic groundwater concentrations using the SCIGROW model were calculated to be 0.16 ppb and 1.04 ppb, respectively.

Since there are no acute dietary endpoints for this chemical, drinking water levels of concern (DWLOCs) for tebufenozide in drinking water were calculated for the chronic exposure scenario only. The chronic DWLOCs for tebufenozide were calculated by subtracting from the RfD the chronic exposure attributable to food, multiplying this value by a body weight default, and dividing this multiple by a drinking water consumption value. The Agency assumes that 2 liters of drinking water are consumed each day by adults, and 1 L/day by children. The Agency's default body weights are 70 kg for males, 60 kg for females, and 10 kg for children. Using these assumptions, chronic DWLOCs were calculated to be 480 ppb for adult males, 370 for females 13+ years old and nursing, and 72 ppb for children ages 1 through 6 years old.

3. *From non-dietary exposure.* Tebufenozide is not currently registered for use on any residential non-food sites. Therefore, there is no chronic, short- or intermediate-term exposure scenario.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency considers ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether tebufenozide has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, tebufenozide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that tebufenozide has a common mechanism of toxicity with other substances. For more information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the Final Rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Chronic risk.* Using the TMRC exposure assumptions described in Unit II.B. of this preamble, EPA has concluded that aggregate exposure to tebufenozide from food will utilize 31% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants less than one year old (discussed below). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Estimated upper-bound concentrations of tebufenozide in surface water and ground water are below the calculated drinking water levels of concern for all population subgroups of concern.

2. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

3. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebufenozide residues.

D. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of tebufenozide, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies.* In both the rat and rabbit studies, there was no evidence of maternal or developmental toxicity; the maternal and developmental toxicity NOAEL in each study was 1,000 mg/kg/day.

iii. *Reproductive toxicity study.* Two 2–generation reproduction studies in rats have been submitted to the Agency. In a 1993 study, the parental systemic NOAEL was 10 ppm (0.8/0.9 mg/kg/day for males and females, respectively) and the LOAEL was 150 ppm (11.5/12.8 mg/kg/day) based on decreased body weight, body weight gain, and food consumption in males, and increased incidence and/or severity of splenic pigmentation. In addition, there was an increased incidence and severity of extramedullary hematopoiesis at 2,000 ppm. The reproductive NOAEL was 150 ppm and the LOAEL was 2,000 ppm (154.8/171.1 mg/kg/day, respectively) based on an increase in the number of pregnant females with increased gestation duration and dystocia. Effects in the offspring consisted of decreased number of pups per litter on postnatal days 0 and/or 4 at 2,000 ppm, with a NOAEL of 150 ppm.

In a 1995 study, the parental NOAEL was 25 ppm (1.6/1.8 mg/kg/day, for males and females, respectively) and the LOAEL was 200 ppm (12.6/14.6 mg/kg/day), based on histopathological findings in the spleen. Additionally, at 2,000 ppm (126/143.2 mg/kg/day, respectively), treatment-related findings included reduced parental body weight gain and increased incidence of hemosiderin-laden cells in the spleen. Columnar changes in the vaginal squamous epithelium and reduced uterine and ovarian weights were also observed at 2,000 ppm, but the toxicological significance was unknown. For offspring, the systemic NOAEL was 200 ppm, and the LOAEL was 2,000 ppm based on decreased body weight on postnatal days 14 and 21.

iv. *Pre- and post-natal sensitivity.* The Agency has concluded that the submitted studies provide no indication of increased sensitivity of rats or rabbits to *in utero* and/or postnatal exposure to tebufenozide. No maternal or developmental findings were observed in the prenatal developmental toxicity studies at doses up to 1,000 mg/kg/day in rats and rabbits. In both 2-generation reproduction studies, effects occurred at the same or lower treatment levels in the adults as in the offspring. Based on this information, the Agency has concluded that the 10X factor to account for enhanced sensitivity of infants and children should be removed.

v. *Conclusion.* There is a complete toxicity data base for tebufenozide and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures.

2. *Chronic risk.* Using the exposure assumptions described above, EPA has concluded that aggregate exposure to tebufenozide from food will utilize 80% of the RfD for non-nursing infants and 60% of the RfD for children ages 1 through 6 years old. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Estimated upper-bound concentrations of tebufenozide in surface water and ground water are below the calculated drinking water levels of concern for all population subgroups of concern.

3. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to tebufenozide residues.

IV. Other Considerations

A. Metabolism in Plants and Animals

The metabolism of tebufenozide in/on plants is adequately understood. The residue of concern is the parent compound, tebufenozide per se as specified in 40 CFR 180.482.

B. Analytical Enforcement Methodology

The High performance liquid chromatography using ultra-violet detection (HPLC/UV) method, TR 34–95–19, is considered adequate for enforcement purposes and has been submitted to the FDA for inclusion in PAM II.

The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 101FF, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703–305–5229).

C. Magnitude of Residues

Residues of tebufenozide are not expected to exceed 0.5 ppm in cranberries as a result of this section 18 use. There are no cattle, poultry, or swine feed items associated with this use; consequently secondary residues of tebufenozide are not expected in animal commodities.

D. International Residue Limits

There are currently no CODEX, Canadian, or Mexican listings for tebufenozide residues; therefore, there are no harmonization issues for this action.

E. Rotational Crop Restrictions

Cranberries are not rotated to other crops; therefore a discussion of rotational crop restrictions is not germane to this action.

V. Conclusion

Therefore, the tolerance is established for residues of tebufenozide in cranberries at 0.5 ppm.

VI. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by November 30, 1998, file written objections to any aspect of this 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 issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (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 issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request 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 information 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.

VII. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300721] (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 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C) 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 Virginia address in ''ADDRESSES'' at the beginning of this document.

VIII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under FFDCA section 408 (l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under FFDCA section 408 (l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon

a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled Consultation and Coordination with Indian Tribal Governments (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IX. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: September 22, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I 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 § 180.482 by adding alphabetically an entry for ''cranberries,'' to the table in paragraph (b) to read as follows:

§ 180.482 Tebufenozide; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* ***

Commodity	Parts per million	Expiration/ Revocation Date
* * *	*	*
Cranberries	0.5	9/30/99
* * *	*	*

* * * * *

[FR Doc. 98–26001 Filed 9–29–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300718; FRL–6032–1]

RIN 2070–AB78

Carfentrazone-ethyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of the herbicide Carfentrazone-ethyl (ethyl-alpha-2-dichloro-5–[-4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1*H*-1,2,4-triazol-1-yl]-4-fluorobenzene-propanoate) and its metabolite: Carfentrazone-ethyl chloropropionic acid (alpha, 2-dichloro-5–[4-difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1*H*-1,2,4-triazol-l-y]-4-fluorobenzenepropanoic acid) in or on these raw agricultural commodities: corn, field, grain at 0.1ppm; corn, field, forage at 0.1ppm; corn, field, fodder at 0.1 ppm; soybean seed at 0.1 ppm; wheat grain at 0.1 ppm; wheat forage at 1.0 ppm; wheat hay at 0.3 ppm; and wheat straw at 0.2 ppm. FMC Corporation requested this tolerance under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Pub. L. 104–170).

DATES: This regulation is effective September 30, 1998. Objections and requests for hearings must be received by EPA on or before November 30, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300718], must 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 identified by the docket control number, [OPP–300718], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall (CM)

#2, 1921 Jefferson Davis Hwy., Arlington, VA.

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 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300718]. 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.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Product Manager, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–6224, e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 30, 1998 (63 FR 4631)(FRL–5766–2), EPA, issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide petition (PP) for tolerance by FMC Corporation. This notice included a summary of the petition prepared by FMC Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by establishing tolerances for the herbicide, in or on corn, field, grain at 0.1 parts per million (ppm); corn, field, forage at 0.1 ppm; corn, field, fodder at 0.1 ppm; soybean seed at 0.1 ppm; wheat grain at 0.1 ppm; wheat forage at 1.0 ppm; wheat hay at 0.3 ppm; and wheat straw at 0.2 ppm.

I. Risk Assessment and Statutory Findings

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the Final Rule on Bifenthrin Pesticide Tolerances published in the **Federal Register** of November 26, 1997 (62 FR 62961)(FRL–5754–7).

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of Carfentrazone-ethyl and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance on corn, field, grain at 0.1 part ppm; corn, field, forage at 0.1 ppm; corn, field, fodder at 0.1 ppm; soybean seed at 0.1 ppm; wheat grain at 0.1 ppm; wheat forage at 1.0 ppm; wheat hay at 0.3 ppm; and wheat straw at 0.2 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by Carfentrazone-ethyl are discussed below.

1. A battery of acute toxicity studies places the technical-grade herbicide in Toxicity categories III and IV. No evidence of sensitization was observed following dermal application in guinea pigs.

2. A 90-day subchronic feeding study was conducted in rats at intake levels of 0, 58, 226, 470, 831 and 1,197 miligrams/kilograms/day (mg/kg/day) for males and 0, 72, 284, 578, 1,008 and 1,427 mg/kg/day in females, respectively. The No-Observed-Adverse-Effect-Level (NOAEL) was 226 mg/kg/day in males and 284 mg/kg/day in females. The Lowest-Observed-Effect-Level (LOEL) was 470 mg/kg/day in males and 578 mg/kg/day in females based on decreases in body weight, reductions in food consumption and histopathological lesions.

3. A 90-day subchronic feeding study was conducted in mice at dietary intake doses of 0, 143, 571, 1,143, 2,000 and 1,857 mg/kg/day. The LOEL was 1,143 mg/kg/day based on findings in the liver pathology. The NOAEL was 571 mg/kg/day.

4. A 90-day subchronic feeding study in dogs administered by dietary admix doses of 0, 50, 150, 500 and 1,000 mg/kg/day. The NOAEL was 50 mg/kg/day and the LOEL was 150 mg/kg/day based on systemic toxicity (decrease in the rate of weight gain in females and an increase in porphyrin levels in both sexes).

5. An 18-month mouse carcinogenicity study was conducted in mice at dietary intake doses of 0, 10, 110 and 1,090 mg/kg/day for males and 0, 12, 119 and 1,296 mg/kg/day for females). The study found the compound to be noncarcinogenic to mice under the conditions of the study. The systemic NOAEL was 70 ppm (equivalent to 10 mg/kg/day for males and 12 mg/kg/day for females), and the systemic LOEL was 700 ppm (equivalent to 110 mg/kg/day for males and 119 mg/kg/day for females) based on increased mortality and microscopic signs of hepatotoxicity.

6. A 2-year rat chronic toxicity/carcinogenicity study was conducted in rats at intake levels of 0, 2, 9, 37 and 188 mg/kg/day for males and 0, 3, 12, 49 and 242 mg/kg/day for females. The study found the compound to be noncarcinogenic to rats under the conditions of the study. The NOAEL was 200 ppm (9 mg/kg/day) for males and 50 ppm (3 mg/kg/day) for females respectively and the LOEL was 800 ppm (37 mg/kg/day) for males and 200 ppm (12 mg/kg/day) for females, based on liver histopathology and total urinary porphyrin.

7. A 1-year feeding study in dogs dosed at levels of 0, 50, 150, 500 and 1,000 mg/kg/day in both sexes with a NOAEL of 50 mg/kg/day and a LOEL of 150 mg/kg/day, based on an increase mean total urinary porphyrins.

8. A developmental toxicity study in rats was conducted in rats at dose levels of 0, 100, 600, and 1,250 mg/kg/day in

females, with a maternal LOEL of 600 mg/kg/day based on staining of the abdominogenital area and maternal NOAEL of 100 mg/kg/day, and a developmental LOEL of 1,250 mg/kg/day based upon a significant increase in the litter incidences of wavy and thickened ribs; and a developmental NOAEL of 600 mg/kg/day.

9. A developmental toxicity study in rabbits was conducted at gavage dose levels of 0, 10, 40, 150 and 300 mg/kg/day. Evidence of treatment-related maternal toxicity consisted of unthriftiness and emaciation in two does at 300 mg/kg/day. There were no treatment-related mortalities or gross pathological findings. No effects on body weight, body weight change, or organ weight data were identified at any treatment level. However, when considered in conjunction with the findings of the two pilot dose-setting studies, which were conducted at higher dose levels and which identified a steep dose-reponse curve with maternal mortality occuring at doses of 350 mg/kg/day and above, it was determined that 300 mg/kg/day provided an adequate high-dose assessment of maternal toxicity in rabbits. The maternal toxicity NOAEL is greater than/equal to 150 mg/kg/day and maternal LOEL of 300 mg/kg/day. There was no evidence of treatment-related prenatal development toxicity, the developmental LOEL was not determined and the developmental NOAEL is greater than/equal to 300 mg/kg/day.

10. A 2-generation reproduction study in the rat at dietary levels of 0, 8.6, 42.4, 127, 343 mg/kg/day for males, and 0, 9.5, 47.8, 142, and 387 mg/kg/day for females established a parental NOAEL for systemic and reproductive/developmental parameters of 127 mg/kg/day for males and 142 mg/kg/day for females. The parental LOEL for systemic and reproductive development parameters was 343 mg/kg/day for males and 387 mg/kg/day for females. There was no systemic toxicity demonstrated at dose levels of less than/equal to 1,500 ppm. There were no treatment-related clinical signs of toxicity or increases in mortality at any dose levels. The offspring NOAEL was 142 mg/kg/day and the LOEL was 387 mg/kg/day. The NOAEL for reproductive toxicity was greater than/equal to 387 mg/kg/day; the highest dose tested. There were no clinical signs of toxicity reported for the pups of either generation.

11. In an acute neurotoxicity study in rats at gavage doses of 0, 500, 1,000, and 2,000 mg/kg, a NOAEL of 500 mg/kg and a LOEL of 1,000 mg/kg were based upon clinical observations (i.e., salivation) and motor activity. There was no evidence of neuropathology.

12. A 90-day subchronic neurotoxicity study in the rat was conducted at dietary levels of 0, 59, 603, and 1,178 mg/kg/day for males and 0, 71, 718 and 1,434 mg/kg/day for females, with a NOAEL of 59 mg/kg/day for males and 71 mg/kg/day for females. The LOEL was 603 mg/kg/day for males and 718 mg/kg/day for females based on decreased body weight.

13. Two reverse gene mutation assays (*salmonella typhimurium*) at dose yielded negative results, both with and without metabolic activation.

14. *In vitro* mammalian cell forward gene mutation assay in Chinse hampster Ovary (CHO) cells yielded negative results both with and without activation.

15. *In vitro* chromosomal abberation assay yielded positive results under nonactivated conditions following doses of 3.75, 12.5, 37.5 and 125 µg/ml. There were consistent and statistically significant increased incidences of cells with aberrations at 125 µg/ml, the highest dose tested in the absence of metabolic activation.

16. *In vivo* mouse micronucleus cytogenic assay test was negative for clastogenic and/or aneugenic activity, following intraperitoneal injection doses of 600, 1,200, and 2,400 mg/kg. Dosed animals showed no reduction in the ratio of polychromatic erythrocytes to total erythrocytes. There was no evidence of polychromatic erythrocytes associated with exposure to the test material.

17. An unscheduled *in vivo/in vitro* DNA synthesis assay was negative following a single IP injection doses of 750, 1,500, 3,000 mg/kg. Slight lethargy was seen in the high dose animals. Higher levels (4,000 mg/kg/) were lethal in a preliminary study. Cytotoxicity for the hepatocytes was not apparent at any dose. The results obtained with the positive controls confirmed the sensitivity of the test system to detect UDS. There was, however, no evidence that the test material induced agenotoxic response at any dose or sacrifice time.

18. A metabolism study in rats indicated that approximately 72.4 to 87% of the administered dose of carefentrazone-ethyl was rapidly absorbed and excreted in the urine within 24 hours after dosing. The major metabolites in both the urine and feces were F8426-chloropropionic acid (48.4 to 66.06%). The proposed metabolic pathway appeared to be the conversion of the parent compound by hydrolysis of the ester moiety to form F8426-chloropropionic acid, followed by oxidative hydroxylation of the methyl group to form 3-hydroxymethyl-F8426-chloropropionic acid, or dehydrochlorination to form F8426-cinnamic acid.

B. Toxicological Endpoints

1. *Acute toxicity.* In an acute neurotoxicity study in rats and using an uncertainty factor of 100 (10× for inter-species extrapolation, 10× for intra-species variability, an acute referenced dose (RfD) of 5 mg/kg/day was established, based on a NOAEL of 500 mg/kg/day. A LOEL of 1,000 mg/kg/day was based on clinical observations and motor activity testing.

A developmental toxicity study resulted in a NOAEL of 100 mg/kg/day and the LOEL was 600 mg/kg/day. The finding was a result of the interference of Carfentrazone-ethyl with porphyrin metabolism. It is obvious that repeated doses of 600 mg/kg/day caused that interference; one dose will cause interference also but the effect will not be pronounced. Therefore, the NOAEL was not selected for this risk assessment (i.e., for acute exposure).

2. *Short - and intermediate - term toxicity.* No dermal or systemic toxicity was seen following repeated dermal application at 0, 100, 500 and 1,000 mg/kg/day, 6 hours/day, 5 days/week for 21 consecutive days to male and female Sprague-Dawley rats. Also, in the oral developmental toxicity study, no developmental toxicity was seen in rabbits and rats. In the rabbits, the developmental NOAEL was 300 mg/kg/day (the highest dose tested). In the rats, the developmental NOAEL was 600 mg/kg/day and the developmental LOEL was 1,250 mg/kg/day (slightly higher than the Limit-Dose) based on increase in the litter incidence of wavy and thickened ribs. Therefore, based on the lack of systemic toxicity via the dermal route and the occurrence of developmental toxicity only at high doses in rats, the Health Effects Division's Hazard Identification Assessment Review Committee (HED HIARC) determined that there are no toxicological endpoints of concern for dermal risk assessments.

3. *Chronic toxicity.* EPA has established the RfD for Carfentrazone-ethyl at 0.03 mg/kg/day. This RfD is based on the NOAEL of 3 mg/kg/day established in a 2-year chronic toxicity/carcinogenicity study in rats and using an uncertainty factor of 100 (10× for inter-species extrapolation, 10× for intra-species variability. The LOEL of 12 mg/kg/day was based on liver histopathology (increases in microscopic red fluorescence of the

liver, liver pigment) and total mean urinary porphyrin observed at both sexes.

4. *Carcinogenicity*. The Office of Pesticide Programs' HED HIARC classified Carfentrazone-ethyl as a ''not likely'' human carcinogen according to EPA Proposed Guidelines for Carcinogen Risk Assessment (April 10, 1996).

C. Exposures and Risks

1. *From food and feed uses.* No previous tolerances have been established for the combined residues of Carfentrazone-ethyl and its chloropropionic acid. Risk assessments were conducted by EPA to assessed dietary exposures from Carfentrazone-ethyl as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Risk Evaluation System (DRES) acute dietary exposure analysis estimates the distribution of single-day exposures for the overall U.S. population and certain subgroups. The analysis evaluates individual food consumption as reported by respondents in the United States Department of Agriculture (USDA) 1989–92 Nationwide Food Consumption Survey (NFCS) and accumulates exposure to the chemical for each commodity. Each analysis assumes uniform distribution of Carfentrazone-ethyl in the commodity supply. The acute percentages of the RfD were <1% for the U.S. population and all subgroups. This is also a highly conservative risk estimate in which 100% crop treated and tolerance level residues were used.

ii. *Chronic exposure and risk.* A chronic dietary exposure analysis from food source was conducted using tolerance level residues and 100% crop treated information to estimate the Theoretical Maximum Residue Contribution (TMRC) for the general population and 22 subgroups. The TRMC for the general population represents 1% of the RfD, 1.3% for all infants (<1 year), 0.4% for nursing infants (<1 year), 1.7% for non-nursing infants (<1 year), 2.3% for children (1–6 years), 1.7% for children (7–12 years), 0.9% for females (13+/nursing), and 1.2% for males (13–19 years). This is a highly conservative risk estimate. No refinements for percent crop treated or anticipated residues were made.

2. *From drinking water.* Carfentrazone-ethyl is moderately soluble in water (12 ppm). Its mobility in soil could not be determined in the aged leaching study because of its rapid breakdown. The major degradate chloropropionic acid has a high water solubility (910 ppm) and is very mobile K_{ads} = 0.4; K_{oc} = 30–48).

EPA estimates exposure Carfentrazone-ethyl and its degradate chloropropionic acid for both surface and groundwater based on available modeling. Since there are no registered uses for Carfentrazone-ethyl in the U.S., there are no monitoring data to compare against the modeling. Environmental concentrations for surface water were estimated using Generic expected environmental concentration (GENEEC), a single event model. Groundwater calculations for parent Carfentrazone-ethyl and degradate chloropropionic acid was based on the SCI-GROW method.

i. *Acute exposure and risk.* Drinking water levels of concern (DWLOC) were calculated for surface water for the parent compound and its chloropropionic acid metabolite at 1.8×10^5 for adults and 5×10^4 parts per billion (ppb) for infants and children. Using the GENEEC model, available environmental fate data, and very conservative assumptions, the estimated environmental concentrations calculated were 1.2 ppb for parent Carfentrazone-ethyl and 2.88 ppb for the chloropropionic acid metabolite. These values are well below EPA's level of concern. DWLOC's for groundwater were not calculated since the estimated environmental concentrations calculated for groundwater using SCI-GROW model were all less than 1 ppb.

ii. *Chronic exposure and risk.* Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOAEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for exposure from contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause Carfentrazone-ethyl to exceed the RfD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with Carfentrazone-ethyl in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

3. *From non-dietary exposure.* There are no registered or proposed residential uses for Carfentrazone-ethyl.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether Carfentrazone-ethyl has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, Carfentrazone-ethyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that Carfentrazone-ethyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the Final Rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* EPA concludes with reasonable certainty that residues of Carfentrazone-ethyl and its chloropropionic acid metabolite would not result in unacceptable levels of aggregrate acute human health risk at this time. Acute risk estimates associated with exposure to Carfentrazone-ethyl in food and water do not exceed EPA's level of concern. Acute percentages of the RfD (from food sources only) were less than 1% for the U.S. population and all subgroups. DWLOC's calculated for surface water for the parent compound and its chloropropionic acid metabolite were 1.8×10^5 ppb for adults and 5×10^4 ppb

for infants and children. Using the GENEEC model, available environmental fate data, and very conservative assumptions, the estimated environmental concentrations calculated were 1.2 ppb for parent Carfentrazone-ethyl and 2.88 ppb for chloropropionic acid metabolite. These values are well below EPA's level of concern. DWLOC's for groundwater were not calculated since the estimated environmental concentrations calculated for groundwater using SCI-GROW model were all less than 1 ppb.

2. *Chronic risk*. EPA concludes with reasonable certainty that residues of Carfentrazone-ethyl and its chloropropionic acid metabolite would not result in unacceptable levels of aggregate chronic human health risk at this time. Chronic risk estimates associated with exposure to Carfentrazone-ethyl in food and water do not exceed EPA's level of concern. The chronic exposure analysis performed using tolerance level residues and 100% crop treated information to estimate the Theoretical Maximum Residue Contribution (TMRC) for the general population and 22 subgroups yielded TMRC's for the general population that represents 1% of the RfD, 1.3% for all infants (<1 year), 0.4% for nursing infants (<1year), 1.7% for non-nursing infants (<1 year), 2.3% for children (1–6 years), 1.7% for children (7–12 years), 0.9% for females (13+/ nursing), and 1.2% for males (13–19 years). The estimated average concentration in surface water for Carfentrazone-ethyl (0.02 ppb) and for the chloropropionic acid (2.46 ppb) does not exceed DWLOC's of 1×10^3 ppb for adults and 3×10^2 ppb for children. Conservative model estimates (SCI-GROW) of the concentration of Carfentrazone-ethyl and its chloropropionic acid in groundwater indicate that exposure will be minimal, therefore DWLOC's for chronic groundwater were not calculated.

3. *Short- and intermediate-term risk*. HED concludes with reasonable certainty that residues of Carfentrazone-ethyl and its chloropropionic acid metabolite would not result in unacceptable levels of short- and intermediate-term human health risk. There are no residential uses or exposure scenarios and no toxicological endpoints were identified for short- and intermediate-term exposure scenarios.

4. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to Carfentrazone-ethyl residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general*. In assessing the potential for additional sensitivity of infants and children to residues of Carfentrazone-ethyl, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Pre- and post-natal sensitivity*. EPA determined that a 10× safety factor for enhanced sensitivity to infants and children was not required. The rationale is based on the following: there was no indication of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to the chemical; the toxicological database is complete; and the fact that there are no registered residential products, in conjunction with the use of generally high qualitiy data, conservative models and/or assumptions in the exposure assessment provide adequate protection for infants and children.

2. *Acute risk*. EPA concludes with reasonable certainty that residues of Carfentrazone-ethyl and its chloropropionic acid metabolite would not result in unacceptable levels of aggregate acute human health risk at this time.

3. *Chronic risk*. EPA concludes with reasonable certainty that residues of Carfentrazone-ethyl and its chloropropionic acid metabolite would not result in unacceptable levels of aggregate chronic human health risk at this time. Chronic risk estimates associated with exposure to Carfentrazone-ethyl in food and water do not exceed EPA's level of concern.

4. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to Carfentrazone-ethyl residues.

III. Other Considerations

A. Metabolism In Plants and Animals

EPA decided that for the present crops (corn, wheat, soybeans), the proposed tolerance expression for the combined residues of the herbicide carfentrazone-ethyl (F8426) and its chloropropionic acid metabolite is adquate for the plant and animal commodities. However, since the hydroxyl metabolite, 3-OH-F8426-Cl-PAc, was found as the major residue in soybean forage and hay, the registrant must also monitor for this metabolite in all field trials of additional future crops.

B. Analytical Enforcement Methodology

There is a practical analytical method for detecting and measuring levels of Carfentrazone-ethyl and its metabolites in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. The proposed analytical method for determining residues is hydrolysis followed by gas chromatographic separation.

The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 101FF, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703–305–5229).

C. International Residue Limits

There are no Codex, Canadian, or Mexican tolerances or maximum residue limits established for Carfentrazone-ethyl in/on corn, wheat and soybeans. There are no compatibility problems that exists between the proposed U.S. and Codex tolerances.

D. Rotational Crop Restrictions

The labeling will require a 30 day plant-back interval for crops other than small grains.

IV. Conclusion

Therefore, the tolerance is established for Carfentrazone-ethyl (ethyl-alpha-2-dichloro-5-[-4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1*H*-1,2,4-triazol-1-yl]-4-fluorobenzene-propanoate) and its metabolite: Carfentrazone-ethyl chloropropionic acid (alpha, 2-dichloro-5-[4-difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1*H*-1,2,4-triazol-l-y]-4-fluorobenzenepropanoic acid) in or on corn grain, corn forage, corn fodder, soybean seed, and wheat grain at 0.1ppm, wheat forage at 1.0 ppm, wheat hay at 0.3 ppm, and wheat straw at 0.2 ppm.

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by November 30, 1998, file written objections to any aspect of this 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 or a request for a fee waiver as specified in 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (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 issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information 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.

VI. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300718] (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 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Hwy., 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 Virginia address in **ADDRESSES** at the beginning of this document.

VII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled Enhancing Intergovernmental Partnerships (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must

provide to the Office of Management and Budget (OMB) a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded federal mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled Consultation and Coordination with Indian Tribal Governments (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: September 23, 1998.

Marcia E. Mulkey,
Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I 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. Section 180.515 is revised to read as follows:

§ 180.515 Carfentrazone-ethyl; tolerances for residues

(a) *General.* Tolerances are established for combined residues of the herbicide Carfentrazone-ethyl (ethyl-alpha-2-dichloro-5–[-4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1*H*-1,2,4-triazol-1-yl]-4-fluorobenzene-propanoate) and its metabolite: Carfentrazone-ethyl chloropropionic acid (alpha, 2-dichloro-5–[4-difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1*H*-1,2,4-triazol-l-y]-4-fluorobenzenepropanoic acid) in or on the following raw agricultural commodities:

Commodity	Parts per million
Corn, field	0.1
Corn, field, fodder	0.1
Corn, field, forage	0.1
Soybean seed	0.1
Wheat forage	1.0
Wheat grain	0.1
Wheat hay	0.3
Wheat straw	0.2

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 98–26162 Filed 9–29–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6167–9]

Massachusetts: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Commonwealth of Massachusetts has applied for Final Authorization of a revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Massachusetts' revision addresses the Satellite Accumulation Rule contained in Non-HSWA Cluster I. This optional rule was promulgated on December 20, 1984 and amended the hazardous waste rules to allow accumulation of waste at satellite areas at the generator's facility. The specific provisions relating to the Satellite Accumulation Rule for which Massachusetts is seeking authorization are listed in the table in section B of this document. The EPA has reviewed The Commonwealth of Massachusetts' application and determined that its hazardous waste program revisions relating to the Satellite Accumulation Rule satisfy all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period, EPA's decision to authorize Massachusetts' hazardous waste program revision will take effect as provided below.

DATES: This Immediate Final Rule will become effective on November 30, 1998 without further notice, unless EPA receives relevant adverse comments by October 30, 1998. Should EPA receive

such comments, it will publish a timely document withdrawing this rule.

ADDRESSES: Copies of the Massachusetts' program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying at the following addresses: Massachusetts Department of Environmental Protection Library, One Winter Street—2nd Floor, Boston, MA 02108, business hours: 9 a.m. to 5 p.m., Telephone: (617) 292–5802 and EPA Region I Library, One Congress Street—11th Floor, Boston, MA 02203–0001, business hours: 8:30 a.m. to 5 p.m., Telephone: (617) 565–3300. Send written comments to Robin Biscaia, at the address below.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, EPA Region I, JFK Federal Bldg. (CHW), Boston, MA 02203–0001; Telephone: (617) 565–3265.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. Massachusetts

The Commonwealth of Massachusetts initially received Final Authorization on January 24, 1985, effective February 7, 1985 (50 FR 3344) to implement its base hazardous waste management program.

On January 8, 1998 Massachusetts submitted a final complete program revision application relating to the Satellite Accumulation Rule, seeking authorization of its program revision in accordance with 40 CFR 271.21. The EPA reviewed Massachusetts' application, and now makes an immediate final decision, subject to receipt of adverse written comment, that Massachusetts' hazardous waste program revision relating to the Satellite Accumulation Rule satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant The Commonwealth of Massachusetts Final Authorization for the program modifications contained in the revision.

Today's action does not address portions of The Commonwealth of Massachusetts' application seeking authorization of the Toxicity Characteristics Rule and Universal Waste Rule. The EPA is attempting to resolve with Massachusetts an issue that has delayed final approval of these rules. Comments related to the Toxicity Characteristics Rule and Universal Waste Rule portions of Massachusetts' application need not be filed in response to today's action which relates only to EPA's intent to grant Final Authorization to Massachusetts for the Satellite Accumulation Rule.

The public may submit written comments on EPA's final decision regarding the Satellite Accumulation Rule until October 30, 1998. Copies of Massachusetts' application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document.

If EPA does not receive adverse written comment pertaining to Massachusetts' program revision by the end of the comment period, the authorization of Massachusetts' revision will become effective in 60 days from the date this document is published. If the Agency does receive adverse written comment, it will publish a document withdrawing this immediate final rule before its effective date. EPA will then address the comments in a later final rule based on the companion document appearing in the Proposed Rules section of today's **Federal Register**. EPA may not provide additional opportunity for comment. Any parties interested in commenting should do so at this time.

Upon review of Massachusetts regulations submitted in this revision application regarding the Satellite Accumulation Rule, EPA has determined that they are equivalent to, no less stringent than and consistent with the Federal program. To be considered equivalent to the Federal program, a state is required to control all hazardous waste identified under 40 CFR part 261 at least as stringently as the Federal program; and, according to section 3009 of the Resource Conservation and Recovery Act (RCRA), states are entitled to be more stringent than the Federal program. This does not mean a state's program must be identical, as exemplified below.

On December 20, 1984 (49 FR 49568), EPA promulgated the Satellite Accumulation Rule which allows generators to accumulate up to 55 gallons of hazardous waste or one quart of acutely hazardous waste in satellite areas at a generator's facility so long as specified requirements are met. The Massachusetts program allows one 55-gallon of hazardous waste or one quart of acutely hazardous waste *per waste stream* to be accumulated at its point of generation. Although this is not necessarily allowed under the federal regulation, the Massachusetts program subjects the satellite area to more stringent requirements than would be required under the federal rule, such as aisle space requirements (310 CMR 30.685(3) and (4)) and weekly inspections (310 CMR 30.686). Thus, the state regulations affecting a satellite accumulation area are overall equivalent to the federal regulation.

The specific RCRA program revisions for which the Commonwealth of Massachusetts is authorized today are listed in the table below. The Federal requirements in the table are identified by their checklist numbers and rule descriptions. The following abbreviations are used in defining analogous state authority: MGL = Massachusetts General Laws; CMR = Code of Massachusetts Regulations.

Checklist	Description	Federal Register date and page	Analogous State authority
12	Satellite Accumulation	12/29/84, 49 FR 49568	MGL c 21C §§4 and 6, 11/9/79; 310 CMR 30.340(4) and 30.351(4), 2/19/88.

Status of Federal Permits

The Commonwealth of Massachusetts is not being authorized now for any requirement implementing HSWA. As such, EPA will retain lead responsibility for the issuance, administration, and enforcement of HSWA provisions in the Commonwealth of Massachusetts for which the State has not received authorization. In addition, EPA will continue to administer and enforce any RCRA and HSWA permits, or portions

of permits, it has issued in Massachusetts until the State, after receiving authorization for those provisions, issues permits for these facilities which are equivalent to the federal permits, or until the State incorporates the terms and conditions of the federal permits into the State RCRA permits in accordance with its authorized program.

Massachusetts has not sought the authority to operate the RCRA program in any Indian country and is not authorized by the Federal government to operate the RCRA program in Indian country.

C. Decision

I conclude that the Massachusetts application for program revision authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, EPA grants the Commonwealth of Massachusetts final authorization to operate its hazardous waste program as revised. The Commonwealth of Massachusetts has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. The Commonwealth of Massachusetts also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

The EPA uses 40 CFR part 272 for codification of the decision to authorize The Commonwealth of Massachusetts' program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. EPA reserves amendment of 40 CFR part 272, subpart W until a later date.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Massachusetts program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

F. Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. The EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

G. Submission to Congress and the Comptroller General

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

H. Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

I. Compliance With Executive Order 13045

Executive Order 13045 applies to any rule that the Office of Management and Budget determines is ''economically significant'' as defined under Executive Order 12866, and that EPA determines that the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is

preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The Agency has determined that the final rule is not a covered regulatory action as defined in the Executive Order because it is not economically significant and does not address environmental health and safety risks which have a disproportionate effect on children. As such, the final rule is not subject to the requirements of Executive Order 13045.

J. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

K. National Technology Transfer and Advancement Act

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

This action does not involve technical standards that are covered by voluntary consensus standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 272

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This document is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 25, 1998.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 98–25887 Filed 9–29–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPPTS–400133; FRL–6033–5]

RIN 2070–AC71

Clarification of Combustion for Energy Recovery; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Clarification of final rule.

SUMMARY: EPA is providing clarification regarding the combustion for energy recovery of chemicals covered by section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA).

FOR FURTHER INFORMATION CONTACT: Sara Hisel McCoy, 202–260–7937 or e-mail: hisel-mccoy.sara@epamail.epa.gov, for specific information regarding this document or for further information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1–800–535–0202, in Virginia and Alaska: 703–412–9877, or Toll free TDD: 1–800–553–7672.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Document Apply To Me?

You may be potentially affected by this document if you combust EPCRA section 313 toxic chemicals in waste for energy recovery on-site or transfer these toxic chemicals off-site for this purpose. Potentially affected categories and entities may include, but are not limited to the following:

Category	Examples of Potentially Interested Entities
Industry; facilities that manufacture, process, or otherwise use certain chemicals	Manufacturing, Metal mining, Coal mining, Electric utilities, Commercial hazardous waste treatment, Chemicals and allied products-wholesale, Petroleum bulk terminals and plants wholesale, and Solvent Recovery services
Facilities with hazardous waste boilers and industrial furnaces	Cement kilns

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in this document. Other types of entities not listed in this table may also be interested in this document. Additional businesses that may be interested in this document are those covered under 40 CFR part 372, subpart B. If you have any questions regarding whether a particular entity is covered by this section of the CFR, consult the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information or Copies of This Document or Other Support Documents?

1. *Electronically*. You may obtain electronic copies of this document from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register** - Environmental Documents''. You can also go directly to the ''**Federal Register**'' listings at http://www.epa.gov/homepage/fedrgstr/. You may also obtain electronic copies of related documents at http://www.epa.gov/opptintr/tri/industry.htm.

2. *In person or by phone*. If you have any questions or need additional information about this action, please contact the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section. In addition, the official record for this document, including the public version, has been established under docket control number OPPTS–400133. A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC. The TSCA Nonconfidential Information Center telephone number is 202–260–7099.

II. Background

In the **Federal Register** of May 1, 1997 (62 FR 23834) (FRL–5578–3), EPA issued a final rule entitled ''Addition of

Facilities in Certain Industry Sectors; Revised Interpretation of Otherwise Use; Toxic Release Inventory Reporting; Community Right-to-Know'' (hereinafter referred to as the ''industry expansion rule''). That rule added seven industry groups to the list of facilities subject to the reporting requirements of EPCRA section 313, 42 U.S.C. 11023 and section 6607 of the Pollution Prevention Act (PPA) 42 U.S.C. 13106(a). In addition, this rule which promulgated definitions at 40 CFR 372.3 for several terms relevant to the rulemaking, defined ''treatment for destruction'' to mean:

> [T]he destruction of a toxic chemical in waste such that the substance is no longer the toxic chemical subject to reporting under EPCRA section 313. Treatment for destruction does not include the destruction of a toxic chemical in waste where the toxic chemical has a heat value greater than 5,000 British thermal units and is combusted in any device that is an industrial furnace or boiler.

With this notice, EPA is clarifying this definition, preamble language to the facility expansion rule, and other related documents. This document supersedes any inconsistent information and specifically the interpretation of ''combustion for energy recovery'' as it is expressed in section 2 of the EPA document entitled ''Section 313 Emergency Planning and Community Right-to-Know Act Guidance Document for RCRA Subtitle C TSD Facilities and Solvent Recovery Facilities'' (EPA 745–B–97–015).

III. Description of Clarification

This document clarifies that EPA's references to 5,000 British Thermal Units per chemical per pound (Btu/chemical/lb) in the definition of ''treatment for destruction'' in 40 CFR 372.3 and in the preamble to the facility expansion rule and other documents in explaining ''combustion for energy recovery'' is not intended to function as a regulatory floor at this time for determining the heating value at which energy may be recovered. EPA referenced 5,000 Btu/chemical/lb in the definition of ''treatment for destruction'' to clarify its definition of that term. The reference to 5,000 Btu/chemical/lb in the definition of ''treatment for destruction'' is intended to identify a ceiling for determining whether ''treatment for destruction'' has occurred. Thus, EPA did not intend to issue a final statement on whether ''combustion for energy recovery'' may occur if a toxic chemical that has less than 5,000 Btu value is combusted in an energy recovery device. However, a toxic chemical that is a metal or a metal compound is never combusted for energy recovery. Therefore, in preparing a Form R pursuant to EPCRA section 313, a facility may not report metals or metal compounds as being combusted for energy recovery. EPA recognizes that for purposes of the Resource Conservation and Recovery Act (RCRA), there may be some circumstances when energy recovery may be obtained for a waste stream with a Btu value of less than 5,000. EPA will formally address this issue in a rulemaking to implement section 6607 of the Pollution Prevention Act.

IV. Example of Clarification

Subsequent to publishing the facility expansion rule, EPA published six documents for the seven industries newly added to the EPCRA section 313 reporting requirements. These documents include: ''Section 313 Emergency Planning and Community Right-to-Know Act Guidance Document for RCRA Subtitle C TSD Facilities and Solvent Recovery Facilities'' (EPA 745–B–97–015), ''Section 313 Emergency Planning and Community Right-to-Know Act Guidance Document for Metal Mining Facilities'' (EPA 745–B–97–011), ''Section 313 Emergency Planning and Community Right-to-Know Act Guidance Document for Chemical Distribution Facilities'' (EPA 745–B–97–013), ''Section 313 Emergency Planning and Community Right-to-Know Act Guidance Document for Coal Mining Facilities'' (EPA 745–B–97–012), ''Section 313 Emergency Planning and Community Right-to-Know Act Guidance Document for Petroleum Bulk Facilities'' (EPA 745–B–97–014), and ''Section 313 Emergency Planning and Community Right-to-Know Act Guidance Document Electricity Generating Facilities'' (EPA 745–B–97–016). EPA is amending section 2 of these documents to reflect the Agency's clarification concerning EPCRA section 313 toxic chemicals burned for energy recovery. An example of this clarification is provided as follows:

> Combustion for energy recovery is interpreted by EPA to include the combustion of a section 313 chemical that is (1) (a) a RCRA hazardous waste or waste fuel, (b) a constituent of a RCRA hazardous waste or waste fuel, or (c) a spent or contaminated ''otherwise used'' material; and that (2) has a significant heating value and is combusted in an energy or materials recovery device. Energy or materials recovery devices are boilers and industrial furnaces as defined in 40 CFR 372.3 (see 62 FR 23891, May 1, 1997). If a reported toxic chemical is incinerated but does not contribute energy to the process (e.g., metal, metal compounds, and chloroflorocarbons), it must be considered treatment for destruction. In determining whether an EPCRA section 313 listed chemical is combusted for energy recovery, the facility should consider the heating value of the section 313 chemical and not of the chemical stream.

EPA is committed to amending the six documents referenced to remedy these inconsistencies by the end of the calendar year 1998.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This clarification does not impose any requirements. As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). For the same reason, it does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4), or Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). In addition, since this type of action does not require any proposal, no action is needed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's clarification does not create an unfunded Federal mandate on State, local, or tribal governments. The clarification does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this clarification.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's clarification does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this clarification.

VI. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, as that term is defined in 5 U.S.C. 804(3).

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: September 23, 1998.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 98–26166 Filed 9–29–98; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2780

[WO–340–1220–00–24 1A]

RIN 1004–AC53

Special Areas: State Irrigation Districts

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is removing 43 CFR part 2780, regulations concerning the establishment and operation of state irrigation districts, from the Code of Federal Regulations. BLM believes these regulations are obsolete because there is only one record in BLM of their use in the last 40 years. As a result, removing these items will have no impact on BLM customers or the public at large.

DATES: Effective October 1, 1998.

ADDRESS: You may send inquiries or suggestions to: Director (630), Bureau of Land Management, 1849 C Street, N.W., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Jeff Holdren, Bureau of Land Management, Lands and Realty Group, 1849 C Street, N.W., Washington, DC 20240; Telephone: 202–452-7779.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion of Final Rule as Adopted
II. Responses to Comments
III. Procedural Matters

I. Background and Discussion of Final Rule as Adopted

This final rule removes 43 CFR part 2780, Special Areas: State Irrigation Districts, from the Code of Federal Regulations. The regulations in part 2780 implement the Act of August 11, 1916, entitled ''An Act to Promote the Reclamation of Arid Lands,'' 43 U.S.C. 621 *et seq.* Part 2780 was originally issued as Circular Number 592 on March 6, 1918, and has existed in similar form since modified in 1922 to accommodate amendments to the Act. These regulations describe the procedures a state irrigation district uses to apply for secretarial approval of an irrigation plan. If an application is approved, all unentered public lands within the state irrigation district, and entered lands for which no certificate has been issued, are subject to the same provisions of State law relating to the reclamation of arid lands for agricultural purposes as those which apply to private lands within the district. Such lands are subject to a lien for all taxes and assessments lawfully levied by the district on unpatented land. The district also has the right to sell land that was entered at the time of a tax levy for nonpayment of tax.

We have only one record at BLM of any activity in this program during the last 40 years, occurring in 1971. We accessed our online case recordation system and found no other record of any recent case activity. We also searched a legal data base and found that the last time the statute or implementing regulation was cited in a reported civil case was in 1948. The program's inactivity and absence of civil case citations indicate that this regulation may be obsolete. Furthermore, we believe that the regulations are impractical to administer due to the scarcity of water in public land states for agricultural purposes. For these reasons, we believe that continued publication of 43 CFR part 2780 is unnecessary and contrary to the public interest.

The final rule published today is a stage of a rulemaking process that culminates in the removal of 43 CFR part 2780. This rule was preceded by a proposed rule which introduced this action and BLM's purpose and need. The proposed rule was published in the **Federal Register** on September 13, 1996 (61 FR 48454). This proposed rule was intended to give anyone who would be adversely affected by this action an opportunity to call their concerns to our attention. The BLM invited public comments for 30 days, and received only one comment.

II. Responses to Comments

BLM received one comment from a citizen in Arizona, asking that BLM extend the comment period for 90 days and send the rule and any related information to a wide variety of people, organizations and government entities, so as to solicit the highest level of input. BLM declines to act on this suggestion. The commenter raises a valid point, which is that BLM should try to solicit the most thorough level of public comment for each rulemaking effort. However, in situations such as this where regulations are being removed because they are obsolete, BLM feels, based on our experience, that additional outreach will not generate any

additional comments. Public interest in rulemaking actions which threaten little or no substantive impact tends to be extremely low, and BLM feels the benefits of largely ineffective outreach actions are outweighed by the public's interest in timely and efficient execution of the Regulatory Reform Initiative of 1993, which requires each agency to eliminate obsolete regulations, among other things.

III. Procedural Matters

National Environmental Policy Act

BLM has prepared an environmental assessment (EA) and has found that the final rule would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). BLM has placed the EA and the Finding of No Significant Impact (FONSI) on file in the BLM Administrative Record. BLM invites the public to review these documents by contacting us at the addresses listed above (see **ADDRESSES**).

Paperwork Reduction Act

This rule does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.*, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. Based on the discussion contained in this preamble above, this action will not have a significant impact on small entities. Because it is limited to removing provisions pertaining to a program that BLM believes is obsolete, we anticipate that this final rule will not substantially burden any member of the public at large. Therefore, BLM has determined under the RFA that this final rule would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Removal of 43 CFR part 2780 will not result in any unfunded mandate to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year.

Executive Order 12612

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

Executive Order 12630

The final rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of ''policies that have takings implications.'' Since the primary function of the final rule is to abolish unnecessary regulations, there will be no private property rights impaired as a result. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 12866

According to the criteria listed in section 3(f) of Executive Order 12866, BLM has determined that the final rule is not a significant regulatory action. As such, the final rule is not subject to Office of Management and Budget review under section 6(a)(3) of the order.

Executive Order 12988

The Department of the Interior has determined that this rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Author. The principal author of this final rule is Christopher Fontecchio, Regulatory Affairs Group, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240; Telephone 202/273–3448.

List of Subjects for 43 CFR Part 2780

Irrigation, Public Lands—Sale, Reclamation.

For the reasons stated in the preamble, and under the authority of 43 U.S.C. 1740, part 2780, Group 2700, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below:

PART 2780—[REMOVED]

1. Part 2780 is removed in its entirety.

Dated: September 22, 1998.

Sylvia V. Baca,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 98–26139 Filed 9–29–98; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 1, 2, 7, 10, 12, 15, 25, 26, 30, 32, 42, 44, 45, 46, 56, 67, 78, 97, 109, 116, 120, 133, 153, 160, 164, 170, 172, and 199

[USCG–1998–4442]

RIN–2115–ZZ02

Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule makes editorial and technical changes throughout Title 46 of the Code of Federal Regulations (CFR) to update the title before it is recodified on October 1. It corrects addresses, updates cross-references, makes conforming amendments, and makes other technical corrections. This rule will have no substantive effect on the regulated public.

EFFECTIVE DATE: This rule is effective on September 30, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the Docket Management Facility, (USCG–1998–4442), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, contact Janet Walton, Standards Evaluation and Development Division (G–MSR–2), Coast Guard, telephone 202–267–0257. For questions on viewing, or submitting material to, the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Discussion of the Rule

Each year Title 46 of the Code of Federal Regulations is recodified on October 1. This rule makes editorial changes throughout the title, corrects

addresses, updates cross-references, and makes other technical and editorial corrections. Some editorial changes are discussed individually in the following paragraphs. This rule does not change any substantive requirements of existing regulations.

Parts 10 and 12

There are revisions throughout parts 10 and 12 to reflect the change in title of the Director, National Maritime Center, to the Commanding Officer, National Maritime Center.

Section 10.901

On June 26, 1997, the Coast Guard published an interim rule, entitled Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) (CGD 95–062) (62 FR 34506). The rule added to section 10.901, paragraphs setting out general provisions for furnishing sufficient documentary evidence of practical demonstration of competence. In the paragraphs concerning the Engine Department, provisions for both Chief engineer officer and Second engineer officer are ''of a seagoing vessel driven by main propulsion machinery of between 750 kW (1,000 hp) and 3,000 kW (4,000 hp) of propulsion or more.'' This rule removes the words ''or more,'' in each instance, because they are unnecessary.

Part 67

Revisions in part 67 reflect the change in title of the Manager, National Vessel Documentation Center, to the Director, National Vessel Documentation Center.

Part 160

On May 9, 1997, the Coast Guard published a final rule, entitled Inflatable Liferafts (CGD 85–205) (62 FR 25525). The rule contained a number of deferred effective dates to allow industry a reasonable time for compliance. The deferred dates also allowed industry to harmonize the effective dates in the rule with the effective dates of certain provisions of the 1996 Amendments to the 1974 Safety of Life at Sea (SOLAS) Convention. Because the deferred dates have passed, this rule removes them.

Section 160.049–4

On March 28, 1973, the Coast Guard published a final rule, entitled Lifesaving Equipment (CGD 72–163R) (38 FR 8117). The rule revised paragraph (c) of the section, including removal of Table 160.049–4(c)(1) but did not revise the reference to the table. This rule removes the reference to the table and replaces it with text that buoyant cushions shall have width no less than 12 inches and length no less than 15 inches, respectively, as was previously stated in the table.

Section 160.064–4

On September 30, 1997, the Coast Guard published a final rule, entitled Harmonization With International Safety Standards (CGD 95–028) (62 FR 51188). In the rule, the Coast Guard changed the marking requirements for throwable PFDs to state that the device is ''Approved for use on recreational boats only as a throwable device.'' The rule erroneously amended paragraph (a)(1) instead of paragraph (a)(2). This rule corrects paragraphs (a)(1) and (a)(2).

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). This rule has no economic impact and a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. As this rule involves internal agency practices and procedures, it will not impose any costs on the public.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act of 1995 (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 considered the environmental impact of this rule and concluded that under figure 2–1, paragraphs (34)(a) and (b) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraphs (34)(a) and (b), concerning regulations that are editorial or procedural and concerning internal agency functions or organization. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 7

Law Enforcement, Vessels.

46 CFR Part 10

Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 12

Reporting and recordkeeping requirements, Seamen.

46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 26

Marine safety, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 32

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 42

Penalties, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 44

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 45

Great Lakes, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 46

Passenger vessels, Penalties, Reporting and reordkeeping requirements.

46 CFR Part 56

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 67

Vessels.

46 CFR Part 78

Marine safety, Navigation (water), Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 97

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

46 CFR Part 109

Marine safety, Occupational safety and health, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 116

Marine safety, Passenger vessels.

46 CFR Part 120

Electric power, Marine safety, Passenger vessels.

46 CFR Part 133

Marine safety, Occupational safety and health, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 153

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 160

Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 164

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 170

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 172

Cargo vessels, Hazardous materials transportation, Marine safety.

46 CFR Part 199

Cargo vessels, Incorporation by reference, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements, Vessels.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR parts 1, 2, 7, 10, 12, 15, 25, 26, 30, 32, 42, 44, 45, 46, 56, 67, 78, 97, 109, 116, 120, 133, 153, 160, 164, 170, 172, and 199 as follows:

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

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

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 49 CFR 1.45, 1.46; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

2. In § 1.01–10, in paragraphs (b)(1) and (b)(1)(iv), remove the word ''Director'' and add, in its place, the words ''Commanding Officer'; redesignate paragraph (b)(1)(iv) as paragraph (b)(1)(ii)(D); and revise paragraph (b)(1)(ii) to read as follows:

§ 1.01–10 Organization.

* * * * *

(b) * * *

(1) * * *

(ii) The Director of Field Activities (G–MO), under the general direction and supervision of the Assistant Commandant for Marine Safety and Environmental Protection, acts as Program Manager for the Marine Safety and Marine Environmental Protection Programs; directs, coordinates, and integrates the Coast Guard's marine safety and environmental protection compliance programs, contingency planning, response operations, and investigations programs; establishes and coordinates field implementation policies and priorities for all marine safety commands and units; serves as the focal point for field support and technical guidance; and provides oversight of marine documentation and marine personnel administration matters.

* * * * *

3. In § 1.03–15, revise paragraph (h)(3) to read as follows:

§ 1.03–15 General.

* * * * *

(h) * * *

(3) Commanding Officer, National Maritime Center, for appeals involving vessel documentation issues and tonnage issues.

* * * * *

§ 1.03–30 [Amended]

4. In § 1.03–30(a), remove the word ''otehrwise'' and add, in its place, the word ''otherwise''.

PART 2—VESSEL INSPECTIONS

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

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 3103, 3205, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; subpart 2.45 also issued under the authority of Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. note prec. 1).

6. In § 2.01–20, remove the word ''theis'' and add, in its place, the word ''this''; and revise the section heading to read as follows:

§ 2.01–20 Suspension or revocation of certificates of inspection.

* * * * *

§ 2.85–1 [Amended]

7. In § 2.85–1, remove the word ''submurged'' and add, in its place, the word ''submerged'.

PART 7—BOUNDARY LINES

8. The authority citation for part 7 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 151; 49 CFR 1.46.

§ 7.1 [Amended]

9. In § 7.1, remove the word ''exepmts'' and add, in its place, the word ''exempt''.

PART 10—LICENSING OF MARITIME PERSONNEL

10. The authority citation for part 10 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110; 46 U.S.C. Chapter 71; 46 U.S.C. 7502, 7505, 7701; 49 CFR 1.45, 1.46; Sec. 10.107 also issued under the authority of 44 U.S.C. 3507.

§ 10.901 [Amended]

11. In § 10.901(c)(2)(v) and (vi), remove the words ''or more'' at the end of each paragraph.

12. In § 10.903, revise paragraph (c)(16) through (c)(18), add a new paragraph (c)(19), and revise Table 10.903–1 to read as follows:

§ 10.903 Licenses requiring examinations.

* * * * *

(c) * * *

(16) Assistant engineer, limited-oceans.

(17) Chief engineer, limited-near coastal.

(18) Chief engineer (OSV).

(19) Engineer (OSV).

TABLE 10.903–1

STCW CODE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
II/1	....	....	....	X	X	X	....	....	....	X	....	....	....	....	....	....	....	....	....
II/2, p. 1 & 2	X	X	....	....	....	....	....	X	X	....	....	....	....	....	....	....	....	....	....
II/2, p. 3 & 4	....	....	X	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
II/3	....	....	....	....	....	....	X	....	....	....	....	....	....	....	....	....	....	....	....
III/1	....	....	....	....	....	....	....	....	....	....	....	....	X	X	....	X	....	....	X
III/2	....	....	....	....	....	....	....	....	....	....	X	X	....	....	....	....	....	X	....
III/3	....	....	....	....	....	....	....	....	....	....	....	....	....	....	X	....	X	....	....

* * * * *

§§ 10.302, 10.303, 10.304, 10.307, 10.309, 10.464, 10.470, 10.472, 10.474, 10.516, 10.544 and 10.703 [Amended]

13. In addition to the amendments set forth above, in 46 CFR part 10, remove the word ''Director'' and add, in its place, the words ''Commanding Officer'' in the following places:

(a) Section 10.302(a) introductory text;

(b) Section 10.303(e);

(c) Section 10.304(a) and (d);

(d) Section 10.307;

(e) Section 10.309(a)(11);

(f) Section 10.464(d)(2);

(g) Section 10.470(b)(1)(ii), (d)(1)(ii), and (h)(1)(ii);

(h) Section 10.472(a)(1)(ii);

(i) Section 10.474(a)(1)(ii);

(j) Section 10.516(a)(6);

(k) Section 10.544(a)(3); and

(l) Section 10.703(c).

PART 12—CERTIFICATION OF SEAMEN

14. The authority citation for part 12 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701; 49 CFR 1.46.

§ 12.01–3 [Amended]

15. In § 12.01–3(b), remove the word ''IMD'' and add, in its place, the word ''IMO''.

§ 12.05–5 [Amended]

16. In § 12.05–5(b), remove the number ''10.02–5'' and add, in its place the number ''10.205''.

§ 12.15–5 [Amended]

17. In § 12.15–5(b), remove the number ''10.02–5'' and add, in its place, the number ''10.205''.

§§ 12.02–3, 12.02–13, 12.02–14, 12.02–21, 12.02–24, 12.03–1, 12.05–7, 12.10–3, 12.15–7, 12.15–13, 12.15–15, 12.25–35 and 12.25–40 [Amended]

18. In addition to the amendments set forth above, in 46 CFR part 12, remove the word ''Director'' and add, in its place, the words ''Commanding Officer'' in the following places:

(a) Section 12.02–3(b)(3);

(b) Section 12.02–13(b);

(c) Section 12.02–14(c);

(d) Section 12.02–21(b);

(e) Section 12.02–24;

(f) Section 12.03–1(a)(11);

(g) Section 12.05–7(b) introductory text and (b)(2);

(h) Section 12.10–3(a)(2), (a)(5), and (a)(6);

(i) Section 12.15–7(b) introductory text;

(j) Section 12.15–13(a)(3);

(k) Section 12.15–15(a)(3);

(l) Section 12.25–35(a); and

(m) Section 12.25–40.

PART 15—MANNING REQUIREMENTS

19. The authority citation for part 15 continues to read as follows:

Authority: 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 9102; 49 CFR 1.45 and 1.46.

§ 15.1010 [Amended]

20. In § 15.1010(c), remove the number ''118°30′48″W'' and add, in its place, the number ''118°30′48″W''.

§ 15.1040 [Amended]

21. In § 15.1040(c), remove the number ''70°51′15″W'' and add, in its place, the number ''70°51′15″W''.

PART 25—REQUIREMENTS

22. The authority citation for part 25 continues to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 3306, 4302; 49 CFR 1.46.

23. In § 25.26–5, revise paragraphs (b)(2) and (c) to read as follows:

§ 25.26–5 Commercial fishing industry vessels.

* * * * *

(b)* * *

(2) A float-free, automatically activated Category 1 406 MHz EPIRB.

(c) The owner of a fishing vessel, fish processing vessel or a fish tender vessel 11 meters (36 feet) or more in length that does not have installed galley or berthing facilities, shall ensure that the vessel does not operate on the high seas or beyond three miles from the coastline of the Great Lakes unless it has on board a float-free, automatically activated Category 1 406 MHz EPIRB stowed in a manner so that it will float free if the vessel sinks.

24. In § 25.26–20, revise paragraphs (a) and (b)(2) and remove (b)(3) to read as follows:

§ 25.26–20 Other manned uninspected commercial vessels.

(a) The owner of a manned uninspected commercial vessel 11 meters (36 feet) or more in length, other than a vessel under § 25.26–5 or § 25.26–10 or under paragraph (b) of this section, shall ensure that the vessel does not operate on the high seas or beyond three miles from the coastline of the Great Lakes, unless it has on board a float-free, automatically activated Category 1 406 MHz EPIRB stowed in a manner so that it will float free if the vessel sinks.

(b) * * *

(2) A float-free, automatically activated Category 1 406 MHz EPIRB.

§ 25.26–30 [Removed]

25. Remove § 25.26–30.

PART 26—OPERATIONS

26. The authority citation for part 26 continues to read as follows:

Authority: 46 U.S.C. 3306, 4104, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 26.03–5 [Amended]

27. In § 26.03–5(a)(2), remove the words ''mater's'' and ''na,e'' and add, in their place, the words ''master's'' and ''name''.

PART 30—GENERAL PROVISIONS

28. The authority citation for part 30 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; 49 U.S.C. 5103, 5106; 49 CFR 1.45, 1.46; Section 30.01–2 also issued under the authority of 44 U.S.C. 3507; Section 30.01–5 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

§ 30.10–43 [Amended]

29. In § 30.10–43, remove the number ''43'' and add, in its place, the number ''33''.

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

30. The authority citation for part 32 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; Section 32.22T–5 and subpart 32.59 also issued under 46 U.S.C. 3703 note.

§ 32.57–10 [Amended]

31. In § 32.57–10(d)(4), remove the word ''by'' immediately preceding the words ''of the self-closing type'' and insert, in its place, the word ''be''.

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

32. The authority citation for part 42 continues to read as follows:

Authority: 46 U.S.C. 5101–5116; 49 CFR 1.46; section 42.01–5 also issued under the authority of 44 U.S.C. 3507.

§ 42.03–10 [Amended]

33. In § 42.03–10(d)(1), remove the words ''the International Load Line Act of 1973, as amended, the Coastwise Load Line Act of 1935, as amended'' and add, in their place, the words ''46 U.S.C. 5101–5116''.

§ 42.03–30 [Amended]

34. In § 42.03–30(f)(1), remove the words ''the Coastwise Load Line, Act, as amended'' and add, in their place, the words ''46 U.S.C. 5101–5116''.

§ 42.03–35 [Amended]

35. In § 42.03–35(b), remove the words ''the load line acts'' wherever they appear in the paragraph and add, in their place, the words ''46 U.S.C. 5101–5116''.

§ 42.05–60 [Amended]

36. In § 42.05–60, remove the words ''section 3 of the load line acts'' and add, in their place, the words ''46 U.S.C. 5107''.

§ 42.07–10 [Amended]

37. In § 42.07–10(a)(1), remove the words ''the load line acts'' and add, in their place, the words ''46 U.S.C. 5101–5116''.

§ 42.07–15 [Amended]

38. In § 42.07–15(a), remove the words ''the load line acts'' and add, in their place, the words ''46 U.S.C. 5101–5116''.

§ 42.07–35 [Amended]

39. In § 42.07–35(a), remove the words ''sections 3 of the load line acts'' and add, in their place, the words ''46 U.S.C. 5107''.

§ 42.07–40 [Amended]

40. In § 42.07–40(a), remove the words ''sections 3 of the load line acts'' and add, in their place, the words ''46 U.S.C. 5107''.

§ 42.07–45 [Amended]

41. In § 42.07–45(h), remove the words ''the Coastwise Load Line Act'' and add, in their place, the words ''46 U.S.C. 5101–5116''.

§ 42.07–60 [Amended]

42. In § 42.07–60, in paragraph (c), remove the words ''section 7 of the load line acts'' and add, in their place, the words ''46 U.S.C. 5113''; and in paragraph (f), remove the words ''sections 5 of the load line acts'' and add, in their place, the words ''46 U.S.C. 5109''.

§ 42.09–20 [Amended]

43. In § 42.09–20(a)(1), remove the words ''section 8 of the International Load Line Act of 1973, as amended (46 U.S.C. 86f)'' and add, in their place, the words ''46 U.S.C. 5102''.

PART 44—SPECIAL SERVICE LIMITED DOMESTIC VOYAGES

44. The authority citation for part 44 continues to read as follows:

Authority: 46 U.S.C. 5101–5116; 49 CFR 1.46.

§ 44.01–1 [Amended]

45. In § 44.01–1(a), remove the words ''the Coastwise Load Line Act, 1935, as amended (46 U.S.C. 88–88i)'' and add, in their place, the words ''regulations in this part''.

§ 44.320 [Amended]

46. In § 44.320(b), remove the words ''45 Eisenhower Drive, Paramus, New Jersey 07652–0910'' and add, in their place, the words ''Two World Trade Center, 106th Floor, New York, NY 10048''.

PART 45—GREAT LAKES LOAD LINES

47. The authority citation for part 45 continues to read as follows:

Authority: 46 U.S.C. 5115; 49 CFR 1.46.

§ 45.1 [Amended]

48. In § 45.1, remove the words ''to meet the requirements of the Coastwise Load Line Act, 1935 (46 U.S.C. 88–88g) insofar as it applies to'' and add, in their place, the words ''for service on''.

PART 46—SUBDIVISION LOAD LINES FOR PASSENGER VESSELS

49. The authority citation for part 46 continues to read as follows:

Authority: 46 U.S.C. 3306; 46 U.S.C. 5101–5116; E.O. 12234, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 46.01–15 [Amended]

50. In § 46.01–15(c), remove the words ''the Coastwise Load Line Act, 1935, as amended'' and add, in their place, the words ''46 U.S.C. 5101–5116''.

PART 56—PIPING SYSTEMS AND APPURTENANCES

51. The authority citation for part 56 continues to read as follows:

Authority: 33 U.S.C. 1321(j), 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O.12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 56.07–10 [Amended]

52. In § 56.07–10, in paragraph (c), remove the word ''fro'' and add, in its place, the word ''for''; and in paragraph (e)(2), remove the word ''footnotes'' and add, in its place, the word ''footnote''.

Table 56.60–2(a) [Amended]

53. In Table 56.60–2(a), in footnotes (7) and (9), remove the word ''amonia'' and add, in its place, the word ''ammonia'.

PART 67—DOCUMENTATION OF VESSELS

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

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2107, 2110; 46 U.S.C. app. 841a, 876; 49 CFR 1.45, 1.46.

§ 67.3 [Amended]

55. In § 67.3, in the NOTE, immediately following the definition for *Endorsement*, remove the word ''fconstitute'' and add, in its place, the word ''constitute''; and remove the words ''1301 Constitution Avenue, NW., Washington, DC 20229 (Attn: Carrier Rulings Branch)'' and add, in their place, the words ''1300 Pennsylvania Avenue, NW, Ronald Reagan Building, Washington DC 20229 (Entry Procedures and Carriers Branch)''.

§ 67.173 [Amended]

56. In § 67.173, remove the words ''any port of documentation'' and add, in their place, the words ''the National Vessel Documentation Center'; and in the NOTE, remove the words ''last port of record of the vessel'' and add, in their

place, the words ''National Vessel Documentation Center''.

§ 67.219 [Amended]

57. In § 67.219(a), remove the number ''271–2400'' and add, in its place, the number ''271–2405''.

§ 67.519 [Amended]

58. In § 67.519, remove the word ''wavier'' and add, in its place, the word ''waiver'.

§§ 67.63, 67.89, 67.101, 67.111, 67.113, 67.117, 67.119, 67.133, 67.151, 67.163, 67.173, 67.175 and 67.500 [Amended]

59. In addition to the amendments set forth above, in 46 CFR part 67, remove the word ''Manager'' and add, in its place, the word ''Director'' in the following places:

(a) Section 67.63(b)(1);
(b) Section 67.89(a);
(c) Section 67.101(a);
(d) Section 67.111(a) introductory text and (b);
(e) Section 67.113(e);
(f) Section 67.117(a) introductory text and (c);
(g) Section 67.119(d);
(h) Section 67.133(a) introductory text, (a)(1), (b), and the NOTE;
(i) Section 67.151(a) and (b);
(j) Section 67.163(b);
(k) Section 67.173;
(l) Section 67.175(b) introductory text; and
(m) Section 67.500(d).

PART 78—OPERATIONS

60. The authority citation for part 78 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757; 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 78.01–2 [Amended]

61. In § 78.01–2(b), under the entry for American Society for Testing and Materials (ASTM), remove the number ''19248–2959'' and add, in its place, the number ''19428–2959''.

PART 97—OPERATIONS

62. The authority citation for part 97 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757; 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 97.01–2 [Amended]

63. In § 97.01–2(b), under the entry for American Society for Testing and Materials (ASTM), remove the number ''19248–2959'' and add, in its place, the number ''19428–2959''; and remove the number and add, in its place, the number ''1996–97.36–1''.

§ 97.07–1 [Amended]

64. In § 97.07–1, remove the words ''part 4'' and add, in their place, the words ''subpart 4.05''.

PART 109—OPERATIONS

65. The authority citation for part 109 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 6101, 10104; 49 CFR 1.46.

§ 109.105 [Amended]

66. In § 109.105(b), under the entry for American Society for Testing and Materials (ASTM), remove the number ''19248–2959'' and add, in its place, the number ''19428–2959''; and remove the number and add, in its place, the number ''1996–109.563''.

PART 116—CONSTRUCTION AND ARRANGEMENT

67. The authority citation for part 116 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 116.415 [Amended]

68. In § 116.415(c), in Table 116.415(c)–DECKS, in footnote 1, remove ''.025 kPa'' and add, in its place, ''2.5 kg/m^2''.

§ 116.438 [Amended]

69. In § 116.438, in paragraph (n)(1), remove the number ''(m)(3)'' and add, in its place, the number ''(n)(3)''; and in paragraph (n)(3), remove the letter ''(h)'' and add, in its place, the letter ''(i)''.

§ 116.500 [Amended]

70. In § 116.500(d), remove the number ''(m)(2)'' and add, in its place, the number ''(n)(2)''.

§ 116.520 [Amended]

71. In § 116.520(b)(1), remove the number ''(m)(2)'' and add, in its place, the number ''(n)(2)''.

PART 120—ELECTRICAL INSTALLATION

72. The authority citation for part 120 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

73. In § 120.312, revise the section heading to read as follows:

§ 120.312 Power sources on vessels of more than 19.8 meters (65 feet) in length carrying more than 600 passengers or with overnight accommodations for more than 49 passengers.

* * * * *

PART 133—LIFESAVING EQUIPMENT

74. The authority citation for part 133 continues to read as follows:

Authority: 46 U.S.C. 3306; 49 CFR 1.46.

75. In § 133.60, revise the heading for paragraph (a) to read as follows:

§ 133.60 Communications.

(a) *Emergency Position indicating radiobeacons (EPIRB).*

* * * * *

PART 153—SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS HAZARDOUS MATERIALS

76. The authority citation for part 153 continues to read as follows:

Authority: 46 U.S.C. 3703; 49 CFR 1.46. Section 153.40 issued under 49 U.S.C. 5103. Sections 153.470 through 153.491, 153.1100 through 153.1132, and 153.1600 through 153.1608 also issued under 33 U.S.C. 1903(b).

§ 153.2 [Amended]

77. In § 153.2, in paragraph (2) of the definition of Cargo Tanks, remove the number ''§ 153.5'' and add, in its place the words ''Part 153, Table 1.—SUMMARY OF MINIMUM REQUIREMENTS''.

PART 160—LIFESAVING EQUIPMENT

78. The authority citation for part 160 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703, and 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 160.035–3 [Amended]

79. In § 160.035–3(l)(4), remove the word ''Polyuthane'' and add, in its place, the word ''Polyurethane''.

80. In § 160.049–2, revise paragraph (b) to read as follows:

§ 160.049–2 Types and sizes.

* * * * *

(b) *Sizes.* Buoyant cushions shall have not less than 225 square inches of top surface area, shall contain not less than 630 cubic inches of buoyant material, shall not be less than 2 inches thick, and shall have width no less than 12 inches and length no less than 15 inches, respectively.

§ 160.064–4 [Amended]

81. In § 160.064–4, in paragraph (a)(1), remove the words ''Approved for use on

recreational boats only as a throwable device'' and add, in their place, the words ''Approved for use on all recreational boats and on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire by persons weighing (more than 90 lb., 50 to 90 lb., 30 to 50 lb., or less than 30 lb.''; and in paragraph (a)(2), remove the words ''Approved for use on all recreational boats less than 16 feet in length and all canoes and kayaks, and only as a thowable device on all other recreational boats'' and add, in their place, the words ''Approved for use on recreational boats only as a throwable device''.

§ 160.151–21 [Amended]

82. In § 160.151–21(s), remove the words ''After July 1, 1998,''.

§ 160.151–29 [Amended]

83. In § 160.151–29 introductory text, remove the words ''on or before July 1, 1998,''.

§ 160.151–31 [Amended]

84. In § 160.151–31, in paragraph (g) introductory text, remove the words ''On or before May 11, 1998,'' and capitalize the word ''the'' immediately following; and remove paragraph (h).

§ 160.151–57 [Amended]

85. In § 160.151–57(m)(3) introductory text, remove the words ''On or before November 10, 1997,'' and capitalize the word ''affix'' immediately following.

§§ 160.151–15, 160.151–17 and 160.151–57 [Amended]

86. In addition to the amendments set forth above, in 46 CFR part 160, remove the words ''On or before July 1, 1998,'' and capitalize the word immediately following each deleted phrase in the following places:

(a) Section 160.151–15(j);

(b) Section 160.151–17(a)(2) introductory text and (c); and

(c) Section 160.151–57(m)(2).

PART 164—MATERIALS

87. The authority citation for part 164 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 164.012–12 [Amended]

88. In § 164.012–12, remove the words ''Underwriters' Laboratories, Inc. 207 East Ohio Street Chicago, IL 60611'' and add, in their place, the words ''Underwriters Laboratories, Inc., 333 Pfingston Road, Northbrook, IL 60062–2096.''.

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

89. The authority citation for part 170 continues to read as follows:

Authority: 3 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 170.175 [Amended]

90. In § 170.175(c), remove the word ''A7BS'' and add, in its place, the word ''ABS''.

PART 172—SPECIAL RULES PERTAINING TO BULK CARGOES

91. The authority citation for part 172 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 172–020 [Amended]

92. In § 172–020(a), remove the word ''for'' immediately preceding the words ''the sources indicated'' and add, in its place, the word ''from''.

PART 199—LIFESAVING SYSTEMS FOR CERTAIN INSPECTED VESSELS

93. The authority citation for part 199 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 46 CFR 1.46.

§ 199.110 [Amended]

94. In § 199.110(f)(4), remove the word ''man'' and add, in its place, the word ''may''.

Dated: September 22, 1998.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–25930 Filed 9–29–98; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Chapter X, Part 1249

Bureau of Transportation Statistics

49 CFR Chapter XI, Part 1420

RIN 2139–AA06

Reports of Motor Carriers; Redesignation of Regulations Pursuant to the ICC Termination Act of 1995

AGENCIES: Bureau of Transportation Statistics (BTS) and Surface Transportation Board (STB), DOT.

ACTION: Final rule; redesignation.

SUMMARY: This document establishes a new chapter in the Code of Federal Regulations (CFR) for the BTS and transfers and redesignates regulations concerning reports of motor carriers, currently found in the STB's CFR chapter, to the BTS's new CFR chapter. The ICC Termination Act of 1995 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain of the ICC's functions and proceedings to either the STB or the Secretary of Transportation. As pertinent here, responsibility for the collection and dissemination of motor carrier financial information was transferred to the Secretary of Transportation, who has delegated that responsibility to the BTS. This action reflects that change.

EFFECTIVE DATE: This rule is effective September 30, 1998.

FOR FURTHER INFORMATION CONTACT: For BTS: David Mednick, K–2, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–8871. For STB: Beryl Gordon, Deputy Director, Office of Proceedings, 1925 K St., NW., Washington, DC 20423; (202) 565–1600 [TDD for the hearing impaired: (202) 565–1695].

SUPPLEMENTARY INFORMATION: This document transfers the regulations for motor carrier finance reports, currently found in 49 CFR part 1249, and redesignates them as 49 CFR part 1420. The regulations at part 1249 were issued by the ICC. The ICCTA, Pub. L. 104–88, 109 Stat. 803 (1995) abolished the ICC and transferred certain functions and proceedings either to the STB or the Secretary of Transportation. As pertinent here, the motor carrier financial and operating data collection provisions of 49 U.S.C. 14123 were transferred to the Secretary of Transportation, and the Secretary has delegated the responsibility for these provisions to the BTS.

The regulations for motor carrier finance reporting, however, are still located in 49 CFR Chapter X, which have since been assigned for the use of the STB.[1] In order for BTS to modify these regulations, and for administrative clarity, these regulations are being transferred to 49 CFR Chapter XI, part 1420. This transfer and redesignation

[1] Other ICC regulations that were formerly located at 49 CFR chapter X, and that were transferred to the Secretary of Transportation by the ICCTA, were delegated to the Federal Highway Administration and have already been redesignated to another chapter. *See Motor Carrier Transportation; Redesignation of Regulations from the Surface Transportation Board Pursuant to the ICC Termination Act of 1995*, 61 FR 54706 (October 21, 1996).

will not result in any substantive changes to the regulations. It will have no effect on the proposed establishment of a negotiated rulemaking advisory committee, *Negotiated Rulemaking Committee to Revise the Motor Carrier Financial and Operating Data Collection Program*, 61 FR 64849 (Dec. 9, 1996).

This action makes no substantive changes to the motor carrier financial and operating data collection regulations. It simply provides notice to the public that certain regulations currently found in 49 CFR chapter X are being moved to 49 CFR chapter XI. Therefore, BTS believes that prior notice and opportunity to comment are unnecessary and that good cause exists to dispense with the 30-day delay in effective date requirement so that BTS may administer these regulations

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This action is exempt from the Office of Management and Budget review under Executive Order 12866 since it is a technical correction that does not materially affect the substance of the underlying rule. This action simply transfers the regulations now located at 49 CFR part 1249 from Chapter X to Chapter XI and redesignates them as 49 CFR part 1420.

Regulatory Flexibility Act

The BTS certifies that this action will not have a significant economic effect on a substantial number of small entities. As noted above, this action simply redesignates the regulations for motor carrier finance reports, and it makes no substantive changes.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Paperwork Reduction Act

This action does not establish a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1249

Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 1420

Motor carriers, Reporting and recordkeeping requirements.

Issued on: September 23, 1998.

Robert A. Knisely,

Deputy Director, Bureau of Transportation Statistics.

Linda J. Morgan,

Chairman, Surface Transportation Board.

In consideration of the foregoing and under the authority of 49 U.S.C. 111, 721(a), and 14123, the BTS establishes a new chapter XI in title 49 of the CFR, and the BTS and the STB hereby amend chapters X and XI of 49 CFR as set forth below:

1. Title 49 is amended by establishing chapter XI (consisting of subchapters A and B) to read as follows:

CHAPTER XI—BUREAU OF TRANSPORTATION STATISTICS, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—[RESERVED]

SUBCHAPTER B—REPORTS

PART 1420—REPORTS OF MOTOR CARRIERS

Chapter X, Part 1429—[Redesignated as Chapter XI, Part 1420]

2. Part 1249 in 49 CFR Chapter X is redesignated as Part 1420 and transferred to 49 CFR Chapter XI.

[FR Doc. 98–26065 Filed 9–29–98; 8:45 am]

BILLING CODE 4910–FE–P

Proposed Rules

Federal Register
Vol. 63, No. 189
Wednesday, September 30, 1998

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AB69

Common Crop Insurance Regulations; Basic Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Common Crop Insurance Policy; Basic Provisions, to clarify certain provisions, add definitions and provisions to allow enterprise and whole farm units, allow the use of a written agreement to insure acreage that has not been planted and harvested in one of the three previous crop years, and amend the prevented planting provision that requires that at least one contiguous block of prevented planting acreage must constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit before a prevented planting payment may be made. The intended effect of this action is to create a policy that best meets the needs of the insured.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business October 13, 1998, and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131. A copy of each response will be available for public inspection and copying from 7:00 a.m. to 4:30 p.m., CDT, Monday through Friday, except holidays, at the above address.

FOR FURTHER INFORMATION CONTACT: For further information and a copy of the Cost-Benefit Analysis to the Common Crop Insurance Regulations; Basic Provisions, contact Louise Narber, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined this rule to be significant and, therefore, it has been reviewed by OMB.

Cost-Benefit Analysis

A Cost-Benefit Analysis has been completed and is available to interested persons at the Kansas City address listed above. In summary, the analysis finds that of the provisions in the proposed rule, that elimination of the contiguous acreage requirement for the purpose of determining eligible acreage prevented planting acres will have the most impact. Removal of this requirement is expected to have the greatest impact in certain regions of the Northern Plains, but the effect on overall crop insurance payments is expected to be small. It is estimated that additional indemnities resulting from this change will average $500,000.00 per year. Higher premium rates should cover the additional indemnities. Additional costs to the Government will be about $250,000.00 for premium subsidies, $110,000.00 in administrative subsidies, and $38,000.00 in underwriting losses. Other provisions of the rule serve to clarify provisions or allow changes that may cause slight changes in expected indemnities and premiums. Other than removal of the contiguous land requirement indicated above, little impact is foreseen.

Paperwork Reduction Act of 1995

The provisions contained in this rule contain information collections that require clearance by the Office of Management and Budget (OMB).

This rule proposes to amend the information collection requirements previously approved by OMB under OMB control number 0563–0053 through October 31, 2000. This rule provides a prevented planting payment if at least 20 acres or 20 percent of the acreage in the unit is prevented from being timely planted, regardless of whether or not the acreage is contiguous, if all other criteria are met. Information will need to be collected with respect to the number of acres prevented from being planted in order to calculate a prevented planting payment. All of the forms cleared under OMB control number 0563–0053 represent the minimum information necessary to determine eligibility and losses qualifying for a payment due to prevented planting or loss of production.

Due to the necessity of implementing the rule beginning with the 1999 crop year, the Agency has requested emergency clearance of the information collections associated with this rule from OMB by September 11, 1998. A **Federal Register** notice soliciting public comment in conjunction with a regular information collection approval package was published in the **Federal Register** on September 25, 1998.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. The amount of work required of the insurance companies delivering and servicing these policies will not increase

from the amount of work currently required. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC proposes to amend the Common Crop Insurance Policy; Basic Provisions (Basic Provisions) (7 CFR part 457) effective for the 1999 and succeeding crop years for all crops with contract change dates after the effective date of the final rule, and for the 2000 or 2001 and succeeding crop years for all crops with contract change dates prior to the effective date of the final rule. The principal changes to the Basic Provisions are as follows:

1. Section 1—Add definitions for ''enterprise unit'' and ''whole farm unit.'' This unit arrangement is not currently available. The provisions are being amended to provide for them whenever the Special Provisions allow the use of such unit structure.

In the definition of ''prevented planting,'' clarify that once the producer has been prevented from planting the insured crop by the final planting date, the producer is eligible for prevented planting coverage. The producer is not required to plant during the late planting period to be eligible for prevented planting coverage. Also specify that the insured must have been prevented from planting the insured crop due to an insured cause of loss that is general in the area and that prevents other producers from planting acreage with similar characteristics. Current provisions require that most (more than 50 percent) producers be prevented from planting on acreage with similar characteristics. This change allows prevented planting to be made on an individual case basis once it is verified that an insured peril prevented planting.

2. Section 2(e)—Clarify that if any amount due, including premium, is not paid by the termination date, the insurance provider will take such action as authorized under 7 CFR part 400, subpart U, including determining the producer to be ineligible for crop insurance under the Act.

3. Section 3(c)(4)—Add provisions requiring that if enterprise or whole farm units are selected, the insured must report the acreage and production for each basic unit that comprises the enterprise or whole farm unit for the previous crop year. If the producer fails to provide the required information, the enterprise or whole farm units will be divided into their respective basic units and all premiums and indemnities will be based on the basic units.

4. Sections 6(a) (1) and (2)—Clarify that only if the producer insures multiple crops with the same insurance company can the producer submit an acreage report on or before the latest applicable acreage reporting date for all crops with an acreage reporting date within the specific time frame.

5. Section 6(e)—Clarify that any determination under the subsection will be subject to the provisions contained in section 6(g).

6. Section 9(a)(1)(i)(D)—Clarify that acreage not planted and harvested within one of the three previous crop years will be insurable if the reason the acreage was not planted was because a perennial tree, vine, or bush crop was grown on the acreage. The current regulations do not limit the perennial crop to a tree, vine, or bush crop. This clarification will prevent acreage that has been in perennial grasses from being insurable the first year it is brought back into crop production, unless the perennial grasses were used in a normal rotation practice as allowed by section 9(a)(1)(i)(B).

7. Section 9(a)(1)(iii)—Allow a written agreement to provide insurance coverage for acreage that has not been planted and harvested within one of the three previous crop years.

8. Section 15—Add a new subsection that requires a crop to be destroyed or the acreage put to another use before any indemnity can be paid. This change will prevent overpayments that may occur when actual harvested production is higher than appraised production.

9. Section 16—Reformat the section to move the provision currently contained in section 16(b)(3) to a new section 16(d).

10. Section 17(a)—Add a new paragraph that specifies that prevented planting coverage is not available if the producer planted the insured crop during or after the late planting period.

11. Section 17(d)—Clarify that if a late planting period is applicable, that period will also be considered when determining if drought or failure of the irrigation water supply is an insurable cause of loss for the purposes of prevented planting.

12. Section 17(e)(1)—In the chart headings, clarify that eligible acres are determined based on the 4 most recent crop years when the producer has planted any crop in the county for which prevented planting insurance was available or received a prevented planting guarantee within those 4 years.

13. Section 17(f)(1)—Delete the provision that requires at least one contiguous block of acreage, consisting of at least 20 acres or 20 percent of the insurable crop acreage in the unit, to be prevented from being planted in order to qualify for a prevented planting payment. The requirement that the prevented planting acreage must be contiguous was intended to reduce the instances in which prevented planting payments were made for potholes and other small portions of fields that are wet in most years, although planting occasionally may be possible. FCIC has received numerous complaints that a large number of acres could be prevented from being planted within a unit, but because the minimum contiguous acreage requirement is not met, no prevented planting payment can be made. For example, if a producer has a 100-acre unit, consisting of ten 10-acre fields that are not contiguous, even if all 100 acres in the unit were prevented from being planted, a prevented planting payment could not be made because the minimum contiguous acreage requirement was not met. Removing the minimum contiguous acreage requirement, while still retaining the 20 acres or 20 percent of the insurable acreage requirement, will achieve the intended goal of not paying prevented planting claims when only a

small number of acres are prevented from being planted.

Clarify that for a producer to claim that acreage that was prevented from being planted would have been planted to a different crop than the crop that was planted in the field, in addition to the requirement that the prevented planting acreage must constitute at least 20 acres or 20 percent of the insurable acreage in the field, the producer must have produced both crops in the same field in any one of the 4 most recent crop years. A 4 year period is consistent with the period used to determine eligible prevented planting acreage.

14. Section 17(f)(5)—Add provisions to specify that if one of the crops being double-cropped is not insurable, other verifiable records of it being planted may be used since records of uninsured crops would not be included in the insured's actual production history (APH) database.

15. Section 17(f)(11)—Add provisions to specify that prevented planting acreage insured under an irrigated practice will be limited to the number of acres allowed for that crop practice in sections 17 (e) and (f).

16. Section 17(f)(12)—Allow prevented planting coverage for a crop type that was not planted in at least one of the 4 most recent years, if the producer received a prevented planting insurance guarantee for that type in at least one of the 4 most recent years. This change will enable a producer who insured and received a prevented planting insurance guarantee based on a specific type, although the producer did not plant that type within one of the 4 most recent years because he or she was prevented from doing so, to qualify for prevented planting coverage for that type for a subsequent crop year.

17. Section 17(g)—Add a new section 17(g) that specifies that when a producer insures acreage of a crop under a limited or additional coverage policy and separately insures acreage of that crop, which has been designated as ''high risk'' under a catastrophic risk protection coverage policy, the maximum acreage eligible for a prevented planting payment will be limited for each policy as specified in sections 17 (e) and (f).

18. Section 17(h)—Add a new section 17(h) to allow prevented planting coverage for a crop that a producer was prevented from planting, when that crop does not have eligible prevented planting acres established, by basing the coverage on a crop that has eligible prevented planting acreage established under the terms of the policy. The production guarantee or amount of insurance, premium and prevented planting payment would be calculated using the qualifying crop data. This provides prevented planting coverage on the basis of insurance history (*i.e.*, what the insured has demonstrated in the past) rather than on intent to plant a specific crop.

19. Section 24(e) For reinsured policies—Add language specifying that amounts the insured owes to the insurance provider may be collected through administrative offset from payments the insured receives from United States government agencies in accordance with 31 U.S.C. chapter 37.

20. Section 34—Add a new section 34(a) that allows a producer to elect an enterprise unit or a whole farm unit if provided for in the Special Provisions and the producer elects such unit structure on or before the earliest sales closing date for the insured crops.

List of Subjects in 7 CFR Part 457

Crop insurance, Common crop insurance policy.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to amend 7 CFR part 457 as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

§ 457.2 [Amended]

2. Amend § 457.2(e) to remove the words ''paragraph 21'' and replace with the words ''paragraph 24''.

§ 457.8 [Amended]

3. Amend § 457.8 as follows:

a. Amend section 1 of the Basic Provisions by adding definitions for ''enterprise unit'' and ''whole farm unit'' and revising the definition of ''prevented planting'' to read as follows:

1. Definitions

* * * * *

Enterprise unit. All insurable acreage of the insured crop in the county in which you have a share on the date coverage begins for the crop year. An enterprise unit must consist of at least two basic units and at least 50 insurable acres.

* * * * *

Prevented planting. Failure to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county or, if you elect to plant the insured crop during the late planting period, failure to plant the insured crop within the late planting period. You must have been prevented from planting the insured crop due to an insured cause of loss that is general in the surrounding area and that prevents other producers from planting acreage with similar characteristics.

* * * * *

Whole farm unit. All insurable acreage of the insurable crops in the county in which you have a share on the date coverage begins for each crop for the crop year. A whole farm unit must consist of at least two crops and at least 50 insurable acres.

* * * * *

b. Revise section 2(e) of the Basic Provisions to read as follows:

2. Life of Policy, Cancellation, and Termination

* * * * *

(e) If any amount due, including premium, is not paid on or before the termination date for the crop on which the amount is due, you may be determined to be ineligible to participate in any crop insurance program authorized under the Act in accordance with 7 CFR part 400, subpart U.

* * * * *

c. Amend section 3 of the Basic Provisions by adding a new paragraph (c)(4) to read as follows:

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

* * * * *

(c) * * *

(4) If you elect to obtain an enterprise or whole farm unit, you must report the acreage and production for each basic unit that comprises the enterprise or whole farm unit for the previous crop year. If you do not provide the information required herein, the enterprise or whole farm unit will be divided into its respective basic units and all premiums and indemnities will be based on the basic unit structure.

* * * * *

d. Revise sections 6(a)(1) and (2) and 6(e) of the Basic Provisions to read as follows:

6. Report of Acreage

(a) * * *

(1) If you insure multiple crops with us that have final planting dates on or after August 15 but before December 31, you must submit an acreage report for all such crops on or before the latest applicable acreage reporting date for such crops; and

(2) If you insure multiple crops with us that have final planting dates on or after December 31 but before August 15, you must submit an acreage report for all such crops on or before the latest applicable acreage reporting date for such crops.

* * * * *

(e) We may elect to determine all premiums and indemnities based on the information you submit on the acreage report or upon the factual circumstances we determine to have existed, subject to the provisions contained in section 6(g).

* * * * *

e. Revise sections 9(a)(1)(i)(D) and 9(a)(1)(iii) of the Basic Provisions to read as follows:

9. Insurable Acreage

(a) * * *

(1) * * *

(i) * * *

(D) Because a perennial tree, vine, or bush crop was grown on the acreage;

* * * * *

(iii) The Crop Provisions or a written agreement specifically allow insurance for such acreage;

* * * * *

f. Amend section 15 of the Basic Provisions to add a new paragraph (d) to read as follows:

15. Production Included in Determining Indemnities

* * * * *

(d) If you elect to put the acreage to another use or abandon the crop and obtain an indemnity for a unit based on appraised production, the crop on the acreage must be destroyed or you must put the acreage to another use before any indemnity will be paid.

* * * * *

g. Amend section 16(b)(2) of the Basic Provisions to add the word ''and'' immediately following the semicolon.

h. Remove section 16(b)(3) of the Basic Provisions and redesignate section 16(b)(4) as section 16(b)(3).

i. Add a new section 16(d) of the Basic Provisions to read as follows:

16. Late Planting

* * * * *

(d) Any acreage on which an insured cause of loss materially prevents completion of planting, as specified in the definition of ''planted acreage'' (*e.g.*, seed is broadcast on the soil surface but cannot be incorporated) will be considered as acreage planted after the final planting date and the production guarantee will be calculated in accordance with section 16(b)(1).

j. Revise section 17(a) of the Basic Provisions to delete the word ''and'' at the end of section 17(a)(1)(ii), add ''; and'' at the end of section 17(a)(2), and add a new section 17(a)(3) to read as follows:

17. Prevented Planting

(a) * * *

(3) You did not plant the insured crop during or after the late planting period.

* * * * *

k. Revise sections 17(d) introductory text of the Basic Provisions to read as follows:

17. Prevented Planting

* * * * *

(d) Drought or failure of the irrigation water supply will be considered to be an insurable cause of loss for the purposes of prevented planting only if either, on the final planting date, or within the late planting period if a late planting period is applicable:

* * * * *

l. Revise the middle column heading in the table in section 17(e)(1) of the Basic Provisions to read as follows:

''Eligible acres if, in any of the 4 most recent crop years, you have planted any crop in the county for which prevented planting insurance was available or have received a prevented planting insurance guarantee''

* * * * *

m. Revise the last column heading in the table in section 17(e)(1) of the Basic Provisions to read as follows:

''Eligible acres if, in any of the 4 most recent crop years, you have not planted any crop in the county for which prevented planting insurance was available or have not received a prevented planting insurance guarantee''

* * * * *

n. Revise sections 17(f)(1), (f)(11), and (f)(12) of the Basic Provisions to read as follows:

17. Prevented Planting

* * * * *

(f) * * *

(1) That does not constitute at least 20 acres or 20 percent of the insurable crop acreage in the unit, whichever is less. Any prevented planting acreage within a field that contains planted acreage will be presumed to have been planted to the same crop that is planted in the field unless the acreage that was prevented from being planted constitutes at least 20 acres or 20 percent of the total insurable acreage in the field and you produced both crops in the same field in the same crop year within any of the 4 most recent crop years;

* * * * *

(11) Based on an irrigated practice production guarantee or amount of insurance unless adequate irrigation facilities were in place to carry out an irrigated practice on the acreage prior to the insured cause of loss that prevented you from planting. Acreage with an irrigated practice production guarantee will be limited to the number of acres allowed for that practice under sections 17(e) and (f); or

(12) Based on a crop type that you did not plant or did not receive a prevented planting insurance guarantee in at least one of the four most recent years. Types for which separate price elections, amounts of insurance, or production guarantees are available must be included in your APH database in at least one of the most recent four years, or crops that do not require yield certification (crops for which the insurance guarantee is not based on APH) must be reported on your acreage report in at least one of the four most recent crop years except as allowed in section 17(e)(1)(i)(B). We will limit prevented planting payments based on a specific crop type to the number of acres allowed for that crop type as specified in sections 17(e) and (f).

* * * * *

o. Revise section 17(f)(5) of the Basic Provisions to add the following text to the end of the paragraph between the word ''acreage'' and the semicolon: ''(If one of the crops being double-cropped is not insurable, other verifiable records of it being planted may be used)''

p. Redesignate section 17(g) of the Basic Provisions as 17(i) and add new sections 17(g) and (h) to read as follows:

17. Prevented Planting

* * * * *

(g) If you purchased a limited or additional coverage policy for a crop, and you executed a High Risk Land Exclusion Option that separately insures acreage which has been designated as ''high risk'' land by FCIC under a Catastrophic Risk Protection Endorsement for that crop, the maximum number of acres eligible for a prevented planting payment will be limited for each policy as specified in sections 17(e) and (f).

(h) If you are prevented from planting a crop for which you do not have an adequate base of eligible prevented planting acreage, as determined in accordance with section 17(e)(1), your prevented planting production guarantee or amount of insurance, premium, and prevented planting payment will be based on the most recent crops planted on the acreage, not to exceed the base eligible prevented planting acreage for those crops as established in section 17(e)(1). For example: You intended to plant 120 acres of soybeans and you have never planted more than 20 acres of soybeans in the previous 4 crop years:

(1) However, the previous crop year, you planted 60 acres of corn and 60 acres of processing tomatoes. Your prevented planting guarantee premium, and prevented planting payment will be based on 20 acres of soybeans, 50 acres of corn ($60/120 \times 120–20$) and 50 acres of processing tomatoes ($60/120 \times 120–20$), even though you may not have a processing contract for the current crop year.

(2) You were only able to plant 30 acres of soybeans. The previous crop year you planted 90 acres of corn and 30 acres of oats. Your prevented planting guarantee, premium, and prevented planting payment will be based on 67.5 acres of corn ($90/120 \times 120–30$) and 22.5 acres of oats ($30/120 \times 120–30$).

(3) The previous crop year you were prevented from planting the acreage or did not attempt to plant a crop. However, just prior to the crop year in which no crop was planted on the acreage, you planted 120 acres of grain sorghum, your prevented planting guarantee, premium, and prevented planting payment will be based on 20 acres of soybeans and 100 acres of grain sorghum.

(4) The previous crop year you planted 120 acres of potatoes and the rotation requirements precluded you from planting potatoes this year. The crop year preceding your planting of potatoes, you planted 120 acres of corn. Your prevented planting guarantee, premium, and prevented planting payment will be based on 20 acres of soybeans and 100 acres of corn.

q. Amend newly designated section 17(i)(2) of the Basic Provisions by changing the section reference therein from ''17(g)(1)'' to ''17(i)(1).''

r. Amend newly designated section 17(i)(3) of the Basic Provisions by changing the section reference therein from ''17(g)(2)'' to ''17(i)(2).''

s. Revise section 24(e) to read as follows:

* * * * *

For reinsured policies

24. Amounts Due Us

* * * * *

(e) Amounts owed to us by you may be collected through administrative offset from payments you receive from United States government agencies in accordance with 31 U.S.C. chapter 37.

* * * * *

t. Amend section 34 of the Basic Provisions by redesignating sections 34(a) through 34(d) as sections 34(b) through 34(e) respectively, and adding a new section 34(a) to read as follows:

* * * * *

34. Unit Division

(a) You may elect an enterprise unit or a whole farm unit if the Special Provisions allow such unit structure, subject to the following:

(1) You must make such election on or before the earliest sales closing date for the insured crops and report such unit structure to us in writing. Your unit selection will remain in effect from year to year unless you notify us in writing by the applicable sales closing date for the crop year for which you wish to cancel this election;

(2) For enterprise units, you must report the acreage for each basic unit that comprises the enterprise unit on your acreage report;

(3) For a whole farm unit, you must report the acreage for each basic unit for each crop produced in the county that comprises the whole farm unit on your acreage report;

(4) Although you may insure all of your crops under one policy as a whole farm unit, you will be required to pay separate applicable administrative fees for each crop (Since enterprise units are by separate crop, you will have to pay all applicable administrative fees for each crop); and

(5) These units may not be further divided except as specified herein or in section 3(c)(4).

* * * * *

Signed in Washington, D.C., on September 25, 1998.

John Zirschky,

Acting Manager, Federal Crop Insurance Corporation.

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AB62

Common Crop Insurance Regulations; Cotton and ELS Cotton Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Cotton Crop Insurance Provisions and the Extra Long Staple (ELS) Cotton Crop Insurance Provisions for the 1999 and succeeding crop years to: Provide a replant payment if the insured crop is damaged by excess moisture, hail, or blowing sand or soil and is replanted; revise the quality adjustment formula used to calculate the amount of production to count for cotton and ELS cotton; and provide a prevented planting coverage level of 50 percent of the insured's production guarantee for timely planted acreage. The intended effect of this action is to create a policy that best meets the needs of the insured.

DATES: Written comments and opinions on this proposed rule will be accepted until close of business October 13, 1998, and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, U.S. Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131. A copy of each response will be available for public inspection and copying from 7:00 a.m. to 4:30 p.m., CDT, Monday through Friday, except holidays, at the above address.

FOR FURTHER INFORMATION CONTACT: For further information and a copy of the cost-benefit analysis to the Common Crop Insurance Regulations; Cotton and ELS Cotton Crop Insurance Provisions, contact Stephen Hoy, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined this proposed rule to be significant and, therefore, has been reviewed by OMB.

Cost-Benefit Analysis

A Cost-Benefit Analysis has been completed and is available to interested persons at the Kansas City address listed above. In summary, the analysis finds that the proposed rule makes major changes to the Cotton and ELS Cotton Crop Insurance Provisions which would benefit producers by increasing existing Multiple-Peril Crop Insurance coverage. Specifically, the rule: (1) Provides a replant payment for cotton and ELS cotton damaged or destroyed by excess moisture, hail, or blowing sand or soil; (2) modifies the quality adjustment procedure used when mature white cotton or mature ELS cotton has been damaged by insured causes; and (3) increases the prevented planting coverage payment rate to 50 percent for cotton and ELS cotton.

These proposed changes are expected to add $36 to $43 million to aggregate losses and premiums. Producer premium subsidies and administrative subsidies are proportions of the actuarially based premiums; thus increases in premiums lead to increases in outlays for subsidies. The total increase in Government outlays due to provisions of this regulation, including the full effect of prevented planting coverage, is expected to be $32 to $38 million. About $21 to $25 million would be for producer premium subsidies, $8 to $10 million for administrative subsidies, and about $3 million for underwriting costs.

Paperwork Reduction Act of 1995

The provisions contained in this rule contain information collections that require clearance by the Office of Management and Budget (OMB).

This rule proposes to amend the information collection requirements previously approved by OMB under OMB control number 0563–0053 through October 31, 2000. This rule provides a replant payment if the insured crop is damaged by excess moisture, hail, or blowing sand or soil and is replanted. Information will need to be collected with respect to the number of acres replanted in order to calculate a replant payment. In addition, the proposed rule revises the provision used to determine the amount of production to count for cotton and ELS cotton that is eligible for quality adjustment, and proposes a prevented planting coverage of 50 percent for cotton and ELS cotton for 1999 and subsequent crop years. All of the forms cleared under OMB control number 0563–0053 represent the minimum information necessary to determine eligibility and losses qualifying for a payment due to cotton and ELS cotton coverage.

Due to the necessity of implementing the rule beginning with the 1999 crop year, the Agency has requested emergency clearance of the information collections associated with this rule from OMB by September 8, 1998. A **Federal Register** notice soliciting public comment in conjunction with a regular information collection approval package

was published in the **Federal Register** on September 25, 1998.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. All producers, regardless of size, are eligible for the replant payment and will be required to report the number of acres replanted and the cause of loss. The amount of work required of the insurance companies delivering and servicing these policies will increase somewhat from the amount of work currently required. However, insurance providers will be compensated for any increase because additional premium will be charged for the expanded coverage, and insurance providers are compensated through a percentage of the net book premium. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC proposes to amend the Common Crop Insurance Regulations (7 CFR part 457) by revising 7 CFR 457.104 and 7 CFR 457.105 effective for the 1999 and succeeding crop years. The principal changes to the provisions for insuring cotton and ELS cotton are as follows:

1. Section 9—Add a new section 9 to provide a replant payment for cotton and ELS cotton damaged by excess moisture, hail, or blowing sand or soil to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage and it is practical to replant (sections that succeed the new replant payment section are renumbered to accommodate this change). The current Cotton Crop Provisions and ELS Cotton Crop Provisions do not provide a replant payment if the crop is damaged to the extent that replanting is necessary. Concerns were expressed to FCIC that the absence of a replant payment for cotton, which requires the producer to replant the crop without compensation, is inconsistent with other major commodities. Failure to replant means that insurance does not attach.

Replanting coverage will be limited to crop damage caused by excess moisture, hail, or blowing sand or soil. While these are not the only natural perils that cause cotton to be replanted, they are perils that often cause replanting in the cotton growing areas. Planting during or after a dry period (sometimes termed ''dusting-in'') may result in the need to replant if the cotton seed does not germinate; however, this practice will not be covered under the replant provision. Limiting replant payments to excess moisture, hail, and blowing sand or soil will have a lesser impact on premium rate increases than what may result if additional perils that occur with greater frequency, such as dry weather, were included. This proposed rule provides meaningful replanting coverage for cotton producers while maintaining a sound insurance program, particularly in areas where ''dusting-in'' is a common practice.

2. Section 11—Change the adjustment for quality when mature white cotton or mature ELS cotton has been damaged by insured causes. The current provisions specify that the quality adjustment factor is calculated using 75 percent of the price quotation for the applicable growth area for cotton of the color and leaf grade, staple length, and micronaire reading (for ELS cotton the grade, staple length, and micronaire reading) contained in the Special Provisions for this purpose (price quotation ''B''). This rule revises the quality adjustment factor by using 100 percent of the price quotation ''B.'' Using 100 percent of price quotation ''B'' to calculate the quality adjustment factor for cotton and ELS cotton makes the production to count calculation comparable to most other crops that have adjustments for quality. The requirement that price quotation ''A'' must be less than 75 percent of price quotation ''B'' to be eligible for quality adjustment is not changed. In addition, ELS cotton price quotations ''A'' and ''B'' will be determined from the Daily Spot Cotton Quotation rather than the Weekly Cotton Market Review to more accurately reflect the value of ELS cotton production.

3. Section 12 of the Cotton Crop Provisions and section 13 of the ELS Cotton Crop Provisions—Change the prevented planting coverage to 50 percent of the insured's production guarantee for timely planted acreage. Prevented planting coverage is designed to reimburse producers for the costs incurred during the preplant period if the intended crop cannot be planted. FCIC relied on an analysis performed by the Economic Research Service (ERS) as the basis for establishing 45 percent as the prevented planting coverage rate for cotton and ELS cotton for the 1998 crop year.

Concerns were expressed to FCIC that the prevented planting percentage for cotton is not comparable to other crops even though pre-planting costs per acre for cotton are similar to other crops, such as corn; therefore, the prevented planting percentage should be increased. However, policy compatibility is not relevant to the amount offered. The only question is the sufficiency of the payment for the purpose stated. Concerns were also expressed that the price election used to determine the recommended prevented planting percentage in the ERS study was not reflective of the actual price election for cotton in past years. After further analyses using updated price elections, FCIC determined that a prevented planting coverage level of 50 percent of the insured's production guarantee for timely planted acreage could be offered for cotton beginning with the 1999 crop year. If the insured has limited or additional levels of coverage and pays an additional premium, the prevented planting coverage level may be increased to 55 or 60 percent.

This policy will be rated appropriately for the coverage provided.

List of Subjects in 7 CFR Part 457

Crop insurance, Cotton, ELS cotton.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation, proposes to amend 7 CFR part 457 as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1998 AND SUBSEQUENT CROP YEARS

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

2. In § 457.104 redesignate sections 9 through 11 of the insurance provisions as 10 through 12, add a new section 9, and revise redesignated sections 11(d) and 12(b) to read as follows:

§ 457.104 Cotton Crop Insurance Provisions.

* * * * *

9. Replanting Payments

(a) In accordance with section 13 of the Basic Provisions, a replanting payment is allowed if the insured crop is damaged by excess moisture, hail, or blowing sand or soil to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage and it is practical to replant.

(b) The maximum amount of the replanting payment for the unit will be the lesser of:

(1) Twenty dollars ($20.00) per acre multiplied by the number of acres replanted, multiplied by your insured share; or

(2) Ten percent (10%) of the production guarantee per acre multiplied by your price election, multiplied by the number of acres replanted, multiplied by your insured share.

(c) When the cotton is replanted using a practice or type that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

* * * * *

11. Settlement of Claim

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(d) Mature white cotton may be adjusted for quality when production has been damaged by insured causes. Unless otherwise provided by the Special Provisions, such production to count will be reduced if the price quotation for cotton of like quality (price quotation ''A'') for the applicable growth area is less than 75 percent of price quotation ''B.'' Price quotation ''B'' is defined as the price quotation for the applicable growth area for cotton of the color and leaf grade, staple length, and micronaire reading designated in the Special Provisions for this purpose. Price quotations ''A'' and ''B'' will be the price quotations contained in the Daily Spot Cotton Quotations published by the USDA Agricultural Marketing Service on the date the last bale from the unit is classed. If not available on the date the last bale was classed, the price quotations will be determined on the date the last bale from the unit was delivered to the warehouse, as shown on the insured's account summary obtained from the gin. If eligible for quality adjustment, the amount of production to be counted will be determined by multiplying the number of pounds of production eligible for such adjustment by the factor derived from dividing price quotation ''A'' by price quotation ''B.''

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12. Prevented Planting

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(b) Your prevented planting coverage will be 50 percent of your production guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400, subpart T, and pay an additional premium, you may increase your prevented planting coverage to a level specified in the actuarial documents.

3. In § 457.105 redesignate sections 9 through 12 of the insurance provisions as 10 through 13, add a new section 9, and revise redesignated sections 11(d) and 13(b) to read as follows:

§ 457.105 ELS Cotton Crop Insurance Provisions.

* * * * *

9. Replanting Payments

(a) In accordance with section 13 of the Basic Provisions, a replanting payment is allowed if the insured crop is damaged by excess moisture, hail, or blowing sand or soil to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage, and it is practical to replant.

(b) The maximum amount of the replanting payment for the unit will be the lesser of:

(1) Twenty dollars ($20.00) per acre multiplied by the number of acres replanted, multiplied by your insured share; or

(2) Ten percent (10%) of the production guarantee per acre multiplied by your price election, multiplied by the number of acres replanted, multiplied by your insured share.

(c) When the cotton is replanted using a practice or type that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

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11. Settlement of Claim

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(d) Mature ELS cotton production may be adjusted for quality when production has been damaged by insured causes. Unless otherwise provided by the Special Provisions, such production to count will be reduced if the price quotation for ELS cotton of like quality (price quotation ''A'') for the applicable growth area is less than 75 percent of price quotation ''B.'' Price quotation ''B'' is defined as the price quotation for the applicable growth area for ELS cotton grade, staple length, and micronaire reading designated in the Special Provisions for this purpose. Price quotations ''A'' and ''B'' will be the price quotations contained in the Daily Spot Cotton Quotations published by the USDA Agricultural Marketing Service on the date the last bale from the unit is classed. If not available on the date the last bale was classed, the price quotations will be determined on the date the last bale from the unit was delivered to the warehouse, as shown on the insured's account summary obtained from the gin. If eligible for quality adjustment, the amount of production to be counted will be determined by multiplying the number of pounds of production eligible for such adjustment by the factor derived from dividing price quotation ''A'' by price quotation ''B.''

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13. Prevented Planting

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(b) Your prevented planting coverage will be 50 percent of your production guarantee for timely planted acreage. If you have limited or additional levels of coverage, as specified in 7 CFR part 400, subpart T, and pay an additional premium, you may increase your prevented planting coverage to a level specified in the actuarial documents.

Signed in Washington, DC, on September 28, 1998.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 98–26257 Filed 9–28–98; 1:51 pm]

BILLING CODE 3410–08–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AF95

Monitoring the Effectiveness of Maintenance at Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its power reactor safety regulations to require that licensees assess the cumulative effect of out-of-service equipment on the plant's capability to perform safety functions before beginning any maintenance activity on structures, systems, or components within the scope of the maintenance rule. The amendments would also clarify that the proposed rule applies under all conditions of operation including normal shutdown, that the safety assessments include both the plant conditions before and those expected during planned maintenance activities, and that the safety assessments are to be used to ensure that the plant is not placed in a condition of significant risk or a condition that would degrade the performance of safety functions to an unacceptable level.

DATES: Submit comments by December 14, 1998. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking web site through the NRC home page (http://www.nrc.gov). From the NRC home page, select ''Rulemaking'' from the tool bar. The interactive rulemaking website may then be accessed by selecting ''Rulemaking Forum.'' This site possesses the ability of uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, 301–415–5905, e-mail CAG@nrc.gov.

Certain documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These same documents also may be viewed and downloaded electronically via the interactive rulemaking website established by NRC for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Richard P. Correia, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 301–415–1009, e-mail rpc@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

The NRC's Maintenance Team Inspections of all nuclear power plant licensees in the late 1980s found the lack of consideration of plant risk in prioritizing, planning, and scheduling maintenance activities to be a common weakness. To address that weakness, paragraph (a)(3) of 10 CFR 50.65, the maintenance rule, currently includes the provision that ''(I)n performing monitoring and preventive maintenance activities, an assessment of the total plant equipment that is out of service should be taken into account to determine the overall effect on performance of safety functions.'' The maintenance rule was issued on July 10, 1991.

During plant visits in mid-1994, several NRC senior managers expressed concerns that licensees were increasing both the amount and frequency of maintenance performed during power operation without adequately evaluating safety when planning and scheduling these maintenance activities. The NRC Executive Director for Operations (EDO) addressed these concerns regarding the safety implications with performing maintenance while at power to the president of the Institute of Nuclear Power Operations (INPO) in a letter dated October 6, 1994. In this letter, the EDO noted that it appeared that some licensees were either not following INPO guidelines for the conduct of maintenance and management of outages or had adopted only portions of the guidance. The EDO also recommended that INPO support NEI and appropriate utility managers during meetings with NRC senior managers to discuss the concerns they raised during the site visits.

The growing amount of on-line maintenance (i.e., maintenance performed during power operations) being performed by licensees and the inadequate pre-maintenance safety evaluations have raised the Commission's concern.

Discussion

The nuclear power industry has changed since the 1991 issuance of the maintenance rule. Rate deregulation of the electric utility industry will likely cause all nuclear power plants to seek ways to operate more efficiently. One mechanism for increasing efficiency is shortening refueling and maintenance outages. Licensees have come to realize that performing more maintenance at power can lead to shorter refueling outages and the reduction or elimination of mid-cycle maintenance outages.

Licensees have relied upon their individual plant technical specifications to help assure safe operation of the plant when equipment is out of service. However, the removal of multiple pieces of equipment, especially safety-related equipment, from service can undermine the fundamental premise of the technical specifications for a plant, which is to provide adequate protection against random failures.

During plant visits in mid-1994, several NRC senior managers had concerns with the fact that licensees were increasing both the amount and frequency of maintenance performed during power operations. Some licensees were limiting the planned maintenance to a single train of a system while others would allow multiple equipment in other systems within a single train to be out of service as long as it did not violate the plant's technical specifications. However, allowable outage times specified in technical specifications are based upon a random single failure in a system and a judgement of a reasonable time to effect repairs before plant shutdown is required. Technical specifications were not intended to address allowable outage times for multiple equipment being out of service at the same time. Further, it can not be implied that it is acceptable to voluntarily remove equipment from service to perform on-line maintenance on the assumption that such actions are bounded by a worst case single failure which is a plant specific design requirement that is contained in a number of the general design criteria (GDC) in 10 CFR 50, Appendix A. The NRC senior managers also had concerns with the fact that on-shift personnel, planning and scheduling personnel, and licensee management lacked an understanding of the relative safety importance of safety systems or combinations of equipment that would have risk significance if taken out of service. It appeared that risk insights from plant specific Individual Plant Examination (IPE)

results, whose purpose was to improve licensee understanding of the plant's safety and to address potential vulnerabilities, were not fully utilized in the plant's operational and maintenance decision process. These concerns were addressed in a letter dated October 6, 1994, from the Director of the Office of Nuclear Reactor Regulation to the Executive Vice-President of the Nuclear Energy Institute. The growing amount of maintenance performed during power operations and the underutilization of risk insights in plant operations and maintenance activities have raised the Commission's concern.

In determining the need for the maintenance rule a decade ago, one factor the Commission considered was its belief that there existed ''a need to broaden its capability to take timely enforcement action where maintenance activities fail to provide reasonable assurance that safety-significant SSCs [structures, systems, and components] are capable of performing their intended function.'' Now, the Commission desires to act to help ensure that there is reasonable assurance such that maintenance activities will not place a plant in (1) a configuration that would degrade unacceptably a SSC's capability to perform its intended safety functions or (2) a risk-significant configuration, i.e., a configuration for which the incremental contribution to the annual risk associated with accidents that result in damage to the reactor fuel or the release of fission products to the environment is not insignificant.

The first 50 NRC maintenance rule baseline inspections (MRBIs) for which inspection reports had been issued as of April 20, 1998, found that all licensees had developed programs to implement the safety assessment provision of paragraph (a)(3). However, at 5 sites, instances were found in which the licensee did not assess the impact on safety of total plant equipment out of service before it entered one or more specific plant configurations for maintenance purposes. At 19 other sites, weaknesses—the term reserved for situations in which the overall assessment of a licensee program has found the program, or significant aspects of that program, to be particularly ineffective or for individual findings that have either high safety significance or programmatic implications—were found, among which were paragraph (a)(3) safety assessment tools that did not include all high-safety-significant SSCs.

Although the safety significance of the unassessed plant configurations at the 5 sites was not quantitatively determined during the inspection in all cases, it appears that some of the unassessed configurations had resulted in plants that were in a state of substantially greater risk than was realized by the licensees. Given the concerns raised by NRC senior managers during site visits in 1994, the increased amount of on-line maintenance, the number of missed assessments and their apparent risk significance, in addition to the weaknesses found with the paragraph (a)(3) safety assessment programs, the Commission considers this to be a safety concern. The Commission, therefore, believes it is necessary to explicitly require licensees to perform safety assessments prior to removing equipment from service for maintenance during all conditions of plant operations including normal shutdown.

With regard to the operating conditions under which the proposed rule would apply, extensive interaction among the NRC, the industry, and the public has taken place over the need for regulations governing activities during shutdown conditions (i.e., shutdown as may be defined in each plant's individual technical specifications, but generally considered as a time when all control rods are inserted and the average reactor coolant temperature is below 200°F). The question of whether 10 CFR 50.65 applies during shutdown conditions became an issue. The Commission desires to clarify that the rule does apply during shutdown conditions.

Regarding which activities would be preceded by a safety assessment, the Commission has recognized that, although definitions regarding maintenance activities are fairly consistent from organization to organization, there is some variation in the definition of corrective maintenance. For example, some definitions bring a time dependency while some others consider the urgency of the repair. To eliminate inconsistency, and to cause more prudent use of the safety assessments, the Commission desires the regulation to cover all planned maintenance activities, rather than only the recommended monitoring and preventive maintenance in the current rule. Each planned non-emergency maintenance activity would now include a safety assessment prior to its being authorized to begin. In fact, many licensees have followed the guidance contained in Regulatory Guide 1.160 and NUMARC 93–01 and have already voluntarily included all planned maintenance activities in the scope of their safety assessment programs.

With regard to the safety assessments themselves, licensee implementation has been inconsistent. The Commission desires to specify that an appropriate safety assessment would include a review the current condition of the plant and the plant condition expected during the planned maintenance activity. Assessing the current plant configuration as well as expected changes to plant configuration that will result from the proposed maintenance activities, as would be called for under paragraph (a)(4) of the proposed rule, is intended to ensure that the plant is not placed in risk-significant configurations, i.e., a configuration for which the incremental contribution to the annual risk is not insignificant, or a configuration that would degrade safety functions to an unacceptable level. These assessments do not necessarily require that a quantitative assessment of probabilistic risk be performed. The licensee would have the flexibility to perform a probabilistic and/or deterministic assessment, as appropriate. The level of sophistication with which such assessments are performed is expected to vary, based on the circumstances involved. It should be understood, however, that the contribution to risk of a specific plant configuration depends on both the degree of degradation of the safety functions and the duration for which the plant is in that configuration. Further, assessing the degree of safety function degradation requires that there be an understanding of the impact of removal of the equipment on the capability of the plant to prevent or mitigate accidents and transients. The assessments may range from deterministic judgements to the use of an on-line, living probabilistic risk assessment (PRA).

Additional guidance will be developed and promulgated in Regulatory Guide 1.160, Revision 3 (proposed), to assist licensees in implementing this provision of the proposed rule. The guidance will contain information regarding risk-significant configurations and unacceptable levels of safety function degradation.

Proposed Rule

This proposed rule would make five changes to 10 CFR 50.65:

1. Add an introductory paragraph to 10 CFR 50.65 clarifying that the proposed rule applies under all conditions of operation, including normal shutdown.

Prior to paragraph (a)(1), add the following wording: ''The requirements of this section are applicable during all

conditions of plant operation, including normal shutdown operations.'' The intent of this paragraph is to ensure that safety assessments are performed before maintenance activities when the plants are shut down as well as when the plants are at power. The shutdown condition may be defined in a plant's technical specifications, but the intent of this paragraph is that shutdown is generally considered as a time when all control rods are inserted and the average reactor coolant temperature is below 200° F.

2. Delete the last sentence of paragraph (a)(3) and create a new paragraph, (a)(4), that requires the performance of safety assessments.

The proposed rule would remove the last sentence of paragraph (a)(3) and would add a new paragraph, (a)(4), as follows in its entirety: ''Before performing maintenance activities on structures, systems, or components within the scope of this section (including, but not limited to, surveillance testing, post-maintenance testing, corrective maintenance, performance/condition monitoring, and preventive maintenance), an assessment of the current plant configuration as well as expected changes to plant configuration that will result from the proposed maintenance activities shall be conducted to determine the overall effect on performance of safety functions. The results of this assessment shall be used to ensure that the plant is not placed in risk-significant configurations or configurations that would degrade the performance of safety functions to an unacceptable level.'' Deleting the current last sentence in paragraph (a)(3) will remove the recommendation for performing safety assessments from the paragraph that contains the periodic, programmatic, long-term review considerations of the rule. Creating a new paragraph, (a)(4), specifically for the safety assessment requirements would cause the assessment concept to stand as a separate entity within the maintenance rule.

3. Define in paragraph (a)(4) the scope of the requirement for performing those assessments to be all conditions of operation including normal shutdown.

The proposed rule would add the following in paragraph (a)(4) to define the scope of pre-maintenance safety assessments: ''Before performing maintenance activities on structures, systems, or components within the scope of this section (including, but not limited to, surveillance testing, post-maintenance testing, corrective maintenance, performance/condition monitoring, and preventive maintenance), an assessment * * * shall be conducted * * * .'' The NRC's intent is that licensees perform safety assessments before all planned maintenance activities that require removing from service equipment that is within the scope of the maintenance rule, as defined in 10 CFR 50.65(b) and (a)(1). The safety assessments required in this paragraph need not be sophisticated probabilistic risk assessment analyses in all cases. Licensees would have the flexibility to use probabilistic and/or deterministic methods, as appropriate, when performing the safety assessments required by paragraph (a)(4).

4. Specify in paragraph (a)(4) that the safety assessments are to examine the extant plant condition and the condition expected during the planned maintenance activity.

The proposed rule would include the following wording in paragraph (a)(4): ''* * * an assessment of the current plant configuration as well as expected changes to the plant configuration that will result from the proposed maintenance activities * * * .'' The NRC's intent is that a reasonable safety assessment be performed. The assessment may range from simple and straightforward to complex. However, notwithstanding the degree of sophistication required for the assessment, the NRC intends that the assessment will examine the plant condition existing prior to the commencement of the maintenance activity and examine the changes expected by the proposed maintenance activity.

5. Specify in paragraph (a)(4) that the objective of performing the safety assessments is to ensure that the plant is not placed in risk-significant configurations or configurations that would degrade the performance of safety functions to an unacceptable level.

The proposed rule would add in paragraph (a)(4) the wording to specify the NRC's expectations regarding the use of each safety assessment, as follows: ''The results of this assessment shall be used to ensure that the plant is not placed in risk-significant configurations or configurations that would degrade the performance of safety functions to an unacceptable level.'' The NRC's intent is to require that each licensee perform a safety assessment before undertaking each planned maintenance activity and be aware of the risk issues associated with that maintenance activity. The guidance to be developed for licensees and promulgated in Regulatory Guide 1.160, Revision 3 (proposed), is expected to assist the industry in implementing this provision of the proposed rule, providing guidance regarding risk-significant configurations and unacceptable levels of safety function degradation.

The Commission requests public comment on these proposed rule provisions. The Commission also requests public comment on the explanatory language in item 3 pertaining to licensee flexibility to use probabilistic and/or deterministic methods to perform the safety assessments. Specifically, should there be further clarification of this point in the final rule?

Finding of No Significant Environmental Impact: Environmental Assessment

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51 that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The draft environmental assessment that forms the basis for this determination reads as follows.

Identification of the Proposed Action

The Commission is proposing to amend its regulations to require commercial nuclear power plant licensees to perform assessments of the plant's status before performing maintenance activities on structures, systems, and components (SSCs) within the scope of 10 CFR 50.65, the maintenance rule. The rule would be modified by adding an introductory sentence to clarify that the proposed rule would apply under all conditions of operation, including normal shutdown; deleting the last sentence of paragraph (a)(3); and creating a new paragraph, (a)(4). The new paragraph (a)(4) would change ''should'' to ''shall'' regarding the performance of safety assessments; define the scope of the requirement for performing those assessments to include all planned maintenance activities; specify that the safety assessments are to examine the extant plant condition and the condition expected during the maintenance activity; and specify that the safety assessments are to be used to ensure that, by the conduct of maintenance, the plant is not placed in risk-significant conditions or safety system performance is not degraded to an unacceptable level.

The Need for the Proposed Action

Paragraph (a)(3) of the maintenance rule, in part, currently recommends that, ''(I)n performing monitoring and preventive maintenance activities, an assessment of the total plant equipment that is out of service should be taken into account to determine the overall effect on performance of safety functions.'' The Commission believes the performance of this type of assessment is prudent. The maintenance rule baseline inspections, being performed at each commercial nuclear power plant site, have found that all inspected licensees have implemented programs to perform the assessments, but about half of the sites inspected had programs with discernable weaknesses in this area, including instances in which, in accordance with the licensee's own programs, safety assessments should have been made but were not. Because of the hortatory nature of the safety assessment provision in § 50.65(a)(3), the Commission cannot ensure that licensees perform the assessments. Moreover, licensees are free to remove the performance of the assessments from their programs as they so desire. This proposed change to the Commission's regulations will permit the Commission to ensure that licensees perform the assessments, as appropriate.

The other changes are clarifications regarding applicability of the rule. During preliminary discussions prior to potential development of a rule on shutdown plant operations, a major question arose regarding whether 10 CFR 50.65 requirements apply during the time a plant is shut down. The Commission concluded that inclusion of a statement to the affirmative would eliminate the doubt.

Removing the provision regarding safety assessments from paragraph (a)(3) and creating for it a new, separate paragraph, (a)(4), would disassociate that new requirement from the more time-dependent requirement for evaluating of the program and the program's effectiveness at maintaining an appropriate balance between reliability and availability for each SSC. In the new paragraph, the requirement for safety assessment performance is stipulated to ensure licensees will perform those assessments. Because there were questions regarding when the assessments were to be performed, what plant conditions are to be evaluated and how they were to be used, the proposed new paragraph (a)(4) describes that the assessments are to be performed before all planned maintenance activities, are to examine pre-maintenance plant conditions and expected changes due to the proposed maintenance activity, and are to be used to ensure that the plant is not placed in risk-significant configurations or configurations that would degrade the performance of safety functions to an unacceptable level.

Environmental Impacts of the Proposed Action

The proposed rule would require that commercial nuclear power plant licensees perform certain assessments of plant equipment status prior to performing all planned maintenance activities. The purpose of the proposed rule is to increase the effectiveness of the maintenance rule by requiring licensees to perform an assessment of plant conditions prior to planned maintenance and changes expected to result from the planned maintenance activity, to ensure that licensees understand the assessments are to be performed when the plant is shut down as well as at power, and to improve licensees' understanding of what conditions to assess and to what use to put the completed assessment. Accordingly, implementation of this proposed rule would not have any significant adverse impact on the quality of the human environment. The Commission believes that proper implementation of the proposed rule will reduce the likelihood of an accidental release of radioactive material caused by imprudently prioritized, planned, or scheduled maintenance.

The determination of this environmental assessment is that there will be no significant offsite impact to the public from this action. The NRC has also committed to complying with Executive Order (EO) 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' dated February 11, 1994, in all its actions. The NRC has determined that there are no disproportionate, high, or adverse impacts on minority or low-income populations. In the letter and spirit of EO 12898, the NRC is requesting public comment on any environmental justice considerations or questions that the public thinks may be related to this proposed rule but somehow were not addressed. Comments on any aspect of the Environmental Assessment, including environmental justice, may be submitted to the NRC as indicated under the **ADDRESSES** heading.

States Consulted and Sources Used

The NRC has sent a copy of this proposed rule to every State Liaison Officer and requested his or her comments on the Environmental Assessment.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or an amended information collection requirement subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0011.

Public Protection Notification

If an information collection requirement does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examined the costs and benefits of the alternatives considered by the Commission for revising 10 CFR 50.65, the maintenance rule. Those alternatives were to (1) make no change to the rule, (2) require the safety assessments currently recommended in paragraph (a)(3) of the rule, and (3) make comprehensive revisions to paragraph (a)(3) of the rule. The analysis selected Alternative 2 as the preferred course of action. Details of the alternative selection are contained in the draft analysis, which is available for inspection in the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, D.C. Single copies of the analysis may be obtained from Richard P. Correia, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 301–415–1009, e-mail rpc@nrc.gov.

The Commission requests public comments on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this proposed rule will not, if adopted, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards adopted by the NRC (10 CFR 2.810).

Backfit Analysis

As required by 10 CFR 50.109, the Commission has completed a backfit analysis for this proposed rule. The Commission has determined, on the basis of this analysis, that backfitting to comply with the requirements of this proposed rule provides a substantial increase in protection to the public health and safety or the common defense and security at a cost that is justified by the increased protection.

When the maintenance rule was first promulgated in 1991, the NRC staff did not foresee the significant changes licensees would be making in maintenance practices. To enhance operational efficiency brought about by the rate deregulation of the electric utility industry, licensees are shortening their refueling outages by performing more maintenance while the plant is at power. At-power maintenance practices have evolved to the point that not only are major systems and components taken off line, but also multiple systems and components are taken off line simultaneously. Taking systems and components off line for maintenance could result in an increased likelihood of an accident or transient, compared to risk that occurs from expected random equipment failures.

The objective of this proposed rule is to make mandatory that licensees assess the cumulative impact of out-of-service equipment on the capability of the plant to perform safety functions and that licensees consider the results of the assessment before undertaking maintenance activities at operating nuclear power plants in order to ensure that the plants are not placed in risk-significant configurations or configurations that would degrade the performance of safety functions to an unacceptable level. Thus, the proposed rule would state that licensees must perform safety assessments before removing SSCs from service for planned maintenance.

In addition, this proposed rule would (1) add an introductory sentence to 10 CFR 50.65 clarifying that the rule applies under all conditions of operation, including normal shutdown; (2) delete the last sentence of paragraph (a)(3) of the rule and create a new paragraph, (a)(4), that requires the performance of safety assessments; (3) specify that the scope of the requirement for performing those assessments covers all planned maintenance activities; (4) specify that the safety assessments are to examine the extant plant condition and the condition expected during the maintenance activity; and (5) specify that the results of the safety assessments are to be used to help the licensee ensure that the plant is not placed in risk-significant configurations or configurations that would degrade safety functions to an unacceptable level.

The pre-maintenance assessments, along with the clarifications regarding their scope and their use, which the Commission proposes to require are intended to cause licensees to manage this risk and ensure their plants are not placed in risk-significant conditions or conditions in which the performance of safety functions is not degraded to unacceptable levels.

The details of this backfit analysis have been incorporated in the regulatory analysis.

For the reasons elaborated in the regulatory analysis, which also contains cost information, the Commission concludes that the proposed modification to the maintenance rule will result in a level of safety beyond that currently provided by the Commission's regulations, a substantial increase in the overall protection of public health and safety, and that the net costs of the rule are justified in view of this increased level of safety.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plant and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 50:

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246, (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a, and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 66 Stat. 955 (42 U.S.C. 2237).

2. In § 50.65, an introductory paragraph is added, paragraph (a)(3) is revised, and a new paragraph (a)(4) is added, to read as follows:

§ 50.65 Requirements for monitoring the effectiveness of maintenance at nuclear power plants.

The requirements of this section are applicable during all conditions of plant operation, including normal shutdown operations.

(a) * * *

(3) Performance and condition monitoring activities and associated goals and preventive maintenance activities shall be evaluated at least every refueling cycle provided the interval between evaluations does not exceed 24 months. The evaluations shall be conducted taking into account, where practical, industry-wide operating experience. Adjustments shall be made where necessary to ensure that the objective of preventing failures of structures, systems, and components through maintenance is appropriately balanced against the objective of minimizing unavailability of structures, systems, and components due to monitoring or preventive maintenance.

(4) Before performing maintenance activities on structures, systems, or components within the scope of this section (including, but not limited to, surveillance testing, post-maintenance testing, corrective maintenance, performance/condition monitoring, and preventive maintenance), an assessment of the current plant configuration as well as expected changes to plant configuration that will result from the proposed maintenance activities shall be conducted to determine the overall effect on performance of safety functions. The results of this assessment shall be used to ensure that the plant is not placed in risk-significant configurations or configurations that would degrade the performance of safety functions to an unacceptable level.

* * * * *

Dated at Rockville, Maryland, this 24th day of September, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98–26204 Filed 9–29–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Chapter I

[Docket No. OST–98–4146]

Outreach on the Transportation Equity Act for the 21st Century (TEA–21); Meetings Regarding Environmental Streamlining, Transportation Enhancements and Environmental Justice

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Announcement of public meetings; request for comments.

SUMMARY: The U.S. Department of Transportation (DOT) announces a series of information exchange meetings to discuss how to implement provisions of TEA–21 (Pub. L. 105–178, 112 Stat. 107) relative to environmental streamlining (three meetings) and transportation enhancements (three meetings). There will also be a series of four information exchange meetings on environmental justice and the implementation of TEA–21. These meetings are part of the outreach sessions the DOT is holding around the country on the implementation of TEA–21.

The FHWA has not completed scheduling all of the meetings. Locations, subject, and dates for the meetings are as follows:

Kansas City, MO, transportation enhancements, September 29, 1998
Washington, DC, environmental streamlining, October 9, 1998
Oakland, CA, transportation enhancements, October 13, 1998
Atlanta, GA, environmental justice, October 14, 1998
Chicago, IL, environmental streamlining, October 15, 1998
Harlem, NY, environmental justice, October 27, 1998
Washington, DC, transportation enhancement, date to be determined in October 1998
San Francisco, CA, environmental justice, November, 11, 1998
Seattle, WA, environmental justice, date to be determined in November 1998
West Coast Location, environmental streamlining, date to be announced

DATES: Comments must be submitted to the docket on or before November 22, 1998.

Meeting Dates and Times

The Kansas City, MO, meeting on transportation enhancements will be held on September 29, 1998, from 10:00 a.m. to 3:00 p.m., c.t. The Washington, DC, meeting on environmental streamlining will be held on October 9, 1998, from noon to 5:00 p.m., e.t. The Oakland, CA, meeting on transportation enhancements will be held on October 13, 1998 from noon to 5:00 p.m., p.t. The Atlanta, GA, meeting on environmental justice will be held on October 14, 1998 from noon until 5:00 p.m., e.t. The Chicago, IL, meeting on environmental streamlining will be held on October 15, 1998 from noon until 5:00 p.m., c.t. The Harlem, NY, meeting on environmental justice will be held on October 27, 1998 from noon until 5:00 p.m., e.t. The San Francisco, CA, meeting on environmental justice will be held on November 11, 1999 from noon until 5:00 p.m., p.t.

Specific times and locations for the Seattle, WA, meeting on environmental justice in November 1998 and the west coast meeting on environmental streamlining in October or November will be announced at a later date through the TEA–21 website at http://www.fhwa.dot.gov/tea21/outreach.htm. If you do not have access to the Internet, please contact Leslie Wright-Small who is listed in the **FOR FURTHER INFORMATION CONTACT** section below.

ADDRESSES: FOR DOCKETS: All signed, written comments should refer to the docket number in the heading of this document. Since the docket contains comments on many provisions of TEA–21, there should be a clear identification of which provisions are being commented on. Comments must be sent to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for public examination at this address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Persons who wish notification of the receipt of their comments must include a self-addressed, stamped envelope or postcard.

FOR MEETINGS: Please contact the appropriate individual meeting contact as listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: *TEA–21 Outreach*: Ms. Leslie Wright-Small, HPP 20, Room 3318, (202) 366–9227, Office of Policy Development, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC, 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

For Individual Meetings: For environmental streamlining: Mr. Fred Skaer, HEP 30, (202) 366–0106; for transportation enhancements: Mr. Harold Peaks, HEP 30, (202) 366–0106; and for environmental justice: Mr. Wendell Stills, HEP 30, 366–0106, all located at 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: http://www.nara.gov/fedreg and the Government Printing Office's database at: http://www/access.gpo.gov/nara.

Background

The Transportation Equity Act for the 21st Century (TEA–21) was signed into law on June 9, 1998. Prior to implementing this legislation, the DOT is consulting with its partners and customers through a series of TEA–21 outreach sessions/meetings. The FHWA is responsible for conducting the meetings described in this notice.

For more information about other TEA–21 outreach sessions and meetings, please visit our website at http://www.fhwa.dot.gov/tea21/outreach.htm. For the text of TEA–21 (Public Law 105–178) as well as a summary and fact sheets on its provisions, please visit our website at http://www.fhwa.dot.gov/tea21/legis.htm. If you do not have access to the Internet, please contact Leslie Wright-Small who is listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Meeting Purpose and Format

Information exchange meetings are opportunities for the transportation community to speak to the DOT on specific issues related to TEA–21. At each of the information exchange meetings covered by this

announcement, a DOT official will moderate a discussion by up to 25 participants on a series of specific TEA–21 implementation issues identified by the DOT as well as by participants. Proceedings will be recorded by notetakers who will prepare meeting summaries. The format emphasizes discussion and interaction by the participants with remarks limited to 5 minutes on a given topic. Lengthy statements should be sent directly to the docket (see **ADDRESSES** section above).

Meeting Participants

Since space is limited in this sort of interactive meeting and a broad spectrum of viewpoints is desired, the DOT will directly invite the participation of individuals and organizations with a known interest in the subject of each information exchange meeting. There will be limited numbers of additional places available. If you wish to attend an information exchange meeting, please call the appropriate contact from the **FOR FURTHER INFORMATION CONTACT** section above to register for available places on a first come basis. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

As remaining meeting dates and places are scheduled, the DOT will post them on the TEA–21 website at http://www.fhwa.dot.gov/tea21/outreach.htm. If you do not have access to the Internet, please contact Leslie Wright-Small who is listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Environmental Streamlining Meetings

The three sessions on environmental streamlining will be held in Washington, DC on October 9, 1998, in Chicago, IL on October 15, 1998 and at a West Coast location to be determined. They are concerned with what the language of TEA–21 means relative to environmental streamlining and how the DOT should implement these provisions of the Act: through regulations, guidance, or perhaps administering directly from the statutory language. Under TEA–21, the Secretary of Transportation will establish a coordinated environmental review process for the DOT to work with other Federal agencies in ensuring that major highway and transit projects are advanced according to cooperatively determined time frames. The new process will use concurrent, rather than sequential, reviews and will allow States to include their environmental reviews in it. The Act also authorizes the Secretary to approve State requests to provide funding to affected Federal agencies to meet established time limits. If the Secretary finds that a project-related environmental issue has not been resolved with another Federal agency, the heads of the agencies will meet within 30 days to resolve the issue. In addition, the Act contains provisions relating to the applicability of the National Environmental Policy Act (NEPA) with respect to transportation planning, consultant selection, design/build contracting, transportation infrastructure financial innovation and high priority projects. The DOT seeks discussion on how it should implement these provisions.

Transportation Enhancements Sessions

The three sessions on transportation enhancements will be held in Kansas City, MO on September 29, 1998, in Oakland, CA on October 13, 1998, and in Washington, DC on a date to be set sometime in October. They are concerned with what the language of TEA–21 means relative to transportation enhancements and how the DOT should implement these provisions of the Act: through regulations, guidance, or perhaps administering directly from the statutory language. Under TEA–21, transportation enhancements continue to be funded with a 10 percent setaside from Surface Transportation Program funds but with new innovative financing alternatives for meeting matching requirements. New provisions allow States to transfer some of their transportation enhancement funds to other programs and expand the list of activities eligible for transportation enhancement funds. Newly eligible are safety education activities for pedestrians and bicyclists, establishment of transportation museums, and projects to reduce vehicle-caused wildlife mortality. Provision of tourist and welcome center facilities is included under the existing activity, ''scenic or historic highway programs.''

Environmental Justice Sessions

The four sessions on environmental justice will be held in Atlanta, GA on October 14, 1998, in Harlem, NY on October 27, 1998, in San Francisco, CA on November 11, 1998 and in Seattle, WA at a date in November to be determined. They will explore the implications for implementing TEA–21 of Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and the implementing DOT Order on Environmental Justice. TEA–21 does not have specific environmental justice provisions. However, the DOT seeks discussion on how to avoid disproportionate impacts on minority and low income populations in carrying out the extensive provisions of TEA–21. In addition, the DOT wishes discussion of how to include the traditionally underserved in transportation decisions under TEA–21. Through these meetings, the DOT is pursuing a deeper understanding of how to infuse environmental justice considerations into the new TEA–21 initiatives to improve safety, protect and enhance communities and the natural environment and advance America's economic growth through efficient and flexible transportation.

Contributing Views

There are three ways for you to contribute your views on how to implement the provisions of TEA–21 relating to environmental streamlining and transportation enhancements as well as on environmental justice and the implementation of TEA–21. You may attend one of the meetings and participate in the discussions, you may hand in written comments at a meeting, or you may mail comments to the docket the DOT has established for TEA–21 outreach. See the **ADDRESSES** section above for the docket address.

You may use one or more of any of these methods. Since attendees at the meetings will be asked to limit their remarks on a topic to 5 minutes to accommodate a maximum number of persons, commenting directly to the docket is particularly useful for comments which are too long or detailed for convenient oral presentation at a meeting or when you are not able to attend a meeting.

What Happens Next

Comments in the docket and information exchange meeting summaries will be forwarded to the element of the DOT responsible for the relevant provisions of TEA–21. Oral and written comments will be equally considered in decisionmaking on how to implement TEA–21. If the DOT decides to pursue implementing a provision of TEA–21 by issuing regulations, it will then initiate formal rule making under the Administrative Procedure Act.

Authority: 23 U.S.C. 315.

Issued on: September 24, 1998.

Thomas Ptak,

Associate Administrator for Program Development.

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 299

[RIN 0790–AG59]

Freedom of Information Act Program

AGENCY: National Security Agency/Central Security Service, Defense.

ACTION: Proposed rule.

SUMMARY: This rule proposes to revise the National Security Agency/Central Security Services (NSA/CSS) regulation governing disclosure of information under the Freedom of Information Reform Act of 1986 (Pub. L. 99–570). As a component of the Department of Defense, the Departmental rules and schedules with respect to the Freedom of Information Reform Act will also be the policy of the NSA/CSS. The effect of the proposed rule is to conform to the requirements of the Electronic Freedom of Information Act Amendments of 1996, 5 U.S.C. 552, as amended by Public Law 104–231. It also incorporates guidance provided by the Department of Defense on implementation of this amended law.

DATES: Comments must be submitted by November 30, 1998.

ADDRESSES: Send comments to: Susan A. Arnold, Assistant General Counsel (Civil Litigation and Administrative Law) Office of General Counsel, National Security Agency, Fort George G. Meade, Maryland 20755–6250.

FOR FURTHER INFORMATION CONTACT: Barbara Paisley, FOIA Office, National Security Agency. (301) 688–6527.

SUPPLEMENTARY INFORMATION: This rule does not constitute a major rule within the meaning of Executive Order 12866. Neither the requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b), nor the reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (Pub. L. 104–13) apply. It is hereby certified that this proposed rule does not exert a significant economic impact on a significant number of small entities. This determination is made based upon the fact that the rule merely updates the procedural aspects of the NSA/CSS Freedom of Information Act Program, which include guidance on how and from whom to request information pertaining to the NSA/CSS; imposes no new requirements, rights, or benefits on small entities; will have neither a beneficial nor an adverse affect on small entities, and is not a major rule under the Regulatory Flexibility Act.

List of Subjects in 32 CFR Part 299

Freedom of information.

According, title 32, chapter I, part 299 is revised to read as follows:

PART 299—NSA/CSS FREEDOM OF INFORMATION ACT PROGRAM

Sec.
299.1 Purpose and applicability.
299.2 Definitions
299.3 Policy
299.4 Responsibilities.
299.5 Procedures.
299.6 Fees.
299.7 Exempt records.

Authority: 5 U.S.C. 552.

§ 299.1 Purpose and applicability.

(a) This part implements 5 U.S.C. 552, as amended, and DoD 5400.7–4R [1] assigns responsibility for responding to written requests made pursuant to 5 U.S.C. 552; and provides for the review required to determine the appropriateness of classification pursuant to DoD 5200.1–R [2]

(b) This part applies to all NSA/CSS elements, field activities and personnel, and governs the release or denial of any information under the terms of the Freedom of Information Act (FOIA).

§ 299.2 Definitions.

Terms used in this part, with the exception of the terms in § 299.4, are defined in DoD 5400.7–R. For ease of reference, however, some terms are defined in this section.

(a) *FOIA request.* (1) A written request for NSA/CSS records, that reasonably describes the records sought, made by any person, including a member of the public (U.S. or foreign citizen/entity), an organization or a business, but not including a Federal Agency or a fugitive from the law that either explicitly or implicitly invokes invokes 5 U.S.C. 552, as amended, D0D 5400.7–R, or NSA/CSS Freedom of Information Act Program, within the National Security Agency/Central Security Service. Requesters should also indicate a willingness to pay fees associated with the processing of their request or, in the alternative, why a wavier of fee may be appropriate.

(2) An FOIA request may be submitted by U.S. mail or its equivalent, by facsimile or electronically through the NSA FOIA Home Page on the World Wide Web (WWW) once the development of a Web-based procedure for submitting FOIA requests is completed. The Web-based system will consist of a form to be completed by the requester, requiring name and postal mailing address. The WWW address is http://www.nsa.gov:8080/docs/efoia/.

(3) When a request meeting the requirements stated in this section is received by the FOIA office and there is no remaining question about fees, that request is considered perfected.

(b) *Privacy Act (PA) request.* A request submitted by a U.S. citizen or an alien admitted for permanent residence for access to records on himself/herself which are contained in a PA system of records and/or seeking an amendment to his/her records. For purposes of this part, PA request refers to a request for copies of records. Regardless of whether the requester cites the FOIA, PA or neither law, the request will be processed under both this part and NSA/CSS Regulation 10–35, Implementation of the Privacy Act of 1974.[3]

(c) *Agency records.* Products of data compilation, such as all books, papers, maps, and photographs, machine readable materials, including those in electronic form or format (including e-mails), or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law in connection with the transaction of public business and in NSA/CSS's possession and control at the time the FOIA request is made. The term ''records'' does not include:

(1) Objects or articles such as structures, furniture, vehicles and equipment, whatever their historical value or value as evidence;

(2) Intangible records such as an individual's memory or oral communication; and

(3) Personal records of an individual not subject to agency creation or retention requirements, created and maintained primarily for the convenience of an agency employee, and not distributed to other agency employees for their official use.

(4) A record must exist an be in the possession and control of the NSA/CSS at the time of the request to be subject to this part. There is no obligation to create or compile a record or obtain a record not in the possession of the NSA/CSS to satisfy an FOIA request. The NSA/CSS may compile or create a new record when doing so would be less burdensome to the Agency than providing existing records and the requester does not object.

(5) Hard copy or electronic records that are subject to FOIA requests under

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[2] See footnote 1 to this section.

[3] Copies may be obtained through a FOIA request to the National Security Agency, Ft. George G. Meade, MD 20755–6000.

5 U.S.C. 552(a)(3) and are available through an established distribution system or the Internet, normally need not be processed under the FOIA. The Agency will provide guidance to the requester on how to obtain the material outside of the FOIA process. If the requester insists that the request be processed under the FOIA, then it shall be so processed.

§ 299.3 Policy.

(a) Pursuant to written requests submitted in accordance with the FOIA, the NSA/CSS will make records available to the public consistent with the Act and the need to protect government interests pursuant to subsection (b) of the Act. Oral requests for information will not be accepted. Before the Agency responds to a request, the request must comply with the provisions of this part.

(b) Requests for electronic records shall be processed and the records retrieved whenever retrieval can be achieved through reasonable efforts (in terms of both time and manpower) and these efforts would not significantly interfere with the operation of an automated information system. Reasonable efforts shall be undertaken to maintain records in forms or formats that render electronic records readily reproducible.

(c) The NSA/CSS does not originate final orders, opinions, statements of policy, interpretations, staff manuals, or instructions that affect members of the pubic of the type generally covered by the indexing requirement of 5 U.S.C. 552. Therefore it has been determined, pursuant to the pertinent statutory and executive order requirements, that it is unnecessary and impracticable to publish an index of the type required by 5 U.S.C. 552. However, should such material be identified, it will be indexed and placed in the library at the Crypotolgic History Museum, which serves as the NSA/CSS FOIA reading room, and made available through the Internet. Copies of records which have been released under the FOIA and which NSA/CSS has determined are likely to become the subject of subsequent requests will be placed in the library of the Cryptologic History Museum. In addition, these records will be made available to the pubic through the Internet. An index of this material will be available in hard copy in the museum library and on the Internet.

§ 299.4 Responsibilities.

(a) The Deputy Director for Plans, Policy and Programs (DDP) is responsible for responding to FOIA requests and for collecting fees from FOIA requesters.

(b) The Director of Policy (N5) is the NSA/CSS focal point for responding to FOIA requests. The Deputy Director of Policy (N5P) is the initial denial authority (IDA) and is responsible for:

(1) Receiving and staffing all initial, written requests for the release of information;

(2) Conducting the necessary reviews to determine the releasability of information pursuant to DoD 5200.1–R;

(3) Providing the requester with releasable material;

(4) Notifying the requester of any adverse determination, including informing the requester of his/her right to appeal an adverse determination to the appeal authority (see § 299.5(m));

(5) Assuring the timeliness of responses;

(6) Negotiating with the requester regarding satisfying his request (e.g., time extensions, modifications to the request);

(7) Authorizing extensions of time within Agency components (e.g., time needed to locate and/or review material);

(8) Assisting the Office of General Counsel (OGC) in judicial actions filed under 5 U.S.C. 552;

(9) Maintaining the FOIA reading room and the Internet home page; and

(10) Compiling the annual FOIA report.

(c) The Chief, Finance and Accounting Office (N4) is responsible for:

(1) Sending initial and follow-up bills to FOIA requesters as instructed by the FOIA office, with a copy of all bills going to the FOIA office. In cases where an estimate of fees is provided to the requester prior to the processing of his/her request, no bill will be sent. Although the FOIA office asks FOIA requesters to send payment to the FOIA office, for subsequent forwarding to the Finance and Accounting Office, payment may be received directly in the Finance and Accounting Office. Such payment may be identified by the payee as payment for a Freedom of Information Act request, by the letters ''FOIA,'' or as payment for J9XXX/J10XXXX. (FOIA requests are serialized by a one-up number beginning on October 1 of each year, e.g., J9001, J9002.);

(2) Receiving and handling all checks or money orders remitted in payment for FOIA requests crediting them to the proper account and notifying the FOIA office promptly of all payments received;

(3) Notifying the FOIA office promptly of any payments received directly from requesters even if no bill was initiated by the Finance and Accounting Office; and

(4) Issuing a prompt reimbursement of overpaid fees to the requester upon being notified of such overpayment by the FOIA office.

(d) The Deputy Director, NSA/CSS, is the FOIA Appeal Authority required by 5 U.S.C. 552 for considering appeals of adverse determinations by the Deputy Director of Policy. In the absence of the Deputy Director, the Executive Director, NSA/CSS, serves as the Appeal Authority.

(e) The General Counsel (GC) or his designee is responsible for:

(1) Reviewing responses to FOIA requests to determine the legal sufficiency of actions taken by the Deputy Director of Policy, as required on a case-by-case basis;

(2) Reviewing the appeals of adverse determinations made by the Deputy Director of Policy. The GC will prepare an appropriate reply to such appeals and submit that reply to the NSA/CSS FOIA Appeal Authority for final decision; and

(3) Representing the Agency in all judicial actions relating to 5 U.S.C. 552 and providing support to the Department of Justice.

(f) The Deputy Director for Support Services will establish procedures to ensure that:

(1) All inquiries for information pursuant to 5 U.S.C. 552 are delivered promptly to the Deputy Director of Policy; and

(2) Any appeal of an adverse determination is delivered promptly and directly to the NSA/CSS Appeal Authority staff.

(g) The Key Components and Field Chiefs will:

(1) Establish procedures to ensure that any inquiries for information pursuant to 5 U.S.C. 552 are referred immediately and directly to the Deputy Director of Policy. Field Elements should forward, electronically, any requests received to the DIRNSA/CHCSS, ATTN: N5P; and

(2) Designate a senior official and an alternate to act as a focal point to assist the Deputy Director of Policy in determining estimated and actual cost data, in conducting searches reasonably calculated to retrieve responsive records and assessing whether information can be released or should be withheld.

(h) Military and civilian personnel assigned or attached to or employed by the NSA/CSS who receive a Freedom of Information Act request shall deliver it immediately to the Deputy Director of Policy. Individuals who are contacted by personnel at other government agencies and asked to assist in

reviewing material for release under the FOIA must direct the other agency employee to the NSA/CSS FOIA office promptly.

§ 299.5 Procedures.

(a) Requests for copies of records of the NSA/CSS shall be delivered to the Deputy Director of Policy immediately upon receipt once the request is identified as a Freedom of Information Act or Privacy Act request or appears to be intended as such a request.

(b) The Deputy Director of Policy will endeavor to respond to a direct request to NSA/CSS within 20 working days of receipt. If the request fails to meet the minimum requirements of perfected FOIA request, the FOIA office will advise the requester of how to perfect the request. The 20 working day time limit applies upon receipt of the perfected request. In the event the Deputy Director of Policy cannot respond within 20 working days due to unusual circumstances, the chief of the FOIA office will advise the requester of the reason for the delay and negotiate a completion date with the requester.

(c) Direct requests to NSA/CSS will be processed in the order in which they are received. Requests referred to NSA/CSS by other government agencies will be placed in the processing queue according to the date the requester's letter was received by the referring agency if that date is known. If it is not known when the referring agency received the request, it will be placed in the queue according to the date of the requester's letter.

(d) The FOIA office will maintain three queues (''simple,'' ''complex'' and ''expedite'') for the processing of records in chronological order. Cases placed in the ''simple'' queue require little time to process. ''Complex'' cases require a substantial amount of review and research prior to making a final release determination. This procedure is followed so that a requester will not be required to wait a long period of time to learn that the Agency has no records responsive to his request or to obtain records that do not require a lengthy review.

(e) Expedited processing shall be granted to a requester if he/she requests such treatment and demonstrates a compelling need for the information. A demonstration of compelling need by a requester shall be made by a statement certified by the requester to be true and correct to the best of his/her knowledge. A compelling need is defined as follows:

(1) The failure to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.

(2) The information is urgently needed by an individual primarily engaged in disseminating information to inform the public about actual or alleged Federal Government activity. Urgently needed means that the information has a particular value that will be lost if not disseminated quickly.

(3) A request may also be expedited, upon receipt of a statement certified by the requester to be true and correct to the best of his/her knowledge, for the following reasons:

(i) There would be an imminent loss of substantial due process rights.

(ii) There is a humanitarian need for the material. Humanitarian need means that disclosing the information will promote the welfare and interests of mankind.

(4) Requests which meet the criteria for expedited treatment as defined in paragraph (e)(3) of this section will be placed in the expedite queue behind the requests which are expedited because of a compelling need (see § 299.5(e)).

(5) A decision on whether to grant expedited treatment will be made within 10 calendar days of receipt. The requester will be notified whether his/her request meets the criteria for expedited processing within that time frame. If a request for expedited processing has been granted, a substantive response will be provided within 20 working days of the date of the expedited decision. If a substantive response cannot be provided within 20 working days, a response will be provided as soon as practicable and the chief of the FOIA office will negotiate a completion date with the requester, taking into account the number of cases preceding it in the expedite queue and the complexity of the responsive material.

(f) If the Deputy Director of Policy, in consultation with the GC, determines that the fact of the existence or non-existence of requested material is a matter that is exempt from disclosure, the requester will be so advised.

(g) If the FOIA office determines that NSA/CSS may have information of the type requested, the office shall contact each Key Component reasonably expected to hold responsive records.

(h) The FOIA office will assign the requester to the appropriate fee category under 5 U.S.C. 552, as amended, DoD 5400.7–R, and NSA/CSS Freedom of Information Act Program, and, if a requester seeks a waiver of fees, the FOIA office will, after determining the applicable fee category, determine whether to waive fees pursuant to DoD 5400.7–R (see also § 299.6). If fees are to be assessed in accordance with the provisions of 5 U.S.C. 552 and DoD 5400.7–R, the Key Component will prepare an estimate of the cost required to locate, retrieve and, in the case of commercial requesters, review the records. Cost estimates will include only direct search, duplication costs and review time (for commercial requesters) as defined in DoD 5400.7–R.

(1) If the cost estimate does not exceed $25.00, the component shall search for and forward to the FOIA office the documents responsive to the request. Fees $15.00 and under will be waived.

(2) If the costs are estimated to exceed $25.00, the component shall provide an estimate to the FOIA office without conducting the search. The chief of the FOIA office will advise the requester of the costs to determine a willingness to pay the fees. A requester's willingness to pay fees will be satisfactory when the estimated fee does not exceed $250.00 and the requester has a history of prompt payment. A history of prompt payment means payment within 30 calendar days of the date of billing. If fees are expected to exceed $250.00, the requester will be required to submit payment before processing is continued if the requester does not have a history of prompt payment. All payments will be made by certified check or money order made payable to the Treasurer of the United States.

(3) When a requester has previously failed to pay a fee charged within a timely fashion (i.e., within 30 calendar days from the date of billing) payment is required before a search is initiated or before review is begun. When a requester has no payment history, an advance payment may be required of the requester after the case has been completed, but prior to providing the final response.

(4) If a requester has failed to pay fees after three bills have been sent, additional requests from that requester and/or the organization or company he/she represents will not be honored until all costs and interest are paid.

(i) Upon receipt of a statement of willingness to pay assessable fees or the payment from the requester, the FOIA office shall notify the NSA/CSS component to search for the appropriate documents.

(1) The component conducting the search will advise the FOIA office of the types of files searched (e.g., electronic records/e-mail, video/audio tapes, paper), the means by which the search was conducted (e.g., subject or chronological files, files retrievable by name or personal identifier) and any key words used in an electronic search.

(2) If the search does not locate the requested records, the Deputy Director of Policy shall so advise the requester and offer appeal rights.

(3) If the search locates the requested records, the holding organization will furnish copies of these records immediately to the FOIA office. The Deputy Director of Policy will make a determination as to the releasability of the records in consultation with the GC, the Legislative Affairs Office (if any information relates to members of Congress or their staffs) and other Agency components, as appropriate. This determination shall also state, with particularity, that a search reasonably calculated to locate responsive records was conducted and that all reasonably segregable, non-exempt information was released. The located records will be handled as follows:

(i) All exempt records or portions thereof will be withheld and the requester so advised along with the statutory basis for the denial; the volume of material being denied, unless advising of the volume would harm an interest protected by exemption (see 5 U.S.C. 552); and the procedure for filing an appeal of the denial.

(ii) All segregable, non-exempt records or portions thereof will be forwarded promptly to the requester.

(j) Records or portions thereof originated by other agencies or information of primary interest to other agencies found in NSA/CSS records will be handled as follows:

(1) The originating agency's FOIA Authority will be provided with a copy of the request and the stated records.

(2) The requester will be advised of the referral, except when notification would reveal exempt information.

(k) Records or portions thereof originated by a commercial or business submitter and containing information that is arguably confidential commercial or financial information as defined in Executive Order 12600 (52 FR 23781, 3 CFR 199 Comp., p. 235) will be handled as follows:

(1) The commercial or business submitter will be provided with a copy of the records as NSA/CSS proposes to release them, and the submitter will be given an opportunity to inform the FOIA office about its objections to disclosure in writing.

(2) The Deputy Director of Policy or his/her designee shall review the submitter's objections to disclosure and, if N5P decides to release records or portions thereof to the requester, provide the submitter with an opportunity to enjoin the release of such information.

(l) Records may be located responsive to an FOIA request which contain portions not responsive to the subject of the request. The non-responsive portions will be processed as follows:

(1) If the information is easily identified as releasable, the non-responsive portions will be provided to the requester.

(2) If additional review or coordination with other NSA/CSS elements or other government agencies or entities is required to determine-the releasability of the information, and the processing of the material would be facilitated by excluding those portions from review, the requester should be consulted regarding the need to process those portions. If the requester states that he is interested in the document in its entirety, including those portions not responsive to the subject of his request, the entire document will be considered responsive and reviewed accordingly.

(3) If the conditions as stated in paragraph (l)(2) of this section pertain, but it not a simple matter to contact and/or reach an agreement with the requester, the non-responsive portions will be whited-out or otherwise marked to differentiate the removal of non-responsive material from the removal of exempt portions. The requester shall be advised that portions were removed as non-responsive. In addition, he/she shall be given an indication of the manner in which those portions would be treated if responsive (e.g., the information would be protected by exemptions, would require extensive review/consultation). Such a response is not considered an adverse determination. If the requester informs the FOIA office of his interest in receiving the ''white-out'' portions, the request will be placed in the same location within the processing queue as the original request and those portions of the documents will be processed.

(4) If the requester states in his initial request that he/she wants all non-responsive portions contained within documents containing responsive information, then the documents will be processed in their entirety.

(m) Any person advised of an adverse determination will be notified of the right to appeal within 60 days of the date of the response letter and that the appeal must be addressed to the NSA/CSS Appeal Authority, National Security Agency, Ft. George G. Meade, MD 20755–6000. The following actions are considered adverse determinations:

(1) Denial of records or portions of records;

(2) Inability of NSA/CSS to locate records;

(3) Denial of a request for the waiver or reduction of fees;

(4) Placement of requester in a specific fee category;

(5) Amount of estimate of processing costs;

(6) Denial of a request for expeditious treatment; and

(7) Non-agreement regarding completion date of request.

(n) The GC or his designee will process appeals and make a recommendation to the Appeal Authority.

(1) Upon receipt of an appeal regarding the denial of information or the inability of the Agency to locate records, the GC or his designee shall review the record and determine whether the denial was proper and/or whether an adequate search was conducted for responsive material, and make other determinations and recommendations as appropriate.

(2) If the GC or his/her designee determines that additional information may be released, the information shall be made available to the requester within 20 working days from receipt of the appeal. The conditions for responding to an appeal for which expedited treatment is sought by the requester are the same as those for expedited treatment on the initial processing of a request (see paragraph (e) of this section.

(3) If the GC or his/her designee determines that the denial was proper, the requester must be advised within 20 days after receipt of the appeal that the appeal is denied. The requester likewise shall be advised of the basis for the denial and the provisions for judicial review of the Agency's appellate determination.

(4) If a new search for records is conducted and produces additional material, the additional records will be forwarded to the Deputy Director of Policy, as the IDA, for review. Following his/her review, the Deputy Director of Policy will return the material to the GC with his/her recommendation for release or withholding. The GC will review the material on behalf of the Appeal Authority, and the Appeal Authority will make the release determination. Upon denial or release of additional information, the Appeal Authority will advise the requester that more material was located and that the IDA and the Appeal Authority each conducted an independent review of the documents. In the case of denial, the requester will be advised of the basis of the denial and the right to seek judicial review of the Agency's action.

(5) When a requester appeals the absence of a response to a request

within the statutory time limits, the GC shall process the absence of a response as it would denial of access to records. The Appeal Authority will advise the requester of the right to seek judicial review.

(6) Appeals will be processed using the same multi-track system as initial requests. If an appeal cannot be responded to within 20 working days, the requirement to obtain an extension from the requester is the same as with initial requests. The time to respond to an appeal, however, may be extended by the number of working days (not to exceed 10) that were not used as additional time for responding to the initial request. That is, if the initial request is processed within 20 working days so that the extra 10 days of processing which an agency can negotiate with the requester are not used, the response to the appeal may be delayed for that 10 days (or any unused portion of the 10 days).

§ 299.6 Fees.

(a) Upon receipt of a request, N5P shall evaluate the request to determine the fee category or status of the requester, as well as the appropriateness of a waiver or reduction of fees if requested. There are no fees associated with a Privacy Act request, except as stated in NSA/CSS Regulation 10–35, Implementation of the Privacy Act of 1974. If fees are assessable, a search cost estimate will be sent to the Key Component(s) expected to maintain responsive records. If N5P assigns a fee category to a requester which differs from that claimed by the requester or determines that a waiver or reduction of fees is not appropriate, N5P shall notify the requester of this discrepancy and of the estimated cost of processing the request. The requester will be given 30 days to provide additional substantiation for the fee status claimed or for a fee waiver or reduction. The requester will be advised that his/her request will not be processed until the discrepancy over the fee category, fee waiver or reduction, or both are resolved. He/she will also be advised of his/her right to appeal N5P's determination. A fee waiver or reduction will be granted or denied in accordance with DoD 5400.7–R and based on information provided by the requester. If the requester does not respond to N5P's initial notification of the discrepancy in fee assessment within the 30 days, N5P's determination about that requester's fee status shall be final

(b) Fees will reflect only direct search, review (in the case of commercial requesters) and duplication costs, recovery of which are permitted by 5 U.S.C. 552. Fees shall not be used to discourage requesters.

(c) No minimum fee may be charged.

(d) Fees will be based on estimates provided by appropriate organizational focal points. Upon completion of the processing of the request and computation of all assessable fees, the request will be handled as follows:

(1) If the actual costs exceed the estimated costs, the requester will be notified of the remaining fees due. Non-exempt information will be provided to the requester and additional fees will be collected upon the requester's agreement to pay the amount in excess. If the requester refuses to pay the amount in excess, processing of the request will be terminated with notice to the requester.

(2) If the actual costs are less than estimated fees which have been collected from the requester, the non-exempt information will be released and the FOIA office will advise Finance and Accounting Office of the need to refund funds to the requester.

(e) Fees for manual searches, review time and personnel costs associated with computer searches will be computed according to the following schedule:

Type	Grade	Hourly rate
(1) Clerical	E9/GS8 and below	$12
(2) Professional	O1–O6/GS9–GS15	25
(3) Executive	O7/SCE/SLE/SLP	45

(f) Fees for machine time involved in computer searches shall be based on the direct cost of retrieving information from the computer, including associated input/output costs.

(g) Search costs for audiovisual documentary material will be computed as for any other record. Duplication costs will be the actual, direct cost of reproducing the material, including the wage of the person doing the work. Audiovisual materials provided to a requester need not be in reproducible format or quality.

(h) Duplication fees will be assessed according to the following schedule:

Type	Cost per page
(1) Office Copy	$.15
(2) Microfiche	.25
(3) Printed Material	.02

§ 299.7 Exempt records.

(a) Records meetings the exemption criteria of 5 U.S.C. 552 need not be published in the **Federal Register**, made available in a reading room, or provided in response to requests made under 5 U.S.C. 552.

(b) The following nine FOIA exemptions may be used by the NSA/CSS to withhold information in whole or in part from public disclosure when disclosure would cause foreseeable harm to an interest protected by the exemption. Discretionary releases will be made whenever possible.

(1) Records specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and which are in fact properly classified pursuant to such Executive Order.

(2) Records relating solely to the internal personnel rules and practices of an agency.

(3) Records which concern matters that a statute specifically exempts from disclosure, so long as the statutory exemptions permit no discretion on what matters are exempt; or matters which meet criteria established for withholding by the statute, or which are particularly referred to by the statute as being matters to be withheld. Examples of such statutes are:

(i) The National Security Agency Act of 1959 (Public Law 86–36 Section 6);

(ii) 18 U.S.C. 798;

(iii) 50 U.S.C. 403–3(c)(6);

(iv) 10 U.S.C. 103; and

(v) 10 U.S.C. 2305(g).

(4) Records containing trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(5) Interagency or intra-agency memoranda or letters that would not be available by law to a party other than an agency in litigation with the agency.

(6) Personnel and medical files and similar files, the disclosure of which, would constitute a clearly unwarranted invasion of personal privacy.

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of the right to a fair trial or to an impartial adjudication;

(ii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy of a living person, including surviving family members of an individual identified in such a record;

(iv) Could reasonably be expected to disclose the identity of a confidential

source, including a source within NSA/CSS, state, local, or foreign agency or authority, or any private institution which furnishes the information on a confidential basis, or could disclose information furnished from a confidential source and obtained by a criminal law enforcement authority in a criminal investigation or by an agency conducting a lawful national security intelligence investigation;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; and

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(8) Records contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(9) Geological and geophysical information and data, including maps, concerning wells.

(c) Information which has not been given a security classification pursuant to the criteria of an Executive Order, but which may be withheld from the public for one or more reasons cited in this section, shall be considered as being ''For Official Use Only'' (FOUO). No other material shall be considered or marked FOUO.

Dated: September 16, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–26144 Filed 9–29–98; 8:45 am]

BILLING CODE 5000–04–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52, 97 and 98

[FRL–6170–4]

Findings of Significant Contribution and Rulemakings on Section 126 Petitions and Federal Implementation Plans for Purposes of Reducing Interstate Ozone Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPR); availability of proposed rule text, request for comment, and public hearing.

SUMMARY: In accordance with section 126 of the Clean Air Act (CAA), EPA is proposing action on eight petitions filed individually by eight Northeastern States seeking to mitigate what they describe as significant transport of one of the main precursors of ground-level ozone, nitrogen oxides (NO_X), across State boundaries. Each petition specifically requests that EPA make a finding that NO_X emissions from certain stationary sources significantly contribute to ozone nonattainment problems in the petitioning State.

As described in a longer, more detailed section 126 proposed rulemaking entitled, ''Findings of Significant Contribution and Rulemaking on Section 126 Petitions for Purposes of Reducing Interstate Ozone Transport'' (hereafter referred to as the longer section 126 NPR), which was signed at the same time as this NPR, EPA is proposing to find that portions of certain petitions are technically meritorious under the test applicable under section 126. The EPA is proposing that the technically meritorious portions of the petitions be deemed granted or denied at certain later dates pending certain actions by the States and EPA regarding State submittals in response to the final NO_X State implementation plan call (NO_X SIP call) that EPA is issuing. The longer section 126 NPR describes the schedule and conditions under which applicable final findings on the petitions would be automatically triggered and proposes the control requirements that would apply to sources in the source categories for which a final finding is ultimately granted. The EPA is also proposing to deny certain petitions, in whole or in part. The longer section 126 NPR, which includes the statement of basis and purpose for the section 126 rulemaking proposal, is included in the rulemaking docket and will be published shortly in the **Federal Register**.

In accordance with section 110(c) of the CAA, EPA is also proposing Federal implementation plans (FIPs) that may be needed if any State fails to revise its SIP to comply with the final NO_X SIP call. The final NO_X SIP call includes emissions budgets which reflect elimination of specified amounts of NO_X emissions for the purposes of reducing NO_X and ozone transport in the eastern half of the Nation.

As described in a longer, more detailed FIP NPR entitled, ''Federal Implementation Plans to Reduce Regional Transport of Ozone'' (hereafter referred to as the longer FIP NPR), which was signed at the same time as this NPR, if a State fails to respond to the NO_X SIP call by not adopting and submitting to EPA a complete SIP revision by September 24, 1999, EPA intends to take final rulemaking action on the FIP immediately thereafter. In addition, if a State submits a SIP that EPA does not find approvable, EPA intends to promulgate a FIP concurrently with finalization of its disapproval of the SIP. The longer FIP NPR, which includes the statement of basis and purpose for the FIP rulemaking action, is included in the rulemaking docket and will be published shortly in the **Federal Register**.

This short proposal on the section 126 petitions and FIPs announces the availability of the longer section 126 and FIP NPRs, which include regulatory text, requests comments on the short and long proposals, and announces the public hearing dates.

DATES: The EPA is establishing a 60-day comment period for the section 126 and the FIP NPRs, ending on November 30, 1998. Comments must be postmarked by the last day of the comment period and sent directly to the Docket Office listed in **ADDRESSES** (in duplicate form if possible). The public hearings for the section 126 and FIP proposals will be held on October 28 and 29, 1998 in Washington, DC. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the comment period and public hearing.

ADDRESSES: Comments may be submitted to the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–97–43 for the section 126 proposal and Docket No. A–98–12 for the FIP proposal, U.S. Environmental Protection Agency, 401 M Street SW, room M–1500, Washington, DC 20460, telephone (202) 260–7548. Comments and data may also be submitted electronically by following the instructions under **SUPPLEMENTARY INFORMATION** of this document. No confidential business information (CBI) should be submitted through e-mail.

The public hearings will be held at the EPA Auditorium, 401 M St., SW., Washington, DC.

Documents relevant to this action are available for inspection at the Docket Office, at the above address, between 8:00 a.m. and 4:00 p.m., Monday though Friday, excluding legal holidays. A reasonable copying fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: General questions concerning the section 126 proposal should be addressed to Carla Oldham, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC, 27711, telephone (919) 541–3347.

General questions concerning the FIP proposal should be addressed to Doug Grano, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC, 27711, telephone (919) 541–3292.

SUPPLEMENTARY INFORMATION:

Public Hearing

The EPA will conduct public hearings on the section 126 and FIP proposals on October 28–29, 1998 beginning at 9:00 am. The public hearings will be held at the EPA Auditorium at 401 M Street SW, Washington, DC, 20460. The metro stop is Waterfront which is on the green line. Persons planning to present oral testimony at the hearings should notify JoAnn Allman, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–1815 no later than October 21, 1998. Oral testimony will be limited to 5 minutes each. Any member of the public may file a written statement before, during, or by the close of the comment period. Written statements (duplicate copies preferred) should be submitted to the relevant docket at the above address. The hearing schedules, including lists of speakers, will be posted on EPA's webpage at http://www.epa.gov/airlinks prior to the hearing. Verbatim transcripts of the hearings and written statements will be made available for copying during normal working hours at the Air and Radiation Docket and Information Center at the above address.

Availability of Related Information

The official records for the section 126 and FIP rulemakings, as well as the public versions (including comments and data submitted electronically as described below), have been established under Docket No. A–97–43 for the section 126 action and Docket No. A–98–12 for the FIP action. The public versions of these records, including printed, paper versions of electronic comments, which do not include any information claimed as CBI, are available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking records are located at the address in **ADDRESSES** at the beginning of this document. Electronic comments can be sent directly to EPA at: A-and-R-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 appropriate docket number. Electronic comments on the proposals may be filed online at many Federal Depository Libraries.

The longer section 126 NPR and longer FIP NPR are contained in their respective rulemaking dockets, are currently available on EPA's Website at http://www.epa.gov/ttn/oarpg under ''recent actions'' and ''actions sorted by CAA title'' (under title I) and will be published shortly in the **Federal Register**.

Documents related to the NO_X SIP call rulemaking, formally entitled ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,'' are available for inspection in Docket No. A–96–56 at the address and times given above. In addition, associated documents are located at http://www.epa.gov/ttn/oarpg/otagsip.html. The NO_X SIP call docket contains information and analyses that are relied upon in the proposals on the section 126 petitions and FIP. Therefore, EPA is including by reference the entire NO_X SIP call docket for purposes of both the section 126 and FIP rulemakings. Although EPA is including by reference the entire NO_X SIP call docket, the only portions that form the basis for the FIP rulemaking are the portions that address feasibility and cost effectiveness of control measures and the projection of emissions reductions that various control measures would achieve.

Relationship Between Short and Long Proposals

In order to meet the publication deadline for the proposal on the section 126 petitions, as set forth in a proposed consent decree, EPA is publishing this short section 126 NPR at this time. A longer, more detailed version of the proposal was signed by the Administrator at the same time as this short NPR. The longer section 126 NPR includes a detailed preamble describing the proposed requirements, addresses the administrative requirements, and provides the proposed regulatory text. The longer section 126 NPR will take more time to process for publication. However, it is currently publicly available in the rulemaking docket and on EPA's web site at the address given above.

The EPA is publishing this short proposal for the FIP in order to meet timing requirements that will allow EPA to hold the FIP public hearing in conjunction with the section 126 public hearing. The EPA believes this is important because both actions rely on the same proposed Federal NO_X Budget Trading Program as a control remedy. A longer, more detailed version of the FIP proposal was signed by the Administrator at the same time as the short FIP NPR. The longer FIP NPR includes a detailed preamble describing the proposed requirements, addresses the administrative requirements, and provides the proposed regulatory text. It is also currently publicly available in its docket and on EPA's website given above.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Emissions trading, Nitrogen oxides, Ozone transport, Reporting and recordkeeping requirements.

40 CFR Part 97

Environmental protection, Air pollution control, Emissions trading, Nitrogen oxides, Ozone transport, Reporting and recordkeeping requirements.

40 CFR Part 98

Environmental protection, Air pollution control, Emissions trading, Nitrogen oxides, Ozone transport, Reporting and recordkeeping requirements.

Dated: September 24, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–26161 Filed 9–29–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6167–8]

Massachusetts: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant final authorization to certain hazardous waste program revisions submitted by The Commonwealth of Massachusetts relating to the Satellite Accumulation Rule. In the final rules section of this **Federal Register**, EPA is authorizing these State program revisions as an immediate final rule without prior proposal because EPA views this action as noncontroversial and anticipates no

adverse comments. A detailed rationale for the authorization is set forth in the immediate final rule. If no adverse written comments are received on this action, the immediate final rule will become effective and no further activity will occur in relation to this proposal. If EPA receives adverse written comments, EPA will withdraw the immediate final rule before its effective date by publishing a notice of withdrawal in the **Federal Register**. EPA will then respond to public comments in a later final rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments on this proposed rule must be received on or before October 30, 1998.

ADDRESSES: You can examine copies of the materials submitted by The Commonwealth of Massachusetts during normal business hours at the following locations: EPA Region I Library, One Congress Street—11th Floor, Boston, MA 02203–0001, Telephone: (617) 565–3300 and Massachusetts Department of Environmental Protection Library, One Winter Street—2nd Floor, Boston, MA 02108, business hours: 9 a.m. to 5 p.m., Telephone: (617) 292–5802. Mail written comments to Robin Biscaia, at the address below.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, EPA Region I, JFK Federal Bldg. (CHW), Boston, MA 02203–0001, Telephone: (617) 565–3265.

SUPPLEMENTARY INFORMATION: For additional information see the immediate final rule published in the rules section of this **Federal Register**.

Dated: August 25, 1998.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 98–25886 Filed 9–29–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 20 and 95

[WT Docket No. 98–169; WT Docket No. 95–47; FCC 98–228]

Interactive Video and Data Service (218–219 MHz Service)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this Notice of Proposed Rule Making (''NPRM''), the Commission examines ways to maximize the efficient and effective use of the 218–219 MHz Service (formerly, Interactive Video and Data Service (IVDS)), both on its own motion, and in response to issues raised in a Petition for Rulemaking, RM–8951. The Commission also seeks comment on whether any of the general competitive bidding rules would be inappropriate for future auctions of 218–219 MHz Service licenses. The Commission believes that these actions will result in a regulatory framework that will promote efficient use of spectrum, foster competition, and facilitate technological innovation in the 218–219 MHz band.

DATES: Interested parties may file comments on or before October 30, 1998, and reply comments on or before November 25, 1998.

ADDRESSES: Federal Communications Commission, Room 222, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Bob Allen at (202) 418–0660 (Auctions & Industry Analysis Division) or James Moskowitz at (202) 418–0680 (Public Safety & Private Wireless Division), Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, WT Docket No. 98–169, RM–8951, adopted September 15, 1998, released September 17, 1998. The full text of this Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street, N.W., Washington, D.C. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800.

1. As the agency charged with management of the non-government radio frequency spectrum, the Commission continually seeks to improve the efficiency of spectrum use, reduce the regulatory burden on spectrum users, encourage competition and provide services to the largest feasible number of users. The Commission believes its proposals herein help further these goals. While its proposals are designed to foster service in the 218–219 MHz band, the Commission makes no representations or warranties about the use of this spectrum for particular services. An FCC auction represents an opportunity to become an FCC licensee in this service, subject to certain conditions and regulations, and does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants for an auction of FCC licenses should perform their individual due diligence before proceeding as they would with any new business venture.

2. This *NPRM* revisits the regulatory status and permissible role of licensee in the 218–219 MHz service. The Commission initiates this rulemaking on its own motion and in response to the issues raised by the Petitioners. In their September 4, 1996 filing, Petitioners request that the Commission amend § 95.811(d) of its rules to extend the term of a 218–219 MHz Service station license from five to ten years. Petitioners further request that the Commission allow 218–219 MHz Service licensees that qualify for installment payments to extend the installment payment period over the new ten-year license term.

3. In their January 28, 1997 amendment, Petitioners also request the following: (1) a reamortization plan consisting of interest-only payments for the first five years, followed by principal and interest payments over the final five years; (2) elimination of the construction benchmarks set forth in § 95.833; (3) elimination of § 95.813(b)(1), which precludes one 218–219 MHz Service licensee from having any financial interest in the other 218–219 MHz Service license in the same market; (4) grant of the then-pending petition for reconsideration of the *Mobility Report and Order* with regard to elimination of the 100 milliwatt ERP limit on mobile response transmitter unit (RTU) operation; (5) elimination of § 95.863(a), the duty cycle limitations; and (6) elimination of § 95.859(a)(2), the height and power limitations for cell transmitter station (CTS) antennas located beyond a boundary line 10 miles outside the predicted Grade B contour of a TV Channel 13 station.

4. Petitioners added three requests in their supplement filed on February 26, 1997: (1) elimination of the prohibition on RTU-to-RTU communications; (2) an additional spectrum allocation; and (3) clarification of several engineering issues in demonstrating compliance with construction benchmarks. Finally, Petitioners supplemented their Petition for Rulemaking on March 13, 1998 with the following requests: (1) clarification that one-way transmission from two or more RTUs to a CTS is a permissible communication that would satisfy any construction requirements; (2) modification of § 95.855 to delete the word ''automatic'' from the power control rule; (3) clarification of

§ 95.861(c) concerning notification of potential interference from 218–219 MHz Service systems; and (4) the opportunity to choose among ''work out'' options for making installment payments that would include an amnesty component.

5. The Commission's decision to postpone the February 1997 auction of Rural Service Area (RSA) and defaulted Metropolitan Statistical Area (MSA) licenses was guided by its concern that its assessment to date regarding the principal uses and regulatory structure of the 218–219 MHz Service may not accurately reflect the breadth of services being developed in the 218–219 MHz band. The Commission has observed the evolution of the wireless telecommunications industry since our *Report and Order,* 57 FR 8272 (March 9, 1992) (''*1992 Allocation Report and Order*''), and the Commission agrees with Petitioners that it is appropriate to reexamine the current and future uses of, and demand for, the 218–219 MHz band, and to determine the appropriate regulatory models to be used for future licensing and regulation of this spectrum. Therefore, in this *NPRM,* the Commission seeks to examine its rules to determine whether they should be modified to provide for maximum flexibility for 218–219 MHz Service licensees, and a regulatory structure that will enable these licensees to meet the public's current and future needs through the most technically and economically efficient use of this spectrum practicable.

A. Regulatory Status and Permissible Communications

6. In the *1992 Allocation Report and Order,* the Commission classified the 218–219 MHz band as a private radio service regulated under Part 95 of our rules (*i.e.,* Personal Radio Services), primarily because the proposed uses were to provide services ''of a personal nature and offered on a subscription basis.'' With the recent addition of mobile services as permissible communications, licensees can provide a variety of mobile, fixed, point-to-point, point-to-multipoint, and multipoint-to-point services.

7. The Commission believes that in order to fully accommodate the wide array of service offerings emerging in the 218–219 MHz Service, and those contemplated for future development, the Commission should change its approach to determining the regulatory status of 218–219 MHz Service licensees. Specifically, the Commission proposes to redesignate the 218–219 MHz Service from a strictly private radio service to a service that can be used for both common carrier and private operations, depending on the services offered by the licensee. This is consistent with Commission precedent, in which the Commission has concluded that authorizing a wide variety of services comports with our statutory authority and serves the public interest by fostering the provision of a mix of services. In its regulation of other bands designated for both common carrier and private operations, the Commission permits licensees to elect common carrier or private status in a manner that allows for a broad range of uses. Similarly, for the 218–219 MHz Service, the Commission proposes to rely on applicants and licensees to specifically identify the type of service or services they intend to provide within the technical parameters of the spectrum allocation, and to require that they include sufficient detail to enable the Commission to determine whether the service will be offered as commercial mobile radio services (CMRS), private mobile radio services (PMRS), a common carrier fixed service, or a private fixed service. The Commission proposes that 218–219 MHz Service mobile service providers elect regulatory status as commercial mobile or private land mobile based on the three-prong statutory definition of CMRS, as interpreted by the Commission in the *CMRS Second Report and Order,* 59 FR 18493 (April 19, 1994), (''*CMRS Second Report and Order*'') and for fixed operations, elect common carrier or private status based on the nature of their service offerings under the definitions set forth in Section 3 of the Communications Act of 1934, as amended (''Communications Act''). The regulatory status that the provider elects would determine the extent to which the applicant or licensee is subject to common carrier regulation. The Commission also proposes to apply regulatory fees and license application requirements consistent with the election of common carrier or private status made by the licensee.

8. This approach should allow the Commission to carry out its regulatory responsibilities without imposing an unnecessary regulatory limitation upon licensees. The Commission notes that its final determination of permissible communications in the 218–219 MHz Service will depend on its conclusions after reviewing the record in this proceeding. The Commission seeks comment on these proposals, or any alternatives, that will ensure that licensees can design their service offerings in response to market demand.

B. License Term

9. Under the Commission's current rules, the term of each system or CTS licensed to operate in the 218–219 MHz Service is five years. The Commission adopted this license term in the *1992 Allocation Report and Order* in the context of awarding licenses by lottery ''to reduce any potential for trafficking in licenses by persons who have no real interest in constructing,'' and as ''consistent with the license term used in most other private radio services.'' To support their request for a ten-year license term, Petitioners note that (1) in services with similar technologies and market areas, the license term is ten years; (2) the use of auctions to award licenses negates the original intent of the five-year term (*i.e.,* discouraging trafficking of lottery-won licenses); and (3) awarding licenses by auction requires a longer license term in which licensees (many of whom are small businesses) may secure adequate financing, develop viable services, and eventually recoup their initial investment. Petitioners also contend that the extension of the license term would trigger a reamortization of the installment payments over the longer license term, and request that the Commission offer 218–219 MHz Service licensees a choice of (i) fulfilling payment obligations with any changes thereto associated with adjustments adopted through this *NPRM;* (ii) amnesty; or (iii) payment through a royalty-based schedule as an alternative to auction payments.

i. Extension of the License Term

10. The Commission agrees with Petitioners that auctionable service licensees should have consistent license terms. The Commission continues to believe that licenses in the 218–219 MHz Service can attract small businesses interested in opportunities to participate in the provision of spectrum-based services. In this regard, a five-year term is particularly burdensome on small businesses paying for licenses using installment payments; to date, the Commission has held auctions in four other wireless services in which certain designated entities were eligible for installment payment plans, and each of those services has a ten-year license term. Therefore, the Commission proposes to amend § 95.811(d) of the Commission's rules to extend the term of 218–219 MHz Service licenses to ten years from the date of license grant. In doing so, the Commission notes that a ten-year license term comports with its proposal to redesignate the 218–219 MHz Service from a private radio

service (generally licensed for a five-year term) to a service that can also provide common carrier services (generally licensed for a ten-year term). Since all 218–219 MHz Service licensees will face the same competitive setting and opportunity costs going forward under the regulatory flexibility the Commission proposes today (irrespective of whether they acquired their licenses by auction or lottery), the Commission proposes to extend the license term of all licenses in the 218–219 MHz Service to ten years to ensure regulatory parity. The Commission seeks comment on these proposals.

ii. Reamortization of Installment Payment Debt and Financing Options

11. The Commission also tentatively concludes that it is in the public interest to permit reamortization of principal and interest installment payments for non-defaulted 218–219 MHz Service licensees in conjunction with the extension of the license term from five to ten years, an approach that is consistent with our general auction rules. Therefore, the Commission proposes reamortization of installment payment terms for 218–219 MHz Service licensees to allow for two years of interest-only payments, followed by payments consisting of interest and principal over the remaining eight years of the license term, an approach that is also consistent with the Commission's general auction rules. Based on the Commission's structure of installment payment plans in other services in which it has limited the interest-only period to two years, the Commission believes that the two-year interest-only period currently applicable to 218–219 MHz Service licensees provides small businesses with the appropriate level of U.S. government assisted financing. The Commission's proposal here is inextricably tied to the requested extension of the license term from five to ten years, in contrast to prior requests to extend payment terms beyond the five year license term based on market considerations, which the Commission denied.

12. To ensure that all 218–219 MHz Service licensees that are not currently in default can take advantage of the proposed reamortization of installment payments, the Commission proposes to grant all properly filed grace period requests as of the effective date of reamortization. At that time, the Commission would recalculate every non-defaulting licensee's installment payment obligations as reamortized, and credit all payments already received under the revised schedule, with any additional funds held in reserve for application against future payments. With regard to interest calculations for 218–219 MHz Service licensees, the Commission notes that § 95.816(d)(2) of its rules require the fixing of such calculations at the time of licensing at a rate equal to the rate for five-year U.S. Treasury obligations. If the Commission adopts its proposal to reamortize the 218–219 MHz Service installment payments over a ten-year license term, then it would impose an interest rate for those plans based on the rate for ten-year U.S. Treasury obligations at the time of licensing. All Suspension Interest (i.e., interest payments back-due from September 30, 1995 and December 31, 1995) would be submitted in eight equal payments over a two-year period, due and payable with each of the first eight scheduled installment payments, as reamortized.

13. The Commission understands that this proposal may trigger the payment of back due amounts, including accrued interest, earlier than expected for some 218–219 MHz Service licensees. Therefore, the Commission proposes to offer licensees two financing options, with such election to be made on a license-by-license basis 90 days from the release date of any Report and Order promulgating the proposed reamortization. First, licensees may choose to continue making installment payments by submitting a payment consisting of all accrued interest and principal (as reamortized) due and owing as of that date. At that time, if necessary, licensees would be able to utilize the 180-day late payment period in the Commission's revised installment payment rules, subject to the applicable late payment fees, before their licenses would automatically cancel as being in default. Alternatively, per Petitioners' request, licensees may surrender any licenses they choose to the Commission for reauction and, in return, have all of the outstanding debt on those licenses forgiven (*i.e.,* an amnesty option much like that offered to broadband personal communication services (PCS) C block licensees). For each license returned under the amnesty option, the licensee would choose either to (1) receive no credit for its down payment but remain eligible to bid on the surrendered licenses in the reauction, with no restriction on after-market acquisitions; or (2) obtain credit for 70 percent of its down payment and forego for a period of two years from the start date of the reauction eligibility to reacquire the licenses surrendered through either reauction or any other secondary market transaction. Under either option, all installment payments made on surrendered licenses, plus the 70 percent credit under the second option, would be applied to previously accrued interest for retained markets, with any excess installment payments (but not down payments) refunded, subject to applicable federal debt collection laws. Every licensee electing to continue making installment payments would be required to execute appropriate loan documentation, that may include a note and security agreement, as a condition of the reamortization of its installment payment plan under the revised ten-year term, pursuant to § 1.2110(f)(3) of the Commission's rules. Licensees that fail to elect a financing option on a timely basis, and licensees who do not complete the requisite loan documentation, would be held to the original five-year payment schedule. The Commission believes that providing this choice would substantially increase licensees' flexibility to make market driven decisions regarding their licenses and enable them to revise their business plans to make them more attractive to lenders and investors. The Commission seeks comment on these proposals.

C. Service and Construction Requirements

14. Section 95.831 of the Commission's rules provides that 218–219 MHz Service licensees make service available to at least 50 percent of the population or land area located within the service area. To accomplish this service level requirement, The Commission sets construction benchmarks as follows: service to at least 10 percent of the population or geographic area within the license service area within one year of the grant of the license; 30 percent within three years; and, 50 percent within five years. Under the Commission rules, failure to meet these build-out requirements results in automatic cancellation of the 218–219 MHz Service system license. For purposes of this benchmark, service is provided by a CTS when two associated RTUs are placed in operation. Each 218–219 MHz Service system licensee must file a progress report at the conclusion of each benchmark period to inform the Commission of the construction status of the system.

15. These rules were crafted in the *1992 Allocation Report and Order* in the context of awarding licenses by lottery, and were intended ''to reduce the filing of speculative applications by entities that have no real intention of implementing [218–219 MHz Service] systems.'' The Commission eliminated the one-year construction benchmark in early 1996, at the request of several

licensees that won their licenses in the July 1994 auction. At that time, the Commission stated that the use of auctions to award licenses reduces the incentives for speculation, and therefore, concluded that the one-year benchmark was unnecessary. The Commission further stated that ''eliminating the one-year construction requirement will provide licensees with greater flexibility in selecting service options, obtaining financing, selecting equipment, and other considerations related to construction of their systems.'' More recently, the Bureau waived the three-year construction benchmark date for all licenses because it would have been unreasonable and contrary to the public interest to enforce the benchmark while relevant Commission policy was subject to review in this rulemaking proceeding.

16. Section 309(j)(3) of the Communications Act states, in part, that when designing competitive bidding systems, ''the Commission shall include safeguards to protect the public interest in the use of the spectrum * * *.'' In addition, Section 309(j)(4)(B) provides that the Commission shall promote investment in, and rapid deployment of, new technologies and services by means of performance requirements, such as deadlines and penalties for performance failures. The Commission previously found that these provisions could be satisfied through construction requirements.

17. The Commission continues to seek to provide 218–219 MHz Service licensees with optimal flexibility in selecting service options, obtaining financing, selecting equipment, and other considerations regarding construction of systems. This interest must be balanced, however, by the mandate of Section 309(j) of the Communications Act. Given the Commission's belief that many of the service offerings that could be provided by 218–219 MHz Service licensees could also be provided by licensees of other services, the Commission believes it is appropriate to revisit the service and construction requirements in the 218–219 MHz Service to ensure that 218–219 MHz Service licensees are subject to consistent policies. Although the Commission disagrees with Petitioners that all construction benchmarks should be eliminated, the Commission believes that strict construction requirements are not the most suitable and effective means of addressing these statutory obligations given that the 218–219 MHz Service spectrum may be used to offer a variety of fixed and mobile services that may compete with capabilities of other wireless services.

18. Balancing these factors, the Commission tentatively concludes that 218–219 MHz Service licensees should be subject to construction requirements consistent with those presently used in other services. Specifically, the Commission proposes to eliminate the three-year and five-year construction benchmarks currently provided in its rules, and instead require that 218–219 MHz Service licensees provide ''substantial service'' to their service areas within five years of license grant. In past Orders, the Commission has defined ''substantial service'' as ''service that is sound, favorable, and substantially above a level of mediocre service, which would barely warrant renewal,'' and the Commission has provided safe harbor examples of substantial service showings, such as licensees offering specialized or technologically sophisticated service that does not require a high level of coverage to be of benefit to customers, or licensees providing a niche service to businesses or focusing on serving populations outside of areas currently serviced by other licensees. The Commission seeks comment on whether this definition or some other articulable standard should be adopted to define substantial service for the 218–219 MHz Service.

19. If the Commission amends its rules to extend 218–219 MHz Service licenses to a ten-year term, it further proposes to require that all 218–219 MHz Service licensees either make service available to at least 20 percent of the population or land area, or demonstrate substantial service, within ten years of license grant. Licensees would demonstrate compliance with the construction requirements by basing their calculations on signal field strengths that ensure reliable service for the technology utilized, using any service radius contour formula developed or generally used by industry, provided that such formula is based on the technical characteristics of their systems. In the alternative, under a ten-year license term scenario, the Commission asks whether, in lieu of establishing benchmarks, it should require licensees to provide substantial service to their service area within ten years of license grant as a condition of renewal. Finally, under a ten-year license term scenario, the Commission proposes to assess compliance of incumbent 218–219 MHz Service licensees with the five-year substantial service benchmark five years from the effective date of such rules promulgated pursuant to this *NPRM*, and the ten-year requirement at the end of their ten-year license term. Under any of these proposals, licensees will be required to file supporting documentation showing compliance with the construction requirements. Failure to meet the benchmark would result in automatic termination of the license, which is consistent with the Commissions current rules for this service.

20. The Commission believes that a substantial service construction requirement can promote efficient use of the spectrum and encourage broad deployment of service. The Commission further believes that this approach will permit a variety of service offerings, facilitate market development, provide a clear and expeditious accounting of spectrum use by licensees, and ensure that meaningful service is being provided without unduly restricting service offerings. The Commission seeks comment on these tentative conclusions and proposals, and any alternatives thereto.

D. License Transferability

21. The Commission adopted a restriction on 218–219 MHz block license transferability in the *1992 Allocation Report and Order* as an anti-trafficking rule governing the award of licenses by lottery. Under the rule, 218–219 MHz Service licensees may not transfer, assign, sell, or give the licenses to any other entity until the five year (50 percent coverage) construction benchmark has been met. In the *Fourth Report and Order*, 59 FR 24947 (May 13, 1994), (''*Competitive Bidding Fourth Report and Order*''), the Commission specifically amended the rule to exclude its application to licenses acquired through auction. Thus, the transferability restriction applies only to the 18 licenses won in the September 1993 lottery. The Commission seeks comment on whether this transfer restriction should be retained. Further, assuming the rule is retained, the Commission seeks comment on determining whether and when a lottery-won license may be transferred in light of its proposed changes to the service and construction rules, and its proposal to permit partitioning and disaggregation of 218–219 MHz Service licenses.

E. Spectrum Aggregation

22. In establishing rules for the 218–219 MHz band, the Commission concluded that the best way to promote competition in the developing marketplace would be ''to make at least two facilities available in each market.'' Therefore, the Commission's cross-ownership rule prohibits an entity from

holding or having an interest in the licenses for both frequency segment A (218.0–218.5 MHz) and frequency segment B (218.5–219 MHz) in the same service area.

23. Petitioners seek elimination of the cross-ownership rule, stating, *inter alia*, that competing services with larger bandwidth and greater capitalization provide the necessary competition to alleviate any concern that a 218–219 MHz Service licensee would exert monopoly power by aggregating one megahertz of spectrum, and that a full one megahertz of spectrum would enhance spectrum flexibility through expanded applications and services. In 1996, the Commission denied a request for rulemaking on this issue. In deciding not to grant the petition for rulemaking, the Commission observed that the ''interactive television marketplace is in a relatively early state of competition,'' and that ''allowing a single entity to acquire both licenses in a service area would limit the opportunity for other potential competitors to emerge.'' That notwithstanding, restricting the competitive analysis of the 218–219 MHz band to the interactive television marketplace is inconsistent with the myriad of services evolving in the 218–219 MHz Service. The Commission believes that the new regulatory environment it seeks to establish with its proposals in this *NPRM* will broaden the field of potential competitors providing services similar to those in the 218–219 MHz Service. Therefore, it is now appropriate to reexamine the cross-ownership prohibition.

24. The Commission seeks comment on whether it should allow licensees to aggregate spectrum in the 218–219 MHz Service without restriction. Would removal of the current cross-ownership prohibition pose a risk of significant competitive harm in some markets? The Commission's goal in managing spectrum efficiently and fostering competition is to license the maximum number of commercially viable competitors per region. Commenters should address whether the 500 kilohertz spectrum capacity limit of one license per market renders these licenses not commercially viable, and why. What other technologies provide, or may in the future provide, comparable services to those currently provided or proposed for this spectrum? The Commission also seeks comment on whether it would be appropriate to include 218–219 MHz in the calculation of spectrum aggregation limits, given its proposal to expand service options to common carrier or CMRS operations.

F. Partitioning and Disaggregation

25. In the *Report and Order and Further Notice of Proposed Rulemaking,* 62 FR 653, 62 FR 696 (January 6, 1997), (*''Partitioning Report and Order''*), the Commission expanded its rules to permit geographic partitioning and spectrum disaggregation for broadband PCS licensees. Consistent with these broadband PCS rules, the Commission proposes to permit partitioning and disaggregation for the 218–219 MHz Service. The Commission tentatively concludes that a flexible approach to partitioned areas, similar to the one it adopted for broadband PCS, is appropriate for the 218–219 MHz Service. The Commission therefore proposes to permit partitioning of 218–219 MHz Service licenses based on any area defined by the parties within the licensee's service area. The Commission seeks comment on this proposal, and in particular on whether there are any technical or other issues unique to the 218–219 MHz Service that might impede the adoption of such a flexible approach. With regard to disaggregation, the Commission notes that even if it permits ownership of both licenses in a market by one entity as proposed above, there would still be only one megahertz of spectrum to disaggregate. Given this relatively narrow frequency segment, and the propagation and technological limitations of the 218–219 MHz band, the Commission seeks comment on the feasibility of spectrum disaggregation in the 218–219 MHz Service, and particularly, whether minimum disaggregation standards are necessary. Commenters should provide technical justifications and other relevant support in responding to this issue. The Commission tentatively concludes that combined partitioning and disaggregation should also be permitted for the 218–219 MHz Service. This approach would afford parties optimal flexibility to respond to market forces and demands for service relevant to their particular locations and service offerings. Further, the Commission proposes to authorize a partitionee and disaggregatee to hold its license for the remainder of the original licensee's term, with renewal expectancy. The Commission believes that this approach would prevent licensees from using partitioning and disaggregation to circumvent our established license term rules. Additionally, by limiting the license term of the partitionee or disaggregatee, the Commission ensures that there will be maximum incentive for parties to pursue available spectrum as quickly as practicable, thus expediting the delivery of service to the public. The Commission seeks comment on these proposals and tentative conclusions.

26. In the *Partitioning Report and Order,* the Commission concluded that allowing partitioning and disaggregation would help to (1) remove potential barriers to entry, thereby increasing competition; (2) encourage parties to use spectrum more efficiently; and (3) speed service to unserved and underserved areas. Similarly, the Commission believes that such an approach for the 218–219 MHz Service would result in the same public interest benefits. The Commission notes that small businesses may face certain barriers to entry into the provision of spectrum-based services, which it believes may be addressed by its partitioning and disaggregation proposals. Providing licensees with the flexibility to partition and disaggregate would create smaller areas that could be licensed to small businesses, including those entities that previously may not have had the resources to participate successfully in spectrum auctions. The Commission seeks comment on these tentative conclusions. In particular, commenters are invited to address whether partitioning and disaggregation will help eliminate market entry barriers for small businesses consistent with Section 257 of the Communications Act. The Commission further invites comment as to the exact mechanisms for apportioning and paying the remaining government obligation between the parties, and whether there are any unique circumstances that would make devising such a scheme for the 218–219 MHz Service more difficult than for broadband PCS.

27. In this *NPRM,* the Commission seeks comment on a new set of construction requirements for 218–219 MHz Service licensees. In other wireless services, the Commission has allowed licensees the flexibility to negotiate which party will be responsible for meeting the applicable construction requirements. In each of those cases, the Commission's goals has been to ensure that licensees had the flexibility to structure their business plans while ensuring that partitioning and disaggregation not be used as a vehicle to circumvent the applicable construction requirements, and that service be offered over the relevant population, even if not on the entire spectrum. The Commission proposes that parties to partitioning and disaggregation in the 218–219 MHz Service have comparable flexibility in meeting construction requirements. Parties to partitioning would be allowed to choose between both parties

satisfying build-out requirements within their respective service areas, or having the partitionor build-out the entire market. Parties to disaggregation would choose whether one or both parties would be obligated to satisfy build-out requirements within the geographic service area. Non-performing licensees' authorizations would be subject to cancellation at the end of the license term. The Commission seeks comment on these proposals.

G. Technical Standards

28. In light of the fact that the Commission's primary goal in this rulemaking is to provide additional flexibility for 218–219 MHz Service licensees, the Commission must also seek to reexamine the technical restrictions currently applicable to the 218–219 MHz Service to determine whether it can enhance the technical flexibility of these licensees, particularly in light of the proposals contained in this *NPRM.* The technical restrictions, including rules requiring automatic power control capability, antenna height and transmitter power limitations, duty cycle limitations, and other interference protection standards, were based on an agreement between TV Answer and the Association for Maximum Service Television that IVDS (as proposed by TV Answer, now known as EON Corporation) and TV Channel 13 operations could co-exist. Interference was of particular concern since the RTU proposed for use by TV Answer was planned to be co-located with the subscriber/viewer's television set. However, the potential applications for the 218–219 MHz Service go far beyond the service envisioned by TV Answer when these rules were designed. The Commission also notes that other services are authorized to transmit in frequencies adjacent to or nearby 218–219 MHz with higher power levels than allowed at 218–219 MHz and no duty cycle restrictions, and that the Commission has not received any complaints of interference to TV Channel 13 from any of these operations.

29. These facts prompt the Commission to seek comment as to whether it should relax some or all of the following technical restrictions, as requested by Petitioners: (a) automatic power control in RTUs with power in excess of 100 milliwatts; (b) limits on transmitter effective radiated power, including the 100 milliwatt power limitation on mobile RTUs; (c) CTS antenna height and transmitter power ratios, whether or not the CTS is located beyond a boundary line 10 miles outside the Grade B contour of a TV Channel 13 station; and (d) duty cycle limitations. The Commission also notes that it has received various requests for waiver of these technical standards that it choose to address in the larger context of this rulemaking, and therefore invite comment on these proposed operations in conjunction with the comments addressing the issues raised in this *NPRM.* The Commission requests that commenters provide empirical data and analysis of the expected effect on interference of changes they recommend. Commenters suggesting specific limits are urged to provide support for their choices, recognizing that the Commission is seeking to provide technical flexibility to coincide with the regulatory flexibility it proposes. Alternatively, comments are sought on whether the interference provisions of § 95.861 of the Commission's rules, which require 218–219 MHz Service licensees to resolve interference problems to television broadcast reception or discontinue operation, are sufficient to protect broadcast reception. The Commission tentatively concludes that the evolution toward precise digital technology, both within the evolving 218–219 MHz Service industry, and on the part of the broadcast industry, will further reduce interference potential, and the Commission seeks comment on this tentative conclusion. Commenters should also address any other technical standards that could be reexamined in this rulemaking that inhibit flexible use of the spectrum and technological innovation.

H. Incorporation by Reference of Part 1 Standardized Auction Rules

30. In the *Part 1 Third Report and Order,* the Commission streamlined its auction procedures by adopting general competitive bidding rules applicable to all auctionable services. These procedures, set forth in Part 1, subpart Q of the Commission's rules, supersede previously-adopted service-specific rules, unless the Commission determines that with regard to particular matters, the retention or adoption of service-specific rules is warranted.

31. The Commission proposes to conduct all future auctions for licenses in the 218–219 MHz Service (both auctions of initial licenses and reauctions of defaulted licenses) in conformity with the general competitive bidding rules set forth in Part 1, subpart Q of the Commission's rules. Specifically, the Commission proposes to employ the Part 1 rules governing designated entities, application issues, payment issues, competitive bidding design, procedure and timing issues, and anti-collusion. In this regard, consistent with the Commission's decision in the *Part 1 Third Report and Order,* the Commission would no longer offer installment payments as a means of financing small business participation in the 218–219 MHz Service auction. Instead, the Commission would retain the two tiers of small business size standards currently set for 218–219 MHz Service licensees, and utilize the standard schedule of bidding credits set forth in the *Part 1 Third Report and Order* as applied to those two tiers of small businesses, which would allow for somewhat higher bidding credits in light of the suspension of installment payment financing. The Commission seeks comment on these proposals and on whether any of our Part 1 rules would be inappropriate in an auction for this service.

32. The Commission adopts this *NPRM* as part of its comprehensive examination of regulations governing the licensing and use of frequencies in the 218–219 MHz band. These actions are intended to establish a flexible regulatory framework for the 218–219 MHz Service that will encourage spectrum efficiency, technical innovation, and competition by these licensees in the wireless marketplace, and serve the ultimate goal of ensuring that the spectrum at 218–219 MHz provides the greatest benefit to the public.

Procedural Matters and Ordering Clauses

I. Ex Parte Rules—Non-Restricted Proceeding

33. This is a non-restricted notice and comment rulemaking proceeding. Ex Parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.1206(a).

B. Initial Regulatory Flexibility Analysis

34. As required by the Regulatory Flexibility Act of 1980, Public Law 96–354, 94 Stat. 1164, as amended by the Contract with America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847, 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible impact on small entities of the proposals suggested in this document. The IRFA is set forth immediately below the Ordering Clause. Written public comments are requested with respect to the IRFA. These comments must be filed

in accordance with the same filing deadlines for comments on the rest of this *NPRM,* but they must have a separate and distinct heading, designating the comments as responses to the IRFA. The Office of Public Affairs, Reference Operations Division, shall send a copy of this *NPRM,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

C. Initial Paperwork Reduction Act of 1995 Analysis

35. This *NPRM* contains either a proposed or modified information collection. As part of the Commission's continuing effort to reduce paperwork burdens, we invite the general public, the Office of Management and Budget (OMB), and other agencies to take this opportunity to comment on the information collections contained in this *NPRM,* as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this *NPRM;* OMB comments are due November 30, 1998. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to both of the following: Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554, or via the Internet to jboley@fcc.gov, and Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street, N.W., Washington, D.C. 20503, or via the Internet to fain__t@al.eop.gov.

D. Notice and Comment Provisions

36. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before October 30, 1998, and reply comments on or before November 25, 1998. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (May 1, 1998).

37. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

38. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 1919 M St. N.W., Room 222, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, Room 239, 1919 M Street, N.W., Washington, DC 20554.

39. Authority for issuance of this *Notice of Proposed Rulemaking* is contained in Sections 4(i), 257, 303(b), 303(g), 303(r), 309(j), and 332(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 257, 303(b), 303(g), 303(r), 309(j), and 332(a).

40. Accordingly, it is ordered that this *Notice of Proposed Rulemaking* is adopted. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *Notice of Proposed Rulemaking,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

41. It is further ordered that notice is hereby given of the proposed amendments to Parts 20 and 95 of the Commission's rules, 47 CFR Parts 20 and 95, in accordance with the proposals in this *Notice of Proposed Rulemaking,* and that comment is sought regarding such proposals. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before October 30, 1998, and reply comments on or before November 25, 1998.

42. It is further ordered that the Petition for Rulemaking and associated amendments filed is granted in part to the extent described above and is denied in all other respects.

Initial Regulatory Flexibility Analysis (IRFA)

43. The Commission has prepared this IRFA of the possible significant economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rulemaking,* Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218–219 MHz Service (*Notice*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on the *NPRM,* as described supra. The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). See 5 U.S.C. 603(a).

I. Need for, and Objectives of, the Proposed Rules

44. This rulemaking proceeding was initiated to secure public comment on proposals to maximize the efficient and effective use of spectrum in the 218–219 MHz band, allocated in 1992 to the Interactive Video and Data Service (IVDS) in the Personal Radio Services, now redesignated as the 218–219 MHz Service. In attempting to maximize the use of the 218–219 MHz band, the Commission continues its efforts to improve the efficiency of spectrum use, reduce the regulatory burden on spectrum users, facilitate technological innovation, and provide opportunities for development of competitive new service offerings. The proposals advanced in the *NPRM* are also designed to implement Congress' goal of giving small businesses the opportunity to participate in the provision of spectrum-based services in accordance with Section 309(j) of the Communications Act of 1934, as amended (the Communications Act).

II. Legal Basis

45. This action, including publication of proposed rules, is authorized under Sections 4(i), 257, 303(b), 303(g), 303(r), 309(j), and 332(a) of the Communications Act, 47 U.S.C. 154(i), 257, 303(b), 303(g), 303(r), 309(j), and 332(a).

III. Description and Estimate of the Number of Small Entities to which the Proposed Rules Will Apply

46. The Regulatory Flexibility Act directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The Regulatory Flexibility Act generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, the Commission further describes and estimate the number of small entity licensees and regulatees that may be affected by the proposed rules, if adopted.

47. There are three ways that may be applicable to define small entities for these proposed rules: (1) the U.S. Small Business Administration's (SBA) size standards under the SBA's Standard Industrial Classifications (SIC), 13 CFR 121.201; (2) the Small Business Act's definition of small entities under 15 U.S.C. 632(a); and (3) the Commission's refined definition of small business for a particular service for the purposes of competitive bidding.

48. The proposals in the *NPRM* would affect a number of small entities who are either licensees, or who may choose to become applicants for licenses, in the 218–219 MHz Service. Such entities fall into two categories: (1) those using the 218–219 MHz Service for providing interactivity capabilities in conjunction with broadcast services; and (2) those using the 218–219 MHz Service to operate other types of wireless communications services with a wide variety of uses, such as commercial data applications and two-way telemetry services. Theoretically, an entity could fall into both categories. The spectrum uses in the two categories differ markedly.

49. With respect to the first category, the provision of interactivity capabilities in conjunction with broadcast services could be described as a wireless provider of subscription television service. The SBA's rules applicable to subscription television services define small entities as those with annual gross revenues of $11 million or less. In the *Tenth Report and Order*, 61 FR 60198 (November 27, 1996), (''*Competitive Bidding Tenth Report and Order*''), the Commission extended special competitive bidding provisions to small businesses with annual gross revenues that are not more than $15 million, and additional benefits to very small businesses with annual gross revenues that are not more than $3 million. On January 6, 1998, the SBA approved of the small business size standards established in the *Competitive Bidding Tenth Report and Order*.

50. The Commission's estimate of the number of small business entities operating in the 218–219 MHz band for interactivity capabilities with television viewers begins with the 1992 Bureau of Census report on businesses listed under SIC Code 4841, subscription television services, which is the most recent information available. The total number of entities under this category is 1,788. There are 1,463 companies in the 1992 Census Bureau report which are categorized as small businesses providing cable and pay TV services. The Commission knows that many of these businesses are cable and television service businesses, rather than businesses operating in the 218–219 MHz band. The Commission also knows that, to date, it has issued 612 licenses in the 218–219 MHz Service. Therefore, the number of small entities currently providing interactivity capability to television viewers in the 218–219 MHz Service which will be subject to the rules will be less than 612.

51. With respect to the second category, neither the Commission nor the SBA has developed a specific definition of small entities applicable to 218–219 MHz band licensees that would provide wireless communications services other than that described above. Generally, the applicable definition of a small entity in this instance appears to be the definition under the SBA rules applicable to establishments primarily engaged in furnishing telegraph and other message communications, SIC Code 4822. This definition provides that a small entity is an entity with annual receipts of $5 million or less. The 1992 Census data, which is the most recent information available, indicates that of the 286 firms under this category, 247 had annual receipts of $4.999 million or less. The Commission seeks comment on whether the appropriate definition for such licensees in the 218–219 MHz Service is SIC Code 4822, or whether it should conclude, for purposes of the Final Regulatory Flexibility Analysis (FRFA) in this matter, that the appropriate definition for all providers of services in the 218–219 MHz Service is the Commission's definition of small businesses for the purposes of competitive bidding in this service.

52. The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area (MSA) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, the Commission defined a small business as an entity, together with its affiliates, that has no more than a $6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years. The Commission cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under its rules in future auctions of 218–219 MHz spectrum. Given the success of small businesses in the previous auction, and the above discussion regarding the prevalence of small businesses in the subscription television services and message communications industries, the Commission assumes for purposes of this IRFA that in future auctions, all of the licenses may be awarded to small businesses, which would be affected by the rule changes it proposes.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

53. The proposed rules under consideration in this *NPRM* include the possibility of altered reporting and recordkeeping requirements for a number of small business entities. Specifically, under the proposals contained in the *NPRM*: (1) 218–219 MHz Service licensees and applicants will be required to elect regulatory status (common carrier, private,

commercial mobile radio service, private mobile radio service) and file appropriate documentation coincident with the regulatory status elected; (2) 218–219 MHz Service licensees will not be required to file a license renewal application after five years from the date of grant of the license, but will be required to file a license renewal application after ten years after the date of grant of the license; (3) non-defaulting 218–219 MHz Service licensees currently participating in the installment payment plan will be required to elect either to continue making payments as reamortized under the revised ten-year term or surrender any licenses it chooses to the Commission for reauction; (4) 218–219 MHz Service licensees electing to continue making installment payments will be required to execute a note and security agreement as a condition of the reamortization of its installment payment plan under the revised ten-year term; (5) 218–219 MHz Service licensees will not be required to file a construction report after the third year of being licensed, but will be obligated to file construction reports in accordance with the benchmarks to be adopted under the proposals herein; and (6) acquisitions by partitioning or disaggregation will be treated as assignments of a license and parties will be required to comply with construction requirements, and to submit a certification to that effect. The Commission requests comment on how these requirements can be modified to reduce the burden on small entities and still meet the objectives of the proceeding.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

54. The *NPRM* solicits comment on a variety of proposals, some of which are described below. Rather than having a significant economic impact on small entities, the *NPRM* is written toward maximizing opportunities for participation by, and growth of, small businesses in providing wireless services. The Commission has requested comment regarding the appropriate definition of small business to be applied under the expanded nature of the 218–219 MHz Service it proposes in the *NPRM*. The Commission expects that its proposals in this *NPRM* regarding extension of license terms from five to ten years, with a corresponding reamortization of installment payment debt, and allowing partitioning and disaggregation of licenses, will specifically assist small businesses. The Commission also believes that its proposals regarding permissible uses of 218–219 MHz Service, liberalization of construction requirements and technical restrictions, and elimination of the cross-ownership restriction, will make expansion of 218–219 MHz Service operations easier, and this flexibility assists all licensees, including small business licensees. The Commission tentatively concludes that a flexible approach to regulation of the 218–219 MHz Service will afford all providers, including small businesses, the ability to respond to market forces and demands for service relevant to their particular locations and service offerings. The regulatory burdens the Commission proposes are necessary in order to ensure that the public receives the benefits of innovative new services in a prompt and efficient manner. The Commission seeks comment on, and will consider, any significant alternatives that are consistent with the objectives set forth in the *NPRM*.

VI. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

List of Subjects

47 CFR Part 20

Communications common carrier, Communications equipment, Radio.

47 CFR Part 95

Communications equipment, Penalties, Radio, Report and record keeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Proposed Rules

Parts 20 and 95 of Chapter I of Title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICES

1. The authority citation for part 20 would be revised to read as follows:

Authority: Secs. 4, 251, 252, 303, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 251, 252, 303, and 332, unless otherwise noted.

2. Section 20.9 would be amended by redesignating paragraphs (a)(12) and (a)(13), as (a)(13) and (a)(14), and adding a new paragraph (a)(12) to read as follows:

§ 20.9 Commercial mobile radio services.

(a) * * *

(12) Mobile operations in the 218–219 MHz Service (part 95, subpart F of this chapter) that provide for-profit interconnected service to the public;

* * * * *

PART 95—PERSONAL RADIO SERVICES

3. The authority citation for part 95 would be revised to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

4. Section 95.1 would be amended by revising paragraph (b) to read as follows:

§ 95.1 The General Mobile Radio Service (GMRS).

* * * * *

(b) The 218–219 MHz Service is a two-way radio service authorized for system licensees to provide communication service to subscribers in a specific service area. The rules for this service are contained in subpart F of this part.

5. Section 95.803 would be amended by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 95.803 218–219 MHz Service description.

(a) The 218–219 MHz Service is a two-way radio service authorized for system licensees to provide communication service to subscribers in a specific service area.

(b) The components of each 218–219 MHz Service system are its administrative apparatus, its response transmitter units (RTUs), and one or more cell transmitter stations (CTSs). RTUs may be used in any location within the service area.

* * * * *

6. Section 95.805 would be revised to read as follows:

§ 95.805 Permissible communications.

A 218–219 MHz Service system may provide any fixed or mobile communications service to subscribers within its service area on its assigned spectrum, consistent with the Commission's rules and the regulatory status of the system to provide services on a common carrier or private basis.

7. A new § 95.807 would be added to read as follows:

§ 95.807 Requesting regulatory status.

(a) Authorizations for systems in the 218–219 MHz Service will be granted to provide services on a common carrier basis or a private basis, or on both a common carrier and private basis in a single authorization.

(1) Initial applications. An applicant will specify on FCC Form 601 if it is requesting authorization to provide services on a common carrier basis, a

private basis, or on both a common carrier and private basis.

(2) Amendment of pending applications. Any pending application may be amended to: (i) change the carrier status requested; or (ii) add to the pending request in order to obtain both common carrier and private status in a single license.

(3) Modification of license. A licensee may modify a license to: (i) change the carrier status authorized; or (ii) add to the status authorized in order to obtain both common carrier and private status in a single license. Applications to change, or add to, carrier status in a license must be submitted on FCC Form 601 in accordance with § 1.1102 of this chapter.

(b) An applicant or licensee may submit a petition at any time requesting clarification of the regulatory status required to provide a specific communications service.

8. Section 95.811, would be amended by removing paragraph (d) and revising paragraphs (b) and (c) to read as follows:

§ 95.811 License requirements.

* * * * *

(b) Each CTS that is in the vicinity of certain receiving locations (see § 1.923(f) of this chapter), or that may have significant environmental effect (see part 1, subpart I of this chapter), or that requires notification to the Federal Aviation Administration (see part 17, subpart B of this chapter), or that has an antenna that exceeds 6.1 meters (m) (20 feet) above ground or an existing man-made structure (other than an antenna structure), must be individually licensed to the 218–219 MHz Service licensee for the service area in which the CTS is located. All other CTSs are authorized under the 218–219 MHz Service system license.

(c) Each component RTU in a 218–219 MHz Service system is authorized under the system license or if associated with an individually licensed CTS, under that CTS license.

9. A new § 95.812 would be added to read as follows:

§ 95.812 License term.

(a) The term of each 218–219 MHz Service system license is ten years from the date of original issuance or renewal.

(b) Licenses for individually licensed CTSs will be issued for a period running concurrently with the license of the associated 218–219 MHz Service system with which it is licensed.

10. Section 95.813 would be amended by revising paragaph (b) and removing paragraph (c) to read as follows:

§ 95.813 Eligibility.

* * * * *

(b) An entity that loses its 218–219 MHz Service authorization due to failure to meet the construction requirements specified in § 95.833 may not apply for a 218–219 MHz Service system license for three years from the date the Commission takes final action affirming that the 218–219 MHz Service license has been canceled.

11. Section 95.815 would be amended by revising paragraph (a) to read as follows:

§ 95.815 License application.

(a) In addition to the requirements of part 1, subpart F of this chapter, each application for a 218–219 MHz Service system license must include a plan showing how the applicant intends to minimize co-channel interference and interference to adjacent channel users and a showing that the proposed system will meet the service requirements set forth in § 95.831 of this part.

* * * * *

12. Section 95.816 would be amended by revising paragraphs (a), (b), (c), (d) introductory text, (d)(1), (d)(2) and (d)(3) to read as follows:

§ 95.816 Competitive bidding proceedings.

(a) Mutually exclusive initial applications for 218–219 MHz Service system licenses are subject to competitive bidding. The procedures set forth in part 1, subpart Q, of this chapter will apply unless otherwise provided in this part.

(b) The Wireless Telecommunications Bureau will select competitive bidding designs and mechanisms in accordance with §§ 1.2103 and 1.2104 of this chapter.

(c) The specific procedures applicable to auctioning particular 218–219 MHz Service licenses will be set forth by Public Notice. Generally, the following competitive bidding procedures will be used to auction mutually exclusive 218–219 MHz Service licenses.

(1) *Forms.* (i) Short-form application. See § 1.2105 of this chapter.

(ii) Long-form application. See § 1.2107 (c) and (d) of this chapter.

(2) *Upfront payments.* Each applicant to participate in a 218–219 MHz Service auction will be required to submit an upfront payment of $9,000 per Metropolitan Statistical Area license and $2,500 per Rural Service Area license for the maximum number of licenses on which it intends to bid pursuant to § 1.2106 of this chapter and procedures specified by Public Notice.

(3) *Down payments.* See § 1.2107(b) of this chapter.

(4) *Full payment.* See § 1.2109(a) of this chapter.

(5) *Default or disqualification.* See §§ 1.2104(g)(2) of this chapter.

(d) *Designated entities.* Designated entities are small businesses and very small businesses, as defined in 95.816(d)(4) of this section, and businesses owned by members of minority groups and/or women, as defined in § 1.2110(b) of this chapter.

(1) *Bidding credits.* (i) A winning bidder that qualifies as a small business (as defined in 95.816(d)(4)(i) of this section) may use a bidding credit of 25 percent to lower the cost of its winning bid.

(ii) A winning bidder that qualifies as a very small business (as defined in 95.816(d)(4)(i)(ii) of this section) may use a bidding credit of 35 percent to lower the cost of its winning bid.

(iii) The bidding credits referenced in paragraphs (1) and (2) of this subsection are not cumulative.

(2) *Installment payments.* See § 1.2110(f) of this chapter.

Note to paragraph (d)(2): Each 218–219 MHz Service system licensee already utilizing an installment payment plan as of the effective date of these rules will be notified by the Commission of the revised terms of its installment payment plan. The Commission may require that such licensee execute appropriate loan documentation, that may include promissory notes, security agreements, and other related agreements as a condition of the revised installment payment plan.

(3) *Audits.* See § 1.2110(l) of this chapter.

* * * * *

13. Section 95.819 would be revised to read as follows:

§ 95.819 License transferability.

(a) A 218–219 MHz Service system license acquired through competitive bidding procedures (including licenses obtained in cases of no mutual exclusivity), together with all of its component CTS licenses, may be transferred, assigned, sold, or given away only in accordance with the provisions and procedures set forth in § 1.2111 of this chapter.

(b) A 218–219 MHz Service system license obtained through random selection procedures, together with all of its component CTS licenses, may be transferred, assigned, sold, or given away to any other entity once the five year construction benchmark (substantial service) has been met, in accordance with the provisions of § 1.948 of this chapter.

(c) If the transfer, assignment, sale, or gift of a license is approved, the new licensee is held to the original construction requirements set forth in § 95.833 of this subpart.

14. A new § 95.823 would be added to read as follows:

§ 95.823 Geographic partitioning and spectrum disaggregation.

(a) *Eligibility.* Parties seeking Commission approval of geographic partitioning or spectrum disaggregation of 218–219 MHz Service system licenses shall request an authorization for partial assignment of license pursuant to § 1.948 of this chapter.

(b) *Technical standards.*—(1) *Partitioning.* In the case of partitioning, requests for authorization of partial assignment of a license must include, as attachments, a description of the partitioned service area and a calculation of the population of the partitioned service area and the licensed geographic service area. The partitioned service area shall be defined by coordinate points at every 3 seconds along the partitioned service area unless an FCC-recognized service area is utilized (i.e., Major Trading Area, Basic Trading Area, Metropolitan Service Area, Rural Service Area, Economic Area) or county lines are followed. The geographic coordinates must be specified in degrees, minutes, and seconds, to the nearest second of latitude and longitude, and must be based upon the 1927 North American Datum (NAD27). Applicants may supply geographical coordinates based on the 1983 North American Datum (NAD83) in addition to those required (NAD27). In the case where an FCC-recognized service area or county lines are utilized, applicants need only list the specific area(s) (through use of FCC designations or county names) that constitute the partitioned area.

(2) *Disaggregation.* Spectrum maybe disaggregated in any amount.

(3) *Combined partitioning and disaggregation.* The Commission will consider requests for partial assignments of licenses that propose combinations of partitioning and disaggregation.

(c) *Provisions applicable to designated entities.*—(1) *Unjust Enrichment.* See § 1.2111(e) of this chapter.

(2) *Parties not qualified for installment payment plans.* (i) When a winning bidder that elected to pay for its license through an installment payment plan partitions its license or disaggregates spectrum to another party that would not qualify for an installment payment plan, or elects not to pay for its share of the license through installment payments, the outstanding balance owed by the licensee (including accrued and unpaid interest) shall be apportioned according to § 1.2111(e)(3) of this chapter.

(ii) The partitionee or disaggregatee shall, as a condition of the approval of the partial assignment application, pay its entire pro rata amount within 30 days of Public Notice conditionally granting the partial assignment application. Failure to meet this condition will result in cancellation of the grant of the partial assignment application.

(iii) The partitionor or disaggregator shall be permitted to continue to pay its pro rata share of the outstanding balance and shall receive new financing documents (promissory note, security agreement) with a revised payment obligation, based on the remaining amount of time on the original installment payment schedule. These financing documents will replace the partitionor's or disaggregator's existing financing documents which shall be marked ''superseded'' and returned to the licensee upon receipt of the new financing documents. The original interest rate, established pursuant to § 1.2110(f)(3)(i) of this chapter at the time of the grant of the initial license in the market, shall continue to be applied to the partitionor's or disaggregator's portion of the remaining government obligation.

(iv) A default on the partitionor's or disaggregator's payment obligation will affect only the partitionor's or disaggregator's portion of the market.

(3) *Parties qualified for installment payment plans.* (i) Where both parties to a partitioning or disaggregation agreement qualify for installment payments, the partitionee or disaggregatee will be permitted to make installment payments on its portion of the remaining government obligation.

(ii) Each party will be required, as a condition to approval of the partial assignment application, to execute separate financing documents (promissory note, security agreement) agreeing to pay its pro rata portion of the balance due (including accrued and unpaid interest), as apportioned according to § 1.2111(e)(3) of this chapter, based upon the installment payment terms for which it qualifies under the rules. The financing documents must be returned to the U.S. Treasury within thirty (30) days of the Public Notice conditionally granting the partial assignment application. Failure by either party to meet this condition will result in the automatic cancellation of the grant of the partial assignment application. The interest rate, established pursuant to § 1.2110(f)(3)(i) of this chapter at the time of the grant of the initial license in the market, shall continue to be applied to both parties' portion of the balance due. Each party will receive a license for its portion of the partitioned market.

(iii) A default on an obligation will affect only that portion of the market area held by the defaulting party.

(iv) Partitionees or disaggregatees that qualify for installment payment plans may elect to pay some of their pro rata portion of the balance due in a lump sum payment to the U.S. Treasury and to pay the remainder in installments as set forth in § 1.2110(f) of this chapter.

(d) *Construction Requirements.*—(1) *Partitioning.* Partial assignors and assignees for license partitioning have two options to meet construction requirements. Under the first option, the partitionor and partitionee would each certify that they will independently satisfy the applicable construction requirements set forth in § 95.833 for their respective partitioned areas. If either licensee failed to meet its § 95.833 requirement, only the non-performing licensee's renewal application would be subject to dismissal. Under the second option, the partitionor certifies that it has met or will meet the § 95.833 requirement for the entire market. If the partitionor fails to meet the § 95.833 requirement, however, only its renewal application would be subject to forfeiture at renewal.

(2) *Disaggregation.* Partial assignors and assignees for license disaggregation have two options to meet construction requirements. Under the first option, the disaggregator and disaggregatee would certify that they each will share responsibility for meeting the applicable construction requirements set forth in § 95.833 for the geographic service area. If parties choose this option and either party fails to do so, both licenses would be subject to forfeiture at renewal. The second option would allow the parties to agree that either the disaggregator or the disaggregatee would be responsible for meeting the § 95.833 requirement for the geographic service area. If parties choose this option, and the party responsible for meeting the construction requirement fails to do so, only the license of the nonperforming party would be subject to forfeiture at renewal.

(3) All applications requesting partial assignments of license for partitioning or disaggregation must include the above-referenced certification as to which of the construction options is selected.

(4) Responsible parties must submit supporting documents showing compliance with the respective construction requirements within the

appropriate construction benchmarks set forth in § 95.833.

15. Section 95.831 would be revised to read as follows:

§ 95.831 Service requirements.

Subject to the initial construction requirements of § 95.833 of this subpart, each 218–219 MHz Service system licensee must either demonstrate that it provides substantial service, or make service available to at least 20 percent of the population or land area located within the service area. ''Substantial service'' means service that is sound, favorable, and substantially above a level of mediocre service that would barely warrant renewal.

16. Section 95.833 would be revised to read as follows:

§ 95.833 Construction requirements.

(a) Each 218–219 MHz Service system licensee must demonstrate that it provides substantial service to its service area within five years of license grant.

Note to paragraph (a): Each 218–219 MHz Service system licensed as of the effective date of these rules must demonstrate that it provides substantial service to its service area within five years of the effective date of these rules.

(b) Each 218–219 MHz Service system licensee must make service available to at least 20 percent of the population or land area within the service area within ten years of grant of the 218–219 MHz Service system license. As an alternative to the coverage requirement of this paragraph, the 218–219 MHz Service system licensee may demonstrate that it provides substantial service to its service area within ten years of license grant.

(c) In demonstrating compliance with the construction requirements set forth in this section, licensees must base their calculations on signal field strengths that ensure reliable service for the technology utilized. Licensees may use any service radius contour formula developed or generally used by industry, provided that such formula is based on the technical characteristics of their system.

(d) Failure to meet the construction requirements set forth in this section will result in automatic cancellation of the 218–219 MHz Service system license, and will result in the licensee's ineligibility to apply for 218–219 MHz Service licenses for three years from the date the Commission takes final action affirming that the 218–219 MHz Service license has been canceled. See 47 CFR § 95.813(b). For the purposes of this section, a CTS is not considered as providing service unless that CTS and two associated RTUs are placed in operation.

(e) Each 218–219 MHz Service system licensee must file a progress report at the conclusion of each of the two benchmark periods to inform the Commission of the construction status of the system. The report must include:

(1) A showing of how the system meets the benchmark; and

(2) A list, including addresses, of all component CTSs constructed.

17. Section 95.853 would be amended by adding a new first sentence to paragraph (a) to read as follows:

§ 95.853 Frequency segments.

(a) There are two frequency segments available for assignment to the 218–219 MHz Service in each service area. * * * * * * * *

[FR Doc. 98–26168 Filed 9–29–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

RIN 1018–AF23

Export of River Otters Taken in Missouri in the 1998–1999 and Subsequent Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is a treaty that regulates international trade in certain species of animals and plants. Exports of specimens (live, dead, or parts and products thereof) of animals and plants listed in Appendix II of CITES require an export permit from the country of origin. Export permits for specimens of species listed in CITES Appendix II are issued by a country's CITES Management Authority after two conditions are met: the country's CITES Scientific Authority must determine that the exports will not be detrimental to the survival of the species. This is known as a ''non-detriment finding''; the CITES Management Authority must determine that the specimens were not obtained in violation of laws for their protection. Live animals or plants require additional findings. For exports from the United States, the U.S. Fish and Wildlife Service's Office of Management Authority and Office of Scientific Authority make these findings.

The purpose of this proposed rule is to announce proposed findings by the CITES Scientific and Management Authorities of the United States on the export of river otters taken in the State of Missouri, and to propose the addition of Missouri to the list of States and Indian Nations approved for export of river otter skins. This approval is on a multi-year basis. The Service proposes to apply these findings to river otters taken in Missouri during the 1998–1999 season and subsequent seasons, subject to the conditions applying to other approved States. We appreciate your comments on this proposed rule.

DATES: The Service will consider comments received on or before October 30, 1998 in making its final determination on this proposed rule.

ADDRESSES: Please send your correspondence concerning this proposed rule to: Office of Scientific Authority; U.S. Fish and Wildlife Service; Mail Stop ARLSQ 750; 1849 C Street, NW; Washington, DC 20240; or via E-mail to: r9osa@mail.fws.gov. Comments and materials received will be available for public inspection, by appointment, from 8:00 am to 4:00 pm, Monday through Friday, at the same address.

FOR FURTHER INFORMATION CONTACT: Scientific Authority finding: Dr. Susan Lieberman, Chief, Office of Scientific Authority; phone: 703–358–1708; fax: 703–358–2276; E-mail: r9osa@mail.fws.gov. Management Authority finding: Ms. Teiko Saito, Chief, Office of Management Authority; U.S. Fish and Wildlife Service; Mail Stop ARLSQ 700; 1849 C Street, NW, Washington, DC 20240; phone: 703–358–2095; fax: 703–358–2280.

SUPPLEMENTARY INFORMATION: On January 5, 1984 (49 FR 590), we published a rule granting approval for the export of pelts of North American river otters (*Lontra canadensis*) and certain other CITES-listed Appendix-II species of furbearing mammals from specified States and Indian Nations, Tribes, and Reservations (hereafter referred to as Indian Nations). That rule covered the 1983–1984 season as well as subsequent seasons. In succeeding years, we have approved the export of pelts of one or more species of furbearing mammals listed in CITES Appendix II from other States and Indian Nations, through the rule-making process. These approvals were and continue to be subject to certain population monitoring and export requirements. The purposes of this proposed rule are to: (1) Announce proposed findings by the Scientific and Management Authorities of the United

States for the export of river otter pelts (*Lontra canadensis*) taken in the State of Missouri; and (2) to add Missouri to the list of States and Indian Nations approved for the export of river otter skins. We propose these findings for the export of the pelts of river otters taken in the State of Missouri during the 1998–1999 and subsequent seasons, subject to the conditions applying to other approved States and Tribes.

CITES regulates the import, export, re-export, and introduction from the sea of animal and plant species listed in the three CITES Appendices for the purpose of controlling trade in those species. According to CITES (and the Endangered Species Act, which implements CITES in the United States):

1. Appendix I includes species threatened with extinction that are or may be affected by trade.

2. Appendix II includes species that, although not necessarily threatened with extinction now, may become so unless their trade is strictly controlled. Appendix II also includes species that must be subject to regulation in order that trade in other currently or potentially threatened species (those in Appendix I or II) may be brought under effective control (e.g., because of difficulty in distinguishing specimens of threatened species from those of other non-threatened species).

3. Appendix III includes species that any Party country identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Party countries to control trade.

CITES Appendix II includes the American river otter pursuant to CITES Article II, paragraph 2(b). You may obtain a copy of the CITES Treaty from the Office of Scientific Authority at the above address or from the Service's web page at http://www.fws.gov. CITES Article II, paragraph 2 states: ''Appendix II shall include: (a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and (b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.'' In the January 5, 1984 **Federal Register** (49 FR 590), we announced the results of a review of the species listed at the fourth meeting of the CITES Conference of the Parties (COP4, held in 1983 in Botswana) regarding U.S. species of furbearing mammals, including the river otter. Specifically, we determined that the river otter is included in Appendix II of CITES because of the similarity in appearance of its pelts (and of products manufactured from those pelts) to other species listed in Appendix I or II. The Service determined at that time that the American river otter did not qualify for CITES Appendix II based on its own conservation status, but rather due to its similarity to other listed species. The January 5, 1985, Notice in the **Federal Register** described how our Office of Scientific Authority planned to monitor, on an annual basis, the population and trade status of the native furbearer species listed pursuant to CITES Article II.2(b). We stated then that we could institute restrictive export controls for a given species, for one or more States or Indian Nations, if export levels appeared to be contributing to long-term population declines. In that document we also described how our Office of Management Authority would require States and Indian Nations to assure the legal acquisition of specimens entering international trade, as evidenced by marking with approved, serially unique tags.

Scientific Authority Findings

Article IV (paragraph 2) of CITES requires that, before the Management Authority issues a permit to export a specimen of a species included in Appendix II, the Scientific Authority must advise ''that such export will not be detrimental to the survival of that species.'' Our Office of Scientific Authority must develop such advice (known as a ''non-detriment finding'') for the export of Appendix-II animals, in accordance with Section 8A(c)(2) of the Endangered Species Act of 1973, as amended. For native U.S. species such as the river otter, the Act requires the Secretary of the Interior to base export determinations and advice ''upon the best available biological information derived from professionally accepted wildlife management practices; but is not required to make, or require any State to make, estimates of population size in making such determinations or giving such advice.''

The wildlife agencies of individual States and Indian Nations manage the river otter. We identified in the January 5, 1984, **Federal Register**, and listed in 50 CFR § 23.53 most of States and Indian Nations approved for the export of river otters. We granted administrative approval to the State of Tennessee for the 1994–1995 season and multi-year approval through a rule-making for 1995–1996 and subsequent seasons (61 FR 2454, January 26, 1996). We granted administrative approval to the State of Missouri for the 1996–1997 and 1997–1998 seasons. Each State or Indian Nation approved by the Service for the export of river otters has a program to regulate the trapping and take of the species.

The Service's Office of Scientific Authority therefore has two primary obligations regarding exports of river otters taken in the United States:

(1) We must find that any U.S. exports of river otter pelts are not detrimental to the population status in the wild of any other similar furbearer species listed in Appendix I or II.

(2) We must determine that the status of river otters in the United States (based on information provided by the States and based on our own monitoring of trade) does not decline to the point where the species itself could qualify for inclusion in CITES Appendix II in its own right, pursuant to Article II.2(a). The CITES Parties adopted new, improved criteria for inclusion of species in Appendix II, pursuant to Article II.2(a), at the ninth meeting of the Conference of the Parties, held in the United States in November 1994 (Resolution Conf. 9.24).

Since listing of the river otter in Appendix II was due to its similarity of appearance to other listed species in need of trade controls, an important component of our non-detriment finding is consideration of the impact of river otter trade on the status of these other species. The Office of Scientific Authority has determined that the CITES requirement of issuing export permits naming the species being traded, coupled with the marking of pelts with tags bearing the name of the species, State of origin, year of take, and a unique serial number, is sufficient to eliminate potential problems of confusion with, and therefore risk to, other listed species. The requirement to tag all river otter pelts with unique, tamper-proof tags is a U.S. requirement that goes beyond any CITES requirement (see Management Authority Findings, below, for tag specifications).

In addition to considering the effect of trade on species or populations other than those being exported from the United States, we will regularly examine information on river otters in the State of Missouri to determine if there is a population decline that might warrant more restrictive export controls. The Service also will continue to work closely with the State of Missouri, which has primary management responsibility for river otters. The monitoring and assessment for Missouri will follow the same approach used for other States and Indian Nations. As part of this monitoring, we annually request

that the States and Indian Nations already approved for export of river otters certify to the Service that the best available biological information derived from professionally accepted wildlife management practices indicates that take of river otters during the forthcoming season will not be detrimental to the survival of the species.

Whenever available information from the States or other sources indicates a possible problem in a particular State, the Scientific Authority will conduct a comprehensive review of accumulated information to determine whether conclusions about the treatment of these species as listed for similarity of appearance (Article II.2.b) continue to be true for the particular State.

Originally a common resident of the State of Missouri, river otters were nearly extirpated from the State between 1860 and 1910. An estimated 70 animals survived in the southeastern part of the State by the mid-1930s. Because most significant habitat changes occurred more recently, this early population decline is believed to be a consequence of unregulated trapping and other killing of the species. Legal protection for the species occurred in 1936, but the species did not begin to recover until the State initiated a restoration and reintroduction program. The Missouri Department of Conservation (MDC) initiated a river otter reintroduction program in 1982, whereby it released 845 river otters at 43 locations in the State. The MDC considers that restoration program to have been completed in 1992; during those 10 years it studied the status and distribution of river otters in the State. Based on information provided by the State of Missouri and other States, the Service believes that the status of river otters in the Midwest of the United States has improved, and populations in virtually all States where the species is native are either stable or increasing. We published a discussion of this release program and our previous findings on river otters in Missouri in the **Federal Register** on April 2, 1996 (61 FR 14543) and October 7, 1996 (61 FR 52403).

According to the MDC, Missouri has in place several different methods to monitor and assess the status of river otters in the State: (1) A three-year study began in 1996, in cooperation with the University of Missouri, to develop population monitoring methods, including a stream survey for otter sign, a capture-per-unit-effort index based on trappers' records, and a refined population model based on age-specific reproduction data and age-distribution data from a sample of Missouri river otters; (2) the State uses aerial surveys of winter tracks to monitor populations, along with Archer's Index to Furbearer Populations, as an index of population trends; and (3) the State has in place a mandatory pelt registration and tagging program during annual trapping seasons, in order to provide a harvest accounting system.

In 1995, the Missouri Conservation Commission approved an otter trapping season for the 1996–1997 season. After further deliberation we approved export authorization for pelts of Missouri river otters taken during the 1996–1997 season. Subsequently, in July 1997, the MDC requested export authority for the 1997–1998 season and subsequent trapping seasons. We granted export authorization for the 1997–1998 season only, based on our evaluation of information provided by Missouri. On June 22, 1998, our Office of Scientific Authority received a detailed request from the State of Missouri for approval of exports of river otter pelts for 1998-1999 and subsequent seasons. The June 22, 1998, request from the State of Missouri Department of Conservation contained detailed analyses of data from the 1997–1998 season as well as previous seasons. This information is available on request from the Office of Scientific Authority.

According to the State of Missouri, trappers took 1,146 otters in the 1997–1998 trapping season. The State believes that trapping pressure and the number of otters taken per licensed trapper (an index of population status) remained basically the same from previous years. Of those otters taken, the State tagged 1,128 with CITES tags provided by the Service. The State also analyzed and necropsied 260 river otters taken in the State as an important component of its assessment of river otter populations. The submission of June 22, 1998, from the State elaborates on these assessments. Using a number of indices and measurements, the State of Missouri has determined that reproductive rates are higher than previously predicted for river otters and that a healthy proportion of the river otter population in the State consists of juveniles and yearlings (both males and females), which reinforces the State's assertion that the population is increasing. The State also used population demographic data from otter necropsies and survival data from radio-telemetry studies to model otter population growth. The MDC has concluded that there is a pre-season estimated population of 6,736 river otters in the State of Missouri, and that this population continues to increase.

Ongoing river otter population surveys in Missouri have taken place both prior to and after the trapping season. Preliminary results indicate a stable or increasing population. The State also calculates indices of capture-per-unit-effort based on trapper diaries, but analysis of these data for the 1997–1998 season is not yet completed. The MDC has also used Archer's Index to Furbearer Populations to detect changes in furbearer populations; those results are consistent with an increase in river otter populations.

The State of Missouri believes that its data support a conclusion that river otter populations are widely distributed and secure in Missouri. The Service notes that whether or not export approval is granted under CITES, the State of Missouri has primary responsibility for managing its river otter populations and will continue its trapping program. The State of Missouri is committed to continue its surveys, population monitoring, and population modeling. Based on: (1) The biological and other information provided by the Missouri Department of Conservation; (2) the existence of a management infrastructure in the State for managing and enforcing trapping regulations; and (3) the determination that permitting and tagging requirements will virtually eliminate the possibility that exporters will misrepresent other similar-appearing CITES-listed species in trade as river otters, the Service's Office of Scientific Authority proposes to issue advice to the Office of Management Authority that exports of river otter pelts of animals legally taken in the State of Missouri will not be detrimental to the population of other similar furbearer species listed in CITES Appendix I or II. Furthermore, the Office of Scientific Authority also believes that river otters in the United States do not qualify for inclusion in CITES Appendix II pursuant to Article II.2(a). Therefore, the Service proposes to add the State of Missouri to the list of States and Indian Nations approved for export of river otters.

Management Authority Findings

Exports of Appendix-II species are allowed under CITES only if the Management Authority is satisfied that the specimens were not obtained in violation of laws for their protection. Therefore, to allow an export, we must be satisfied that applicants wishing to export river otter pelts, hides, or products obtained them in compliance with State, Indian, and Federal law. State or Tribal tagging programs provide evidence of legal take for the following native U.S. species: Alaskan gray wolf,

Alaska brown or grizzly bear, American alligator, bobcat, lynx, and river otter. The States and Tribes have responsibility for management of these species, and we assure ourselves that pelts are taken in accordance with State and Tribal law through a tagging program. The Service annually contracts for the manufacture and delivery of specific CITES animal-hide tags for States and Indian Nations that qualify. We note that, although the United States instituted this tagging requirement independently of CITES, the CITES Parties adopted it for all crocodilian species. The Office of Management Authority is responsible for ordering the tags for all approved States and Indian Nations and provides them at no charge. We have adopted the following export requirements for the 1983–1984 and subsequent seasons:

(1) Current State or Indian Nation, Tribe, or Reservation hunting, trapping, and tagging regulations and sample tags must be on file with our Office of Management Authority;

(2) The tags must be durable and permanently locking, and must show the U.S.–CITES logo, the name of the State or Indian Nation, Tribe, or Reservation of origin, the year of take, the species, and a unique serial number;

(3) Trappers or other persons taking otters must attach tags to all pelts taken within a minimum time after take, as specified by the State or Indian regulation, and must do so as soon as possible to minimize movement of untagged pelts (even pelts not intended for export must be tagged);

(4) Trappers or other persons taking otters must attach tags permanently as authorized and prescribed by the State or Indian regulation;

(5) Takers/trappers/dealers who are licensed or registered by the State or Indian Nation must account for all tags received and must return unused tags to the State or Indian Nation within a specified time after the season closes; and

(6) We will allow the export of fully manufactured fur or hide products from the United States only when the CITES export tags removed from the hides prior to manufacture are surrendered to us prior to export.

Proposed Export Decision

We propose approval of exports of Missouri river otters taken during the 1998–1999 and subsequent seasons on the grounds that such exports meet the criteria for both the Scientific Authority and Management Authority under CITES.

Comments Solicited

We invite your comments on these proposed findings and the proposed rule-making to add Missouri to the list of States approved for export of river otters. We particularly welcome any biological or other scientific information you may have or any analysis of the information provided by the State of Missouri Department of Conservation. In our final decision on this proposed rule, we will consider all comments received, as well as any additional information we may receive. Such consideration could lead to findings different from those presented in this proposal.

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this notice easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the proposed rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the proposed rule in the SUPPLEMENTARY INFORMATION section of the preamble helpful in understanding the proposed rule? What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this notice easier to understand to: Office of Regulatory Affairs, Department of the Interior, room 7229, 1849 C Street, NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

Effects of the Rule and Required Determinations

As a preface to this portion of the notice, we note that the issuance of Management Authority and Scientific Authority findings under CITES does not constitute rulemaking under the Administrative Procedures Act (APA). Nevertheless, we have used the rulemaking procedure to enhance involvement by the states and the public.

The Department of the Interior previously determined (48 FR 37494, August 18, 1983) that the export of river otters from various States and Indian Tribes or Nations, taken in the 1983–1984 and subsequent seasons, is not a major Federal action that would significantly affect the quality of the human environment under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4347). Before a final decision is made on this proposed rule, the Fish and Wildlife Service will determine whether a finding of no significant impact is appropriate under regulations implementing NEPA.

This proposed rule was not subject to Office of Management and Budget review under Executive Order 12866 and would not pose significant economic effects to a substantial number of small entities as outlined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because the existing rule treats exports on a State-by-State and Indian Nation-by-Indian Nation basis and proposes to approve export in accordance with an already existing State or Indian Nation management program, the proposed rule would have little effect on small entities in and of itself. The proposed rule would allow continued international trade in river otters from the United States in according with CITES and does not contain any Federalism impacts as described in Executive Order 12612. This action is not expected to have significant taking implications for U.S. citizens, as per Executive Order No. 12630.

Information Collection Requirements

We have examined this proposed regulation under the Paperwork Reduction Act of 1995 and found it to contain no new information collection requirements for which Office of Management and Budget (OMB) approval is required. Persons exporting river otter skins from the United States may obtain permits which are already authorized under 50 CFR part 23 as approved by OMB and assigned clearance number 1018–0093. No new information collection or permit requirements are contained in this proposed regulation. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability

of U.S.-based enterprises to compete with foreign-based enterprises.

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*), this rule will not significantly or uniquely affect small governments, nor will it produce a Federal mandate of $100 million or greater in any year (i.e., it is not a significant regulatory action under the Unfunded Mandates Reform Act).

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. Individual tribal members are subject to the same regulatory requirements as other individuals who export American river otters.

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. Specifically, this rule has been reviewed to eliminate errors and ambiguity, has been written to minimize litigation, provides a clear legal standard for affected conduct, and specifies in clear language the effect on existing Federal law or regulation.

This proposed rule is issued under the authority of the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Imports, Treaties.

PART 23—ENDANGERED SPECIES CONVENTION

Accordingly, the Service proposes to amend Part 23 of Title 50, Code of Federal Regulations, as set forth below:

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 U.S.T. 1087; and Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

2. In Subpart F—Export of Certain Species, revise § 23.53 to read as follows:

§ 23.53 River otter (Lontra canadensis).

States for which we permit the export of the indicated season's take under § 23.15 of this part:

(a) States and Seasons Approved for Export of River Otter From the United States:

	1977–78[1]	1978–79[2]	1979–80[3]	1980–81	1981–82	1982–83	1983–84 and future	1995–96 and future	1998–99 and future
Alabama	Q	+	+	+	+	+	+	+	+
Alaska	+	+	+	+	+	+	+	+	+
Arkansas	Q	+	+	+	+	+	+	+	+
Connecticut	Q	+	+	+	+	+	+	+	+
Delaware	Q	+	+	+	+	+	+	+	+
Florida	Q	+	+	+	+	+	+	+	+
Georgia	Q	+	+	+	+	+	+	+	+
Louisiana	Q	+	+	+	+	+	+	+	+
Maine	Q	+	+	+	+	+	+	+	+
Maryland	Q	+	+	+	+	+	+	+	+
Massachusetts	Q	+	+	+	+	+	+	+	+
Michigan	Q	+	+	+	+	+	+	+	+
Minnesota	Q	+	+	+	+	+	+	+	+
Mississippi	Q	+	+	+	+	+	+	+	+
Missouri	–	–	–	–	–	–	–	–	+[5]
Montana	Q	+	+	+	+	+	+	+	+
New Hampshire	Q	+	+	+	+	+	+	+	+
New Jersey	–	–	–	–	–	+	+	+	+
New York	Q	+	+	+	+	+	+	+	+
North Carolina	Q	+	+	+	+	+	+	+	+
Oregon	Q	+	+	+	+	+	+	+	+
Penobscot Nation	–	–	–	–	–	–	+	+	+
Rhode Island	Q	+	–	–	–	–	–	–	–
South Carolina	Q	+	+	+	+	+	+	+	+
Tennessee	–	–	–	–	–	–	–	+[4]	+
Vermont	Q	+	+	+	+	+	+	+	+
Virginia	Q	+	+	+	+	+	+	+	+
Washington	Q	+	+	+	+	+	+	+	+
Wisconsin	Q	+	+	+	+	+	+	+	+

[1] For further information, see 42 FR 43729, Aug. 30, 1977; 43 FR 11081, Mar. 16, 1978; and 43 FR 29469, July 7, 1978.
[2] For further information, see 43 FR 11096, Mar. 16, 1978; 43 FR 13913, Apr. 3, 1978; 43 FR 15097, Apr. 10, 1978; 43 FR 29469, July 7, 1978; 43 FR 35013, Aug. 7, 1978; 43 FR 36293, Aug. 16, 1978; and 43 FR 39305, Sept. 1, 1978.
[3] For further information, see 44 FR 25383, Apr. 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, Sept. 7, 1979; and 44 FR 55540, Sept. 26, 1979.
[4] Export for 1994–95 approved administratively (for Tennessee).
[5] Export for 1996–97 and 1997–98 approved administratively (for Missouri).
Q: Export approved with quota.
+: Export approved.
–: Export not approved.

(b) *Condition on export:* Exporters must clearly identify each pelt as to species, State, or Indian Nation of origin, and season of taking, by permanently attaching a serially numbered tag of a type approved by the Service and attached under conditions established by the Service. Exception to the tagging requirement: We will allow

the export of fully manufactured fur or hide products from the United States only when the CITES export tags removed from the hides prior to manufacture are surrendered to us prior to export. Such tags must be removed by cutting the tag straps on the side next to the locking socket of the tag, so that the locking socket and locking tip remain joined.

Dated: September 22, 1998.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–25987 Filed 9–29–98; 8:45 am]

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Notices

Federal Register
Vol. 63, No. 189
Wednesday, September 30, 1998

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

Submission for OMB Review; Comment Request

September 24, 1998.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission (s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Papaya, Carambola, and Litchi from Hawaii.

OMB Control Number: 0579–0123.

Summary of Collection: The United States Department of Agriculture is responsible for preventing plant diseases or insect pests from spreading within the United States. The Plant Quarantine Act authorizes the Department to carry out this mission. Chapter 8 of the Plant Quarantine Act (7 U.S.C. 161) provides authority for the Secretary of Agriculture and the Animal and Plant Health Inspection Service (APHIS) to quarantine any State, Territory, or District of the United States to prevent the spread of plant diseases and insect pests (such as fruit flies) new or widely distributed throughout the United States. APHIS regulates the interstate movement of fruits and vegetables from Hawaii to prevent the spread of the Mediterranean fruit fly, the melon fly, the Oriental fruit fly, and the Malaysian fruit fly, pests that occur in Hawaii and can cause millions of dollars in damage to U.S. agriculture. APHIS will collect information using several forms to ensure fruits from Hawaii are free from pests and disease.

Need and Use of the Information: APHIS will collect information using forms PPQ 540, PPQ 530, PPQ 519 to ensure abui, atemoya, bananas, longan, rambutan, sapodilla, and durian from Hawaii are brought safely into the United States.

Description of Respondents: Business or other for-profit.

Number of Respondents: 426.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 997.

Animal and Plant Health Inspection Service

Title: Gypsy Moth Identification Worksheet.

OMB Control Number: 0579–0104.

Summary of Collection: The Department of Agriculture is responsible for preventing plant diseases or insect pests (such as Gypsy Moth) from entering the United States, preventing the spread of pests not widely distributed in the United States, and eradicating those imported pests when eradication is feasible. The Plant Quarantine Act and the Federal Plant Pest Act authorize the Department to carry out this mission. The Plant Protection and Quarantine Service (PPQ) of the Animal and Plant Health Protection Service (APHIS), engages in detection surveys to monitor for the presence of the European Gypsy moth and the Asian Gypsy moth. The European Gypsy moth is one of the most destructive pests of shade, fruit, and ornamental trees as well as hardwood forests. The Asian Gypsy moth is an exotic strain of Gypsy moth that is closely related to the European variety already established in the United States. In order to determine the presence and extent of a European gypsy moth or an Asian gypsy moth, traps are set in high risk areas to collect specimens. APHIS will collect information using the Gypsy Moth Identification Worksheet to monitor, detect, and eradicate gypsy moth infestations.

Need and Use of the Information: APHIS collects information from the worksheet that includes the name of the submitter, the submitter's agency, the date collected, the trap number, the trap's location (including the nearest port of entry), the number of specimens in the trap, and the date the specimen was sent to the laboratory. The worksheet enables both Federal and State regulatory officials to identify and track specific specimens through the DNA identification tests that are conducted.

Description of Respondents: State, Local or Tribal Government; Federal Government.

Number of Respondents: 120.

Frequency of responses: Reporting: On occasion.

Total Burden Hours: 18.

Food and Nutrition Service

Title: FS Redemption Certificate.

OMB Control Number: 0584–0085.

Summary of Collection: The Food Stamp Act of 1977 requires the Department of Agriculture to issue regulations that provide for the redemption of coupons accepted by retail food stores through approved wholesale food concerns or through insured financial institutions. Food and Nutrition Service (FNS) will provide authorized retail stores and wholesale food concerns with redemption certificates. The Redemption Certificate and Wholesaler Redemption Certificate (RCs) are used by all authorized

wholesalers or retailers when depositing food stamp coupons, and are processed by financial institutions when they are presented for credit or for cash. The issuance of food stamp benefits through the Electronic Benefit Transfer (EBT) system is replacing the issuance of food coupons. FNS will collect information using form FCS–278B.

Need and Use of the Information: FNS will collect information on the verification of the amount of coupons forwarded to the bank for redemption. RCs are distributed to each authorized retailer or wholesaler by FNS for completion. FNS uses the deposit information from the RC to monitor (1) deposits by retailer and wholesale food concerns, and (2) for store monitoring and compliance purposes.

Description of Respondents: Business or other for-profit.

Number of Respondents: 510,470.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 325,483.

Animal and Plant Health Inspection Service

Title: 7 CFR Part 319 (Docket No. 97–107–1) Importation of Fruits and Vegetables.

OMB Control Number: 0579–NEW.

Summary of Collection: The United States Department of Agriculture is responsible for preventing plant diseases or insect pests from entering the United States. The Plant Protection Quarantine Act and the Federal Plant Pest Act authorizes the Department and the Animal and Plant Health Inspection Service (APHIS) to carry out this mission. Implementing the laws is necessary to prevent injurious insect pest and plant diseases from entering the United States, a situation that could produce serious consequences for U.S. agriculture. APHIS is publishing a proposed rule (97–107–1) that would recognize a number of fruits and vegetables from certain parts of the world as eligible (under specified conditions) for importation into the United States. These would include cantaloupe, honeydew melon, and watermelon from Brazil and Venezuela. All fruits and vegetables would be inspected and subject to disinfection at their first port of arrival in the United States. APHIS will use several forms to collect information for the safe importation of fruits and vegetables.

Need and Use of the Information: APHIS will collect information from permit applications to determine if the fruits meet their requirements for importation and also this enables them to evaluate potential risks associated with the proposed movement of these fruits and vegetables into the United States. The information is used to determine whether a permit can be issued, and also to develop risk-mitigating conditions for the proposed movement.

Description of Respondents: Business or other for-profit; Farms; Individuals or households; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 32.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,209.

Animal and Plant Health Inspection Service

Title: 7 CFR Part 340 Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which are Plant Pests or Which There is Reason to Believe are Plant Pests.

OMB Control Number: 0579–0085.

Summary of Collection: The Animal and Plant Health Inspection Service (APHIS) is charged with preventing the introduction into, and dissemination and establishment of plant pests in the United States. The statutory requirements for the information collection activity are found in the Federal Plant Pest Act (FPPA) and the Plant Quarantine Act (PQA). The regulations in 7 CFR part 340 implement the provisions of the FPPA and PQA by providing the information necessary to establish conditions for proposed introductions of certain genetically engineered organisms and products which present a risk of plant pest introduction. APHIS will collect information using APHIS Form 2000.

Need and Use of the Information: APHIS will collect information to ensure that certain genetically engineered organisms, when imported, moved interstate, or released into the environment, will not present risk of plant pest introduction. The information collected through the petition process is used to determine whether a genetically engineered organism will pose a risk to agriculture or the environment if grown in the absence of regulation by APHIS. The information is also provided to State departments of agriculture for review, and made available to the public and private sectors on the Internet to ensure that all sectors are kept informed concerning any potential risks posed through the use of genetic engineering technology.

Description of Respondents: Business or other for-profit; State, Local or Tribal Government; Not-for-profit institutions; .

Number of Respondents: 150.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 4,176.

Farm Service Agency

Title: Disaster Assistance—General (7 CFR Part 1945–A).

OMB Control Number: 0560–0170.

Summary of Collection: Subtitle C of the Consolidated Farm and Rural Development Act of 1972, as amended, authorizes emergency loss (EM) loans for the purpose of assisting farmers and ranchers who have suffered weather-related physical or production losses in areas declared by the President, designated by the Secretary of Agriculture, or named for physical loss loans by the Farm Service Agency (FSA) Administrator. For EM production loss loans, applicants must show a 30 percent loss in at least one basic farming enterprise. For physical losses, applicants must show that the property damaged or destroyed is essential to the continued operation of the farming or ranching operations. Applicants must be unable to obtain commercial credit or recover from the disaster and meet other specific eligibility and repayment requirements. FSA will collect information to evaluate requests for a Secretarial natural disaster designation.

Need and Use of the Information: FSA will collect information on determining whether sufficient losses have been suffered to warrant a Secretarial natural disaster designation, determine whether extenuating circumstances exist to grant a natural disaster designation under the Secretary's discretionary authority. The information will be used by FSA to process State Governor requests for Secretarial natural disaster designations.

Description of Respondents: Farms; Federal Government.

Number of Respondents: 1,960.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,230.

Food Safety Inspection Service

Title: Food Supply Working Group Partnerships.

OMB Control Number: 0583–NEW.

Summary of Collection: The President's Council on Year 2000 Conversion, established on February 4, 1998 by Executive Order 13073, is responsible for coordinating the Federal Government's efforts to address the year 2000 problem. The Council has created approximately three dozen working groups to help U.S. economic or public sectors address Year 2000 computer problems. In late May, the Food Supply Working Group was created and asked to assume the lead for the sector involved in producing and distributing the nation's food supply. The U.S. Department of Agriculture (USDA) has

been charged with chairing this group. The goal of the Food Supply Working Group is to raise the level of Year 2000 problem awareness (Y2K) among those who have a stake in an uninterrupted food supply. It is the working group's aim to ensure that these organizational groups understand the importance of early action, and that they know where they can get assistance in finding appropriate solutions. The strategy of the Food Supply Working Group involves a combination of awareness and assessment outreach. The Food Safety Inspection Service (FSIS) will collect information through phone conversations and consultations with food sector trade and membership organizations.

Need and Use of the Information: The Food Supply Working Group will collect information from sector groups to determine their willingness to form partnerships with senior leaders of the Department of Agriculture to promote public and private sector action on the Y2K problem. The respondents will also be asked if they have conducted a Y2K awareness/assessment survey of their membership and if they would share the results with the Food Supply Working Group. The information will be invaluable in determining what assessment work has already been completed in order to avoid duplication and what areas need further work.

Description of Respondents: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 200.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 33.

Emergency approval for this information collection has been requested by September 25, 1998.

National Appeals Division

Title: National Appeals Division Customer Service Survey.

OMB Control Number: NEW.

Summary of Collection: The National Appeals Division (NAD) proposes to conduct a customer service survey by mail pursuant to Executive Order No. 12862. The NAD of the Department of Agriculture was established by the Secretary of Agriculture on October 20, 1994, by Secretary's Memorandum 1010–1, pursuant to the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994. The Act consolidated the appellate functions of five USDA agencies and provided for the independent hearing and review of adverse decisions of various USDA agencies. Hearing officers conduct evidentiary hearings on adverse decisions or, when an appellant requests, they review the agency's record of the adverse decision without a hearing. Although NAD maintains a database to track appeal requests, the database contains only that information necessary to process the appeal request, such as names, address, filing dates, final results etc. NAD will collect information using a survey.

Need and Use of the Information: NAD will collect information to evaluate the locations of appeal hearing sits and gauge the appellants' preference for face-to-face or telephone hearings, the perception of the fairness of the appeal process itself; how the hearing was conducted, how impartial was the proceeding, how understandable the final determination. The results of the annual survey will be used by NAD managers to set Customer Service Standards and make adjustments and improvements to NAD processes, including location of appeal hearing, use of teleconferences for appeal hearing sand the clarity of NAD notices and determinations.

Description of Respondents: Farm; Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribe Government.

Number of Respondents: 210.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 52.5.

Economic Research Service

Title: Survey of Multifamily Rental Housing Funded through USDA's Rural Rental Housing Program.

OMB Control Number: 0536–NEW.

Summary of Collection: The U.S. Department of Agriculture's Economic Research Service (ERS) has the responsibility for providing social and economic intelligence on changing rural housing needs in the United States and the relationship between Federal housing assistance policies and rural development. Housing has a major influence on the quality of life of rural residents, and is an important focus of the Department's rural economic development efforts. USDA's Section 515 Rural Rental Housing Program provides affordable rental housing to very low-, low-, and moderate-income rural families, including the elderly and the disabled. The program, administered by USDA's Rural Housing Service, employs a public-private partnership by providing loans to developers to construct or renovate modest-cost rental complexes in rural areas. The loans are direct, competitive mortgage loans made to individuals, partnership, for-profit corporations, nonprofit organizations, public agencies, and others to provide affordable multifamily rental housing in rural areas. Tenants pay basic rent or 30 percent of adjusted income, whichever is greater. ERS will collect information from property managers on issues related to the availability of adequate and affordable rental housing for low-income rural residents using a survey.

Need and Use of the Information: The data ERS will collect will enhance the agency's ability to answer questions related to the supply and demand for rental housing in rural areas, particularly for low-income residents, and to assess the operation, use, and effectiveness of USDA rural rental assistance programs. The data collected from property managers overseeing the Rural Rental Housing Program will enable ERS to provide information to the Administration, USDA, and the Congress on the design and efficacy of public policies and programs aimed at fostering economic development in rural areas.

Description of Respondents: Not-for-profit institutions; individual or households; Business or other for-profit.

Number of Respondents: 1,750.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 578.

Food Nutrition Service

Title: Food Stamp Nutrition Education Program Study.

OMB Control Number: 0584–NEW.

Summary of Collection: The Food and Nutrition (FNS), U.S. Department of Agriculture, has contracted with Health Systems Research, Inc. and Research Triangle Institute to conduct a survey with the Directors of the State Sponsoring Agencies who administer and manage the Food Stamp Nutrition Education Program (FSNEP) in their state (may be called Food Nutrition Program). The purpose of the survey is to inform the FNS of what activities took place in each state's FSNEP during Fiscal Year. FNS will collect information using a survey.

Need and Use of the Information: FNS will collect information from data abstracted from State National Education Plan documents and data gathered during mail and telephone surveys of State FSNEP officials. The information gathered in the study will be compiled into a Microsoft Access 2.0 database, a final report and a presentation to FNS of study findings. The database will be created so that FNS can update it after this project ends and use it to generate informative reports about the FSNEPs.

Desriptions of Respondents: Not-for-profit institutions; State, Local, or Tribal Government.

Number of Respondents: 152.
Frequency of Responses: Reporting: Other (one time).
Total Burden Hours: 247.

Nancy Sternberg,

Departmental Information Clearance Officer.

[FR Doc. 98–26090 Filed 9–29–98; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–105–1]

User Fees; Agricultural Quarantine and Inspection Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to user fees charged for agricultural quarantine and inspection services we provide in connection with commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States. The purpose of this notice is to remind the public of the user fees for fiscal year 1999 (October 1, 1998 through September 30, 1999).

FOR FURTHER INFORMATION CONTACT: For information concerning program Operations, contact Mr. Jim Smith, Operations Officer, Program Support, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236, (301) 734–8295.

For information concerning rate development, contact Ms. Donna Ford, User Fees Section Head, FSSB, BAD, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1234, (301) 734–8351.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 354.3 (referred to below as the ''regulations'') contain provisions for the collection of user fees for agricultural quarantine and inspection (AQI) services provided by the Animal and Plant Health Inspection Service (APHIS). These services include, among other things, inspecting commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States from points outside the United States. (The Customs territory of the United States is defined in the regulations as the 50 States, the District of Columbia, and Puerto Rico.)

These user fees are authorized by section 2509(a) of the Food, Agriculture, Conservation and Trade Act of 1990 (21 U.S.C. 136a). This statute, known as the Farm Bill, was amended by section 504 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127) on April 4, 1996.

On July 24, 1997, we published in the **Federal Register** (62 FR 39747–39755, Docket No. 96–038–3) a final rule to amend the regulations by adjusting our user fees for servicing commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States from points outside the United States and by setting user fees for these services for fiscal years 1997 through 2002. When we established the user fees for fiscal years 1997 through 2002, we stated that, prior to the beginning of the fiscal year, we would publish a notice to remind the public of the user fees for that fiscal year. This document provides notice to the public of the user fees for fiscal year 1999.

We inspect commercial vessels of 100 net tons or more.[1] As specified in § 354.3(b)(1), our user fee for inspecting commercial vessels will be $454.50 during fiscal year 1999 (October 1, 1998 through September 30, 1999).

We inspect commercial trucks[2] entering the Customs territory of the United States. Commercial trucks may pay the APHIS user fee each time they enter the Customs territory of the United States from Mexico[3] or purchase a prepaid APHIS permit for a calendar year. Since commercial trucks are also subject to Customs user fees, our regulations provide that commercial trucks must prepay the APHIS user fee if they are prepaying the Customs user fee. In that case, the required APHIS user fee is 20 times the user fee for each arrival, and is valid for an unlimited number of entries during the calendar year (see § 354.3(c)(3)(i) of the regulations). The truck owner or operator, upon payment of the APHIS and the Customs user fees, receives a decal to place on the truck windshield. This is a joint decal, indicating that both the Customs and APHIS user fees for the truck have been paid for that calendar year. As specified in § 354.3(c)(1), our user fee for inspecting commercial trucks will be $4.00 for individual arrivals and, as specified in § 354.3(c)(2), $80.00 for a calendar year 1999 decal.

We inspect commercial railroad cars[4] entering the Customs territory of the United States. These user fees may be paid per inspection or prepaid. Prepaid user fees cover one calendar year's worth of AQI inspections. As specified in § 354.3(d)(1), the user fee for this service will be $6.50 per loaded commercial railroad car for each arrival or, if user fees are prepaid, $130 (20 times the individual arrival fee) for each loaded rail car during fiscal year 1999 (October 1, 1998 through September 30, 1999).

We inspect international commercial aircraft[5] arriving at ports in the Customs territory of the United States. As specified in § 354.3(e)(1), the user fee will be $59.75 during fiscal year 1999 (October 1, 1998 through September 30, 1999).

We also inspect international airline passengers[6] arriving at ports in the Customs territory of the United States. As specified in § 354.3(f)(1), the international airline passenger user fee will be $2.00 during fiscal year 1999 (October 1, 1998 through September 30, 1999).

Done in Washington, DC, this 25th day of September, 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–26251 Filed 9–29–98; 8:45 am]

BILLING CODE 3410–34–M

[1] Those commercial vessels subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(b)(2).

[2] Those commercial trucks subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(c)(2).

[3] Section 354.3(c)(2)(i) of the regulations states that commercial trucks entering the Customs territory of the United States from Canada are exempt from paying an APHIS user fee.

[4] Those commercial railroad cars subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(d)(2).

[5] Those commercial aircraft subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(e)(2).

[6] Those international airline passengers subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(f)(2).

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Provincial Advisory Committee (PAC) will meet on October 15, 1998, at the Siuslaw National Forest, 4077 Research Way, Corvallis, OR. The meeting will begin at 9:00 a.m. and continue until 3:30 p.m. Agenda items to be covered include: (1) Siuslaw National Forest matrix harvest, (2) implementation monitoring, (3) water quality management plan, (4) Swiss needlecast, (5) 15 percent late-successional rule, and (6) PAC rechartering. Committee meetings are open to the public. Two 15-minute open public forums are scheduled for 10:00 a.m. and 3:00 p.m. Interested citizens are encouraged to attend. The Committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Director questions regarding this meeting to Jose Linares, Strategic Planning Staff Officer, Siuslaw National Forest (541–750–7018), or write to the Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, Oregon 97339.

Dated: September 21, 1998.

James R. Furnish,

Forest Supervisor.

[FR Doc. 98–26174 Filed 9–29–98; 8:45 am]

BILLING CODE 3410–11–M

ASSASSINATION RECORDS REVIEW BOARD

Formal Determinations, Additional Releases and Corrections

AGENCY: Assassination Records Review Board.

ACTION: Notice.

SUMMARY: The Assassination Records Review Board (Review Board) met in closed meetings on September 9, 1998 and September 14, 1998, and made formal determinations on the release of records under the President John F. Kennedy Assassination Records Collection Act of 1992 (JFK Act). By issuing this notice, the Review Board complies with the section of the JFK Act that requires the Review Board to publish the results of its decisions in the **Federal Register** within 14 days of the date of the decision.

FOR FURTHER INFORMATION CONTACT: Peter Voth, Assassination Records Review Board, Second Floor, Washington, DC 20530, (202) 724–0088, fax (202) 724–0457. The public may obtain an electronic copy of the complete document-by-document determinations by contacting <Eileen__Sullivan@jfk-arrb.gov>.

SUPPLEMENTARY INFORMATION: This notice complies with the requirements of the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. 2107.9(c)(4)(A) (1992). On September 9, 1998, the Review Board made formal determinations on records it reviewed under the JFK Act.

Notice of Formal Determinations

20 Church Committee Documents: Postponed in Part until 10/2017
6 CIA Documents: Postponed in Part until 05/2001
391 CIA Documents: Postponed in Part until 10/2017
7 DOJ Documents: Open in Full
1 DOJ Document: Postponed in Part until 10/2017
679 FBI Documents: Postponed in Part until 10/2017
29 JCS Documents: Postponed in Part until 10/2017
1 JFK Library Document: Postponed in Full until 10/2017
1 LBJ Library Document: Postponed in Full until 10/2017
1 NARA Document: Postponed in Part until 10/2017
1 Office of the Secretary of Defense Document: Postponed in Part until 10/2017
1 Pike Committee Document: Postponed in Part until 10/2017
2 US ARMY (Califano) Documents: Open in Full
1 US ARMY (Califano) Document: Postponed in Part until 10/2017
228 US ARMY (IRR) Documents: Open in Full
166 US ARMY (IRR) Documents: Postponed in Part until 10/2017

The Review Board also determined that the following records are not believed relevant to the JFK assassination:

CIA Document
104–10079–10281
LBJ Library Documents
177–10001–10277
177–10001–10279
177–10001–10280
US ARMY (IRR) Documents
194–10010–10376
194–10012–10001
194–10012–10002
194–10012–10003
194–10012–10004
194–10012–10005
194–10012–10006
194–10012–10007
194–10012–10009
194–10012–10010
194–10012–10011
194–10012–10040
194–10012–10137
194–10012–10138
194–10012–10139

Notice of Other Releases

After consultation with appropriate Federal agencies, the Review Board announces that documents from the following agencies are now being opened in full: 12 Church Committee documents; 7 JCS documents; 3 JFK Library documents; 1 LBJ Library document; 2 NSA documents; 203 U.S. Army (IRR) documents.

On September 14, 1998, the Review Board made formal determinations on records it reviewed under the JFK Act.

Notice of Formal Determinations

16 CIA Documents: Postponed in Part until 05/2001
16 CIA Documents: Postponed in Part until 10/1999
246 CIA Documents: Postponed in Part until 10/2017
9 DOJ Documents: Open in Full
8 DOJ Documents: Postponed in Part until 10/2017
224 FBI Documents: Postponed in Part until 10/2017
1 HSCA Document: Open in Full
1 HSCA Document: Postponed in Part until 05/2001
3 HSCA Documents: Postponed in Part until 10/1999
2 HSCA Documents: Postponed in Part until 10/2003
15 HSCA Documents: Postponed in Part until 10/2017
105 NSA Documents: Postponed in Part until 10/2017
18 PFIAB Documents: Postponed in Part until 10/2017
3 US ARMY (IRR) Documents: Open in Full
139 US ARMY (IRR) Documents: Postponed in Part until 10/2017

Notice of Other Releases

After consultation with appropriate Federal agencies, the Review Board announces that documents from the following agencies are now being opened in full: 2 Church Committee documents; 39 U.S. Army (IRR) documents.

Notice of Corrections

On August 6, 1998 the Review Board made formal determinations that were published in the August 24, 1998 **Federal Register** (FR 98–22482, 63 FR 12345). The following documents were declared to be not believed relevant to the Kennedy Assassination:

US ARMY (IRR) Documents:
194–10001–10323
194–10001–10415
194–10001–10417
194–10001–10421

On August 25, 1998 the Review Board made formal determinations that were published in the September 15, 1998 **Federal Register** (FR 98–24741, 63 FR 12345). For that Notice, please make the following corrections:

Previously Published

Notice of Other Releases

105 Church Committee documents.

Corrected Data

Notice of Other Releases

104 Church Committee documents.

Dated: September 22, 1998.

Laura A. Denk,

Executive Director.

[FR Doc. 98–26086 Filed 9–29–98; 8:45 am]

BILLING CODE 6118–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Procedures for Support Documentation.

Agency Form Number: None.

OMB Approval Number: 0694–0064.

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

Burden: 352 hours.

Average Time Per Response: 1 to 61 minutes per response.

Number of Respondents: 3,924 respondents.

Needs and Uses: This collection of information contains a recordkeeping requirement and a reporting requirement that involve supporting documentation accompanying an application for an export license (approved by OMB under control no. 0694–0088). The recordkeeping requirement allows exporters to keep documentation supporting their license application in their own files for a period of five years, in lieu of submitting these documents to BXA. The reporting requirement involves certain instances when a foreign importer may request that a U.S. exporter return an Import or End-User Certificate.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Victoria Baecher-Wassmer, (202)–395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: September 24, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–26115 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration.

Title: Computers and Related Equipment.

Agency Form Number: N/A.

OMB Approval Number: 0694–0013.

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

Burden: 86 hours.

Average Hours Per Response: 32 minutes.

Number of Respondents: 160.

Needs and Uses: The advances in U.S. computer technology have created products that have a broad range of end-uses that include military applications and other uses that may be contrary to our national security, foreign policy, and proliferation concerns. In order to continue our profitable international trade position and at the same time protect our national security, it has become necessary to establish a system for precise and detailed evaluations of computer systems. This information is used in making a decision on the export license application.

Affected Public: Businesses or other for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Victoria Baecher-Wassmer (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Victoria Baecher-Wassmer, OMB Desk Officer, (202) 395–5871, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: September 24, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–26116 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southeast Region Gear Identification Requirements.

Agency Form Number(s): None.

OMB Approval Number: None.

Type of Request: New collection.

Burden: 2,192 hours.

Number of Respondents: 1,000 (multiple responses).

Avg. Hours Per Response: 7 minutes to mark traps, 10 seconds to mark coral rocks, and 20 minutes to mark Spanish mackerel gillnet floats.

Needs and Uses: Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act, NOAA is responsible for management of the Nation's marine fisheries. In the Southeast Region, fishing gear must be marked with some form of identification. Law Enforcement personnel use this as a means to ensure compliance with fisheries management regulations. Gear markings help make sure that a vessel harvests fish only from its own traps/pots, etc., and to ensure that they are not illegally placed.

Affected Public: Businesses or other for-profit organizations, individuals.

Frequency: Third party disclosure—this is a marking requirement.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: September 24, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–26117 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Cooperative Game Fish Tagging Report.

Agency Form Number(s): NOAA 88–162.

OMB Approval Number: 0648–0247.

Type of Request: Extension of a currently approved collection.

Burden: 360 hours.

Number of Respondents: 12,000.

Avg. Hours Per Response: 2 minutes.

Needs and Uses: The Cooperative Marine Game Fish Tagging Program is used to gather information on the migratory patterns and other biological information on ''game'' fish by having anglers tag and release their catch. Anglers who tag fish are requested to submit a ''fish tag report card'' which provides information on the species, weight, location, condition, tag number, etc. to the National Marine Fisheries Service. When a fish with a tag is caught, anglers are requested to return it. The data obtained through this program are used to determine growth rates and migratory patterns of recreational an commercially valued species. The resulting analyses are used to develop fishery management plans.

Affected Public: Individuals.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: September 24, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–26118 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Agency: National Institute of Standards and Technology (NIST).

Title: Fastener Quality Act.

Agency Form Number(s): NIST 1269L and 1269–R.

OMB Approval Number: 0693–0015.

Type of Request: Revision of a currently approved collection.

Burden: 116 reporting/recordkeeping hours.

Number of Respondents: 13.

Avg. Hours Per Response: 4 hours for application requirements.

Needs and Uses: As required by the Fastener Quality Act, NIST established a program under which private entities may apply for approval to engage directly in the accreditation of laboratories for the testing of fasteners under the Act and to accredit registrars that register manufacturing facilities that utilize quality assurance systems. The information collected is used to make sure that the applicant meets all the criteria set forth in the law to ensure that the industry only produces high quality fasteners meeting the standards and specifications established by the International Organization for Standardization.

Affected Public: Businesses or other for-profit organizations.

Frequency: On occasion, recordkeeping.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Maya Bernstein, (202) 395–4816.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: September 24, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–26119 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Import Certificates and End-User Certificates.

Agency Form Number: None.

OMB Approval Number: 0694–0093.

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

Burden: 1,199 hours.

Average Time Per Response: 15 minutes per response.

Number of Respondents: 5,775 respondents.

Needs and Uses: Import or End-User Certificates are an undertaking by the government of the country of ultimate destination (the issuing government) to exercise legal control over the disposition of the items covered by the importer (ultimate consignee or purchaser) and transmitted to the exporter (applicant). The control exercised by the government issuing the Import or End-User Certificate is in addition to the conditions and restrictions placed on the transaction by BXA.

Affected Public: Businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Victoria Baecher-Wassmer (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier,

DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Victoria Becher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: September 24, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–26120 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Marine Recreational Fishery Statistics Survey.

Agency Form Number(s): None.

OMB Approval Number: 0648–0052.

Type of Request: Revision of a currently approved collection.

Burden: 27,207 hours.

Number of Respondents: 585,382.

Avg. Hours Per Response: Ranges between 30 seconds and 7 minutes depending on the requirement.

Needs and Uses: This survey conducts random telephone interviews of residents of coastal country households to obtain data on marine recreational fishing effort and it conducts random field interviews of anglers returning from fishing trips to obtain data on the average catches of different fish species per angler fishing trip. These data are used to calculate bimonthly estimates of marine recreational fishing participation, effort and catch by species. The effort and catch estimates are used in the development, implementation and monitoring of fishery management programs by the National Marine Fisheries Service, regional fishery management councils, interstate marine fisheries commissions and state fishery agencies.

Affected Public: Businesses or other for-profit organizations, individuals.

Frequency: Bimonthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: September 24, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–26121 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Processed Product Family of Forms.

Agency Form Number(s): NOAA 88–13 and 88–13c.

OMB Approval Number: 0648–0018.

Type of Request: Revision of a currently approved collection.

Burden: 620 hours.

Number of Respondents: 1,200.

Avg. Hours Per Response: 5 minutes.

Needs and Uses: This is a survey of seafood and industrial fishery processing firms. Respondents are asked to supply annual volume and value of the processed product and monthly employment. Data are used in economic analysis to estimate the capacity and extent of which U.S. fish processors utilize domestic harvest. These data are used to carry out provisions of the Magnuson-Stevens Fishery Conservation and Management Act. The data are also used in multilateral trade negotiations and tariff studies and by industry in making business decisions affect the fishing and seafood industries. This collection also includes a monthly data collection on fish oils which are used to produce certain products. Industry uses the data for their purchase and production activities.

Affected Public: Businesses or other for-profit organizations.

Frequency: Annually, monthly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: September 24, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–26134 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southwest Region Gear Identification Requirements.

Agency Form Number(s): None.

OMB Approval Number: None.

Type of Request: New collection.

Burden: 1,420 hours.

Number of Respondents: 232 (multiple requirements).

Avg. Hours Per Response: 2 minutes per float/trap.

Needs and Uses: Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act, NOAA is responsible for management of the Nation's marine fisheries. The regulations require that fishing gear in certain fisheries be marked. The identifying marks are used by the National Marine Fisheries Service, United States Coast Guard, and other marine agencies in issuing violations, prosecutions and other enforcement actions. The markings are also used for gear identification concerning damage, loss and civil proceedings.

Affected Public: Businesses or other for-profit organizations, individuals.

Frequency: Third party disclosure.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: September 24, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–26135 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southwest Region Vessel Identification Requirements.

Agency Form Number(s): None.

OMB Approval Number: None.

Type of Request: New collection.

Burden: 264 hours.

Number of Respondents: 326.

Avg. Hours Per Response: 15 minutes each for markings.

Needs and Uses: Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act, NOAA is responsible for management of the Nation's marine fisheries. As part of this overall effort, NOAA has included in their requirements the need for fishing vessels and auxiliary equipment to display their official number in a clearly visible manner. The display assists law enforcement officials in monitoring fishing and other activities and to ascertain whether the activities are specifically authorized for that vessel.

Affected Public: Businesses or other for-profit organizations, individuals.

Frequency: Third party disclosure.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: September 24, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–26136 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Sea Grant Program Grant Applications, John A. Knauss Marine Policy Fellowships, and Application for Designation as a Sea Grant College or Regional Consortia.

Agency Form Number(s): NOAA 90–1 and 90–4.

OMB Approval Number: None (formerly 0648–0008, 0648–0019, 0648–0034, 0648–0147 and 0648–0294).

Type of Request: New collection.

Burden: 580 hours.

Number of Respondents: 91.

Avg. Hours Per Response: 15 minutes and 20 hours depending on the requirement.

Needs and Uses: Persons or institutions wishing to obtain a Sea Grant, a John A. Knauss Marine Policy Fellowship, or designation as a Sea Grant College or Regional Consortia must submit application information. The information is used to evaluate and select proposals received.

Affected Public: Not-for-profit institutions, individuals, state, local or tribal government.

Frequency: On occasion, annually.

Respondent's Obligation: Required for benefit.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: September 24, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–26137 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1001]

Approval of Manufacturing Activity Within Foreign-Trade Zone 92 Pascagoula, MS; Friede Goldman International, Inc. (Shipbuilding/ Offshore Drilling Platforms)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Greater Gulfport/Biloxi Foreign Trade Zone, Inc, grantee of FTZ 92, has requested authority under § 400.32(b)(1) of the Board's regulations on behalf of Friede Goldman International, Inc. and its subsidiary, HAM Marine, Inc., to manufacture, refurbish, and repair ships, offshore oil and gas drilling rigs, and other marine vessels under zone procedures within FTZ 92, Pascagoula, Mississippi (filed 3–30–98, FTZ Docket 15–98);

Whereas, pursuant to § 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has the authority to act for the Board in making such decisions on new manufacturing/processing activity under certain circumstances, including situations where the proposed activity is the same, in terms of products involved, as activity recently approved by the Board (§ 400.32(b)(1)(i)); and,

Whereas, the FTZ Staff has reviewed the proposal, taking into account the

criteria of § 400.31, and the Executive Secretary has recommended approval;

Now, therefore, the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation and hereby approves the request subject to the Act and the Board's regulations, including § 400.28, and further subject to the following conditions: (1) any foreign steel mill products admitted to FTZ 92 for the Friede Goldman International, Inc./HAM Marine Inc., activity, including pipes and tubes, not incorporated into merchandise otherwise classified, and which is used in manufacturing, shall be subject to Customs duties in accordance with applicable law, unless the Executive Secretary determines that the same item is not then being produced by a domestic steel mill; and, (2) in addition to the annual report, Friede Goldman International, Inc./HAM Marine, Inc., shall advise the Board's Executive Secretary (§ 400.28(a)(3)) as to significant new contracts with appropriate information concerning foreign purchases otherwise dutiable, so that the Board may consider whether any foreign dutiable items are being imported for manufacturing in the zone primarily because of subzone status and whether the Board should consider requiring Customs duties to be paid on such items.

Signed at Washington, DC, this 3rd day of September 1998.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration; Alternate Chairman; Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–26213 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 43–98]

Foreign-Trade Zone 171—Liberty County, TX; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Liberty County Economic Development Corporation, grantee of FTZ 171, requesting authority to expand its zone in Liberty County, Texas, adjacent to the Houston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended, (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on September 9, 1998.

FTZ 171 was approved on January 4, 1991 (Board Order 501, 56 FR 1166, 1/11/91). The zone project currently consists of 4 sites (246 acres) in Liberty County: *Site 1* (150 acres)—City of Cleveland's International Industrial Park on Highway FM 2025 west of U.S. Highway 59; *Sites 2 and 3* (45 and 27 acres)—two industrial park sites on the Trinity River some 2 miles south of U.S. Highway 90, City of Liberty; and, *Site 4* (24 acres)—within the Cleveland Municipal Airport facility, Highway FM 787, Liberty County.

The applicant is now requesting authority to expand the general-purpose zone to include an additional site (proposed *Site 5*—583 acres, 2 parcels)—Sjolander Plastics Storage Railyard facility, adjacent to Highway 146, approximately 2 miles south of Dayton, Texas (Liberty County). The proposed FTZ site is on the west and east sides of the railyard facility, but does not include the existing railyard. Activity at the proposed FTZ site would include general ware-housing, the storage of plastic pellets from the petrochemical industry, bagging of pellets, and intermodal (truck-rail) transfer. There are also plans to expand the facility to accommodate a wider range of products and to facilitate improved rail service. Site development plans call for construction of up to 20 buildings (each approx. 250,000 sq. ft.) and establishment of a intermodal container transfer facility. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 30, 1998. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period December 14, 1998.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 500 Dallas, #1160, Houston, TX 77002

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: September 10, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–26214 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

[A–580–807]

Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Notice of Final court Decision and Amended Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final court decision and amended final results of antidumping duty administrative review.

SUMMARY: On July 8, 1998, in the case of *STC Corporation* v. *United States*, The United States Court of International Trade (the Court) affirmed the Department of Commerce's (the Department) redetermination for STC Corporation (STC) arising out of the first review of polyethylene terephthalate film sheet, and strip (PET film) from the Republic of Korea. The review covers the period November 30, 1990 through May 31, 1992. As there is now a final and conclusive court decision in this action, we are amending the final results of review with respect to sales by STC during the review period. We will instruct the U.S. Customs Service to liquidate STC's entries accordingly.

EFFECTIVE DATE: September 30, 1998.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, or John Kugelman, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4475, or 0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 15, 1997, the Court issued an order remanding in part the amended final results issued on February 12, 1996. *See STC Corp* v. *United States*, 990 F. Supp. 829 (CIT 1997). In its December 15, 1997 order the Court directed the Department to

implement a tax-neutral methodology for calculating value added taxes (VAT) for STC. In accordance with the remand order, the Department recalculated VAT by adding the absolute amount of home market tax to U.S. price. The Court affirmed the Department's remand results on July 8, 1998, in *STC Corp* v. *United States,* Court No., 95–09–01181. As there is now a final and conclusive court decision with respect to STC, we are amending the final results of review for this company.

Amendment to Final Results of Review

Pursuant to section 516A(e) of the Act, we are now amending the final results for STC for the period November 30, 1990 through May 31, 1992. The recalculated margin for STC Corporation is 11.62 percent.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

We note that STC's current cash deposit rate is based upon an administrative review conducted subsequent to this segment of the proceeding. Therefore, this amendment of the final results does not affect the current cash deposit rate for STC.

This notice is published pursuant to section 751(A) of the Act.

Dated: September 23, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–26215 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

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

ACTION: Publication of Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared its quarterly update to the annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty during the period April 1, 1998 through June 30, 1998. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: September 30, 1998.

FOR FURTHER INFORMATION CONTACT: Russell Morris, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230, telephone: (202) 482–2786.

SUPPLEMENTAL INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department of Commerce (the Department) to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(g)(b)(4) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on cheeses that were imported during the period April 1, 1998 through June 30, 1998.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702 (g)(b)(2) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: September 23, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration,

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [1] Subsidy	Net [2] Subsidy
Austria	European Union Restitution Payments	$0.22	$0.22
Belgium	EU Restitution Payments	0.07	0.07
Canada	Export Assistance on Certain Types of Cheese	0.24	0.24
Denmark	EU Restitution Payments	0.10	0.10
Finland	EU Restitution Payments	0.27	0.27
France	EU Restitution Payments	0.16	0.16
Germany	EU Restitution Payments	0.20	0.20
Greece	EU Restitution Payments	0.00	0.00
Ireland	EU Restitution Payments	0.23	0.23
Italy	EU Restitution Payments	0.17	0.17
Luxembourg	EU Restitution Payments	0.07	0.07
Netherlands	EU Restitution Payments	0.10	0.10
Norway	Indirect (Milk) Subsidy	0.33	0.33
	Consumer Subsidy	0.15	0.15
Total		0.48	0.48
Portugal	EU Restitution Payments	0.09	0.09
Spain	EU Restitution Payments	0.13	0.13

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY—Continued

Country	Program(s)	Gross [1] Subsidy	Net [2] Subsidy
Switzerland	Deficiency Payments	0.89	0.89
U.K.	EU Restitution Payments	0.08	0.08

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 98–26212 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of revocation of Export Trade Certificate of Review No. 95–00001.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to VINEX International Inc. Because this certificate holder has failed to file an annual report as required by law, the Secretary is revoking the certificate. This notice summarizes the notification letter sent to VINEX International Inc.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (''the Act'') (Pub. L. 97–290, 15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III (''the Regulations'') are found at 15 CFR part 325 (1997). Pursuant to this authority, a certificate of review was issued on July 25, 1995 to VINEX International Inc.

A certificate holder is required by law to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate (Section 308 of the Act, 15 U.S.C. 4018, Section 235.14(a) of the Regulations, 15 CFR 325.14(a)). The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (Sections 325.14(b) of the Regulations, 15 CFR 325.14(b)). Failure to submit a complete annual report may be the basis for revocation (Sections 325.10(a) and 325.14(c) of the Regulations, 15 CFR 325.10(a)(3) and 325.14(c)).

On August 1, 1997, the Department of Commerce sent to VINEX International Inc., a letter containing annual report questions with a reminder that its annual report was due on September 8, 1997. Additional reminders were sent on January 9, 1998 and on July 9, 1998. The Department has received no written response to any of these letters.

On August 4, 1998, and in accordance with Section 325.10(c)(1) of the Regulations, (15 CFR 325.10(c)(1)), the Department of Commerce sent a letter by certified mail to notify VINEX International Inc. that the Department was formally initiating the process to revoke its certificate for failure to file an annual report. In addition, a summary of this letter allowing VINEX International Inc. thirty days to respond was published in the **Federal Register** on August 10, 1998 at 63 FR 42614. Pursuant to 325.10(c)(2) of the Regulations (15 CFR 325.10(c)(2)), the Department considers the failure of VINEX International Inc. to respond to be an admission of the statements contained in the notification letter.

The Department has determined to revoke the certificate issued to VINEX International Inc. for its failure to file an annual report. The Department has sent a letter, dated September 9, 1998, to notify VINEX International Inc. of its determination. The revocation is effective thirty (30) days from the date of publication of this notice. Any person aggrieved by this decision may appeal to an appropriate U.S. district court within 30 days from the date on which this notice is published in the **Federal Register** (325.10(c)(4) and 325.11 of the Regulations, 15 CFR 324.10(c)(4) and 325.11 of the Regulations, 15 CFR 325.10(c)(4) and 325.11).

Dated: September 24, 1998.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 98–26172 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Textile Trade Mission to Turkey

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce invites U.S. companies to participate in the following overseas trade mission: Textile Trade Mission to Turkey, Location: Istanbul, Turkey, Date: October 14, 1998.

FOR FURTHER INFORMATION CONTACT: Lawrence Brill, Department of Commerce, Tel: 202–482–1856 Fax: 202–482–2859; or Reginald Beckham, Department of Commerce, Tel: 202–482–5478 Fax: 202–482–1999.

Dated: September 25, 1998.

Tom Nisbet,

Director, Promotion Planning and Support Division.

[FR Doc. 98–26173 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092398C]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Law Enforcement Advisory Panel (AP).

DATES: This meeting will be held on October 14, 1998, from 1:00 p.m. to 5:00 p.m.

ADDRESSES: This meeting will be held at the Four Points Hotel Riverwalk North, 110 Lexington Avenue, San Antonio, TX; telephone: 210–223–9461.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S.

Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The purpose of the meeting will be to review the management alternatives being considered by the Council in its Sustainable Fisheries Act Generic Amendment. The Law Enforcement AP will also review the status of Amendments 16A and 16B to the Fishery Management Plan (FMP) for Reef Fish in the Gulf of Mexico and Amendment 9 to the FMP for Coastal Migratory Pelagic Resources. Recent regulatory actions regarding total allowable catch (TAC), size limits, trip limits, etc. will also be discussed.

The Law Enforcement AP will also receive a presentation from the NMFS on its vessel monitoring system pilot program in the Gulf of Mexico.

The Law Enforcement AP consists of chief enforcement agents for the state and Federal fishery agencies in the Gulf area who advise the Council on fishery issues.

Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by October 7, 1998.

Dated: September 24, 1998.

Bruce Morehead,

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

[FR Doc. 98–26185 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hudson River Natural Resource Damage Assessment: Notice of Availability and Request for Comments on a Damage Assessment Scoping Document

AGENCIES: National Oceanic and Atmospheric Administration (NOAA), United States Department of the Interior (DOI), and Department of Environmental Conservation, State of New York.

ACTION: Notice of availability of a draft Damage Assessment Scoping Document and of a 80-calendar day period for public comment on the plan.

SUMMARY: Notice is given that the document entitled ''Draft Scope for the Hudson River Natural Resource Damage Assessment Plan'' is available for public review and comment. The first step of the Hudson River Natural Resource Damage Assessment, issuance of the preassessment screen determination for the Hudson River, was completed in October 1997. The ''Draft Scope for the Hudson River Natural Resource Damage Assessment Plan'' document represents the initiation of the second step, assessment planning, in the Hudson River Natural Resource Damage Assessment (NRDA) being conducted by the State and Federal natural resource trustees. The purpose of the assessment plan is to ensure that the Trustees perform the assessment of injury to natural resources along the Hudson River in a planned and systematic manner, pursuant to 43 CFR Part 11 of the Federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), NRDA Regulations. Public review of this scoping document, as announced by this notice, is consistent with 43 CFR 11.32 (c).

DATES: Comments must be submitted in writing on or before December 19, 1998.

ADDRESSES: Written requests for copies and written comments for the Draft Scope of the Hudson River NRDA Plan should be sent to Steven Jay Sanford at the New York State Department of Environmental Conservation, Natural Resources Damages Unit, Room 403, 50 Wolf Road, Albany, NY 12233–1090; Lisa DiPinto at the National Oceanic and Atmospheric Administration Damage Assessment Center, 1305 East-West Highway, SSMC 4 Rm 10218, Silver Spring, MD 20910; or Anne Secord at Department of the Interior, US Fish and Wildlife Service, 3817 Luker Rd, Cortland, NY 13045.

FOR FURTHER INFORMATION CONTACT: Steven Jay Sanford, 518–457–7987 (FAX: 518–485–8424; email: sxsanfor@gw.dec.state.ny.us; Lisa DiPinto, 301–713–3038 ext. 187 (FAX: 301–713–4387; email: lisa.dipinto@noaa.gov or Ann Secord, 607–753–9334 (FAX: 607–753–9699; email: anne__secord@fws.gov) .

SUPPLEMENTARY INFORMATION: Pursuant to section 107(f) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended (42 USC 9601 *et seq.*), and other applicable Federal and state laws, Federal and state officials may act on behalf of the public as Trustees for natural resources to pursue claims for natural resource damages for injury to, destruction of, or loss of natural resources resulting from the release of hazardous substances to the environment. Claims may be pursued against parties responsible for releasing hazardous substances to the environment. Under CERCLA, sums recovered by trustees as damages shall be used only to restore, rehabilitate, replace, or acquire the equivalent of such natural resources.

In October 1997, the United States Department of the Interior (DOI), the National Oceanic and Atmospheric Administration (NOAA), and the New York State Department of Environmental Conservation (NYSDEC), referred to as the Trustees, issued a preassessment screen determination for the Hudson River, in accordance with the Federal Regulations for Natural Resource Damages Assessments (43 CFR Part 11 (b)). The preassessment screen documents the Trustees' determination that conditions in the River warrant a natural resource damage assessment (NRDA). The preassessment screen documents releases of polychlorinated biphenyls (PCBs) along approximately 200 miles of the Hudson River from identified sources of contamination between Hudson Falls and the Thompson Island Dam. The effects of these releases on natural resources, for which Federal and state agencies may assert trusteeship under section 107(f) of CERCLA, serves as a basis for making a claim against the potentially responsible parties identified with the documented PCB releases. The Trustees acknowledge that there are other sources of contamination to the river, including inactive hazardous waste disposal sites, paper mills, combined sewer overflows, sewage effluent, and tributaries entering the river. These sources may also be addressed in the NRDA.

Under the CERCLA regulations (subpart c), the next step in the NRDA process is the preparation of an assessment plan. This scoping document is a preliminary outline of the potential contents of an NRD Assessment plan for the Hudson River. The assessment plan will be designed to address injuries to a variety of natural resources and natural resource services associated with the release of hazardous substances in the Hudson River environment.

Dated: September 24, 1998.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 98–26147 Filed 9–29–98; 8:45 am]

BILLING CODE 3510–ES–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Acceptance of Group Application Under Pub. L. 95–202 and Department of Defense Directive (DoDD) 1000.20 ''Vietnamese Citizens Who Served in Vietnam as Commandos Under Contract With the United States Armed Forces During the Period January 1, 1961, to December 31, 1970, a/k/a the Lost Army Commandos''

Under the provisions of Section 401, Public Law 95–202 and DoD Directive 1000.20, the Department of Defense Civilian/Military Service Review Board has accepted an application on behalf of the group know as: ''Vietnamese citizens who served in Vietnam as commandos under contract with the United States Armed Forces during the period January 1, 1961, to December 31, 1970, a/k/a The Lost Army Commandos.'' Persons with information or documentation pertinent to the determination of whether the service of this group should be considered active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 60 days to the DoD Civilian/Military Service Review Board, 1535 Command Drive, EE–Wing, 3rd Floor, Andrews Air Force Base, MD 20762–7002. Copies of documents or other materials submitted cannot be returned.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–26088 Filed 9–29–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows:

DATES: 9 October 1998, (800am to 1600pm).

ADDRESSES: The Defense Intelligence Agency, Bolling AFB, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj Donald R. Culp, USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, D.C. 20340–1328, (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(I), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: September 25, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–26140 Filed 9–29–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows:

DATES: 13 October 1998 (800am to 1600pm).

ADDRESSES: The Defense Intelligence Agency, Bolling AFB, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj Donald R. Culp, USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, D.C. 20340–1328, (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: September 25, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–26141 Filed 9–29–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows:

DATES: 15 October 1998 (800am to 1600pm).

ADDRESSES: The Defense Intelligence Agency, 7400 Defense Pentagon, Washington, DC 20301–7400.

FOR FURTHER INFORMATION CONTACT: Maj Donald R. Culp, USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, D.C. 20340–1328, (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(l), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advised the Director, DIA, on related scientific and technical matters.

Dated: September 25, 1998.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 98–26142 Filed 9–29–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows:

DATES: 19–20 October 1998 (800am to 1600pm).

ADDRESSES: The Defense Intelligence Agency, Bolling AFB, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj Donald R. Culp, USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, D.C. 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: September 25, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–26143 Filed 9–29–98; 8:45 am]

BILLING CODE 5000–04–M

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, October 7, 1998. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1:30 p.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, Pennsylvania.

In addition to the subjects listed below which are scheduled for public hearing, the Commission will also address the following: Minutes of the September 9, 1998 business meeting; announcements; General Counsel's report; report on Basin hydrologic conditions; consideration of resolutions concerning Fiscal Year 1998 budget adjustments, reclassification of the Water Supply Storage Facilities Fund from a special revenue fund to an enterprise fund, amendment to the agreement between the Commission and the Delaware Department of Natural Resources and Environmental Control concerning Delaware Estuary water quality monitoring; and public dialogue.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *Conoco, Inc. D–97–38.* A project to improve and expand a portion of existing docking facilities on the tidal reach of the Delaware River at the Dupont Repauno Plant in Gibbstown, Greenwich Township, Gloucester County, New Jersey. The dock will continue to serve the adjacent Dupont and Conoco plant sites. The construction includes approximately 11 acres of dredging.

2. *Wernersville Municipal Authority D–98–10 CP.* An application for approval of a ground water withdrawal project to supply up to 17.6 million gallons (mg)/30 days of water to the applicant's distribution system from previously approved Well Nos. 3 through 8, existing Well No. 9, and from new Well No. 12, and to increase the existing withdrawal limit of 9 mg/30 days from all wells to 17.6 mg/30 days. The project is located in Wernersville Borough and South Heidelberg Township, Berks County, Pennsylvania.

3. *J.G. Townsend, Jr. & Company D–98–37.* An application for approval of a ground water withdrawal project to supply up to 16.84 mg/30 days of water to the applicant's agricultural irrigation system from new Well No. 9-Hercules, and to limit the withdrawal from all project wells to 16.84 mg/30 days. The project is located northwest of the City of Lewes, Sussex County, Delaware.

4. *Lucent Technologies, Inc. D–98–41.* An application for a Total Dissolved Solids (TDS) determination appropriate to both the applicant's current and anticipated discharge at its existing 3.6 million gallons per day industrial wastewater treatment plant (IWTP). The IWTP will continue to discharge to Spring Run, a tributary of the Lehigh River, in the City of Allentown, Lehigh County, Pennsylvania. The allowable TDS concentration for the IWTP is needed in anticipation of the applicant's plan to reduce water usage and wastewater discharge and raise the TDS concentration. The IWTP will continue to serve only the applicant's electronic component and communication chips manufacturing plant.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883–9500 ext. 203 prior to the hearing.

Dated: September 22, 1998.

Susan M. Weisman,

Secretary.

[FR Doc. 98–26184 Filed 9–29–98; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education, Meeting

AGENCY: National Advisory Council on Indian Education, ED.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Indian Education. The purposes of this meeting is to discuss the Presidential Executive Order 13096 on American Indian and Alaska Native Education, and to discuss the reauthorization of programs under the Elementary and Secondary Education Act of 1965 (ESEA), of which the Title IX Indian Education Program is included. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES AND TIMES: October 12, 1998, 1:00 p.m.–4:30 p.m. and October 13, 1998, 10:00 a.m.–4:30 p.m., and October 14, 1998, 10:00 a.m.–12:00 p.m.

ADDRESSES: Nashville Convention Center, Nashville, TN (202) 638–1616.

FOR FURTHER INFORMATION CONTACT: Dr. David Beaulieu, Director, Office of Indian Education, 400 Maryland Avenue, SW, Washington, DC 20202. Telephone: (202) 260–3774; Fax: (202) 260–7779.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is a presidentially appointed advisory council on Indian education established under Section 9151 of Title IX of the Elementary and Secondary Education Act of 1965, as amended, (20 U.S.C. 7871). The Council advises the Secretary of Education and the Congress on funding and administration of programs with respect to which the Secretary has jurisdiction and that includes Indian children and adults as participants or from which they benefit. The Council also makes recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs. The meeting of the Council is open to

the public without advanced registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the Council for its consideration. Written statements should be submitted to the address listed above.

A summary of the proceedings and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting, and are available for public inspection at the Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, Washington DC 20202 from the hours of 8:30 a.m. to 5:00 p.m.

Dated: September 24, 1998.

Gerald N.Tirozzi,

Assistant Secretary, Office of Elementary and Secondary Education.

The National Advisory Council on Indian Education, October 12–14, 1998

Meeting Location, Nashville Convention Center, 601 Commerce Street, Nashville, TN 37203, 615–742–2000

Monday, October 12, 1998

1:00 p.m.

Roll call

History of working relationship with NIEA, NARF, NCAI

1:30 p.m.

Presidential Executive Order 13096 on American Indian and Alaska Native Education

Overview of Executive Order

Update on Initial Activities

Development of Plan for NACIE Participation

4:30 p.m.

Recess

Tuesday, October 13, 1998

10:00 a.m.

Call to Order

Opening Remarks

10:15 a.m.

Open Meeting on: Reauthorization of Title IX Indian Education Programs

Executive Order Initiatives

12:00

Lunch

1:00 p.m.

Review of Meeting Summaries

Development of Annual Report Outline

4:30 p.m.

Recess

Wednesday, October 14, 1998

10:00 a.m.

Call to Order

Opening Remarks

10:15 a.m.

Conduct Old Business of NACIE

Conduct New Business of NACIE

12:00

Adjourn NACIE Meeting

[FR Doc. 98–26219 Filed 9–29–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–367–001]

East Tennessee Natural Gas Company; Notice of Compliance Filing

September 24, 1998.

Take notice that on September 17, 1998, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 2511, Houston, Texas 77252, filed Fifth Revised Sheet No. 105 in compliance with the Federal Energy Regulatory Commission's Letter Order issued September 2, 1998 in the above-referenced docket.

East Tennessee requests that the revised tariff sheet be deemed effective September 3, 1998.

East Tennessee states that on August 3, 1998, it filed certain revised tariff sheets to, among other things, changed the name of its software and interactive computer system from the ''TENN–SPEED 2 System'' to the ''System.'' East Tennessee further states that in the September 2nd Letter Order, the Commission accepted the revised tariff sheets, but noted that there was still a reference to the TENN–SPEED 2 System contained in East Tennessee's tariff. The Commission therefore directed East Tennessee to revise Sheet No. 105 to reflect the change in name from the TENN–SPEED 2 System to the System.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–26107 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Great Lakes Gas Transmission Limited Partnership; Notice of Final Revenue Sharing Report—Past Period Charges

September 24, 1998.

Take notice that on September 18, 1998, Great Lakes Gas Transmission Limited Partnership (Great Lakes), filed with the Federal Energy Regulatory Commission (Commission) its Final Interruptible/Overrun (I/O) Revenue Sharing Report related to past period charges in compliance with the interest compliance plan established on July 2, 1998 in Great Lakes' rate proceeding in Docket No. RP91–143–045, and the Commission's order issued July 30, 1998 in Docket No. RP91–143–046 which approved Great Lakes' interest compliance plan.

Great Lakes states that this report was prepared and submitted in accordance with its July 2 interest compliance plan and that the report reflects final remittances made to firm shippers for: (a) I/O revenue related to past period charges collected from I/O shippers resulting from the return to rolled-in pricing for the period November 1, 1991 through September 30, 1995, based upon Great Lakes' current Revenue Sharing mechanism established under Article IV of the Stipulation and Agreement in Partial Settlement of Rate Proceedings in Docket Nos. RP91–143–000, et al., filed on September 24, 1992, and approved by Commission order dated February 3, 1993, as modified by further Commission order issued in Great Lakes' restructuring proceeding in Docket No. RS92–63 on October 1, 1993, and (b) application of additional interest on prior I/O Revenue Sharing distributions made by Great Lakes to firm shippers in this proceeding. Great Lakes states that final remittances were made to eligible firm shippers on August 21, 1998.

Great Lakes states that a copy of its filing is being made available for public inspection during regular business hours at Great Lakes' offices, One Woodward Avenue, Detroit, Michigan 48226, and that copies of its filing were served on its firm customers, parties to this proceeding, and the Public Service Commissions of the States of Minnesota, Wisconsin and Michigan.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and

Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–26106 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–93–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 24, 1998.

Take notice that on September 18, 1998, Koch Gateway Pipeline Company (Koch) tendered for filing the following tariff sheets in its FERC Gas Tariff, Fifth Revised Volume No. 1, to be effective September 25, 1998.

Fifth Revised Volume No. 1
Fourth Revised Sheet No. 1300
Fifth Revised Sheet No. 1401

On September 18, 1998, Koch filed the Fourth Revised Sheet No. 1300 and Fifth Revised Sheet No. 1401 for the purpose of updating the phone numbers needed to obtain Customer Electronic System software and subscriptions to Koch's electronic bulletin board. The phone number currently listed on the existing Sheets Nos. 1300 and 1401 are no longer in service. Koch requested a waiver of Section 154.207 of the Commission's regulations in order to make the proposed sheets effective on September 25, 1998.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.W., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–26102 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–410–000]

Koch Gateway Pipeline Company; Notice of Compliance Filing

September 24, 1998.

Take notice that on September 18, 1998, Koch Gateway Pipeline Company (Koch) tendered for filing the tariff sheets listed in Attachment A in its FERC Gas Tariff, Fifth Revised Volume No. 1, to be effective October 19, 1998.

Koch filed in compliance with the Commission's Final Order No. 587–H issued July 15, 1998, requiring interstate natural gas pipelines to implement the intra-day GISB standards by November 2, 1998. This compliance filing addresses the changes that Koch is making to its tariff resulting from implementation of the GISB standards.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–26112 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–368–001]

Midwestern Gas Transmission Company; Notice of Compliance Filing

September 24, 1998.

Take notice that on September 17, 1998, Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77252, filed Second Revised Sheet No. 55 and First Revised Sheet No. 165 in compliance with the Federal Energy Regulatory Commission's Letter Order issued September 2, 1998 in the above-referenced docket.

Midwestern requests that the revised tariff sheets be deemed effective September 3, 1998.

Midwestern states that on August 3, 1998, it filed certain revised tariff sheets to, among other things, change the name of its software and interactive computer system from the ''TENN–SPEED 2 System'' to the ''System.'' Midwestern further states that in the September 2nd Letter Order, the Commission accepted the revised tariff sheets, but noted that there were still references to the TENN–SPEED 2 System contained in Midwestern's tariff. The Commission therefore directed Midwestern to revise Sheet Nos. 55 and 165 to reflect the change in name from the TENN–SPEED 2 System to the System.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–26108 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–404–000]

Mississippi River Transmission Corporation; Notice of Filing

September 24, 1998.

Take notice that on September 16, 1998, Mississippi River Transmission Corporation MRT) tendered for filing as part of the General Terms and Conditions to FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets:

Second Revised Sheet No. 98
Third Revised Sheet No. 99
Original Sheet No. 99–A
Original Sheet No. 99–B
Original Sheet No. 99–C
Original Sheet No. 99–D
Original Sheet No. 99–E
Second Revised Sheet No. 185

MRT proposes an effective date of October 16, 1998, and states that the purpose of this filing is to revise MRT's method of allocating and awarding available firm capacity utilizing a net present value method and to eliminate MRT's current method of maintaining a capacity queue. MRT further states that it proposes to utilize MRT's current queue as a ''tie-breaker'' applicable to awards of firm capacity that would otherwise be of equal economic value.

MRT states that the copy of this filing is being mailed to each of MRT's customers and to the state commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–26110 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–409–000]

Mobile Bay Pipeline Company; Notice of Compliance Filing

September 24, 1998.

Take notice that on September 18, 1998, Mobile Bay Pipeline Company (Mobile Bay) tendered for filing the following tariff sheets in its FERC Gas Tariff, Second Revised Volume No. 1, to be effective October 19, 1998.

Fifth Revised Volume No. 1
Fourth Revised Sheet No. 184
Fourth Revised Sheet No. 185

Mobile Bay filed the above referenced tariff sheets in compliance with the Commission's Final Order No. 587–H issued July 15, 1998, requiring interestate natural gas pipelines to implement the intra-day GISB standards by November 2, 1998. This compliance filing incorporates GISB standards Version 1.2 by reference and requests waiver to file all of its tariff sheets implementing the GISB standards pending Commission decision in Docket No. CP98–747. This compliance filing addresses the changes that Mobile Bay is making to its tariff resulting from implementation of the GISB standards.

Any person desiring to be herd or to protest said filing should file a motion to intervene or a protest with the Federal energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–26111 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–794–000]

Northwest Pipeline Corporation; Notice of Application

September 24, 1998.

Take notice that on September 18, 1998, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP98–794–000, an application pursuant to Section 7(C) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations, for a blanket certificate of public convenience and necessity authorizing the construction and operation of temporary compression facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest seeks authorization to temporarily install and operate portable compressor units at the existing Chehalis Compressor Station in Lewis County, Washington and at a proposed new Fort Lewis Compressor Station in Pierce County, Washington. Northwest also requests certificate authorization to construct the appurtenant facilities at those two sites necessary to accommodate the portable compressor units.

Northwest proposes to construct a new Fort Lewis Compressor Station and related facilities (excluding a permanent compressor unit). Northwest also proposes to construct appurtenant facilities at the existing Chehalis Compressor Station necessary to accommodate temporary operation of a portable turbine compressor unit.

Northwest states that it owns two portable Solar Centaur compressor units (4,700 ISO-rated horsepower each) which currently are dedicated to temporarily replacing out-of-service permanent units under existing blanket certificate authority. Northwest requests blanket authority, with pre-granted abandonment, for temporary installation and operation of the existing portable Solar Centaur compressor units—one each at the new Fort Lewis Compressor Station and the existing Chehalis Compressor Station; but only when such portable units are not needed for their primary function of temporarily replacing out-of-service permanent compressor units.

Northwest avers that the Fort Lewis/Chehalis area of Northwest's system historically has been an operational bottleneck for movement of Canadian

gas supplies southward during off-peak periods. Northwest states that the proposed project will increase Northwest's off-peak physical south flow capacity through the Fort Lewis area by as much as 75 MDth/d to 130 MDth/d, depending upon upstream market conditions.

Any person desiring to be heard or making any protest with reference to said application should on or before October 15, 1998, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Comments will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on these applications if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 98–26100 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–789–000]

Questar Pipeline Company; Notice of Request Under Blanket Authorization

September 24, 1998.

Take notice that on September 17, 1998, Questar Pipeline Company (Questar), 180 East 100 South, P.O. Box 45360, Salt Lake City, Utah 84145–0360, filed in Docket No. CP98–789–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate new delivery and receipt-point facilities, located in Rio Blanco County, Colorado, to deliver natural gas to and receive natural gas from Davis Gas Processing, Inc. (Davis), under Questar's blanket certificate issued in Docket No. CP82–491–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Questar states that natural gas volumes would be delivered to Davis at the proposed new Davis Greasewood Delivery and Receipt-Point. Questar declares that Davis would process the natural gas by extracting liquids and liquefiable hydrocarbons for their economic value and would then redeliver residue gas to Questar at the tailgate of the Piceance Creek Plan, Davis' non-jurisdictional gas processing plant. Questar asserts that the residue gas would re-enter their system via a 12-inch diameter lateral to be installed as part of the proposed new facilities. Questar states that Davis would deliver thermal equivalent volumes of natural gas to them elsewhere on Questar's system. Questar explains that the residue natural would be transported to delivery points on Questar's system including pipeline interconnections with TransColorado Gas Transmission Company, Colorado Interstate Gas Company, and Northwest Pipeline Corporation.

Questar's facilities proposed to be installed include: (1) two 12-inch diameter Daniel Senior orifice meters, (2) flow control facilities, (3) one 12′ by 12′ meter building, (4) one 8′ by 10′ control building, and (5) approximately 1,700 feet of 12-inch diameter buried lateral and miscellaneous valves and fittings. Questar states that the total estimated cost of the Davis Greasewood Delivery and Receipt-Point is $744,000.

Questar states that it intends to deliver to Davis, via the Davis Greasewood Delivery and Receipt-Point, natural gas volumes up to 40,000 Mcf per day. Questar declares that the proposed deliveries and receipts will not cause Questar to exceed the maximum daily quantities applicable to the transportation services provided to Questar's transportation customers. Questar further states that deliveries of natural gas to Davis and redeliveries from Davis to Questar will be made pursuant to a natural gas processing agreement between the parties.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 98–26099 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–91–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2964–006]

City of Sturgis; Notice of Site Visit and Scoping Meetings Pursuant to the National Environmental Policy Act of 1969

September 24, 1998.

On March 31, 1998, the City of Sturgis, Michigan (applicant) filed an application for new license for the Sturgis Hydro Project, located on the St. Joseph's River in St. Joseph County, near Centerville, Michigan.

The purpose of this notice is to: (1) advise all parties as to the proposed scope of the staff's environmental analysis, including cumulative effects, and to seek additional information pertinent to this analysis; and (2) advise all parties of their opportunity for comment.

Scoping Process

The Commission's scoping objectives are to:

- Identify significant environmental issues;
- Determine the depth of analysis appropriate to each issue;
- Identify the resource issues not requiring detailed analysis; and
- Identify reasonable project alternatives.

The purpose of the scoping process is to identify significant issues related to the proposed action and to determine what issues should be addressed in the environmental document to be prepared pursuant to the National Environmental Policy Act of 1969 (NEPA). The document entitled ''Scoping Document'' (SD) will be circulated shortly to enable appropriate federal, state, and local resource agencies, developers, Indian tribes, nongovernmental organizations (NGO'S), and other interested parties to effectively participate in and contribute to the scoping process. SD provides a brief description of the proposed action, project alternatives, the geographic and temporal scope of a cumulative effects analysis, and a list of preliminary issues identified by staff.

Project Site Visit

The applicant and the Commission staff will conduct a site visit of the Sturgis Hydro Project on October 13, 1998, at 1:30 p.m. They will meet at the hydroelectric facility. All interested individuals, NGO's and agencies are invited to attend. All participants are responsible for their own transportation. For more details, interested parties should contact Mr. John Griffith, Electric Department Superintendent, at (616) 651–2321, prior to the site visit date.

Scoping Meetings

The Commission staff will hold scoping meetings on October 13 and 14, 1998, in preparation for completing an Environmental Assessment (EA), under the National Environmental Policy Act (NEPA), for relicensing the Sturgis Hydro Project.

Commission staff will hold the scoping meetings in the vicinity of the Sturgis Hydro Project: one evening meeting and one morning meeting. The evening will focus on receiving input from the public, whereas the afternoon meeting will focus on resource agency concerns. We invite all interested agencies, NGOs, and individuals to attend one or both of the meetings, and to assist staff in identifying the scope of environmental issues that should be analyzed in the EA. The times and locations of these meetings are shown below.

Evening Scoping Meeting: October 13, 1998, 7:30 p.m. until 9:30 p.m., Sturges-Young Auditorium, 201 North Nottawa Rd., Sturgis, MI 49091, (616) 651–2321

Morning Scoping Meeting: October 14, 1998, 9:30 a.m. until 12:00 p.m., Sturges-Young Auditorium, 201 North Nottawa Rd., Sturgis, MI 49091, (616) 651–2321

To help focus discussions, we will distribute a Scoping Document (SD) outlining the areas to be addressed at the meetings to the parties on the Commission's mailing list. Copies of the SD also will be available at the scoping meetings.

Objectives

At the scoping meetings, the staff will: (1) summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements on environmental issues that should be analyzed in the EA, including opinions in favor of, or in opposition to, the staff's preliminary list of issues; (4) determine the depth of analysis for issues addressed in the EA; and (5) identify resource issues that will not require detailed analysis in the EA.

The Scoping meetings will be recorded by a court reporter, and all statements (oral and written) will become part of the Commission's public record for the project. Before each meeting starts, all individuals who attend, especially those individuals that intend to make statements during the meeting, will be asked to sign in and clearly identify themselves for the record prior to speaking. Time allotted for presentations will be determined by staff based on the length of the meetings and the number of people wanting to speak. All individuals wishing to speak will be provided at least five minutes to present their views.

Interested parties who choose not to speak, or are unable to attend the scoping meetings, may provide written comments and information to the Commission until November 13, 1998. Written comments and information should be submitted to the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

The first page of all filings should indicate ''Sturgis Hydro Project, FERC No. 2964–006'' at the top of the page. All findings sent to the Secretary of the Commission should contain an original and eight copies. Failure to file an original and eight copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. Furthermore, participants in this proceeding are reminded that if they file comments with the Commission, they must serve a copy of their filing to the parties on the Commission's service list.

For further information, please contact Patrick Murphy at (202) 219–2659.

David P. Boergers,

Secretary.

[FR Doc. 98–26105 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–92–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

September 24, 1998.

Take notice that on September 16, 1998, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, tendered for filing and

Commission approval five discount letter agreements between Tennessee and various FT–A shippers, and Original Sheet No. 413 of Tennessee's FERC Gas Tariff, Fifth Revised Volume No. 1. The five discount letter agreements are (1) a Discount Letter Agreement between Tennessee and Duke Energy Trading and Marketing, L.L.C. (Duke) with respect to FT–A Contract Nos. 23613 and 25948; (2) a Discount Letter Agreement between Tennessee and Duke with respect to FT–A Contract Nos. 23603 and 25950; (3) a Discount Letter Agreement between Tennessee and Vastar Resources, Inc. for FT–A Contract Nos. 23483, 26406, 26407, 26408 and 26409; (4) a Discount Letter Agreement between Tennessee and Amoco Energy Trading Corporation for FT–A Contract 23604; and (5) a Discount Letter Agreement between Tennessee and Coral Energy Resources, L.P. for FT–A Contract No. 23606. Tennessee requests an effective date of August 1, 1998 for Original Sheet No. 413.

The five discount letter agreements are being filed as non-conforming service agreements. The tariff sheet references the five agreements as non-conforming service agreements. Tennessee states that it is submitting the discount letter agreements for Commission approval pursuant to Section 154.1(d) of the Commission's Regulations because they contain certain provisions which differ from Tennessee's pro forma FT–A Agreement. Tennessee states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest said filings should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–26101 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–369–001]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

September 24, 1998.

Take notice that on September 17, 1998, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed Sixth Revised Sheet No. 305 and Third Revised Sheet No. 399 in compliance with the Federal Energy Regulatory Commission's Letter Order issued September 2, 1998 in the above-referenced docket.

Tennessee requests that the revised tariff sheets be deemed effective September 3, 1998.

Tennessee states that on August 3, 1998, it filed certain revised tariff sheets to, among other things, change the name of its software and interactive computer system from the ''TENN–SPEED 2 System'' to the ''System.'' Tennessee further states that in the September 2nd Letter Order, the Commission accepted the revised tariff sheets, but noted that there were still references to the TENN–SPEED 2 System contained in Tennessee's tariff. The Commission therefore directed Tennessee to revise the tariff sheets listed in Appendix B of the September 2nd Letter Order to reflect the change in name from the TENN–SPEED 2 System to the System.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–26109 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–411–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 24, 1998.

Take notice that on September 18, 1998, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are enumerated in the filing. The proposed effective date for the tariff sheets is October 20, 1998.

Transco states that the purpose of the instant filing is to comply with the Commission's Order No. 587–H issued July 15, 1998 in Docket No. RM96–1–008 (the Order). The Order amends § 284.10 of the Commission's Regulations to incorporate by reference the most recent standards dealing with intra-day nominations and nomination and scheduling procedures promulgated by the Gas Industry Standards Board on March 12, 1998. Transco requests a waiver of the November 2, 1998 implementation date established by the Order so that the revised tariff sheets can be made effective October 20, 1998.

Transco is serving copies of the instant filing to customers, State Commissions and other interested parties. In accordance with the provisions of Section 154.2(d) of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–26113 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2114–071]

Public Utility District No. 2 of Grant County; Notice of Availability of Draft Environmental Assessment

September 24, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) reviewed the Grant County Public Utility District No. 2 (licensee) proposal for installation of flow defectors at the Priest Rapids project in Grant County, Washington. The Commission prepared a draft environmental assessment (DEA) for the proposed action. In the DEA, the Commission concludes that approval of the licensee's proposal will not constitute a major federal action significantly affecting the quality of the human environment.

This DEA was written by staff in the Office of Hydropower Licensing (OHL). As such, the DEA is OHL staff's preliminary analysis of the licensee's proposal for installation of flow deflectors. No final conclusions have been made by the Commission regarding this matter.

Should you wish to provide comments on the DEA, they should be filed within 30 days from the date of this notice. Comments should be addressed to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please include the project number (2114–071) on any comments filed.

Copies of the DEA are available for review in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Secretary.

[FR Doc. 98–26104 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP98–131–000 and CP98–133–000]

Vector Pipeline L.P.; Notice of Extension of Time and Public Meeting Schedule for the Vector Pipeline Project Draft Environmental Impact Statement

September 24, 1998.

On September 1, 1998, the Commission issued a Notice of Availability for the Vector Pipeline Project Draft Environmental Impact Statement (EIS) with comments due by October 19, 1998. The Commission is extending the time in which to file comments on the draft EIS until and including November 16, 1998.

In addition to accepting written comments, four public meetings to receive comments on the draft EIS will be held at the following times and locations:

Date/Time and Location

Monday, October 5, 1998, 7:00 p.m.: Leslie High School Auditorium, 4141 Hull Road, Leslie, MI, (517) 589–8200

Monday, October 5, 1998, 7:00 p.m.: Milford High School, 2380 S. Milford Road, Milford, MI, (248) 684–8091

Tuesday, October 6, 1998, 7:00 p.m.: Three Rivers Community Center, 103 Postage Avenue, Three Rivers, MI, (616) 279–9231

Tuesday, October 6, 1998, 7:00 p.m.: Radisson Hotel at Star Plaza, 800 E. 81st Avenue, Merrillville, IN, (219) 757–3537

Interested groups and individuals are encouraged to attend and present oral comments on the environmental impacts described in the draft EIS. Transcripts of the meetings will be prepared. Additional information about the meetings is available from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088.

David P. Boergers,

Secretary.

[FR Doc. 98–26098 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Declaration of Intention

September 24, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Declaration of Intention.

b. Docket No: DI98–2–000.

c. Date Filed: September 14, 1998.

d. Applicant: Alaska Power & Telephone Company.

e. Name of Project: Twin Basin Hydropower Project.

f. Location: On two tributaries of an unnamed stream catalogued as #252–36–10050–2005 and located off Kizhuyak Bay near the town of Kodiak, within the Kodiak Island Borough. Land Description: Township 29 S., Range 22 W., secs. 3 and 4 and Township 28 S., Range 22 W., secs. 33 and 34, Seward Meridian, AK.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. Section 791(a)–825(r).

h. Applicant Contact: Robert S. Grimm, President, Alaska Power & Telephone Company, An Alaskan Corporation, P.O. Box 3222, 191 Otto Street, Port Townsend, WA 98368, (360) 385–1733 (Ext. 120), (360) 385–5177 (FAX).

i. FERC Contact: Diane M. Murray, (202) 219–2682, (202) 219–2732 (FAX).

j. Comment Date: November 4, 1998.

k. Description of Project: The proposed project would consist of: (1) two small concrete or wood crib diversion and intake structures, each approximately 30 feet long and approximately 15 feet high; (2) two penstocks conveying the water from the intakes to the powerhouse. Each penstock will be approximately 5,300 feet long; (3) a proposed powerhouse containing one or two generators with a capacity of 2.5 to 6.5 MW; and (4) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 98–26103 Filed 9–29–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–140273; FRL–6031–8]

Access to Confidential Business Information by Infobahn Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized Infobahn Incorporated of Potomac, Maryland (Infobahn), for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI). Infobahn will assist the Office of Pollution Prevention and Toxics (OPPT) in operating the TSCA Confidential Business Information Center's computer system.

DATES: Access to the confidential data by Infobahn, occurred as a result of an approved waiver dated April 23, 1998, which granted Infobahn, sub-contractor to Computer Based Systems, Inc. (CBSI) immediate access to TSCA CBI. This waiver was necessary to allow Infobahn to operate the TSCA Confidential Business Information Center's computer system.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under contract number 68–W–98–045, contractor CBSI, 2750 Prosperity Drive, Suite 300, Fairfax, VA, and CBSI's subcontractors Labat Anderson, Inc. (LAI), 8000 Westpark Drive, Suite 400, McLean, VA 22102 and Infobahn, 2304 Stratton Drive, Potomac, MD 20854 will assist OPPT in managing and operating the TSCA Nonconfidential and Confidential Business Information Centers.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–W–98–045, CBSI, LAI and Infobahn will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. Contractor and subcontractor personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide Infobahn access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters.

Infobahn will be authorized access to TSCA CBI at EPA Headquarters only, under the terms and provisions of the EPA *TSCA Confidential Business Information Security Manual.*

Clearance for access to TSCA CBI under this contract may continue until January 31, 2003. Infobahn, Inc. personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: September 21, 1998.

Allan S. Abramson,

Director, Information Management Division, Office of Pollution and Prevention and Toxics.

[FR Doc. 98–26163 Filed 9–29–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–140274; FRL–6031–9]

Access to Confidential Business Information by Battelle Memorial Institute

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor Battelle Memorial Institute (BMI), of Columbus, Ohio, access to information which has been submitted to EPA under sections 4, 5, 6, 8(a), 11, and 21 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data by BMI occurred as a result of an approved waiver dated September 1, 1998, which requested granting BMI immediate access to TSCA CBI. This waiver was necessary to allow BMI to provide statistical, mathematical, field data collection and technical analysis support and planning for Office of Pollution Prevention and Toxics (OPPT) programs.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under contract number 68–D5–0008, contractor BMI of 505 King Avenue, Columbus, OH, will assist OPPT by providing statistical, mathematical, field data collection and technical analysis

support and planning for OPPT programs.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–D5–0008, BMI will require access to CBI submitted to EPA under sections 4, 5, 6, 8(a), 11 and 21 of TSCA to perform successfully the duties specified under the contract. BMI personnel will be given access to information submitted to EPA under sections 4, 5, 6, 8(a), 11, and 21 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, 8(a), 11, and 21 of TSCA that EPA may provide BMI access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and BMI's Columbus, OH facility.

BMI will be authorized access to TSCA CBI at their facility under the EPA *TSCA Confidential Business Information Security Manual*. Before access to TSCA CBI is authorized at BMI's site, EPA will perform the required inspection of its facility and ensure that the facility is in compliance with the manual. Upon completing review of the CBI materials, BMI will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until March 2, 1999.

BMI personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: September 21, 1998.

Allan S. Abramson,

Director, Information Management Division, Office of Pollution and Prevention and Toxics.

[FR Doc. 98–26164 Filed 9–29–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6170–7]

Clean Air Act Advisory Committee, Mobile Sources Technical Review Subcommittee, Notification of Public Advisory Subcommittee Open Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee of the Clean Air Act Advisory Committee will meet: Wednesday, October 14, 1998 from 12:30 pm to 5:30 pm Pacific Standard Time (pre-registration at 12 noon) at California Air Resources Board (CARB), Haagen-Smit Laboratory, 9528 Telstar Avenue, El Monte, CA 91731, Ph: 626/575–6800.

This is an open meeting and seating is on a first-come basis. During this meeting, the subcommittee will hear progress reports from its workgroups and be briefed on and discuss other current issues in the mobile source program including: California's low-emission vehicle (LEV2) program, CARB's EMFAC programs, a general discussion on the subcommittee and its future, EPA's proposed strategy for urban toxics, the NAS/NRC study to evaluate the MOBILE model, and an update on the work of the Clean Air Act Advisory Committee.

Members of the public requesting further technical information should contact:

Mr. Phillip A. Lorang, Designated Federal Officer, U.S. EPA—NVFEL Office Bldg., 2000 Traverwood Drive, Ann Arbor, MI 48105, Ph: 734/214–4374, Fax: 734/214–4821, email: lorang. phil@epa.gov

or

Mr. John T. White, Alternate Designated Federal Officer, U.S. EPA—NVFEL Office Bldg., 2000 Traverwood Drive, Ann Arbor, MI 48105, Ph: 734/214–4353, Fax: 734/214–4821, email: white.johnt@epa.gov

Further information can also be obtained by visiting the FACA website for the Mobile Sources Technical Review Subcommittee and its workgroups at: http://transaq.ce.gatech.edu/epatac/index.htm.

Subcommittee members and interested parties requesting further administrative information should contact: Ms. Jennifer Criss, FACA Management Officer, U.S. EPA—NVFEL Office Bldg., 2000 Traverwood Drive, Ann Arbor, MI 48105, FACA Help Line: 734/214–4518, Fax: 734/214–4821, email: criss.jennifer@epa.gov.

Written comments of any length (with at least 20 copies provided) should be sent to the subcommittee no later than October 4, 1998.

The Mobile Sources Technical Review Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Michael G. Shields,

Acting Director, Office of Mobile Sources.

[FR Doc. 98–26167 Filed 9–29–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66259; FRL 6030–1]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by March 29, 1999, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Rm. 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, 703–305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 27 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000275–00023	Dipel FMU	*Bacillus thuringiensis* subsp. kurstaki
000275–00024	Dipel HG	*Bacillus thuringiensis* subsp. kurstaki
000275–00026	Dipel LDM *Bacillus thuringiensis*	*Bacillus thuringiensis* subsp. kurstaki
000275–00122	Bactospeine Wettable Powder	*Bacillus thuringiensis* subsp. kurstaki
000275–00124	Bactospeine Primary Powder	*Bacillus thuringiensis* subsp. kurstaki
000275–00126	Bactimos Briquets	*Bacillus thuringiensis* subsp. israelensis
000275–00129	Bactospeine-HG Wettable Powder	*Bacillus thuringiensis* subsp. kurstaki
000275–00132	ABG–459 Biological Insecticide	*Bacillus thuringiensis* subsp. kurstaki
000275 RI–85–0002	Vectobac - AS	*Bacillus thuringiensis* subsp. kurstaki
000275 TX–82–0022	Dipel 4L Worm Killer	*Bacillus thuringiensis* subsp. kurstaki
000275 TX–83–0013	Dipel 4L Worm Killer	*Bacillus thuringiensis* subsp. kurstaki
000279 WA–76–0012	Thiodan 3 E.C.	6,7,8,9,10-Hexachloro-1,5,5a,6,9,9a-hexahydro-6,9-methano-2,4,3-benzodioxathiepin-3-oxide
		Xylene range aromatic solvent
000279 WA–88–0012	Thiodan 3 E.C.	6,7,8,9,10-Hexachloro-1,5,5a,6,9,9a-hexahydro-6,9-methano-2,4,3-benzodioxathiepin-3-oxide
000869–00094	Green Light Eptam Weed & Grass Granules	*S*-Ethyl dipropylthiocarbamate
001685–00045	Formula 219 Sure-Kil Selective Weed Killer	Dimethylamine 2,4-dichlorophenoxyacetate
001812–00417	Dupont Lorox DF Herbicide	3-(3,4-Dichlorophenyl)-1-methoxy-1-methylurea
001812–00418	Dupont Karmex DF Herbicide	3-(3,4-Dichlorophenyl)-1,1-dimethylurea
002935 WA–87–0021	Nu-Zone 10ME	1-(2-(2,4-Dichlorophenyl)-2-(2-propenyloxy)ethyl)-1*H*-imidazole
002935 WA–89–0018	Wilbur-Ellis Sulfur DF	Sulfur
002935 WA–89–0023	Kumulus S	Sulfur
002935 WA–91–0014	Supreme Oil	Mineral oil - includes paraffin oil from 063503
006175–00042	Fly Repellent for Dogs	Butoxypolypropylene glycol
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
		Rotenone
		Cube Resins other than rotenone
034822–00003	DI-All Brand Paint Insecticide	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
036208–00003	Top - Side Dipel	*Bacillus thuringiensis* subsp. kurstaki
047000–00066	Rabon VMI Livestock Dust	2-Chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate
047000–00067	VMI Poultry Dust	2-Chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate
047000–00068	VMT Livestock, Poultry, and Premise Spray	2-Chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180–day period. The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000275	Abbott Laboratories, Chemical & Agricultural Products Div., 1401 Sheridan Rd., D–28R, Bldg A1, North Chicago, IL 60064.
000279	FMC Corp., Agricultural Products Group, 1735 Market St., Philadelphia, PA 19103.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
000869	Green Light Co., Box 17985, San Antonio, TX 78217.
001685	The State Chemical Mfg. Co., 3100 Hamilton Ave, Cleveland, OH 44114.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
001812	Griffin L.L.C., Box 1847, Valdosta, GA 31603.
002935	Wilbur Ellis Co., 191 W Shaw Ave, #107, Fresno, CA 93704.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
006175	Schering-Plough Veterinary Operations, Inc., 1095 Morris Ave., Union, NJ 07083.
034822	Diall Chemical Co., Inc., 6649 Amory Ct., Unit #3, Winter Park, FL 32792.
036208	Loveland Industries Inc., Scott Baker, Box 1289, Greeley, CO 80632.
047000	Chem-Tech Ltd, Attn: James Melton, 4515 Fleur Dr., #303, Des Moines, IA 50321.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before March 29, 1999 This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1–year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362), June 26, 1991; (FRL 3846–4). Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: September 10, 1998.

Linda A. Travers,

Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 98–25758 Filed 9–25–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34140; FRL 6028–6]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on March 29, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier, delivery, telephone number and e-mail: Rm. 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the 20 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients, and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before March 29, 1999 to discuss withdrawal of the applications for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion. (Note: Registration number(s) preceded by ** indicate a 30–day comment period.)

TABLE 1—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
003125–00102	Guthion 2L	Azinphos-Methyl	Apricot, Beans (succulent), oats, slash pine, artichoke, clover, pasture grasses, soybeans, barley, grass mixture, peas, tobacco, beans (dry), kiwi, pomegranate, wheat
003125–00108	Guthion Technical Insecticide	Azinphos-Methyl	Apricot, beans (succulent, oats, slash pine, artichoke, clover, pasture grasses, soybeans, barley, grass mixture, peas, tobacco, beans (dry), kiwi, pomegranate, wheat

TABLE 1—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
003125–00123	Guthion 2S	Azinphos-Methyl	Apricot, beans, (succulent, oats, slash pine, artichoke, clover, pasture grasses, soybeans, barley, grass mixture, peas, tobacco, beans (dry), kiwi, pomegranate, wheat
003125–00193	Guthion 50% Wettable Powder Crop Insecticide	Azinphos-Methyl	Apricot, beans, (succulent, oats, slash pine, artichoke, clover, pasture grasses, soybeans, barley, grass mixture, peas, tobacco, beans (dry), kiwi, pomegranate, wheat
003125–00301	Guthion Solupak 50% Wettable Powder Insecticide	Azinphos-Methyl	Apricot, beans, (succulent), oats, slash pine, artichoke, clover, pasture grasses, soybeans, barley, grass mixture, peas, tobacco, beans (dry), kiwi, pomegranate, wheat
003125–00338	Guthion 3 Flowable Insecticide	Azinphos-Methyl	Apricot, beans, (succulent), oats, slash pine, artichoke, clover, pasture grasses, soybeans, barley, grass mixture, peas, tobacco, beans (dry), kiwi, pomegranate, wheat
003125–00378	Guthion 35% Wettable Powder Insecticide	Azinphos-Methyl	Apricot, beans (succulent), oats, slash pine, artichoke, clover, pasture grasses, soybeans, barley, grass mixture, peas, tobacco, beans (dry), kiwi, pomegranate, wheat
003125–00379	Guthion Solupak 35% Wettable Powder in Water Soluble Packets	Azinphos-Methyl	Apricot, beans (succulent), oats, slash pine, artichoke, clover, pasture grasses, soybeans, barley, grass mixture, peas, tobacco, beans (dry), kiwi, pomegranate, wheat
003125–00425	Guthion Technical	Azinphos-Methyl	Apricot, beans (succulent), oats, slash pine, artichoke, clover, pasture grasses, soybeans, barley, grass mixture, peas, tobacco, beans (dry), kiwi, pomegranate, wheat
003125–00426	Guthion 2L	Azinphos-Methyl	Apricot, beans (succulent), oats, slash pine, artichoke, clover, pasture grasses, soybeans, barley, grass mixture, peas, tobacco, beans (dry), kiwi, pomegranate, wheat
0003125–00427	Guthion 3 Flowable Insecticide	Azinphos-Methyl	Apricot, beans (succulent), oats, slash pine, artichoke, clover, pasture grasses, soybeans, barley, grass mixture, peas, tobacco, beans (dry), kiwi, pomegranate, wheat
004816–00766	Pyraperm Household In sect Killer WBA P60	Piperonyl butoxide; Pyrethrins; Permethrin, mixed *cis, trans*	Application to dogs
004816–00767	Pyraperm Industrial In sect Killer WBA P60	Piperonyl butoxide; Pyrethrins; Permethrin, mixed *cis, trans*	Application to dogs
004816–00769	Pyraperm Household In sect Killer WBA P61	Piperonyl butoxide; Pyrethrins; Permethrin, mixed *cis, trans*	Application to dogs
004816–00770	Pyraperm Industrial In sect Killer WBA P61	Piperonyl butoxide; Pyrethrins; Permethrin, mixed *cis, trans*	Application to dogs
004816–00773	Pyraperm Household In sect Killer WBA P59	Piperonyl butoxide; Pyrethrins; Permethrin; mixed *cis, trans*	Application to dogs

TABLE 1—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
004816–00774	Pyraperm Industrial In sect Killer WBA P59	Piperonyl butoxide; Pyrethrins; Permethrin; mixed *cis, trans*	Application to dogs
019713–00061**	Drexel Lindane Technical	Lindane	Almonds, alfalfa, apples, apricots, avocados, beans (all types), beets, cantaloupe, carrots, cherries, clover. cotton, cucumbers, cucurbits (all types), eggplant, flax, grapes, guava, lentils, mangos, melons, mint, mushroom, nectarines, okra, onions, peaches, peas (all types), pecans, pears, pepper, pineapple, plums, prunes, pumpkins, quince, rape, safflower, soybeans, quash (all types), strawberries, sudan grass, sugar beets, summer squash, sunflower, tobacco, water-melon; livestock treatment to cattle, goats, horses, mule, sheep and hogs; cats; all ornamental trees, shrubs, golf courses, turf, uncultivated areas, fallow or idle agricultural areas, recreational areas, commercial transportation facilities, food pro- cessing handling/ storage/ area/plants; grain/cereal/ flour bins, storage areas; farm or agricultural structures, barns; wood protection treatment to building
019713–00191**	Drexel Lindane 99.5% Technical	Lindane	Almonds, alfalfa, apples, apricots, avocados, beans (all types), beets, cantaloupe, carrots, cherries, clover, cotton, cucurbits (all types), eggplant, flax, grapes, guava, lentils, mangoes, melons, mint, mushroom, nectarines, okra, onions, peaches, peas (all types), pecans, pears, pepper, pineapple, plums, prunes, pumpkins, quince, rape, safflower, soybeans, squash (all types), strawberries, sudan grass, sugar beets, summer quash, sunflower, tobacco, tomatoes, water-melon; livestock treatment to cattle, goats, horses, mule, sheep and hogs; cats; all ornamental trees, shrubs, golf courses, turf, uncultivated areas, fallow or idle agricultural areas, recreational areas, commercial transportation facilities, food processing handling/stor-age areas/ plants; grain/cereal/flour bins, storage areas; farm or agricultural structures, barns; wood protection treatment to buildings
066951–00001**	Lindane Technical Crystals	Lindane	Alfalfa, apples, apricots, asparagus, avocados, beans, beets, carrots, cherries, clover, cotton, cucumber, eggplant, flax, grapes, guavas, lentils, mangoes, peas (all types), pears, pecans, peppers, pine- apples, plums including prunes, pumpkins, quinces, safflower, soybeans, squash, strawberries, sudan grass, sugar beets, summer squash, sunflower, tomato, tobacco, ornamental plants, lawns, beef cattle, goats, hogs, horses, mules, sheep, and military use on human skin and clothing

Note: Registration number (s) preceded by ** indicate a 30–day comment period.

The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2— REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
003125	Bayer Agriculture Division, 8400 Hawthorn Road, P.O. Box 4913, Kansas City, MO 64120.

TABLE 2— REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

Company No.	Company Name and Address
004816	AgrEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NJ 07645.

TABLE 2— REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

Company No.	Company Name and Address
019713	Drexel Chemical Company, 1700 Channel Avenue, Memphis, TN 38113.

TABLE 2— REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

Company No.	Company Name and Address
6951	Kanoria Chemicals & Industries Ltd., c/o Jellinek, Schwartz & Connolly, Inc., 1525 Wilson Blvd., Suite 600, Arlington, VA 22209.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: September 10, 1998.

Linda A. Travers,

Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 98–25759 Filed 9–29–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–828; FRL–6023–7]

Notice of Filing of Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–828, must be received on or before October 30, 1998.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Divison (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as 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. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Mark Dow	Rm. 214, CM #2, 703–305–5533; e-mail: Dow.mark@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Ann Sibold	Rm. 212, CM #2, 703–305–6502; e-mail: sibold.ann@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment of regulations for residues of certain pesticide chemicals in or on various raw food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2) of the (FFDCA) as amended by the Food Quality Protection Act (FQPA) of 1996 (Pub. L. 104–170); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports grantinig of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice, as well as the public version, has been established for this notice of filing under docket control number PF–828 (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 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES''.

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. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (PF–828) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 21 U.S.C. 346a.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 19, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Below summaries of the pesticide petitions are printed. The summaries of the petitions were prepared by the petitioners. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. American Cyanamid Company

PP 8F4980

EPA has received a pesticide petition (PP 8F4980) from American Cyanamid Company, P.O. Box 400, Princeton, NJ 08543–0400, proposing pursuant to section 408(d) of the FFDCA 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of 4-bromo-2–(4-chlorophenyl)-1-(ethoxymethyl)-5-(trifluoromethyl)-1-pyrrole-3-carbonitrile, (chlorfenapyr) in or on the raw agricultural commodity milk, milk fat, meat, meat fat and meat byproducts at 0.01, 0.03, 0.01, 0.03, and 0.30 parts per million (ppm) respectively, derived from the use of chlorfenapyr ear tags on beef and dairy cattle. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* Although not relevant to this use pattern, the Agency has reviewed data submitted in support of pesticide petitions 5F4456, 5G4507, 5G453, 5G4548, and 5G4574 on the metabolism of chlorfenapyr in several plants and concluded that the nature of the residues of chlorfenapyr in plants is adequately understood and that the residue of concern consists of the parent molecule. The metabolic pathway of chlorfenapyr in the laying hen and the lactating goat was also similar to that in laboratory rats.

2. *Analytical method.* Section 408 (b)(3) of the amended FFDCA requires EPA to determine that there is a practical method for detecting and measuring levels of the pesticide chemical residue in or on food and that the tolerance be set at a level at or above of the limit of detection of the designated method. The gas chromatography analytical methods, M2395.01 and M2398.01, which are proposed as the enforcement method for the residues of chlorfenapyr in milk and muscle/fat, respectively, each have an Limit of Quantification (LOQ) of 0.01 ppm and method M2405, which is proposed as the enforcement method for the residues of chlorfenapyr in liver/kidney tissues has an LOQ of 0.05 ppm. All methods have been validated at the EPA laboratories in Beltsville, MD.

3. *Magnitude of residues.* There is an extensive data base on chlorfenapyr that has been reviewed and accepted by the Agency. A residue depletion study was conducted to determine whether the application of two ear tags containing 30% chlorfenapyr to lactating dairy cattle would result in residues in milk, milk fat or edible tissues (muscle, liver, kidney, and fat). The results of this study indicate that the proposed tolerances for the residues of chlorfenapyr in milk, milk fat, meat, meat fat and meat by-products are more than adequate to cover any residues that may result from this use pattern.

B. Toxicological Profile

1. *Acute toxicity.* Based on the EPA's toxicity category criteria, the acute toxicity category for chlorfenapyr technical and the 3SC formulation is Category II or moderately toxic (signal word WARNING) and the acute toxicity category for the 2SC formulation is Category III or slightly toxic (signal word CAUTION). Males appear to be more sensitive to the effects of chlorfenapyr than females. The acute toxicity profile indicates that absorption by the oral route appears to be greater than by the dermal route. The following are the results from the acute toxicity tests conducted on the technical material:

Rat Oral LD_{50}: 441/1,152 milogram/kilogram body weight (mg/kg b.w.) Male/Female (M/F); Tox. Category II

Rabbit Dermal LD_{50}: >2,000 mg/kg b.w.(M/F); Tox. Category III

Acute Inhal. LC_{50}: 0.83/>2.7 mg/L (M/F); Tox. Category III

Eye Irritation: Moderately Irritating; Tox. Category III

Dermal Irritation: Non-Irritating; Tox. Category IV

Dermal Sensitization: Non-Sensitizer

Acute Neurotoxicity: No-Observed-Adverse-Effect-Level (NOAEL) 45 mg/kg b.w; Not An Acute Neurotoxicant

2. *Genotoxicty.* Chlorfenapyr technical (94.5% active ingredient (a.i.)) was examined in a battery of *in vitro* and *in vivo* tests to assess its genotoxicity and its potential for carcinogenicity. These tests are summarized below.

Microbial/Microsome Mutagenicity Assay: Non-mutagenic

Mammalian Cell Chinese Hamster Ovary (CHO)/HGPRT Mutagenicity Assay: Non-mutagenic

In Vivo Micronucleus Assay: Non-genotoxic

In Vitro Chromosome Aberration Assay in CHO: Non-clastogenic

In Vitro Chromosome Aberration Assay in CHLC: Non-clastogenic

Unscheduled DNA Synthesis (UDS) Assay: Non-genotoxic.

3. *Reproductive and developmental toxicity.* Chlorfenapyr is neither a reproductive nor a developmental toxicant and is not a teratogenic agent in the Sprague-Dawley rat or the New Zealand white rabbit. This is demonstrated by the results of the following studies:

Rat Oral Teratology: NOAEL for maternal toxicity 25 mg/kg b.w./day; NOAEL for fetal/develop. toxicity 225 mg/kg b.w./day

Rabbit Oral Teratology: NOAEL for maternal toxicity 5 mg/kg b.w./day

NOAEL for fetal/develop. toxicity 30 mg/kg b.w./day

Rat Two-Generation: NOAEL for parental toxicity /growth and Reproduction offspring development 60 ppm (5 mg/kg b.w./day); NOAEL for reproductive performance 600 ppm (44 mg/kg b.w./day).

4. *Subchronic toxicity.* The following are the results of the subchronic toxicity tests that have been conducted with chlorfenapyr:

28–Day Rabbit Dermal: NOAEL 100 mg/kg b.w./day

28–Day Rat Feeding: NOAEL <600 ppm (< 71.6 mg/kg b.w./day)

28–Day Mouse Feeding: NOAEL <160 ppm (<32 mg/kg b.w./day)

13–Week Rat Dietary: NOAEL 150 ppm (11.7 mg/kg b.w./day)

13–Week Mouse Dietary: NOAEL 40 ppm (8.2 mg/kg b.w./day)

13–Week Dog Dietary: NOAEL 120 ppm (4.2 mg/kg b.w./day).

5. *Chronic toxicity.* Chlorfenapyr is not oncogenic in either Sprague Dawley rats or CD–1 mice and is not likely to be carcinogenic in humans. The following are the results of the chronic toxicity tests that have been conducted with chlorfenapyr:

1–Year Neurotoxicity in Rats: NOAEL 60 ppm (2.6/3.4 mg/kg b.w./day M/F)

1–Year Dog Dietary: NOAEL 120 ppm (4.0/4.5 mg/kg b.w./day M/F)

24–Month Rat Dietary: NOAEL for Chronic Effects 60 ppm (2.9/3.6 mg/kg b.w./day M/F)

NOAEL for Oncogenic Effects 600 ppm (31/37 mg/kg b.w./day M/F)

18–Month Mouse Dietary: NOAEL for Chronic Effects 20 ppm (2.8/3.7 mg/kg b.w./day M/F)

NOAEL for Oncogenic Effects 240 ppm (34.5/44.5 mg/kg b.w./day M/F).

6. *Animal metabolism.* A metabolism study was conducted in Sprague-Dawley rats at approximately 20 and 200 mg/kg b.w using radiolabeled chlorfenapyr. Approximately 65% of the administered dose was eliminated during the first 24 hours (62% in feces and 3% in urine) and by 48 hours following dosing, approximately 85% of the dose had been excreted (80% in feces and 5% in urine). The absorbed chlorfenapyr-related residues were distributed throughout the body and detected in tissues and organs of all

treatment groups. The principal route of elimination was via feces, mainly as unchanged parent plus minor *N*-dealkylated, debrominated and hydroxylated oxidation products.

7. *Metabolite toxicology.* The parent molecule is the only moiety of toxicological significance which needs regulation in plant and animal commodities.

8. *Endocrine disruption.* Collective organ weights and histopathological findings from the two-generation rat reproduction study, as well as from the subchronic and chronic toxicity studies in two or more animal species, demonstrate no apparent estrogenic effects or effects on the endocrine system. There is no information available which suggests that chlorfenapyr would be associated with endocrine effects.

C. Aggregate Exposure

1. *Food.* For purposes of assessing the potential dietary exposure, a Theoretical Maximum Residue Contribution (TMRC) has been calculated from the proposed tolerance of chlorfenapyr in milk at 0.01 ppm, milk fat at 0.03 ppm, meat at 0.01 ppm, meat fat at 0.03 ppm and meat by-products at 0.30 ppm. As there are no other established U.S. permanent tolerances for chlorfenapyr, the only dietary exposure to residues of chlorfenapyr in or on food will be limited to residues in milk, milk fat, meat, meat fat and meat byproducts derived from cattle. The contribution of all these tolerances to the daily consumption will be insignificant for the overall U.S. population (utilizing only 0.23% of the reference dose (RfD) as well as all sensitive subpopulations including children aged 1–6 (0.52% of RfD utilized) and non-nursing infants (utilization of 0.47% of RfD).

2. *Drinking water.* There is no available information about chlorfenapyr exposures via levels in drinking water. There is no concern for exposure to residues of chlorfenapyr in drinking water because of this use pattern on ear tags. Moreover, because of its extremely low water solubility (120 parts per billion (ppb) at 25° C). Chlorfenapyr is also immobile in soil and does not leach because it is strongly adsorbed to all common soil types. In addition, the label explicitly prohibits applications near aquatic areas. There is a reasonable certainty that no harm will result from dietary exposure to chlorfenapyr, because dietary exposure to residues on food will use only a small fraction of the Reference Dose (RfD) (including exposure of sensitive subpopulations), and exposure through drinking water is expected to be insignificant.

3. *Non-dietary exposure.* Chlorfenapyr is currently not registered for use in residential indoor or outdoor uses. However, based on the physico-chemical characteristics of the compound, the proposed use pattern as an ear tag and available information concerning its environmental fate, non-dietary exposure is expected to be negligible. The vapor pressure of chlorfenapyr is 4.05×10^{-8} mm of mercury; therefore, the potential for non-occupational exposure by inhalation is insignificant. Moreover, the current proposed registration is for outdoor, terrestrial uses which severely limit the potential for non-occupational exposure.

D. Cumulative Effects

The pyrrole insecticides represent a new class of chemistry with a unique mechanism of action. The parent molecule, AC 303,630 is a pro-insecticide which is converted to the active form, CL 303,268, via rapid metabolism by mixed function oxidases (MFOs). The active form uncouples oxidative phosphorylation in the insect mitochondria by disrupting the proton gradient across the mitochondrial membrane. The production of Adenosine Triphosphate (ATP) is inhibited resulting in the cessation of all cellular functions. Because of this unique mechanism of action, it is highly unlikely that toxic effects produced by chlorfenapyr would be cumulative with those of any other pesticide chemical.

In mammals, there is a lower titer of MFOs, and chlorfenapyr is metabolized by different pathways (including dehalogenation, oxidation, and ring hydroxylation) to other polar metabolites without any significant accumulation of the potent uncoupler, CL 303,268. In the rat, appoximately 85% of the administered dose is excreted in the feces within 48 hours, thereby reducing the levels of AC 303,630 and CL 303,268 that are capable of reaching the mitochondria. This differential metabolism of AC 303,630 to CL 303,268 in insects versus to other polar metabolites in mammals is responsible for the selective insect toxicity of the pyrroles.

E. Safety Determination

1. *U.S. population.* The RfD of 0.03 mg/kg b.w./day for the residues of chlorfenapyr in milk, milk fat, meat, meat fat, and meat byproducts, is calculated by applying a 100–fold safety factor to the overall NOAEL of 3 mg/kg b.w./day. This NOAEL is based on the results of the chronic feeding studies in the rat and mouse and the 2–generation reproduction study in the rat (see *B. Toxicological Profile*). Therefore, the combined TMRC for the proposed chlorfenapyr tolerances in milk, milk fat, meat, meat fat and meat byproducts (0.0000681 mg/kg b.w./day) will utilize approximately 0.23% of the RfD for the general US population.

2. *Infants and children.* The TMRC in milk, milk fat, meat, meat fat and meat byproducts consumed by a non-nursing infant (<1 year of age) is 0.000141 mg/kg b.w./day. This will use 0.47% of the RfD for non-nursing infants. The TMRC for the proposed chlorfenapyr tolerances in milk, milk fat, meat, meat fat and meat byproducts consumed by a child 1–6 years of age is 0.000156 mg/kg b.w./day, which is less than 1% (actual 0.52%) of the RfD. Therefore, the results of the toxicology and metabolism studies support both the safety of chlorfenapyr to humans based on the intended use as cattle ear tag and the granting of the requested tolerances in milk, milk fat, meat, meat fat and meat by-products.

F. International Tolerances

Section 408 (b)(4) of the amended FFDCA requires EPA to determine whether a maximum residue level has been established for the pesticide chemical by the Codex Alimentarius Commission.

There is neither a Codex proposal, nor Canadian or Mexican tolerances/limits for residues of chlorfenapyr in meat and meat byproducts. Therefore, a compatibility issue is not relevant to the proposed tolerance. (Ann Sibold)

2. Rohm and Haas Company

PP 7F4894

EPA has received a pesticide petition (PP 7F4894) from Rohm and Haas Company, 100 Independence Mall West, Philadelphia, PA 19106–2399, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of triazamate; ethyl (3-tert-butyl-1-dimethylcarbamoyl–1*H*–1,2,4-triazol-5-ylthio) acetate in or on the raw agricultural commodity apples at 0.1 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of triazamate in plants (apples) is adequately understood for the purposes of this tolerance. The metabolism of triazamate involves hydrolysis of the ester and oxidative demethylation of the carbamoyl group. Parent compound is rapidly metabolized and is either not found or found at trace levels in pome fruit. The majority of the residue which may remain on the fruit is present as non-cholinesterase inhibiting metabolites whose structures do not contain the dimethylcarbamoyl moiety. The metabolism of triazamate in goats proceeds along the same metabolic pathway as observed in plants. Because apple pomace is not fed to poultry, there is no reasonable expectation that measurable residues of triazamate or any of its metabolites will occur in eggs, poultry meat or poultry meat by-products. The transfer of residues into milk and meat was minimal in the goat metabolism and the majority of the residue which was found in the milk and tissues was non-cholinesterase metabolites. Because of this low transfer rate and the low measurable residues present in apple pomace, there is no reasonable expectation of finding measurable residues of triazamate or any of its metabolites in milk, meat or meat by-products.

2. *Analytical method.* An analytical method using chemical derivitization followed by gas chromatography (GC) using Nitrogen-Phosphorous detection has been developed and validated for residues of triazamate and its cholinesterase-inhibiting metabolite (RH–0422) for pome fruit and processed apple fractions. For all matrices, the methods involve Soxhlet extraction of the residue from fruit samples with solvents, purification of the extracts by liquid-liquid partitioning, derivitization of the metabolite with diazomethane, and final purification of the residues using solid phase extraction column chromatography. The limit of quantitation (LOQ) of the methods is 0.01 ppm for pome fruit, apple juice, sauce and wet apple pomace.

3. *Magnitude of residues.* —i. *Acute risk.* An acute dietary risk assessment (Dietary Exposure Evaluation Model, Novigen Sciences Inc., 1997) was conducted for triazamate using two approaches: (1) a Tier 1 approach using a tolerance level residue of 0.10 ppm and (2) Monte Carlo simulations using an entire distribution of field trial residues for pome fruit and adjusted for percent crop treated (Tier 3). Using the Tier 1 approach margins of exposure (MOEs) at the 95th and 99th percentiles of exposure for the overall U.S. population were 572 and 199, respectively. Using the Tier 3 procedure in which residues were adjusted for percent crop treated, the MOEs for the 95th and 99th percentiles were 8,769 and 1,511, respectively. Acute exposure was also estimated for non-nursing infants, the most sensitive sub-population. For this population, MOEs at the 95th and 99th percentiles of exposure were 113 and 83, respectively. Using the Tier 3 method, MOEs were 909 and 396, respectively. Acute dietary risk is considered acceptable if the MOE is greater than 30, an appropriate safety factor when based on a human clinical study. Even under the conservative assumptions presented here, the more realistic estimates of dietary exposure (Tier 3 analyses) clearly demonstrate adequate MOEs up to the 99th percentile of exposure for all population subgroups.

ii. *Chronic risk.* Chronic dietary risk assessments (Dietary Exposure Evaluation Model, Novigen Sciences Inc., 1997) were conducted for triazamate using two approaches: (1) using a tolerance level residue of 0.10 ppm assuming 100% of crop is treated and (2) using a tolerance level residue of 0.10 ppm adjusted for projected percent crop treated. The Theoretical Maximum Residue Contribution (TMRC) from the proposed pome fruit tolerance represents 0.91% of the RfD for the U.S. population as a whole. The subgroup with the greatest chronic exposure is non-nursing infants (less than 1 year old), for which the TMRC estimate represents 6.3% of the RfD. The chronic dietary risks from this use do not exceed EPA's level of concern.

B. Toxicological Profile

1. *Acute toxicity.* Triazamate is a moderately toxic cholinesterase inhibitor belonging to the carbamoyl triazole class. Triazamate Technical was moderately toxic to rats following a single oral dose (LD_{50} = 50–200 mg/kg), and after a 4–hr inhalation exposure (LC_{50} value 0f > 0.47 mg/L); and was minimally to slightly toxic to rats following a single dermal dose (LD_{50} > 5,000 mg/kg). In a guideline acute neurotoxicity study with triazamate in the rat, the No-Observed-Adverse-Effect-Level (NOAEL) for clinical signs was 5 mg/kg based on the observation of cholinergic signs in 1 of 10 male rats at 25 mg/kg. Triazamate was practically non-irritating to the skin, moderately irritating to eyes in rabbits and did not produce delayed contact hypersensitivity in the guinea pig.

2. *Genotoxicty.* Triazamate is not mutagenic or genotoxic. Triazamate Technical was negative (non-mutagenic) in an Ames assay with and without hepatic enzyme activation. Triazamate Technical was negative in a hypoxanthine guanine phophoribosyl transferase (HGPRT) gene mutation assay using Chinese hamster ovary (CHO) cells in culture when tested with and without hepatic enzyme activation. In isolated rat hepatocytes, triazamate did not induce unscheduled DNA synthesis (UDS) or repair when tested up to the maximum soluble concentration in culture medium. Triazamate did not produce chromosome aberrations in an in vitro assay using Chinese hamster ovary cells (CHO) or an *in vivo* mouse micronucleus assay.

3. *Reproductive and developmental toxicity.* Triazamate Technical is not a developmental or reproductive toxicant:

i. In a developmental toxicity study in rats with Triazamate Technical, the NOAEL for developmental toxicity was 64 mg/kg (highest dose tested). The NOAEL for maternal toxicity was 16 mg/kg based on clinical signs of cholinergic toxicity at 64 mg/kg.

ii. In a developmental toxicity study in rabbits with Triazamate Technical, the NOAEL for developmental toxicity was 10 mg/kg (highest dose tested). The NOAEL for maternal toxicity was 0.5 mg/kg based on clinical signs and decreased body weight at 10 mg/kg.

iii. In a 2–generation reproduction study in rats with Triazamate Technical, the NOAEL for reproductive effects was 1,500 ppm (101 and 132 mg/kg/day for males and females, respectively; highest dose tested). The NOAEL for parental toxicity was 10 ppm (0.7 and 0.9 mg/kg/day for males and females, respectively) based on decreased plasma and RBC cholinesterase activities at 250 ppm (17 and 21 mg/kg/day for males and females, respectively).

4. *Subchronic toxicity.* In subacute and subchronic dietary toxicity studies, Triazamate Technical produced no evidence of adverse effects other than those associated with cholinesterase inhibition:

i. In a 90–day dietary toxicity study with Triazamate Technical in the rat, the NOAEL for blood cholinesterase inhibition was 50 ppm (3.2 and 3.9 mg/kg/day for males and females, respectively), based on decreases in plasma and RBC cholinesterase activities at 500 ppm (32 and 39 mg/kg/day for males and females, respectively). The NOAEL for brain cholinesterase inhibition and/or clinical signs was 500 ppm (32 and 39 mg/kg/day for males and females respectively) based on decreased brain cholinesterase activity and decreased body weight gain and

feed consumption at 1,500 ppm (93 and 117 mg/kg/day for males and females, respectively).

ii. In a guideline subchronic neurotoxicity study (90–day dietary feeding) with Triazamate Technical in the rat, the NOAEL for blood cholinesterase inhibition was 10 ppm (0.6 and 0.7 mg/kg/day for males and females, respectively), based on reductions in plasma and RBC cholinesterase activities at 250 ppm (14.3 and 17.1 mg/kg/day for males and females, respectively). The NOAEL for brain cholinesterase inhibition and/or clinical signs was 250 ppm (14.3 and 17.1 mg/kg/day for males and females respectively) based on decreases in brain cholinesterase activity and cholinergic signs at 1,500 ppm (87 and 104 mg/kg/day for males and females, respectively).

iii. In a 90–day dietary toxicity study with Triazamate Technical in the mouse, the NOAEL for blood cholinesterase inhibition was 2 ppm (0.4 and 0.5 mg/kg/day for males and females, respectively) based on based on decreases in plasma cholinesterase activity at 25 ppm (4 and 6 mg/kg/day for males and females, respectively). The NOAEL for brain cholinesterase and/or clinical signs was 250 ppm (46 and 67 mg/kg/day for males and females, respectively) based on decreases in brain cholinesterase and decreases in body weight and feed consumption at 1,000 ppm (164 and 222 mg/kg/day for males and females, respectively).

iv. In a 90–day dietary toxicity study with Triazamate Technical in the dog, the NOAEL for blood cholinesterase inhibition was 1 ppm for males only (0.03 mg/kg/day) based on decreases in plasma cholinesterase at 10 ppm (0.3 mg/kg/day). The dose of 1 ppm was a Lowest-Observed-Effect-Level (LOEL) for females based on the presence of decreased plasma cholinesterase activity (24%). The NOAEL for clinical signs was 10 ppm (0.3 mg/kg/day for males and females) based on a few clinical signs at 100 ppm (3.1 mg/kg/day for males and females).

v. In a 21–day dermal toxicity study with Triazamate Technical, the NOAEL for blood and brain cholinesterase inhibition was 10 mg/kg based on decreases in plasma, RBC and brain cholinesterase activities at 100 mg/kg.

5. *Chronic toxicity*. In chronic dietary toxicity studies, Triazamate Technical produced no evidence of adverse effects other than those associated with cholinesterase inhibition and was not oncogenic in the rat and mouse.

i. In a combined chronic dietary toxicity/oncogenicity study (24 months) in rats with Triazamate Technical, no evidence of oncogenicity was observed at doses up to 1,250 ppm (62.5 mg/kg/day for males and females; highest dose tested). The NOAEL for blood cholinesterase inhibition was 10 ppm (0.5 and 0.6 mg/kg/day for males and females respectively) based on decreases in plasma and RBC cholinesterase activity at 250 ppm (11.5 and 14.5 mg/kg/day in males and females, respectively). The NOAEL for brain cholinesterase inhibition and/or clinical signs was 250 ppm (11.5 and 14.5 mg/kg/day in males and females, respectively) based on clinical signs and decreases in brain cholinesterase inhibition at 1,250 ppm (62.5 mg/kg/day for males and females).

ii. In a combined chronic dietary toxicity study (18 months) in mice with Triazamate Technical, no evidence of oncogenicity was observed at doses up to 1,000–1,500 ppm (130–195 mg/kg/day for males and females; highest dose tested). The NOAEL for blood cholinesterase inhibition was 1 ppm (0.1 and 0.2 mg/kg/day for males and females, respectively) based on decreased plasma cholinesterase activity at 50 ppm (6.7 and 8.4 mg/kg/day for males and females, respectively). The NOAEL for brain cholinesterase inhibition and/or clinical signs was 50 ppm (6.7 and 8.4 mg/kg/day for males and females, respectively) based on decreased brain cholinesterase activity and other evidence of systemic toxicity at 1,000–1,500 ppm (130–195 mg/kg/day for males and females).

iii. In a chronic dietary toxicity study (12 months) in dogs with Triazamate Technical, the NOAEL for blood cholinesterase inhibition was 0.9 ppm (0.023 and 0.025 mg/kg/day for males and females, respectively) based on decreased plasma cholinesterase activity at 15.0 ppm (0.42 mg/kg/day for both males and females). The NOAEL for brain cholinesterase inhibition was 15.0 ppm (0.42 mg/kg/day for both males and females) based on decreased brain cholinesterase activity at 150 ppm (4.4 and 4.7 mg/kg/day for males and females, respectively).

6. *Animal metabolism*. The adsorption, distribution, excretion and metabolism of triazamate in rats, dogs and goats was investigated. Triazamate is rapidly absorbed when given orally (capsule or gavage) but slower following dietary intake. Peak blood levels following dietary administration were 10–fold lower than after gavage administration of an equivalent mg/kg/dose. Elimination is predominately by urinary excretion and triazamate does not accumulate in tissues. The metabolism of triazamate proceeds via ester hydrolysis and then a rapid stepwise cleavage of the carbamoyl group. The free acid metabolite (RH–0422) is the only toxicologically significant metabolite, given that it contains the dimethylcarbamoyl group. Other metabolites of triazamate, which are seen in other animal and plant metabolism studies, do not contain the carbamoyl group and do not produce cholinesterase inhibition.

7. *Metabolite toxicology*. Common metabolic pathways for triazamate have been identified in both plants (apple) and animals (rat, goat). The metabolic pathway common to both plants and animals involves hydrolysis of the ester and oxidative demethylation of the carbamoyl group. Extensive degradation and elimination of polar metabolites occurs in animals such that residue are unlikely to accumulate in humans or animals exposed to these residues through the diet.

8. *Endocrine disruption*. The toxicology profile of triazamate shows no evidence of physiological effects characteristic of the disruption of mammalian hormones. In developmental and reproductive studies there was no evidence of developmental or reproductive toxicity. In addition, the molecular structure of triazamate does not suggest that this compound would disrupt the mammalian hormone system. Overall, the weight of evidence provides no indication that triazamate has endocrine activity in vertebrates.

C. Aggregate Exposure

1. *Dietary exposure*. Tolerances for residues of triazamate should be expressed as the total residue from triazamate [acetic acid, [(1-((dimethylamino) carbonyl)-3–(1,1-dimethylethyl)-1*H*–1,2,4-triazol-5-yl) thio]-, ethyl ester] and its cholinesterase inhibiting metabolite acetic acid, [(1-((dimethylamino) carbonyl)-3-(1,1-dimethylethyl)–1*H*–1,2,4-triazol-5-yl) thio]. No other tolerances currently exist for residues of triazamate on food crops.

i. *Acute risk*. An acute dietary risk assessment (Dietary Exposure Evaluation Model, Novigen Sciences Inc., 1997) was conducted for triazamate using two approaches: (a) A Tier 1 approach using a tolerance level residue of 0.10 ppm. (b) Monte Carlo simulations using an entire distribution of field trial residues for pome fruit and adjusted for percent crop treated (Tier 3).

Using the Tier 1 approach margins of exposure (MOEs) at the 95th and 99th percentiles of exposure for the overall U.S. population were 572 and 199, respectively. Using the Tier 3 procedure in which residues were adjusted for

percent crop treated, the MOEs for the 95th and 99th percentiles were 8,769 and 1,511, respectively. Acute exposure was also estimated for non-nursing infants, the most sensitive sub-population. For this population, MOEs at the 95th and 99th percentiles of exposure were 113 and 83, respectively. Using the Tier 3 method, MOEs were 909 and 396, respectively. Acute dietary risk is considered acceptable if the MOE is greater than 30, an appropriate safety factor when based on a human clinical study. Even under the conservative assumptions presented here, the more realistic estimates of dietary exposure (Tier 3 analyses) clearly demonstrate adequate MOEs up to the 99th percentile of exposure for all population subgroups.

ii. *Chronic risk*. Chronic dietary risk assessments (Dietary Exposure Evaluation Model, Novigen Sciences Inc., 1997) were conducted for triazamate using two approaches: (a) Using a tolerance level residue of 0.10 ppm assuming 100% of crop is treated and (b) Using a tolerance level residue of 0.10 ppm adjusted for projected percent crop treated. The Theoretical Maximum Residue Contribution (TMRC) from the proposed pome fruit tolerance represents 0.91% of the RfD for the U.S. population as a whole. The subgroup with the greatest chronic exposure is non-nursing infants (less than 1 year old), for which the TMRC estimate represents 6.3% of the RfD. The chronic dietary risks from this use do not exceed EPA's level of concern.

2. *Drinking water*. An additional potential source of dietary exposure to residues of pesticides are residues in drinking water. Pesticides may reach drinking water either by leaching to groundwater or by runoff to surface water. Both triazamate and its cholinesterase-inhibiting metabolite are degraded rapidly in soil. This rapid degradation has been observed in both laboratory and field studies and makes it highly unlikely that measurable residues of either compound could be found in ground or surface water when triazamate is applied according to label directions. The negligible potential for mobility was confirmed in four outdoor field dissipation studies and two outdoor lysimeter studies. There is no established Maximum Concentration Level (MCL) for residues of triazamate in drinking water. No drinking water health advisory levels have been established for triazamate. Significant exposure from cholinesterase-inhibiting residues of triazamate in drinking water is not anticipated.

3. *Non-dietary exposure*. Triazamate is not registered for either indoor or outdoor residential use. Non-occupational exposure to the general population is therefore not expected and not considered in aggregate exposure estimates.

D. Cumulative Effects

The potential for cumulative effects of triazamate with other substances that have a common mechanism of toxicity was considered. It is recognized the triazamate appears to be structurally related to the carbamate class of insecticides which produce a reversible' inhibition of the enzyme cholinesterase. However, Rohm and Haas Company concludes that consideration of a common mechanism of toxicity is not appropriate at this time since there is no reliable data to indicate that the toxic effects caused by triazamate would be cumulative with those of any other compound, including carbamates. Based on these points, Rohm and Haas Company has considered only the potential risks of triazamate in it's exposure assessment.

E. Safety Determination

1. *U.S. population*. The acute and chronic dietary exposure to triazamate and its metabolite from the proposed use on pome fruit were evaluated. Exposure to triazamate and its toxicologically significant metabolite on pome fruit does not pose an unreasonable health risk to consumers including the sensitive subgroup non-nursing infants. In Tier 1 and Tier 3 acute analyses for the 95th percentile exposures, MOEs were greater than 100 for both the general U.S. population and non-nursing infants. Using the TMRC and assuming 100% of crop treated, the most conservative chronic approach), chronic dietary exposures represents 0.6% of the RfD for the U.S. population and 6.3% for non-nursing infants under 1 year old. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

Using the two conservative exposure assessments described in *C. Aggregate Exposure* and taking into account the completeness and reliability of the toxicity data, Rohm and Haas Company concludes that there is a reasonable certainty that no harm will result from aggregate exposure to residues of triazamate and its toxicologically significant metabolite to the U.S. population and non-nursing infants.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of triazamate, data from developmental toxicity studies in the rat and rabbit and two two-generation reproduction studies in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

Developmental toxicity was not observed in developmental studies using rats and rabbits. The NOAEL for developmental effects in rats was 64 mg/kg/day and rabbits was 10 mg/kg/day. In the two–generation reproductive toxicity study in the rat, the reproductive/ developmental toxicity NOAEL was 101–132 mg/kg/day. These NOAELs are 10–fold or higher than those observed for systemic toxicity, i.e., cholinesterase inhibition. Rohm and Haas Company concludes that there is a reasonable certainty that no harm will occur to infants and children from aggregate exposure to residues of triazamate.

F. International Tolerances

There are no approved CODEX maximum residue levels (MRLs) established for residues of triazamate. (Mark Dow)

[FR Doc. 98–25756 Filed 9–29–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–617A; FRL–6028–1]

EcoScience Corp; Withdrawal of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the withdrawal of pesticide petition (PP) 4F4397 without prejudice to future filing.

FOR FURTHER INFORMATION CONTACT: By mail: Shanaz Bacchus, c/o Product Manager (PM) 90, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 902W34, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–8097, e-mail: bacchus.shanaz@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 8, 1995, 60

FR 7540 (FRL–4926–4), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide tolerance petition, PP 4F4397, by EcoScience Corp., 377 Plantation St., Worcester, MA 01605. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the microbial insecticide *Beauveria bassiana* strain ESC 170 in or on all food/feed commodities. EcoScience has since informed the Agency that it no longer wished to support the registration of the active ingredient and the pesticide petition. Further, EcoScience has not submitted data nor a reproposal of the exemption from tolerance petition to comply with the Food Quality Protection Act of 1996. EPA issued notice regarding these matters to EcoScience, noting that the application would be kept open for a period of 75 days, after which it would be administratively withdrawn. This notice announces the Agency's decision, after the 75 days have passed, to withdraw that pesticide application and the pesticide petition without prejudice to future filing.

List of Subjects

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

Dated: September 16, 1998.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 98–25757 Filed 9–29–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–PA; FRL–6027–4]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Commonwealth of Pennsylvania's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On July 8, 1998, the Commonwealth of Pennsylvania submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Pennsylvania's application, provides a 45–day public comment period, and provides an opportunity to request a public hearing on the application.

DATES: Comments on the authorization application must be received on or before November 16, 1998. Public hearing requests must be received on or before October 30, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket control number ''PB–402404–PA'' (in duplicate) to: Environmental Protection Agency, Region III, Waste and Chemicals Management Division, Toxics Programs and Enforcement Branch (3WC33), 1650 Arch St., Philadelphia, PA 19103–2029.

Comments, data, and requests for a public hearing may also be submitted electronically to: gerena.enid@epa.gov. Follow the instructions under Unit IV. of this document. No information claimed to be Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Enid A. Gerena (3WC33), Waste and Chemicals Management Division, U.S. Environmental Protection Agency, Region III, 1650 Arch St., Philadelphia, PA 19103–2029, telephone: (215) 814–2067; e-mail address: gerena.enid@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Pub. L. 102-550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), entitled ''Lead Exposure Reduction.''

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges and other structures. Those regulations are to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. Under section 404 of TSCA, a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated final TSCA section 402/404 regulations governing lead-based paint activities in target housing and child-occupied facilities (a subset of public buildings). Those regulations are codified at 40 CFR part 745 and allow both States and Indian Tribes to apply for program authorization. Pursuant to section 404(h) of TSCA, EPA is to establish the Federal program in any State or Tribal Nation without its own authorized program in place by August 31, 1998.

States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

A State may choose to certify that its lead-based paint activities program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program meets the requirements of section 404(b) of TSCA. Upon submission of such certification letter, the program is deemed authorized. This authorization becomes ineffective, however, if EPA disapproves the application.

Pursuant to section 404(b) of TSCA, EPA provides notice and an opportunity for a public hearing on a State or Tribal program application before authorizing the program. Therefore, by this notice EPA is soliciting public comment on whether the Commonwealth of Pennsylvania's application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time, and place of the hearing. EPA's final decision on the application will be published in the **Federal Register**.

II. State Program Description Summary

The following summary of the Commonwealth of Pennsylvania's proposed program has been provided by the applicant:

The primary State agency that is responsible for administering and enforcing the Pennsylvania Lead-Based Paint Activities Program is the Department of Labor and Industry, Asbestos and Lead Occupations Accreditation and Certification.

The Pennsylvania Lead-Based Paint Activities Law originally became effective on July 1, 1995. This law was developed as a result of the EPA Proposed Rule--40 CFR part 745 issued on September 2, 1994 (59 FR 45872) (FRL–4633–9). In EPA's Proposed Rule, individuals and firms performing lead-based paint activities in target housing, commercial and public buildings, and on bridges and superstructures were also to be regulated. As such, the Pennsylvania lead-based paint activities law and regulations followed the Federal model and included all of the above mentioned regulated categories.

EPA's Final Rule--40 CFR part 745, which limited its regulated categories to lead-based paint activities in target housing and child-occupied facilities, was not published until August 29, 1996, well after Pennsylvania law was in place.

The act was adopted to protect the public health and safety by prevention of exposure to lead through the regulation of lead-based paint activity. The purpose of the regulations is to establish a program to: train individuals engaged in lead-based paint activities to ensure that they have the necessary skill, training experience and competence to perform these activities; accredit training providers to ensure that appropriate instruction is provided to persons engaged in lead-based paint abatement occupations; and to enforce work practice standards. The Commonwealth of Pennsylvania has adopted the EPA Lead Model Accreditation Plan, which includes target housing and child-occupied facilities: therefore, the Commonwealth of Pennsylvania will utilize its enforcement capabilities in target housing and child-occupied facilities.

The Pennsylvania regulation requires annual accreditation and certification renewal and fee payment. However, this does not mean annual refresher training is necessary. Pennsylvania will follow EPA's Lead Model Accreditation Plan and enforce 3–year refresher training and 5–year proficiency training.

Analysis of the Commonwealth of Pennsylvania's lead-based paint activities program is based upon the five program elements which are: (1) Procedures and requirements for the accreditation of lead-based paint activities programs; (2) procedures and requirements for the certification of individuals engaged in lead-based paint activities; (3) work practice standards for the conduct of lead-based paint activities; (4) requirements that all lead-based paint activities be conducted by appropriately certified contractors; (5) development of the appropriate infrastructure or government capacity to effectively carry out this program.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

IV. Public Record

The official record for this action, as well as the public version, has been established under docket control number ''PB-402404-PA.'' Copies of this notice, the Commonwealth of Pennsylvania's authorization application, and all comments received on the application are available for inspection in the Region III office, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The docket is located at U.S. Environmental Protection Agency, Region III, Waste and Chemicals Management Division, Toxics Programs and Enforcement Branch (3WC33), 1650 Arch St., Philadelphia, PA.

Electronic comments can be sent directly to EPA at: gerena.enid@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 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''PB-402404-PA.'' Electronic comments on this document may be filed online at many Federal Depository Libraries. Information claimed as CBI should not be submitted electronically.

Commenters are encouraged to structure their comments so as not to contain information for which CBI claims would be made. However, any information claimed as CBI must be marked ''confidential,'' ''CBI,'' or with some other appropriate designation, and a commenter submitting such information must also prepare a nonconfidential version (in duplicate) that can be placed in the public record. Any information so marked will be handled in accordance with the procedures contained in 40 CFR part 2. Comments and information not claimed as CBI at the time of submission will be placed in the public record.

V. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 (''Regulatory Planning and Review,'' 58 FR 51735, October 4, 1993), and Executive Order 13045 (''Protection of Children from Environmental Health Risks and Safety Risks,'' 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531–1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled ''Enhancing Intergovernmental Partnerships'' (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's action does not create an unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of

Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled ''Consultation and Coordination with Indian Tribal Governments'' (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: September 17, 1998.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 98–26165 Filed 9–29–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

September 24, 1998.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments November 30, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0841.

Title: Public Notice—Additional Processing Guidelines for DTV (noncheck list applications).

Form Number: FCC 301 and FCC 340.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit entities; not-for-profit institutions.

Number of Respondents: 75.

Estimated Hours Per Response: 3 hours.

Frequency of Response: On occasion reporting requirements.

Cost to Respondents: $270,000.

Estimated Total Annual Burden: 225 hours.

Needs and Uses: The Commission released a public notice on August 10, 1998, that explains how ''noncheck list'' applications (i.e., applications that do not conform to certain criteria to enable fast-track processing) will be processed for DTV station construction permits. This public notice explains what should be included in engineering showings and other types of application exhibits and cover letters. This public notice for ''noncheck list'' applications should help to resolve processing uncertainties, enable the preparation of complete and quality applications, and hasten the authorization of DTV service. The data provided will be used by FCC staff to ensure that interference to other DTV and NTSC stations is minimized.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–26149 Filed 9–29–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) submitted to OMB for Review and Approval

September 23, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 30, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of

time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0823.

Title: Pay Telephone Reclassification Memorandum Opinion and Order, CC Docket No. 96–28.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 400.

Estimated Time Per Response: 2–35 hours/request.

Frequency of Response: Recordkeeping. Annual, quarterly, monthly, one time, and on occasion reporting requirements; Third party disclosure.

Total Annual Burden: 44,700 hours.

Cost to Respondents: $480,000 ($600 filing fee/submission).

Needs and Uses: In the Payphone Orders, the FCC adopted new rules and policies governing the payphone industry to implement Section 276 of the Telecommunications Act of 1996. Those rules and policies in part established a plan to ensure fair compensation for ''each and every completed intrastate and interstate call using [a] payphone.'' Specifically, the Commission established a plan to ensure that payphone service providers (PSPs) were compensated for certain noncoin calls originated from their payphones. As part of this plan, the Commission required that by October 7, 1997, LECs provide payphone-specific coding digits to PSPs, and that PSPs provide those digits from their payphones to IXCs. The provision of payphone-specific coding digits is a prerequisite to payphone per-call compensation payments to IXCs to PSPs for subscriber 800 and access code calls. The Common Carrier Bureau, on its own motion, subsequently provided a waiver until March 9, 1998, for those payphones for which the necessary coding digits were not provided to identify calls. In a Memorandum Opinion and Order (MO&O) (released March 9, 1998), we clarify the requirements established in the Payphone Orders for the provision for payphone-specific coding digits and for tariffs that LECs must file pursuant to the Payphone Orders. We also grant a waiver of Part 69 of the Commission's rules so that local exchange carriers (LECs) can establish rate elements to recover the costs of implementing FLEX–ANI to provide payphone-specific coding digits for per-call compensation. The Commission in the Memorandum Opinion and Order, therefore, is effecting the following collections of information made in regard to information disclosures required in the Payphone Orders to implement Section 276 of the Act. The collection requirements are as follows: (a) LEC Tariff to provide FLEX ANI to IXCs: The MO&O requires that LECs implement FLEX ANI to comply with the requirements set forth in the Payphone Orders. LECs must provide to IXCs through their interstate tariffs, FLEX ANI service so that IXCs can identify which calls come from a payphone. LECs (and PSPs) must provide FLEX ANI to IXCs without charge for the limited purpose of per-call compensation, and accordingly, LECs providing FLEX ANI must revise their interstate tariffs to reflect FLEX ANI as a nonchargeable option to IXCs no later than March 30, 1998, to be effective no later than April 15, 1998, in those areas that it is available. (b) LEC Tariff to recover costs: LECs must file a tariff to establish a rate element in their interstate tariffs to recover their costs from PSPs for providing payphone-specific coding digits to IXCs. This tariff must reflect the costs of implementing FLEX ANI to provide payphone-specific coding digits for payphone compensation, and provide for recovery of such costs over a reasonable time period through a monthly recurring flat-rate charge. LECs must provide cost support information for the rate elements they propose. The Bureau will review these LEC rate element tariff filings, the reasonableness of the costs, and the recovery period. LECs will recover their costs over an amortization period of no more than ten years. The rate element charges will discontinue when the LEC has recovered its cost. (c) LECs must provide IXCs information on payphones that provide payphone-specific coding digits for smart and dumb payphones: LECs must provide IXCs information on the number and location of smart and dumb payphones providing payphone-specific coding digits, as well as the number of those that are not. (d) LECs must provide IXCs and PSPs information on where FLEX ANI is available now and when it is scheduled in the future: Within 30 days of the release of the MO&O, LECs should be prepared to provide IXCs, upon request, information regarding their plans to implement FLEX ANI by end office. LECs must provide IXCs and PSPs information on payphones that provide payphone-specific coding digits on end offices where FLEX ANI is available, and where it is not, on a monthly basis. Pursuant to the waivers in this order, LECs must also inform IXCs and PSPs proposed dates for its availability. (e) For a waiver granted to small or midsize LECs, a cost analysis must be provided, upon request: In the MO&O, the Bureau grants a waiver to midsize and small LECs that will be unable to recover the costs of implementing FLEX ANI in a reasonable time period. LECs must make this evaluation within 30 days of the release of the MO&O. The LEC must then notify IXCs that they will not be implementing FLEX ANI pursuant to this waiver, and provide the number of dumb payphones providing the ''27'' coding digit and the number of smart phones for which payphone-specific coding digits are unavailable. A LEC delaying the implementation of FLEX ANI pursuant to this waiver provision, must be prepared to provide its analysis, if requested by the Commission. The information disclosure rules and policies governing the payphone industry to implement Section 276 of the Act will ensure the payment of the per-call compensation by implementing a method for LECs to provide information to IXCs to identify calls, for each and every call made from a payphone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–26148 Filed 9–29–98; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Privacy Act of 1974; System of Records; Amendment

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice to amend record system and routine uses.

SUMMARY: The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (''ASC'') proposes to amend its system of records notice regarding the ''National Registry of State Certified and Licensed Appraisers'' (''National Registry'') under the Privacy Act of 1974, as amended (5 U.S.C. 552a)

and the routine uses of the information collected.

DATES: This action will be effective without further notice on October 30, 1998, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Marc L. Weinberg, General Counsel, by U.S. Mail at Appraisal Subcommittee; 2100 Pennsylvania Avenue, NW., Suite 200; Washington, DC 20037, or by Internet E-mail at marcw1@asc.gov.

FOR FURTHER INFORMATION CONTACT: Marc L. Weinberg, General Counsel; Appraisal Subcommittee, 2100 Pennsylvania Avenue, NW., Suite 200; Washington, DC 20037.

SUPPLEMENTARY INFORMATION: The ASC's ''notice of new system records'' regarding the National Registry was published at 57 FR 11084 (April 1, 1992). Copies of this notice are available from the address above. The ASC proposes to amend this notice of new system records.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act, as amended, which would require the submission of a new or altered system report for each system. The specific changes to the records system being amended are set forth below, followed by the notice as amended, published in its entirety.

The proposed amendments are the result of the National Registry ''redesign project,'' (''Project''), which has had as its central goal making publicly available to the greatest extent possible National Registry information via the Internet. Towards that end, the ASC, in July 1997, gave final approval to the Project, and, on September 22, 1997, approved amendments to ASC Policy Statement 8, *National Registry of State Certified and Licensed Appraisers.* In addition, the ASC issued letters to State appraiser regulatory agency officials on July 31, September 26, and September 30, 1997, describing the operational details of the Project.

As a result of these actions, since early 1998, virtually all information contained in the National Registry has been made available to the public at no cost through the ASC's Internet Web site, *www.asc.gov.* Anyone with Internet access—homebuyers and sellers, financial institutions, State appraiser regulatory agencies, and Federal and State agencies—can retrieve, by virtually any data element in the National Registry database, the information contained in the database. Therefore, a remotely located bank with Internet access can almost immediately determine the name, address, and telephone number of a State certified real estate appraiser located near the bank or located near the property to be appraised. Homebuyers can download a listing of all State licensed appraisers or State certified residential appraisers located nearby. And, a State appraiser regulatory agency (''State agency'') can determine whether an out-of-State appraiser seeking a temporary practice permit within the State, in fact, is a certified or licensed appraiser, in good standing, in his or her home State. Finally, anyone can determine whether an appraiser's license or certification is currently suspended, revoked or has been voluntarily surrendered in lieu of further State disciplinary action.

Only two National Registry data elements are protected by the Privacy Act of 1974 and are not generally releasable, through the Internet or otherwise. These elements are: (1) The National Registry Number (which is the appraiser's Social Security Number, where available, or an ASC randomly generated number, where it is not available); and (2) a symbol indicating that a State agency has ordered a final disciplinary acting against an appraiser resulting in something other than a suspension, revocation or voluntary surrender in lieu of further State action, *e.g.*, additional education or a monetary fine. These data elements are available only to a very limited number of persons and situations, as outlined below.

The ASC has taken steps to ensure that the public posting of Registry information on the Internet will not violate State information protection laws. During the planning and implementation stages of the Project, the ASC worked with the States to ensure that any Privacy Act issues were discussed and resolved. For example, a number of States initially were very concerned about providing the ASC National Registry Numbers, which ideally are Social Security Numbers. In written communications and discussions, the ASC informed the States that these numbers only would be available to ASC members and staff and State-specified officials whose access would be ID and password protected. In some instances, State agencies specifically notified their certified or licensed appraisers about this use of the numbers and requested their consent to that use. The ASC has assigned unique National Registry numbers to persons not consenting to this use. Moreover, to further protect those numbers, the ASC has digitally encrypted them. Finally, the ASC's policy has been to honor State personal information protection laws. If a State were to inform us that a certain data element is private within the State, that element would not be made available on our Web site.

These changes not only significantly enhance the usefulness of the National Registry, consistent with the purposes of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, 12 U.S.C. 3331–3351, they also greatly facilitate the ability of persons whose Privacy Act interests are affected by this System of Records, *i.e.*, State certified or licensed real estate appraisers, to exercise their rights under the Privacy Act. They can check immediately whether information pertaining to them exists in the system of records, can determine whether that information is accurate, and can request a correction of that information, if necessary.

All publicly available National Registry data elements will continue to be releasable to persons who do not have Internet access. Filing a Freedom of Information Act (''FOIA'') request with the ASC under ASC regulations at 12 CFR part 1102, subpart D, however, still will be needed.

Persons who do not have access to the Internet are not affected significantly by these changes. They continue to use FOIA and the Privacy Act (and the ASC respective implementing regulations, 12 CFR Part 1102, subparts D and C) to meet their information needs regarding this system of records.

ASC–1

System name:

National registry of State certified and licensed appraisers.

Changes:

* * * * *

Categories of records in the system:

Delete entry and replace with ''State abbreviation; national registry number; State license number; license action; previous license number; last name; first name; middle initial; name suffix; date of birth; street (mailing); city (mailing); State (mailing); zip (mailing); company name; telephone; street (physical); city (physical); State (physical); zip (physical); county name; FIPS county code; status; status date; license type; previous license type; effective date; expiration date; previous expiration date; amount paid; transaction date; years paid; classification; EDI capability; disciplinary code; effective date; ending date; release to public; release to government.''

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

* * * * *

Delete entry ''(10)'' and replace with ''(10) Using traditional, non-computerized methods, the information may be disclosed to Federal, State or local government agency personnel and duly authorized officers or employees of a financial institution, as that term is defined in section 1121(7) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3350(7), where records in this system of records pertain to a person seeking to qualify, or remain qualified, as a staff or fee appraiser eligible to perform an appraisal in connection with a federally related transaction.''

* * * * *

Add new entry ''(11) All information in this system of records, except the national registry number and the disciplinary code relating to final disciplinary actions resulting in less than suspensions, revocations or voluntary surrenders of credentials in lieu of further State disciplinary action (collectively, 'protected data'), may be disclosed to any member of the public through inquiry of the ASC's Internet Web site. All information, with no exceptions, may be disclosed to authorized Federal and State agency officials through inquiry of the ASC's Internet Web site.''

Storage:

Delete entry and replace with ''Paper records in file drawers, computer diskettes, removable computer media (such as 'zip disks'), computer hard disk drives, magnetic tapes, and computer memory. The public portion of the information also is stored in digital form at the data processing facilities of National Technical Information Services, Department of Commerce, Springfield, VA.''

Retrievability:

Delete entry and replace with ''National Registry information on the ASC's Web site may be retrieved by any single data element or by any combination of data elements listed above in 'Categories of Records in the System,' except for protected data. Protected data cannot be retrieved by anyone other than persons authorized in the 'Routine Uses' section above. All information, except for protected data, can be retrieved by anyone by using preformatted or custom queries through the ASC's Internet Web site. Only authorized ASC members and staff and State appraiser regulatory agency 'Authorized Officials' can retrieve protected data through the ASC Web site. For persons without Internet access to the ASC's Web site, information may be retrieved by following the procedures in 12 CFR part 1102, subpart C.''

Safeguards:

Delete entry and replace with: ''Records submitted by State appraiser regulatory agencies are kept in limited access areas during duty hours and in locked office areas at all other times. These records are available only to those persons whose official duties require such access. Internet access to protected data is limited by using 'Secure Socket Layer' technology and by the ASC assigning user identifications and passwords to 'Authorized Officials' designated by State appraiser regulatory organizations and ASC members and staff. No one, other than duly authorized ASC personnel and other persons who are authorized, from time to time, by the System Manager to assist the ASC in maintaining the ASC Web site, can edit or otherwise change the underlying database records contained in the system of records.''

* * * * *

System manager(s) and address:

Delete entry and replace with: ''Executive Director, ASC, 2100 Pennsylvania Avenue, NW, Suite 200, Washington, DC 20037.''

Notification procedure:

Delete entry and replace with: ''Individuals without Internet access, who are seeking to determine whether this system of records contains information about themselves, seeking access to records about themselves in this system of records, or contesting the content of records about themselves, must follow the procedures described in 12 CFR part 1102, subpart C.

Individuals with Internet access at any time can determine almost immediately whether this system of records contains information about themselves and whether the information is accurate (except for protected data). Therefore, persons with Internet access do not need to notify the ASC regarding their seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records. Notifications under 12 CFR part 1102, subpart C, however, are needed to obtain information about protected data in the system of records and to contest the content of any records in the system of records.''

Record access procedure:

Delete entry and replace with: ''Records, other than those pertaining to protected data, may be accessed by anyone, at any time, via the ASC's Internet Web site. Protected data are not publicly accessible; access is limited only to State agency 'Authorized Officials' and other State and Federal agency officials consistent with the 'routine uses' stated above. For persons without Internet access, the procedure for accessing records in this system of records is set out in 12 CFR part 1102, subpart C.''

Contesting record procedures:

Delete and replace with: ''Notifications under 12 CFR part 1102, subpart C are needed to contest the content of any records in the system of records.''

* * * * *

ASC–1

SYSTEM NAME:

National Registry of State Certified and Licensed Appraisers.

SYSTEM LOCATION:

Appraisal Subcommittee of the Federal Financial Institutions Examination Council, 2100 Pennsylvania Avenue, NW, Suite 200, Washington, DC. 20037.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are, or have been, licensed or certified by a State to perform appraisals in federally related transactions.

CATEGORIES OF RECORDS IN THE SYSTEM:

State abbreviation; national registry number; State license number; license action; previous license number; last name; first name; middle initial; name suffix; date of birth; street (mailing); city (mailing); State (mailing); zip (mailing); company name; telephone; street (physical); city (physical); State (physical); zip (physical); county name; FIPS county code; status; status date; license type; previous license type; effective date; expiration date; previous expiration date; amount paid; transaction date; years paid; classification; EDI capability; disciplinary code; effective date; ending date; release to public; release to government.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1103(a)(4) and 1109(a)(1), Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3332(a)(4) and 3338(a)(1).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

(1) The information in the system may be used by the ASC in any administrative proceeding before the ASC or in any other action or proceeding in which the ASC or its staff participates as a party or the ASC participates as *amicus curaie* any may be available to the extent required by law in response to a subpoena issued in the course of a proceeding in which the ASC is not a party;

(2) In any case in which records in the system indicate a violation or a potential violation of law, whether civil, criminal or regulatory in nature, whether arising from general statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the approriate agency, whether Federal, State or local, charged with enforcing or implementing the Statute, regulation, rule or order.

(3) The information may be given or shown to anyone during the course of an ASC investigation if the ASC staff has reason to believe that disclosure to the person will further the investigation. Information also may be disclosed to Federal, State or local authorities in order to obtain information or records relevant to an ASC investigation;

(4) The information may be given to independent auditors or other private firms with which the ASC has contracted to carry out an independent audit, or to collate, aggregate or otherwise refine and process data collected in the system of records. These contractors will be required to maintain Privacy Act safeguards with respect to such records;

(5) The information may be disclosed to a Federal, State or local government agency where records in this system of records pertain to an application for employment or to a current employer of that agency where the records are relevant and necessary to an agency decision concerning the hiring or retention of an employee or disciplinary or other administrative action concerning an employee;

(6) The information may be disclosed to a Federal, State or local government agency in response with the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit bythe requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter;

(7) The information may be disclosed to the Department of Justice or other counsel to the ASC for legal advice and also when the defendant in litigation is: (a) Any component of the ASC or any member or employee of the ASC in his or her official capacity; or (b) the United States. The information also may be disclosed to counsel for any ASC member or employee in litigation or anticipated litigation in his or her individual capacity where the ASC or the Department of Justice agrees to represent such employee or authorizes representation by another;

(8) The information may be disclosed to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(9) The information may be disclosed to the news media in accordance with guidelines contained in 28 CFR. 50.2 concerning the ASC's functions relating to civil, administrative and criminal proceedings;

(10) Using traditional, non-computerized methods, the information may be disclosed to Federal, State or local government agency personnel and duly authorized officers or employees of a financial institution, as that term is defined in section 1121(7) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 3350(7), where records in this system of records pertain to a person seeking to qualify, or remain qualified, as a staff or fee appraiser eligible to perform an appraisal in connection with a federally related transaction.

(11) All information in this system of records, except the national registry number and the disciplinary code relating to final disciplinary actions resulting in less than suspensions, revocations or voluntary surrenders of credentials in lieu of further State disciplinary action (collectively, 'protected data'), may be disclosed or any member of the public through inquiry of the ASC's Internet Web site. All information, with no exceptions, may be disclosed to authorized Federal and State agency officials through inquiry of the ASC's Internet Web site.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file drawers, computer diskettes, removable computer media (such as ''zip disk''), computer hard disk drives magnetic tapes, and computer memory. The public portion of the information also is stored in digital form at the data processing facilities of National Technical Information Services, Department of Commerce, Springfield, VA.

RETRIEVABILITY:

National Registry information on the ASC's Web site may be retrieved by any single data element or by any combination of data elements listed above in ''Categories of Records in the Systems,'' except for protected data. Protected data cannot be retrieved by anyone other than persons authorized in the ''Routine Uses'' section above. All information, except for protected data, cna be retrieved by anyone by using preformatted or custom queries through the ASC's Internet Web site. Only authorized ASC members and staff and State appraiser regulatory agency ''authorized Officials'' can retrieve protected data through the ASC Web site. For persons without Internet access to the ASC's Web site, information may be retrieved by following the procedures in CFR part 1102, subpart C.

SAFEGUARDS:

Records submitted by State appraiser regulatory agencies are kept in limited access areas during duty hours and in locked office areas at all other times. These records are available only to those persons whose official duties require such access. Internet access to protected data is limited by using 'Secure Socket Layer' technology and by the ASC assigning user identifications and passwords to ''Authorized Officials'' designated by State appraiser regulatory organizations and ASC members and staff. No one, other than duly authoized ASC personnel and other persons who are authorized, from time to time, by the System Manager to assist the ASC in maintaining the ASC Web site, can edit or otherwise change the underlying database records contained in the system of records.

RETENTION AND DISPOSAL:

System records are retained by the ASC indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, ASC, 2100 Pennsylvania Avenue, NW, Suite 200, Washington, DC 20037.

NOTIFICATION PROCEDURE:

Individuals without Internet access, who are seeking to determine whether this system of records contains information about themselves, seeking access to records about themselves in this system of records, or contesting the content of records about themselves, must follow the procedures described in 12 CFR part 1102, subpart C.

Individuals with Internet access at any time can determine almost immediately whether this system of records contains information about

themselves and whether the information is accurate (except for protected data). Therefore, persons with Internet access do not need to notify the ASC regarding their seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records. Notifications under 12 CFR part 1102, subpart C, however, are needed to obtain information about protected data in the system of records and to contest the content of any records in the system of records.

RECORD ACCESS PROCEDURE:

Records, other than those pertaining to protected data, may be accessed by anyone, at any time, via the ASC's Internet Wed site. Protected data are not publicly accessible; access is limited only to State agency ''Authorized Officials'' and other State and Federal agency officials consistent with the ''routine uses'' stated above. For persons without Internet access, the procedure for accessing records in this system of records is set out in 12 CFR part 1102, subpart C.

CONTESTING RECORD PROCEDURES:

Notifications under 12 CFR part 1102, subpart C are needed to contest the content of any records in the system of records.

RECORD SOURCE CATEGORIES:

Information in these records is supplied by State appraiser regulatory agencies. These agencies gather the information from individuals seeking to become State licensed or State certified appraisers, individuals seeking to renew their licenses or certifications, or qualified individuals seeking authority from an agency to perform appraisals in federally related transactions outside of their State of licensure or certification on a temporary basis.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: September 24, 1998.

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Ben Henson,

Executive Director.

[FR Doc. 98–26157 Filed 9–29–98; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License

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.

Sari Express, Inc. 8282 N.W. 66th Street, Miami, FL 33166, Officers: Ruggeiro Suffa, President, Elena Martinez, Vice President

Starlink International, 9351 S.W. 4th Lane, Miami, FL 33174, Marie Antonia Perez, Sole Proprietor

Logistics Worldwide Int'l Inc., 31234 Catawba Avenue, Cornelius, N.C. 28031, Officer; Mark Corneau, President

Marathon Line N.Y., Inc., 875 Avenue of Americas, 21st Fl., Suite 2107, New York, N.Y. 10001, Officers: Nursel Akdogan, President, Sedat Saka, Vice President

E–Z Shipping Line Corp., 1355 N.W. 93rd Ct., Suite A–108, 2nd Fl., Miami, FL 33172, Officers: Freddy J. Zelaya, President, Carlos O. Cearra, Vice President

Crowley Logistics, Inc., 9487 Regency Square Boulevard, Jacksonville, FL 32225, Officers: Elliott Burnside, President, John Hourihan, Vice President

LP International, Inc., 3400 W. 35th Street, Chicago, IL 60632, Officers: James E. Hurley, President, Ralph H. Steinbarth, Director

Dated: September 24, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–26077 Filed 9–29–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. 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 October 23, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Valley National Bancorp, Wayne, New Jersey; to acquire 9.9 percent of the voting shares of Vista Bancorp, Inc., Phillipsburg, New Jersey, and thereby indirectly acquire Phillipsburg National Bank and Trust Company, Phillipsburg, New Jersey, and Twin Rivers Community Bank, Eastern, Pennsylvania.

2. Popular Inc., Hato Rey, Puerto Rico; Popular International Bank, Inc., Hato Rey, Puerto Rico; Popular North America, Inc., Mt. Laurel, New Jersey; and Banco Popular North America, Inc., Chicago, Illinois; to acquire 100 percent of the voting shares of Banco Popular, New York, New York, New York, a *de novo* bank.

3. Popular Inc., Hato Rey, Puerto Rico, and Banco Popular De Puerto Rico, Hato Rey, Puerto Rico; to acquire 100 percent of the voting shares of Popular Transition Bank, Hato Rey, Puerto Rico, a *de novo* bank.

4. Popular Inc., Hato Rey, Puerto Rico; Popular International Bank, Inc., Hato Rey, Puerto Rico, and Popular North America, Inc., Mt. Laurel, New Jersey; to acquire 100 percent of the voting shares of Banco Popular, N.A. (New Jersey), Newark, New Jersey (upon conversion of the federal savings association charter of Banco Popular, FSB, Newark, New Jersey).

5. Banco Popular North American, Inc., Chicago, Illinois; to acquire 100 percent of the voting shares of Banco Popular, N.A. (Texas), Houston, Texas.

B. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Susquehanna Bancshares, Litiz, Pennsylvania; to acquire 100 percent of the voting shares of First Capitol Bank, York, Pennsylvania.

C. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Mid-Atlantic Community BankGroup, Inc., Gloucester, Virginia; to merge with United Community Bankshares, Inc., Franklin, Virginia, and thereby indirectly acquire The Bank of Sussex and Surry, Wakefield, Virginia, and The Bank of Franklin, Franklin, Virginia.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. First Citizens Bancshares, Inc., Dyersburg, Tennessee; to merge with First Volunteer Corporation, Union City, Tennessee, and thereby indirectly acquire First Volunteer Bank, Union City, Tennessee.

Board of Governors of the Federal Reserve System, September 24, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–26074 Filed 9–29–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

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, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) 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. The notice also will 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.

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 October 23, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Decatur Bancshares, Inc., Decatur, Arkansas; to acquire Grand Federal Savings Bank, Grove, Oklahoma, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, September 24, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–26073 Filed 9–29–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates: 8:15 a.m.–6:15 p.m., October 21, 1998. 8 a.m.–4:30 p.m., October 22, 1998.

Place: Atlanta Marriott North Central, 2000 Century Boulevard, N.E., Atlanta, Georgia 30345–3377.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise, the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters to be Discussed: The agenda will include an update on the Food and Drug Administration; National Immunization Program; update on the Vaccine Injury Compensation Program; update on the National Vaccine Program; review of changes in the revised draft rabies recommendation; consider for approval or modification the draft recommendations for use of Lyme disease vaccine; progress on The Guide to Community Preventive Services chapter on methods to raise vaccination coverage levels among children, adolescents, and adults; approval of changes in the harmonized immunization schedule; approval of the Notice to Readers for hepatitis B and for DTaP; consolidate resolutions currently included in the Vaccines for Children (VFC) Program; resolution to include rotavirus in the VFC Program; discuss the present ACIP general recommendations; computerization of ACIP recommendations; pneumococcal conjugate vaccine; update on U.S. influenza activity; update on ACIP prevention and control guidelines; influenza outbreak aboard a cruise ship in 1997; influenza outbreak among tour group passengers in Alaska in 1998; 1997–98 Aviron live attenuated influenza vaccine trial; 1997–98 vaccine cost effectiveness study of healthy adult workers; update on implementation of the sequential IPV/OPV schedule; revised recommendation for vaccination of children against hepatitis A; and the Infectious Disease Society of America efforts on vaccine safety. Other matters of relevance among the Committee's objectives may be discussed.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gloria A. Kovach, Committee Management Specialist, CDC, 1600 Clifton Road, NE, Mailstop D50, Atlanta, Georgia 30333, telephone 404/639–7250.

Dated: Setember 24, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–26128 Filed 9–29–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 78G–0195]

Valley Forest Resources, Inc.; Withdrawal of GRAS Affirmation Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a petition (GRASP MF–3714) proposing to affirm that the use of ground whole aspen and ground aspen parts as a feedstuff for livestock are generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT: Sharon A. Benz, Center for Veterinary Medicine (HFV–228), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6657.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 28, 1978 (43 FR 32864), FDA announced that a petition (GRASP MF–

3714) had been jointly filed by Aspen Fiber Corp., P.O. Box 14, Marcell, MN 56657, and Fiber For, Inc., R.D. No. 4, Box 207, Prior Lake, MN 55372. This petition proposed to amend the GRAS regulations in 21 CFR part 582 to affirm that ground whole aspen and ground aspen parts used as a feedstuff for livestock are GRAS.

FDA spoke with a member of the Minnesota Office of Economic Opportunity, Minnesota Department of Economic Security, and a former employee of the Aspen Fiber Corp. Through these sources, FDA determined that Aspen Fiber Corp. has merged with Valley Forest Resources, Inc., HC 1 Box 76, Marcell, MN 56657. Valley Forest Resources agreed, by letter of April 2, 1998, to the withdrawal of the petition. FDA attempted to contact Fiber For, Inc., by letter of January 28, 1998, but that letter was returned as undeliverable. FDA has been unable to locate the firm through directory assistance or the Internet.

The petition is withdrawn based on the letter from Valley Forest Resources, Inc., without prejudice to future filing.

Dated: September 17, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98–26085 Filed 9–29–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 98P–0425, 98P–0506, and 98P–0621]

Medical Devices; Exemptions From Premarket Notification; Class II Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of petitions requesting exemption from the premarket notification requirements for certain class II devices. FDA is publishing this notice in order to obtain comments on these petitions in accordance with procedures established by the Food and Drug Administration Modernization Act of 1997 (FDAMA).

DATES: Written comments by October 30, 1998.

ADDRESSES: Submit written comments on this notice to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health (HFZ–404), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Statutory Background

Under section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c), FDA must classify devices into one of three regulatory classes: Class I, class II, or class III. FDA classification of a device is determined by the amount of regulation necessary to provide a reasonable assurance of safety and effectiveness. Under the Medical Device Amendments of 1976 (the 1976 amendments (Pub. L. 94–295)), as amended by the Safe Medical Devices Act of 1990 (the SMDA (Pub. L. 101–629)), devices are to be classified into Class I (general controls) if there is information showing that the general controls of the act are sufficient to assure safety and effectiveness; into class II (special controls), if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide such assurance; and into class III (premarket approval), if there is insufficient information to support classifying a device into class I or class II and the device is a life-sustaining or life-supporting device or is for a use which is of substantial importance in preventing impairment of human health, or presents a potential unreasonable risk of illness or injury.

Most generic types of devices that were on the market before the date of the 1976 amendments (May 28, 1976) generally referred to as preamendment devices) have been classified by FDA under the procedures set forth in section 513(c) and (d) of the act through the issuance of classification regulations into one of these three regulatory classes. Devices introduced into interstate commerce for the first time on or after May 28, 1976 (generally referred to as postamendment devices) are classified through the premarket notification process under section 510(k) of the act (21 U.S.C. 360(k)). Section 510(k) of the act and the implementing regulations, 21 CFR part 807, require persons who intend to market a new device to submit a premarket notification report (510(k)) containing information that allows FDA to determine whether the new device is ''substantially equivalent'' within the meaning of section 513(i) of the act to a legally marketed device that does not require premarket approval.

On November 21, 1997, the President signed into law FDAMA (Pub. L. 105–115). Section 206 of FDAMA, in part, added a new section 510(m)(1) of the act which requires FDA, within 60 days after enactment of FDAMA, to publish in the **Federal Register** a list of each type of class II device that does not require a report under section 510(k) of the act to provide reasonable assurance of safety and effectiveness. Section 510(m) of the act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. FDA published that list in the **Federal Register** of January 21, 1998 (63 FR 3142).

Section 510(m)(2) of the act provides that, 1 day after the date of publication of the list under section 510(m)(1), FDA may exempt a device on its own initiative or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, of the petition, and to provide a 30-day comment period. Within 120 days of publication of this document, FDA must publish in the **Federal Register** its final determination regarding the exemption of the device that was the subject of the notice. If FDA fails to respond to a petition under this section within 180 days of receiving it, the petition shall be deemed granted.

II. Criteria for Exemption

There are a number of factors FDA may consider to determine whether a 510(k) is necessary to provide reasonable assurance of the safety and effectiveness of a class II device. These factors are discussed in the guidance the agency issued on February 19, 1998, entitled ''Procedures for Class II Device Exemptions from Premarket Notification, Guidance for Industry and CDRH Staff.'' That guidance can be obtained through the World Wide Web on the CDRH Home Page at ''http://www.fda.gov/cdrh'' or by facsimile through CDRH Facts-on-Demand at 1–800–899–0381 or 301–827–0111. Specify ''159'' when prompted for the document shelf number.

III. List of Petitions

FDA has received the following petitions requesting an exemption from premarket notification for class II devices:

1. Abbott Laboratories, 21 CFR 862.1715 *Triiodothyronine uptake test system devices*.

2. Radiological Imaging Technology, 21 CFR 892.5050, *Film Dosimetry System*, a.k.a. *Film Scanning System*.

3. Getinge/Castle, Inc., 21 CFR 878.4580 *Surgical Lamps*.

IV. Comments

Interested persons may, on or before October 30, 1998, submit to the Dockets Management Branch (address above) written comments regarding this notice. 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 petitions and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 23, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–26082 Filed 9–29–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 29, 1998, 8:30 a.m. to 5 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: Mary J. Cornelius, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2194, ext. 118, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12523. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on a premarket approval supplement for a new indication for an extracorporeal immunoadsorption device intended for the treatment of rheumatoid arthritis.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by October 22, 1998. Oral presentations from the public will be scheduled between approximately 8:30 a.m. and 9 a.m. Near the end of the committee deliberations, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 22, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 22, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–26083 Filed 9–29–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0777]

Draft Guidance for Industry on Investigating Out of Specification (OOS) Test Results for Pharmaceutical Production; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance document entitled ''Investigating Out of Specification (OOS) Test Results for Pharmaceutical Production.'' The purpose of this draft guidance document is to provide guidance to the pharmaceutical industry on what to do when analytical test results fall outside of specifications (OOS) during pharmaceutical production.

DATES: Written comments on the draft guidance document may be submitted by November 30, 1998. General comments on the agency guidance documents are welcome at any time.

ADDRESSES: Copies of this draft guidance document are available on the Internet using the World Wide Web (WWW) at ''http://www.fda.gov/cder/guidance/index.htm''. Submit written requests for single copies to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: C. Russ Rutledge, Center for Drug Evaluation and Research (HFD–325), 7520 Standish Pl., Rockville, MD 20855, 301–594–0098, FAX 301–594–2202.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance document entitled ''Investigating Out of Specification (OOS) Test Results for Pharmaceutical Production.'' This draft guidance document provides guidance to the pharmaceutical industry on how to investigate laboratory test results that fall outside of specification limits. This draft guidance document describes how to investigate results in the laboratory phase, including responsibilities of the analyst and supervisor, and if necessary, expand the investigation outside of the laboratory to include production, processes, and raw materials as appropriate.

This draft level 1 guidance document is being issued consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It represents the agency's current thinking on OOS test results. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both.

Interested persons may, at any time, submit written comments on the draft guidance document to the Dockets Management Branch (address above). 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 draft guidance document and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 21, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–26084 Filed 9–29–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: October 9, 1998.
Time: 1:00 pm to 3:00 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.
Contact Person Sherry L. Dupere, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5136, MSC 7840, Bethesda, MD 20892, (301) 435–1021.

Name of Committee: Cardiovascular Sciences Initial Review Group, Experimental Cardiovascular Sciences Study Section.
Date: October 19–20, 1998.
Time: 8:00 am to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Anshumali Chaudhari, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, MSC 7802, Bethesda, MD 20892, (301) 435–1210.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 23, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–26192 Filed 9–29–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Review of Training Grant Applications.
Date: October 13–14, 1998.
Time: October 13, 1998, 8:00 am to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.
Time: October 14, 1998, 8:00 am to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.
Contact Person: Eric H. Brown, Scientific Review Administrator, NIH, NHLBI, DEA, Rockledge Building II, 6701 Rockledge Drive, Suite 7204, Bethesda, MD C 7956, (301) 435–0299.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Demonstration and Education Research Grant Application (R18s).
Date: October 15, 1998.
Time: 9:00 am to 6:00 pm.
Agenda: To review and evaluate grant applications.
Place: Hilton National Airport Hotel, 2399 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: Louise P. Corman, Scientific Review Administrator, NIH, NHLBI, DEA, Rockledge Building II, 6701 Rockledge Drive, Suite 7180, Bethesda, MD 20892–7924, (301) 435–0270.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Jackson Heart Study.
Date: October 16, 1998.
Time: 8:00 am to 12:00 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, 20814.
Contact Person: C. James Scheirer, Chief, Review Branch, DEA, NIH, NHLBI, Rockledge II, 6701 Rockledge Drive, Room 7216, Bethesda, MD 20892–7924, (301) 435–0260.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 22, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–26194 Filed 9–29–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Initial Review Group Epidemiology and Prevention Research Subcommittee.
Date: October 6–7, 1998.
Time: 8:30 am to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Susan L. Coyle, Chief, Clinical, Epidemiological and Applied Sciences Review Branch, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, room 10–42, Rockville, MD 20857, (301) 443–2620.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Initial Review Group Basic Behavioral Science Research Subcommittee.

Date: October 6, 1998.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Mark Swieter, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, room 10–42, Rockville, MD 20857, (301) 443–2620.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Medication Development.

Date: October 6, 1998.

Time: 9:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Khursheed Asghar, Chief, Basic Sciences Review Branch, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, Rockville, MD 20857, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Epidemiology and Prevention.

Date: October 7, 1998.

Time: 1:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Marina L. Volkov, Special Assistant, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, room 10–22, Rockville, MD 20857, (301) 443–9042.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Initial Review Group Treatment Research Subcommittee.

Date: October 15–16, 1998.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Kesinee Nimit, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, room 10–22, Rockville, MD 20857, (301) 443–9042.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel.

Date: October 16, 1998.

Time: 9:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Susan L. Coyle, Chief, Clinical, Epidemiological and Applied Sciences Review Branch, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, room 10–42, Rockville, MD 20857, (301) 443–2620.

Name of Committee: National Institute on Drug Abuse Initial Review Group Health Services Research Subcommittee.

Date: October 27–28, 1998.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Marina L. Volkov, Special Assistant, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, room 10–22, Rockville, MD 20857, (301) 443–9042.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Center Review Committee (Program Projects).

Date: November 3, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Rita Liu, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, Room 10–22, Rockville, MD 20857, (301) 443–9042.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Center Review Committee (Centers).

Date: November 4, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Rita Liu, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, Room 10–22, Rockville, MD 20857, (301) 443–9042.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Center Review Committee (Program Projects).

Date: November 5, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Rita Liu, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, Room 10–22, Rockville, MD 20857, (301) 443–9042.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Training and Career Development.

Date: November 18–20, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Mark Swieter, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5600 Fishers Lane, Room 10–42, Rockville, MD 20857, (301) 443–2620.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: September 24, 1998.

LaVerne Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–26188 Filed 9–29–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Nat'l Inst on Deafness & Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Deafness & Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would

constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.
Date: October 23, 1998.
Open: 9:45 am to 10:00 am.
Agenda: Program documents.
Place: Natcher Building, Conference Room D, 45 Center Drive, Bethesda, MD 20892.
Closed: 10:45 am to 3:30 pm.
Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.
Place: Natcher Building, Conference Room D, 45 Center Driver, Bethesda, MD 20892.
Contact Person: Robert J. Wenthold, Acting Director, Division of Intramural Research, National Institute on Deafness and Other Communication Disorders, 5 Research Court, Room 2B28, Rockville, MD 20852, 301–402–2829.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 24, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–26189 Filed 9–29–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets of commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Genetics of Age-Sensitive Traits in Mice.
Date: October 15, 1998.
Time: 1:00 pm to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Campus Inn Hotel, 615 East Huron Street, Ann Arbor, MI 48104.
Contact Person: James P. Harwood, Deputy Chief.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel, Development and Maintenance of a Long-Term-Colony of Aged Hubrid Rats.
Date: October 15, 1998.
Time: 1:00 pm to 2:30 pm.
Agenda: To review and evaluate grant applications.
Place: 7201 Wisconsin, Suite 502C, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Arthur D. Schaerdel, Scientific Review Administrator.

Name of Committee: National Institute on Aging Initial Review Group, Biological Aging Review Committee.
Date: October 19–20, 1998.
Time: 6:00 pm to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Chevy Chase Holiday Inn, Chevy Chase, MD 20815.
Contact Person: James P. Harwood, Scientific Review Administrator, National Institute on Aging, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

This notice is being published less than 15 days prior tot he meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Initial Review Group, Sociology Aging Review Committee.
Date: October 22, 1998.
Time: 2:00 pm to 9:00 pm.
Agenda: To review and evaluate grant applications.
Place: River Inn, 924 25th Street, NW, Washington, DC 20037.
Contact Person: Mary Ann Guadagno, Health Scientist Administrator.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel, Small Grants in Sociology and Psychology.
Date: October 23, 1998.
Time: 9:00 am to 7:00 pm.
Agenda: To review and evaluate grant applications.
Place: River Inn, 924 25th Street, NW, Washington, DC 20037.
Contact Person: Mary Ann Guadagno.

Name of Committee: National Institute on Aging, Special Emphasis Panel, Review of R03 Grant Applications in Aging, Disease of Aging and Neurosciences.
Date: November 4, 1998.
Time: 10:00 am to 4:00 pm.
Agenda: To review and evaluate grant applications.
Place: The Hyatt Regency Hotel, 100 Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Jeffrey M. Chernak, Scientific Review Admin.

Name of Committee: National Institute on Aging, Special Emphasis Panel, Genetic and Molecular Basis of Longevity.
Date: November 11–12, 1998.
Time: 6:00 am to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Chevy Chase Holiday Inn, Chevy Chase, MD 20815.
Contact Person: James P. Harwood, Deputy Chief.

Name of Committee: National Institute on Aging, Special Emphasis Panel, Clinical and Biologic Studies of Early Alzheimer's Disease.
Date: December 1, 1998.
Time: 1:00 pm to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Jeffrey M. Chernak, Scientific Review Admin.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 24, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–26190 Filed 9–29–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders A.
Date: October 15–16, 1998.
Time: 8:30 am to 5:30 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Katherine M. Woodbury, Scientific Review Administrator, National Institute of Neurological Disorders and Stroke, National Institutes of Health, PHS, DHHS, Federal Building, Room 9C10, 7550

Wisconsin Avenue, Bethesda, MD 20892, (301) 496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders B.

Date: October 29–30, 1998.

Time: 8:00 am to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel Georgetown, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Paul A. Sheehy, Scientific Review Administrator, National Institute of Neurological Disorders and Stroke, National Institutes of Health, PHS, DHHS, Federal Building, Room 9C10, 7550 Wisconsin Avenue, Bethesda, MD 20892–9175, (301) 496–9223.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: September 23, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–26191 Filed 9–29–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences, Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environment Health Sciences Special Emphasis Panel, Molecular Oncology Support.

Date: October 14, 1998.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: NIEHS–East Campus, Building 4401, conference Room 3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, Scientific Review Administrator, NIEHS, PO Box 12233 EC–24, Research Triangle Park, NC 27709, (919) 541–1307.

Name of Committee: National Institute of Environment Health Sciences Special Emphasis Panel, Transition to Independent Positions (TIP) (RFA ES–98–001).

Date: October 14 –16, 1998.

Time: October 14, 1998, 7:00 p.m. to 10:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hawthorne Suites, 300 Meredith Drive, Durham, NC 27713.

Time: October 15, 1998, 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, South Campus, Bldg. 101, Conference Room-A, Research Triangle Park, NC 27709.

Time: October 16, 1998, 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, South Campus, Bldg. 101, Conference Room-A, Research Triangle Park, NC 27709.

Contact Person: Linda K. Bass, Scientific Review Administrator, NIEHS, PO Box 12233 EC–24, Research Triangle Park, NC 27709, (919) 541–1307.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Conduct of Studies to Evaluate the Toxicologic and Carcinogenesis Potential of Selected Chemicals Via Inhalation.

Date: October 16, 1998.

Time: 8:30 a.m. to 5:00 p.m..

Agenda: To review and evaluate contract proposals.

Place: South Campus Bldg. 101, Conference Room C, Research Triangle Park, MD 27709.

Contact Person: David Brown, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 17709, (919) 541–4964.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: September 22, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–26193 Filed 9–29–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: October 14, 1998.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, (Telephone Conference Call).

Contact Person: Jack D. Maser, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, 301–443–1340.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: October 28, 1998.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Robert H. Stretch, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, 301–443–4728.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: October 26, 1998.

Time: 9:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: George Washington University Inn, 824 New Hampshire Ave., NW., Washington, DC 20037.

Contact Person: Jean G. Noronha, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–26, Rockville, MD 20857, 301–443–6470.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: November 19, 1998.

Time: 2:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, (Telephone Conference Call).
Contact Person: Robert H. Stretch, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, 301–443–4728.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: November 30, 1998.
Time: 1:00 p.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, (Telephone Conference Call).
Contact Person: Robert H. Stretch, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9C–18, Rockville, MD 20857, 301–443–4728.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: September 21, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–26195 Filed 9–29–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.
Date: October 7–8, 1998.
Time: 7:30 pm to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Harrisburg East, 4751 Lindle Road, Harrisburg, PA 17111.
Contact Person: Gopal, M. Bhatnagar, Scientific Review Administrator, Division of Scientific Review, National Institutes of Child Health and Human Development, National Institutes of Health, PHS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 24, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–26197 Filed 9–29–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Follow-up During Adolescence of a Cohort of Bedouin Arab Children Severely Stunted in Early Life.
Date: September 28, 1998.
Time: 1:00 pm to 5:00 pm.
Agenda: To review and evaluate grant applications.
Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Hameed Khan, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 83.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 24, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–26198 Filed 9–29–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biomedical Library Review Committee.
Date: November 4–5, 1998.
Open: November 4, 1998, 9:00 am to 9:30 am.
Agenda: Administrative reports and program developments.
Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Closed: November 4, 1998, 9:30 am to 11:30 am.
Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Open: November 4, 1998, 11:30 am to 12:00 pm.

Agenda: Administrative reports and program developments.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Closed: November 4, 1998, 12:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Open: November 5, 1998, 8:30 am to 8:45 am.

Agenda: Administrative reports and program developments.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Closed: November 5, 1998, 8:45 am to 1:30 pm.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Contact Person: Sharee Pepper, Scientific Review Administrator, Health Scientist Administrator, Office of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: September 21, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–26196 Filed 9–29–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program (NTP) Board of Scientific Counselors' Meeting; Review of Draft NTP Technical Reports

Pursuant to Public law 92–463, notice is hereby given of the next meeting of the NTP Board of Scientific Counselors' Technical Reports Review Subcommittee on October 30, 1998, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina. The meeting will begin at 9:00 a.m. on October 30, and is open to the public. The agenda topic is the peer review of draft Technical Reports of long-term toxicology and carcinogenesis studies from the National Toxicology Program.

Tentatively scheduled to be peer reviewed on October 30 are draft Technical Reports of five two-year studies, listed alphabetically, along with supporting information in the attached table. The draft Report on triethanolamine had been peer reviewed previously but is being returned for rereview as this was the first study in which infection of $B6C3F_1$ mice with Halicobacter hepaticus was discovered. All studies were done using Fischer 344 rats and $B6C3F_1$ mice. The order of review is given in the far right column of the table. By September 30, 1998, full copies of these draft reports will be available for free on the Internet for public review and comment through the Environmental Health Information Service (EHIS) at *http://ehis.niehs.nih.gov*. Printed copies can be obtained, as available, from: Central Data Management, MD E1–02, P.O. Box 12233, Research Triangle Park, NC 27709 (919/541–3419), FAX (919/541–3687); email: CDM@niehs.nih.gov.

Public comment on any of the Technical Reports is welcome. Persons wanting to make a formal presentation regarding a particular Technical Report must notify the Executive Secretary by telephone at 919/541–3971, by FAX at 919/541–0295, by mail, or by email at hart@niehs.nih.gov., by no later than October 27, 1998, and, if possible, provide a written copy in advance of the meeting so copies can be made and distributed to all Subcommittee members and staff, and made available at the meeting for attendees. Written statements could supplement and may expand on the oral presentation. *Oral presentations should be limited to no more than five minutes.*

The Program would welcome receiving toxicology and carcinogenesis information from completed, ongoing, or planned studies by others, as well as current production data, human exposure information, and use patterns for any of the chemicals listed in this announcement. Please contact Central Data Management at the address given above, and they will relay the information to the appropriate staff scientist.

The Executive Secretary, Dr. Larry G. Hart, P.O. Box 12233, Research Triangle Park, North Carolina 27709 will furnish agenda and a roster of Subcommittee members prior to the meeting. Summary minutes subsequent to the meeting will be available upon request to Central Data Management.

Dated: September 21, 1998.

Kenneth Olden,

Director, National Toxicology Program.

SUMMARY DATA FOR TECHNICAL REPORTS TENTATIVELY SCHEDULED FOR REVIEW AT THE MEETING OF THE NTP BOARD OF SCIENTIFIC COUNSELOR'S TECHNICAL REPORTS REVIEW SUBCOMMITTEE

[October 30, 1998]

Chemical CAS No.	Technical report No.	Primary uses	Route/exposure levels	Review order
Ethylene Glycol Monobutyl Ether 111–76–2.	TR–484	Solvent for mineral oils, in spray lacquers, varnish removers, metal cleaners.	Inhalation (air): Rats: 0, 31, 62.5, or 125 ppm; Mice: 0, 62.5, 125, or 250 ppm (50/sex/species/group).	3
Glutaraldehyde 111–30–8	TR–490	Disinfectant and sterilizing agent; Embalming fluid; chemical intermediate for adhesives, electrical products, tanning soft leathers; in photographic developing, dental materials.	Inhalation (air): Rats: 0, 250, 500, or 750 ppm; Mice: 0, 62.5, 125, or 250 ppb (50/sex/species/group).	5
Methyleugenol 93–15–2	TR–491	Insect attractant; major constituent of clove oil, used extensively in perfumes & flavorings.	Gavage (methylcellulose): Rats & Mice: 0, 37, 75, or 150 mg/kg (50/sex/species/group).	2

SUMMARY DATA FOR TECHNICAL REPORTS TENTATIVELY SCHEDULED FOR REVIEW AT THE MEETING OF THE NTP BOARD OF SCIENTIFIC COUNSELOR'S TECHNICAL REPORTS REVIEW SUBCOMMITTEE—Continued

[October 30, 1998]

Chemical CAS No.	Technical report No.	Primary uses	Route/exposure levels	Review order
Oxymetholone 434–07–1	TR–485	Maintain a positive nitrogen balance; to promote weight gain in Cachexia, debilitating diseases, serious infections, burns, trauma and surgery; treatment of anemias.	Gavage (methylcellulose); Rats only: Males: 0, 3, 30, or 150 mg/kg; Females: 0, 3, 30, or 100 mg/kg.	4
Triethanolamine 102–71–6 (Reconsideration and discussion of Helicobacter issue).	TR–449	Intermediate in the manufacture of surfactants, textile specialties, waxes, polishes, herbicides, petroleum demulsifiers, toilet goods, cement additives, cutting oils, in making mineral & vegetable oil emulsions, solvent, pharmaceutics aid (alkalizer).	Topical (acetone): Male Rats: 0, 32, 63, or 125 mg/kg; Female Rats: 0, 63, 125, or 250 mg/kg; Male Mice: 0, 200, 630, or 2000 mg/kg; Female Mice: 0, 100, 300, or 1000 mg/kg (60/group).	1

By September 30, 1998, full copies of these draft reports will be available for free on the Internet for public review and comment through the Environmental Health Information Service (EHIS) at http://ehis.niehs.nih.gov. Printed copies can be obtained by contacting Central Data Management by phone at 919–541–3418; fax: 919–541–3687; or email: CMD@niehs.nih.gov.

[FR Doc. 98–26187 Filed 9–29–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4349–N–38]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: October 7, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Maxine Wallace, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–2186 ext. 4385. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Wallace.

SUPPLEMENTARY INFORMATION:

This Notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package with respect to the Welfare to Work Initiative.

This Notice is soliciting comments from appropriate service providers and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Welfare to Work: A comprehensive Guide of Welfare to Work Resources and Services.

OMB Control Number, if applicable: N/A.

Decription of the need for the information and proposed use: Information collection is required to provide employers in eight (8) cities (New York, Baltimore, Kansas City, St. Louis, Dallas, Seattle, Denver and San Antonio) with helpful information on securing and training welfare recipients as workers.

Agency form numbers, if applicable: N/A.

Members of affected public: Service Providers including Not-for Profits and State, Local and Tribal Governments will be the primary affected members of the public. Businesses and other for profit agencies will be affected members as well.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 1,200. The proposed frequency of the response to the collection of information is one-time. It is believed that it will take approximately one (1) hour to complete the questionnaire with 1,200 respondents for a total of 1,200 hours.

Status of the proposed information collection: New Collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 23, 1998.

David S. Cristy,

Director, IRM Policy and Management Division.

[FR Doc. 98–26075 Filed 9–29–98; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Klamath River Basin Fisheries Task Force Meeting

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath River Basin Fisheries Task Force, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

DATES: The Klamath River Basin Fisheries Task Force (TF) will meet from 8:00 a.m. to 5:00 p.m. on Thursday, October 15, 1998 and from 8:00 a.m. to 5:15 p.m. on Friday, October 16, 1998.

PLACE: The meeting will be held in the Windmill Ashland Hills Inn (2525 Ashland Street), Ashland, Oregon.

FOR FURTHER INFORMATION CONTACT:

Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006 (1215 South Main), Yreka, California 96097–1006, telephone (530) 842–5763.

SUPPLEMENTARY INFORMATION: The principal agenda items at this meeting will be: (1) A report on the status of the Department of the Interior's flow study and associated flow study efforts; (2) A status report on the 1998 Klamath Project operations; (3) An identification of priority funding needs by the Task Force; (4) Private landowner awards; (5) The adoption of programmatic spending priorities by the Task Force for FY2000; (6) A report on the Self Determination Act; (7) A report and decision on the Midprogram Review; (8) The establishment of a subcommittee to develop criteria and performance evaluations so that CRMPs can be properly assessed for funding; (9) A decision on whether or how to proceed with the Upper Basin Amendment and assignments; and (10) A decision on scoping recommendations for the Klamath River Basin Instream Flow Incremental Methodology (IFIM) flow study.

For background information on the TF, please refer to the notice of their initial meeting that appeared in the **Federal Register** on July 8, 1987 (52 FR 25639).

Dated: September 23, 1998.

Cynthia U. Barry,

Geographic Assistant Regional Director, Klamath/Central Pacific Coast Ecoregion.

[FR Doc. 98–26129 Filed 9–29–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

United States Geological Survey

Technology Transfer Act of 1986

AGENCY: United States Geological Survey, Interior.

ACTION: Notice of proposed cooperative research and development agreement (CRADA) negotiations.

SUMMARY: The U.S. Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with Mobil Technology Company to provide laboratory data on the interaction between stress, rock deformation, precipitation/dissolution reactions, and fluid chemistry at elevated temperatures and in the presence of reactive pore fluids.

INQUIRIES: If any other parties are interested in similar activities with the USGS, please contact: Dr. David Lockner, USGS, MS977, 345 Middlefield Road, Menlo Park, CA 94025; telephone (650) 329–4826; e-mail dlockner@isdmnl.wr.usgs.gov.

SUPPLEMENTARY INFORMATION: This notice is to meet the USGS requirement stipulated in the Survey Manual.

Dated: September 4, 1998.

P. Patrick Leahy,

Chief Geologist, Geologic Division.

[FR Doc. 98–26181 Filed 9–29–98; 8:45 am]

BILLING CODE 4310–17–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Species at Risk Program

AGENCY: U.S. Geological Survey, Biological Resources Division, DOI.

ACTION: Notice of availability.

SUMMARY: The Biological Resources Division (BRD) is announcing the availability of funds through the Species at Risk Program (SAR). The basic purpose of SAR is to find short-term research and assessment projects to generate information that allows development of conservation agreements, action plans, and management alternatives that provide for the protection of flora and fauna and their habitats and thereby reduce the need for listing species as threatened or endangered.

DATES: Information packages describing requirements for participation in this program will be available upon request until October 30, 1998. Pre-proposals are due to the address below by November 2, 1998.

ADDRESSES: Parties interested in this program should request an information package from: Species at Risk Program, USGS Biological Resources Division, 12201 Sunrise Valley Drive, MS 300, Reston, VA 20192 ATTN: Dr. Al Sherk.

FOR FURTHER INFORMATION CONTACT: Dr. Al Sherk, Species at Risk Program, USGS Biological Resources Division, 12201 Sunrise Valley Drive, MS 300, Reston, VA 20192; Al Sherk@usgs,gov; or 703–648–4076.

SUPPLEMENTARY INFORMATION:

A. Purpose

Species at Risk (SAR) is a program that develops scientific information on the status of sensitive species or group of species, particularly with respect to the relationship of species abundance and distribution to habitat conditions and environmental stresses. The basic purpose of SAR is to generate information that allows the development of conservation agreements, action plans, management alternatives, etc., to provide for the protection of species and their habitats and thereby preclude the need for listing species as threatened or endangered.

The initiative provides an opportunity for scientists to participate through survey and research activities. Projects are specifically intended to be of short duration and should seek to optimize partnerships with Federal agencies, states, universities, and the private sector. Successful SAR projects are often conducted by investigators who have identified key, small but critical gaps in our biological knowledge. Projects provide resource managers, regulators, and private landowners with useable information for which prudent resource management decisions can be based. Projects must be new, self-contained work designed to be completed, including the final report, within 18 months.

Projects must focus on species or groups of species for which there is concern but limited information. Projects that focus on groups of species within the same habitat or ecosystem are encouraged. Projects should identify or develop new information that will reduce the need for a formal listing under the Endangered Species Act of 1972, as amended. Regional and national offices of the U.S. Fish and Wildlife Service have provided a list of species or groups and their management needs. Projects should focus on these species or groups and demonstrate how they support management needs. Principal investigators are encouraged to communicate directly with USFWS

regional contacts before project submission.

This program is conducted in furtherance of the Secretary's obligations under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j, as amended) and the Fish and Wildlife Coordination Act (16 U.S.C. 661–667e, as amended).

B. Background

The Biological Resources Division (BRD) of the U.S. Geological Survey gathers and analyzes biological information and serves as an information clearinghouse, providing broad access to the widest possible range of factual data on the status and trends of the Nation's biota and the potential effects of land management choices. This information serves public and private landowners who are interested in sustaining biological resources. It also provides understanding to help avoid conflicts that can both impede development and degrade natural habitats.

The Species at Risk Program will develop scientific information and alternatives to assist Federal State, and other land managers in their decisions regarding the protection of sensitive species and habitats.

C. Availability of Funds

Through this program, pre-proposals are invited for funding in Fiscal Year 1999 from non-Federal research, scientific or technical organizations. Total funding anticipated for the fiscal year is approximately $375,000. Monies will be provided to successful applicants on a competitive basis. There is no minimum project cost; the maximum project cost; the maximum project cost will be $80,000.

Funds for this program are not currently available. Funding of the program is contingent on a Fiscal Year 1999 appropriation.

D. Eligibility Requirements

Under the terms specified in the information package, pre-proposals will be accepted from State agencies, private and industry groups, academic institutions, and Native American Tribes and Nations. Pre-proposals will be evaluated in light of their relevance to an identified management need, partnership opportunities, potential for providing useful information to resources managers, potential for conservation agreements, possibilities for cost sharing, and demonstration of successful completion within 18 months of date of initiation. Possible selectees will then be invited to submit a full project proposal for scientific peer review and consideration of funding,

E. Application Process

Parties interested in participating in this program should request an information package that will include detailed application forms, Federal Assistance forms (Standard Form 424, etc.), proposal format requirements, etc., from: *Mail:* Species at Risk Program, 12201 Sunrise Valley Drive, MS 300, Reston, VA 20192, ATTN: Dr. Al Sherk, or *E-Mail:* Al__Sherk@usgs.gov or *Call:* (703) 648–4076.

F. Dates

Notice of interest in this program must be received by October 30, 1998.

Susan D. Haseltine,

Deputy Chief Biologist for Science, Biological Resources Division.

[FR Doc. 98–26127 Filed 9–29–98; 8:45 am]

BILLING CODE 5310–Y7–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submission for Office of Management and Budget Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice—Revision of a currently approved information collection (OMB Control Number 1010–0058).

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, MMS invites the public and other Federal agencies to comment on a proposal to revise the currently approved collection of information discussed below. The Paperwork Reduction Act of 1995 provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

DATES: Submit written comments by October 30, 1998.

ADDRESSES: Submit comments and suggestions directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0058), 725 17th Street, NW, Washington, DC 20503. Send a copy of your comments to the Minerals Management Service, Attention: Rules Processing Team, Mail Stop 4024, 381 Elden Street Herndon, Virginia 20170–4817.

FOR FURTHER INFORMATION CONTACT: Alexis London, Engineering and Operations Division, Minerals Management Service, telephone (703) 787–1600. You may obtain copies of the supporting statement and collection of information by contacting MMS' Information Collection Clearance Officer at (202) 208–7744.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, Subpart I, Platforms and Structures.

OMB Control Number: 1010–0058.

Abstract: The Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1331 *et seq.*, gives the Secretary of the Interior (Secretary) the responsibility to preserve, protect, and develop oil and gas resources in the OCS in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resource development with protection of human, marine, and coastal environments; ensure the public a fair and equitable return on offshore resources in the OCS; and preserve and maintain free enterprise competition. Specifically, the OCS Lands Act (43 U.S.C. 1356) requires the issuance of ''* * * regulations which require that any vessel, rig, platform, or other vehicles or structure—* * * (2) which is used for activities pursuant to this subchapter, comply, * * * with such minimum standards of design, construction, alteration, and repair as the Secretary * * * establishes; * * *'' The OCS Lands Act (43 U.S.C. 1332(6)) also states, ''operations in the [O]uter Continental Shelf should be conducted in a safe manner * * * to prevent or minimize the likelihood of * * * physical obstruction to other users of the water or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.'' To carry out these responsibilities, MMS has issued regulations at 30 CFR part 250. This collection of information pertains to subpart I, Platforms and Structures, and related Notices to Lessees and Operators (NTLs).

Respondents submit information on, and maintain records of, the design, fabrication, installation, use, and inspection of all platforms and structures on the OCS. The MMS regional offices use this information to ensure the structural integrity for the safe conduct of drilling, workover, and production operations, considering the specific environmental conditions at the platform location, and to ensure that such integrity will be maintained throughout the useful life of the

structures. We also use the information to ensure that any object (wellheads, platforms, etc.) installed in the OCS is properly removed and the site cleared so as not to conflict with or harm other users of the OCS.

Proprietary information will be protected under 30 CFR 250.118, Data and information to be made available to the public. No items of a sensitive nature are collected. The requirement to respond is mandatory.

Estimated Number and Description of Respondents: Approximately 130 Federal oil and gas or sulphur lessees.

Frequency: On occasion and annual.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 24,743 reporting and 7,150 recordkeeping burden hours (see chart below).

Estimated Annual Reporting and Recordkeeping ''Cost'' Burden: None.

BURDEN BREAKDOWN

Citation 30 CFR 250 subpart I & related NTLs	Requirement	Average number per year	Burden per reqmnt. (hours)	Annual burden hours
900(b), (g); 901; 902; 909(b)(4)(iii)	Submit application and plans for new platform or major modifications and notice to MMS..	351 applications	24	8,425
900(e)	Request approval for major repairs of damage to platform and notice to MMS..	5 requests	12	60
900(f)	Request approval for reuse or conversion of use of existing fixed or mobile platforms.	35 requests	18.5	[1] 648
903(a), (b)	Submit nominations for Certified Verification Agent (CVA)..	24 nominations	5	120
903(a)(1), (2), (3)	Submit interim and final CVA reports.	36 reports	200	7,200
912(a)	Request inspection interval that exceeds 5 years..	14 requests	20	280
912(b)	Submit annual report of platforms inspected and summary of testing results..	130 lessees	45	5,850
913(a), (b) Related NTLs	Submit plan for platform and structure removal and site clearance and exception requests..	120 plans	6	720
913(c) Related NTLs	Submit results of location clearance survey.	120 reports	12	1,440
Total Reporting		835 responses		24,743
909, 911, 912, 914	Recordkeeping Requirement: Maintain records on as-built structural drawings, design assumptions and analyses, summary of nondestructive examination records, inspection results, etc., for the functional life of the platform..	143 platform	50	7,150

[1] Rounded.

Comments

Section 3506(c)(2)(A) of the Paperwork Reduction Act requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *'' Agencies must specifically solicit comments to: (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarify of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Send your comments directly to the offices listed under the addresses section of this notice. The OMB has up to 60 days approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by October 30, 1998.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: September 8, 1998.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 98–26220 Filed 9–29–98; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Milltown Hill Project, Douglas County, Oregon

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of cancellation of the supplement to the final environmental statement.

SUMMARY: The Bureau of Reclamation (Reclamation) is canceling work under the National Environmental Policy Act (NEPA) on the Supplement to the Final Environmental Impact Statement (FEIS) for the Milltown Hill Project. A notice of intent to prepare a supplemental FEIS for the project was published in the **Federal Register** (62 FR 67890, December 30, 1997). Douglas County (County) Oregon, the project applicant, has suspended its plans to develop a dam and reservoir at the Milltown Hill site on Elk Creek above Drain, Oregon. The County has been unsuccessful in obtaining a waiver from the State of Oregon to forego the construction of fish passage facilities at the proposed Milltown Hill Dam.

ADDRESSES: Bureau of Reclamation, Pacific Northwest Regional Office, 1150 North Curtis Road, Suite 100, Boise, ID 83706–1234.

FOR FURTHER INFORMATION CONTACT: For information on the project contact Robert Hamilton, telephone (208) 378–5087. For information regarding the

NEPA process contact Robert Christensen, telephone (208) 378–5039.

SUPPLEMENTARY INFORMATION: The proposed Milltown Hill Project would have provided regulated flows of water to improve anadromous and resident fisheries and would have provided mitigating measures to improve fishery habitats. However, under Oregon law, each new dam is required to have appropriate fish passage facilities unless granted a waiver by the Oregon Fish and Wildlife Commission (Commission). No fish passage facilities were proposed for the Milltown Hill Dam because the added expense of constructing and operating the facilities would render the project uneconomical. The County applied to the Commission for a waiver, but the Commission denied the waiver. Therefore, the County has suspended further work on the project until an economical solution to the fish passage issue can be found.

Dated: September 24, 1998.

Paul D. Rachetto,

Acting Regional Director, Pacific Northwest Region.

[FR Doc. 98–26130 Filed 9–29–98; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–416]

Certain Compact Multipurpose Tools; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 28, 1998, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of the Leatherman Tool Group, Inc., 12106 N.E. Ainsworth Circle, Portland, Oregon 97220. Supplements to the complaint were filed on September 15, 21 and 22, 1998. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain compact multipurpose tools by reason of infringement of the claims of U.S. Letters Patent Des. 380,362, Des. 385,168, Des. 385,169, and Des. 385,170. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint and supplements, except for any confidential information contained therein, are 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, SW, Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may be obtained by accessing its internet server (http://www.usitc.gov).

FOR FURTHER INFORMATION CONTACT: Steven A. Glazer, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2577.

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (1998).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on September 25, 1998, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain compact multipurpose tools by reason of infringement of the claims of U.S. Letters Patent Des. 380,362, Des. 385,168, Des. 385,169, or Des. 385,170, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Leatherman Tool Group, Inc., 12106 N.E. Ainsworth Circle, Portland, Oregon 97220

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Suncoast of America, Inc., 1056 Pine Island Road, Unit #HE, Cape Coral, Florida 33909

SCIKO Chinalight, Room 03–04/14F, Changiiang Trade Building, 98# Changiiang Road, Nanjing, China

Kumasama Products Co., Ltd., No. 260 Cheng Fu Road, Taiping City, Taichung Hsien, Taiwan

Quan Da Industry and Commerce Development Co., Zhuhai S.E.Z., 1/F Zijing Building 100, Zijing Road, Xiangzhou, Zhuhai Guangdong, China

Jiangsu Hongbao Group Corp., Renmin Road, Daxin Town, Zhangjiagang City, Jiangsu, China 215636

(c) Steven A. Glazer, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW, Room 401–K, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a) of the Commission's Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: September 25, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–26216 Filed 9–29–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 751–TA–21–27]

Ferrosilicon From Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Issuance of a schedule for the conduct of investigations Nos. 751–TA–21–27: Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela.

EFFECTIVE DATE: September 30, 1998.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, C, D, and E (19 CFR part 207).

Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On July 28, 1998, the Commission published notice (63 FR 40314) of its institution of investigations pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) (the Act) to review its determinations in countervailing duty investigation No. 303–TA–23 (Final) concerning ferrosilicon from Venezuela, and antidumping investigations Nos. 731–TA–566–570 and 731–TA–641 (Final) concerning ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela. In that notice, the Commission waived rule 207.45(c), delaying issuance of a schedule for the conduct of investigations Nos. 751–TA–21–27.

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days after the publication date of this notice. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days after the publication date of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in these investigations will be placed in the nonpublic record on December 11, 1998, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on January 12, 1999, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before December 14, 1998. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on December 17, 1998, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is December 21, 1998. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is January 19, 1999; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before January 19, 1999. On February 9, 1999, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before February 11, 1999, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.45 of the Commission's rules.

Issued: September 22, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–26218 Filed 9–29–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Silicon Metal from Argentina, Brazil, and China; Dismissal of Request for Institution of a Section 751(b) Review Investigation

AGENCY: United States International Trade Commission (Commission).

ACTION: Dismissal of a request to institute a section 751(b) investigation concerning the Commission's affirmative determinations in investigations Nos. 731–TA–470–472 (Final): Silicon Metal from Argentina, Brazil, and China.

SUMMARY: The Commission determines, pursuant to section 751(b) of the Tariff Act of 1930 (the Act)[1] and Commission rule 207.45,[2] that the subject request does not show changed circumstances sufficient to warrant institution of an investigation to review the Commission's affirmative determinations in investigations Nos. 731–TA–470–472 (Final): Silicon Metal from Argentina, Brazil, and China. Silicon metal is provided for in subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule of the United States (HTS).[3]

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at http://www.usitc.gov.

BACKGROUND INFORMATION: On June 23, 1998, the Commission received a request to review its affirmative determinations concerning silicon metal from Argentina, Brazil, and China (the request), in light of changed circumstances, pursuant to section 751(b) of the Act.[4] The request was filed by counsel on behalf of General Motors Corp. (GM), Detroit, MI. GM is an importer of silicon metal.

The aluminum and chemical industries are the two major consumers of silicon metal. The aluminum industry adds silicon metal to aluminum alloys to reduce shrinkage and hot cracking, and to improve the castability, corrosion resistance, hardness, tensile strength, wear resistance, and weldability. The chemical industry uses silicon metal to produce silicones, silanes (silicon hydrides), and ultra-pure silicon for silicon memory chips.

Pursuant to section 207.45(b) of the Commission's Rules of Practice and Procedure,[5] the Commission published a notice in the **Federal Register** on July 21, 1998,[6] requesting comments as to whether the alleged changed circumstances warranted the institution of review investigations. The Commission received comments in support of the request from two domestic importers/purchasers of silicon metal, Dow Corning Corp. and the General Electric Company, and the Aluminum Association, an association of domestic producers of primary- and secondary-aluminum ingot, mill products, and castings. Comments in opposition to the request were received from counsel on behalf of American Alloys, Inc., American Silicon Technologies, Elkem Metals Co., and Globe Metallurgical, Inc., domestic producers of silicon metal.

Analysis

In considering whether to institute a review investigation under section 751(b), the Commission will not institute such an investigation unless it is persuaded there is sufficient information demonstrating:

(1) That there are significant changed circumstances from those in existence at the time of the original investigations;

(2) That those changed circumstances are not the natural and direct result of the imposition of the antidumping and/or countervailing duty orders, and;

(3) That the changed circumstances, allegedly indicating that revocation of the order would not be likely to lead to continuation or recurrence of material injury to the domestic industry, warrant a full investigation.[7]

After consideration of the request for review and the response to the notice inviting comments, the Commission has determined, pursuant to section 751(b) of the Act and Commission rule 207.45, that the information of record does not show changed circumstances sufficient to warrant institution of investigations to review the Commission's affirmative determinations in investigations Nos. 731–TA–470–472 (Final): Silicon Metal from Argentina, Brazil, and China.

The alleged changed circumstances include (1) structural changes in market demand, competition, and economic conditions, and (2) the extent to which alleged price-fixing activity may have affected the Commission's original silicon metal investigations.

The information available on the record does not persuade us that an investigation is warranted based on the allegations contained in the request. In particular:

Structural Changes in Demand, Competition, and Economic Conditions

The requester asserts that an increase in demand for silicon metal in the chemical-use segment of the market has caused a ''clear division'' between market segments served by domestic and imported silicon metal sources thereby reducing competition between domestic and imported sources. Additionally, the requester asserts that overall economic indicators such as capacity, production, shipments, investments, and prices have improved significantly since the original investigations as a result of the alleged structural changes, representing a changed circumstance sufficient to warrant a review.

Changes in Demand

While there appears to have been an increase in demand for silicon metal in the chemical-use segment of the market, there also has been a similar, though smaller in magnitude increase in demand for metallurgical-use silicon metal. In the original investigations, there was a similar pattern of growth, and the Commission observed that demand patterns among the two market

[1] 19 U.S.C. 1675(b).

[2] 19 CFR 207.45.

[3] Semiconductor-grade silicon (silicon metal containing by weight not less than 99.9 percent of silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to these investigations.

[4] 19 U.S.C. 1675(b).

[5] 19 CFR 207.45(b).

[6] 63 FR 39107.

[7] *See,* 19 U.S.C. 1675(b)(2)(A); Heavy Forged Handtools from the People's Republic of China, 62 FR 36305 (July 7, 1997); Certain Cold-Rolled Carbon Steel Flat Products from Germany and the Netherlands, 61 FR 17319 (April 19, 1996); *A. Hirsh, Inc.* v. *United States,* 737 F. Supp. 1186 (CIT 1990); *Avesta AB* v. *United States,* 724 F. Supp. 974 (CIT 1989), aff'd 914 F.2d 232 (Fed. Cir. 1990); and *Avesta AB* v. *United States,* 689 F. Supp. 1173 (CIT 1988).

In the Uruguay Round Agreements Act of 1994 (the URAA), Congress changed the substantive standard applicable to changed circumstances reviews from whether the domestic industry would be materially injured or threatened with material injury if the order were revoked to whether revocation of the order is likely to lead to the continuation or recurrence of material injury to the domestic industry.

segments moved independently of each other. Even though growth in the chemical-use segment of the market has been substantial, such growth does not appear to have significantly changed the structure of the market.

Changes in Competition Within the Industry

During the original investigations, the Commission considered that the market for silicon metal was segmented into chemical-use and metallurgical-use segments. In the original investigations, the record reflected that domestic producers, while selling to both segments, focused greater efforts on the chemical-use market. Thus, the requester's assertion of the existence of a new competitive environment is not a changed circumstance, but rather represents an issue previously considered by the Commission in the original determinations. Moreover, even with the existence of a greater concentration of domestic sales in the chemical-use market, the requester has failed to provide persuasive evidence that the Commission's original finding of significant price competition among market segments has changed.

Changes in Economic Conditions in the Industry

While the economic condition of the domestic silicon metal industry appears to have improved since the original investigations, such improvements coincide with a general improvement in the overall economy. Moreover, the domestic industry's capacity was substantially below overall consumption in the silicon metal market during the original investigations. Given this, the inability of the domestic producers to supply all of the market is not a circumstance that has changed since the original investigations.

Alleged Price-Fixing Activity

The request asserts that key data and information provided to the Commission by the U.S. industry during the original investigations may have been distorted and misleading due to the alleged involvement of several U.S. producers in a price-fixing conspiracy. Despite making allegations of price-fixing activities among domestic producers, the requester and other interested parties in support of a review have failed to provide the Commission with any positive evidence of the existence of a price-fixing scheme within the silicon metal industry. As parties in support of a review, they bear the burden of providing such evidence'evidence that goes beyond mere conjecture and speculation. Moreover, the circumstances of these investigations are significantly different from those underlying the Commission's recent decision to institute changed circumstance reviews on ferrosilicon. Unlike the 751(b) request on ferrosilicon which provided the Commission with clear evidence of a conspiracy to fix prices among three U.S. producers (two companies pled guilty and one was found guilty), none of the silicon metal producers has pled guilty to or been convicted of fixing silicon metal prices or of participating in a conspiracy to fix silicon metal prices.[8]

In light of the above analysis, the Commission determines that institution of a review investigation under section 751(b) of the Act concerning the Commission's affirmative determinations in investigations Nos. 731–TA–470–472 (Final): Silicon Metal from Argentina, Brazil, and China, is not warranted.

Issued: September 22, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–26217 Filed 9–29–98; 8:45 am]

BILLING CODE 7020–02–P

[8] SKW Metals & Alloys, Inc. (SKW), which was found guilty of conspiracy to fix prices on ferrosilicon, was acquitted of charges involving silicon metal. A federal judge found no preponderance of evidence showing the existence of a silicon metal conspiracy. See, brief of domestic producers at pp. 13–15 and exhibit 2.

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Service; Agency Information Collection Activities: Extension of a Currently Approved Collection; Comment Request

ACTION: Notice of information collection under review; (Reinstatement, without change, of a previously approved collection for which approval has expired) Grantee Satisfaction Survey.

The Department of Justice, Office of Community Oriented Policing Services, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 9, 1998, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until October 30, 1998. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Deputy Clearance Officer, Suite 850, 1001 G Street, NW, Washington, D.C. 20530.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of the information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) Type of information collection: Extension of previously approved collection.

(2) The title of the form;/collection: Grantee Satisfaction Survey.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: The form number is 27/01, Office of Community Oriented Policing Services, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: State, Local or Tribal Government.

Other: none.

The Grantee Satisfaction Survey will allow the COPS Office to set performance goals that are consistent

with the level of service that is desired by the law enforcement field and to adjust its provision of customer service as necessary to better service its grantees.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: The Grantee Satisfaction Survey will be administered two times per year: Approximately 2,600 respondents per year, at 30 minutes per respondent (including record keeping).

(6) An estimate of the total public burden (in hours) associated with the collection: Approximately 1,300 hours.

If additional information is required contact: Ms. Brenda E. Dyer, Deputy Clearance Officer United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: September 24, 1998.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 98–26123 Filed 9–29–98; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation and Liability Act, and Emergency Response and Community Right-To-Know Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Shell Oil Company, Shell Wood River Refining Company, Equilon Enterprises LLC, and Wood River Refining Company, a Division of Equilon Enterprises LLC*, Civil Action No. 98–652–GPM, was lodged with the United States District Court for the Southern District of Illinois on September 9, 1998 contemporaneously with the filing of a complaint. This proposed consent decree would resolve the United States' civil claims against Shell Oil Company, Shell Wood River Refining Company, Equilon Enterprises LLC, and Wood River Refining Company, a Division of Equilon Enterprises LLC (''Defendants'') for violations at the Wood River Refinery in Roxana, Illinois, under the Clean Air Act, 42 U.S.C. 7401 *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq.*, and the Emergency Response and Community Right to Know Act, 42 U.S.C. 11001 *et seq.* The proposed consent decree would also resolve claims brought by the State of Illinois, which has intervened in this action.

Under the terms of the proposed consent decree, Defendants will pay a civil penalty of $1.5 million ($500,000 of which will go to the State of Illinois) and certify compliance with the above-referenced environmental laws. Defendants also will perform six environmental projects as part of the proposed settlement, including a project that will reduce emissions of sulfur dioxide by 7,700 tons per year and nitrogen oxides by 940 tons per year and a project that will require Defendants to arrange for the transfer of land along the Mississippi River (valued at $500,000) to the State of Illinois for wetlands preservation and water quality protection purposes. The total cost of the environmental projects will exceed $10 million.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Shell Oil Company, Shell Wood River Refining Company, Equilon Enterprises LLC, and Wood River Refining Company, a Division of Equilon Enterprises LLC*, Civil Action No. 98–652–GPM, and Department of Justice Reference No. 90–7–1–818.

The proposed consent decree may be examined at the Office of the United States Attorney, Southern District of Illinois, 9 Executive Drive, Fairview Heights, Illinois 62208; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590; and at the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $10.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–26175 Filed 9–29–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Bethlehem Steel Corporation and U.S. Steel Group, a Unit of USX Corporation

Notice is hereby given that, on March 25, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Bethlehem Steel Corporation and U.S. Steel Group, A Unit of USX Corporation, has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its project status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the venture has been extended for an additional year.

No other changes have been made in either the membership or planned activity of the group research project. Bethlehem Steel Corporation and U.S. Steel Group, A Unit of USX Corporation intends to file additional written notification disclosing all changes in membership.

On July 15, 1994, Bethlehem Steel Corporation and U.S. Steel Group, A Unit of USX Corporation, filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 31, 1994 (59 FR 45009).

The last notification was filed with the Department on May 23, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 16, 1997 (62 FR 38120).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–26178 Filed 9–29–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—the National Electrical Manufacturers Association (''NEMA'')

Notice is hereby given that, on November 14, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the National Electrical Manufacturers Association (''NEMA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Acuson Corporation, Mountain View, CA; ALI Technologies, Inc., Richmond, British Columbia; Aloka, Tokyo, Japan; Hewlett-Packard Co., Palo Alao, CA; and Eastman Kodak Co., Rochester, NY. The parties to the venture, manufacturers and vendors of devices that record on or read from various media the images drawn from multi-model medical imaging devices (e.g., ultrasound devices, CAT scanners and the like), intend to cooperate in the cross-testing of their reading and production equipment in order to implement the Digital Imaging and Communications in Medicine (DICOM) Standard. The DICOM Standard is a set of rules that will allow a medical image produced on one vendor's machine to be displayed on a workstation from another vendor. The purpose of the cross-testing is to ensure the compatibility of equipment so as to facilitate the exchange of medical images between instruments, computers and hospitals.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–26180 Filed 9–29–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum E&P Research Cooperative (''Cooperative'')

Notice is hereby given that, on March 27, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Petroleum E&P Research Cooperative (''Cooperative'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its project status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

The Cooperative intends to undertake the following research projects: (1) Intelligent Well Completions—Phase I. This project details only the Phase I of what is now envisioned as a multi-phase project for Intelligent Well Completions and addresses the need to identify the gaps in current technology and define the technology needs. (2) Integrated Analysis of ''Next Generation'' Compact Separation Technology concepts. This project is designed to identify and to quantify the comparative advantages associated with implementing state-of-the-art compact separation technology components into integrated designs for the 'next generation' E&P facilities. Differential cost, size and weight considerations will be quantified. (3) Cavity Like Completions in Weak Sands. This project seeks to identify where/when/how deliberate sand flowback/surging/jetting can lead to significant productivity/injectivity increases, and stabilize a well against sand production.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Petroleum E&P Research Cooperative (''Cooperative'') intends to file additional written notification disclosing all changes in membership.

On January 16, 1997, Petroleum E&P Research Cooperative (''Cooperative'') filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 13, 1997 (62 FR 6801).

The last notification was filed with the Department on August 22, 1997. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 28, 1997 (62 FR 63389).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–26179 Filed 9–29–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute (''SWRI'') Ford Focus: Catalytic Converter Design Validation Test Project

Notice is hereby given that, on June 25, 1998, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute (''SWRI'') Ford Focus: Catalytic Converter Design Validation Test Project has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Ford Motor Company, Dearborn, MI; Ford Motor Company, Ltd., Laindon Basildon Essex, England; Arvin Exhaust, Columbus, IN; Corning, Inc., Troy, MI; Tenneco Automotive, Grass Lake, MI; AP Parts, Toledo, OH; 3M, St. Paul, MN; and Visteon, Dearborn, MN. The nature and objectives of the venture are to establish a foundation of real on-vehicle data and a database of catalytic converter operating environments from several current-technology Ford vehicles so that an appropriate design validation test for catalytic converters can be developed for current and future vehicles.

Membership in this program is limited to those companies listed herein and is closed. SWRI intends to file additional written notifications disclosing all changes in the planned activities.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–26177 Filed 9–29–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Specialty Metals Processing Corporation

Notice is hereby given that, on February 17, 1998, pursuant to Section 6(a) of the National Cooperative

Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Specialty Metals Processing Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, GE Aircraft Engines, Cincinnati, OH; Dynamet, Washington, PA; Allied Signal Engines, Phoenix, AZ; United Technologies Corporation—Pratt & Whitney Division, East Hartford, CT; Schultz Steel Company, South Gate, CA; and Titanium Metals Corporation, Henderson, NV have been added as parties to this venture. Also, Allegheny Ludlum Steel Corporation, Brackenridge, PA has been dropped as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Specialty Metals Processing Corporation intends to file additional written notification disclosing all changes in membership.

On August 7, 1990, Specialty Metals Processing Corporation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 17, 1990 (55 FR 38173).

The last notification was filed with the Department on October 30, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 10, 1996 (61 FR 15972).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 98–26176 Filed 9–29–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97–9]

John J. Cienki, M.D.; Revocation of Registration and Continuation of Registration With Restrictions

On January 28, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to John J. Cienki, M.D. (Respondent) of Colorado and Florida, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificates of Registration BC1616929 and AC2221187, and deny any pending applications for renewal of such registrations, pursuant to 21 U.S.C. 823(f), 824(a)(1) and (a)(4).

By letter dated February 22, 1997, Respondent, through counsel, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Miami, Florida on September 24 and 25, 1997, before Administrative Law Judge Gail A. Randall. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, counsel for both parties submitted proposed findings of fact, conclusions of law and argument. On March 18, 1998, Judge Randall issued her Opinion and Recommended Ruling, recommending in effect that Respondent's DEA registration issued to him in Colorado be revoked and that his Florida DEA registration be continued with restrictions. On April 20, 1998, the Government filed Exceptions to the Opinion and Recommended Ruling of the Administrative Law Judge, and on April 30, 1998, Judge Randall transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting 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 Acting Deputy Administrator adopts, in full, the Opinion and Recommended Ruling of the Administrative Law Judge. 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 Acting Deputy Administrator finds that Respondent is board certified in emergency medicine and toxicology. In the mid-1980's, Respondent was fulfilling a service commitment in rural Florida when he began abusing controlled substances. According to Respondent, he abused opiates such as ''Demerol, Talwin, whatever I could get my hands on.'' His abuse occurred over a period of a few months and stopped temporarily when he moved to Miami, Florida in 1985. By 1988, his drug use had escalated to a point where he sought and received 28 days of in-patient treatment for his addiction. Thereafter, he signed up with the Physicians' Recovery Network (PRN) to monitor him for five years.

After completing his drug treatment in 1988, Respondent worked in Philadelphia, Pennsylvania until sometime in 1991. During that time, Respondent entered into a Physicians' Health Program contract and remained involved with the program until he left Pennsylvania.

In 1991 Respondent moved to Mississippi and applied for a Mississippi Medical license. On the application, he answered ''yes'' to the question that asked whether he had a history of drug or alcohol abuse. As a result of his response, Respondent agreed to submit to certain conditions for licensure in a Consent Agreement including that the would submit to random, unannounced and witnessed urine and/or blood screens; that he would not administer, dispense or prescribe drugs to himself; that he would not treat himself or family members; and that he would comply with Federal and state laws governing the practice of medicine. Respondent testified that he believed that the Consent Agreement was the result of a non-disciplinary procedure and in fact the records form the Mississippi Board specifically state that the Consent Agreement was non-disciplinary. Respondent further testified that he did not believe that this medical license was restricted as a result of the Consent Agreement and the license itself did not indicate that it was restricted. Respondent remained in Mississippi until November 1993 when he moved to Denver, Colorado to do a toxicology fellowship.

On October 1, 1993, Respondent submitted a renewal application for DEA Certificate of Registration AC2221187, issued to him in Florida. Respondent answered ''No'' to the question on the application (hereinafter referred to as the liability question) which asked, ''Has the applicant ever been convicted of a crime in connection with controlled substances under State or Federal law, or ever surrendered or had a Federal controlled substance registration revoked, suspended, restricted or denied, or ever had a State professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation?''

On January 12, 1995, Respondent submitted a renewal application for DEA Certificate of Registration BC1616929, issued to him in Pennsylvania, along with a request, which was subsequently granted, to transfer the registration to a Colorado address. Respondent answered ''No'' to the liability question on this application.

In June of 1994, Respondent relapsed and abused the non-controlled substance Stadol until March 5, 1995. Stadol has a potential for abuse due to its opiate-like effects and as a result, DEA has published a proposed rule

which would place the drug in Schedule IV. Respondent acquired Stadol for his own use by writing false prescriptions and by fraudulently telephoning prescriptions to local pharmacies. Consequently, Respondent was charged in Denver District Court with fraud and deceit to obtain a prescription drug, as well as criminal impersonation. In June of 1995, Respondent pled guilty to the misdemeanor charge of fraud and deceit to obtain a prescription drug and the criminal impersonation charge was dismissed.

As a result of his conviction, Respondent's Colorado medical license was placed on probation, and he ultimately did not renew it. In addition, Respondent surrendered his Mississippi medical license on September 18, 1995.

Respondent returned to Pennsylvania and on August 23, 1995, he entered into a contract with the Pennsylvania Physicians' Health Program. Thereafter, the Pennsylvania Medical Board placed Respondent's Pennsylvania medical license on probation for five years subject to several conditions, including monitoring by the Professional Health Monitoring Program.

On May 18, 1996, Respondent entered into another contract with Florida's PRN which remains in effect as long as Respondent practices medicine in the State of Florida. As part of this program, Respondent is subject to random urine screens, which have all been negative. He attends five to six Alcoholics Anonymous meetings per week, professional group meetings twice a week, and PRN meetings once a week. According to Respondent, he has not used any drugs improperly since March 5, 1995.

On June 30, 1997, the Florida Board of Medicine issued a final order suspending Respondent's medical license for 30 days, fining him $1,500.00, and reprimanding him. Following the period of suspension, Respondent's medical license was placed on probation for five years subject to several restrictions.

A physician, who is the medical director of an addiction treatment program, testified that he examined Respondent in 1988 and diagnosed drug addiction. In his opinion, Respondent was in strong denial at that time regarding his addiction. The physician again examined Respondent on September 9, 1997, and determined that Respondent ''met criteria for recovery, that he had treatment, he had for a substantial amount of time had complied with his PRN contract, was attending meetings.'' According to the physician, Respondent is no longer in denial and is committed to his recovery. In the physician's opinion, Respondent has ''a nine out of ten chance over the next five years'' for continued successful recovery because of his PRN contract and his comprehensive support system.

On August 31, 1996, Respondent's DEA Certificate of Registration AC2221187, issued to him in Florida, expired by its own terms. He submitted a renewal application for that registration on September 24, 1996, and answered ''Yes'' to the liability question. In explaining his answer, Respondent stated that ''when I received my Mississippi license, a Consent agreement was placed on my license * * * I did not previously report this as I did not interpret this to be a suspension or restriction on my license.'' This renewal application was treated as timely, and was accepted for filing by DEA.

Before reaching the issue of whether Respondent's registrations should be revoked, Judge Randall addressed whether there is anything to revoke since Respondent filed his renewal applications after the expiration date noted on the Certificates of Registration. DEA regulations do not specify a deadline for filing renewal applications, however DEA accepts renewal applications up to seven months following the expiration of a registration. If no renewal application is received within seven months following the expiration date, the registration number is retired or purged from the registration system. According to the Acting Chief of DEA's Registration and Program Support Section:

> The DEA considers that the expiration date of a person's registration represents expiration of their authority to handle controlled substances. However, this event does not represent expiration of that person's ability to become registered under that same registration number, if a proper renewal application is subsequently filed. By accepting Dr. Cienki's renewal application, DEA considers his registration number, AC2221187, as reactivated and capable of renewal or denial when administrative proceedings are resolved.

Since a DEA registration is not retired or purged from the registration system until seven months after its expiration, the Acting Chief explains that the ''process allows what would have been an 'expired' *registration number*, to remain susceptible to renewal for approximately seven months.''

Judge Randall then conducted an analysis of Administrative Procedure Act (APA) rulemaking requirements to determine whether DEA is authorized to renew expired registrations without subjecting the practice to notice and comment. As Judge Randall noted, ''[a]ny agency action must be properly implemented to be enforced against the regulated public. Therefore, this DEA practice cannot be applied to the Certificate of Registration at issue implementation through notice and comment was required.''

The Acting Deputy Administrator agrees with Judge Randall's conclusion that this practice did not require notice and comment since it is not a legislative rule. DEA's practice has no negative implications for the regulated public since it gives a registrant a second chance to submit a renewal application rather than a new application for registration. Instead, as Judge Randall finds, ''[t]he DEA's practice may be best categorized as both an agency rule of practice and procedure, and as an interpretative rule,'' both of which do not require notice and comment before being implemented. The practice can be considered an agency rule of practice and procedure because ''[b]y following its practice, the agency is able to process a large volume of applications. This process does not put a stamp of approval or disapproval on the conduct of registrants.'' The practice can also be considered an interpretative rule by interpreting and supplementing the Controlled Substances Act and existing DEA regulations which do not specifically address a deadline for filing a renewal application. Accordingly, Judge Bittner concluded, and the Acting Deputy Administrator agrees, that since DEA's practice of accepting a renewal application after the expiration date of the registration did not require notice and comment rulemaking, there are valid pending renewal applications.

The Acting Deputy Administrator notes that the status of Respondent's registration pending the resolution of these proceedings is not at issue since Respondent did not contend that he was authorized to handle controlled substances nor were there any allegations that Respondent handled controlled substances without being properly authorized. But, as Judge Randall notes, ''it appears to be the Government's position that a registrant loses his ability to handle controlled substances as soon as his registration expires.'' In his affidavit, the Acting Chief of DEA's Registration and Support Section states that ''[t]he DEA considers that the expiration date of a person's registration represents expiration of their authority to handle controlled substances.'' In addition, an internal DEA manual indicates that ''[a] registration is legally invalid on the day after it expires * * *.'' The Government

in its exceptions affirms that this is the Government's position.

However, some of the Government's arguments seem to support an interpretation that once DEA accepts a renewal application for filing, the registration remains valid pending the outcome of the proceedings. In fact, Government counsel in its Memorandum filed on December 1, 1997, states that, ''[c]onsistent with DEA administrative case law precedent, Respondent's DEA Certificates of Registration are being maintained on a day-to-day basis * * *.'' Additionally, in its Memorandum, Government counsel quoted a provision of the APA which states that,

> When the licensee has made timely and sufficient application for a renewal or new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency. 5 U.S.C. 558(c).

The Government then asserted that, ''[i]n this matter, by its acceptance for processing, DEA in effect determined that the application was timely and sufficient.'' Therefore, it appears that the Government is contending that because Respondent's renewal application was considered timely, the registration does not expire until the application is either granted or denied.

Consequently, the Acting Deputy Administrator finds that it is unclear what the Government's position is as to the status of a registration pending final disposition when the renewal application is filed after the expiration date. But, the Acting Deputy Administrator finds that it is unnecessary to resolve the issue here because the status of Respondent's registrations following execution of his renewal applications is not at issue in this proceeding. However, the Government is directed to ensure that whatever position it takes, with respect to the validity of a DEA registration if a renewal application is accepted for filing after the expiration date, is consistent with the APA and implemented in accordance with the APA's provisions.

Since there are valid pending renewal applications, the question now becomes whether there registrations should be revoked. The Deputy Administrator may revoke or suspend a DEA Certificate of Registration under 21 U.S.C. 824(c), upon a finding that the registrant:

(1) Has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;

(2) Has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State relating to any substance defined in this subchapter as a controlled substance;

(3) Has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances or has had the suspension, revocation, or denial of his registration recommended by competent State authority;

(4) Has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section; or

(5) Has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a–7(a) of Title 42.

Pursuant to 21 U.S.C. 823(f), the following factors are considered by the Deputy Administrator in determining the public interest:

(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 and 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 be denied. See Henry J. Schwarz, Jr., M.D. Docket No. 88–42, 54 FR 16,422 (1989).

First, as to DEA Certificate of Registration BC1616929, issued to Respondent in Colorado, it is well-settled that DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances. See 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See, *e.g.*, Romeo J. Perez, M.D. 62 FR 16,193 (1997); Demetris A. Green, M.D., 61 FR 60,728 (1996); Dominick A. Ricci, M.D., 58 FR 51,104 (1993).

Respondent did not renew his Colorado medical license and therefore, he is not currently authorized to handle controlled substances in the State of Colorado. It is reasonable to infer, and Respondent does not deny, that because he is not authorized to practice medicine in Colorado, he is also not authorized to handle controlled substances in that state. As a result, Respondent is not currently entitled to a DEA registration in Colorado. Consequently, the Acting Deputy Administrator finds that DEA Certificate of Registration BC1616929, must be revoked.

Next, the Acting Deputy Administrator considers whether grounds exist to revoke DEA Certificate of Registration AC2221187, issued to Respondent in Florida. Pursuant to 21 U.S.C. 824(a)(1), a registration may be revoked if the registrant has materially falsified an application for registration. DEA has previously held that in finding that there has been a material falsification of an application, it must be determined that the applicant knew or should have known that the response given to the liability question was false. See, Martha Hernandez, M.S. 62 FR 61,145 (1997); Herbert J. Robinson, M.D. 59 FR 6304 (1994).

On his renewal applications dated October 1, 1993, and January 12, 1995, Respondent answered ''No'' to the liability question which asks in part whether the applicant has ''ever had a State professional license or controlled substance registration revoked, suspended, denied, restricted, or placed on probation.'' This answer was given despite the fact that Respondent obtained a medical license in the State of Mississippi pursuant to a Consent Agreement which prohibited him from self-prescribing controlled substances. Respondent argues that he did not believe that his license was restricted and that the records from the Medical Board indicated that the Consent Agreement was non-disciplinary. But, the Acting Deputy Administrator agrees with Judge Randall's conclusion that ''[s]ince the Respondent had been prohibited from self-prescribing controlled substances per the terms of the Mississippi Consent Agreement in 1991, he 'knew or should have known' the appropriate response to the liability question was 'yes' at the time he prepared his October 1993 and January 1995 renewal applications.''

Therefore, the Acting Deputy Administrator concludes that Respondent materially falsified these applications and as a result, grounds exist to revoke Respondent's registration. However, like Judge Randall, the Acting Deputy Administrator finds it relevant that

Respondent answered ''Yes'' to the liability question on his September 24, 1996 renewal application, following the surrender of his Mississippi medical license. As Judge Randall concludes, ''[b]y so answering, the Respondent has demonstrated an awareness and a willingness to answer truthfully this liability question.''

Finally, the Acting Deputy Administrator considers the factors set forth in 21 U.S.C. 823(f) to determine whether Respondent's continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 824(a)(4). Regarding factor one, on June 30, 1997, the Florida Board of Medicine issued a final order suspending Respondent's medical license for 30 days, fining him $1,500.00, and reprimanding him. Following the period of suspension, Respondent's medical license was placed on probation for five years subject to several restrictions, including that he continue his recovery program under the supervision of the Florida PRN as long as he practices medicine in the State of Florida. Therefore, Respondent's Florida medical license is currently on probation.

As to factors two and four, Respondent's experience in dispensing controlled substances and his compliance with applicable laws related to controlled substances, it is undisputed that beginning in the mid-1980's, Respondent abused controlled substances. In 1988, he sought and received treatment for his addiction. While he suffered a relapse in 1994, he abused Stadol which is not a controlled substance. Thus, there is no evidence that Respondent abused or improperly dispensed controlled substances after 1988.

Regarding factor three, there is no evidence that Respondent has a conviction record under Federal or state laws relating to the manufacture, distribution, or dispensing of controlled substances. Respondent's conviction in 1995 related to his writing of false prescriptions for the non-controlled substance Stadol.

As to factor five, the Acting Deputy Administrator agrees with Judge Randall's concern regarding Respondent's abuse of Stadol and his authorizing of false prescriptions to obtain the drug. However, Respondents has not improperly used drugs since March 1995, and has been actively involved in recovery since that time. Respondent's contract with the Florida PRN requires random urine screens, and attendance at Alcoholics Anonymous and professional group meetings. According to the medical director of the addiction treatment facility who testified at the hearing, Respondent's prognosis for continued recovery is excellent, and a repalse would not go unnoticed given his PRN contract and his comprehensive support system.

The Acting Deputy Administrator concludes that grounds exist to revoke Respondent's Florida DEA registration. Respondent materially falsified two renewal applications, and he has a history of substance abuse. However like Judge Randall, the Acting Deputy Administrator does not find that revocation is warranted in this case.

While Respondent did indeed materially falsify two renewal applications, he answered the liability question correctly on his September 1996 renewal application. This is significant since this application was filed before the Order to Show Cause was issued in this matter which alleged that Respondent materially falsified applications. Also there is no question that Respondent has a history of substance abuse. But as Judge Randall notes ''although it has been only three years since the Respondent's last relapse, I find the Respondent's testimony concerning his commitment to sobriety credible.'' In addition, Respondent's medical license is on probation until June 30, 2002, and he must remain under contract with the Florida PRN as long as he practices in Florida. Therefore, the Acting Deputy Administrator agrees with Judge Randall that revocation would be ''too severe a resolution in this case.''

But, an unrestricted registration is not warranted given Respondent's history of substance abuse and his fraudulent prescribing to obtain Stadol for his own use. Subjecting Respondent's registration to some restrictions ''will allow the Respondent to demonstrate that he can responsibly handle controlled substances in his medical practice, yet simultaneouly protect the public by providing a mechanism for rapid detection of any improper activity related to controlled substances.'' See Michael J. Septer, D.O. 61 FR 53,762 (1996); Steven M. Garbner, M.D., 51 FR 12,576 (1986).

The Acting Deputy Administrator agrees with Judge Randall's recommendation that Respondent's renewal application be granted subject to the following restrictions for three years:

(1) Respondent shall not prescribe or otherwise dispence controlled substances or Stadol for himself or his immediate family members.

(2) Respondent shall not order, administer, prescribe, or otherwise dispense controlled substances or Stadol except in the course of his employment in a medical clinic or hospital.

(3) Respondent shall maintain a log of his handling of controlled substances and Stadol. At a minimum, the log shall include the date that the controlled substance or Stadol is prescribed, administered or dispensed, the name of the patient, and the name, dosage and quantity of the substance prescribed, administered or dispensed. The log shall be signed by Respondent's supervisor verifying the accuracy of the log, and shall be sent on a quarterly basis to the Special Agent in Charge of the DEA Miami Field Division, or his designee.

(4) Respondent shall inform the Special Agent in Charge of the Miami Field Division, or his designee, of any action taken by any state regarding his medical license or his authorization to handle controlled substances. This notification must occur within 30 days of the state action.

Accordingly, the Acting 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 BC1616929, previously issued to John J. Cienki, M.D., be, and it hereby is revoked. The Acting Deputy Administrator further orders that DEA Certificate of Registration AC2221187, issued to John J. Cienki, M.D., be renewed and continued, subject to the above described restrictions. This order is effective October 30, 1998.

Dated: September 24, 1998.

Donnie R. Marshall,

Acting Deputy Administrator.

[FR Doc. 98–26211 Filed 9–29–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; (Reinstatement, without change, of a previously approved collection for which approval has expired) Claim for Death Benefits.

The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information

collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 30, 1998.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Ashton E. Flemmings, 202–307–0635, Public Safety Officers' Benefits Program, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, N.W., Washington, DC 20531. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) Type of information collection: Reinstatement, with changes, of a previously approved collection for which approval has expired.

(2) The title of the form/collection: Claim for Death Benefits.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: The form number is 3650/5, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Federal, State and Local agencies. This data collection will gather information to determine the eligibility of Claim for Death Benefits.

Other: National public membership organizations.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: It is estimated that 320 respondents will complete a 1.2 hour nomination form.

(6) An estimate of the total public burden (in hours) associated with the collection: The total hour burden to complete the nominations is 384 the annual burden hours. If additional information is required contact: Mr. Robert Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W., Washington, DC 20530, or via facsimile at (202) 514–1534.

Dated: September 23, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–26122 Filed 9–29–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Women's Bureau; Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Women's Bureau is soliciting comments concerning the revision of the collection of the Business-to-Business Mentoring Initiative on Child Care.

On August, 1998, The Women's Bureau utilized emergency review procedures to obtain the Office of Management and Budget (OMB) clearance for the information collection request for the Business-to-Business Mentoring Initiative on Child Care. On August 21, 1998, OMB approved this initiative, under OMB Control Number 1225–0074, with an expiration date of February 28, 1998.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before (November 30, 1998). The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Arline Easley, Women's Bureau, 200 Constitution Ave., NW, Room S–3311, Washington, DC 20210, (202) 219–6601 x136 (this is not a toll-free number), Fax (202) 219–5529, easley-arline@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

At a White House Child Care ceremony in April, 1998, President Clinton launched the U.S. Department of Labor's Business-to-Business Mentoring Initiative on Child Care. The Women's Bureau will reach out to businesses with effective child care programs and connect them with other employers considering child care options for their workers. Employers acting as mentors to other employers will provide help in developing strategies for collaborating with other businesses to pool resources and to develop innovative child care supports. This initiative will help employers in launching effective programs and will help avoid pitfalls and control costs.

II. Current Actions

We are proposing that the Women's Bureau work with the National Employers Council (NEC), the Small Business Administration (SBA), the U.S. Department of Commerce, and other organizations to encourage employers to volunteer to be mentors to other employers in setting up innovative child care benefits, as well as to encourage other employers to seek a mentor to help with these benefits. Explanations of the Mentoring Initiative and sign-up forms for mentors and mentees will be distributed through the organizations

noted above as well as the Women's Bureau Internet Home Page. A report of the activities of the Initiative will be prepared from summary activities reports prepared by the employers and presented to the President, tentatively, in April 1999.

Agency: US Department of Labor, Women's Bureau.

Title: Business-to-Business Mentoring Initiative on Child Care.

OMB Number: 1225–0077 (revision).

Affected Public: 1000 employers.

Total Respondents: 1000.

Frequency: On occasion.

Total Responses: 2000.

Average Time per Response: 15 minutes.

Estimated Burden Hours: 500 hours.

Total Burden Cost (capital/startup): $2,110.00.

Total Burden Cost (operating/maintaining): $0.00.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: September 24, 1998.

Collis Phillips,

Chief, Office of Policy and Programs.

[FR Doc. 98–26089 Filed 9–29–98; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 24, 1998.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Todd R. Owen ((202) 219–5096 ext. 143) or by E-Mail to Owen-Todd@dol.gov.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.** The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occuptational Safety and Health Administration.

Title: Hazardous Chemicals in Laboratories 29 CFR 1910.1450.

OMB Number: 1218–0131 (extension).

Agency Number: None.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal governments.

Number of Respondents: 34,214.

Total Responses: 306,909.

Estimated Time per Respondent: Ranges from 5 minutes to make records available to 1.75 hours for an employee to have a consultation and medical exam.

Total Burden Hours: 107,842.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $10,568,950.

Description: The Hazardous Chemicals in Laboratories standard and its information collection requirements provide protection for employees from the adverse health effects associated with occupational exposure to hazardous chemicals in laboratories. The Standard requires that employers establish a Chemical Hygiene Plan, including exposure monitoring and medical records. These records are used by employees, physicians, employers and OSHA to determine the effectiveness of the employers' compliance efforts. Also the standard requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions.

Agency: Occuptational Safety and Health Administration.

Title: Commercial Diving Operations (29 CFR 1910, Subpart T).

OMB Number: 1218–0069 (extension).

Agency Number: None.

Frequency: On occasion.

Affected Public: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 3,000.

Estimated Time Per Respondent: 1 hour.

Total Burden Hours: 91,326.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: In 29 CFR part 1910, Subpart T, Commercial Diving Operations, the information to be collected is designed to minimize the possibility of a commercial diver being injured or killed (e.g., by gas embolism, decompression sickness) due to poor planning. Without the records required in the standard, necessary safeguards that have proven extremely effective in protecting commercial divers against inherent and obvious hazards underwater would be removed, and as a result, the fatality and injury/illness rate for this industry could rise. Consequences of accidents in diving can be severe due to the environment in which divers work.

Agency: Occupational Safety and Health Administration.

Title: Walking-Working Surfaces (29 CFR 1910.21–.30).

OMB Number: 1218–0199 (extension).

Agency Number: None.

Frequency: On occasion.

Affected Public: Business or other for-profit; Not for-profit institutions; Farms; Federal Government; State, Local or Tribal Government.

Number of Respondents: 60,500.

Estimated Time Per Respondent: Varies from 3 minutes to 20 minutes.

Total Burden Hours: 33,837.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The information collected in the Walking-Working Surfaces standard is used by employers and employees to be aware of load limits of the floors of newly constructed buildings, the location of permanent aisles and passageways in these buildings, and defective portable metal ladders. Once the floor loading signs are posted, there is no need to change them unless structural conditions change or if the signs become lost, removed or defaced. Once a portal metal ladder is marked as defective, it must be removed from service and either repaired or

destroyed. Repaired metal ladders may be returned to service and the markings removed. The tags or signs used to mark the defective ladders may be used over and over again.

Further, a copy of the drawings and specifications of an outrigger scaffold not constructed and erected in accordance with table D–16 of the standard and designed by a licensed professional engineer must be maintained by the employer. The drawings and specifications are used by the employer and OSHA compliance officers to show the sizes and spacing of members.

Agency: Occupational Safety and Health Administration.

Title: Concrete and Masonry Construction (29 CFR 1926.703(a)(2)).

OMB Number: 1218–0095 (extension).

Agency Number: None.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 994.

Estimated Time Per Respondent: 10 minutes.

Total Burden Hours: 7,787.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Section 1926.703(a)(2) requires that formwork drawings or plans for cast-in-place concrete construction work be available at the jobsite. The information is needed by employers, employees, OSHA compliance officers, and other interested persons in the construction industry to ensure concrete structures are erected in a safe and purposeful manner. This provision addresses safety and health concerns caused by improperly designed and erected formwork. Such hazards could cause partial or total collapse of concrete structures and result in serious or fatal injuries to workers.

Agency: Occupational Safety and Health Administration.

Title: Cadmium in General Industry (29 CFR 1910.1027).

OMB Number: 1218–0185 (extension).

Agency Number: None.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal governments.

Number of Respondents: 54,544.

Estimated Time Per Respondent: Ranges from 5 minutes to maintain a record to 1.5 hours for an employee to have a medical exam.

Total Burden Hours: 148,712.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $19,068,500.

Description: The Cadmium standard and its information collection requirements provide protection for employees from the adverse health effects associated with occupational exposure to Cadmium. The Standard requires that employers establish a compliance program, including exposure monitoring and medical records. These records are used by employees, physicians, employers and OSHA to determine the effectiveness of the employers' compliance efforts. The standard also requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions.

Agency: Employment and Training Administration.

Title: Occupational Code Request.

OMB Number: 1205–0137 (extension).

Agency Number: ETA 741.

Frequency: As needed.

Affected Public: State or Local governments.

Number of Respondents: 57.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 28 hours.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: ETA 741, Occupational Code Request, (OCR), is provided as a public service to the States to obtain occupational codes and titles for jobs not included in the *Dictionary of Occupational Titles.*

Agency: Mine Safety and Health Administration.

Title: Slope and Shaft Sinking Plans (30 CFR 77.1900).

OMB Number: 1219–0019 (extension).

Agency Number: None.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 1,117.

Estimated Time Per Respondent: 40 hours.

Total Burden Hours: 1,000.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Requires coal mine operators to submit to MSHA for approval a plan that will provide for the safety of workmen in each slope or shaft that is commenced or extended.

Agency: Employment and Training Administration.

Title: Interstate Arrangement for Combining Employment and Wages.

OMB Number: 1205–0029 (revision).

Agency Number: ETA 586.

Frequency: Quarterly.

Affected Public: State or Local governments.

Number of Respondents: 53.

Estimated Time Per Respondent: 4 hours.

Total Burden Hours: 848 hours.

Total annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: This report provides data necessary to measure the scope and effect of the program for combining employment and wages covered under different States' laws of single State and monitor States' payment and wage transfer performance.

Agency: Employment and Training Administration.

Title: Evaluation of the Quantum Opportunity Program (QDP) Demonstration.

OMB Number: 1205–ONEW.

Data collection	Respondent type	No. of responses	Minutes per response	Burden hours
1988: Promotion Data	School Administrator	175	30	87
1999:				
Promotion Data	School Administrator	19	30	10
In-person Questionnaire	Research Sample	732	30	366
School Records	School Administrator	132	30	66
Telephone Questionnaire	Research Sample	732	20	244
2000:				
In-person Questionnaire	Research Sample	123	30	62

Data collection	Respondent type	No. of responses	Minutes per response	Burden hours
School Records	School Administrator	108	30	54
Telephone Questionnaire	Research Sample	855	20	285
2001:				
Telephone Questionnaire	Research Sample	855	20	285
School Records	School Administrator	17	30	9
Total				1,468

Description: This information is necessary to estimate the direct impacts of the QDP Demonstration on high school promotion and graduation, academic achievement, post-secondary education and training, and avoidance of behaviors that can be barriers to becoming economically self-sufficient. Further, this information collection will allow for measurement of the impact of the program on facts that protect youth from problem behaviors. Respondents include students in the study sample—both treatment and control—and school administrators responsible for collecting and maintaining these student's school records.

Todd R. Owen,

Departmental Clearance Officer.

[FR Doc. 98–26080 Filed 9–29–98; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

September 28, 1998.

The Department of Labor has submitted an emergency processing public information collection request (ICR) for the Welfare to Work Formula (ETA 9068) and Competitive (ETA 9068–1) Cumulative Quarterly Status Reporting formats and corresponding instructions to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by October 16, 1998. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Clearance Officer, Todd Owen at ((202) 219–5096, x 143). Comments and questions about the ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316).

The Office of Management and Budget is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., electronic submission of responses.

Agency: Employment and Training Administration.

Title: Welfare to Work Formula (ETA 9068) and Competitive (ETA 9068–1) Cumulative Quarterly Status Reporting Formats and Corresponding Instructions.

OMB Number: 1205–0385.

Frequency: Quarterly.

Affected Public: (1) WtW Formula Grants: States, local governments, and Private Industry Councils; and, (2) WtW Competitive Grants: Eligible applicants from business and/or other for profit and non-profit institutions. Reporting Burden: See the following Tables for Reporting Burden and Cost Estimates for WtW Formula and Bonus Grants (ETA 9068) and Competitive Grants (ETA 9068–1).

Description: The proposed ICR incorporates data elements to match performance bonus criteria into the WtW Formula/Competitive Cumulative Reporting Status Formats (ETA 9068 and ETA 9068–1) and provides clarification to several other data elements. The WtW program is a new program designed to assist States in providing transitional employment assistance to move hard-to-employ recipients of Temporary Assistance for Needy Families into unsubsidized jobs. The cumulative quarterly status data is requested by the Employment and Training Administration to assist in program planning and management, to measure regulatory compliance, to evaluate the program, and for audit purposes. Transmittal of the requested data from the grantees to ETA will occur via the Internet on a quarterly basis. The first transmittal of the revised reporting formats (ETA 9068 and ETA 9068–1) will be due to ETA by March 15, 1999, which will include cumulative data from the inception of each grant through the quarter ending December 31, 1998. Passwords and Personal Identification Numbers are being assigned to all grantees to enable access to the reporting formats and to provide a mechanism for data certification.

The Formula Grant Cumulative Quarterly Financial Status Report will serve as the main data source for assessing distribution of the performance bonus funds in FY 2000. Thus, performance bonus criteria and data elements on the Formula Grant Cumulative Quarterly Status Report must match. Therefore, substantial job entry data (weekly hours worked), retention data, and earnings gained data, for participants placed in unsubsidized and earnings gained data, for participants placed in unsubsidized employment, have been added to the Participants Summary Section. Other minor clarifications to the reporting format include: (1) Collapsing Job Retention Services and Supportive Services into one line item for reporting expenditures; and (2) adding a line item entitled ''Intake, Assessment, Eligibility Determination, and Case Management'' for reporting all expenditures that are neither for pure services activities nor for administration.

Todd Owen,

Departmental Clearance Officer.

BILLING CODE 4510–30–M

DOL, ETA Reporting Burden for WtW Formula and Bonus Grants (ETA 9068)

Requirements	1st Year	2nd Year	3rd Year	4th Year
Number of Reports Per Entity Per Quarter	1	1	2	2
Total Number of Reports Per Entity Per Year	3	4	8	8
Number of Hours Required for Recording/ Reporting Per Quarter Per Report	40 minutes	80 minutes	120 minutes	80 minutes
Total Number of Hours Required for Recording/ Reporting Hours Per Entity Per Year	2	5	8	5
Number of Entities Reporting	55	55	55	55
Total Number of Hours Required for Recording/ Reporting Burden Per Year	110	293	440	293
Total Burden Cost @$10.50 per hour.	$1,155.00	$3,080.00	$4,620.00	$3,080.00

Note: Formula Grants will only be issued in years 1 and 2; Grantees may be eligible for a Bonus grant in year 3.

All grant funds will be tracked in the same automated format.

In year 1, formula grants will not be allotted until the 2nd qtr.

DOL, ETA Reporting Burden for WtW Competitive Grants (ETA 9068–1)

Requirements	1st Year	2nd Year	3rd Year	4th Year
Number of Reports Per Entity Per Quarter	1	1	2	2
Total Number of Reports Per Entity Per Year	3	4	4	4
Number of Hours Required for Recording/ Reporting Per Quarter Per Report	40 minutes	80 minutes	120 minutes	80 minutes
Total Number of Hours Required for Recording/ Reporting Hours Per Entity Per Year	2	5	8	5
Estimated Number of Entities Reporting	200	200	200	200
Total Number of Hours Required for Recording/ Reporting Burden Per Year	400	1,067	1,600	1,067
Total Burden Cost @$10.50 per hour.	$4,200.00	$11,200.00	$16,800.00	$11,200.00

Note: Competitive Grants to be awarded in years 1 and 2. Estimate 200 grants will be awarded to eligible applicants.

All grant funds will be tracked in the same automated format.

In year 1, Competitive grants will not be let until the 2nd quarter.

[FR Doc. 98–26254 Filed 9–29–98; 8:45 am]

BILLING CODE 4510–30–C

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 98–130]

NASA Advisory Council (NAC), Aeronautics and Space Transportation Technology Advisory Committee (ASTTAC); Airframe Systems Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Airframe Systems Subcommittee meeting.

DATES: Tuesday, October 20, 1998, 8:30 a.m. to 4:30 p.m. and Wednesday, October 21, 1998, 8:30 a.m. to 4:30 p.m., and Thursday, October 22, 1998, 8:30 a.m. to 4:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Langley Research Center, Building 1209, Room 180, Hampton, VA 23681-0001.

FOR FURTHER INFORMATION CONTACT: Dr. Darrel Tenney, National Aeronautics and Space Administration, Langley Research Center, Hampton, VA 23681, 757/864–6033.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Systems Analysis

—Fundamental Concepts and Methods

—Civil Transportation

—High Performance Aircraft

—Advanced Subsonic Technologies

—High Speed Research

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: September 21, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–26087 Filed 9–29–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services—Washington, DC.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before November 16, 1998. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301)713–7110. E-mail:records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs the records to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Air Force, Agency-wide (N1–AFU–98–1, 2 items, 2

temporary items). Community College of the Air Force course description records, which were previously approved for disposal, and applied science degree program development records. Records include course charts, instruction plans, and other records describing lower-level college courses as well as program objectives, specialty training standards, lists of preferred electives, and related records used to develop lower-level college programs in applied science.

2. Department of the Air Force, Agency-wide (N1–AFU–98–2, 2 items, 2 temporary items). Job safety training records, which document the issuance of personal protective equipment and the briefing and training of personnel on such matters as emergency telephone numbers, safety belt use, manual lifting guidance, and mishap reporting procedures.

3. Department of the Air Force, Agency-wide (N1–AFU–98–3, 3 items, 3 temporary items). Records containing weapons and communications security serial number data, which were previously approved for disposal. They include serial number images identified by National Stock Number, serial number electronic transaction images, and related reports and listings. Proposed revisions reflect a new automated reporting process.

4. Department of Health, Education, and Welfare; Office of Education; Division of International Education; International Education Relations Branch (N1–12–98–1, 3 items, 3 temporary items). Records, dating from 1940 to 1962, of the former International Education Relations Branch relating to UNESCO and the Organization of American States. These records document administrative support for nonfederal organizations.

5. Department of Labor, Bureau of Labor Statistics, Office of Employment and Unemployment Services (N1–257–98–1, 8 items, 7 temporary items). Survey instruments, data files, and other records used in conducting a time use survey of randomly selected respondents to study how to estimate the amount of nonmarket work performed in the United States.

6. Department of the Treasury, General Counsel (N1–56–95–1, 3 items, 3 temporary items). Status Records of Treasury Decisions and Regulations, which are records of the General Counsel's review of proposed regulations. This schedule also reduces the retention period for records relating to proposed legislation, which were previously approved for disposal.

7. Federal Retirement Thrift Investment Board, Office of External Affairs (N1–474–98–3, 2 items, 2 temporary items). Database extract reports created by the Department of Labor for auditing purposes, which are used by the Board to discover and correct erroneous information in Thrift Savings Plan accounts.

8. General Services Administration (N1–269–98–1, 6 items, 3 temporary items). Schedule covers multiple, unrelated series of older records stored at the Washington National Records Center. Included are subject files of the Abaca Fiber Program, created by the Reconstruction Finance Corporation, ca. 1942–1960 (program records are proposed for permanent retention); administrative records created by the Farm Credit Administration and the War Assets Administration relating to surplus property disposal, ca. 1945–1950; and administrative and fiscal records of the Office of the GSA Comptroller, accumulated during the 1950's.

9. Office of Science and Technology Policy (N1–429–98–1, 5 items, 5 temporary items). Residual and fragmentary records of the defunct National Space Council now in the custody of the Office of Science and Technology Policy. Included are e-mail, word processing, and administrative records as well as backup tapes and e-mail documentation.

Dated: September 24, 1998.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 98–26131 Filed 9–29–98; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, 50–287]

Duke Energy Corporation; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–38, DPR–47, and DPR–55, issued to Duke Energy Corporation (the licensee) for operation of the Oconee Nuclear Station, Units 1, 2, and 3, located in Seneca, South Carolina.

The proposed amendments would incorporate a License Condition that would allow a revision to the Oconee Updated Final Safety Analysis Report that addresses potential plant conditions that could occur during engineered safeguards functional tests of the emergency electrical system. These tests are planned to be performed on Unit 3, with Unit 3 in the cold shutdown condition, and Units 1 and 2 operating at power. If an actual loss-of-coolant accident with loss of offsite power were to occur on Unit 1 or 2, simultaneously with test initiation on Unit 3, the Emergency Power System would be placed in a condition outside the present design basis. In addition, the requirements of Selected Licensee Commitment 16.5.5, Shutdown Cooling Requirements, will not be met during the tests, when power is intentionally interrupted to the low pressure injection pumps. The tests are scheduled to be performed in November 1998, during the Unit 3 refueling outage. The proposed changes address an unreviewed safety question that requires prior NRC approval before implementation.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated?

No. For this test, the affected unit is Oconee 3 which will be in a post refueling shutdown condition. All safety functions for maintaining safe shutdown of the unit are available. The UFSAR [Updated Final Safety Analysis Report] Loss of Electric Power accident assumes two types of events: (1) Loss of load and (2) Loss of all system and station power. Since Unit 3 will be shutdown during performance of this test, a unit trip cannot occur. Nothing associated with this test will result in a significant increase in the likelihood of a loss of all systems and station power since both Keowee units and the switchyard will remain available. In addition, the gas turbines at Lee Steam station will be available and the SSF

[Standby Shutdown Facility] diesel will be operable. The loss of all station power accident analysis assumptions are still valid. Additionally, since the switchyard will remain energized and available, offsite power can quickly be reconnected to the plant. Core uncovery and possible fuel damage is not considered a concern during the performance of this test.

Oconee Units 1 and 2 will continue to operate as normal during this test, and should be unaffected. The intentional and controlled interruption of power to the Oconee Unit 3 auxiliaries, including decay heat removal (DHR) systems will not effect the two operating units. There are no reactor trip, shutdown margin or reactivity management concerns on either of the operating units.

The Keowee units provide the main source of emergency power for the Oconee units, but they are not accident initiators. This test has no adverse impact on the ability of the Keowee units to satisfy their design requirements of achieving rated speed and voltage within 23 seconds of receipt of an emergency start signal.

Although not a design basis accident, a hypothetical station blackout condition where all offsite power and the Keowee units are lost is described in the UFSAR. As detailed above, this test will not deenergize the switchyard or remove the Keowee units. Thus, emergency power systems will remain available, as well as the standby shutdown facility (SSF) diesel, and there is no significant increase in likelihood of a station blackout. The performance of this test does not affect the probability of an accident evaluated in the UFSAR (LOOP [Loss of Offsite Power], LOCA [Loss-of-Coolant Accident], and LOCA/LOOP) occurring on an operating unit.

In the extremely unlikely (2E–9) event that a real LOCA/LOOP were to occur on either of the operating units simultaneously with test initiation (simulated LOCA/LOOP) on Unit 3, the Oconee Emergency Power System would be placed in a condition outside the design bases. The Emergency Power System may not be capable of handling the electrical loading of two instantaneous LOCA/LOOP events without some safety related equipment being adversely affected, i.e. tripping off, experiencing low voltage, etc. Therefore, an infinitesimally small, but non-zero, increase in the probability of a malfunction of equipment important to safety AND the potential consequences of a LOCA/LOOP event is created by the test. Additionally, the requirements of Selected Licensee Commitment 16.5.5 Shutdown Cooling Requirements (RCS [Reactor Coolant System] Loops not full and Fuel Transfer Canal is not full) will not be met during each test when power is intentionally interrupted to the LPI [Low Pressure Injection] pumps during the simulated LOOP and again during the dead bus transfer back to the unit startup transformer. However, the chances of an actual LOCA/LOOP occurring on one of the operating units during the short interval of performance of this test has been shown to be insignificant.

There is no adverse impact on containment integrity, radiological release pathways, fuel design, filtration systems, main steam relief valve setpoints, or radwaste systems. Therefore, based on the probabilistic risk assessment (PRA) analysis and information presented in the Safety Analysis Section of [the licensee's] submittal, the probability or consequences of an accident previously evaluated will not be significantly increased by the proposed test and related UFSAR change.

2. Create the possibility of a new or different kind of accident from the accidents previously evaluated?

No. The emergency power systems will remain operable and available to mitigate accidents. Unit 3 will already be in a shutdown condition, so there is no risk of an Oconee Unit 3 trip, challenge to the reactor protective system (RPS), and LOCA/LOOP scenarios, and most UFSAR analyzed accident scenarios do not apply to it. Since Unit 3 will have been shutdown for greater than 30 days and be in a post refueling condition, the decay heat loads are relatively low. Additionally, on Oconee Unit 3, while the vessel head will be on and intact and with fuel in the core when ECCS [Emergency Core Cooling System] injection occurs, the steam generator hand holds and one pressurizer safety valve will be removed. This arrangement precludes any potential for low temperature overpressurization (LTOP) problems. The suction source for the injection systems will be the BWST [Borated Water Storage Tank] which contains highly borated water at >75 F. Thus there are no reactivity management or 10 CFR [Part] 50 Appendix G (NDTT [nil-ductility transition temperature]) concerns. The test injection flow rates are insignificant compared to those required to cause fuel assembly/control rod lift.

Oconee Units 1 and 2 will continue to operate as normal during this test, and should be unaffected. The intentional and controlled interruption of power to the Oconee Unit 3 auxiliaries, including decay heat removal (DHR) systems will not affect the two operating units. There are no reactor trip, shutdown margin or reactivity management concerns on either of the operating units.

Preplanning, use of dedicated operators, and independent verification will be employed during critical test phases.

As addressed in question 1 above, in the extremely unlikely (2E–9) event that a real LOCA/LOOP were to occur on either of the operating units simultaneously with test initiation (simulated LOCA/LOOP) on Unit 3, the Oconee Emergency Power System would be placed in a condition outside the design bases. Therefore, an infinitesimally small, but still non-zero, increase in the probability of a malfunction of equipment important to safety AND the potential consequences of a LOCA/LOOP event is created by the test and related UFSAR change. However, based on the supporting information in the PRA calculation and the supporting Safety Analysis, no new significant failure modes or credible accident scenarios are postulated.

3. Involve a significant reduction in a margin of safety?

No. No function of any safety related emergency power system/component will be adversely affected or degraded as a result of this test. No safety parameters, setpoints, or design limits are adversely affected. For this test, Unit 3 will be in a shutdown condition, so there is no risk of an Oconee Unit 3 trip, challenge to the reactor protective system (RPS), LOCA/LOOP scenarios, and most UFSAR analyzed accident scenarios. Strictly per the Technical Specifications, emergency core cooling systems (ECCS) and auxiliary power systems are not required on a unit with RCS temperature less than 200°F. However, both the emergency power and DHR systems will remain available during the test. Decay heat removal will only be briefly interrupted during the simulated LOCA/LOOP portions of the test. Since Unit 3 will be shutdown for greater than 30 days at the time of the test, the decay heat loads will be relatively low, and compensatory measures will be in place to ensure heat removal capability can be regained in a timely manner. Additionally, while the vessel head will be in place and torqued and fuel will be in the core on Oconee Unit 3 when ECCS injection occurs, the steam generator hand holes and one pressurizer safety valve will be removed.

Oconee Units 1 and 2 will continue to operate as normal during this test, and should be unaffected. The intentional and controlled interruption of power to the Oconee Unit 3 auxiliaries, including decay heat removal (DHR) systems will not affect the two operating units. There are no significant reactor trip, shutdown margin or reactivity management concerns on either of the operating units.

There is no adverse impact to the nuclear fuel, cladding, RCS, or required containment systems. Therefore, the margin of safety is not significantly reduced as a result of this test.

Duke has concluded based on the above information that there are no significant hazards considerations involved in this amendment request.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its

final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 30, 1998, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated September 17, 1998, which is 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 Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Dated at Rockville, Maryland, this 24th day of September 1998.

For the Nuclear Regulatory Commission.

David E. LaBarge,

Senior Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–26208 Filed 9–29–98; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

GPU Nuclear, Inc. Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–16 issued to GPU Nuclear, Inc., (the licensee) for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey.

The proposed amendment would revise Section 5.4.8 of the Oyster Creek Nuclear Generating Station Updated Final Safety Analysis Report (UFSAR) such that it incorporates the use of a freeze seal as a temporary part of the reactor coolant pressure boundary.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *The License Amendment Request does not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed repair activity involves the placement of temporary isolation barriers, including a freeze seal, in the [reactor water cleanup] RWCU System piping in order to isolate valve V–16–63 from the [reactor coolant system] RCS while repairs are being made. The isolation barriers fulfill the function of the valve body, which is passive integrity. The repair activity is similar to other activities routinely performed during refueling outages that depend upon single isolation barriers. The plant was designed to permit such work with appropriate isolation barrier(s) in place. The work associated with the proposed repair activity is consistent with this premise.

The accident considered in this evaluation is a maintenance repair activity with a RCS leak that, without adequate makeup, would uncover the reactor core. Effective isolation provisions have been incorporated into the scope of the proposed repair activity which will minimize the probability that a RCS leak will occur. The freeze seal barrier has been demonstrated to last 55 minutes following a loss of nitrogen. The mitigating action to be taken upon a loss of nitrogen supply with the stem/disc removed is to install a valve bonnet seal plate assembly and thereby establish integrity of the reactor coolant pressure boundary. In addition, sufficient makeup capacity is provided to maintain the [reactor pressure vessel] RPV water level at or above 56'' [top of active fuel] TAF.

Failure of the freeze seal barrier with the valve disc/stem removed would result in a loss of RCS water inventory. The proposed repair activity is bounded by the events evaluated in UFSAR Sections 15.6.5 ''Decrease in Reactor Coolant Inventory Events'' and 15.7.4 ''Design Basis Fuel Handling Accidents in the Containment''.

Based on the above, the proposed activity does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. *The License Amendment Request does not create the possibility of a new or different kind of accident from any previously evaluated.*

As indicated above, the accident considered in this evaluation is a maintenance repair activity with a RCS leak that, without adequate makeup, would uncover the reactor core. The proposed repair activity is bounded by the events evaluated in UFSAR Sections 15.6.5 ''Decrease in Reactor Coolant Inventory Events'' and 15.7.4 ''Design Basis Fuel Handling Accidents in the Containment''. As such, the proposed License Amendment does not create a new or different kind of accident from any previously evaluated.

3. *The License Amendment Request does not involve a significant reduction in a margin of safety.*

With respect to the piping subjected to the freeze seal, an evaluation of stress and materials issues concluded that the ductility and notch toughness of the pipe base metal, weld metal, and weld heat affected zone will remain high during the operation. In addition, no permanent changes to the base metal, weld metal or heat affected zone material properties or corrosion resistance are expected. Moreover, the maximum stress intensity in the cooled weld is acceptable per [American Society of Mechanical Engineers] ASME Codes or B31.1 requirements. In light of the above, it was concluded that the pipe condition will not change as a result of the freeze seal and that it will retain its capabilities to meet its design loading.

A decrease in reactor coolant inventory caused by a leak or rupture is a [loss-of-coolant-accident] LOCA condition that has been evaluated in the UFSAR. The proposed repair activity is bounded by the events evaluated in UFSAR Sections 15.6.5 ''Decrease in Reactor Coolant Inventory Events'' and 15.7.4 ''Design Basis Fuel Handling Accidents in the Containment''. The proposed repair activity will be performed with at least one loop of the Reactor Recirculation System in the open position whereas the bounding events include all loops open. However, since the potential energy release from the primary systems is significantly less than that which would be released for the DBA event, the conditions with closed loops are bounded. One train of the Core Spray System is capable of providing sufficient water to restore the RPV water level, both trains will be operable during the proposed repair activity.

Based on the above, the proposed License Amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–

0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 30, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 19, 1998, which is 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 Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Dated at Rockville, Maryland, this 24th day of September 1998.

For the Nuclear Regulatory Commission.

Ronald B. Eaton,

Senior Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50–22]

CBS Corporation, Westinghouse Test Reactor; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of a license amendment to the CBS Corporation (the licensee) (formerly Westinghouse Electric Corporation) that would allow

decommissioning of the Westinghouse Test Reactor (WTR) located in Westmoreland County, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

The WTR Facility is located in western Pennsylvania, near the town of Madison, and is on a site called the Waltz Mill site. The reactor operated from 1959 to 1962, primarily as a research and testing reactor. The facility was placed in a condition equivalent to a status later defined by the U.S. Nuclear Regulatory Commission (NRC) as ''SAFSTOR'' (safe storage) after it was shut down in 1962, and the operating license was converted to ''Possession Only'' (Amendment No. 2, dated March 25, 1963). All fuel and some of the reactor internal contents have been removed from the reactor vessel and from the Waltz Mill site.

The licensee submitted a decommissioning plan in accordance with 10 CFR 50.82(b) on July 31, 1997, as supplemented on March 20 and July 10, 1998. Decommissioning, as described in the plan, will be accomplished by removal and disposal of the remaining reactor vessel internal contents, the reactor vessel, and the biological shield. The balance of the WTR facility components and the remaining residual radioactive materials will be transferred to the existing SNM–770 license at the Waltz Mill site. There are no radiological limits applicable to the transfer of structures, materials, and equipment to the SNM–770 license, other than the radioactive materials possession limits specified in the SNM–770 license.

The licensee submitted a Decommissioning Environmental Report on March 20, 1998, which addresses the actual or potential environmental impacts resulting from the decommissioning of the WTR Facility, including decontamination, dismantlement, and site restoration activities.

Opportunity for a hearing was afforded by a ''Notice of Proposed Issuance of a License Amendment and an Order Authorizing Disposition of Component Parts, Termination of Facility License, and Opportunity for Hearing'' published in the **Federal Register** on October 21, 1997 (62 FR 54656). There were no requests for a hearing.

Need for the Proposed Action

The proposed action is necessary because of Westinghouse Electric Corporation's 1962 decision to cease operations permanently at the WTR. As specified in 10 CFR 50.82, any licensee may apply to the NRC for authority to surrender a license voluntarily and to decommission the affected facility. Further, 10 CFR 51.53(d) stipulates that each applicant for a license amendment to authorize decommissioning of a production or utilization facility shall submit with its application an environmental report that reflects any new information or significant environmental change associated with the proposed decommissioning activities. Also, decommissioning the WTR and transferring the residual radioactivity and remaining WTR facilities to the SNM–770 license is to allow efficient management of the Waltz Mill site under one license.

Environmental Impact of the Proposed Action

All decontamination will be performed by trained personnel in accordance with previously reviewed procedures and will be overseen by experienced health physics staff. Solid and liquid waste will be removed from the facility and managed in accordance with NRC requirements. The WTR staff has calculated that the collective dose equivalent to the WTR staff for the project will be less than 0.39 person-sievert (39 person-rem, Decommissioning Plan, July 25, 1991, page 2–29). The maximum calculated public exposure, to the most exposed person, from the planned decommissioning of the WTR would be less than 1×10^{-5} sievert per year (1 mrem per year, Westinghouse letter, March 20, 1998, page 9).

The above conclusions were based on all proposed operations being carefully planned and controlled, all contaminated components being removed, packaged, and shipped offsite or controlled under SNM–770. Furthermore, the existence of radiological control procedures that will be in place will help ensure that releases of radioactive wastes from the facility are within the limits of 10 CFR Part 20 and are as low as reasonably achievable (ALARA).

Based on the review of the specific proposed activities associated with the dismantling and decontamination of the WTR facility, the NRC staff has determined that there will be no significant increase in the amounts of radioactive effluents that may be released offsite, and no significant increase in occupational or public radiation exposure.

With regard to nonradiological impacts, the proposed action will not result in a change in nonradiological plant effluent and will have no other nonradiological impact.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the action.

Alternatives to the Proposed Action

The four alternatives available for disposition of the WTR are: DECON, SAFSTOR, ENTOMB, and no action. These alternatives are defined as follows:

DECON is the alternative in which the equipment, structures, and portions of the facility and site containing radioactive contaminants are removed or decontaminated to a level that permits the property to be released for unrestricted use shortly after cessation of operations.

SAFSTOR is the alternative in which the nuclear facility is placed and maintained in a condition that allows the nuclear facility to be safely stored and subsequently decontaminated (deferred decontamination) to levels that permit release for unrestricted use.

ENTOMB is the alternative in which radioactive contaminants are encased in a structurally long-lived material, such as concrete, the entombed structure is appropriately maintained and continued surveillance is carried out until the radioactivity decays to a level permitting release of the property for unrestricted use.

The licensee has evaluated the pros and cons of these alternatives in a letter dated March 20, 1998, and has given acceptable justification for proposing the modified DECON approach. It is considered a modified DECON approach because the WTR facility will not be released for unrestricted use but will be transferred to an existing NRC materials license. The principal reasons for this selection are as follow:

1. The facility has been in the SAFSTOR mode for 35 years and the majority of benefit from radioactive decay has already been realized.

2. Considering the potential for future escalation in the cost of radioactive waste burial and demolishment activities, the modified DECON alternative is most beneficial now.

3. Integrating the remaining WTR area into the existing materials license at the site will improve the efficiency of the decommissioning activities for the entire site at Waltz Mill. Key individuals that will be performing the decommissioning activities have experience from other decommissioning and remediation projects, including performing the remediation of the Waltz Mill Site.

The only alternative to the proposed dismantling and decontamination activities is to maintain possession of the reactor in the SAFSTOR mode. This approach would include monitoring and reporting for the duration of the safe storage period. However, the licensee has determined that it would be more efficient to terminate the reactor license by removing the remaining reactor vessel internal contents, the reactor vessel and the biological shield, and transferring the balance of the facility components and remaining residual radioactivity to the existing SNM–770 license.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Environmental Report submitted on March 20, 1998, for the WTR.

Agencies and Persons Contacted

In accordance with its stated policy, on June 23, 1998, the NRC staff consulted with the Pennsylvania State Official, Ray Woods, of the Bureau of Radiation Protection, Pennsylvania Department of Environmental Protection, regarding the environmental impact of the proposed action. There was no objection to the conclusions reached in the environmental assessment.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action 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 action.

For further details with respect to the proposed action, see the licensee's letters dated July 31, 1997, March 20, and July 10, 1998, which are available for pubic inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC 20555.

Dated at Rockville, Maryland, this 23rd day of September 1998.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning, Project Directorate, Division of Reactor Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–26209 Filed 9–29–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251]

Florida Power and Light Company, Turkey Point Unit 3 and Unit 4; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering issuance of an exemption from certain requirements of its regulations to Florida Power and Light Company (the licensee), holder of Facility Operating Licenses Nos. DPR–31 and DPR–41 for operation of Turkey Point Units 3 and 4, respectively.

Environmental Assessment

Identification of Proposed Action

The proposed action is in accordance with the licensee's application dated December 12, 1996, as supplemented July 31, October 31, and December 17, 1997, and June 2 and August 4, 1998, for exemption from certain requirements of Appendix R, ''Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979,'' for Turkey Point Units 3 and 4. Specifically, the licensee requested an exemption from the requirements of Appendix R, Subsection III.G.2.a, for raceway fire barriers in outdoor fire zones, excluding the Open Turbine Building. On February 24, 1998, the staff issued a partial exemption for fire zones 47, 54,113, 114, 115, 116 ,118, 119, 120, and 143, and denied the exemption request for fire zone 106R. The current exemption request covers fire zones 79—partial, 81, 84—partial, 86, 88—partial, and 89-partial. Fire zone 131 will be addressed separately.

The Need for the Proposed Action

The Thermo-Lag fire barriers installed at Turkey Point Units 3 and 4 were found to have a rating of 25-minutes, which does not meet the requirements specified in Subsection III.G.2.a. The proposed exemptions are needed because compliance with the regulation would result in significant additional costs.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed action involves features located entirely within the restricted area as defined in 10 CFR Part 20.

The proposed action will not result in an increase in the probability or consequences of accidents or result in a change in occupational or offsite dose. Therefore, there are no radiological impacts associated with the proposed action.

The proposed action will not result in a change in nonradiological plant effluents and will have no other nonradiological environmental impact.

Accordingly, the Commission concludes that there are no environmental impacts associated with this action.

Alternative to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (no-action alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action did not involve the use of any resources not previously considered in the Final Environmental Statements related to operation of Turkey Point Units 3 and 4, dated July 1972.

Agencies and Persons Consulted

In accordance with its stated policy, on September 17, 1998, the NRC staff consulted with the Florida State official, Mr. William Passetti of the Bureau of Radiation Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action 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 action.

For further details with respect to the proposed action, see the licensee's letter dated December 12, 1996, as supplemented on July 31, October 31, and December 17, 1997, and June 2 and August 4, 1998, 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 Florida International University, University Park, Miami, Florida.

Dated at Rockville, Maryland, this 24th day of September 1998.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–26206 Filed 9–29–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power and Light Company Allegheny Electric Cooperative, Inc. Susquehanna Steam Electric Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. NPF–14 and NPF–22, issued to Pennsylvania Power and Light Company (the licensee), for operation of the Susquehanna Steam Electric Station (SSES), Units 1 and 2, located in Luzerne County, Pennsylvania.

Environmental Assessment

Identification of the Proposed

The proposed action would revise Facility Operating Licenses Nos. NPF–14 and NPF-22, to reflect the change in the licensee's name from Pennsylvania Power & Light Company to PP&L, Inc.

The proposed action is in accordance with the licensee's application for amendment dated April 23, 1998.

The Need for the Proposed Action

The proposed action is needed to have the licenses accurately reflect the new legal name of the licensee.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed changes to the licenses. There will be no impact on the status of the Operating Licenses (OLs) or the continued operation of the SSES, since the proposed changes are solely administrative in nature. The proposed changes update the OLs so that references to the licensee's name will be consistent with the new corporate name, PP&L, Inc., of the licensee.

The proposed changes are administrative in nature and will not increase the probability or consequences of accidents, no changes are being made in the types or amounts of any effluents that may be released offsite, and there is no significant increase in the allowable occupational or public radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed changes are administrative in nature and do not involve any physical features of the plant. Thus, the proposed changes do not affect nonradiological plant effluents and have no other environmental impact.

Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action (no-action alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for SSES, Units 1 and 2.

Agencies and Persons Consulted

In accordance with its stated policy, on August 21, 1998, the staff consulted with the Pennsylvania State official, Mr. M. Maingi of the Pennsylvania Department of Environmental Protection Bureau, Division of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action 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 action.

For further details with respect to the proposed action, see the licensee's letter dated April 23, 1998, which is 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 Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 19464.

Dated at Rockville, Maryland, this 24th day of September 1998.

For the Nuclear Regulatory Commission.

Victor Nerses,

Senior Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–26207 Filed 9–29–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40475; File No. SR–EMCC–98–09]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Pair-Off Procedures for Fail Receive and Fail Deliver Obligations

September 24, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 18, 1998, the Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') and on September 22, 1998, amended the proposed rule change as described in Items I and II below, which items have been prepared primarily by EMCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to permit EMCC to perform pair-offs with respect to fail receive and fail deliver obligations for EMCC eligible instruments other than warrants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, EMCC 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. EMCC has prepared

[1] 15 U.S.C. 78s(b)(1).

summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Since EMCC commenced operations in April 1998, EMCC states that it has experienced a 98% settlement rate on settlement date. However, during the last few weeks (due to the current global market environment), EMCC has seen the settlement rate decline with respect to certain instruments to less than 50%. Currently, there are more than 2000 open fails on the books of EMCC, as well as those of its members, in selected issues.

Prior to the formation of EMCC, if a member was experiencing a significant fail problem, it would conduct bilateral pair-offs with its counterparties on the failed transactions. EMCC has determined that it would be beneficial for both EMCC and its members for EMCC to conduct bilateral pair-offs to help eliminate fails for the following reasons. First, EMCC believes that the bilateral pair-offs will help to eliminate uncertainties that could result from potential buy-ins of the failed transactions. (Buy-ins have the potential to exacerbate existing market volatility.) Second, EMCC expects it could eliminate the need for members to deposit significant additional amounts of clearing fund obligations related to the failed positions. This could benefit members by allowing them to utilize these funds in other ways during periods of market volatility. Third, EMC expects that bilateral pair-offs will permit members as well as EMCC to reduce the number of open fails carried on their books on a daily basis.

Fail deliver and fail receive obligations may be paired-off only if (i) they relate to EMCC eligible instruments within the same ISIN, (ii) they relate to the same quantity of EMCC eligible instruments either individually or when aggregated with other fail obligations (a fail obligation cannot be partially paired-off), and (iii) the original transactions underlying fail obligations to be paired-off are with the same counter party.

The proposed rule change permits EMCC to conduct pair-offs as frequently as EMCC determines is necessary and for such EMCC instruments as EMCC determines to be beneficial. The pair-off process gives members the opportunity to notify EMCC if they determine to be excluded from a particular pair-off date. With respect to the first bond pair-off, EMCC states that members have been notified that EMCC has requested that the Commission approve the proposed rule change to allow EMCC to conduct the first pair-off process on Friday, September 25, 1998. EMCC states that to date all members have indicated that they intend to participate in the first bond pair-off. EMCC will notify members regarding the approval of the rule filing and at such time, EMCC will confirm with its members the scheduling of the first pair-off process. With respect to future bond pair-offs, EMCC intends to give its members two days prior notice of any such bond pair-off. The pair-off process may be conducted with respect to specific EMCC eligible instruments or with respect to all EMCC eligible instruments. Depending upon the number of fails affected by the pair-off process, the time period for conducting the pair-off process could extend beyond one business day.

As a result of the pair-off process, EMCC will issue cancellation instructions on behalf of the affected members to the appropriate qualified securities depository (''QSD'') with respect to each paired-off transaction. In addition, EMCC will issue to the QSD appropriate debit/credit instructions which result from the differences among the transactions which have been paired-off.

EMCC believes that the proposed rule change is consistent with Section 17A of the Act and the rules and regulations promulgated thereunder because it will facilitate the prompt and accurate settlement of securities transactions.[3]

B. Self-Regulatory Organization's Statement on Burden on Competition

EMCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. EMCC will notify the Commission of any written comments received by EMCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F)[4] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that EMCC's rule change is consistent with EMCC's obligations under Section 17A(b)(3)(F) because the bilateral pair-off process will help reduce the number of failed transactions on EMCC's books. By reducing the number of failed transactions, EMCC will be able to increase the number of transactions which settle promptly and on a timely basis.

EMCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. Because of the current global market environment, EMCC has requested that its proposed rule change be approved by Thursday, September 24, 1998, so that EMCC may conduct the first pair-off on Friday, September 25, 1998, to begin eliminating fails as soon as possible. In order to allow EMCC to begin using its pair-off process as soon as practically possible, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. 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 Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal

[2] The Commission has modified parts of these statements.

[3] 15 U.S.C. 78q–1.

[4] 15 U.S.C. 78q–1(b)(3)(F).

office of EMCC. All submissions should refer to the File No. SR–EMCC–09–09 and should be submitted by October 21, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–EMCC–98–09) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–26156 Filed 9–29–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40463; File No. SR–GSCC–98–03]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Regarding Amendments to GSCC's By-Laws

September 23, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 31, 1998, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, GSCC will amend its by-laws to allow GSCC's Board of Directors to determine which individuals shall serve as GSCC's chief executive officer (''CEO'') and chief operating officer (''COO'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC 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. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

GSCC was formed by the National Securities Clearing Corporation (''NSCC'') in 1986. Initially, GSCC was a wholly owned subsidiary of NSCC. However, in December 1987 GSCC shares were issued in a private placement, and now approximately seventy-five percent of GSCC's shares are owned by its member firms. In August 1988, GSCC began providing services to its members, and its first participant shareholder Board of Directors was elected.

GSCC's shareholder agreement provides that NSCC has the right to nominate two individuals for election to the GSCC Board and that GSCC is to designate one of those individuals to the position of Vice-Chairman. Since GSCC was incorporated in 1986, GSCC's by-laws provided that the Vice-Chairman of GSCC's Board shall automatically be its CEO and that GSCC's President shall automatically be the COO.

For ten years, GSCC has operated as the central clearing corporation for the government securities marketplace. As a result, GSCC now believes that in order to ensure its independence, GSCC's Board of Directors should determine for itself which individuals shall serve as the CEO and COO. Therefore, under the proposed rule change GSCC will amend its by-laws to:

(1) Delete the provision that states that the Vice Chairman of the Board shall be CEO of GSCC.

(2) Delete the provision that states that the President shall be the COO of GSCC, and

(3) Make other conforming changes so as to appropriately reflect the responsibilities of the CEO and COO.

GSCC intends to continue its close affiliation with NSCC and to maintain the current synergies that GSCC shares with NSCC, such as the ancillary accounting, administrative services, human resources, and treasury services that NSCC provides for GSCC. In addition, GSCC will seek out additional ways that NSCC and GSCC can work together.

GSCC believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder because the amendments to GSCC's by-laws will allow GSCC's Board of Directors to determine for itself which individuals shall serve as GSCC's CEO and COO.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not yet been solicited or received. Members will be notified of the rule change filing and comments will be solicited by an important notice. GSCC will notify the Commission of any written comments received by GSCC.

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 GSCC consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such

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[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by GSCC.

ruling also will be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR–GSCC–98–03 and should be submitted by October 21, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–26097 Filed 9–29–98; 8:45 am]

BILLING CODE 8010–01–M

[3] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–98–4489]

Notice of Request for Clearance of a New Information Collection: Food Service Highway Signs Study

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget (OMB) to approve a new information collection described in more detail under Supplementary Information. This information collection provides for a study to be conducted by the FHWA to determine the practices of the States regarding specific food service signs as described in the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD).

DATES: Comments must be submitted on or before November 30, 1998.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10:00 a.m. and 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Ernest Huckaby, HHS–10, Room 3414, (202) 366–9064, Office of Highway Safety, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Food Service Highway Signs Study.

Background: The Transportation Equity Act for the 21st Century (TEA–21), Section 1213(g), directs the Secretary of the U.S. Department of Transportation to conduct a study of States' practices for specific food service signs described in sections 2G–5.7 and 2G–5.8 of the MUTCD. TEA–21 requires that the study shall examine, at a minimum: (a) the practices of all States for determining businesses eligible for inclusion on such signs; (b) whether States allow businesses to be removed from such signs and the circumstances for such removal; (c) the practices of all States for erecting and maintaining such signs, including the time required for erecting such signs; and (d) whether States contract out the erection and maintenance of such signs. A report to Congress is due not later than one year after the enactment of TEA–21 on the results of the study, including any recommendations and, if appropriate, modifications to the MUTCD.

MUTCD criteria for specific service signing is described in sections 2G–5.7 and 2G–5.8 of the Manual. TEA–21 provided modified criteria in MUTCD, Section 1217, Eligibility, paragraph (f), Information Services, as follows:

> A food business that would otherwise be eligible to display a mainline business logo on a specific service food sign described in section 2G–5.7(4) of part IIG of the 1988 edition of the Manual on Uniform Traffic Control Devices for Streets and Highways under the requirements specified in that section, but for the fact that the business is open 6 days a week, cannot be prohibited from inclusion on such a food sign.

Respondents: Departments of Transportation in 50 States and Puerto Rico and the District of Columbia.

Estimated Average Burden Per Response: 2 hours.

Estimated Total Annual Burden: 104 hours.

Frequency: This is a one-time collection.

Public Comments Invited: Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) the necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance for this information collection.

Electronic Availability: An electronic copy of this document may be downloaded using a modem and suitable communications software from the **Federal Register** electronic bulletin board service (telephone number: 202–512–1661). Internet users may reach the **Federal Register**'s WWW site at: http://www.access.gpo.gov/su_docs.

Authority: 49 CFR 1.48; P.L. 105–178.

Issued on: September 22, 1998.

Frederick G. Wright,

Director, Office of Budget and Finance.

[FR Doc. 98–26154 Filed 9–29–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Cooperative Agreement To Support Biomechanics Research

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Amendment of agency announcement published August 10, 1998 and August 13, 1998, **Federal Register** Volume 63, No. 153 and 156, respectively.

SUMMARY: The original dates for receipt of applications (September 30, 1998 and October 5, 1998) are hereby extended to 3 pm on November 20, 1998.

Dated: September 24, 1998.

Joseph N. Kanianthra,

Acting Associate Administrator for Research and Development.

[FR Doc. 98–26153 Filed 9–29–98; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–98–4470]

Pipeline Safety: Meetings of Pipeline Safety Advisory Committees

AGENCY: Office of Pipeline Safety, Research and Special Programs Administration, DOT.

ACTION: Notice of Advisory Committee meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App.1) notice is hereby given of the following meetings of the Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC). Both the TPSSC and the THLPSSC are statutorily mandated advisory committees that assist RSPA's Office of Pipeline Safety in its consideration of proposed safety standards, risk assessments, and safety policies for hazardous liquid and natural gas pipelines. Each committee has an authorized membership of 15 persons, five each from government, industry, and the public. The committees meet in May and November of each year. Each Committee meeting, as well as a joint session of the two Committees, is held at the Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, DC 20590. The November 1998 meetings will be held in room 6332.

ADDRESSES: Comments pertaining to this meeting should be sent to the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590–0001, or you can E-Mail your comments to ops.comments@rspa.dot.gov. Comments must identify the docket number RSPA–98–4470. The Dockets Facility is located on the plaza level of the Nassif Building in Room 401, 400 Seventh Street, SW, Washington, DC. The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mary-Jo Cooney, OPS, (202) 366–4774, regarding the subject matter of this notice.

SUPPLEMENTARY INFORMATION: On November 5, 1998, at 9:00 a.m., the TPSSC will meet. Topics to be discussed by the gas pipeline advisory committee include:

1. Definition of Gas Gathering Lines (Docket PS–122)
2. Remotely Controlled Valves on Natural Gas Pipeline Facilities (Docket PS–97–2879)
3. Adoption of Industry Standards for Liquefied Natural Gas Facilities (Docket PS–97–3002)
4. Plastic Pipeline Safety Standards (Docket PS–98–3347)
5. Gas Pipeline Repair: Pipe Wrap Repair Methods
6. Risk Management Local Distribution Company (LDC) Initiative

On, November 5, 1998, at 1:00 p.m., the TPSSC will be joined by members of the THLPSSC for a joint session of the gas and hazardous liquid pipeline advisory committees. Topics to be discussed include:

1. Corrosion Control on Gas and Hazardous Liquid Pipelines (Docket RSPA–97–2762)
2. Qualification of Pipeline Personnel (Docket RSPA–98–3783)
3. Changes in Enforcement Proceedings (Docket RSPA–98–4284)
4. Underwater Abandoned Pipeline Facilities (Docket RSPA–97–2094)
5. Underground Damage Prevention Activities: DAMQAT and the Best Practices Study
6. System Integrity Inspection Pilots
7. Risk Management Demonstration
8. Cost-Benefit Analysis Framework Working Group
9. National Pipeline Mapping System

On November 6, 1998, from 9:30 a.m. to 11:30 a.m., the THLPSSC will meet. Topics to be discussed by the hazardous liquid pipeline advisory committee include:

1. Unusually Sensitive Areas (Docket PS–140)
2. Pressure Testing of Older Hazardous Liquid Pipelines and Terminals (Docket PS–144)
3. Liquid Data Team Report
4. EPA/OPS Aboveground Storage Tank Jurisdiction

All three meetings will be open to the public. Members of the public may present oral statements on the topics discussed. Due to the limited time available, each person wishing to make an oral statement must notify Peggy Thompson, Room 7128, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, DC 20590, telephone (202) 366–4595, not later than October 30, 1998, on the topics to be addressed and the time requested for each topic. The presiding officer at each meeting may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any meeting.

Authority: 49 U.S.C. 60102, 60115.

Issued in Washington, DC on September 22, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 98–26152 Filed 9–29–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33657]

Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over BNSF's rail line between milepost 618.0 at Pueblo, CO, and milepost 170 at Peabody, KS, a distance of 448 miles, for the period September 10, 1998, through December 31, 1998.[1]

The transaction was scheduled to be consummated on or shortly after September 10, 1998.

The purpose of the trackage rights is to permit UP to use the BNSF trackage when UP's trackage is out of service for scheduled programmed track, roadbed and structural maintenance.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.-Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it 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. 33657, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Joseph D. Anthofer, Esq., 1416 Dodge Street, #830, Omaha, NE 68179.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 23, 1998.

[1] On September 3, 1998, UP filed a petition for exemption in STB Finance Docket No. 33657 (Sub-No. 1), *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company,* wherein UP requests that the Board permit the proposed overhead trackage rights arrangement described in the present proceeding to expire on December 31, 1998. That petition will be addressed by the Board in a separate decision.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–26027 Filed 9–29–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Country of Origin Marking Rules for Textiles and Textile Products Advanced in Value, Improved in Condition, or Assembled Abroad

AGENCY: U.S. Customs Service; Department of the Treasury.

ACTION: Proposed interpretation; extension of comment period.

SUMMARY: On June 15, 1998, a document was published in the **Federal Register** advising the public that Customs is proposing a new interpretation concerning the country of origin rules for certain imported textile and textile products. Customs proposed that 19 CFR 12.130(c) should not control for purposes of country of origin marking of textile and textile products, and that Chapter 98, Subchapter II, U.S. Note 2(a), Harmonized Tariff Schedule of the United States does not apply for country of origin marking purposes. The document solicited comments, requesting that comments be received on or before August 14, 1998. A document extending the period of time until September 30, 1998, for interested members of the public to submit comments on the proposal was published in the **Federal Register** on July 24, 1998. This document further extends the comment period.

DATES: Comments must be received on or before December 18, 1998.

ADDRESSES: Written comments may be addressed to, and inspected at, the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Monika Brenner, Special Classification and Marking Branch, Office of Regulations and Rulings, (202) 927–1675.

SUPPLEMENTARY INFORMATION:

Background

A document was published in the **Federal Register** (63 FR 32697) on June 15, 1998, advising the public that Customs is proposing a new interpretation concerning the country of origin rules for certain imported textile and textile products. Customs proposed that 19 CFR 12.130(c) should not control for purposes of country of origin marking of textile and textile products, and that Chapter 98, Subchapter II, U.S. Note 2(a), Harmonized Tariff Schedule of the United States does not apply for country of origin marking purposes. The document solicited comments, requesting that comments be received on or before August 14, 1998.

On July 24, 1998, Customs published a document in the **Federal Register** (63 FR 39931) extending the comment period until September 30, 1998.

Customs has now received a request to further extend the comment period to allow interested parties to have more time to consider the proposal and to explore how the proposed changes may impact the FTC rules on ''Made in USA''. Customs believes the request for more time has merit. Accordingly, the period of time for submission of comments is being extended until December 18, 1998.

All comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), section 1.4, Treasury Department Regulations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between 9:00 a.m. and 4:30 p.m. on normal business days at the address stated above.

Dated: September 25, 1998.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 98–26210 Filed 9–29–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–78]

Retraction of Revocation Notice

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The following Customs broker license numbers were erroneously included in a published list of revoked Customs brokers licenses in the **Federal Register**.

Jonathan P. Beck, Baltimore, 10436
Joseph P. Moss, Baltimore, 09889
Marla Bernstein, Boston, 14836
Hankyu Int'l, Transport (USA) Inc. San Francisco, 04497
Todd Hinkle, Chicago, 13098
John R. Wainwright, Chicago, 14002
Michael Mckenna, Miami, 09612
Alfreco Rodriguez, Miami, 11724
Richard Schweitzer, Miami, 06169

Licenses 10436, 09889, 14836, 04497, 13098, 14002, 09612, 11724, and 06169 are valid licenses.

Dated: September 23, 1998.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 98–26182 Filed 9–29–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–77]

Retraction of Revocation Notice

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The following Customs broker license numbers were erroneously included in a published list of revoked Customs brokers licenses in the **Federal Register**.

Ronald G. Sleeis, 05092
Alpha Brokers Corp., 12296

Licenses 05092 and 12296 are valid licenses.

Dated: September 23, 1998.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 98–26183 Filed 9–29–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Senior Executive Service; Financial Management Service Performance Review Board (PRB)

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the appointment of members to the Financial Management Service (FMS) Performance Review Board (PRB).

DATES: This notice is effective on September 30, 1998.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Papaj, Acting Deputy Commissioner; telephone (202) 874–7000.

ADDRESSES: Address all comments concerning this notice to Kenneth R. Papaj, Acting Deputy Commissioner, Financial Management Service, 401 14th Street, SW, Washington, DC 20027.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4), this notice is given of the appointment of individuals to serve as members of the Financial Management Service (FMS) Performance Review Board (PRB). This Board reviews the performance appraisals of career senior executives below the Assistant Commissioner level and makes recommendations regarding ratings, bonuses, and other personnel actions. Three voting members constitute a quorum. The names and titles of the FMS PRB members are as follows:

Primary Members

Kenneth R. Papaj, Acting Deputy Commissioner
Constance E. Craig, Assistant Commissioner, Information Resources
Mitchell A. Levine, Assistant Commissioner, Financial Information
John D. Newell, Assistant Commissioner, Regional Operations

Alternate Members

Diane E. Clark, Assistant Commissioner, Management
Nancy C. Fleetwood, Assistant Commissioner, Debt Management Services
Michael T. Smokovich, Assistant Commissioner, Agency Services
Larry D. Stout, Assistant Commissioner, Federal Finance

Dated: September 25, 1998.

Richard L. Gregg,

Commissioner.

[FR Doc. 98–26132 Filed 9–29–98; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return.

DATES: Written comments should be received on or before November 30, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: United States Estate (and Generation-Skipping Transfer) Tax Return.

OMB Number: 1545–0015.

Form Number: 706.

Abstract: Form 706 is used by executors to report and compute the Federal estate tax imposed by Internal Revenue Code section 2001 and the Federal generation-skipping transfer (GST) tax imposed by Code section 2601. The IRS uses the information on the form to enforce the estate and GST tax provisions of the Code and to verify that the taxes have been properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and business or other for-profit organizations.

Estimated Number of Respondents: 75,000.

Estimated Time Per Respondent: 23 hr., 11 min.

Estimated Total Annual Burden Hours: 1,739,052.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 18, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–26070 Filed 9–29–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5330

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5330, Return of Excise Taxes Related to Employee Benefit Plans.

DATES: Written comments should be received on or before November 30, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Return of Excise Taxes Related to Employee Benefit Plans.

OMB Number: 1545–0575.

Form Number: 5330.

Abstract: Internal Revenue Code sections 4971, 4972, 4973(a), 4975, 4976, 4977, 4978, 4978A, 4978B, 4979, 4979A, and 4980 impose various excise taxes in connection with employee benefit plans. Form 5330 is used to compute and collect these taxes. The IRS uses the information on the form to verify that the proper amount of tax has been reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 8,403.

Estimated Time Per Respondent: 37 hr., 1 min.

Estimated Total Annual Burden Hours: 310,995.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 18, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–26071 Filed 9–29–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Geriatrics and Gerontology Advisory Committee, Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Public Law 92–463) of October 6, 1972, that the Department of Veterans' Affairs Geriatrics and Gerontology Advisory Committee has been renewed for a 2-year period beginning September 17, 1998, through September 17, 2000.

Dated: September 23, 1998.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 98–26126 Filed 9–29–98; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 63, No. 189

Wednesday, September 30, 1998

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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 59

[AD–FRL–6149–8]

RIN 2060–AF62

National Volatile Organic Compound Emission Standards for Consumer Products

Correction

In rule document 98–22660, beginning on page 48819, in the issue of Friday, September 11, 1998, make the following corrections:

PART 59 [CORRECTED]

1. On page 48831, in the second column, the Table of Contents for Subpart C is corrected to read as set forth below.

Subpart C—National Volatile Organic Compound Emission Standards for Consumer Products

Sec.
59.201 Applicability and designation of regulated entity.
59.202 Definitions.
59.203 Standards for consumer products.
59.204 Innovative product provisions.
59.205 Labeling.
59.206 Variances.
59.207 Test methods.
59.208 Charcoal lighter material testing protocol.
59.209 Recordkeeping and reporting requirements.
59.210 Addresses of EPA Regional Offices.
59.211 State authority.
59.212 Circumvention.
59.213 Incorporations by reference.
59.214 Availability of information and confidentiality.
Table 1 to Subpart C—VOC Content Limits by Product Category
Table 2 to Subpart C—HVOC1 Content Limits for Underarm Deodorants and Underarm AntiPerspirants
Appendix A to Subpart C—Figures

§ 59.202 [Corrected]

2. On page 48833, in the first column, in the second full paragraph, in the seventh line, before the word ''products'' insert the word ''or''.

3. On page 48833, in the second column, in the second line from the bottom, ''Floggers'' should read ''Foggers''.

§ 59.204 [Corrected]

4. On page 48835, in the third column, in § 59.204 (c)(1), in the second line, ''form'' should read ''from''.

§ 59.208 [Corrected]

5. On page 48837, in the first column, in § 59.208 (e)(1), in the first line, ''(E^b)'' should read ''(E_b)''.

6. On page 48839, in the third column, § 59.208, paragraph ''(J)'' should read ''(j)''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 414

RIN 1006–AA40

Offstream Storage of Colorado River Water and Interstate Redemption of Storage Credits in the Lower Division States

Correction

In proposed rule document 98–25139 appearing on page 50183, in the issue of Monday, September 21, 1998, make the following corrections:

1. On page 50183, in the third column, in the second full paragraph, in the fourth line, after ''result'' add ''from''.

2. On page 50183, in the third column, in the second full paragraph, in the fourth line, ''approval'' should read ''approved''.

BILLING CODE 1505–01–D

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–373 (Final) and 731–TA–769–775 (Final)]

Stainless Steel Wire Rod From Germany, Italy, Japan, Korea, Spain, Sweden, and Taiwan

Correction

In notice document 98–24823, appearing on page 49610, in the issue of Wednesday, September 16, 1998, make the following corrections.

1. On page 49610 in the first column, in footnote number 1, in the last line, ''ech'' should read ''each''.

2. On the same page in the second column, in footnote number 5, in the ninth line, ''imminetly'' should read ''imminently'' and ''mroe'' should read ''more''.

BILLING CODE 1505–01–D

federal register

Wednesday
September 30, 1998

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR PART 20

RIN 1018–AE93

Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits for general waterfowl seasons and those early seasons for which States previously deferred selection. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule permits the taking of designated species during the 1998–99 season.

DATES: This rule takes effect on October 1, 1998.

ADDRESSES: The public may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Robert J. Blohm, Acting Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634–ARLSQ, 1849 C Street, NW., Washington, DC 20240, (703) 358–1838.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1998

On March 20, 1998, the Service published in the **Federal Register** (63 FR 13748) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory birds, designated as ''migratory game birds'' in conventions between the United States and several foreign nations for their protection and management, under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. All other birds designated as migratory (under 10.13 of Subpart B of 50 CFR part 10) in the aforementioned conventions may not be hunted.

On May 29, 1998, the Service published in the **Federal Register** (63 FR 29518) a second document providing supplemental proposals for early-and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 1998–99 duck hunting season. The May 29 supplement also provided detailed information on the 1998–99 regulatory schedule and announced the Service Migratory Bird Regulations Committee and Flyway Council meetings.

On June 25, 1998, the Service held a public hearing in Washington, DC, as announced in the March 20 and May 29 **Federal Registers** to review the status of migratory shore and upland game birds. The Service discussed hunting regulations for these species and for other early seasons. On July 17, 1998, the Service published in the **Federal Register** (63 FR 38700) a third document specifically dealing with proposed early-season frameworks for the 1998–99 season. The July 17 supplement also established the final regulatory alternatives for the 1998–99 duck hunting season for all States except Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee. On August 5, 1998, the Service published in the **Federal Register** (63 FR 41926) a fourth document dealing specifically with the final regulatory alternatives for the 1998–99 duck hunting season for the States of Alabama, Arkansas, Kentucky, Louisiana, Mississippi, and Tennessee.

On August 6, 1998, the Service held a public hearing in Washington, DC, as announced in the March 20, May 29, and July 17 **Federal Register**, to review the status of waterfowl. Proposed hunting regulations were discussed for late seasons. On August 25, 1998, the Service published a fifth document (63 FR 45350) which dealt specifically with proposed frameworks for the 1998–99 late-season migratory bird hunting regulations.

On August 28, 1998, the Service published a sixth document (63 FR 46124) containing final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico, and the Virgin Islands selected early-season hunting dates, hours, areas, and limits for the 1998–99 season. A seventh document published in the August 31, 1998, **Federal Register** (63 FR 46336) amended subpart K of title 50 CFR part 20 to set hunting seasons, hours, areas, and limits for early seasons.

The Service published final late-season frameworks for migratory game bird hunting regulations, from which State wildlife conservation agency officials selected late-season hunting dates, hours, areas, and limits for 1998–99 in an eighth document in the September 29, 1998, **Federal Register**. The final rule described here is the ninth and final in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations for 1998–99 and deals specifically with amending subpart K of 50 CFR part 20 to set hunting seasons, hours, areas, and limits for species subject to late-season regulations and those for early seasons that States previously deferred.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with EPA on June 9, 1988. The Service published a Notice of Availability in the June 16, 1988, **Federal Register** (53 FR 22582). The Service published its Record of Decision on August 18, 1988 (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES.**

Endangered Species Act Considerations

As in the past, the Service designs hunting regulations to remove or alleviate chances of conflict between migratory game bird hunting seasons and the protection and conservation of endangered and threatened species. Consultations have been conducted to ensure that actions resulting from these regulatory proposals will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and may cause modification of some regulatory measures previously proposed. The final frameworks reflect any modifications. The Service's biological opinions resulting from its Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and MBMO, at the address indicated under the caption **ADDRESSES.**

Regulatory Flexibility Act

In the March 20, 1998, **Federal Register**, the Service reported measures it took to comply with requirements of the Regulatory Flexibility Act. One measure was to update the 1996 Small Entity Flexibility Analysis (Analysis) documenting the significant beneficial economic effect on a substantial number of small entities. The 1996 Analysis estimated that migratory bird hunters would spend between $254 and $592 million at small businesses. The Service has updated the 1996 Analysis with information from the 1996 National Hunting and Fishing Survey. Nationwide, the Service now estimates

that migratory bird hunters will spend between $429 and $1,084 million at small businesses in 1998. Copies of the 1998 Analysis are available upon request from the Office of Migratory Bird Management.

Executive Order (E.O.) 12866

This rule is economically significant and was reviewed by the Office of Management and Budget (OMB) under E.O. 12866.

E.O. 12866 requires each agency to write regulations that are easy to understand. The Service invites comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the rule? What else could the Service do to make the rule easier to understand?

Send a copy of any comments that concern how this rule could be made easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. Comments may also be e-mailed to: Exsec@ios.doi.gov.

Congressional Review

In accordance with Section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 8), this rule has been submitted to Congress and has been declared major. Because this rule establishes hunting seasons, this rule qualifies for an exemption under 5 U.S.C. 808(1); therefore, the Department determines that this rule shall take effect immediately.

Paperwork Reduction Act

The Service examined these regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, the information collection requirements of the Migratory Bird Harvest Information Program have been approved by OMB and assigned clearance number 1018–0015 (expires 09/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve Service harvest estimates for all migratory game birds in order to better manage these populations. The Service may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 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 government or private entities.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, these rules, authorized by the Migratory Bird Treaty Act, do not have significant takings implications and do not affect any constitutionally protected property rights. These rules will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. The Service annually prescribes frameworks from which the States make selections and employs guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulation. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 12612, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when the preliminary proposed rulemaking was published, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the States would have insufficient time to select season dates and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures to implement their decisions.

Therefore, the Service, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended, (16 U.S.C. 703–711), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials will select hunting season dates and other options. Upon receipt of season and option selections from these officials, the Service will publish in the **Federal Register** a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the conterminous United States for the 1998–99 season.

The Service therefore finds that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these alternatives

will, therefore, take effect immediately upon publication. Accordingly, with each conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State or Territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: September 18, 1998.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

PART 20—[AMENDED]

For the reasons set out in the preamble, the Service amends title 50, chapter I, subchapter B, part 20, subpart K as follows:

1. The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703–712; and 16 U.S.C. 742 a–j.

BILLING CODE 4310–55–P

Note - The following annual regulations provided for by §§20.104, 20.105, 20.106, 20.107, and 20.109 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATIONS OF GEOGRAPHICAL AREAS. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

2. Section 20.104 is amended by adding the entries for the following States in alphabetical order to read as follows:

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Area descriptions were published in the August 28 and September 29 Federal Registers.

NOTE: The following seasons are in addition to the seasons published previously in the August 31, 1998, Federal Register (63 FR 46336).

	Sora & Virginia Rails	Clapper & King Rails	Woodcock	Common Snipe
Daily bag limit	25 (1)	15 (2)	3	8
Possession limit	25 (1)	30 (2)	6	16
ATLANTIC FLYWAY				
* * * * *				
Massachusetts (4)	Sept. 1-Nov. 7	Closed	Oct. 16-Nov. 14	Sept. 1-Dec. 16
* * * * *				
Vermont	Closed	Closed	Oct. 6-Nov. 4	Oct. 7-Dec. 10
* * * * *				
MISSISSIPPI FLYWAY				
* * * * *				
Tennessee				
Reelfoot Zone	Nov. 14-Nov. 15 & Nov. 21-Jan. 17	Closed	Oct. 31-Dec. 14	Nov. 14-Feb. 28
State Zone	Nov. 14-Nov. 21 & Nov. 27-Jan. 17	Closed	Oct. 31-Dec. 14	Nov. 14-Feb. 28
Wisconsin				
North Zone	Oct. 3-Dec. 1	Closed	Sept. 19-Nov. 2	Oct. 3-Dec. 1
South Zone	Oct. 3-Dec. 1	Closed	Sept. 19-Nov. 2	Oct. 3-Dec. 1
* * * * *				
PACIFIC FLYWAY				
Arizona (15)				
North Zone	Closed	Closed	Closed	Oct. 9-Jan. 17
South Zone	Closed	Closed	Closed	Oct. 9-Jan. 17
California	Closed	Closed	Closed	Oct. 3-Jan. 17
* * * * *				
Nevada				
Lincoln & Clark County	Closed	Closed	Closed	Oct. 3-Jan. 16
Rest of State	Closed	Closed	Closed	Oct. 3-Jan. 16
Oregon				
Zone 1	Closed	Closed	Closed	Oct. 3-Jan. 16
Zone 2	Closed	Closed	Closed	Oct. 3-Jan. 16
Utah	Closed	Closed	Closed	Oct. 3-Jan. 17
Washington				
East Zone	Closed	Closed	Closed	Oct. 3-Oct. 11 & Oct. 13-Jan. 17
West Zone	Closed	Closed	Closed	Oct. 3-Oct. 11 & Oct. 13-Jan. 17
* * * * *				

(1) The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these species.

(2) All bag and possession limits for clapper and king rails apply singly or in the aggregate of the two species and, unless otherwise specified, the limits are in addition to the limits on sora and Virginia rails in all States.

* * * * *

(4) In Massachusetts, the sora bag limit is 5 daily and 5 in possession; the Virginia rail bag limit is 10 daily and 10 in possession.

* * * * *

(15) In Arizona, Ashurst Lake in Unit 5B is closed to common snipe hunting.

3. In Section 20.105, paragraphs (a), (b), (c) and (f) are amended by adding the entries for the following States in alphabetical order and paragraph (e) is revised to read as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Area descriptions were published in the August 28 and September 29 Federal Registers.

(a) Common Moorhens and Purple Gallinules
(Atlantic, Mississippi, and Central Flyways)

NOTE: The following seasons are in addition to the seasons published previously in the August 31, 1998, Federal Register (63 FR 46336). The zones named in this paragraph are the same as those used for setting duck seasons.

	Season Dates	Limits Bag	Limits Possession
ATLANTIC FLYWAY			
* * * * *			
Virginia	Oct. 7-Oct. 10 &	15	30
	Nov. 17-Jan. 20	15	30
West Virginia			
Zone 1	Oct. 1-Oct. 17 &	15	30
	Nov. 30-Jan. 20	15	30
Zone 2	Oct. 1-Oct. 17 &	15	30
	Nov. 12-Jan. 2	15	30
* * * * *			
MISSISSIPPI FLYWAY			
* * * * *			
Michigan			
North Zone	Oct. 3-Dec. 1	15	30
Middle Zone	Oct. 3-Dec. 1	15	30
South Zone	Oct. 10-Dec. 8	15	30
Minnesota (2)	Oct. 3-Dec. 1	15	30
* * * * *			
Tennessee			
Reelfoot Zone	Nov. 14-Nov. 15 &	15	30
	Nov. 21-Jan. 17	15	30
State Zone	Nov. 14-Nov. 21 &	15	30
	Nov. 27-Jan. 17	15	30
Wisconsin			
North Zone	Oct. 3-Dec. 1	5	10
South Zone	Oct. 3-Dec. 1	5	10
* * * * *			
PACIFIC FLYWAY			
All States	Seasons are in aggregate with coots and listed in paragraph (e).		

* * * * *

(2) In Minnesota, the daily bag limit is 15 and the possession limit is 30 coots and moorhens in the aggregate.

(b) Sea Ducks (scoter, eider, and oldsquaw ducks in Atlantic Flyway)

NOTE: The following seasons are in addition to the seasons published previously in the August 31, 1998, Federal Register (63 FR 46336).

Within the special sea duck areas, the daily bag limit is 7 sea ducks of which no more than 4 may be scoters. Possession limits are twice the daily bag limit. These limits may be in addition to regular duck bag limits only during the regular duck season in the special sea duck hunting areas.

	Season Dates	Limits Bag	Limits Possession
Connecticut	Oct. 1-Jan. 20	7	14
* * * * *			
Maine	Oct. 1-Jan. 20	7	14
Maryland	Oct. 5-Jan. 20	5	10
Massachusetts	Oct. 6-Jan. 20	7	14
* * * * *			

	Season Dates	Limits Bag	Limits Possession
North Carolina	Oct. 1-Jan. 20	7	14
* * * * *			
South Carolina	Oct. 6-Jan. 20	7	14
Virginia	Oct. 6-Jan. 20	7	14

Note: Notwithstanding the provisions of this part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Delaware, Virginia, and Maryland in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

(c) Early (September) Duck Seasons.

Note: Unless otherwise specified, the seasons listed below are for teal only.

	Season Dates	Limits Bag	Limits Possession
ATLANTIC FLYWAY			
* * * * *			
Florida (3)	Sept. 26-Sept. 30	4	8
* * * * *			

* * * * *

(3) In Florida, the daily bag limit is 4 wood ducks and teal in the aggregate. The possession limit is twice the daily bag limit.

* * * * *

(e) Waterfowl, Coots, and Pacific-Flyway Seasons for Common Moorhens and Purple Gallinules

Definitions

The Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

The Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

The Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

The Pacific Flyway: Includes the States of Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Light Geese: Includes lesser snow (including blue) geese, greater snow geese, and Ross' geese.

Dark Geese: Includes Canada geese, white-fronted geese, emperor geese, brant (except in California, Oregon, Washington, and the entire Atlantic Flyway) and all other geese except light geese.

ATLANTIC FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 4 mallards (2 hen mallards), 4 scaup, 1 black duck, 1 pintail, 1 canvasback, 1 mottled duck, 2 wood ducks, 2 redheads, and 1 fulvous tree duck. The possession limit is twice the daily bag limit.

Harlequin Ducks: All areas of the Flyway are closed to harlequin duck hunting.

Merganser Limits: The merganser limits include no more than 1 hooded merganser daily and 2 in possession.

	Season Dates	Limits Bag	Limits Possession
Connecticut			
Ducks (1):			
North Zone	Oct. 7-Oct. 24 &	6	12
	Nov. 11-Dec. 31	6	12
South Zone	Oct. 17-Oct. 24 &	6	12
	Nov. 20-Jan. 20	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
North Zone	Oct. 7-Oct. 24 &	2	4
	Nov. 18-Dec. 15	2	4
South Zone	Oct. 17-Oct. 24 &	2	4
	Nov. 7-Dec. 15	2	4
(special season)	Jan. 15-Feb. 15	State Permit Only	
Light Geese			
North Zone	Oct. 7-Feb. 8	15	--
South Zone	Oct. 14-Feb. 15	15	--
Brant:			
North Zone	Nov. 11-Jan. 7	2	4
South Zone	Nov. 24-Jan. 20	2	4
Delaware			
Ducks (2)	Oct. 1-Oct. 5 &	6	12
	Oct. 30-Nov. 7 &	6	12
	Nov. 23-Jan. 16	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese	Closed	--	--
Light Geese:			
Bombay Hook NWR	Nov. 13-Nov. 22	15	--
Statewide	Oct. 3-Oct. 10 &	15	--
	Oct. 19-Nov. 12 &	15	--
	Nov. 23-Jan. 16 &	15	--
	Feb. 10-Mar. 6	15	--
Brant	Nov. 24-Jan. 20	2	4

	Season Dates	Limits Bag	Limits Possession
Florida			
Ducks	Nov. 21-Jan. 19	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese	Nov. 21-Nov. 29 &	2	4
	Jan. 9-Jan. 30	2	4
Georgia			
Ducks	Nov. 21-Jan. 19	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese (special season) (3)	Nov. 21-Jan 29	State Permit Only	
Light Geese	Same as for ducks	2	4
Brant	Closed	--	--
Maine			
Ducks (4):			
North Zone	Oct. 1-Nov. 28	4	8
South Zone	Oct. 1-Oct. 17 &	4	8
	Nov. 9-Dec. 19	4	8
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
North Zone	Oct. 1-Nov. 16	2	2
South Zone	Oct. 10- Oct. 25	2	2
Light Geese	Oct. 1-Jan. 31	5	10
Brant	Oct. 1-Nov. 27	2	4
Maryland			
Ducks (5)	Oct. 10-Oct. 17 &	4	8
	Nov. 5-Nov. 27 &	4	8
	Dec. 14-Jan. 20	4	8
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese	Closed	--	--
Western Area	Nov. 16-Nov. 27 &	2	4
	Dec. 14-Jan. 14	2	4
(special season)	Jan. 15-Feb. 15	3	6
Light Geese	Oct. 17-Nov. 27 &	15	--
	Dec. 8-Feb. 27	15	--
Brant	Nov. 7-Nov. 27 &	2	4
	Dec. 15-Jan. 20	2	4
Massachusetts			
Ducks (6):			
Western Zone	Oct. 12-Dec. 19	6	12
Central Zone	Oct. 15-Nov. 28 &	6	12
	Dec. 14-Jan. 6	6	12
Coastal Zone	Oct. 19-Oct. 31 &	6	12
	Nov. 16-Jan. 9	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Massachusetts (cont.)			
Canada Geese:			
Western Zone	Closed	--	--
Central Zone	Oct. 15-Nov. 28 &	2	4
	Dec. 14	2	4
(special season)	Jan. 15-Feb. 6	5	10
Coastal Zone	Oct. 19-Nov. 3 &	2	4
	Nov. 16-Dec. 15	2	4
(special season) (7)	Jan. 15-Feb. 6	5	10
Light Geese:			
Western Zone	Same as for ducks	15	30
Central Zone	Same as for ducks &	15	30
	Jan. 15-Feb. 6	15	30
Coastal Zone	Same as for ducks &	15	30
	Jan. 15-Feb. 6	15	30
Brant:			
Western & Central Zone	Closed	--	--
Coastal Zone	Nov. 16-Dec. 12 &	2	4
	Dec. 22-Jan. 20	2	4
New Hampshire			
Ducks (8):			
Inland Zone	Oct. 6-Nov. 8 &	6	12
	Nov. 25-Dec. 20	6	12
Coastal Zone	Oct. 7-Oct. 25 &	6	12
	Nov. 25-Jan. 4	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
Inland Zone	Oct. 6-Nov. 8 &	2	4
	Nov. 25-Nov. 30	2	4
Coastal Zone	Oct. 7-Oct. 25 &	2	4
	Nov. 25-Dec. 15	2	4
Light Geese:			
Inland Zone	Oct. 6-Dec. 20	15	--
Coastal Zone	Oct. 7-Jan. 4	15	--
Brant:			
Inland Zone	Oct. 6-Nov. 8 &	2	4
	Nov. 25-Dec. 10	2	4
Coastal Zone	Oct. 7-Oct. 25 &	2	4
	Nov. 25-Dec. 25	2	4
New Jersey			
Ducks (9):			
North Zone	Oct. 10-Oct. 31 &	4	8
	Nov. 17-Jan. 2	4	8
South Zone	Oct. 10-Oct. 24 &	4	8
	Nov. 10-Jan. 2	4	8
Coastal Zone	Oct. 31-Nov. 21 &	4	8
	Nov. 24-Jan. 9	4	8
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30

	Season Dates	Limits Bag	Limits Possession
New Jersey (cont.)			
Canada Geese:			
North Zone	Closed	--	--
South Zone	Closed	--	--
Coastal Zone	Closed	--	--
(special season) (3)	Jan. 15-Feb. 15	5	10
Light Geese:			
North Zone	Oct. 10-Jan. 11 &	15	--
	Jan. 15-Feb. 15	15	--
South Zone	Oct. 10-Oct. 24 &	15	--
	Nov. 10-Jan. 2 &	15	--
	Jan. 15-Mar. 10	15	--
Coastal Zone	Oct. 7-Nov. 21 &	15	--
	Nov. 24-Jan. 9	15	--
	Jan. 15-Feb. 13	15	--
Brant:			
North Zone	Oct. 13-Oct. 31 &	2	4
	Nov. 26-Jan. 2	2	4
South Zone	Oct. 10-Oct. 24 &	2	4
	Nov. 21-Jan. 2	2	4
Coastal Zone	Oct. 31-Nov. 12 &	2	4
	Nov. 26-Jan. 9	2	4
New York			
Ducks (10):			
Long Island Zone	Nov. 20-Nov. 29 &	6	12
	Dec. 2-Jan. 20	6	12
Lake Champlain Zone	Oct. 7-Oct. 11 &	6	12
	Oct. 17-Dec. 10	6	12
Northeastern Zone	Oct. 3-Nov. 15 &	6	12
	Nov. 21-Dec. 6	6	12
Southeastern Zone	Oct. 10-Oct. 18 &	6	12
	Nov. 7-Dec. 27	6	12
Western Zone	Oct. 10-Nov. 29 &	6	12
	Dec. 26-Jan. 3	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
Long Island Zone	Nov. 20-Nov. 29 &	2	4
	Dec. 2-Dec. 3	2	4
Lake Champlain Zone	Closed	--	--
Northeastern Zone	Closed	--	--
Southeastern Zone	Closed	--	--
Western Zone	Closed	--	--
Southwest Unit	Nov. 15-Jan. 23	2	4
(special season)	Jan. 15-Feb. 15	5	10
Light Geese:			
Long Island Zone	Oct. 1-Oct. 21 &	15	--
	Nov. 20-Nov. 29 &	15	--
	Dec. 2-Feb. 15	15	--
Lake Champlain Zone	Oct. 7-Jan. 1 &	15	--
	Feb. 20-Mar. 10	15	--
Northeastern Zone	Oct. 3-Dec. 29 &	15	--
	Feb. 20-Mar. 10	15	--

	Season Dates	Limits Bag	Limits Possession
New York (cont.)			
Southeastern Zone	Oct. 10-Jan. 5 &	15	--
	Feb. 20-Mar. 10	15	--
Western Zone	Oct. 28-Jan. 23 &	15	--
	Feb. 20-Mar. 10	15	--
Brant:			
Long Island Zone	Nov. 20-Nov. 29 &	2	4
	Dec. 12-Jan. 20	2	4
Lake Champlain Zone	Oct. 7-Nov. 25	2	4
Northeastern Zone	Oct. 10-Nov. 28	2	4
Southeastern Zone	Oct. 10-Nov. 28	2	4
Western Zone	Oct. 10-Nov. 28	2	4
North Carolina			
Ducks (11)	Oct. 1-Oct. 3 &	6	12
	Nov. 16-Jan. 20	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese	Closed	--	--
Western Unit	Oct. 1-Nov. 15	2	4
Light Geese	Oct. 23-Oct. 31 &	10	30
	Nov. 16-Mar. 10	10	30
Brant	Nov. 24-Jan. 20	2	4
Pennsylvania			
Ducks (12):			
North Zone	Oct. 10-Nov. 28 &	5	10
	Dec. 5-Dec. 24	5	10
South Zone	Oct. 10-Oct. 24 &	5	10
	Nov. 10-Jan. 2	5	10
Northwest Zone	Oct. 10-Oct. 31 &	5	10
	Nov. 7-Dec. 24	5	10
Lake Erie Zone	Oct. 24-Oct. 31 &	5	10
	Nov. 7-Jan. 7	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
North Zone	Closed	--	--
South Zone	Closed	--	--
Western Zone	Nov. 16-Dec. 31	2	4
(special season)	Jan. 15-Feb. 15	5	10
Erie, Mercer, and Butler Counties	Oct. 10-Oct. 17 &	2	4
	Nov. 16-Jan. 27	2	4
Crawford County	Oct. 10-Oct. 17 &	1	2
	Nov. 7-Dec. 9	1	2
Light Geese	Nov. 7-Mar. 10	15	--
Brant	Oct. 10-Oct. 31 &	2	4
	Nov. 7-Dec. 12	2	4
Rhode Island			
Ducks	Oct. 9-Oct. 12 &	6	12
	Nov. 21-Nov. 29 &	6	12
	Dec. 5-Jan. 20	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30

	Season Dates	Limits Bag	Limits Possession
Rhode Island (cont.)			
Canada Geese	Oct. 9-Oct. 12 &	2	4
	Nov. 10-Dec. 15	2	4
(special season)	Jan. 15-Feb. 15	5	10
Light Geese	Oct. 9-Jan. 20	15	--
Brant	Nov. 21-Nov. 29 &	2	4
	Dec. 11-Jan. 20	2	4
South Carolina			
Ducks (13)	Nov. 14-Nov. 28 &	6	12
	Dec. 7-Jan. 20	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese (special season)	Nov. 14-Nov. 28 &	4	8
	Dec. 7-Jan. 30	4	8
Light Geese	Same as for ducks	5	10
Brant	Dec. 7-Jan. 20	2	4
Vermont			
Ducks:			
Lake Champlain Zone	Oct. 7-Oct 11 &	6	12
	Oct. 17-Dec. 10	6	12
Interior Zone	Oct. 7-Dec. 5	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese	Closed	--	--
Light Geese	Oct. 7-Jan. 1	15	--
	Feb. 20-Mar. 10	15	--
Brant	Oct. 7-Nov. 25	2	4
Virginia			
Ducks	Oct. 7-Oct. 10 &	5	10
	Nov. 17-Jan. 20	5	10
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
Back Bay Area	Closed	--	--
Remainder of State	Closed	--	--
Western Unit	Dec. 1-Jan. 14	2	4
(special season)	Jan. 15-Feb. 15	4	8
Light Geese	Nov. 6-Mar. 10	15	--
Brant	Nov. 24-Jan. 20	2	4
West Virginia			
Ducks:			
Zone 1	Oct. 1-Oct. 17 &	6	12
	Nov. 30-Jan. 20	6	12
Zone 2	Oct. 1-Oct. 17 &	6	12
	Nov. 12-Jan. 2	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Canada Geese:			
Zone 1	Oct. 1-Oct. 17 &	3	6
	Nov. 28-Jan. 30	3	6
West Virginia (cont.)			
Zone 2	Oct. 1-Oct. 31 &	3	6
	Dec. 12-Jan. 30	3	6
Light Geese:			
Zone 1	Same as for Canada geese	5	10
Zone 2	Same as for Canada geese	5	10
Brant	Nov. 24-Jan. 20	2	4

(1) In Connecticut, the season is closed for black ducks prior to November 26 in the North Zone and prior to December 5 in the South Zone.
(2) In Delaware, the season on black ducks is only open November 24 through January 3.
(3) State permit required.
(4) In Maine, the season is closed for black ducks October 1 through October 9; in addition to the daily bag limit, 2 additional teal may be taken.
(5) In Maryland, the daily bag limit may include no more than 1 redhead; the black duck season is closed October 10 through October 17 and November 5 through November 21; and the canvasback season is open only December 14 through January 20; in addition to the daily bag, 2 additional teal may be taken.
(6) In Massachusetts, the season is closed for black ducks November 30 through December 5 and January 4 through January 9 in the Coastal Zone, and November 9 through November 21 in the Western and Central Zones; the daily bag limit may include no more than 4 of any single species in addition to the flyway-wide bag restrictions.
(7) In Massachusetts, the special season in the Coastal Zone is closed south of Route 139 in Duxsbury/Marshfield to Brant Rock.
(8) In New Hampshire, the season is closed for black ducks through October 17.
(9) In New Jersey, in addition to the daily bag limit, 2 additional teal may be taken.
(10) In New York, the season is closed for black ducks November 12 through December 6 in the Northeastern Zone, November 7 through November 11 in the Southeastern Zone, October 10 through October 29 in the Western Zone, and December 2 through December 11 in the Long Island Zone; the season is closed for scaup December 2 through December 11 in the Long Island Zone; in the Lake Champlain Zone, the daily bag limit may include no more than 4 goldeneyes.
(11) In North Carolina, the season is closed for black ducks October 1 through October 3 and November 16 through November 30.
(12) In Pennsylvania, the season for black ducks is closed November 14 through November 28 in the North Zone, December 19 through January 2 in the South Zone, and November 14 through November 29 in the Northwest Zone.
(13) In South Carolina, the daily bag limit of 6 may not exceed 4 mallards and may not exceed 1 black duck, mottled duck, or female mallard in the aggregate.

MISSISSIPPI FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 4 mallards (no more than 2 of which may be females), 1 black duck, 1 pintail, 1 canvasback, 2 redheads, and 2 wood ducks. The possession limit is twice the daily bag limit.

Merganser Limits: The merganser limits include no more than 1 hooded merganser daily and 2 in possession.

	Season Dates	Limits Bag	Limits Possession
Alabama			
Ducks:			
North Zone	Nov. 14-Nov. 29 &	6	12
	Dec. 5-Jan. 17	6	12
South Zone	Nov. 12-Nov. 15 &	6	12
	Nov. 23-Jan. 17	6	12

	Season Dates	Limits Bag	Limits Possession
Alabama (cont.)			
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
Dark Geese:			
North Zone:			
SJBP Zone	Dec. 14-Jan. 17	2	4
Rest of North Zone	Nov. 14-Nov. 29 &	2	4
	Dec. 5-Jan. 27	2	4
South Zone	Nov. 12-Nov. 15 &	2	4
	Nov. 23-Jan. 27	2	4
Light Geese	Same as for dark geese	5	5
Arkansas			
Ducks	Nov. 17-Dec. 23 &	6	12
	Dec. 26-Jan. 17	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
Canada (1):			
East Zone	Jan. 16-Feb. 7	2	4
West Zone	Jan. 16-Jan. 31	2	4
White-fronted	Nov. 30-Feb. 7	2	4
Brant	Closed	–	--
Light Geese	Nov. 17-Mar. 3	20	--
Illinois			
Ducks:			
North Zone	Oct. 8-Dec. 6	6	12
Central Zone	Oct. 22-Dec. 20	6	12
South Zone	Nov. 12-Jan. 10	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
Canada (2):			
North Zone (3):			
Northern Illinois Quota Zone (2)	Oct. 8-Oct. 18 &	1	10
	Nov. 9-Nov. 29 &	1	10
	Dec. 7-Jan. 10	1	10
Rest of North Zone	Oct. 8-Oct. 18 &	1	10
	Nov. 9-Nov. 29 &	1	10
	Dec. 7-Jan. 10	1	10
Central Zone (3):			
Central Illinois Quota Zone (2)	Oct. 22-Oct. 25 &	1	10
	Nov. 23-Dec. 6 &	1	10
	Dec. 14-Jan. 31	1	10
Rest of Central Zone	Oct. 22-Oct. 25 &	1	10
	Nov. 23-Dec. 6 &	1	10
	Dec. 14-Jan. 31	1	10
South Zone (3):			
Southern Illinois Quota Zone (2)(4)	Nov. 26-Jan. 31	1	10
Rend Lake Quota Zone (2)(4)	Nov. 26-Jan. 31	1	10
Rest of South Zone	Nov. 26-Jan. 31	1	10

	Season Dates	Limits Bag	Limits Possession
Illinois (cont.)			
White-fronted and Brant:			
North Zone	Same as for Canada geese	2	4
Central Zone	Same as for Canada geese	2	4
South Zone	Same as for Canada geese	2	4
Light Geese:			
North Zone	Oct. 8-Dec. 27 &	20	--
	Feb. 13-Mar. 9	20	--
Central Zone	Oct. 22-Jan. 3 &	20	--
	Feb. 6-Mar. 9	20	--
South Zone	Nov. 26-Mar. 10	20	--
Indiana			
Ducks:			
North Zone	Oct. 17-Dec. 6 &	6	12
	Dec. 19-Dec. 27	6	12
South Zone	Oct. 24-Nov. 1 &	6	12
	Nov. 21-Jan. 10	6	12
Ohio River Zone	Oct. 31-Nov. 1 &	6	12
	Nov. 21-Jan. 17	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
Canada (2):			
North Zone:			
SJBP Area	Oct. 17-Oct. 19 &	2	4
	Nov. 27-Dec. 28	2	4
Rest of North Zone (5)	Oct. 17-Oct. 25 &	2	4
	Nov. 21-Jan. 1	2	4
South Zone:			
Posey County (2)	Nov. 27-Jan. 31	2	4
Rest of South Zone (5)	Nov. 27-Jan. 21	2	4
Ohio River Zone:			
Posey County (2)	Nov. 27-Jan. 31	2	4
Rest of Ohio River Zone (5)	Dec. 7-Jan. 31	2	4
White-fronted and Brant	Same as for Canada geese	2	4
Light Geese	Oct. 17-Oct. 25 &	20	--
	Nov. 21-Feb. 26	20	--
Iowa			
Ducks:			
North Zone	Sept. 19-Sept. 23 &	6	12
	Oct. 10-Dec. 3	6	12
South Zone	Sept. 19-Sept. 23 &	6	12
	Oct. 17-Dec. 10	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30

	Season Dates	Limits Bag	Limits Possession
Iowa (cont.)			
Geese:			
Canada Geese:			
North Zone	Oct. 3-Oct. 31 &	2	4
	Nov. 1-Dec. 11	1	2
South Zone	Oct. 3-Oct. 11 &	2	4
	Oct. 17-Oct. 31 &	2	4
	Nov. 1-Nov. 30 &	1	2
	Dec. 1-Dec. 16	2	4
White-fronted:			
North Zone	Same as Canada geese	2	4
South Zone	Same as Canada geese	2	4
Brant:			
North Zone	Same as Canada geese	2	4
South Zone	Same as Canada geese	2	4
Light Geese	Oct. 3-Dec. 29 &	20	--
	Feb. 20-Mar. 10	20	--
Kentucky			
Ducks:			
West Zone	Nov. 7-Nov. 8 &	6	12
	Nov. 21-Jan. 17	6	12
East Zone	Nov. 7-Nov. 8 &	6	12
	Nov. 21-Jan. 17	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
Canada (2):			
Western Goose Zone (2):			
Fulton County	Dec. 12-Feb. 14	2	4
Rest of Zone	Dec. 12-Jan. 30	2	4
Pennyroyal/Coalfield Zone	Dec. 27-Jan. 30	2	4
Rest of State	Dec. 12-Jan. 30	2	4
White-fronts	Nov. 26-Jan. 30	2	4
Brant	Same as Whitefronts	2	4
Light Geese	Nov. 26-Mar. 10	20	--
Louisiana			
Ducks:			
West Zone	Nov. 7-Nov. 29 &	6	12
	Dec. 12-Jan. 17	6	12
East Zone:			
Catahoula Lake Area	Nov. 14-Dec. 6 &	6	12
	Dec. 12-Jan. 17	6	12
Rest of East Zone	Nov. 14-Dec. 6 &	6	12
	Dec. 12-Jan. 17	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
Canada (6)	Jan. 19-Jan. 27	1	2
White-fronted (6) and Brant	Nov. 7-Nov. 29 &	2	4
	Dec. 12-Jan. 27	2	4
Light Geese	Nov. 7-Feb. 21	20	--

	Season Dates	Limits Bag	Limits Possession
Michigan			
Ducks (7):			
North Zone	Oct. 3-Dec. 1	6	12
Middle Zone	Oct. 3-Dec. 1	6	12
South Zone	Oct. 10-Dec. 8	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
Canada (2):			
North Zone	Sept. 19-Oct. 4	2	4
Middle Zone	Sept. 19-Oct. 4	2	4
South Zone:			
Muskegon Wastewater Goose Management Unit (GMU) (2)	Oct. 24-Nov. 14	2	4
Allegan County GMU (2)	Oct. 17 only &	1	2
	Oct. 24-Nov. 12	1	2
Saginaw County GMU (2)	Oct. 10-Nov. 28	1	2
Tuscola/Huron GMU (2)	Oct. 10-Nov. 28	1	2
Southern Michigan GMU	Sept. 19-Oct. 4	2	4
(special season)	Jan. 9-Feb. 7	5	10
Central Michigan GMU	Sept. 19-Oct. 4	2	4
(special season)	Jan. 9-Feb. 7	5	10
White-fronted and Brant	See Footnote 8	2	4
Light Geese	See Footnote 8	10	30
Minnesota			
Ducks	Oct. 3-Dec. 1	6	12
Mergansers	Same as for ducks	5	10
Coots (9)	Same as for ducks	15	30
Geese:			
Canada (2):			
West Zone:			
West Central Zone:			
Lac qui Parle Zone (2)	Oct. 15-Nov. 3	1	2
Rest of West Central Zone	Oct. 15-Nov. 3	1	2
Rest of West Zone	Oct. 3-Oct. 27	1	2
Northwest Zone	Oct. 3-Oct. 22	1	2
Northeast Zone	Oct. 3-Dec. 11	2	4
Fergus Falls/Alexandria Zone:			
West Zone	Oct. 3-Oct. 27	1	2
(special season)	Dec. 12-Dec. 21	2	4
Rest of Fergus Falls/ Alexandria Zone	Oct. 3-Nov. 1 &	1	2
	Nov. 2-Dec. 11	2	4
(special season)	Dec. 12-Dec. 21	2	4
Twin Cities Metro Zone and Olmsted County	Oct. 3-Nov. 1 &	1	2
	Nov. 2-Dec. 21	2	4
Rest of State	Oct. 3-Nov. 1 &	1	2
	Nov. 2-Dec. 11	2	4

	Season Dates	Limits Bag	Limits Possession
Minnesota (cont.)			
White-fronted and Brant:			
West Zone:			
West Central Zone (10)	Oct. 15-Nov. 3	2	4
Rest of West Zone	Oct. 3-Oct. 27	2	4
Northwest Zone	Oct. 3-Oct. 22	2	4
Northeast Zone	Oct. 3-Dec. 11	2	4
Rest of State	Oct. 3-Dec. 11	2	4
Light Geese (10)	Oct. 3-Dec. 21	10	20
Mississippi			
Ducks:			
Zone 1	Nov. 14-Nov. 15 &	6	12
	Nov. 21-Jan. 17	6	12
Zone 2	Nov. 14-Nov. 15 &	6	12
	Nov. 21-Jan. 17	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
Canada	Nov. 23-Jan. 31	3	6
White-fronted and Brant	Nov. 23-Jan. 31	2	4
Light Geese	Nov. 21-Mar. 7	20	--
Missouri			
Ducks and Mergansers:			
North Zone	Oct. 22-Dec. 20	6	12
Middle Zone	Oct. 29-Dec. 27	6	12
South Zone	Nov. 12-Jan. 10	6	12
Coots	Same as for ducks	15	30
Geese:			
Canada:			
North Zone:			
Swan Lake Zone	Oct. 22-Oct. 26 &	2	4
	Nov. 27-Dec. 31	1	2
Rest of North Zone	Oct. 3-Oct. 12 &	2	4
	Oct. 29-Nov. 29 &	2	4
	Dec. 26-Jan. 12	2	4
Middle Zone:			
Schell-Osage Zone	Nov. 27-Jan. 5	1	2
Rest of Middle Zone	Oct. 3-Oct. 12 &	2	4
	Oct. 29-Nov. 29 &	2	4
	Dec. 26-Jan. 12	2	4
South Zone	Oct. 3-Oct. 12 &	2	4
	Nov. 12-Nov. 29 &	2	4
	Dec. 26-Jan. 26	2	4
White-fronted and Brant:			
North Zone:			
Swan Lake Zone	Oct. 22-Oct. 26 &	2	4
	Nov. 27-Jan. 30	2	4
Rest of North Zone	Oct. 3-Oct. 12 &	2	4
	Oct. 29-Nov. 29 &	2	4
	Dec. 26-Jan. 22	2	4

	Season Dates	Limits Bag	Limits Possession
Missouri (cont.)			
Middle Zone:			
Shell-Osage Zone	Nov. 27-Jan. 31	2	4
Rest of Middle Zone	Oct. 3-Oct. 12 &	2	4
	Oct. 29-Nov. 29 &	2	4
	Dec. 26-Jan. 22	2	4
South Zone	Nov. 27-Jan. 31	2	4
Light Geese:			
North Zone:			
Swan Lake Zone	Oct. 22-Oct. 26 &	20	--
	Nov. 27-Mar. 7	20	--
Rest of North Zone	Oct. 29-Jan. 22 &	20	--
	Feb. 19-Mar. 10	20	--
Rest of State	Nov. 27-Mar. 10	20	--
Ohio			
Ducks:			
North Zone	Oct. 17-Nov. 29 &	6	12
	Dec. 6-Dec. 21	6	12
South Zone	Oct. 17-Nov. 2 &	6	12
	Dec. 6-Jan. 17	6	12
Ohio River Zone	Oct. 17-Nov. 2 &	6	12
	Dec. 6-Jan. 17	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
Canada:			
North Zone:			
Lake Erie SJBP Zone	Nov. 14-Nov. 29 &	1	2
	Dec. 12-Dec. 25	1	2
Rest of North Zone	Oct. 17-Nov. 29 &	2	4
	Dec. 12-Jan. 6	2	4
South Zone	Oct. 17-Nov. 2 &	2	4
	Dec. 6-Jan. 27	2	4
Ohio River Zone	Oct. 17-Nov. 2 &	2	4
	Dec. 6-Jan. 27	2	4
White-fronted and Brant	Same as for Canada geese	2	4
Light Geese	Same as for Canada geese	10	30
Tennessee			
Ducks:			
Reelfoot Zone	Nov. 14-Nov. 15 &	6	12
	Nov. 21-Jan. 17	6	12
State Zone	Nov. 14-Nov. 21 &	6	12
	Nov. 27-Jan. 17	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30

	Season Dates	Limits Bag	Limits Possession
Tennessee (cont.)			
Geese:			
Canada (2)(11):			
Northwest Zone (2)	Dec. 13-Feb. 15	2	4
Southwest Zone	Dec. 13-Jan. 31	2	4
Kentucky/Barkley Lakes Zone (2)	Dec. 13-Jan. 31	2	4
Rest of State (10)	Oct. 3-Oct. 11 &	2	4
	Dec. 2-Jan. 31	2	4
White-fronted and Brant	Nov. 21-Jan. 29	2	4
Light Geese	Nov. 21-Mar. 7	10	30
Wisconsin			
Ducks:			
North Zone	Oct. 3-Dec. 1	6	12
South Zone	Oct. 3-Dec. 1	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	5	10
Geese:			
Canada (2):			
Horicon Zone	Sept. 19-Dec. 13	Tag System--See State Regulations	
Collins Zone	Sept. 19-Nov. 20 &	Tag System--See State Regulations	
	Nov. 30-Dec. 4	Tag System--See State Regulations	
Exterior Zone:			
Rock Prairie Subzone	Nov. 14-Dec. 6	1	2
Mississippi River Subzone	Oct. 17-Dec. 25	1	2
Brown County Subzone	Nov. 30- Dec. 20	1	2
Rest of Exterior Zone:			
North Duck Zone	Oct. 3-Oct. 23	1	2
South Duck Zone	Oct. 24-Nov. 13	1	2
White-fronted and Brant:			
Horicon Zone	Sept. 19-Nov. 27	2	4
Collins Zone	Sept. 19-Nov. 20 &	2	4
	Nov. 30-Dec. 4	2	4
Exterior Zone	Oct. 3-Dec. 11	2	4
Light Geese:			
Horicon Zone	Sept. 19-Dec. 31	10	30
Collins Zone	Sept. 19-Nov. 20 &	10	30
	Nov. 30-Dec. 4	10	30
Exterior Zone	Oct. 3-Dec. 31	10	30

(1) In Arkansas, shooting hours for Canada geese are one-half hour before sunrise to noon.
(2) Harvests of Canada geese will be limited by quotas established in the September 29, 1998, Federal Register. When it has been determined that the quota of Canada geese allotted to the Northern Illinois, Central Illinois, Southern Illinois and Rend Lake Quota Zones in Illinois, Posey County in Indiana, the Ballard and Henderson-Union Subzones in Kentucky, the Allegan County, Muskegon Wastewater, Saginaw County, and Tuscola/Huron Goose Management Units in Michigan, the Lac Qui Parle Zone in Minnesota, the Northwest and Kentucky/Barkley Lakes Zones in Tennessee, and the Exterior Zone in Wisconsin will have been filled, the season for taking Canada geese in the respective zone (and associated area, if applicable) will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.
(3) In Illinois, the daily bag limit is 2 from December 28 through January 10 in the North Zone and January 18 through January 31 in the Central and South Zones.
(4) In Illinois, shooting hours for geese in the Southern Illinois and Rend Lake Quota Zones through January 28 shall close at 3 p.m.
(5) In Indiana, the daily bag limit is 1 from December 5 through January 1 in the Rest of the North Zone, December 21 through January 21 in the Rest of the South Zone, and January 2 through January 31 in the Rest of the Ohio River Zone.
(6) In Louisiana, during the Canada goose season, the daily bag limit is 2 Canada and white-fronted geese in the aggregate, no more than 1 of which may be a Canada goose. The possession limit is twice the daily bag limit. A special permit is required by the State.
(7) In Michigan, the daily bag limit includes no more than 1 hen mallard.
(8) In Michigan, the seasons for white-fronted geese, brant, and light geese are as follows: In the Allegan County GMU and the Muskegon Wastewater GMU, the season runs concurrently with the Canada goose season. In the remainder of the State, the seasons open concurrently with the duck seasons and run continuously through the end of the duck seasons.
(9) In Minnesota, the daily bag limit is 15 and the possession limit is 30 coots and moorhens in the aggregate.
(10) In Minnesota, in the Lac Qui Parle Zone, seasons for white-fronted geese, brant, and light geese are open only when the Canada goose season is open.
(11) In Tennessee, see State regulations for permit requirements and additional restrictions.

CENTRAL FLYWAY

Flyway-wide Restrictions

Duck Limits: The daily bag limit of 6 ducks may include no more than 5 mallards (2 female mallards), 1 mottled duck, 1 pintail, 2 redheads, 1 canvasback, and 2 wood ducks. The possession limit is twice the daily bag limit.
Merganser Limits: The daily bag limit is 5 mergansers with 10 in possession and may include no more than 1 hooded merganser daily and 2 in possession.

	Season Dates	Limits Bag	Limits Possession
Colorado			
Ducks	Oct. 3-Oct. 27 &	6	12
	Oct. 31-Nov. 29 &	6	12
	Dec. 7-Jan. 17	6	12
Coots	Same as for ducks	15	30
Mergansers	Same as for ducks	5	10
Dark Geese:			
Northern Front Range Unit	Oct. 3-Oct. 15 &	4	8
	Oct.31-Jan. 31	4	8
South Park/San Luis Valley Unit (1)	Oct. 3-Oct. 15 &	2	4
	Oct. 31-Jan. 31	2	4
North Park Unit (1)	Oct. 3-Oct. 15 &	2	4
	Oct. 31-Dec. 31	2	4
Arkansas Valley Unit (2)	Nov. 14-Jan. 31	4	8
Pueblo County	Dec. 12-Jan. 31	2	4
Rest of State in Central Flyway	Oct. 31-Jan. 31	4	8
Light Geese:			
Northern Front Range Unit	Oct. 31-Jan. 31	20	--
South Park/San Luis Valley Unit (2)	Oct. 31-Jan. 31	2	4
North Park Unit (1)	Oct. 31-Dec. 31	2	4
Arkansas Valley Unit	Nov. 14-Jan. 31	20	--
Pueblo County	Oct. 31-Jan. 31	20	--

	Season Dates	Limits Bag	Limits Possession
Colorado (cont.)			
Eastern Colorado Late			
Light Geese Unit	Oct. 31-Jan. 31 &	20	--
	Feb. 22-Mar. 7	20	--
Rest of State in			
Central Flyway	Oct. 31-Jan. 31	20	--
Kansas			
Ducks (3):			
High Plains	Oct. 3-Jan. 3 &	6	12
	Jan. 14-Jan. 17	6	12
Low Plains:			
Early Zone	Oct. 10-Dec. 13 &	6	12
	Dec. 26-Jan. 3	6	12
Late Zone	Oct. 24-Nov. 1 &	6	12
	Nov. 7-Jan. 10	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Dark Geese (4):			
Canada	Nov. 7-Feb. 7	3	6
White-fronted	Nov. 7-Jan. 17	2	4
Light Geese:			
Zone 1	Nov. 21-Mar. 7	20	--
Zone 2	Nov. 7-Dec. 4 &	20	--
	Dec. 19-Mar. 7	20	--
Montana			
Ducks and Mergansers (5):			
Zone 1	Oct. 3-Jan. 7	6	12
Zone 2	Oct. 3-Jan. 7	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Dark Geese	Oct. 3-Jan. 16	4	8
Light Geese	Oct. 3-Jan. 16	5	10
Nebraska			
Ducks:			
High Plains	Oct. 3-Dec. 14 &	6	12
	Dec. 18-Jan. 10	6	12
Low Plains:			
Zones 1 and 2	Oct. 10-Dec. 20 &	6	12
	Dec. 26-Dec. 27	6	12
Zones 3 and 4	Oct. 3-Dec. 13 &	6	12
	Dec. 19-Dec. 20	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
Canada:			
North Unit	Oct. 24-Jan. 24	3	6
East Unit	Oct. 3-Oct. 4 &	3	6
	Oct. 10-Jan. 8	3	6
North Central Unit	Oct. 3-Jan. 3	3	6
South Central Unit	Oct. 24-Jan. 24	3	6
White-fronted	Oct. 3-Dec. 13	2	4

	Season Dates	Limits Bag	Limits Possession
Nebraska (cont.)			
Light Geese:			
Rainwater Basin Area - East (6)	Oct. 3-Dec. 19 &	20	--
	Feb. 11-Mar. 10	20	--
Rainwater Basin Area - West	Oct. 3-Dec. 19	20	--
Rest of State	Oct. 3-Dec. 19 &	20	--
	Feb. 11-Mar. 10	20	--
New Mexico			
Ducks and Mergansers (5):			
North Zone	Oct. 10-Oct. 25 &	6	12
	Oct. 29-Jan. 17	6	12
South Zone	Oct. 13-Jan. 17	6	12
Coots	Same as for ducks	15	30
Dark Geese (7):			
Middle Rio Grande Valley Unit	Dec. 26-Jan. 3	1	1
Rest of State	Oct. 31-Feb. 14	4	8
Light Geese	Nov. 7-Feb. 21	20	80
North Dakota			
Ducks:			
Statewide	Oct. 3-Dec. 13	6	12
High Plains	Dec. 14-Jan. 3	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
Canada Geese (8):			
Missouri River Zone	Oct. 3-Jan. 3	3	6
Rest of State	Oct. 3-Nov. 29	3	6
White-fronted (8)	Oct. 3-Nov. 29	2	4
Light Geese (8)	Oct. 4-Jan. 3	20	--
Oklahoma			
Ducks:			
High Plains	Oct. 10-Jan. 14	6	12
Low Plains:			
Zone 1	Oct. 24-Dec. 6 &	6	12
	Dec. 12-Jan. 10	6	12
Zone 2	Oct. 31-Dec. 6 &	6	12
	Dec. 12-Jan. 17	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
Canada	Oct. 31-Dec. 6 &	3	6
	Dec. 12-Feb. 5	3	6
White-fronted	Oct. 31-Dec. 6 &	2	4
	Dec. 12-Jan. 15	2	4
Light Geese	Oct. 31-Dec. 6 &	20	--
	Dec. 12-Feb. 19	20	--

	Season Dates	Limits Bag	Limits Possession
South Dakota			
Ducks (9):			
High Plains	Oct. 3-Jan. 7	6	12
Low Plains:			
North Zone	Oct. 3-Dec. 15	6	12
Middle Zone	Oct. 3-Dec. 15	6	12
South Zone	Oct. 10-Dec. 22	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
White-fronted	Oct. 3-Dec. 13	2	4
Canada:			
Unit 1	Oct. 3-Jan. 3	3	6
Power Plant Area	Oct. 3-Nov. 30 &	3	6
	Dec. 1-Jan. 3	1	2
Unit 2	Oct. 3-Jan. 3	3	6
Unit 3	Oct. 10-Jan. 10	3	6
Light Geese	Oct. 3-Dec. 27 &	20	--
	Feb. 18-Mar. 10	20	--
Texas			
Ducks:			
High Plains	Oct. 17-Oct. 20 &	6	12
	Oct. 24-Jan. 17	6	12
Low Plains:			
North Zone	Oct. 31-Nov. 8 &	6	12
	Nov. 14-Jan. 17	6	12
South Zone	Oct. 24-Nov. 29 &	6	12
	Dec. 12-Jan. 17	6	12
Mergansers	Same as for ducks	5	10
Coots	Same as for ducks	15	30
Geese:			
East Tier:			
Canada and brant	Oct. 31-Jan. 17 &	1	2
	Jan. 18-Jan. 31	2	4
White-fronted	Oct. 24-Jan. 17	1	2
Light Geese	Oct. 31-Feb. 14	20	--
West Tier:			
Dark Geese:		5	10
Canada	Oct. 31-Feb. 14	4	8
White-fronted	Oct. 31-Feb. 14	1	2
Light Geese	Oct. 31-Feb. 14	20	--
Wyoming			
Ducks:			
Zone 1	Oct. 3-Oct. 25 &	6	12
	Oct. 31-Jan. 12	6	12
Zone 2	Oct. 3-Jan. 7	6	12
Mergansers	Same as for ducks	5	12
Coots	Same as for ducks	15	30
Wyoming (cont.)			
Dark Geese:			
Area 1	Oct. 3-Jan. 16	4	8
Area 2 (10)	Oct. 18-Jan. 31	4	8
Area 3	Oct. 3-Jan. 16	4	8
Area 4 (10)	Nov. 14-Jan. 31	4	8
Light Geese	Oct. 3-Dec. 22 &	10	40
	Feb. 13-Mar. 10	10	40

(1) In Colorado, in the North Park and South Park/San Luis Valley Units, the bag limit for the October 31 through December 31 and October 31 through January 31 periods, respectively, are 2 geese. The possession limit is twice the daily bag limit.
(2) In Colorado, in the Arkansas Valley Unit, shooting hours are one-half hour before sunrise to noon November 14 through November 27.
(3) In Kansas, the daily bag limit may include no more than 1 hen mallard.
(4) In Kansas, exceptions to the dark goose season are as follows: Season dates in the Marais des Cygnes Valley (Unit 1), Southeast (Unit 2), and Flint Hills (Unit 3) Units are December 19 through January 24. Dark goose permits issued by the Kansas Department of Wildlife and Parks are required to hunt dark geese in the Marais des Cygnes Valley and Southeast Units, with a maximum of one permit per individual per Unit. Six geese per permit are allowed. In the Flint Hills Unit, no permit is required. The daily bag limit in the Marais des Cygnes Valley, Southeast, and Flint Hills Units is 3 Canada geese and 2 white-fronted geese. The possession limit in the Flint Hills Unit is twice the daily bag limit. Shooting hours in the Marais des Cygnes Valley Unit will be one-half hour before sunrise to 1:00 p.m. Shooting hours in all other Units shall be one-half hour before sunrise to sunset.
(5) In Montana and New Mexico, the daily bag limit for ducks and mergansers may include no more than 5 mergansers (1 hooded).
(6) In Nebraska, see State regulations for additional restrictions during February 11 through March 10.
(7) In New Mexico, the season for dark geese is closed in Bernalillo, Sandoval, Sierra, Sorocco, and Valencia Counties.
(8) In North Dakota, the shooting hours for geese are one-half hour before sunrise to 1 p.m. through October 24 and until 2 p.m. the remainder of the season, except that October 10 through November 29, shooting hours are one-half hour before sunrise to sunset on Saturdays and Wednesdays.
(9) In South Dakota, the daily bag limit may include no more than 1 hen mallard.
(10) In Wyoming, the shooting hours for dark geese in Goshen County are one-half hour before sunrise to 1 p.m., except on all Saturdays and Sundays in December and January when shooting hours are until sunset. In Platte County, shooting hours for dark geese in the area east of Interstate Highway 25 and north of Wyoming Highway 160 are 1/2 hour before sunrise to sunset. In the remainder of Platte County, shooting hours for geese are 1/2 hour before sunrise to 1 p.m. except on all Saturdays and Sundays in January when shooting hours are until sunset.

PACIFIC FLYWAY

Flyway-wide Restrictions

Duck and Merganser Limits: The daily bag limit of 7 ducks (including mergansers) may include no more than 2 female mallards, 1 pintail, 2 redheads and 1 canvasback. The possession limit is twice the daily bag limit.

Coot and Common Moorhen Limits: Daily bag and possession limits are in the aggregate for the two species.

Goose Limits: Daily bag limits for geese may not exceed 2 white-fronted geese and 3 light geese. The possession limit is twice the daily bag limit.

Aleutian Canada Geese: The season is closed throughout the Flyway.

	Season Dates	Limits Bag	Limits Possession
Arizona			
Ducks (1):			
North Zone	Oct. 9-Jan. 17	7	14
South Zone	Oct. 9-Jan. 17	7	14
Coots and moorhens	Same as for ducks	25	25
Geese:		5	5
Dark (2):			
GMU 22 & 23	Nov. 15-Jan. 17	2	2
GMU 1 & 27	Dec. 1-Dec. 17	2	2
Balance of State	Oct. 10-Jan. 17	2	2
Light (2):			
GMU 22 & 23	Same as dark geese	3	3
GMU 1 & 27	Same as dark geese	3	3
Rest of State	Same as dark geese	3	3
California			
Ducks:			
Northeastern Zone	Oct. 3-Jan. 17	7	14
Colorado River Zone	Oct. 9-Jan. 17	7	14
Southern Zone	Oct. 10-Jan. 17	7	14
Southern San Joaquin Valley Zone	Oct. 10-Jan. 17	7	14
Balance-of-State Zone	Oct. 10-Jan. 17	7	14
Coots and moorhens:			
Northeastern Zone	Same as for ducks	25	25
Colorado River Zone	Same as for ducks	25	25
Southern Zone	Same as for ducks	25	25
Southern San Joaquin Valley Zone	Same as for ducks	25	25
Balance-of-State Zone	Same as for ducks	25	25
Geese:			
Northeastern Zone:		3	6
Canada Geese	Oct. 3-Jan. 3	2	4
Cackling Geese	Oct. 3-Oct. 25	1	2
White-fronted Geese	Oct. 3-Oct. 25	2	4
Light Geese	Oct. 3-Jan. 3	3	6
Colorado River Zone:		5	10
Canada Geese	Oct. 10-Jan. 17	2	4
White-fronted Geese	Oct. 10-Jan. 17	2	4
Light Geese	Oct. 10-Jan. 17	3	6
Southern Zone:		5	10
Dark Geese:		2	4
Canada	Oct. 17-Jan. 17	2	4
Cackling Geese	Oct. 17-Jan. 17	1	2
White-fronted Geese	Oct. 17-Jan. 17	2	4
Light Geese	Oct. 17-Jan. 17	3	6
Balance-of-State Zone:		3	6
Dark Geese (3):		2	4
Canada:			
Del Norte & Humboldt	Closed	--	--
Sacramento Valley Area	Closed	--	--
San Joaquin Valley Area	Oct. 31-Nov. 22	2	4
Rest of Zone	Oct. 31-Jan. 17	2	4

	Season Dates	Limits Bag	Limits Possession
California (cont.)			
White-fronted:			
Sacramento Valley Closure	Oct. 31-Dec. 14	2	4
Rest of Zone	Oct. 31-Jan. 17	2	4
Light Geese	Oct. 31-Jan. 17	3	6
Brant	Nov. 10-Dec. 9	2	4
Colorado			
Ducks	Oct. 3-Jan. 16	7	14
Coots	Same as for ducks	25	25
Geese:			
West Central Colorado Unit	Oct. 25-Jan. 16	2	4
Rest of State	Oct. 3-Oct. 17 &	2	4
	Oct. 25-Jan. 16	2	4
Idaho			
Ducks:			
Zone 1	Oct. 3-Jan. 16	7	14
Zone 2	Oct. 3-Jan. 16	7	14
Zone 3	Oct. 3-Jan. 16	7	14
Coots	Same as for ducks	25	25
Geese:			
Zone 1 (4):		4	8
Dark	Oct. 3-Jan. 9	4	8
Light	Oct. 3-Jan. 9	3	6
Zone 2:		3	6
Dark	Oct. 3- Jan. 9	3	6
Light	Oct. 3-Jan. 9	3	6
Zone 3:		3	6
Dark	Oct. 3-Jan. 9	2	4
Light	Oct. 3-Jan. 9	3	6
Montana			
Ducks	Oct. 3-Jan. 16	7	14
Coots	Same as for ducks	25	25
Geese (5):			
Dark	Oct. 3-Jan. 10	4	8
Light	Oct. 3-Jan. 10	3	6
Nevada			
Ducks:			
Lincoln & Clark Counties	Oct. 3-Jan. 16	7	14
Rest of State	Oct. 3-Jan. 16	7	14
Coots and moorhens	Same as for ducks	25	25
Dark Geese:			
Lincoln & Clark Counties	Nov. 21-Jan. 16	2	4
Scripps/Washoe Lake Zone	Oct. 17-Jan. 3	3	6
Rest of State	Oct. 17-Jan. 16	3	6
Light Geese:			
Lincoln & Clark Counties	Nov. 21-Jan. 16	3	6
Scripps/Washoe Lake Zone	Oct. 17-Jan. 3	3	6
Rest of State (6)	Oct. 17-Jan. 3	3	6

	Season Dates	Limits Bag	Limits Possession
New Mexico			
Ducks	Oct. 3-Jan. 17	7	14
Coots	Same as for ducks	25	25
Moorhens (8)	Same as for ducks	1	2
Dark Geese:			
North Zone	Oct. 3-Oct. 23 &	3	6
	Oct. 31-Jan. 17	3	6
South Zone	Oct. 10-Jan. 17	2	4
Light Geese:			
North Zone	Oct. 3-Oct. 23 &	1	2
	Oct. 31-Jan. 17	1	2
South Zone	Oct. 10-Jan. 17	1	2
Oregon			
Ducks:			
Zone 1:			
Columbia Basin Unit	Oct. 3-Jan. 16	7	14
Rest of Zone 1	Oct. 3-Jan. 16	7	14
Zone 2	Oct. 3-Jan. 16	7	14
Coots	Same as for ducks	25	25
Geese:			
Northwest General Goose Zone:			
Dark Geese	Oct. 10-Jan. 10	4	8
Light Geese	Oct. 10-Jan. 10	3	6
Northwest Special Permit Zone (9):			
Dark Geese	Dec. 2-Feb. 28	4	8
Dusky Canada geese		1 per season	
Cackling Canada geese		4	8
Light Geese	Dec. 2-Jan. 17	3	6
Southwest General Zone (10):			
Dark Geese	Oct. 10-Jan. 16	4	8
Light Geese	Oct. 10-Jan. 16	3	6
Eastern Zone:			
Klamath, Harney, Lake, and Malheur Counties:			
Dark Geese	Oct. 3-Jan. 9	4	8
Cackling Canada geese		1	2
White-fronted geese		2	4
Light Geese	Oct. 3-Jan. 9	3	6
Remainder of Eastern Zone:			
Dark Geese	Oct. 10-Jan. 16	4	8
Cackling Canada geese		1	2
White-fronted geese		2	4
Light Geese	Oct. 10-Jan. 16	3	6
Brant (12)	Nov. 7-Nov. 20	2	4

	Season Dates	Limits Bag	Limits Possession
Utah (13)			
Ducks:			
Zone 1	Oct. 3-Jan. 16	7	14
Zone 2	Oct. 3-Jan. 16	7	14
Coots	Same as for ducks	25	25
Geese:		5	6
Light	Oct. 3-Jan. 10	3	6
Dark:			
Washington County (14)	Oct. 10-Jan. 17	2	4
Rest of State	Oct. 3-Jan. 10	2	4
Washington			
Ducks:			
East Zone	Oct. 3-Oct 11 &	7	14
	Oct. 13-Jan. 17	7	14
West Zone (15)	Oct. 3-Oct 11 &	7	14
	Oct. 13-Jan. 17	7	14
Coots	Same as for ducks	25	25
Geese (16):			
Eastern Management Areas 1, and 2 (17)	Oct. 10-Oct. 11 &	4	8
	Oct. 13-Jan. 17	4	8
Western Management Area 1:			
Light Geese	Oct 10-Oct. 11&	3	6
	Oct. 13-Jan. 3	3	6
Dark Geese	Oct 10-Oct. 11&	4	8
	Oct. 13-Jan. 17	4	8
Western Management Area 2 (18)	Nov. 25-Nov. 29 & Dec. 2-Jan. 17		
Regular Season Total Geese		4	8
Canada geese		4	8
Dusky Canada geese		1 per season	
Cackling Canada geese		4	8
Late-Season Canada Geese	Jan. 23-Mar. 10		
Canada geese		4	8
Dusky Canada geese		1 per season	
Cackling Canada geese		4	8
Western Management Area 3	Oct. 10-Oct. 11 &	4	8
	Oct. 13-Jan. 17	4	8
Brant (19)	Jan. 2-Jan. 17	2	4
Wyoming			
Ducks	Oct. 3-Jan. 16	7	14
Coots	Same as for ducks	25	25
Dark Geese	Oct. 3-Jan. 9	4	8

(1) In Arizona, the daily limit may include no more than either 2 female mallards or 2 Mexican-like ducks, or 1 of each; and not more than 4 female mallards and Mexican-like ducks, in the aggregate, may be in possession.

(2) In Arizona, in Yuma County, La Paz County, Game Management Units 13B, 15, and that portion of Unit 16 lying within Mohave County, the bag and possession limit is 2 and 4 for Canada geese and 3 and 6 for light geese, respectively.
(3) In California, the daily bag limit for cackling geese is 1.
(4) In Idaho, the season on light geese is closed in Fremont and Teton Counties.
(5) In Montana, check State regulations for special seasons/exceptions in Freezeout Lake WMA; Canyon Ferry; Flathead; Deer Lodge County; and Missoula County.
(7) In Nevada, there is no open season on light geese in Ruby Valley within Elko and White Pine Counties, White River Valley of Nye County, and Pahranagat Valley of Lincoln County.
(8) In New Mexico, the bag limit is 1 common moorhen daily and 2 in possession; there is no open season on the purple gallinule.
(10) In Oregon, the Northwest Special Permit Zone is closed to all goose hunting, except for designated areas. See State regulations for specific boundary descriptions, times, days, and other conditions of the special permit season.
(11) In Oregon, that portion of Coos, Curry, and Douglas Counties west of US 101 is closed to all Canada goose hunting.
(12) State permit required.
(13) In Utah, the shooting hours are 8:00 a.m. to sunset on October 3 and 31.
(14) In Utah, the season in Washington County is for Canada geese only.
(15) In Washington, the daily bag limit in the West Zone may include no more than 4 scoters and 4 oldsquaws, with the possession limit twice the daily bag limit. The daily bag and possession limit for harlequins is 1.
(16) In Washington, daily bag and possession limits may include no more than 3 and 6 light geese, respectively.
(17) In Washington, in State Goose Area 1, hunting is only on Saturdays, Sundays, Wednesdays, and certain holidays. In State Goose Area 2, hunting is everyday. See State regulations for details, including shooting hours.
(18) In Washington, see State regulations for specific dates and conditions of permit hunts and closures for Canada geese.
(19) In Washington, brant may be hunted in Skagit and Pacific Counties only; see State regulations for specific dates.

(f) Youth Waterfowl Hunting Day

The following seasons are open only to youth hunters. Youth Hunters must be accompanied into the field by an adult at least 18 years of age. This adult can not duck hunt but may participate in other open seasons.

Definition

Youth Hunters: Includes youths 15 years of age or younger.

NOTE: The following seasons are in addition to the seasons published previously in the August 31, 1998, Federal Register (63 FR 46336). Bag and possession limits will conform to those set for the regular season.

	Season Dates
ATLANTIC FLYWAY	
Connecticut	
Ducks, mergansers, and coots:	
Statewide	Nov. 8

* * * * *

	Season Dates
Florida	
Ducks, gallinules, and coots	Jan. 24

* * * * *

Massachusetts	
Ducks, mergansers, coots, and geese:	
Statewide (8)	Oct. 10
New Hampshire	
Ducks, mergansers, coots, and geese:	
Statewide	Oct. 3

* * * * *

North Carolina	
Ducks, mergansers, and coots	Jan. 23

* * * * *

Virginia	
Ducks, mergansers, coots, moorhens, and gallinules:	
Statewide	Oct. 17

* * * * *

MISSISSIPPI FLYWAY	

* * * * *

Arkansas	
Ducks, mergansers, coots, moorhens, and gallinules:	
Statewide	Dec. 24

* * * * *

Illinois	
Ducks, mergansers, coots, and geese:	
North Zone	Oct. 3
Central Zone	Oct. 17
South Zone	Oct. 31

* * * * *

Kentucky	
Ducks, mergansers, coots, and geese:	
Statewide	Oct. 10

	Season Dates
Louisiana	
Ducks, mergansers, coots, moorhens, gallinules, and geese:	
West Zone	Dec. 5
East Zone	Jan. 23
* * * * *	
Mississippi	
Ducks, mergansers, coots, moorhens, gallinules, and geese:	
Statewide	Jan. 23
Missouri	
Ducks, mergansers, coots, and geese:	
North Zone	Oct. 17
Middle Zone	Oct. 24
South Zone	Nov. 7
Ohio	
Ducks, mergansers, coots, moorhens, gallinules, and geese:	
Statewide	Oct. 10
Tennessee	
Ducks, mergansers, coots, moorhens, gallinules, and geese:	
Statewide	Jan. 23
* * * * *	
CENTRAL FLYWAY	
* * * * *	
Nebraska	
Ducks, mergansers, coots, and geese:	
Statewide	Sept. 19
* * * * *	
Oklahoma	
Ducks, mergansers, coots, and dark geese:	
High Plains	Oct. 4
Low Plains:	
Zone 1	Oct. 18
Zone 2	Oct. 25
* * * * *	
Texas	
Ducks, mergansers, and coots:	
High Plains	Oct. 10
Low Plains:	
North	Oct. 24
South	Oct. 17
* * * * *	

	Season Dates
PACIFIC FLYWAY (6)	
Arizona (9)	
Ducks, coots, and moorhens (10):	
North Zone	Oct. 3
South Zone	Jan. 23
* * * * *	

* * * * *

(6) In the Pacific Flyway, the daily bag limit for ducks includes mergansers.

* * * * *

(8) In Massachusetts, the season is closed for Canada geese in the Western Zone.

(9) In Arizona, individuals are eligible to participate in the youth hunt through the calendar year of their 15th birthday, however, individuals 14 year of age or older must possess a valid State hunting license.

(10) In Arizona, the daily bag limit may include no more than 2 female mallards or Mexican-like ducks, or one of each.

4. Section 20.106 is amended by adding the entries for the following States in alphabetical order to read as follows:

§20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting and Hawking hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Area descriptions were published in the August 28, 1998, Federal Register (63 FR 46124).

Note: The following seasons are in addition to the seasons published previously in the August 31, 1998, Federal Register (63 FR 46336).

	Season Dates	Limits	
		Bag	Possession
CENTRAL FLYWAY			
* * * * *			
Kansas (1)(2)	Nov. 7-Jan. 3	2	4
* * * * *			
Oklahoma (1)	Oct. 24-Jan. 24	3	6
* * * * *			

(1) Each hunter participating in a regular sandhill crane hunting season must obtain and carry in his possession while hunting sandhill cranes a valid Federal sandhill crane hunting permit available without cost from conservation agencies in the States where crane hunting seasons are allowed. The permit must be displayed to any authorized law enforcement official upon request.
(2) In Kansas, shooting hours are sunrise to 2:00 p.m. The Federal sandhill crane permit must be validated by the State of Kansas. No person while hunting cranes shall use or possess shot other than steel or such shot approved as nontoxic shot.

* * * * *

5. Section 20.107 is revised to read as follows:

§20.107 Seasons, limits, and shooting hours for swans.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting hours are one-half hour before sunrise until sunset, except as otherwise restricted by State regulations. Hunting is by State permit only.

NOTE: Successful permittees must immediately validate their harvest by that method required in State regulations.

	Season Dates	Limits Bag	Limits Possession
ATLANTIC FLYWAY			
North Carolina	Oct. 19-Jan. 30	1 tundra swan per season	
Virginia	Dec. 1-Jan. 30	1 tundra swan per season	
CENTRAL FLYWAY (1)			
Montana	Oct. 3-Jan. 7	1 tundra swan per season	
North Dakota	Oct. 3-Nov. 29	1 tundra swan per season	
South Dakota	Oct. 3-Nov. 30	1 tundra swan per season	
PACIFIC FLYWAY (1)(2)			
Montana	Oct. 17-Dec. 1	1 swan per season	
Nevada (3) (4)	Oct. 17-Jan. 3	1 swan per season	
Utah (3)	Oct. 3-Dec. 6	1 swan per season	

(1) See State regulations for description of area open to swan hunting.
(2) Any species of swan may be taken.
(3) Harvests of trumpeter swans will be limited by quotas established in the September 29, 1998, Federal Register. When it has been determined that the quota of trumpeter swans allotted to Nevada and Utah will have been filled, the season for taking of any swan species in the respective State will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.
(4) All harvested swans and tags must be checked at the Nevada Division of Wildlife within 5 days of harvest.

6. Section 20.109 is amended by adding the entries for the following States in alphabetical order to read as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as otherwise restricted by State regulations. Area descriptions were published in the August 28 and September 29 Federal Registers.

Limits: The daily bag limit may include no more than 3 migratory game birds, singly or in the aggregate. The possession limit is twice the daily bag limit.

These limits apply to falconry during both regular hunting seasons and extended falconry seasons -- unless further restricted by State regulations. The falconry bag and possession limits are not in addition to regular season limits. Unless otherwise specified, extended falconry for ducks does not include sea ducks within the special sea duck areas.

Although many States permit falconry during the gun seasons, only extended falconry seasons are shown below. Please consult State regulations for details.

NOTE: The following seasons are in addition to the seasons published previously in the August 31, 1998, Federal Register (63 FR 46336)

	Extended Falconry Dates
ATLANTIC FLYWAY	
Florida	
* * * * *	
Ducks and coots	Nov. 1-Nov. 13 & Feb. 1-Feb. 28
Georgia	
Sea Ducks	Nov. 15-Nov. 20 & Jan. 20-Feb. 19
Ducks, mergansers, gallinules, and coots	Nov. 15-Nov. 20 & Jan. 20-Feb. 19
Maine	
Ducks, mergansers, and coots (4):	
North Zone	Dec. 1-Feb. 2
South Zone	Dec. 26-Feb. 27

	Extended Falconry Dates
Maryland	
* * * * *	
Ducks	Oct. 2-Oct. 9 & Feb. 4-Mar. 10
Brant	Jan. 21-Mar. 10
Massachusetts	
Ducks, mergansers, and coots:	
Western Zone	Oct. 6-Oct. 11 & Dec. 20-Jan. 20
Central Zone	Oct. 6-Oct. 14 & Nov. 29-Dec. 13 & Jan. 7-Jan. 20
Coastal Zone	Oct. 6-Oct. 18 & Nov. 1-Nov. 15 & Jan. 10-Jan. 20
New Hampshire	
Ducks, mergansers, and coots:	
Inland Zone	Nov. 9-Nov. 24 & Dec. 21-Jan. 19
Coastal Zone	Jan. 24-Mar. 10
New Jersey	
Woodcock:	
North Zone	Oct. 1-Oct. 13 & Nov. 7-Jan. 15
South Zone	Oct. 1-Nov. 6 & Nov. 22-Dec. 17 & Dec. 27-Jan. 15
Ducks:	
North Zone	Oct. 1-Oct. 9 & Nov. 2-Nov. 16 & Jan. 4-Jan. 31
South Zone	Oct. 1-Oct. 9 & Oct. 26-Nov. 10 & Jan. 4-Jan. 31
Coastal Zone	Oct. 1-Oct. 29 & Nov. 23 only & Jan. 11-Jan. 31

	Extended Falconry Dates
New York	
Ducks and coots:	
Long Island Zone	Nov. 1-Nov. 19 & Nov. 30-Dec. 1 & Jan. 21-Jan. 31
Northeastern Zone	Oct. 1-Oct. 2 & Nov. 16-Nov. 20 & Dec. 7-Dec. 31
Southeastern Zone	Oct. 1-Oct. 9 & Oct. 19-Nov. 6 & Dec. 28-Dec. 31
Western Zone	Oct. 1-Oct. 9 & Nov. 30-Dec. 25
Pennsylvania	
* * * * *	
Ducks:	
North Zone	Nov. 30-Dec. 4 & Dec. 25-Feb. 10
South Zone	Oct. 26-Nov. 9 & Jan. 4-Feb. 10
Northwest Zone	Nov. 2-Nov. 6 & Dec. 25-Feb. 10
Lake Erie Zone	Nov. 2-Nov. 6 & Jan. 8-Feb. 24
Canada Geese:	
North Zone	Closed
South Zone	Closed
Western Zone	Jan. 1-Jan. 14
Erie, Mercer, and Butler	Oct. 19-Oct. 31
Crawford	Oct. 19-Nov. 6 & Dec. 10-Jan. 13
Brant	Nov. 2-Nov. 6 & Dec. 14-Feb. 11
South Carolina	
Ducks, mergansers, and coots	Oct. 16-Nov. 13 & Nov. 29-Dec. 6

	Extended Falconry Dates
Virginia	
* * * * *	
Ducks, mergansers, coots, moorhens, and gallinules	Nov. 9-Nov. 16 & Jan. 21-Feb. 24
Canada Geese	Feb. 16-Mar. 10
Brant	Nov. 6-Nov. 23 & Jan. 21-Mar. 10
MISSISSIPPI FLYWAY	
Arkansas	
Ducks, mergansers, and coots	Dec. 24-Dec. 25 & Jan. 23-Feb. 20
Illinois	
* * * * *	
Ducks, mergansers, and coots:	
Statewide	Feb. 9-Mar. 10
Indiana	
* * * * *	
Ducks, mergansers, and coots:	
North Zone	Sept. 23-Oct. 16 & Dec. 7-Dec. 12
South Zone	Oct. 13-Oct. 23 & Nov. 2-Nov. 20
Ohio River Zone	Oct. 20-Oct. 30 & Nov. 2-Nov. 20
Iowa	
Ducks, mergansers, and coots:	
Statewide	Dec. 15-Jan. 29
Dark Geese:	
North Zone	Dec. 12-Jan. 14
South Zone	Oct. 12-Oct. 16 & Dec. 17-Jan. 16

	Extended Falconry Dates
Kentucky	
Ducks, mergansers, and coots:	
Statewide	Nov. 5-Nov. 6 & Nov. 9-Nov. 20 & Jan. 18-Jan. 31
Canada Geese:	
Western Goose Zone	Nov. 5-Dec. 11 & Jan. 31
Pennyroyal/Coalfield Zone	Nov. 5-Dec. 26 & Jan. 31
Rest of State	Nov. 5-Dec. 11 & Jan. 31
White-fronted geese and brant:	
Statewide	Nov. 5-Nov. 25 & Jan. 31
Light Geese	Nov. 25 only
Michigan	
* * * * *	
Ducks, mergansers, coots, and moorhens:	
North Zone	Sept. 7-Oct. 2 & Dec. 2-Dec. 12 & Mar. 1-Mar. 10
Middle Zone	Sept. 7-Oct. 2 & Dec. 2-Dec. 12 & Mar. 1-Mar. 10
South Zone	Sept. 7-Oct. 9 & Dec. 9-Dec. 12 & Mar. 1-Mar. 10
Minnesota	
* * * * *	
Ducks, mergansers, coots, moorhens, and gallinules	Dec. 2-Jan. 16
Canada geese, white-fronted geese, and brant:	
West Zone:	
West Central Zone	Oct. 3-Oct. 14 & Nov. 4-Jan. 1
Rest of West Zone	Oct. 28-Jan. 1
Northwest Zone	Oct. 23-Jan. 1

	Extended Falconry Dates
Minnesota (cont.)	
Northeast Zone	Dec. 12-Jan. 1
Rest of State	Dec. 12-Jan. 1
Mississippi	
Mourning doves	Nov. 30-Dec. 18 & Jan. 10-Feb. 6
Ducks, mergansers, and coots	Nov. 16-Nov. 20 & Feb. 13-Mar. 10
Missouri	
* * * * *	
Ducks, mergansers, and coots:	
North Zone	Sept. 5-Sept. 20 & Oct. 12-Oct. 21 & Dec. 21-Jan. 10
Middle Zone	Sept. 5-Sept. 20 & Oct. 12-Oct. 28 & Dec. 28-Jan. 10
South Zone	Sept. 5-Sept. 20 & Oct. 12-Nov. 11
Ohio	
Ducks, mergansers, and coots:	
Statewide	Jan. 30-Feb. 28
Tennessee	
* * * * *	
Ducks, mergansers, and coots:	
Statewide	Sept. 17-Oct. 27
Wisconsin	
Rails, snipe, moorhens, and gallinules:	
North Zone	Sept. 1-Oct. 2 & Dec. 2-Dec. 16
South Zone	Sept. 1-Oct. 2 & Dec. 2-Dec. 16
Woodcock	Sept. 1-Sept. 18 & Nov. 3-Dec. 16

	Extended Falconry Dates
Wisconsin (cont.)	
Ducks, mergansers, and coots:	
Statewide	Sept. 12-Oct. 2 & Dec. 2-Dec. 8 & Feb. 20-Mar. 10
CENTRAL FLYWAY	
Kansas	
Ducks, mergansers, and coots:	
Low Plains:	
Early Zone	Feb. 20-Mar. 7
Late Zone	Oct. 18-Oct. 23 & Feb. 27-Mar. 8
Montana (2)	
Ducks, mergansers, and coots:	
Zone 1	Sept. 23-Sept. 25 & Sept. 27-Oct. 2
Zone 2	Sept. 23-Sept. 25 & Sept. 27-Oct. 2
Nebraska	
Ducks, mergansers, and coots:	
High Plains	Sept. 28-Oct. 2 & Dec. 15-Dec. 17 & Jan. 11 only
Low Plains:	
Zones 1 and 2	Sept. 28-Oct. 9 & Dec. 21-Dec. 25 & Dec. 28-Jan. 11
Zones 3 & 4	Sept. 28-Oct. 2 & Dec. 14-Dec. 18 & Dec. 21-Jan. 11
* * * * *	
Oklahoma	
Ducks, mergansers, and coots:	
Low Plains:	
Zone 1	Oct. 12-Oct. 17 & Oct. 19-Oct. 23 & Dec. 7-Dec. 11
Zone 2	Oct. 26-Oct. 30 & Dec. 7-Dec. 11 & Jan. 18-Jan. 23

	Extended Falconry Dates
South Dakota	
Ducks, mergansers, and coots:	
Low Plains:	
North Zone	Sept. 4-Sept. 25 & Sept. 27-Oct. 2 & Dec. 16-Dec. 19
Middle Zone	Sept. 4-Sept. 25 & Sept. 27-Oct. 2 & Dec. 16-Dec. 19
South Zone	Sept. 7-Sept. 25 & Sept. 27-Oct. 9
High Plains	Sept. 4-Sept. 12
Texas	
* * * * *	
Ducks, mergansers, and coots:	
Low Plains	Jan. 18-Feb. 2
Wyoming	
* * * * *	
Dark geese:	
Area 4	Oct. 18-Nov. 13
PACIFIC FLYWAY	
Arizona	
* * * * *	
Ducks and mergansers:	
North Zone	Oct. 4-Oct. 8
South Zone	Jan. 24-Jan. 28
California	
Ducks, mergansers, and coots:	
Colorado River Zone	Jan. 24-Jan. 28
Southern Zone	Jan. 18-Jan. 24
Balance-of-State Zone	Jan. 18-Jan. 24
Southern San Joaquin Zone	Jan. 18-Jan. 24

	Extended Falconry Dates
California (cont.)	
Canada Geese:	
Northeastern Zone	Jan. 4-Jan. 17
Southern Zone	Oct. 10-Oct. 16 & Jan. 18-Jan. 24
Balance-of-State Zone (6)	Oct. 10-Oct. 30 & Jan 18-Jan. 24
Southern San Joaquin Zone	Oct. 10-Oct. 30 & Jan. 18-Jan. 24
White-fronted Geese:	
Northeastern Zone	Oct. 26-Jan. 17
Southern Zone	Oct. 10-Oct. 16 & Jan. 18-Jan. 24
Balance-of-State Zone	Oct. 10-Oct. 30 & Jan. 18-Jan. 24
Southern San Joaquin Zone	Oct. 10-Oct. 30 & Jan. 18-Jan. 24
Brant	
Northeastern Zone	Oct. 3-Nov. 9 & Dec. 10-Jan 17
Southern Zone	Oct. 10-Nov. 9 & Dec. 10-Jan. 24
Balance-of-State Zone	Oct. 10-Nov. 9 & Dec. 10-Jan. 24
Southern San Joaquin Zone	Oct. 10-Nov. 9 & Dec. 10-Jan. 24
Light Geese:	
Southern Zone	Oct. 10-Oct. 16 & Jan. 18-Jan. 24
Balance-of-State Zone	Oct 10-Oct. 30 Jan. 18-Jan. 24
* * * * *	
Montana (2)	
Geese	Jan. 11-Jan. 16

	Extended Falconry Dates
New Mexico (2)	
* * * * *	
Dark Geese:	
North Zone	Oct. 24-Oct. 30
South Zone	Oct. 3-Oct. 9
Light Geese:	
North Zone	Oct. 24-Oct. 30
South Zone	Oct. 3-Oct. 9
* * * * *	
Utah	
* * * * *	
Light Geese	Jan. 11-Jan. 16
Dark Geese:	
Washington County	Oct. 5-Oct. 9
Rest of State	Jan. 11-Jan. 16
* * * * *	
Wyoming	
Rails	Sept. 1-Sept. 11 & Nov. 16-Dec. 13

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(2) In Montana and New Mexico, the daily bag limit is 2 and the possession limit is 6.

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(4) In Maine, the daily bag and possession limit for black ducks is 1 and 2, respectively.

(5) In California, the falconry season for Canada geese is closed in Del Norte and Humbolt Area, and the Sacramento Valley Area.

(6) In California, the falconry season is closed in Del Norte and Humbolt Are, the Sacremento Valley Area, and in the San Joaquin Valley Area.

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1998–99 Late Season; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AE93

Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1998–99 Late Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special late season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands and ceded lands. This responds to tribal requests for Service recognition of their authority to regulate hunting under established guidelines. This rule allows the establishment of seasons and bag limits and, thus, harvest at levels compatible with populations and habitat conditions.

DATES: This rule takes effect on October 1, 1998.

ADDRESSES: The public may inspect comments received during normal business hours in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. The public should send communications regarding the documents to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Room 634–ARLSQ, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Office of Migratory Bird Management, U.S. Fish and Wildlife Service (703) 358–1714.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In the August 14, 1998, **Federal Register** (63 FR 43854), the Service proposed special migratory bird hunting regulations for the 1998–99 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines respond to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) on-reservation hunting by both tribal members and nonmembers, with hunting by non-tribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10—September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada.

In the March 20, 1998, **Federal Register** (63 FR 13748), the Service requested that tribes desiring special hunting regulations in the 1998–99 hunting season submit a proposal including details on:

(a) harvest anticipated under the requested regulations;

(b) methods that will be employed to measure or monitor harvest (such as bag checks, mail questionnaires, etc.);

(c) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would adversely impact the migratory bird resource; and

(d) tribal capabilities to establish and enforce migratory bird hunting regulations.

No action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. The Service has successfully used the guidelines since the 1985–86 hunting season. The Service finalized the guidelines beginning with the 1988–89 hunting season (August 18, 1988, **Federal Register** [53 FR 31612]).

Although the proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the late-season proposals. Early-season hunting was addressed in the rulemaking published in the **Federal Register** on September 1, 1998 (63 FR 46558). As a general rule, early seasons begin during September each year and have a primary emphasis on such species as mourning dove. Late seasons begin about October 1 or later each year and have a primary emphasis on waterfowl.

Tribal Proposals and Public Comments and Issues Concerning Tribal Proposals

For the 1998–99 migratory bird hunting season, the Service proposed regulations for 19 tribes and/or Indian groups that followed the 1985 guidelines and were considered appropriate for final rulemaking. Some of the proposals submitted by the tribes had both early-and late-season elements. However, as noted earlier, only those with late-season proposals are included in this final rulemaking; 14 tribes made proposals with late seasons. Twelve tribes were represented in the early-season regulations.

Comments and revised proposals received to date are addressed in the following section. The comment period for the proposed rule, published on August 14, 1998, closed on August 24, 1998.

The Service received three comments regarding the notice of intent published on March 20, 1998, which announced rulemaking on regulations for migratory bird hunting by American Indian tribal members and the August 14, 1998 proposed rule. Comments from the South Dakota Department of Game, Fish, and Parks on the Lower Brule Sioux Tribes' proposal and the Wisconsin Department of Natural Resources on the Great Lakes Indian Fish and Wildlife Commission's proposal were addressed in the September 1, 1998 final rule for early seasons.

The Arizona Game and Fish Department (Arizona) commented on the proposal from the Colorado River Indian Tribes. Arizona pointed out that Federal frameworks for Arizona and California call for a dark goose daily bag and possession limit of 2 and 4, respectively, a white goose daily bag and possession limit of 3 and 6, respectively and a coot daily bag and possession limit of 25 birds.

Service Response: After consultation with the Colorado River Indian Tribes, the Service has corrected the daily bag and possession limits in this final rule to agree with Federal frameworks for the Pacific Flyway. The Tribes' proposal was inadvertent and not an intentional change from Pacific Flyway frameworks.

NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), the ''Final Environmental Statement for the

Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–74)'' was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975, (40 FR 25241). A supplement to the final environmental statement, the ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88–14)'' was filed on June 9, 1988, and notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES.** In addition, an August 1985 Environmental Assessment titled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the Service.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531–1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *'' Consequently, consultations were conducted to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion and may have caused modification of some regulatory measures previously proposed. The final frameworks reflect any modifications. The Service's biological opinions resulting from its Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and MBMO, at the address indicated under the caption **ADDRESSES.**

Regulatory Flexibility Act

In the March 20, 1998, **Federal Register**, the Service reported measures it took to comply with requirements of the Regulatory Flexibility Act. One measure was to update the 1996 Small Entity Flexibility Analysis (Analysis) documenting the significant beneficial economic effect on a substantial number of small entities. The 1996 Analysis estimated that migratory bird hunters would spend between $254 and $592 million at small businesses. The Service has updated the 1996 Analysis with information from the 1996 National Hunting and Fishing Survey. Nationwide, the Service now estimates that migratory bird hunters will spend between $429 and $1,084 million at small businesses in 1998. Copies of the 1998 Analysis are available upon request from the Office of Migratory Bird Management.

Executive Order (E.O.) 12866

Collectively, the rules covering the overall frameworks for migratory bird hunting are economically significant and have been reviewed by the Office of Management and Budget (OMB) under E.O. 12866. This rule is a small portion of the overall migratory bird hunting frameworks and was not individually submitted and reviewed by OMB under E.O. 12866.

Congressional Review

In accordance with Section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 8), this rule has been submitted to Congress and has been declared major. Because this rule establishes hunting seasons, it qualifies for an exemption under 5 U.S.C. 808(1); therefore, the Department determines that this rule shall take effect immediately.

Paperwork Reduction Act

The Service examined these regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting requirements imposed under hunting regulations established in 50 CFR part 20, subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, the information collection requirements of the Migratory Bird Harvest Information Program have been approved by OMB and assigned clearance number 1018–0015 (expires 09/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve Service harvest estimates for all migratory game birds in order to better manage these populations. The information collection requirements of the Sandhill Crane Harvest Questionnaire have been approved by OMB and assigned clearance number 1018–0023 (expires 09/30/2000). The information from this survey is used to estimate the magnitude, the geographical and temporal distribution of harvest, and the portion its constitutes of the total population. The Service may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 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 government or private entities.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, these rules, authorized by the Migratory Bird Treaty Act, do not have significant takings implications and do not affect any constitutionally protected property rights. These rules will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise privileges that would be otherwise unavailable; and, therefore, reduce restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. The Service annually prescribes frameworks from which the States make selections and employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulation. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy

or administration. Therefore, in accordance with Executive Order 12612, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Government-to-Government Relationship With Tribes

Due to the migratory nature of certain species of birds, the Federal government has been given responsibility over these species by the Migratory Bird Treaty Act. Thus, in accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, by virtue of the tribal proposals received in response to the March 20 request for proposals and the August 14 proposed rule, we have consulted with all the tribes affected by this rule.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service intends that the public be given the greatest possible opportunity to comment on the regulations. Thus, when the preliminary proposed rulemaking was published, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the tribes would have insufficient time to communicate these seasons to their member and non-tribal hunters and to establish and publicize the necessary regulations and procedures to implement their decisions.

Therefore, the Service, under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 *et seq.*), prescribes final hunting regulations for certain tribes on Federal Indian reservations (including off-reservation trust lands), and ceded lands. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for migratory game birds.

The Service therefore finds that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Accordingly, the Service amends part 20, subchapter B, chapter I of Title 50 of the Code of Federal Regulations as follows:

PART 20—[AMENDED]

1. The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703–712 and 16 U.S.C. 742 a-j.

(**Editorial Note:** The following annual hunting regulations provided for by § 20.110 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.)

2. Amend § 20.110 by revising paragraphs (a), (b), (d), (f), (g), (k) and (l); and by adding paragraphs (m), (n), (o), (p), (q), (r), and (s) to read as follows:

§ 20.110 Seasons, limits and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

(a) Colorado River Indian Tribes, Parker, Arizona (Tribal Members and Non-tribal Hunters)

Doves

Season Dates: Open September 1, close September 15, 1998; then open November 21, close January 4, 1999.

Daily Bag and Possession Limits: For the early season, daily bag limit is 10 mourning or 10 white-winged doves, singly, or in the aggregate. For the late season, the daily bag limit is 10 mourning doves. Possession limits are twice the daily bag limits.

Ducks (Including Mergansers)

Season Dates: Begin October 3, 1998, close January 17, 1999.

Daily Bag and Possession Limits: 7 ducks, including no more than 1 pintail, 2 redheads, 2 Mexican ducks, 2 hen mallards, and 1 canvasback. The possession limit is twice the daily bag limit.

Coots and Common Moorhens

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots and common moorhens, singly or in the aggregate.

Geese

Season Dates: Begin November 21, 1998, end January 17, 1999.

Daily Bag and Possession Limits: 4 geese, including no more than 2 dark (Canada) geese and 3 white (snow, blue, Ross's) geese. The possession limit is 8.

General Conditions: A valid Colorado River Indian Reservation hunting permit is required for all persons 14 years and older and must be in possession before taking any wildlife on tribal lands. Any person transporting game birds off the Colorado River Indian Reservation must have a valid transport declaration form. Other tribal regulations apply, and may be obtained at the Fish and Game Office in Parker, Arizona.

(b) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Non-tribal Hunters)

Ducks

Season Dates: Begin October 17, end December 29, 1998.

Daily Bag and Possession Limits: 6 ducks, including no more than 5 mallards (including no more than 2 female mallards), 1 mottled duck, 1 canvasback, 2 redheads, 1 pintail, and 2 wood ducks. The possession limit is twice the daily bag limit.

Mergansers

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 5 mergansers, including no more than 1 hooded merganser. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Begin October 10, 1998, end January 10, 1999.

Daily Bag and Possession Limits: 3 and 6, respectively.

White-fronted Geese

Season Dates: Begin October 10, 1998, end January 3, 1999.

Daily Bag and Possession Limits: 1 and 2, respectively.

Light Geese

Season Dates: Begin October 10, 1998, close January 2, 1999, then open February 17, close March 10, 1999.

Daily Bag and Possession Limits: 20 geese daily, no possession limit.

General Conditions: The waterfowl hunting regulations established by this final rule apply only to tribal and trust lands within the external boundaries of the reservation. Tribal and non-tribal hunters must comply with basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the

Crow Creek Sioux Tribe also apply on the reservation.

* * * * *

(d) Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only)

Ducks

Michigan, 1836 Treaty Zone:

Season Dates: Open September 20, 1998, close January 20, 1999.

Daily Bag Limit: 10 ducks, which may include no more than 1 pintail, 1 canvasback, 2 black ducks, 1 hooded merganser, 2 wood ducks, 2 redheads, and 5 mallards (only 2 of which may be hens).

Canada Geese

Michigan, 1836 Treaty Zone:

Season Dates: Open September 1, close November 30, 1998, and open January 1, 1999, close February 8, 1999.

Daily Bag Limit: 5 geese.

Other Geese (Brant, Blue, Snow, and White-fronted)

Michigan, 1836 Treaty Zone:

Season Dates: Begin October 1, end November 30, 1998.

Daily Bag Limit: 5 geese.

Sora Rails

Michigan 1836 Treaty Zone:

Season Dates: Open September 1, close November 14, 1998.

Daily Bag Limit: 5 rails.

Common Snipe

Michigan 1836 Treaty Zone:

Season Dates: Open September 1, close November 14, 1998.

Daily Bag Limit: 5 snipe.

Woodcock

Michigan 1836 Treaty Zone:

Season Dates: Open September 1, close November 14, 1998.

Daily Bag Limit: 5 woodcock.

General Conditions: A valid Grand Traverse Band Tribal license is required for all persons 12 years and older and must be in possession before taking any wildlife. All other basic regulations contained in 50 CFR part 20 are valid. Other tribal regulations apply, and may be obtained at the tribal office in Suttons Bay, Michigan.

* * * * *

(f) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Non-tribal Hunters)

Tribal Members Only

Ducks

Season Dates: Open September 15, 1998, close January 31, 1999.

Daily Bag and Possession Limits: 7 ducks, including no more than 1 pintail, 2 hen mallards, and 1 canvasback.

Geese

Season Dates: Open September 1, 1998, close January 31, 1999.

Daily Bag and Possession Limits: 4 geese, including 4 dark geese but not more than 3 light geese. The possession limit is twice the daily bag limit.

General: Tribal members must possess a validated Migratory Bird Hunting and Conservation Stamp and a tribal ceded lands permit.

Non-tribal Hunters

Ducks

Season Dates: Open October 3, 1998, close January 17, 1999. During this period, days to be hunted are specified by the Kalispel Tribe as weekends, holidays and for a continuous period in the month of December. Non-tribal hunters should contact the tribe for more detail on hunting days.

Daily Bag and Possession Limits: 7 ducks, including no more than 1 pintail, 2 hen mallards, 2 redheads, and 1 canvasback.

Geese

Season Dates: Begin October 3, 1998, close January 10, 1999.

Daily Bag and Possession Limits: 4 geese, including 4 dark geese but not more than 3 light geese. The possession limit is twice the daily bag limit.

General: Hunters must observe all State and Federal regulations, such as those contained in 50 CFR part 20 and including the possession of a validated Migratory Bird Hunting and Conservation Stamp.

(g) Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Non-tribal Hunters)

Band-tailed Pigeons

Season Dates: Open September 1, close September 30, 1998.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1, close September 30, 1998.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Ducks (Including Mergansers)

Season Dates: Begin October 3, 1998, close January 17, 1999.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 1 pintail, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit.

Dark Geese

Season Dates: Begin October 3, 1998, end January 10, 1999.

Daily Bag and Possession Limits: 2 and 4 geese, respectively.

Coots and Common Moorhens

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots and moorhens, singly or in the aggregate.

General Conditions: Tribal and non-tribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

* * * * *

(k) Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members and Non-tribal Hunters)

Tribal Members

Ducks/Coot

Season Dates: Open September 15, 1998, and close February 1, 1999.

Daily Bag and Possession Limits: 6 and 12 ducks, respectively; except that bag and possession limits are restricted for blue-winged teal, canvasback, harlequin, pintail, and wood duck to those established for the Pacific Flyway by final Federal frameworks, to be announced.

Geese

Season Dates: Open September 15, 1998, and close February 1, 1999.

Daily Bag and Possession Limits: 6 and 12 geese, respectively; except that the bag limits for brant and cackling and dusky Canada geese are those established for the Pacific Flyway in accordance with final Federal frameworks, to be announced. The tribes also set a maximum annual bag limit on ducks and geese for those tribal members who engage in subsistence hunting.

Non-tribal Hunters

Ducks

Season Dates: Begin October 3, 1998, end January 17, 1999.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 1 pintail, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Begin October 10, 1998, end January 17, 1999.

Daily Bag and Possession Limits: 4 geese, including 4 dark geese but no more than 3 light geese. The possession limit is twice the daily bag limit.

Brant

Season Dates: Begin January 2, end January 17, 1999.

Daily Bag and Possession Limits: 2 and 4 brant, respectively.

Snipe

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

General Conditions: All waterfowl hunters, members and non-members, must obtain and possess while hunting a valid hunting permit from the Tulalip tribes. Also, non-tribal members sixteen years of age and older, hunting pursuant to Tulalip Tribes' Ordinance No. 67, must possess a validated Federal Migratory Bird Hunting and Conservation Stamp and a validated State of Washington Migratory Waterfowl Stamp. All Tulalip tribal members must have in their possession while hunting, or accompanying another, their valid tribal identification card. All hunters are required to adhere to a number of other special regulations enforced by the tribes and available at the tribal office.

(l) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Non-tribal Hunters)

Band-tailed Pigeons

Season Dates: Open September 1, close September 10, 1998.

Daily Bag and Possession Limits: 3 and 6 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1, close September 10, 1998.

Daily Bag and Possession Limits: 8 and 16 doves, respectively.

Ducks (Including Mergansers)

Season Dates: Begin October 24, 1998, end January 17, 1999.

Daily Bag and Possession Limits: 4 ducks, including no more than 3 mallards (including no more than 1 female mallard), 2 redheads or 1 canvasback and 1 redhead, and 1 pintail. The possession limit is twice the daily bag limit.

Coots, Moorhens and Gallinules

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots, moorhens, and gallinules, singly or in the aggregate. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Same as ducks.

Bag and Possession Limits: 2 and 4 geese, respectively.

General Conditions: All non-tribal hunters hunting band-tailed pigeons and mourning doves on Reservation lands shall have in their possession a valid White Mountain Apache Daily or Yearly Small Game Permit. In addition to a small game permit, all non-tribal hunters hunting band-tailed pigeons must have in their possession a White Mountain Special Band-tailed Pigeon Permit. Other special regulations established by the White Mountain Apache Tribe apply on the reservation. Tribal and non-tribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition:

(1) The area open to waterfowl hunting in the above seasons consists of: the entire length of the Black and Salt Rivers forming the southern boundary of the reservation; the White River, extending from the Canyon Day Stockman Station to the Salt River; and all stock ponds located within Wildlife Management Units 4, 6 and 7. Tanks located below the Mongollon Rim, within Wildlife Management Units 2 and 3 will be open to waterfowl hunting. The remaining reservation waters are closed to waterfowl hunting during the 1998–99 hunting season.

(2) Tribal and non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking.

(3) See other special regulations established by the White Mountain Apache Tribe that apply on the reservation, available from the reservation Game and Fish Department.

(m) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Non-tribal Hunters)

Ducks (Including Mergansers)

Season Dates: Begin October 3, 1998, end January 17, 1999.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 1 pintail, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: The daily bag and possession limit is 25.

Geese

Dark Geese

Season Dates: Begin October 3, 1998, end January 10, 1999.

Daily Bag and Possession Limits: 4 and 8 geese, respectively.

Light Geese

Season Dates: Begin October 3, 1998, end January 10, 1999.

Daily Bag and Possession Limits: 3 and 6 geese, respectively.

General Conditions: Non-tribal hunters must comply with all basic Federal migratory bird hunting regulations contained in 50 CFR part 20 regarding manner of taking. In addition, shooting hours are sunrise to sunset and each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Confederated Salish and Kootenai Tribes also apply on the reservation.

(n) Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Non-tribal Hunters)

Ducks (Including Mergansers)

Season Dates: Begin October 3, end November 30, 1998.

Daily Bag and Possession Limits: The daily bag limit is 7, including no more than 2 female mallards, 1 pintail, 2 redheads, and 1 canvasback. The possession limit is twice the daily bag limit.

Geese

Season Dates: Begin October 3, 1998, end January 10, 1999.

Daily Bag and Possession Limits: 4 geese, including no more than 3 light geese and 1 Canada goose. The possession limit is twice the daily bag limit.

General Conditions: Tribal and non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Jicarilla Tribe also apply on the reservation.

(o) Klamath Tribe, Chiloquin, Oregon (Tribal Members Only)

Ducks

Season Dates: Begin October 1, 1998, end January 31, 1999.

Daily Bag and Possession Limits: 9 and 16 ducks, respectively.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 25 coots.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 6 and 12 geese, respectively.

General: The Klamath Tribe provides regulations enforcement authority in its game management officers, biologists and wildlife technicians, and has a court system with judges that hear cases and set fines.

(p) Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Non-tribal Hunters)

Ducks (Including Mergansers)

Season Dates: Begin October 3, 1998, end January 7, 1999.

Daily Bag and Possession Limits: 6 ducks, including no more than 5 mallards (only 1 of which may be a hen), 1 pintail, 1 mottled duck, 2 redheads, 1 canvasback, 2 wood ducks, and 1 hooded merganser. The possession limit is twice the daily bag limit.

Geese

Dark Geese

Season Dates: Begin October 17, 1998, end January 10, 1999.

Daily Bag and Possession Limits: 3 geese, including no more than 1 white-fronted goose. The possession limit is twice the daily bag limit.

Light Geese

Season Dates: Begin October 17, 1998, end January 10, 1999.

Daily Bag and Possession Limits: 10 and 20 geese, respectively.

General Conditions: All hunters must comply with the basic Federal migratory bird hunting regulations in 50 CFR part 20, including the use of steel shot. Non-tribal hunters must possess a validated Migratory Waterfowl Hunting and Conservation Stamp. The Lower Brule Sioux Tribe has an official Conservation Code that hunters must adhere to when hunting in areas subject to control by the tribe.

(q) Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Non-tribal Hunters)

Ducks (Including Mergansers)

Season Dates: Begin October 3, 1998, end January 17, 1999.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 1 pintail, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 10 and 20 coots, respectively.

Geese

Season Dates: Begin October 3, 1998, end January 10, 1999.

Daily Bag and Possession Limits: 4 geese, including not more than 3 light geese and 2 white-fronted geese. The possession limit is twice the daily bag limit.

Common Snipe

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

General Conditions: Non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must possess a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Other regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

(r) Swinomish Indian Tribal Community, LaConner, Washington (Tribal Members Only)

Ducks (Including Mergansers)

Season Dates: Begin October 3, 1998, end February 17, 1999.

Daily Bag and Possession Limits: 10 ducks, including no more than 2 female mallards, 1 pintail, 1 canvasback and 2 redheads. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 28 coots.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 7 geese, including 7 dark geese but no more than 6 light geese. The possession limit is twice the daily bag limit.

Brant

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 5 and 10 brant, respectively.

General Conditions: The Swinomish Tribal Community has established additional special regulations for on-reservation hunting. Tribal hunters should consult the tribal office for additional information.

(s) Yankton Sioux Tribe, Marty, South Dakota (Tribal Members and Non-tribal Hunters)

Ducks (Including Mergansers)

Season Dates: Begin October 17, end December 29, 1998.

Daily Bag and Possession Limits: 6 ducks, including no more than 5 mallards (no more than 2 female mallards), 2 redheads, 1 pintail, 1 hooded merganser, 1 canvasback, and 2 wood ducks. The possession limit is twice the daily bag limit.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: 15 and 30 coots, respectively.

Dark Geese

Season Dates: Begin October 31, 1998, end January 31, 1999.

Daily Bag and Possession Limits: 2 geese, including no more than 1 white-fronted goose (or brant). The possession limit is twice the daily bag limit.

Light Geese

Season Dates: Begin October 31, 1998, end January 24, 1999.

Daily Bag and Possession Limits: 20 geese, no possession limit.

General Conditions

(1) The waterfowl hunting regulations established by this final rule apply to tribal and trust lands within the external boundaries of the reservation.

(2) Tribal and non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Yankton Sioux Tribe also apply on the reservation.

Dated: September 21, 1998.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–25989 Filed 9–29–98; 8:45 am]

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Wednesday
September 30, 1998

Part IV

Department of the Interior

Bureau of Land Management

43 CFR Part 3200, et al.

Geothermal Resources Leasing and Operations; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3200, 3210, 3220, 3240, 3250, and 3260

[AA–610–08–4141–02]

RIN 1004–AB18

Geothermal Resources Leasing and Operations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations which implement the Geothermal Steam Act of 1970, as amended (the Steam Act). This rulemaking addresses leasing, permitting and operational requirements for geothermal exploration, drilling, and utilization operations. The final rule rewrites all the geothermal resource development regulations in a plain language style; reduces and streamlines permitting and information requirements; provides the Bureau of Land Management (BLM) with the maximum possible flexibility regarding permit issuance allowing BLM to accommodate the full range of potential geothermal operations and development scenarios; and reorganizes the regulations to provide specific permit application informational requirements allowing BLM and our customers to interpret regulatory requirements more consistently.

EFFECTIVE DATE: October 1, 1998.

ADDRESSES: You may send inquiries or suggestions to: Director (630), Bureau of Land Management, 1849 C Street, N.W., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Richard Hoops, (702) 861–6568.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Final Rule as Adopted.
III. Responses to Comments.
IV. Procedural Matters.

I. Background

This final rule revises 43 CFR parts 3200, 3210, 3220, 3240, 3250, and 3260 which implement the classification, leasing, exploration, drilling, and utilization requirements of the Steam Act. The new rule eliminates existing parts 3210, 3220, 3240, 3250, and 3260 as currently written. It also rewrites the corresponding subparts under part 3200 into plain language, and reorganizes the existing regulations so that all permitting requirements and operator responsibilities for each phase of development may be found in a specific subpart. The rule more clearly delineates the existing permitting and informational requirements.

The existing part 3280, concerning unit agreements, is not affected by this final rule. We intend to revise part 3280 along similar lines in a separate rulemaking sometime very soon.

Existing parts 3200, 3210, 3220 and 3240 are consolidated and reordered to correspond with the sequence in which leasing procedures occur. The exploration regulations are moved from existing subparts 3209 and 3264 to a new subpart 3250. Existing part 3260 is revised to describe only the requirements for drilling operations. The existing part 3250, Site License, and the existing portions of part 3260 addressing geothermal resource utilization are revised and redesignated in the new rule as subpart 3270.

The following table lists how each subpart is reorganized:

Existing regulations	New regulations as revised
3200—Geothermal Leasing: General	3200—Geothermal Resource Leasing.
	3201—Available Lands.
	3203—Obtaining a Lease.
3202—Qualifications of Lessees	3202—Lessee Qualifications.
	3216—Transfers.
3203—Leasing Terms	3206—Lease Issuance.
	3207—Additional Lease Term.
	3208—Extending the Primary Lease Term.
	3209—Conversion of a Lease Producing Byproducts.
	3210—Additional Lease Information.
3204—Surface Management Requirements	3250, 3260, 3270—Exploration, Drilling, Utilization Operations.
3205—Fees, Rentals and Royalties	3211—Fees, Rents, and Royalties.
3206—Lease Bonds	3214—Personal and Surety Bonds.
	3215—Bond Collection After Default.
3207—Leases for a Fractional or Future Interest	3206—Lease Issuance.
3208—(Reserved).	
3209—Geothermal Resources Exploration	3250—Exploration Operations.
3210—Noncompetitive Leases: General	3204—Noncompetitive Leasing.
3220—Competitive Leases: General	3205—Competitive Leasing.
3241—Transfers	3216—Transfers.
3242—Production and Use of Byproducts	3272—The Contents and Review of a Plan of Utilization and Facility Construction Permit.
3243—Cooperative Conservation Provisions	3217—Cooperative Conservation Provisions.
3244—Terminations and Expirations	3213—Relinquishment, Termination, Cancellation, and Expiration.
3250—Utilization of Geothermal Resources	3273—Applying for and Obtaining a Site License.
3260—Geothermal Resources Operations:	3260—Geothermal Drilling Operations:
—General	3270—Utilization of Geothermal Resources—General.
3261—Jurisdiction and Responsibility	3260—Geothermal Drilling Operations—General.
	3262—Conducting Drilling Operations.
	3263—Well Abandonment.
	3270—Utilization of Geothermal Resources—General.
3262—Requirements for Operating Rights Owners.	3261—Permitting of Drilling Operations.
	3262—Conducting Drilling Operations.
	3271—Permitting of Utilization Operations.
	3272—The Contents and Review of a Plan of Utilization and Facility Construction Permit.
	3275—Conducting Utilization Operations.
3263—Measurement of Production	3275—Conducting Utilization Operations.
3264—Reports to be Made by All Lessees	3261—Permitting of Drilling Operations.
	3264—Reports: Drilling Operations.

Existing regulations	New regulations as revised
	3274—Applying for and Obtaining a Commercial Use Permit.
3265—Procedure in Case of Violation of the Regulations.	3265—Inspection, Enforcement, and Noncompliance (drilling).
	3277—Inspection, Enforcement, and Noncompliance (utilization).
3264—Appeals	3256—Exploration Operations Relief and Appeals.
	3267—Geothermal Drilling Operations Relief and Appeals.
	3279—Utilization Relief and Appeals.

The final rule published today is the last stage of a rulemaking process that amends the regulations in 43 CFR group 3200. This rule was preceded by a proposed rule published in the **Federal Register** on October 8, 1996 (61 FR 52736). The proposed rule invited public comments for 90 days, from October 8, 1996, through January 6, 1997. BLM received comments from four members of the geothermal industry and from the Forest Service. These comments were carefully considered prior to making any changes to the final rule.

II. Final Rule as Adopted

Parts 3200—Geothermal Resources Leasing: General; 3210 Noncompetitive Leases; 3220 Competitive Leases; and 3240 Rules Governing Leasing

Because this rule is structurally different from the existing rule, we are including here a full discussion of the changes between the existing and final rule.

First, the final rule restructures the definitions section at 43 CFR 3200.1. The new definitions section retains many of the existing terms, removes several technical terms (such as ''the Secretary'' and ''the Service'') which no longer fit within the plain language style, and adds new terms (such as ''MMS'') which play a significant role in the new rule. For the sake of clarification, BLM has also added several common leasing terms which are often misused or misunderstood. For example, BLM has defined the terms ''primary term,'' ''extended term'' and ''additional term.''

We have also added definitions for the new or revised permit applications. We have clarified other terms, such as ''commercial operation'' and ''exploration operations.'' We have expanded the definition of ''commercial quantities'' to address the difference between quantities for individual leases and unit production.

Unlike the existing rules, the revised definitions section contains only those terms which are used repeatedly throughout the regulations. Therefore, some existing definitions of terms which have narrow applicability, such as ''significant thermal features within units of the National Park System,'' have been relocated to the specific sections to which they apply. Finally, we have alphabetized the definitions and removed the designations markers (a), (b), (c) and so forth, in keeping with current **Federal Register** guidance.

Section 3200.2 describes the information collection requirements associated with the regulations under part 3200, section 3200.3 describes changes of agency responsibilities, and section 3200.5 indicates where the hearings and appeals regulations are found. Neither section contains any substantive change from current practices.

Next, BLM has condensed and rewritten into plain language subpart 3201, which describes lands subject to geothermal leasing. Section 3201.10 describes those lands which are available while section 3201.11 covers those which are not. Neither section changes the existing rules in any substantive way.

New subpart 3202 contains the provisions setting forth the qualifications for a lessee. Again, no substantive changes have been made. Lessees must meet the same citizenship requirements; we may request that a lease offeror submit proof that it qualifies; offerors may act through another person; and if the offeror dies before we issue the lease, we will continue to use the current procedures to resolve the situation.

New subpart 3203 contains all of the existing provisions generally applicable to geothermal resource leasing, such as how to obtain a lease. Most significantly, this subpart describes how we determine whether leases will be issued through competitive or noncompetitive bidding. Subpart 3204 then describes the procedures for obtaining a noncompetitive lease, while subpart 3205 describes the competitive bidding process.

The only substantive change between the existing and final rule in subpart 3204 is that we will no longer prepare an availability list of relinquished or terminated leases. Instead, lands will become available for noncompetitive leasing as soon as we close each case. Under the new 43 CFR 3204.15, an offeror may apply for these lands at any time, and instead of collecting applications in one-month application periods, we will open each application upon receipt and immediately begin processing it. This new process will substantially improve the way BLM handles noncompetitive lease applications. By eliminating the one-month delay, we will create a rolling application review process which will permit us to approve or deny an application much sooner than under the existing, more formal process. If we receive multiple, overlapping applications before approving a noncompetitive lease, we will examine the land to determine whether to designate a known geothermal resource area (KGRA), in which case we will reject all noncompetitive applications and the lands will be leased competitively. Otherwise, we will offer the lease to the first person who submits an application which meets all the requirements.

New subpart 3205 contains the provisions for competitive leasing. No substantive changes have been made to the core provisions between the existing and final rule. We will continue to issue competitive leases as in the past, relying on published notices of available lands and a sealed bidding process. However, the new regulations permit us to use a wider variety of methods for providing public notice of a sale, such as posting the list in local BLM offices or on the Internet, or preparing external affairs news releases. Publishing sale notices in local newspapers is no longer required, but remains an option for providing notice of the sale.

Subparts 3206 through 3210 cover generally applicable lease terms, such as length of lease terms, acreage limitations, and other obligations. These subparts contain most of the existing lease terms, although we have made a few substantive and organizational changes since the proposed rule. For example, we no longer require operators to conduct diligent exploration during lease years 11 through 15, since these lease years are not part of the primary period. In addition, final 43 CFR 3208.10(a)(1) modified the current option to extend a lease by performing

diligent drilling over the end of the primary period. To qualify, the operator must diligently strive to reach a reasonable drilling target with a well permitted and designed for production, which we will define based on local geology and the type of development proposed by the operator.

Under 43 CFR 3208.10(a)(4) of the final rule, leases may be extended in an additional situation. For leases committed to a unit, leases which expire before the unit does could be extended to match the unit term, as long as diligent unit development is occurring. So, any lease or portion of a lease not part of a participating area may then be eligible for other types of extensions. This is true even after it is eliminated from a unit by contraction or unit review—unless the lease previously was extended under 3208.10(a)(2), as these extensions must be successive. Extensions are intended to alleviate operator's concerns that leases adjacent to producing areas may be terminated, regardless of diligence, due to the lack of viable electrical sales contracts or continual poor energy market conditions.

While this rule does not define ''diligent unit development,'' BLM generally measures diligence by comparing your actions in that year with the objectives you set in your currently approved plan of development. We will establish clearer guidance on what is ''diligent unit development'' in the forthcoming unit regulations.

The final rule includes other minor substantive changes. For example, we eliminated the special requirements (formerly at 43 CFR 3203.4(d)) for describing unsurveyed public lands adjacent to tidal waters in southern Louisiana and in Alaska. If you wish to lease minerals in these areas you must describe the unsurveyed land in accordance with the general regulations now found at 43 CFR 3204.11. Several other portions of existing subpart 3203 are relocated. Plans of development and operation (existing section 3203.6) are now described in various sections within new subparts 3260 and 3270. Provisions for oil, gas and helium reservations are moved from section 3203.7 to section 3210.17. The section concerning converting leases to a mineral lease are relocated from section 3203.1–6 to section 3209.10.

The new subpart 3211 replaces existing provisions for fees, rents and royalties previously found in subpart 3205 with regulations that are easier for the public to understand and for BLM to manage. The only substantive change here is that we have removed the limitations on overriding royalties for two reasons: we no longer track overriding royalties and therefore cannot enforce this requirement; and maintaining the limitation requirement may unnecessarily involve the government in private business negotiations. Sections 3212.15 and 3212.16 of the revised rule contain procedures which provide sufficient protection for the United States' royalty interests.

Subparts 3212 and 3213 contain consolidated procedures for altering the terms of a lease, including suspensions, relinquishments, terminations, cancellations, and expirations. The only significant change between the existing and final rule is that we have relocated the waivers and suspensions of payments provisions from the fees, rents and royalties regulations in part 3205 to a separate section in subpart 3212. All other changes in the final rule are limited to consolidation and plain language rewrites.

Subpart 3214 expands existing bonding regulations to give greater detail about how bond amounts may change. We may increase a bond amount when we determine an operator has a history of noncompliance or is deficient in paying royalties to the Minerals Management Service (MMS). BLM will not set a bond amount higher than the total sum of the estimated costs of plugging and abandoning a well and reclaiming the surface, uncollected royalties due to MMS, and any unpaid amount owed to BLM due to previous violations.

Subpart 3215, formerly 43 CFR 3206.7, deals with bond collection after default. Subpart 3216, formerly 43 CFR 3241, contains the regulations governing transfers. Subpart 3217, formerly 43 CFR 3243, governs cooperative conservation provisions. These sections do not substantively differ from the existing regulations.

Subpart 3250—Geothermal Resource Exploration Operations: General

One of the most important changes this final rule will make is to relocate separate functions to separate subparts, in order to make each function easier to locate and understand. Subpart 3250 will contain the exploration operation rules previously published at part 3209. Also, in order to separate operational regulations from the leasing provisions, the geothermal resources utilization regulations previously found in part 3250 are now relocated to subpart 3270. This change allows us to consolidate the permitting procedures and operational responsibilities for exploration operations into a single set of standards which will now be found in part 3250.

Part 3250 sets out the regulations applicable to exploration operations. Subpart 3250 explains when the exploration regulations apply and general operational standards. Subpart 3251 sets forth the permitting requirements for exploration operations. The regulation is formatted to follow the logical exploration sequence from stating what permits are required (3251.10), to the contents of the permit applications (3251.12), to the actions we will take on a permit (3251.13), to bonding requirements for exploration operations (3251.15).

This final rule clarifies several other requirements: operational (section 3252.10) and environmental (3252.11) requirements; what types of resource evaluation activities you may conduct (3252.13); and gradient well completion and abandonment requirements (3252.14 and 3252.16). We are also changing some requirements. For example, Geothermal Resources Operational Order 1 limited the depth of temperature gradient wells to 500 feet unless we granted specific authorization to drill deeper. However, new section 3252.12 allows an operator to propose a temperature gradient well to any depth necessary to adequately measure temperature gradients. Subpart 3254 sets out the provisions applicable to inspection, enforcement and non-compliance. Section 3254.10 permits BLM to inspect exploration operations, and under section 3254.11 we can require corrective action when operations are not in compliance. The new regulations will also allow the core drilling of temperature gradient wells, whereas the existing regulations limited this use of core drilling. Finally, sections are added which identify how proprietary and confidential information will be handled (subpart 3255) and explain appeals procedures (subpart 3256).

Subpart 3260—Geothermal Resource Operations: General

In order to consolidate drilling operations regulations into a single, separate location, we amended subpart 3260 to address only drilling permit application, approval, reporting and related requirements. Regulations addressing permits for utilization facilities and information requirements related to the utilization of geothermal resources are moved to a new part 3270. In the noncompliance provisions (section 3265.12) we clarified our authority to take post-permit actions, such as requiring modifications or shutting down operations that are in

noncompliance or pose an immediate threat to the public, the environment or private property.

We rewrote the regulations in subpart 3261 for permitting drilling operations to make them more flexible by allowing the operator two options to submit the required plan and permits. Under the first option, the operator could submit an operations plan, drilling permit and drilling program at the same time. If and when we complete the applicable environmental review and approve a drilling permit, the operator could commence pad construction and drill and test the well. Under the second option, the operator could submit the operations plan and a sundry notice for pad construction only. We would then begin an environmental review of both the pad construction and drilling operations. If and when that was completed, and we determined that the plan was acceptable, we would approve the sundry notice, authorizing drill pad and access road construction. The operator would then submit the drilling permit and drilling program for review at a later date.

The final regulations reduce the operations plan information requirements to cover only specific drilling activities. This eliminates the existing requirement that applicants also address resource utilization, which will now be covered by the utilization plan. An applicant may prepare an operations plan and drilling program which could apply to more than one well when similar environmental situations exist and the same drilling procedures are utilized. However, separate geothermal drilling permits are required for each proposed well.

New subpart 3262 contains the requirements for conducting drilling operations. These regulations clarify the operational (3262.10) and environmental (3262.11) requirements an operator must meet when drilling a well. We may also require permittees to post signs at each well (3262.12), to space wells (3262.13), and to take samples or perform certain tests and surveys (3262.14). We already require each of these actions under the existing regulations.

New subpart 3263 discusses well abandonment requirements. These regulations do not differ substantively from existing rules. Subpart 3264 as revised identifies the informational requirements of each report an operator must submit during the completion, use, and abandonment of a well. Operators must submit a geothermal sundry notice for actions such as casing program changes, well stimulation, or plugging and abandoning a well, or to amend an approved permit or sundry notice. We may waive the sundry notice requirement for specific, routine well work, surveys, or downhole maintenance. For activities resulting in an environmental impact not already described in an operations plan, the applicant must submit a geothermal sundry notice to amend the operations plan. You may not begin activity described in the sundry notice until we have approved the notice.

These permit review options provide both BLM and resource users the greatest flexibility to address the broad range of operational and environmental issues encountered during geothermal development. As a result, we will be able to respond to industry requests more efficiently and ensure all environmental requirements are met.

Several other sections were modified to improve the way in which we oversee existing drilling operations. New section 3264.14 will change the existing requirement to notify BLM of all accidents occurring on Federal lands (current 43 CFR 3262.7) to requiring notification and reports only when an accident affects geothermal operations or causes environmental hazards. Section 3266 as revised sets forth how we treat confidential documents. If we require you to submit a document you regard as confidential, you must clearly mark each page of the document with the words ''confidential information.'' We must ultimately determine whether the document contains any information exempt from public disclosure under the Freedom of Information Act (FOIA) and the Department of the Interior regulations set forth in 43 CFR part 2.

We have revised the noncompliance rules in subpart 3265 to more clearly define what we can do when an operator fails to promptly commence or complete a required remedial action. Our responses may include requiring modification of project operations, temporary or permanent shut down of operations, or lease termination. Subpart 3267 provides procedures for requesting operational variances and filing appeals.

Because the requirements specified in some of the current Geothermal Resources Operational Orders have become out-dated, we revised the requirements and incorporated them into these regulations. This final rule changes some standards and requirements from existing Orders.

Subpart 3270—Geothermal Resource Utilization: General

This final rule establishes a new part 3270, consolidating the existing permitting procedures and operator responsibilities for producing and utilizing geothermal resources, with some changes.

In order for the permit titles to more clearly identify the operational authorization each permit grants when it is approved, we have renamed the current utilization permit as the ''facility construction permit,'' and production permits as the ''commercial use permit.''

Subpart 3270 identifies general operational standards and facility operator responsibilities when utilizing geothermal resources. Subpart 3271 explains what authorization an operator needs to construct and test a utilization facility. Subpart 3272 describes the utilization plan and facility construction permit requirements, while the site license requirements are found in subpart 3273. The requirements will vary depending on the status of the lands and any underlying leases, but in general, an operator must submit a utilization plan, facility construction permit, and a site license, where applicable (3271.10). Applicants must also submit the utilization plan and facility construction permit together. You could choose to submit the site license separately, though BLM will not approve the facility construction permit until we receive an acceptable site license and related bond. If the operator wishes to use Federal geothermal resources to test a utilization facility located on private or split estate lands, the Federal lessee or unit operator must submit a sundry notice for our approval prior to the use of Federal geothermal resources (3271.13). To obtain authorization to place a utilization facility into commercial operation, an operator must submit a commercial use permit (3271.14).

We changed the utilization permitting process to make the application process more flexible by allowing the operator to submit necessary information as it becomes available. Also, all types of utilization facility proposals will go through the same permitting process; operators will no longer have to undergo separate permitting procedures based on generation capacity, research and demonstration facilities, and individual well facilities.

Before you can begin any utilization facility construction and testing that will cause a surface disturbance, BLM must review your utilization plan and approve your facility construction permit and site license. What permits you need to begin operations depends on what part of your operation is on Federal lands. If your facility is located on Federal lands leased for Federal geothermal resources, you need an

approved facility construction permit and site license to begin site preparation, construction and testing, and a commercial use permit to begin operating the facility or using the resources. [Commercial operation is defined as delivering any form of geothermal resources for sale or for use by the operator.] By contrast, if a proposed utilization facility, pipelines and other related structures are located on private or split estate (private surface and Federal mineral) lands, and the facility is receiving production allocated to or from wells located on BLM-managed leases, you only need a commercial use permit to begin utilizing Federal resources.

If the pipelines are located on BLM-managed lands and the utilization facility is not, the utilization plan only needs to address the pipelines. Approval of a commercial use permit authorizes construction of the pipelines. An approved sundry notice also authorizes preliminary site investigations if not already described in a utilization plan.

A utilization plan describes the proposed facility and its environmental protection measures, and consists of most of the same information which the existing regulations require for an operations plan (existing 43 CFR 3262.4). However, the new utilization plan will differ from the old operations plan in some respects. For example, instead of always requiring you to collect baseline environmental data before beginning commercial operations, we will determine which, if any, specific environmental parameters must be addressed, and how long (not exceeding one year) each parameter will be monitored (3272.12(c)). We may also require monitoring of facility operations as a condition of approval of a commercial use permit to ensure environmental compliance (3272.12(b)).

The site license requirements are relocated from 43 CFR 3250.6 to subpart 3273 and incorporated directly into the utilization permitting process. Now, when you apply for a utilization permit, you must also identify a site license area located on Federally-leased lands. Applicants will have to submit a site license bond with their license application (3273.19). Other requirements, such as the minimum utilization bond amount of $100,000 for any electrical generation facility and the current bonding requirement for direct use facilities, remain unchanged. BLM may not require a site bond for a direct use facility.

These regulations eliminate the requirement that a lessee or unit operator pay a minimum annual rent of $100 per acre for the site license area, because a lease already grants the right to utilize a reasonable amount of surface (3273.18). However, if an entity other than a lessee or unit operator owns the utilization facility, you must pay the site license rent.

We eliminated the requirements for a joint utilization agreement found under existing part 3250 because they duplicate the authorization granted under the site license. When a proposed facility is owned by someone other than the lessee or unit operator, the facility operator must provide us a copy of its written agreement with the lessee or unit operator to site a utilization facility on the leased land. The third party, as the facility operator, then assumes full responsibility for all phases of facility permitting and operations.

Subpart 3274 addresses the requirements for obtaining a commercial use permit, which authorizes the sale and/or use of Federal geothermal resources. We must approve this permit before a utilization facility starts commercial operation. To apply, you must provide specific information about the proposed facility's operations, particularly its production and royalty metering. The new rules no longer require detailed engineering drawings; generalized schematics of the facility are adequate. We may attach conditions of approval to the commercial use permit, such as monitoring of the facility to ensure compliance with environmental and/or operational standards, and we may modify or shut down the facility operation when it is in noncompliance with environmental or operational standards.

Subpart 3275 identifies the operational and environmental requirements the facility operator must meet. The revised regulations incorporate and add greater detail to Geothermal Resource Operational Order 7, which contains standards for the types and accuracy of meters used to measure production or utilization or to determine royalties. The new rules specify the following for both electrical generation and direct use facilities: (1) where the operator must locate the various types of meters (43 CFR 3275.16); (2) meter accuracy standards which vary depending on the volume of resource measured (43 CFR 3275.15); and, (3) meter accuracy standards for installation and measurement (3275.16).

Subpart 3276 contains monthly well and facility operations reporting requirements, including contents and accuracy standards. The information you must provide in the monthly facility report will vary depending on the type of utilization facility operated. For simplicity, you may combine monthly well and facility reports in certain instances.

Subpart 3277 addresses inspection, enforcement and noncompliance procedures. We will routinely inspect utilization facility operations, and these rules identify the types of records an operator must have available for inspection. In cases of noncompliance, we will issue an Incidence of Noncompliance requiring corrective action to be taken within a specified time period. This subpart identifies what additional action we may take to correct problems of noncompliance which continues or is serious in nature, including bond collection, modification of project operations, temporary or permanent shut down of operations, or lease termination. Finally, sections are revised which identify how proprietary and confidential information will be handled (subpart 3278) and appeals procedures (subpart 3279).

We have made a number of other changes between the proposed and final rule. The vast majority of these changes were made to further clarify a provision or are merely editorial in nature. We also made a few substantive changes to the rule which are necessary to correct errors in the proposed rule. For example, we revised and added definitions in section 3200.1 for ''interest'' and ''person.'' Each of these was added to enable us to simplify other definitions, such as ''lessee.'' We also edited the definition of operating rights to bring it in line with the same term used in the BLM's oil and gas regulations.

We added a provision at section 3208.17 to make it clear that if production begins, a person is not entitled to a credit for payments made in lieu of production in commercial quantities or significant expenditures. This is not a substantive change from the existing regulations, but this provision is necessary to avoid any disputes in the future.

Section 3214.18 also re-defines what a person is liable for. The final rule now states that the liability of an interest owner for rents and royalties will be determined under the applicable MMS regulations. The proposed rule had stated that all interest owners assume full liability for rents and royalties, and this was not in keeping with MMS regulations.

Finally, we made editorial changes between the existing and new rule to correct several cross-references. We will modify our forms to accommodate the numerous changes in the proposed regulations, as well as to account for existing forms which have expired.

III. Responses to Comments

During the public comment period in response to the proposed rule, BLM received a total of five comments. The commenters included four private geothermal resource developers and the Forest Service, and generally consisted of suggestions to revise lease extension provisions and address unitization issues. The commenters also addressed the need to maintain a site license provision in the regulations, suggested changing the names of some of the permits to more accurately describe the authorization provided by the permit, noted the need for additional, required coordination between BLM and institutions financing power plant projects, and identified issues pertaining to confidential and proprietary information requirements, and production reporting. The Forest Service suggested means for improving BLM and surface management agency coordination of permit application review and completing the National Environmental Policy Act of 1969 (NEPA) documentation.

Lease extensions. Several comments suggested that we change the proposed procedures for requesting successive 5-year lease extensions, at sections 3208.11–12. Two commenters said BLM should allow a lessee to change its election to either make payments in lieu of commercial quantities production or to make significant expenditures on an annual basis during each 5-year extension period. This change would allow companies much greater flexibility in deciding how to allocate resources as energy market conditions fluctuate. Another comment suggested that BLM allow excess significant expenditures from the first extension period to be applied to the second extension period.

BLM is not adopting these recommendations because we believe they contradict the intent of Congress expressed in the Steam Act amendments. Our review of the legislative history suggests that the House Committee on Interior and Insular Affairs (Report 100–664) did not intend to provide such options. Lessees must make the election to either make payments in lieu of commercial quantities production or to make significant expenditures at the beginning of each extension period, and significant expenditures from one extension period may not be applied to a subsequent extension period.

A number of comments suggested changing the lease extension provisions related to unitization. Several companies requested that BLM allow 5-year lease extensions upon removing a lease from a unit either by segregation or contraction. We cannot adopt this suggestion, however, because we believe that unit administration actions should not directly result in lease extensions. The new provisions at subpart 3208 broaden lease extension provisions when a lessee diligently completes unit operations, and also on an individual lease basis once a lease is no longer involved in a unit. These rules give diligent lessees ample opportunities to extend their lease.

Unit Administration. Many comments addressed unit administration procedures such as effective dates of a participating area and suspensions of drilling obligations and unit contraction provisions. We intend to publish a proposed rule in the **Federal Register** to rewrite the unit regulations (part 3280) and we will address these issues at that time.

Project Financing. One company submitted several comments regarding the requirement that we coordinate with the lending institution which has provided project financing. The comments recommended requiring us to provide formal notice to the lender of a recorded lien on the Federal lease when an operator is in noncompliance with lease terms or permit conditions of approval. BLM would then be required to allow and accept corrective action taken by the lender. Another comment said that we should grant a replacement lease directly to the lender and cancel the operator's lease if the operator files for bankruptcy.

We believe these are standard business arrangements which are best resolved and coordinated between the operator and lender themselves. The operator and lender should decide among themselves as to when the operator will notify the lender of our actions taken on the lease. We cannot justify the additional administrative burden we would undertake by adopting this comment. Furthermore, we cannot replace a lessee on its own initiative, although BLM does have the authority to cancel a lease.

Site Licenses. In the preamble to the proposed rule, we requested comments regarding the need for maintaining the site license provisions (subpart 3273). Two companies responded that the site license should be maintained, but the term of the site license should be longer and independent of the Federal lease on which it is located. These changes would lessen a lender's concerns for the continued viability of a project. Unfortunately, we cannot adopt these suggestions because they would go beyond our authority under the Steam Act.

Expenditures. Another comment recommended that the types of activities for which an operator may receive approval of significant expenditures (subpart 3208) and diligent exploration expenditures (DEE) (subpart 3210) should be broadened to include expenditures related to well field maintenance, environmental compliance, and negotiating power purchase contracts.

BLM has decided not to accept this recommendation. Under the existing regulations, activities qualifying as significant expenditures already include environmental review and the design and construction of utilization facilities, in addition to conducting drilling and geophysical operations. The purpose of the DEE requirement is to identify new geologic information related to the lease. Thus, the qualifying activities are limited to drilling and geophysical operations and activities related to obtaining permits to conduct those operations. Maintenance of a well field and related facilities are routine expenses incurred once the facilities are in place and therefore do not meet the requirements of either significant expenditures or DEE.

Utilization Permits. Several comments suggested changing the names of the various permits related to the utilization phase of development (part 3270). Some companies believed that the titles of the proposed permits made it difficult to understand what types of activities each permit authorized. Based on these comments, we have revised the title of each permit granting authorization to utilize Federal geothermal resources to more accurately describe the authorization granted by each permit. The new names are identified in Section II of this preamble discussing rule revisions of part 3270—Utilization of Geothermal Resources.

Proprietary and Confidential Information. One commenter suggested that instead of requiring operators to stamp each page of a document it considers to be proprietary or confidential information (PCI) as ''confidential,'' only the document cover should be stamped. Otherwise, to implement the proposed PCI policy of stamping each page we would have to stamp every page of PCI received and filed over the past 20 years, which would be very burdensome for both BLM and the geothermal industry. We are unable to accept this comment. BLM is currently preparing language to use in all BLM regulations which will call for people in this situation to mark confidential information page by page.

The reason is that when we consider releasing documents under the FOIA, we cannot withhold an entire document if only part of it qualifies for withholding. We must exercise our FOIA duties on a line-by-line basis, protecting only that information which qualifies for protection and releasing the rest. Therefore, the final rule now requests that you mark each page that you think contains confidential information, consistent with the forthcoming BLM FOIA rules. This does not mean that we have to review every document filed in the last 20 years. As FOIA requests come in, we will review the documents included in the request for confidentiality as FOIA requires us to do, whether past documents are marked as PCI or not.

Reporting Venting and Leakage. One comment recommended that proposed section 3276.11(g), requiring the operator to report the amount of steam or hot water lost to venting or leakage, not be required for every well every month, because significant venting or leakage is a relatively rare occurrence, and it adds an additional reporting requirement that would almost always be ''zero.'' We agree, and the final rule requires operators to report venting or leakage only if it is in significant quantities, which is defined to be more than 0.5 percent of total lease production in any given month.

Surface Management Agency Involvement. The Forest Service recommended that for leases located on lands managed by the Department of Agriculture, we obtain concurrence from the surface management agency prior to renewing a lease which is in an additional term and eligible to be renewed for a second 40-year term. We agree with the comment since this situation involves a leasing decision. In this final rule we revised section 3207.11 to require surface management agency concurrence before we grant the renewal. Another comment from the Forest Service suggested BLM revise section 3250.10(a)(2) to state that the surface management agency must concur with surface use and reclamation requirements before we grant an exploration permit. BLM disagrees with this comment since it exceeds the standard of the Steam Act. We will consult with the Federal surface management agency.

Well Pad Authorization. One comment expressed the concern that authorizing an operator to construct a well pad prior to granting authorization to drill a well (section 3261.15) may cause well pads to remain unattended for extended periods of time, or cause operators to build well pads which are not used. However, we do not share this concern; it is unlikely that an operator will waste money building drill pads and access roads without drilling a well in a reasonable amount of time. Furthermore, this provision is necessary to permit flexible solutions when well pad construction cannot occur in close timing to the drilling of the well. For example, in some areas the dirt work associated with access road and pad construction can occur only during limited periods of the year without causing significant soil erosion. As a result, an operator may not know which specific drilling equipment will be used, or which drilling procedures to follow, at the time the pad construction must take place. This provision would give BLM and the operator the tools to prevent unnecessary delays.

Accident Reporting Requirements. One commenter, concerned with overlapping reporting requirements, recommended we revise the accident reporting requirements in section 3264.14 and 3276.15 to allow other notification requirements, such as the requirement to report hazardous spills, to supersede this requirement. We do not agree with this comment. We should be notified of accidents regardless of whatever other reporting requirements are in effect. The operator may send us a copy of another report to satisfy this requirement.

A related comment recommended that we should include language to require reporting within less than 24 hours in some instances. Because of the numerous types of accidents that could occur, we felt that it would be overly burdensome to define different reporting requirements for different types of accidents. Each individual office will still have the flexibility to reduce reporting times on a case by case basis.

Environmental Protection Requirements. BLM received two comments regarding environmental protection requirements an operator must meet when drilling a well. One suggested changing the phrase ''as much as possible'' in section 3262.11(a)(3) to ''as necessary,'' because while accommodating other land uses could involve a wide variety of possible actions, we will determine which are actually necessary. We have made this change. A second comment suggested adding another requirement to this section: ''Meet any other specific environmental conditions, stipulations, or mitigation measures required as a result of the NEPA environmental review.'' We have not adopted this suggestion. All mitigation measures developed during the NEPA review will be included as conditions of approval on the permit authorizing the action. Therefore, this comment has already been addressed in section 3262.10 (c), which says ''[y]ou must conduct operations in accordance with conditions of approval.''

Finally, two comments addressed facility operations environmental and safety requirements. One suggested adding the phrase ''and the surface management agency'' to the end of the paragraph at section 3275.12(f). This change was not adopted. Although we will consult with the surface management agency before approving facility abandonment procedures, we are ultimately responsible for issuing the approval of the operation. The other comment suggested requiring operators to ''meet all conditions, stipulations, and mitigation measures required by the environmental review.'' We will incorporate any mitigation measures developed through the NEPA review process into the conditions of approval for the permit authorizing the action. Under 3275.11(d), the operator must comply with conditions to the approved plan or permit. Therefore, we do not believe the change is necessary and have not adopted it.

IV. Procedural Matters

National Environmental Policy Act

BLM prepared an environmental assessment (EA) and determined that this final rule would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C). BLM has placed the EA and the Finding of No Significant Impact on file in the BLM Administrative Record at the address specified previously. BLM invites the public to review these documents by contacting us at the addresses listed above (see **ADDRESSES**).

Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements in the final rule under 44 U.S.C. 3501 *et seq.*, and has assigned clearance number 1004–0132. Sections of this final rule with information collection requirements include several sections in subparts 3260–3267, and BLM estimates the public reporting burden of these sections to average as follows:

(1) Geothermal drilling permit, 10 hours per response.

(2) Geothermal sundry notice, 1 hour per response.

(3) Geothermal well completion report, 2–6 hours per response.

(4) Monthly report of geothermal operations, 1 hour per response.

This estimate includes 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 the burden, to Information Collection Clearance Officer, Bureau of Land Management, U.S. Department of the Interior, 1849 C Street, N.W., Mail Stop 401–LS, Washington, DC 20240, and the Office of Information and Regulatory Affairs, Desk Officer for the Department of the Interior (1004–AB18), Office of Management and Budget, Washington, DC 20503.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601 *et seq.*, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact on a substantial number of small entities. BLM has determined that this rule will not have a significant economic impact on a substantial number of small entities for two reasons. First, the Small Business Administration has defined a small entity, for purposes of geothermal resource development, as a business with no more than 500 employees or a business with no more than $9 million in annual receipts. 13 CFR 121.201 (1997). Based on ongoing operations, BLM estimates that there are no more than two existing operators that would qualify as small entities under either definition. Second, as the rule is focused on reorganizing and streamlining BLM's current regulations without making any major substantive changes, it will not have any economic impact on any sector of the geothermal resources industry. BLM therefore certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

This rule is not a ''major rule'' and therefore does not require Congressional approval under Subchapter E of the Small Business Regulatory Enforcement Fairness Act, P.L. 104–121 Title II, 5 U.S.C. 804(2). Because these regulations are limited to the stylistic, organizational and minimal substantive changes described above, they will not have an annual effect on the economy greater than $100 million; they will not result in major cost or price increases for consumers, industries, government agencies, or regions; nor will they have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

Because these regulations are limited to the stylistic, organizational and minimal substantive changes described above, they will not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year; nor will they have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12612, Federalism Assessments

Again, because these regulations are limited to the stylistic, organizational and minimal substantive changes described above, the final rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, BLM has determined that this final rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12630, Takings Assessments

The final rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of ''policies that have takings implications.'' Since the primary function of the final rule is to modify regulations to make them easier to read, streamline them and make only minimal substantive changes intended to enhance the geothermal resource leasing process, there will be no private property rights impaired as a result. Therefore, the Department of the Interior has determined that the rule would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 12866, Regulatory Planning and Review

This final rule is not a significant regulatory action and was not subject to review by the Office of Management and Budget under Executive Order 12866. These revised regulations will not have an effect of $100 million or more on the economy. They will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. These revised regulations will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Finally, these regulations will not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor will they raise novel legal or policy issues.

Executive Order 12988, Civil Justice Reform

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

Author: The principal authors of this rule are Richard Hoops and Jack Lewis of the BLM Nevada State Office, Sean Hagerty and Sonia Santillian of the BLM California State Office, Richard Estabrook of the BLM Ukiah District Office, Jack Feuer and Donna Kauffman of the BLM Oregon State Office, Dennis Davis of the BLM Prineville District Office, Robert Henricks and Connie Seare of the BLM Utah State Office, and Chris Fontecchio of the BLM Regulatory Affairs Group in Washington, DC.

List of Subjects

43 CFR Part 3200

Environmental protection, geothermal energy, government contracts, public lands-mineral resources, reporting and recordkeeping requirements, surety bonds.

43 CFR Part 3210

Geothermal energy, government contracts, land management bureau, public lands-mineral resources, reporting and recordkeeping requirements.

43 CFR Part 3220

Geothermal energy, government contracts, land management bureau, public lands-mineral resources,

reporting and recordkeeping requirements.

43 CFR Part 3240

Geothermal energy, government contracts, land management bureau, mineral royalties, public lands-mineral resources, reporting and record keeping requirements, water resources.

43 CFR Part 3250

Geothermal energy, geothermal exploration, land management bureau, public lands-mineral resources, reporting and recordkeeping requirements, surety bonds.

43 CFR Part 3260

Environmental protection, geothermal energy, government contracts, land management bureau, public lands-mineral resources, reporting and recordkeeping requirements.

Dated: September 18, 1998.

Sylvia V. Baca,

Assistant Secretary, Land and Minerals Management.

Accordingly, 43 CFR Chapter II is amended as follows:

PARTS 3220, 3240, 3250, AND 3260—[REMOVED]

1. Under the authority of 43 U.S.C. 1740, parts 3210, 3220, 3240, 3250 and 3260 are removed.

2. Part 3200 is revised to read as set forth below:

PART 3200—GEOTHERMAL RESOURCE LEASING

Subpart 3200—Geothermal Resource Leasing

Sec.

3200.1 Definitions.
3200.2 Information collection.
3200.3 Changes in agency duties.
3200.4 What requirements must I comply with when taking any actions or conducting any operations under this part?
3200.5 What are my rights of appeal?

Subpart 3201—Available Lands

3201.10 What lands are available for geothermal leasing?
3201.11 What lands are not available for geothermal leasing?

Subpart 3202—Lessee Qualifications

3202.10 Who may hold a geothermal lease?
3202.11 Must I prove I am qualified to hold a lease when filing an offer to lease?
3202.12 Are other persons allowed to act on my behalf to file an offer to lease?
3202.13 What happens if the offeror dies before the lease is issued?

Subpart 3203—Obtaining a Lease

3203.10 How can I obtain a geothermal lease?
3203.11 How is a KGRA determined?

Subpart 3204—Noncompetitive Leasing

3204.10 How do I file a lease offer?
3204.11 How do I describe the lands in my lease offer?
3204.12 What fees must I pay with my lease offer?
3204.13 May I combine acquired and public domain lands on the same lease offer?
3204.14 What is the largest and smallest lease I can apply for?
3204.15 What happens when two or more offerors apply for a noncompetitive lease for the same land?
3204.16 How does BLM determine the first qualified offeror?
3204.17 May I withdraw my lease offer?
3204.18 May I amend my lease offer?

Subpart 3205—Competitive Leasing

3205.10 How does BLM lease lands competitively?
3205.11 How do I get information about competitive lease terms and conditions?
3205.12 How do I bid for a parcel?
3205.13 What is the minimum acceptable bid?
3205.14 How does BLM conduct the sale?
3205.15 To whom does BLM issue the lease?
3205.16 How will I know whether my bid is accepted?

Subpart 3206—Lease Issuance

3206.10 What must I do for BLM to issue my lease?
3206.11 What must BLM do before issuing my lease?
3206.12 What is the maximum acreage I may hold?
3206.13 How does BLM compute acreage holdings?
3206.14 How will BLM charge acreage holdings if the United States owns only a fractional interest in the geothermal resources?
3206.15 Is there any acreage which is not chargeable?
3206.16 What will BLM do if my holdings exceed the maximum acreage limits?
3206.17 What is the primary term of my lease?
3206.18 When will BLM issue my lease?

Subpart 3207—Additional Lease Term

3207.10 When may I get an additional lease term beyond the primary term?
3207.11 May I renew my lease at the end of its additional term?

Subpart 3208—Extending the Primary Lease Term

3208.10 When may I extend my lease beyond the primary term?
3208.11 What must I do to have my lease extended?
3208.12 What information must I give BLM to show that I have made bona fide efforts to produce or utilize geothermal resources in commercial quantities?
3208.13 Will BLM extend my lease if I choose to pay instead of produce in commercial quantities?
3208.14 What will BLM do if I choose to make significant expenditures?
3208.15 What actions may I take which will count as significant expenditures?
3208.16 During the extension, may I switch my choice to either pay instead of produce in commercial quantities or make significant expenditures?
3208.17 If I begin production, do I get credit for payments made instead of production in commercial quantities or significant expenditures?

Subpart 3209—Conversion of a Lease Producing Byproducts

3209.10 May I convert my geothermal lease to a mineral lease?
3209.11 May I convert my geothermal lease to a mining claim?
3209.12 May BLM include additional terms and conditions to my converted lease?
3209.13 How do I convert my geothermal lease to a mineral lease or a mining claim?

Subpart 3210—Additional Lease Information

3210.10 When does lease segregation occur?
3210.11 Does a lease segregated from an agreement or plan receive any benefits from unitization of the committed portion of the original lease?
3210.12 May I consolidate leases?
3210.13 What is the diligent exploration requirement?
3210.14 How do I meet the diligent exploration requirement?
3210.15 Can I do something instead of performing diligent exploration?
3210.16 What happens if I do not meet the diligent exploration requirement or pay the additional rent?
3210.17 Can someone lease or locate other minerals on the same lands as my geothermal lease?
3210.18 May BLM readjust the terms and conditions in my lease?
3210.19 How will BLM readjust the terms and conditions in my lease?
3210.20 May BLM readjust the rental and royalty rates in my lease?
3210.21 What if I appeal BLM's decision to adjust my lease terms?
3210.22 Must I prevent drainage of geothermal resources from my lease?
3210.23 What will BLM do if I do not protect my lease from drainage?

Subpart 3211—Fees, Rent, and Royalties

3211.10 What are the filing fees, rent, and minimum royalties for leases?
3211.11 When is my annual rental payment due?
3211.12 How and where do I pay my rent?
3211.13 Is there a different rental or minimum royalty amount for a fractional interest lease?
3211.14 Will I always pay rent on my lease?
3211.15 Must I pay rent if my lease is committed to an approved cooperative or unit plan?
3211.16 What is the royalty rate for production from or attributable to my lease?
3211.17 When do I owe minimum royalty?

Subpart 3212—Lease Suspensions and Royalty Rate Reductions

3212.10 What is the difference between a suspension of operations and production and a suspension of operations?
3212.11 How do I obtain a suspension of operations or operations and production on my lease?
3212.12 How long does a suspension of operations or operations and production last?
3212.13 How does a suspension affect my lease terms?
3212.14 What happens when the suspension ends?
3212.15 May BLM reduce or suspend the royalty or rental rate of my lease?
3212.16 What information must I submit when I request that BLM suspend, reduce or waive my royalty or rental rate?

Subpart 3213—Relinquishment, Termination, Cancellation, and Expiration

3213.10 Who may relinquish a lease?
3213.11 What must I do to relinquish a lease?
3213.12 May BLM accept a partial relinquishment if it will reduce my lease to less than 640 acres?
3213.13 When does my relinquishment take effect?
3213.14 How can my lease automatically terminate?
3213.15 Will my lease automatically terminate if my rental payment is on time but for the wrong amount?
3213.16 Will BLM notify me if my lease terminates?
3213.17 May BLM reinstate my lease?
3213.18 Who may petition to reinstate a lease?
3213.19 What must I do to have my lease reinstated?
3213.20 Are there reasons why BLM would not reinstate my lease?
3213.21 When will my lease expire?
3213.22 Will BLM notify me when my lease's extended term expires?
3213.23 May BLM cancel my lease?
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Authority: 5 U.S.C. 552; 30 U.S.C. 1001–1027; 43 U.S.C. 1733, 1740.

Subpart 3200—Geothermal Resource Leasing

§ 3200.1 Definitions

Acquired lands means lands or mineral estates that the United States obtained by deed through purchase, gift, condemnation or other legal process.

Act means the Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001 *et seq.*).

Additional term means the period of years beyond the primary and any extended term of a producing lease granted when geothermal resources are produced or utilized in commercial quantities within the primary term or extended term. The additional term may not exceed 40 years beyond the end of the primary term, even if BLM grants later extensions.

Byproducts are minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with geothermal steam, and which no person would extract and produce by themselves because they are worth less than 75 percent of the value of the geothermal steam or because extraction and production would be too difficult.

Casual use means activities that ordinarily lead to no significant disturbance of Federal lands, resources, or improvements.

Commercial operation means delivering Federal geothermal resources, or electricity or other benefits derived from those resources, for sale. This term also includes delivering resources to the utilization point, if you are utilizing Federal geothermal resources for your own benefit and not selling energy to another entity.

Commercial quantities means either:

(1) For production from a lease, a sufficient volume (in terms of flow and temperature) of the resource to provide a reasonable return after you meet all costs of production; or

(2) For production from a unit, a sufficient volume of the resource to provide a reasonable return after you meet all costs of drilling and production.

Commercial Use Permit means BLM authorization for commercially operating a utilization facility and/or utilizing Federal geothermal resources.

Cooperative agreement means an agreement to produce and utilize separately-owned interests in the geothermal resources together as a whole, where the individual interests cannot be independently operated.

Development contract means a BLM-approved agreement between one or more lessees and one or more entities which makes resource exploration more efficient and protects the public interest.

Exploration operations means any activity relating to the search for evidence of geothermal resources, where you are physically present on the land and your activities may cause damage to those lands. Exploration operations include, but are not limited to, geophysical operations, drilling temperature gradient wells, drilling holes used for explosive charges for seismic exploration, core drilling or any other drilling method, provided the well is not used for geothermal resource production. It also includes related construction of roads and trails, and cross-country transit by vehicles over public land. Exploration operations do not include the direct testing of geothermal resources or the production or utilization of geothermal resources.

Extended term means an initial, and any successive, 5-year period beyond the primary term of a lease during which BLM will grant the lessee the right to continue activities under the existing lease.

Facility Construction Permit means BLM permission to build and test a utilization facility.

Facility operator means the person receiving BLM authorization to site, construct, test and/or operate a utilization facility. A facility operator may be a lessee, a unit operator, or a third party.

Geothermal Drilling Permit means BLM permission to drill for and test Federal geothermal resources.

Geothermal Exploration Permit means BLM permission to conduct only geothermal exploration operations and associated surface disturbance activities.

Geothermal Resources Operational Order means a formal, numbered order, issued by BLM that implements or enforces the regulations in this part.

Geothermal steam and associated geothermal resources are products of geothermal steam or hot water and hot brines, including those resulting from water, gas, or other fluids artificially introduced into geothermal formations; heat or other associated energy found in geothermal formations; and associated byproducts.

Interest means ownership in a lease of all or a portion of the record title or operating rights.

Known geothermal resource area (KGRA) means an area where BLM determines that persons knowledgeable in geothermal development would spend money to develop geothermal resources.

Lessee means a person holding record title interest in a geothermal lease issued by the BLM.

MMS means the Minerals Management Service of the Department of the Interior.

Notice to Lessees (NTL) means a written notice issued by BLM that implements the regulations in this part or geothermal resource operational orders, and provides more specific instructions on geothermal issues within a state, district or resource area. Notices to Lessees may be obtained by contacting the BLM state office which issued the NTL.

Operating rights (working interest) means any interest held in a lease with the right to explore for, develop, and produce leased substances.

Operating rights owner means a person who holds operating rights in a lease. A lessee is an operating rights owners if he/she did not transfer all of his/her operating rights. An operator may or may not own operating rights.

Operations Plan, or plan of operations, means a plan which fully describes the location of proposed drill pad, access roads and other facilities related to the drilling and testing of Federal geothermal resources, and includes measures for environmental and other resources protection and mitigation.

Operator means any person who has taken formal responsibility for the operations conducted on the leased lands.

Pay instead of produce in commercial quantities means payment in lieu of commercial quantities production, as used in section 6(g)(1)(A) of the Act.

Person means an individual, firm, corporation, association, partnership, trust, municipality, consortium or joint venture.

Primary term means the first 10 years of a lease, not including any periods of suspension.

Produced or utilized in commercial quantities means a well producing geothermal resources in commercial quantities, or the completion of a well capable of producing geothermal resources in commercial quantities when BLM determines the lessee is diligently attempting to utilize the geothermal resources.

Public lands means the general public domain lands or minerals, and acquired lands or minerals, that the United States may lease for geothermal resources.

Record title means legal ownership of a geothermal lease established in BLM's records.

Relinquishment means the lessee's action to voluntarily end the lease in whole or in part.

Secretary means the Secretary of the Interior or the Secretary's delegate.

Site license means BLM authorization to site a utilization facility on leased Federal lands.

Stipulation means additional conditions BLM attaches to a lease or permit.

Sublease means the lessee's conveyance of its interests in a lease to an operating rights owner. A sublessee is responsible for complying with all terms, conditions and stipulations of the lease.

Subsequent well operations are those operations done to a well after it has been drilled. Examples of subsequent well operations include: cleaning the well out, surveying it, performing well tests, chemical stimulation, running a liner or another casing string, repairing existing casing, or converting the well from a producer to an injector or vice versa.

Sundry notice is your written request to perform work not covered by another type of permit, or to change operations in your previously approved permit.

Surface management agency means any Federal agency, other than BLM, which is responsible for managing the surface overlying Federally-owned minerals.

Temperature gradient well means a well authorized under a geothermal exploration permit drilled in order to obtain information on the change in temperature over the depth of the well.

Transfer means any conveyance of an interest in a lease by assignment, sublease or otherwise.

Unit agreement means an agreement to explore for, produce and utilize separately owned interests in geothermal resources as a single consolidated unit. A unit agreement defines how costs and benefits will be allocated among the holders of interest in the unit area.

Unit area means all tracts committed to an approved unit agreement.

Unit operator means the person who has stated in writing to BLM that the interest owners of the committed leases have designated it as operator of the unit area.

Unitized substances means geothermal resources recovered from lands committed to a unit agreement.

Utilization Plan, or plan of utilization, means a plan which fully describes the utilization facility, including measures for environmental protection and mitigation.

Waste means:

(1) Physical waste, including refuse; and/or

(2) Improper use or unnecessary dissipation of geothermal resources through inefficient drilling, production, transmission, or utilization.

§ 3200.2 Information collection.

(a) The Office of Management and Budget approved the information collection contained in this part under 44 U.S.C. 3501 *et seq.*, and assigned clearance numbers 1004–0034, 1004–0074, 1004–0132 and 1004–0160. BLM will use this information to maintain an orderly program for leasing, development and production of Federal geothermal resources, to evaluate technical feasibility and environmental impacts of geothermal operations on Federal and Indian lands, and to determine whether exploration expenditures meet the requirements for diligence credit under 43 CFR 3210.14. The public must respond to the requests for information in order to obtain a benefit.

(b) Public reporting burden for this information is estimated to average 1.6 hours per response, 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 estimates or any other aspects of this collection of information, including suggestions for reducing the burden, to Administrative Record, Bureau of Land Management, Room 401 LS, 1849 C Street, NW., Washington, DC 20240; and the Paperwork Reduction Project (1004–0160), Office of Management and Budget, Washington, DC 20503.

§ 3200.3 Changes in agency duties.

There are many leases and agreements currently in effect, and which will remain in effect, involving Federal geothermal resources leases that specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements may also specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager, and Deputy Minerals Manager. Those references must now be read to mean either the Bureau of Land Management or the Minerals Management Service, as appropriate. In addition, many leases and agreements specifically refer to 30 CFR part 270 or a specific section of that part. Effective December 3, 1982, references in such leases and agreements to 30 CFR part 270 should be read as references to this part 3200, which is the successor regulation to 30 CFR part 270.

§ 3200.4 What requirements must I comply with when taking any actions or conducting any operations under this part?

When you are taking any actions or conducting any operations under this part, you must comply with:

(a) The Act and the regulations of this part;

(b) Geothermal resource operational orders;

(c) Notices to lessees;

(d) Lease terms and stipulations;

(e) Approved plans and permits;

(f) Conditions of approval;

(g) Verbal orders from BLM which will be confirmed in writing;

(h) Other instructions from BLM; and

(i) Any other applicable laws and regulations.

§ 3200.5 What are my rights of appeal?

(a) If you are adversely affected by a BLM decision under this part, you may appeal that decision under parts 4 and 1840 of this title.

(b) All BLM decisions or approvals under this part are immediately effective and remain in effect while appeals are pending unless a stay is granted in accordance with 43 CFR 4.21(b).

Subpart 3201—Available Lands

§ 3201.10 What lands are available for geothermal leasing?

(a) BLM may issue leases on:

(1) Lands administered by the Department of the Interior, including public, withdrawn and acquired lands;

(2) Lands administered by the Department of Agriculture with its concurrence;

(3) Lands conveyed by the United States where the geothermal resources were reserved to the United States; and

(4) Lands subject to section 24 of the Federal Power Act, as amended (16 U.S.C. 818), with concurrence from the Secretary of Energy.

(b) If your activities under your lease or permit might adversely affect a significant thermal feature of a National Park System unit, BLM will include stipulations to protect this thermal feature in your lease or permit. This includes when your lease or permit is issued, extended, renewed or modified.

§ 3201.11 What lands are not available for geothermal leasing?

BLM will not issue leases for:

(a) Lands where the Secretary has determined that issuing the lease would cause unnecessary or undue degradation to public lands and resources;

(b) Lands contained within a unit of the National Park System, or are otherwise administered by the National Park Service;

(c) Lands within a National Recreation Area;

(d) Lands where the Secretary determines after notice and comment that geothermal operations, including exploration, development or utilization of lands, are reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System;

(e) Fish hatcheries or wildlife management areas administered by the Secretary;

(f) Indian trust or restricted lands within or outside the boundaries of Indian reservations;

(g) The Island Park Geothermal Area; and

(h) Lands where section 43 of the Mineral Leasing Act (30 U.S.C. 226–3) prohibits geothermal leasing, including:

(1) Wilderness areas or wilderness study areas administered by BLM or other surface management agencies;

(2) Lands designated by Congress as wilderness study areas, except where the statute designating the study area specifically allows leasing to continue; and

(3) Lands within areas allocated for wilderness or further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document 96–119), unless such lands are allocated to uses other than wilderness by a land and resource management plan or are released to uses other than wilderness by an act of Congress.

Subpart 3202—Lessee Qualifications

§ 3202.10 Who may hold a geothermal lease?

You may hold a geothermal lease if you are:

(a) A United States citizen who is at least 18 years old;

(b) An association of United States citizens, including a partnership;

(c) A corporation organized under the laws of the United States, any state or the District of Columbia; or

(d) A domestic governmental unit.

§ 3202.11 Must I prove I am qualified to hold a lease when filing an offer to lease?

You do not need to submit proof that you are qualified to hold a lease under 43 CFR 3202.10 at the same time you submit an offer to lease, but BLM may ask you for information about your qualifications at any time. If BLM requests additional information, you have 30 days from when you receive the request to submit the information.

§ 3202.12 Are other persons allowed to act on my behalf to file an offer to lease?

Another person may act on your behalf to file an offer to lease. The person acting for you must be qualified to hold a lease under 43 CFR 3202.10, and must do the following:

(a) Sign the document;

(b) State his or her title;

(c) Identify you as the person he or she is acting for; and

(d) Provide written proof of his or her qualifications and authority to take such action, if BLM requests it.

§ 3202.13 What happens if the offeror dies before the lease is issued?

If the offeror dies before the lease is issued, BLM will issue the lease to either the administrator or executor of the estate or the heirs. If the heirs are minors, BLM will issue the lease to either a legal guardian or trustee, provided that the legal guardian or trustee is qualified to hold a lease under 43 CFR 3202.10.

Subpart 3203—Obtaining a Lease

§ 3203.10 How can I obtain a geothermal lease?

(a) If the lands are located in a known geothermal resource area (KGRA), BLM leases those lands through a competitive sale. To obtain a lease, follow the procedures for submitting a bid set out in subpart 3205 of this part. BLM will issue a competitive lease to the person who submits the highest qualified bid.

(b) If the lands are located outside a KGRA, you may obtain a noncompetitive lease. Follow the procedures in subpart 3204 of this part. BLM issues noncompetitive leases to the first qualified offeror. BLM may issue a lease for a fractional interest if it serves the public interest.

§ 3203.11 How is a KGRA determined?

BLM determines the boundaries of a KGRA based on:

(a) Geologic and technical evidence. BLM will designate a KGRA if this evidence would cause a person who understands geothermal resource development to spend money developing the area;

(b) Proximity to wells capable of production in commercial quantities. BLM will designate a KGRA if the lands are:

(1) Within 5 miles of a well which is capable of producing steam in commercial quantities, or

(2) In the same geologic structure as a well capable of producing steam in commercial quantities; and

(c) Existence of competitive interest. A competitive interest exists where two or more people apply to lease some or all of the same lands for geothermal resources. BLM will not designate a KGRA based on competitive interest alone; we will also review the other factors discussed in this section to decide whether a KGRA designation is warranted.

Subpart 3204—Noncompetitive Leasing

§ 3204.10 How do I file a lease offer?

Submit two (2) executed copies of Form 3200–24 to BLM. At least one form must have an original signature. We will accept only exact copies of the form on one two-sided page. You must accurately describe the lands covered by your offer on the form or BLM may reject of all or part of your offer. To obtain this form (and other BLM forms), contact the nearest BLM Office.

§ 3204.11 How do I describe the lands in my lease offer?

Describe the lands as follows:

(a) For lands surveyed under the public land rectangular survey system, describe the lands by legal subdivision, section, township, and range;

(b) For unsurveyed lands, describe the lands by metes and bounds, giving courses and distances, and tie this information to an official corner of the public land surveys, or to a prominent topographic feature;

(c) For approved protracted surveys, include an entire section, township, and range. Do not divide protracted sections into aliquot parts;

(d) For unsurveyed lands in Louisiana and Alaska that have water boundaries,

discuss the description with BLM before submission; and

(e) For fractional interest lands, identify the United States mineral ownership by percentage.

§ 3204.12 What fees must I pay with my lease offer?

Submit a non-refundable filing fee of $75 for each lease offer, and an advance rent in the amount of $1 per acre (or fraction of an acre). BLM will refund the advance rent if we reject the lease offer, or if you withdraw the lease offer before BLM accepts it. If the advance rental payment you send is more than 10 percent below the correct amount, BLM will reject the lease offer.

§ 3204.13 May I combine acquired and public domain lands on the same lease offer?

Yes, you may combine acquired and public domain lands on the same lease offer if you clearly identify both the acquired lands and the public domain lands.

§ 3204.14 What is the largest and smallest lease I can apply for?

Lease offers must cover all lands available for leasing in a section. The smallest lease you can apply for is 640 acres, or all lands available for leasing in the section, whichever is less. You may not apply for a lease which is larger than 2,560 acres, although BLM will make an exception to this requirement when your lease offer includes an irregular subdivision. Leases must not extend outside a 6 square mile area. If your offer does not meet these requirements, we will reject it.

§ 3204.15 What happens when two or more offerors apply for a noncompetitive lease for the same land?

BLM begins processing offers as soon as we receive them. If more than one person makes a lease offer for the same lands, BLM will give priority to the qualified offer which we received first. Once BLM approves a noncompetitive lease offer, we will reject any later offers received for the same land. However, if BLM receives additional offers for the same land while the original offer is still pending, BLM must determine if the overlapping offers warrant converting the land at issue to a KGRA:

(a) If BLM determines that the land should be considered a KGRA, then we reject all noncompetitive offers, and offerors must follow the competitive bidding procedures to lease the lands.

(b) If BLM determines that KGRA status is not warranted despite the multiple offers, then we will award the lease to the first qualified offeror.

§ 3204.16 How does BLM determine the first qualified offeror?

BLM determines the first qualified offeror based on when we received the offer and whether the offeror is qualified to hold a lease. We will issue a noncompetitive lease to the offeror who is first to file a lease offer that meets all the requirements.

§ 3204.17 May I withdraw my lease offer?

You may withdraw your lease offer in whole or in part before we issue you a lease. If you withdraw only part of your offer, the lands remaining must meet the acreage requirements of 43 CFR 3204.14. If a partial withdrawal causes your lease offer to contain less than the minimum acreage required under 43 CFR 3204.14, we will reject the lease offer.

§ 3204.18 May I amend my lease offer?

You may amend your lease offer before we issue the lease, provided your amended lease offer meets all the lease offer requirements in this subpart. BLM will determine your priority based on the date we receive your amended lease offer, not the date of the original lease offer.

Subpart 3205—Competitive Leasing

§ 3205.10 How does BLM lease lands competitively?

(a) We lease some Federal lands through competitive sales using sealed bids. Those lands which we lease competitively include lands from terminated, expired, or relinquished leases, and lands within a KGRA (see 43 CFR 3203.11). BLM may also use a competitive lease sale if there is public interest.

(b) BLM lists these parcels, with any stipulations, in a sale notice. This sale notice will tell you where and when to submit your bids. We will post the sale notice in appropriate BLM offices, and may take other measures such as:

(1) Publishing news releases;

(2) Notifying interested parties of the lease sale;

(3) Publishing the notice in newspapers; or

(4) Posting the list on the Internet.

§ 3205.11 How do I get information about competitive lease terms and conditions?

See our notice posted in the BLM office conducting the sale, and otherwise publicized as described in 43 CFR 3205.10. This notice will include the terms and conditions of the lease(s), including the rental and royalty rates, and will also tell you where you may obtain a form on which to submit your bid.

§ 3205.12 How do I bid for a parcel?

(a) Submit your bid during the time period and to the BLM office specified in the sale notice;

(b) Submit your bid on Form 3000–2 (or exact copy on one two-sided page);

(c) Submit your bid in a separate, sealed envelope for each full parcel;

(d) Include in each bid a certified or cashier's check, bank draft, or money order equal to one-fifth of the bid amount, payable to the ''Department of the Interior, Bureau of Land Management;''

(e) Label each envelope with the parcel number and the statement ''Not to be opened before (date posted in the sale notice);'' and

(f) Be aware that unlawful combination or intimidation of bidders is prohibited by 18 U.S.C. 1860.

§ 3205.13 What is the minimum acceptable bid?

BLM will not accept bids which do not meet or exceed the fair market value, which BLM determines using generally acceptable appraisal methods. BLM determines the fair market value prior to the sale, but does not disclose it to the public.

§ 3205.14 How does BLM conduct the sale?

We will open, announce and record bids on the date, and at the place and time set out in the sale notice. We will not accept or reject any bid at that time. You do not need to attend the sale in order to bid.

§ 3205.15 To whom does BLM issue the lease?

We will issue the lease to the highest bidder who qualifies for a lease. All other bids are rejected. If we determine that the highest bid is too low, we will also reject that bid. BLM reserves the right to reject any and all bids.

§ 3205.16 How will I know whether my bid is accepted?

(a) If BLM accepts your bid, we will send you a notice informing you of our decision within 30 days after the sale. We will also include 3 copies of the lease. When you receive the notice and lease forms, you have 15 days in which to send BLM:

(1) Signed lease forms;

(2) The remaining four-fifths of the bonus bid;

(3) The first year's advance rent; and

(4) Signed stipulations, if applicable.

(b) If you do not meet the requirements of this section after we have accepted your bid, BLM will then revoke acceptance of your bid and keep one-fifth of your bonus bid.

(c) If BLM rejects your bid, we will send you a notice informing you of our

decision. At that time, we will return the one-fifth of the bonus bid that you sent with your bid offer.

Subpart 3206—Lease Issuance

§ 3206.10 What must I do for BLM to issue my lease?

Before BLM issues you a lease, you must:

(a) Accept all lease stipulations;

(b) Sign a unit joinder or waiver, if applicable; and,

(c) Not exceed the maximum limit on acreage holdings (see 43 CFR 3206.12).

§ 3206.11 What must BLM do before issuing my lease?

BLM must:

(a) Determine that the land is available; and

(b) Determine that your lease development will not significantly impact any significant thermal feature within any of the following units of the National Park System:

(1) Mount Rainier National Park;

(2) Crater Lake National Park;

(3) Yellowstone National Park;

(4) John D. Rockefeller, Jr. Memorial Parkway;

(5) Bering Land Bridge National Preserve;

(6) Gates of the Arctic National Park and Preserve;

(7) Katmai National Park;

(8) Aniakchak National Monument and Preserve;

(9) Wrangell-St. Elias National Park and Preserve;

(10) Lake Clark National Park and Preserve;

(11) Hot Springs National Park;

(12) Big Bend National Park (including that portion of the Rio Grande National Wild Scenic River within the boundaries of Big Bend National Park);

(13) Lassen Volcanic National Park;

(14) Hawaii Volcanoes National Park;

(15) Haleakala National Park;

(16) Lake Mead National Recreation Area; and

(17) Any other significant thermal features within National Park System Units which the Secretary may add to the list of these features, in accordance with 30 U.S.C. 1026(a)(3).

§ 3206.12 What is the maximum acreage I may hold?

You may not directly or indirectly hold more than 51,200 acres in any one state. This includes any leases you acquire under sections 4(a)–4(f) of the Act. You also may not convert mineral leases, permits, applications for permits, or mining claims acquired under the Act into geothermal leases totaling more than 10,240 acres.

§ 3206.13 How does BLM compute acreage holdings?

BLM will compute acreage holdings as follows:

(a) If you own an undivided lease interest, your acreage holdings will include the total lease acreage.

(b) If you own stock in a corporation or a beneficial interest in an association which holds a geothermal lease, your acreage holdings will include your proportionate part of the corporation's or association's share of the total lease acreage. This paragraph applies only if you own more than 10 percent of the corporate stock or beneficial interest of the association.

(c) If you own a lease interest, you will be charged with the proportionate share of the total lease acreage based on your share of the lease ownership. You will not be charged twice for the same acreage where you own both record title and operating rights for the lease. For example, if you own 50% record title interest in a 640 acre lease and 25% operating rights, you are charged with 320 acres.

§ 3206.14 How will BLM charge acreage holdings if the United States owns only a fractional interest in the geothermal resources?

Where the United States owns only a fractional interest in the geothermal resources of the lands, BLM will only charge you with the part owned by the United States as acreage holdings. For example, if you own 100 percent of record title in a 100 acre lease, and the United States owns 50 percent of the mineral estate, you are charged with 50 acres.

§ 3206.15 Is there any acreage which is not chargeable?

BLM does not count leased acreage included in any approved unit or cooperative agreement or development contract as part of your total acreage holdings.

§ 3206.16 What will BLM do if my holdings exceed the maximum acreage limits?

BLM will notify you in writing if your acreage holdings exceed the limit in 43 CFR 3206.12. You have 90 days from the date you receive the notice to reduce your holdings to within the limit. If you do not comply, BLM will cancel your leases, beginning with the lease most recently issued, until your holdings are within the limit.

§ 3206.17 What is the primary term of my lease?

Leases have a primary term of 10 years.

§ 3206.18 When will BLM issue my lease?

BLM issues your lease the day we sign it. Your lease goes into effect the first day of the next month after the issue date.

Subpart 3207—Additional Lease Term

§ 3207.10 When may I get an additional lease term beyond the primary term?

(a) If you produce or use geothermal resources in commercial quantities during the primary term, your lease will continue in additional term for as long as you produce or use geothermal resources in commercial quantities for up to forty years beyond the primary term. Section 3207.11 explains how to continue your lease beyond the additional term.

(b) If, before the primary or extended term ends, you have a well capable of producing geothermal resources in commercial quantities, BLM may continue your lease for up to forty years beyond the primary term. To continue your lease in an additional term, we must determine that you are diligently trying to begin production. We may ask you to describe in writing your efforts to begin production during the lease term, and the efforts you plan for future lease years. You should also describe negotiations for sales contracts, marketing arrangements, and electrical generating and transmission agreements, and any other information you believe shows diligent efforts.

§ 3207.11 May I renew my lease at the end of its additional term?

If BLM does not need the lands for another purpose at the end of the forty-year additional term, and if you are producing geothermal resources in commercial quantities, you will have a preferential right to renew the lease for an additional 40-year period under terms and conditions BLM determines. If your lease is located on lands administered by the Department of Agriculture, they must concur with the use of the surface and any terms and conditions before we may grant your renewal. If another Federal agency manages the surface, we will consult with them before granting your renewal.

Subpart 3208—Extending the Primary Lease Term

§ 3208.10 When may I extend my lease beyond the primary term?

(a) You have four opportunities to extend your lease beyond the primary term: by drilling, diligent efforts, production of byproducts, and unit commitment.

(1) For a drilling extension, we will extend your lease for five years if you:

(i) Are drilling when the primary term ends; and

(ii) Diligently drill to a reasonable target, based on the local geology and type of development you propose. BLM will determine if your target is adequate to extend the lease.

(2) For a diligent efforts extension, if you have not produced geothermal resources in commercial quantities before the primary or extended term ends, or before your lease is eliminated from a unit agreement, BLM may still approve up to two successive five-year extensions for your lease. You must have made a good faith effort to produce. To obtain a diligent efforts extension, follow the procedures at 43 CFR 3208.11(a)(2).

(3) For a byproducts extension, if your lease is in an additional term, and we determine that it can no longer produce commercial quantities, we may still extend your lease for five years. However, we will only do so if you are producing one or more valuable byproducts in commercial quantities. You should consult 43 CFR 3209.10 if you wish to convert your geothermal lease to a mineral lease for the byproduct.

(4) For a unit commitment extension, if your lease is committed to a unit agreement and its term would expire before the unit term would, BLM may extend your lease to match the term of the unit. We will do this if you have diligently pursued unit development while your lease is committed to the unit.

(b) During any extension period, if you use or produce geothermal resources in commercial quantities, or if you complete a well capable of producing geothermal resources in commercial quantities on the lease, BLM will place the lease into an additional term.

§ 3208.11 What must I do to have my lease extended?

(a) You must take the following steps:

(1) For a drilling extension, notify BLM prior to the end of the primary term of your drilling activities so we may determine that you are diligently drilling beyond the end of the primary term and have met your well completion requirements.

(2) For a diligent efforts extension:

(i) Send BLM a written extension request at least 60 days before the primary or first extended term ends, or 60 days before your lease is eliminated from a unit agreement;

(ii) Include a report showing that you have made a good faith effort to produce or use geothermal resources in commercial quantities given the current economic conditions for marketing geothermal resources; and

(iii) Say whether you choose to pay instead of produce in commercial quantities under 43 CFR 3208.13 or to make significant expenditures under 43 CFR 3208.14 during the period of extension.

(3) For a byproducts extension, send us a request justifying an extension.

(4) For a unit commitment extension, send us a request at least 60 days before your lease ends which shows that you have diligently pursued unit development.

(b) Within 30 days after receiving your extension request, BLM will notify you whether we approve. BLM may request additional information from you.

§ 3208.12 What information must I give BLM to show that I have made bona fide efforts to produce or utilize geothermal resources in commercial quantities?

Send us a report which describes:

(a) Your efforts to identify and define the geothermal resource on your lease which you are making now or which you made during the primary term of the lease;

(b) The results of your efforts to identify and define the geothermal resource;

(c) Other actions taken to support your efforts, such as obtaining permits, conducting environmental studies, and meeting permit requirements;

(d) Your efforts during the primary term and ongoing efforts to negotiate marketing arrangements, sales contracts, drilling agreements, financing for electrical generation and transmission projects, or other related actions; and,

(e) Current economic factors and conditions which affect your efforts to produce or utilize geothermal resources in commercial quantities on your lease.

§ 3208.13 Will BLM extend my lease if I choose to pay instead of produce in commercial quantities?

If you choose to pay instead of produce in commercial quantities under 43 CFR 3208.11(a)(2) and BLM approves the extension, we will modify the lease to require you to make an annual payment. We will specify the amount, which will not be less than $3.00 per acre or fraction of an acre of the lands under lease during an initial extension, or $6.00 per acre or fraction of an acre for a subsequent extension. The actual payment per acre is fixed for the period of the extension. If you request it, we will tell you the rate before you submit your petition for extension. You must make these payments to MMS at the same time you pay the lease rent. BLM may cancel your lease if you do not make these payments.

§ 3208.14 What will BLM do if I choose to make significant expenditures?

(a) If you choose to make significant expenditures under 43 CFR 3208.11(a)(2), and BLM approves the lease extension, we will modify your lease to require you to make annual expenditures of at least $15.00 per acre or fraction of an acre for lands under lease during your first extension. You must make expenditures of $18.00 per acre or fraction of an acre during any subsequent extension. If you spend more than the minimum required in a year, you may apply the excess toward the significant expenditures requirement in subsequent years of the same extension period.

(b) To give you credit for your significant expenditures, we must receive your report no later than 60 days after the end of the lease year in which you made the expenditures. Describe your operations by type, location, date(s) conducted, and amount spent on those operations. Include all geologic information obtained from your operations in your report.

(c) After we review your report, we will notify you in writing whether you have met the diligent expenditure requirement. We must approve the type of work done and the expenditures claimed in your report before we can credit them toward your diligent exploration requirements.

(d) We will cancel your lease if you fail to make the significant expenditures under a modified lease.

§ 3208.15 What actions may I take which will count as significant expenditures?

Significant expenditures only include:

(a) Actual drilling operations on the lease;

(b) Geochemical or geophysical surveys for exploratory or development wells;

(c) Road or generating facility construction on the lease;

(d) Architectural or engineering services procured for the design of generating facilities located on the lease; and

(e) Environmental studies required by State or Federal law.

§ 3208.16 During the extension, may I switch my choice to either pay instead of produce in commercial quantities or make significant expenditures?

No, you may not make this change during an extension period. If you request a second extension, you may change your election for the second five year period when you submit your request.

§ 3208.17 If I begin production, do I get a credit for payments made instead of production in commercial quantities or significant expenditures?

No, if you begin production, you will not get a credit against royalties for either payments instead of production or significant expenditures made for that year.

Subpart 3209—Conversion of Lease Producing Byproducts

§ 3209.10 May I convert my geothermal lease to a mineral lease?

You may convert your geothermal lease to a mineral lease, effective the first day of the month following the date BLM determines you have met the terms of conversion, if:

(a) Your lease is in an extended term;

(b) The byproducts you are producing in commercial quantities are leasable under the Mineral Leasing Act (30 U.S.C. 181 *et seq.*), or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–358); and

(c) The lease is primarily valuable for the production of just that mineral.

§ 3209.11 May I convert my geothermal lease to a mining claim?

If the minerals are not leasable but are locatable and would be considered a byproduct if geothermal steam production were to continue, you are entitled to locate these minerals under the mining laws. To acquire these rights, you must complete the mining claim location within 90 days after the geothermal lease terminates. Also, there must have been no intervening location and the lands must be open to entry under the mining laws.

§ 3209.12 May BLM include additional terms and conditions to my converted lease?

If leases converted under either 43 CFR 3209.10 or 3209.11 affect lands withdrawn or acquired to aid some purpose of a Federal department or agency, including the Department of the Interior, BLM may include additional terms and conditions in your lease as prescribed by the appropriate agency.

§ 3209.13 How do I convert my geothermal lease to a mineral lease or a mining claim?

Just send us a request.

Subpart 3210—Additional Lease Information

§ 3210.10 When does lease segregation occur?

(a) Lease segregation occurs when:

(1) A portion of a lease is committed to a unit agreement while other portions are not committed; or

(2) Only a portion of a lease is located in a participating area and the unit contracts. The portion of the lease outside the participating area would be eliminated from the unit agreement and segregated as of the effective date of the unit contraction.

(b) BLM will assign the original lease serial number to the portion within the plan or agreement. We will give the lease portion outside the plan or agreement a new serial number with the same lease terms as the original lease.

§ 3210.11 Does a lease segregated from an agreement or plan receive any benefits from unitization of the committed portion of the original lease?

The new segregated lease stands alone and does not receive any of the benefits provided to the portion committed to the unit. We will not give you an extension for the eliminated portion of the lease based on status of the lands committed to the unit, including production in commercial quantities or the existence of a producible well.

§ 3210.12 May I consolidate leases?

BLM may approve your consolidation of two or more adjacent leases that have the same ownership and same lease terms, including expiration dates, if the combined leases do not exceed 2,560 acres in size. We may consolidate leases that have different stipulations if all other lease terms are the same.

§ 3210.13 What is the diligent exploration requirement?

(a) During your lease's primary period, you must perform diligent exploration activities to yield new geologic information about the lease or related lands, until either:

(1) Your approved expenditures on your lease total at least $40 per acre, or

(2) BLM places your lease in an additional term.

(b) You must begin diligent exploration by the sixth year of the primary term and continue until there is a well capable of production in commercial quantities. Some examples of activities that would qualify as diligent exploration are geochemical surveys, heat flow measurement, core drilling or drilling of test wells.

§ 3210.14 How do I meet the diligent exploration requirement?

(a) During the first five years of the primary term, you only need to pay your rents. If you make efforts during these first five years that would qualify as diligent exploration expenditures, and we approve them as such during those five years, we will count them toward the requirements of future years.

(b) To qualify as diligent exploration expenditures in lease years six through ten, you must make expenditures equal to the minimum amounts listed in the following table. We will apply approved expenditures which exceed the minimum in any one year to subsequent years.

Lease year	Expenditure per acre
6	$4
7	6
8	8
9	10
10	12

(c) To give you credit for your expenditures, we must receive your report no later than 60 days after the end of the lease year in which you made the expenditures. You must include the following information in your report:

(1) The types of operations conducted;

(2) The location of the operations;

(3) When the operations occurred;

(4) The amount of money spent conducting those operations; and

(5) all geologic information obtained from your operations.

§ 3210.15 Can I do something instead of performing diligent exploration?

If you choose not to conduct diligent exploration, or if your total expenditures do not fully meet the requirement for any lease year, you may still meet the diligent exploration requirement for that year by paying an additional rent of $3 per acre or fraction of an acre. If you choose this option, you must send your payment to MMS before the end of the lease year.

§ 3210.16 What happens if I do not meet the diligent exploration requirement or pay the additional rent?

BLM will cancel your lease.

§ 3210.17 Can someone lease or locate other minerals on the same lands as my geothermal lease?

Yes. The United States reserves the ownership of and the right to extract helium, oil and hydrocarbon gas from all geothermal steam and associated geothermal resources. In addition, BLM allows mineral leasing or location on the same lands that are leased for geothermal resources, provided that operations under the mineral leasing or mining laws do not unreasonably interfere with or endanger your geothermal operations.

§ 3210.18 May BLM readjust the terms and conditions in my lease?

Yes, we may readjust the terms and conditions of your lease regarding

stipulations and surface disturbance requirements. We may do this 10 years after you begin production from your lease, and at not less than 10-year intervals thereafter. If another Federal agency manages the lands' surface, we will ask that agency to review the related terms and conditions and propose any readjustments. Once BLM and the surface managing agency reach agreement, we will apply the readjustments to your lease.

§ 3210.19 How will BLM readjust the terms and conditions in my lease?

(a) We will give you a written proposal to adjust the terms and conditions of your lease. You will have 30 days after you receive the proposal to object in writing to the new terms or relinquish your lease. If you do not do this, these new terms will become part of your lease. If you do object in writing, we will issue a final decision on the new terms and conditions.

(b) BLM will set the date that your new terms and conditions become effective.

§ 3210.20 May BLM readjust the rental and royalty rates in my lease?

(a) We may readjust your lease rental and royalty rates at not less than 20-year intervals beginning 35 years after we determine that your lease is producing in commercial quantities. We will not increase your rental and royalty rates by more than 50 percent of what you paid before BLM adjusted the rate. Also, we will not raise the royalty rate above 22.5 percent.

(b) BLM will notify you in writing of the proposed adjustments. You have 30 days after the date you receive the notice to object to the new rate. If we do not receive your written objection within 30 days, the new rate will become a part of your lease. If you do object in writing, we will issue a final decision on the new rental and royalty rate.

(c) We will set the date that your new terms and conditions become effective.

§ 3210.21 What if I appeal BLM's decision to adjust my lease terms?

If you appeal our decision to adjust your lease terms and conditions, rental or royalty rate, the decision is effective during the appeal. If you win your appeal and we must change our decision, you will receive a refund or credit for any overpaid rents or royalties.

§ 3210.22 Must I prevent drainage of geothermal resources from my lease?

Yes, you must prevent the drainage of geothermal resources from your lease by diligently drilling and producing wells which will protect the Federal geothermal resource from loss caused by production from other properties.

§ 3210.23 What will BLM do if I do not protect my lease from drainage?

We will determine the amount of geothermal resources drained from your lease. MMS will bill you for a compensatory royalty based on our findings. This royalty will equal the amount you would have paid for producing those resources. All interest owners in a lease are jointly and severally liable for drainage protection and any compensatory royalties.

Subpart 3211—Fees, Rent, and Royalties

§ 3211.10 What are the filing fees, rent, and minimum royalties for leases?

(a) BLM calculates rents and minimum royalties based on the amount of acreage covered by your lease. First, round up any partial acreage to the next whole acre. For example, rent on a 2,456.39 acre lease is calculated based on 2,457 acres. Then multiply the total number of acres covered by your lease by the appropriate amount set out in the chart in paragraph (b) of this section to determine the amount you owe.

(b) Use the following table to determine the filing fees, rents and minimum royalties owed for your lease.

FILING FEES, RENT, AND ROYALTIES

Type	Competitive leases	Non-competitive leases
(1) Lease Filing Fee	N/A	$75.00.
(2) Lease Rent.	$2.00 per acre	$1.00 per acre.
(3) Lease Assignment Filing Fee	$50.00	$50.00.
(4) Steam, heat, or energy royalties	Between 10% and 15	Between 10% and 15%.
(5) Demineralized water royalties	5%	5%.
(6) Byproduct royalties	5%	5%.
(7) Minimum royalty	$2.00 per acre	$2.00 per acre.
(8) Additional rent/Instead of diligent exploration.	$3.00 per acre in addition to regular lease rent.	$3.00 per acre in addition to regular lease rent.
(9) Additional rent/Instead of commercial quantities production.	$3.00/year, first 5 years $6.00/year, second 5 yrs	$3.00/year, first 5 years $6.00/year, second 5 years.

Note the exception stated in 43 CFR 3211.16(b).

§ 3211.11 When is my annual rental payment due?

MMS must receive your annual rental payment by the anniversary date of each lease year. There is no grace period for rental payments. If the rent for your lease is not paid on time, the lease will automatically terminate by operation of law, unless you meet the conditions of 43 CFR 3213.15. See the MMS regulations in 30 CFR part 218 which explain when MMS considers a payment as received. If less than a full year remains on a lease, you still must pay a full year's rent by the anniversary date of the lease.

§ 3211.12 How and where do I pay my rent?

(a) Pay BLM the first year's advance rent according to the instructions at 43 CFR 3204.12 or 3205.16. You may use a personal or cashier's check or money order made payable to the Department of the Interior—Bureau of Land Management. You may also make payments by credit card or electronic funds transfer with our prior approval.

(b) For all subsequent years make your rental payments to MMS. See MMS regulations at 30 CFR part 218.

§ 3211.13 Is there a different rental or minimum royalty amount for a fractional interest lease?

Yes, BLM will prorate rents and minimum royalties payable under leases for lands in which the United States owns only a fractional mineral interest. For example, if the United States owns 50% of a 640 acre lease, you pay rent based on 320 acres.

§ 3211.14 Will I always pay rent on my lease?

You are required to pay rent only until you achieve production in commercial quantities. At that time you begin paying royalties instead.

§ 3211.15 Must I pay rent if my lease is committed to an approved cooperative or unit plan?

(a) Before you begin production, if your lease is committed to an approved cooperative or unit plan, you must pay rent in accordance with 43 CFR 3211.10.

(b) Once you begin production, you do not have to pay rent if the lands included in an approved cooperative or unit plan are within the participating area. These lands are subject to royalties instead, under 43 CFR 3211.16. The only exception is for unitized lands outside the participating area, which remain subject to rent under 43 CFR 3211.10.

§ 3211.16 What is the royalty rate for production from or attributable to my lease?

The royalty rate for production from or attributable to your lease is prescribed in your lease form. The chart at 43 CFR 3211.10 shows the minimum royalty rates. We will determine the royalty rate to include in your lease form based on the following:

(a) The royalty rate for heat or energy derived from lease production may range from 10 to 15 percent of the heat or energy value;

(b) Except for minerals discussed in paragraph (c) of this section, the royalty rate for the value of byproducts may not exceed five percent:

(1) If derived from production under the lease; and

(2) If sold or utilized or reasonably susceptible to sale or utilization.

(c) The royalty rate for minerals listed in section 1 of the Mineral Leasing Act will be the same as the royalty rate for those minerals provided under BLM regulations in this Title.

(d) The royalty rate for commercially demineralized water produced on a lease may not exceed 5 percent, except that BLM will not charge a royalty for water used in the operations of a utilization facility.

§ 3211.17 When do I owe minimum royalty?

You owe minimum royalty when BLM determines you have a well capable of commercial production but you have not begun actual production. You also owe minimum royalty when the value of actual production is so low that royalty you would pay under the scheduled rate is less than $2.00 per acre. You should make your minimum royalty payment to MMS under the regulations in 30 CFR part 218.

Subpart 3212—Lease Suspensions and Royalty Rate Reductions

§ 3212.10 What is the difference between a suspension of operations and production and a suspension of operations?

A suspension of operations and production is a temporary relief from production obligations which you may request from BLM because economic conditions make it unjustifiable for you to continue operating. A suspension of operations is when we order you, on our own initiative, to temporarily stop production in order to protect the resource.

§ 3212.11 How do I obtain a suspension of operations or operations and production on my lease?

(a) If you are the operator, you may request in writing that BLM suspend your operations and production for a producing lease. Your request must fully describe why you need the suspension. We will determine if your suspension is approved.

(b) We may act on our own and suspend your operations on any lease in the interest of conservation.

(c) A suspension under this section may include leases committed to an approved unit agreement. Even if leases committed to the unit are suspended, the unit operator must still meet unit obligations.

§ 3212.12 How long does a suspension of operations or operations and production last?

(a) BLM will state in your suspension notice how long your suspension of operations or operations and production is effective.

(b) During a suspension, you may ask BLM in writing to terminate your suspension. The suspension will terminate when you resume production or drilling operations. If we terminate the suspension, you must resume paying rents and minimum royalty. See 43 CFR 3212.14.

(c) If we get information showing that you must resume operations to protect the interests of the United States, we will terminate your suspension and order you to resume production.

§ 3212.13 How does a suspension affect my lease terms?

If BLM approves your suspension of operations and production,

(a) Your lease term is extended by the length of time the suspension is in effect.

(b) You do not have to drill, produce geothermal resources, or pay rents or royalties during the suspension. We will suspend your obligation to pay lease rents or royalties beginning with the first day of the month following the date the suspension is effective. For a suspension of operations, we will not suspend your lease rental or royalty obligations.

§ 3212.14 What happens when the suspension ends?

You must resume rental or minimum royalty payments beginning on the first day of the lease month after BLM terminates the suspension. You must pay the full rental or minimum royalty amount due on or before the next lease anniversary date. If you do not, we will refund your balance and cancel the lease.

§ 3212.15 May BLM reduce or suspend the royalty or rental rate of my lease?

Yes. If you apply for a waiver, suspension or reduction of your rent or royalty, BLM may grant your request if we determine that:

(a) It promotes conservation;

(b) Doing so will encourage the greatest ultimate recovery of resources;

(c) It is necessary to promote development; or

(d) You cannot successfully operate the lease under its current terms.

§ 3212.16 What information must I submit when I request that BLM suspend, reduce or waive my royalty or rental rate?

(a) Your request for suspension, reduction or waiver of the royalty or rental rate must include all information BLM needs to determine if the lease can be operated under its current terms. We may ask you for:

(1) The type of reduction you seek;

(2) The serial number of your lease;

(3) The names of the lessee and operator;

(4) The location and status of wells;

(5) A summary of monthly production from your lease; and

(6) A detailed statement of expenses and costs.

(b) If you are applying for a royalty reduction, suspension or waiver, you must also give us a list of names and amounts of royalties or payments out of production paid to each individual, and every effort you have made to reduce these payments. We will not approve a royalty reduction, suspension or waiver unless other royalty interest owners accept a similar reduction, suspension or waiver.

Subpart 3213—Relinquishment, Termination, Cancellation, and Expiration

§ 3213.10 Who may relinquish a lease?

The record title owner may relinquish a lease in full or in part. If there is more than one record title owner for a lease, all record title owners must sign the relinquishment.

§ 3213.11 What must I do to relinquish a lease?

Send BLM a written request that includes the serial number of each lease you are relinquishing. If you are relinquishing the entire lease, no legal description of the land is required. If you are relinquishing part of the lease, you must describe the lands relinquished.

§ 3213.12 May BLM accept a partial relinquishment if it will reduce my lease to less than 640 acres?

Your lease must remain at least 640 acres, or all of your leased lands in a section, whichever is less. Otherwise, we will not accept your partial relinquishment. We may only allow an exception if it will further development of the resource.

§ 3213.13 When does my relinquishment take effect?

If BLM determines you have submitted a complete relinquishment request which meets the requirements of 43 CFR 3213.11 and 3213.12, your relinquishment is effective the day we receive it. However, you and your surety must still:

(a) Pay all rents and royalties due before relinquishment;

(b) Plug and abandon all wells on the relinquished land;

(c) Restore the surface and other resources; and,

(d) Comply with the requirements of 43 CFR 3200.4.

§ 3213.14 How can my lease automatically terminate?

If you do not pay the rent on or before the anniversary date, your lease automatically terminates by operation of law.

§ 3213.15 Will my lease automatically terminate if my rental payment is on time but for the wrong amount?

(a) If MMS receives your rental payment on time, but it is deficient by a nominal amount, your lease will not automatically terminate. A nominal amount is not more than $100 or five percent of the total payment due, whichever is less. MMS will notify you if your payment is deficient, and will set a date by which a further payment must be made. If you do not send this further payment in the time allowed, we will terminate your lease as of the anniversary date of the lease.

(b) If your rental payment is deficient by more than a nominal amount, your lease will automatically terminate on the anniversary date of the lease.

§ 3213.16 Will BLM notify me if my lease terminates?

Yes, we will send you a notice of the termination by certified mail, return receipt requested.

§ 3213.17 May BLM reinstate my lease?

Yes, if your lease was terminated for failure to pay your rents on time. You have 30 days from when you receive the termination notice to petition us for reinstatement.

§ 3213.18 Who may petition to reinstate a lease?

All record title owners must sign the petition, though any one record owner can submit it.

§ 3213.19 What must I do to have my lease reinstated?

Send BLM a petition requesting reinstatement. Your petition must include the serial number for each lease and an explanation of why the delay in payment was justifiable, rather than due to a lack of diligence. In addition to your petition, you must also include any past rent owed and any rent which has accrued from the termination date.

§ 3213.20 Are there reasons why BLM would not reinstate my lease?

We will not reinstate your lease if:

(a) You do not prove that your failure to pay rent on time was justifiable or was not due to your lack of diligence;

(b) We issued a valid lease for any of the lands before you filed your petition for reinstatement; or

(c) The land is no longer available for leasing.

§ 3213.21 When will my lease expire?

Your lease expires at the end of its primary term or extended term if you do not either begin production before the primary term ends or extend your lease under subpart 3208. BLM will not notify you when your lease expires at the end of the primary term.

§ 3213.22 Will BLM notify me when my lease's extended term expires?

No, if you have extended your lease term, we will not notify you when your lease expires at the end of that extended term.

§ 3213.23 May BLM cancel my lease?

(a) Yes, we may cancel your lease, after giving you 30 days notice, if we determine that you violated the requirements of 43 CFR 3200.4. We will also cancel your lease if it was issued in error.

(b) See the following Subparts for information related to Inspection and Enforcement procedures:

(1) Subpart 3254—Exploration operations;

(2) Subpart 3266—Drilling operations; and

(3) Subpart 3277—Utilization operations.

§ 3213.24 When is a cancellation effective?

(a) If BLM cancels your lease because it was issued in error, the cancellation is effective when you receive it.

(b) If BLM cancels your lease because you violated the requirements of 43 CFR 3200.4, the cancellation takes effect 30 days from the date you receive notice of the violation.

§ 3213.25 What can I do if BLM notifies me that my lease is being canceled due to violations of the laws, regulations or lease terms?

(a) You can prevent us from canceling your lease following this notice if:

(1) You correct the violation within 30 days; or

(2) You show us that you cannot correct the violation during the 30-day period but that you are making a good faith attempt to timely correct the violation.

(b) You may request a hearing on the record about the violation or proposed lease cancellation. You have 30 days from the date you receive the violation notice to request a hearing. See 43 CFR parts 4 and 1840. We will suspend canceling your lease while your appeal is pending. If a hearing occurs and the administrative law judge decides you committed a violation, you will have 30 days from receiving the decision to correct the violation under paragraph (a) of this section.

Subpart 3214—Personal and Surety Bonds

§ 3214.10 Who must post a geothermal bond?

The lessee or operator must post a bond with BLM before exploration, drilling or utilization operations begin. Before we approve a lease transfer or recognize a new designated operator, the lessee or operator must file a new bond or a rider to the existing bond, unless all previous operations on the land have already been reclaimed.

§ 3214.11 Who must my bond cover?

Your bond must cover all record title owners, operating rights owners, operators and any person who conducts operations on your lease.

§ 3214.12 What activities must my bond cover?

Your bond must cover:

(a) Any activities related to exploration, drilling, utilization or associated operations on a Federal lease;

(b) Reclamation of the surface and other resources;

(c) Royalty payments; and,

(d) Compliance with the requirements of 43 CFR 3200.4.

§ 3214.13 What is the minimum dollar amount required for a bond?

The minimum bond amount differs depending on the type of activity you are proposing and whether your bond will cover individual, statewide or nationwide activities. The minimum dollar amounts and bonding options for each type of activity are found in the following regulations:

(a) Exploration operations—see 43 CFR 3251.15;

(b) Drilling operations—see 43 CFR 3261.18; and,

(c) Utilization operations—see 43 CFR 3271.12 and 43 CFR 3273.19.

§ 3214.14 May BLM increase the bond amount above the minimum?

(a) We may increase the bond amount beyond the minimums referenced in 43 CFR 3214.13 when:

(1) We determine the operator has a history of noncompliance;

(2) We previously had to make a claim against a surety because any one person who is covered by the new bond failed to timely plug and abandon a well and reclaim the surface;

(3) MMS has notified BLM that a person covered by the bond owes uncollected royalties; or

(4) Our inspection of the property determines that the bond amount is too low to cover the estimated reclamation cost.

(b) We may increase bond amounts to any level, but we will not set that amount higher than the total estimated costs of plugging wells, removing structures, and reclaiming the surface, plus any uncollected royalties due MMS or monies owed to BLM due to previous violations.

§ 3214.15 What kind of financial guarantee will BLM accept to back my bond?

We will not accept cash to back a bond. We will only accept:

(a) Corporate surety bonds, provided that the surety company is approved by the Department of Treasury (see Department of the Treasury Circular No. 570 which is published in the **Federal Register** every year on or about July 1); and

(b) Personal bonds, which are secured by a cashier's check, certified check, certificate of deposit, negotiable securities such as Treasury notes, or an irrevocable letter of credit (see 43 CFR 3214.21 and 3214.22).

§ 3214.16 Is there a special bond form I must use?

Use a BLM-approved bond form (Form 3000–4, or Form 3000–4a, June 1988 or later editions) for either a corporate surety bond or a personal bond.

§ 3214.17 Where must I submit my bond?

File personal or corporate surety bonds and statewide bonds in the BLM State Office which oversees your lease or operations. You may file nationwide bonds in any BLM State Office. File bond riders in the BLM State Office where your underlying bond is located. For personal or corporate surety bonds, file one originally signed copy of the bond.

§ 3214.18 Who will BLM hold liable under the bond and what are they liable for?

We will hold all interest owners in a lease jointly and severally liable for compliance with the requirements of 43 CFR 3200.4 for obligations that accrue while they hold their interest. Among other things, all interest owners are jointly and severally liable for:

(a) Plugging and abandoning wells;

(b) Reclaiming the surface;

(c) Paying compensatory royalties assessed for drainage; and

(d) Paying rent.

§ 3214.19 What are my bonding requirements when a lease interest is transferred to me?

(a) Except as otherwise provided in this section, if the lands transferred to you contain a well or any other surface disturbance which the original lessee did not reclaim, you must post a bond under this subpart.

(b) If the original lessee does not transfer all interest in the lease to you, you may become a co-principal on the original bond, rather than posting a new bond.

(c) You do not need to post an additional bond if:

(1) You previously furnished a statewide or nationwide bond; or

(2) The operator provided the original bond, and the operator does not change.

§ 3214.20 How do I modify or extend the terms and conditions of my bond?

You may modify your bond by submitting a rider to the BLM State Office where your bond is held. There is no special form required.

§ 3214.21 What must I do if I want to use a certificate of deposit to back my bond?

Your certificate of deposit must:

(a) Be issued by a Federally-insured financial institution authorized to do business in the United States;

(b) Include on its face the statement, ''[t]he Secretary of the Interior or his delegatee must approve redemption of this certificate by any party;'' and

(c) Be payable to the Department of the Interior, Bureau of Land Management.

§ 3214.22 What must I do if I want to use a letter of credit to back my bond?

Your letter of credit must:

(a) Be issued by a Federally-insured financial institution authorized to do business in the United States;

(b) Be payable to the Department of the Interior, Bureau of Land Management;

(c) Be irrevocable during its term and have an initial expiration date of no sooner than one year after the date we receive it;

(d) Be automatically renewable for a period of at least one year, unless the issuing financial institution gives us written notice, at least 90 days before the letter of credit expires, that it will no longer renew the letter of credit; and

(e) Include a clause that authorizes the Secretary of the Interior to demand immediate payment, in part or in full, if you do not meet your obligations under the requirements of 43 CFR 3200.4 or provide substitute security for a letter of credit which the issuer has stated it will not renew before the letter of credit expires.

Subpart 3215—Bond Collection After Default

§ 3215.10 When may BLM collect against my bond?

Unless you comply with the requirements listed at 43 CFR 3200.4, we may collect money from the bond to correct your noncompliance. This amount can be as large as the face amount of the bond. Some examples of when we will collect against your bond are when you do not:

(a) Properly plug and abandon a well;

(b) Reclaim the lease area;

(c) Pay outstanding royalties; or

(d) Pay assessed royalties to compensate for drainage.

§ 3215.11 Must I replace my bond after BLM collects against it?

Yes. If we collect against your bond, before you conduct any further operations you must either:

(a) Post a new bond equal to the value of the original bond; or

(b) Restore your existing bond to the original amount.

§ 3215.12 What will BLM do if I do not restore the face amount or file a new bond?

If we collect against your bond and you do not restore it to the original amount, we may shut-in any well(s) or utilization facilities and begin canceling all of your leases covered by that bond.

§ 3215.13 Will BLM cancel or terminate my bond?

No, we do not cancel or terminate bonds. However, we may:

(a) Terminate the period of liability of a surety or other bond provider at any time. The bond provider must give you and BLM 30 days notice when they terminate your bond. Once your bond is terminated, do not conduct any operations until you provide a new bond which meets our requirements. We will also release an old bond once you file a new bond with a rider covering existing liabilities and we accept it; or

(b) Release your bond after a reasonable period of time, if we determine that you have paid all royalties, rents, penalties, and assessments, satisfied all permit or lease obligations and reclaimed the site according to your operations plan.

§ 3215.14 When BLM releases my bond, does that end my responsibilities?

No, when we release your bond, we relinquish the security but we continue to hold the lessee or operator responsible for noncompliance. Specifically, we do not waive any legal claim we may have against any person under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*), or other laws and regulations.

Subpart 3216—Transfers

§ 3216.10 What types of lease interests may I transfer?

You may transfer record title or operating rights, but you need our approval before your transfer is effective. See 43 CFR 3216.21.

§ 3216.11 Where must I file a transfer request?

File your transfer in the BLM State Office that handles your lease.

§ 3216.12 When does a transferee take responsibility for lease obligations?

Once we approve your transfer, the transferee becomes responsible for performing all lease obligations accrued after the date of the transfer, and for plugging and abandoning wells which exist and are not plugged at the time of the transfer.

§ 3216.13 What are my responsibilities after I transfer my interest?

You will still be responsible for rents, royalties, compensatory royalties and other obligations accrued before your transfer became effective. You must also plug and abandon any wells drilled or existing on the lease while you held your interest.

§ 3216.14 What filing fees and forms does a transfer require?

With each transfer request you must send us the correct form and pay the transfer fee. When you calculate your fee, make sure it covers the full amount. For example, if you are transferring record title for three leases, submit $150 with the application. Use the following chart to determine forms and fees:

Type of form	Required?	Form No.	Number of copies	Filing transfer fee (per lease)
(a) Record Title	Yes	3000–3	2 executed copies	$50.00
(b) Operating Rights	Yes	3000–3(a)	2 executed copies	$50.00
(c) Estate Transfers	No	N/A	1 List of Leases	None
(d) Corporate Mergers	No	N/A	1 List of Leases	None
(e) Name Changes	No	N/A	1 List of Leases	None

§ 3216.15 When must I file my transfer request?

(a) File a transfer request to transfer record title or operating rights within 90 days after you sign an agreement with the transferee. If we receive your request more than 90 days after signing, we may require you to re-certify that you still intend to complete the transfer.

(b) There is no specific time deadline for filing estate transfers, corporate mergers, and name changes. Just file them within a reasonable time.

§ 3216.16 Must I file separate transfer requests for each lease?

File two copies of separate requests for each lease for which you are transferring record title or operating rights. The only exception is, if you are transferring more than one lease to the same transferee, just file two copies of one transfer application.

§ 3216.17 Where must I file estate transfers, corporate mergers and name changes?

(a) If you have posted a bond for any Federal lease, file estate transfers, corporate mergers, and name changes in the BLM State Office that maintains your bond.

(b) If you have not posted a bond, file estate transfer, corporate merger and name change documents in each State Office having jurisdiction over the lease(s).

§ 3216.18 How do I describe the lands in my lease transfer?

(a) If you are transferring an interest in your entire lease, you do not need to give BLM a legal description of the land.

(b) If you are transferring an interest in a portion of your lease, describe the lands the same way they are described in the lease.

§ 3216.19 May I transfer record title interest for less than 640 acres?

Only when your transfer includes an irregular subdivision or all your lease in a section. We may make an exception to the minimum acreage requirements if needed to conserve the resource.

§ 3216.20 When does a transfer segregate a lease?

If you transfer 100 percent of the record title interest in a portion of your lease, BLM will segregate the transferred portion from the original lease and give it a new serial number with the same terms and conditions as those in the original lease.

§ 3216.21 When is my transfer effective?

Your transfer is effective the first day of the month after we approve it.

§ 3216.22 Does BLM grant all transfer requests?

No, we will not approve a transfer if:

(a) The lease account is not in good standing;

(b) The transferee does not qualify to hold a lease under this part; or

(c) An adequate bond has not been provided.

Subpart 3217—Cooperative Conservation Provisions

§ 3217.10 What are unit agreements and cooperative plans?

Lessees enter into a unit agreement or a cooperative plan to conserve the resources of any geothermal field or area. By operating together, lessees can work more efficiently and promote better development. BLM will only approve unit agreements which we determine are in the public interest. Unit agreement application procedures are provided in 43 CFR part 3280.

§ 3217.11 What are communitization agreements?

Communitization agreements (also called drilling agreements) help operators who cannot independently develop separate tracts due to problems with well spacing or well development programs. Lessees may ask BLM to approve a communitization agreement or, in some cases, we may require the lessees to enter into such an agreement.

§ 3217.12 What does BLM need to approve my communitization agreement?

Give us the following information:

(a) The location of the separate tracts comprising the drilling or spacing unit;

(b) How you will prorate production or royalties to each separate tract based on total acres involved;

(c) The name of each tract operator; and

(d) Provisions for protecting the interests of all parties, including the United States.

§ 3217.13 When does my communitization agreement go into effect?

When BLM signs it. Before we approve the agreement, all parties must sign the agreement, and we must determine that the tracts cannot be independently developed.

§ 3217.14 When will BLM approve my operating, drilling or development contract?

We may approve an operating, drilling or development contract when:

(a) One or more geothermal lessees enter into the contract with one or more persons or partnerships;

(b) Lessees need the contract for large scale operations and financing of the discovery, development, production, transmission, transportation or utilization of geothermal resources; and

(c) We determine that the contract is needed to conserve the resource, or it will serve the public interest.

§ 3217.15 What does BLM need to approve my operating, drilling or development contract?

Send us:

(a) The contract and a statement of why you need it;

(b) A statement of all interests held by the contracting parties in that geothermal area or field;

(c) The type of operations and schedule set by the contract;

(d) A statement that the contract will not violate Federal antitrust laws by concentrating control over the production or sale of geothermal resources;

(e) Any other information we may require to make a decision about the contract or to attach conditions of approval.

Subpart 3250—Exploration Operations—General

§ 3250.10 When do the exploration operations regulations apply?

(a) The exploration operations regulations, contained in 43 CFR subparts 3250 through 3256, apply to geothermal exploration operations:

(1) On BLM-administered public lands, whether or not they are leased for geothermal resources; and

(2) On lands whose surface is managed by another Federal agency, where BLM has leased the subsurface geothermal resources and the lease operator will conduct exploration. In this case, we will consult with the surface managing agency regarding surface use and reclamation requirements before we approve the exploration permit.

(b) These regulations do not apply to:

(1) Unleased land administered by another Federal agency;

(2) Unleased geothermal resources whose surface land is managed by another Federal agency;

(3) Privately owned land; or

(4) Casual use activities.

§ 3250.11 What types of operations may I propose when I send BLM my exploration permit application?

(a) You may propose any activity fitting the definition of ''exploration operations'' in 43 CFR 3200.1. Submit Form 3200–9, Notice of Intent to Conduct Geothermal Resource Exploration Operations, together with the information required under 43 CFR 3251.12, and BLM will review your proposal.

(b) The exploration operations regulations do not address drilling wells intended for production or injection, which are covered in subpart 3260 of this part, or geothermal resources utilization, which is covered in subpart 3270 of this part.

§ 3250.12 What general standards apply to my exploration operations?

Your exploration operations must:

(a) Meet all operational and environmental standards;

(b) Protect public health, safety and property;

(c) Prevent unnecessary impacts to surface and subsurface resources; and;

(d) Be conducted in a manner consistent with the principles of multiple use; and

(e) Comply with the requirements of 43 CFR 3200.4.

§ 3250.13 What orders or instructions may BLM issue me?

(a) Geothermal resource operational orders, for detailed requirements that apply nationwide;

(b) Notices to lessees, for detailed requirements on a statewide or regional basis;

(c) Other orders and instructions specific to a field or area;

(d) Permit conditions of approval; and

(e) Verbal orders which will be confirmed in writing.

Subpart 3251—Exploration Operations: Getting a Permit

§ 3251.10 Do I need a permit before I start my exploration operations?

Yes, do not start any exploration operations before we have approved your exploration permit.

§ 3251.11 May I conduct exploration operations on my lease, someone else's lease or unleased land?

You may request a permit to explore any BLM-managed public lands open to geothermal leasing, even if we already leased the lands to another person. Your exploration will not give you exclusive rights. If you wish to conduct operations on your lease, you may do so after we have approved your exploration permit. If the lands are already leased, your operations may not unreasonably interfere with or endanger those other operations or other authorized uses, or cause unnecessary or undue degradation of the lands.

§ 3251.12 What does BLM need to approve my exploration permit?

To conduct exploration operations on BLM-managed lands, your application must:

(a) Include a complete and signed exploration permit which describes the lands you wish to explore;

(b) For operations other than temperature gradient wells, describe your exploration plans and procedures, including the approximate starting and ending dates for each phase of operations;

(c) For temperature gradient wells, describe your drilling and completion procedures, and include, for each well

or for several wells you propose to drill in an area of geologic and environmental similarity:

(1) A detailed description of the equipment, materials, and procedures you will use;

(2) The depth of the well;

(3) The casing and cementing program;

(4) The circulation media (mud, air, foam, etc.);

(5) A description of the logs that you will run;

(6) A description and diagram of the blowout prevention equipment you will use during each phase of drilling;

(7) The expected depth and thickness of fresh water zones;

(8) Anticipated lost circulation zones;

(9) Anticipated temperature gradient in the area;

(10) Well site layout and design;

(11) Existing and planned access roads or ancillary facilities; and

(12) Source of drill pad and road building material and water supply.

(d) Show evidence of bond coverage (See 43 CFR 3251.15);

(e) Estimate how much surface disturbance your exploration may cause;

(f) Describe the proposed measures you will take to protect the environment and other resources;

(g) Describe methods to reclaim the surface; and

(h) Include all other information we may require.

§ 3251.13 What action will BLM take on my permit?

(a) When we receive your exploration permit, we will make sure it is complete and signed, and review it for compliance with the requirements of 43 CFR 3200.4.

(b) If the proposed operations are located on lands described under 43 CFR 3250.10(a)(2), we will consult with the federal surface management agency before we approve your permit.

(c) We will check your exploration permit for technical adequacy and we may require additional procedures.

(d) We will notify you if we need more information to process your permit. We will suspend the review of your permit until we receive the information.

(e) After our review, we will notify you whether we approved or denied your permit, as well as any conditions we require for conducting operations.

§ 3251.14 Once I have a permit, how can I change my exploration operations?

Send BLM a complete and signed sundry notice, form 3260–3, which fully describes the requested changes. Do not proceed with the change until you receive written approval from BLM.

§ 3251.15 Do I need a bond for conducting exploration operations?

Yes, do not start any exploration operations on BLM-managed lands until we approve your bond. You may meet the requirement for an exploration bond in two ways.

(a) If you have an existing nationwide or statewide oil and gas exploration bond, provide a rider to include geothermal resources exploration operations, in an amount we have specified.

(b) If you must file a new bond, the minimum amounts are:

(1) $5,000 for a single operation;

(2) $25,000 for all of your operations within a state;

(3) $50,000 for all of your operations nationwide.

(c) See 43 CFR subparts 3214 and 3215 for additional details on bonding procedures.

§ 3251.16 When will BLM release my bond?

We will release your bond after you request it and we determine that you have:

(a) Plugged and abandoned all wells;

(b) Reclaimed the land; and

(c) Complied with the requirements of 43 CFR 3200.4.

Subpart 3252—Conducting Exploration Operations

§ 3252.10 What operational standards apply to my exploration operations?

You must:

(a) Keep exploration operations under control at all times;

(b) Conduct training during your operation which ensures your personnel are capable of performing emergency procedures quickly and effectively;

(c) Use properly maintained equipment; and

(d) Use operational practices which allow for quick and effective emergency response.

§ 3252.11 What environmental requirements must I meet when conducting exploration operations?

(a) You must conduct your exploration operations to:

(1) Protect the quality of surface and subsurface waters, air, and other natural resources, including wildlife, soil, vegetation, and natural history;

(2) Protect the quality of cultural, scenic and recreational resources;

(3) Accommodate other land uses, as we deem necessary; and

(4) Protect people and wildlife from unacceptable noise levels.

(b) You must remove or, with our permission, properly store all equipment and materials not in use.

(c) You must provide and use pits, tanks and sumps of adequate capacity. They must be designed to retain all materials and fluids resulting from drilling temperature gradient wells or other operations, unless we have specified otherwise in writing. When no longer needed, you must properly abandon pits and sumps in accordance with your permit.

(d) We may require you to submit a contingency plan describing procedures to protect public health, safety, property and the environment.

§ 3252.12 How deep may I drill a temperature gradient well?

You may drill a temperature gradient well to any depth we approve in your exploration permit or sundry notice. In all cases, you may not flow test the well or perform injection tests of the well unless you follow the procedures for geothermal drilling operations in 43 CFR subparts 3260 through 3267. BLM may modify your permitted depth at any time before or during drilling, if we determine the bottom hole temperature or other information indicates that drilling to the original permitted depth could directly encounter the geothermal resource or create risks to public health, safety, property, the environment or other resources.

§ 3252.13 How long may I collect information from my temperature gradient well?

You may collect information from your temperature gradient well for as long as we approve.

§ 3252.14 How must I complete a temperature gradient well?

Complete temperature gradient wells in a way that allows for proper abandonment and prevents interzonal migration of fluids. Cap all tubing when not in use.

§ 3252.15 When must I abandon a temperature gradient well?

When you no longer need it, or when we require you to.

§ 3252.16 How must I abandon a temperature gradient well?

(a) Before abandoning your well, submit a complete and signed sundry notice describing how you plan to abandon wells and reclaim the surface. Do not begin abandoning wells or reclaiming the surface until we approve your sundry notice.

(b) You must plug and abandon your well to permanently prevent interzonal migration of fluids and migration of fluids to the surface. You must reclaim your well location to our satisfaction.

Subpart 3253—Reports: Exploration Operations

§ 3253.10 Must I share the data I collect through exploration operations with BLM?

(a) For exploration operations on your geothermal lease, you must submit all data you obtain as a result of the operations with a signed notice of completion of exploration operations form under 43 CFR 3253.11, unless we approve a later submission.

(b) For exploration operations on unleased lands or on leased lands where you are not the lessee or unit operator, you do not need to submit data. However, if you want your exploration operations to count toward your diligent exploration expenditure requirement (43 CFR 3210.13), or if you are making significant expenditures to extend your lease (43 CFR 3208.14), you must send BLM the resulting data under the rules of those sections.

§ 3253.11 Must I notify BLM when I have completed my exploration operations?

Yes. Send us a complete and signed notice of completion of exploration operations form, describing the exploration operations, well history, completion and abandonment procedures, or site reclamation measures. You must send this within 30 days after you:

(a) Complete any geophysical exploration operations;

(b) Complete the drilling of temperature gradient well(s) approved under your exploration permit;

(c) Plug and abandon a temperature gradient well; or

(d) Plug shot holes and reclaim all exploration sites.

Subpart 3254—Inspection, Enforcement, and Noncompliance for Exploration Operations

§ 3254.10 May BLM inspect my exploration operations?

Yes, we may inspect your exploration operations to ensure compliance with the requirements of 43 CFR 3200.4.

§ 3254.11 What will BLM do if my exploration operations do not meet all requirements?

(a) We will issue you a written incident of noncompliance and direct you to correct the problem within a set time. If the noncompliance continues or is serious in nature, we will take one or more of the following actions:

(1) Correct the problem at your expense;

(2) Direct you to modify or shut down your operations;

(3) Collect all or part of your bond.

(b) We may also require you to take actions to prevent unnecessary impacts to the lands. If so, we will notify you of the nature and extent of any required measures and the time you have to complete them.

(c) Noncompliance may result in BLM canceling your lease, if applicable. See 43 CFR 3213.23 through 3213.25.

Subpart 3255—Confidential, Proprietary Information

§ 3255.10 Will BLM disclose information I submit under these regulations?

All Federal and Indian data and information submitted to the BLM are subject to part 2 of this title. Part 2 includes the regulations of the Department of the Interior covering public disclosure of data and information contained in Department of Interior records. Certain mineral information not protected from disclosure under part 2 may be made available for inspection without a Freedom Of Information Act (FOIA) request.

§ 3255.11 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?

When you submit data and information that you believe to be exempt from disclosure by 43 CFR part 2, you must clearly mark each page that you believe contains confidential information. BLM will keep all data and information confidential to the extent allowed by 43 CFR 2.13(c).

§ 3255.12 How long will information I give BLM remain confidential or proprietary?

The FOIA does not provide a finite period of time for which information may be exempt from disclosure to public. Each situation will need to be reviewed individually and in accordance with guidance provided by 43 CFR part 2.

Subpart 3256—Exploration Operations Relief and Appeals

§ 3256.10 May I request a variance from any BLM requirements?

(a) Yes, you may request a variance for your exploration operations from the requirements of 43 CFR 3200.4. Your request must include enough information to explain:

(1) Why you cannot comply; and

(2) Why you need the variance to control your well, conserve natural resources, protect public health and safety, property, or the environment.

(b) We may approve your request verbally or in writing. If we give you a verbal approval, we will follow up with written confirmation.

§ 3256.11 How may I appeal a BLM decision regarding my exploration operations?

You may appeal a BLM decision regarding your exploration operations in accordance with 43 CFR 3200.5.

Subpart 3260—Geothermal Drilling Operations—General

§ 3260.10 What types of geothermal operations are covered by these regulations?

(a) The regulations in 43 CFR subparts 3260 through 3267 establish permitting and operating procedures for drilling wells and conducting related activities for the purpose of performing flow tests, producing geothermal fluids, or injecting fluids into a geothermal reservoir. These subparts also address redrilling, deepening, plugging back, and other subsequent well operations.

(b) The operations regulations in subparts 3260 through 3267 do not address conducting exploration operations, which are covered in subpart 3250 of this part, or geothermal resources utilization, which is covered in subpart 3270 of this part.

§ 3260.11 What general standards apply to my drilling operations?

Your drilling operations must:

(a) Meet all environmental and operational standards;

(b) Prevent unnecessary impacts to surface and subsurface resources;

(c) Conserve geothermal resources and minimize waste;

(d) Protect public health, safety and property; and,

(e) Comply with the requirements of 43 CFR 3200.4.

§ 3260.12 What other orders or instructions may BLM issue me?

We may issue:

(a) Geothermal resource operational orders, for detailed requirements that apply nationwide;

(b) Notices to lessees, for detailed requirements on a statewide or regional basis;

(c) Other orders and instructions specific to a field or area;

(d) Permit conditions of approval; and

(e) Verbal orders which will be confirmed in writing.

Subpart 3261—Drilling Operations: Getting a Permit

§ 3261.10 How do I get approval to begin well pad construction?

(a) If you do not have an approved geothermal drilling permit, form 3260–2, apply using a complete and signed sundry notice, form 3260–3, to build well pads and access roads. Send us a

complete operations plan (see 43 CFR 3261.12) and an acceptable bond with your sundry notice. You may start well pad construction once we approve your sundry notice.

(b) If you already have an approved drilling permit and you have provided an acceptable bond, you do not need any further permission from BLM to start well pad construction unless you intend to change something from the approved permit. Send us a complete and signed sundry notice so we may review your proposed change. Do not proceed with the change until we approve your sundry notice.

§ 3261.11 How do I get approval for drilling operations and well pad construction?

(a) Send us:

(1) A completed and signed drilling permit application;

(2) A complete operations plan (43 CFR 3261.12);

(3) A complete drilling program (43 CFR 3261.13); and

(4) An acceptable bond (43 CFR 3261.18).

(b) Do not start any drilling operations until we have approved the permit.

§ 3261.12 What is an operations plan?

An operations plan describes how you will drill for and test the geothermal resources covered by your lease. Your plan must tell BLM enough about your proposal to allow us to assess the environmental impacts of your operations. This information should generally include:

(a) Well pad layout and design;

(b) A description of existing and planned access roads;

(c) A description of any ancillary facilities;

(d) The source of drill pad and road building material;

(e) The water source;

(f) A statement describing surface ownership;

(g) Plans for surface reclamation;

(h) A description of procedures to protect the environment and other resources; and

(i) Any other information we may require.

§ 3261.13 What is a drilling program?

A drilling program describes all the operational aspects of your proposal to drill, complete and test a well. Send us:

(a) A detailed description of the equipment, materials, and procedures you will use;

(b) The proposed/anticipated depth of the well;

(c) If you plan to directionally drill your well, also send us:

(1) The proposed bottom hole location and distances from the nearest section or tract lines;

(2) The kick-off point;

(3) The direction of deviation;

(4) The angle of build-up and maximum angle; and

(5) Plan and cross section maps indicating the surface and bottom hole locations;

(d) The casing and cementing program;

(e) The circulation media (mud, air, foam, etc.);

(f) A description of the logs that you will run;

(g) A description and diagram of the blowout prevention equipment you will use during each phase of drilling;

(h) The expected depth and thickness of fresh water zones;

(i) Anticipated lost circulation zones;

(j) Anticipated reservoir temperature and pressure;

(k) Anticipated temperature gradient in the area;

(l) A plat certified by a licensed surveyor showing the surveyed surface location and distances from the nearest section or tract lines;

(m) Procedures and durations of well testing; and

(n) Any other information we may require.

§ 3261.14 When must I give BLM my operations plan?

Send us a complete operations plan before you begin any surface disturbance on a lease. You do not need to submit an operations plan for subsequent well operations or altering existing production equipment, unless these activities will cause more surface disturbance or we notify you that you must submit an operations plan. Do not start any activities which will result in surface disturbance until we approve your permit or sundry notice.

§ 3261.15 Must I give BLM my drilling permit application, drilling program and operations plan at the same time?

No, you may submit your complete and signed drilling permit application and complete drilling program and operations plan either together or separately.

(a) If you submit them together and we approve your drilling permit, the approved drilling permit will authorize both the pad construction and the drilling and testing of the well.

(b) If you submit the operations plan separately from the drilling permit and program, you must:

(1) Submit the operations plan before the drilling permit application and drilling program to allow BLM time to comply with NEPA; and

(2) Submit a complete and signed sundry notice for well pad and access road construction. Do not begin construction until we approve your sundry notice.

§ 3261.16 Can my operations plan, drilling permit and drilling program apply to more than one well?

Your operations plan and drilling program can sometimes be combined to cover several wells, but your drilling permit cannot. To combine your operations plan, give us adequate information for all well sites, and we will combine your plan to cover those well sites that are in areas of similar geology and environment. Your drilling program may also apply to more than one well, provided you will drill the wells in the same manner, and you expect to encounter similar geologic and reservoir conditions. You must submit a separate geothermal drilling permit application for each well.

§ 3261.17 How do I amend my operations plan or drilling permit?

If BLM has not yet approved your operations plan or drilling permit, send us your amended plan and complete and signed permit application. To amend an approved operations plan or drilling permit, submit a complete and signed sundry notice describing your proposed change. Do not start any amended operations until we have approved your drilling permit or sundry notice.

§ 3261.18 Do I need a bond before I build a well pad or drill a well?

Yes, before starting any operation, you must:

(a) Send us either a surety or personal bond in the following amount:

(1) $10,000 for a single lease;

(2) $50,000 for all of your operations within a state; or

(3) $150,000 for all of your operations nationwide.

(b) Get our approval of your surety or personal bond; and

(c) To cover any drilling operations on all leases committed a unit, either submit a bond for that unit in an amount we specify, or provide a rider to a statewide or nationwide bond which specifically covers the unit in an amount we specify.

(d) See subparts 3214 and 3215 for additional details on bonding procedures.

§ 3261.19 When will BLM release my bond?

We will release your bond after you request it and we determine that you have:

(a) Plugged and abandoned all wells;

(b) Reclaimed the surface and other resources; and

(c) Met all the requirements of 43 CFR 3200.4.

§ 3261.20 How will BLM review my application documents and notify me of their decision?

(a) When we receive your operations plan, we will make sure it is complete and review it for compliance with the requirements of 43 CFR 3200.4.

(b) If another Federal agency manages the surface of your lease, we will consult with them before we approve your drilling permit.

(c) We will review your drilling permit and drilling program or your sundry notice for well pad construction, to make sure they conform with your operations plan and any mitigation measures we developed while reviewing your plan.

(d) We will check your drilling permit and drilling program for technical adequacy and we may require additional procedures.

(e) We will check your drilling permit for compliance with the requirements of 43 CFR 3200.4.

(f) If we need any further information to complete our review, we will contact you in writing and suspend our review until we receive the information.

(g) After our review, we will notify you whether your permit has been approved or denied, as well as any conditions we require for conducting operations.

§ 3261.21 How do I get approval to change an approved drilling operation?

(a) Send us a sundry notice, form 3260–3, describing the proposed changes. Do not proceed with the changes until we have approved them in writing, except as provided in paragraph (c) of this section. If your operations such as redrilling, deepening, drilling a new directional leg, or plugging back a well would significantly change your approved permit, BLM may require you to send us a new drilling permit (see 43 CFR 3261.13). A significant change would be, for example, redrilling the well to a completely different target, especially a target in an unknown area.

(b) If your changed drilling operation would cause additional surface disturbance, we may also require you to submit an amended operations plan.

(c) If immediate action is required to properly continue drilling operations, or to protect public health, safety, property or the environment, you only need BLM's verbal approval to change an approved drilling operation. However, you must submit a written sundry notice within 48 hours after we verbally approve your change.

§ 3261.22 How do I get approval for subsequent well operations?

Send us a sundry notice describing your proposed operation. For some routine work, such as cleanouts, surveys, or general maintenance (see 43 CFR 3264.11(b)), we may waive the sundry notice requirement. Contact your local BLM office to ask about waivers. Unless you receive a waiver, you must submit a sundry notice. Do not start your operations until we grant a waiver or approve the sundry notice.

Subpart 3262—Conducting Drilling Operations

§ 3262.10 What operational requirements must I meet when drilling a well?

(a) When drilling a well, you must:

(1) Keep the well under control at all times;

(2) Conduct training during your operation which ensures your personnel are capable of performing emergency procedures quickly and effectively;

(3) Use properly maintained equipment; and

(4) Use operational practices which allow for quick and effective emergency response.

(b) You must use sound engineering principles and take into account all pertinent data when:

(1) Selecting drilling fluid types and weights;

(2) Designing a system to control fluid temperatures;

(3) Designing blowout prevention equipment; and

(4) Designing a casing and cementing program.

(c) Your operation must always comply with the requirements of 43 CFR 3200.4.

§ 3262.11 What environmental requirements must I meet when drilling a well?

(a) You must conduct your operations to:

(1) Protect the quality of surface and subsurface water, air, natural resources, wildlife, soil, vegetation, and natural history;

(2) Protect the quality of cultural, scenic, and recreational resources;

(3) Accommodate, as necessary, other land uses;

(4) Minimize noise; and

(5) Prevent property damage and unnecessary or undue degradation of the lands.

(b) You must remove or, with BLM's approval, properly store all equipment and materials that are not in use.

(c) You must retain all fluids from drilling and testing the well in properly designed pits, sumps, or tanks.

(d) When you no longer need a pit or sump, you must abandon it and restore the site as we direct you to.

(e) We may require you to give us a contingency plan showing how you will protect public health and safety, property, and the environment.

§ 3262.12 Must I post a sign at every well?

Yes. Before you begin drilling a well, you must post a sign in a conspicuous place and keep it there throughout operations until the well site is reclaimed. Put the following information on the sign:

(a) The lessee or operator's name;

(b) Lease serial number;

(c) Well number; and

(d) Well location described by section, township, range, and quarter-quarter-section.

§ 3262.13 May BLM require me to follow a well spacing program?

Yes, if we determine that it is necessary for proper development. If we require well spacing, we will consider the following factors when we set well spacing:

(a) Hydrologic, geologic, and reservoir characteristics of the field minimizing well interference;

(b) Topography;

(c) Interference with multiple use of land; and

(d) Environmental protection, including ground water.

§ 3262.14 May BLM require me to take samples or perform tests and surveys?

(a) Yes, we may require you to take samples or to test or survey the well to determine:

(1) The well's mechanical integrity;

(2) The identity and characteristics of formations, fluids or gases;

(3) Presence of geothermal resources, water, or reservoir energy;

(4) Quality and quantity of geothermal resources;

(5) Well bore angle and direction of deviation;

(6) Formation, casing, or tubing pressures;

(7) Temperatures;

(8) Rate of heat or fluid flow; and

(9) Any other necessary well information.

(b) See 3264.11 for information reporting requirements.

Subpart 3263—Well Abandonment

§ 3263.10 May I abandon a well without BLM's approval?

No, you must have an approved sundry notice which documents your plugging and abandonment program before you start abandoning any well. You must also notify the local BLM

office before you begin abandonment, so we may witness the work. Contact your local BLM office before starting to abandon your well to find out what notification we need.

§ 3263.11 What must I give BLM to approve my sundry notice for abandoning a well?

Send us a sundry notice with:

(a) All the information required in the well completion report (see 43 CFR 3264.10), unless we already have that information;

(b) A detailed description of the proposed work, including:

(1) Type, depth, length, and interval of plugs;

(2) Methods you will use to verify the plugs (tagging, pressure testing, etc.);

(3) Weight and viscosity of mud that you will use in the uncemented portions;

(4) Perforating or removing casing; and

(5) Restoring the surface; and

(c) Any other information that we may require.

§ 3263.12 How will BLM review my sundry notice to abandon my well and notify me of their decision?

(a) When we receive your sundry notice, we will make sure it is complete and review it for compliance with the requirements of 43 CFR 3200.4. We will notify you if we need more information or require additional procedures. If we need any further information to complete our review, we will contact you in writing and suspend our review until we receive the information. If we approve your sundry notice, we will send you an approved copy once our review is complete. Do not start abandonment of the well until we approve your sundry notice.

(b) We may verbally approve plugging procedures for a well which requires immediate action. If we do, you must submit the information required in 43 CFR 3263.11 within 48 hours after we give verbal approval.

§ 3263.13 What must I do to restore the site?

You must remove all equipment and materials and restore the site to BLM's satisfaction.

§ 3263.14 May BLM require me to abandon a well?

Yes, if we determine your well is no longer needed for geothermal resource production, injection, or monitoring, or if we determine that the well is not mechanically sound. In either case, if you disagree you may explain to us why the well should not be abandoned. We will consider your reasons before we issue any final order.

§ 3263.15 May I abandon a producible well?

Only if you receive BLM's approval. To abandon a producing well, send us the information listed in 43 CFR 3263.11. We may also require you to explain why you want to abandon the well. We may deny your request if we determine the well is needed to protect a Federal lease from drainage, or to protect the environment or other resources of the United States.

Subpart 3264—Reports—Drilling Operations

§ 3264.10 What must I give BLM after I complete a well?

You must submit a geothermal well completion report, form 3260–4, within 30 days after you complete a well. Your report must include the following:

(a) A complete, chronological well history;

(b) A copy of all logs;

(c) Copies of all directional surveys; and

(d) Copies of all mechanical, flow, reservoir, and other test data.

§ 3264.11 What must I give BLM after I finish subsequent well operations?

(a) Send us a subsequent well operations report within 30 days after completing operations. At a minimum, this report must include:

(1) A complete, chronological history of the work done;

(2) A copy of all logs;

(3) Copies of all directional surveys;

(4) All samples, tests or surveys we require you to make (see § 3262.14);

(4) Copies of all mechanical, flow, reservoir, and other test data; and

(5) A statement of whether you achieved your goals. For example, if the well was acidized to increase production, state whether the production rate increased when you put the well back on line.

(b) We may waive this reporting requirement for work we determine is routine such as cleanouts, surveys, or general maintenance. To request a waiver, contact BLM. If you do not have a waiver, you must submit the report.

§ 3264.12 What must I give BLM after I abandon a well?

Send us a well abandonment report within 30 days after you abandon a well. If you plan to restore the site at a later date, you may submit a separate report within 30 days after completing site restoration. The well abandonment report must contain:

(a) A complete chronology of all work done;

(b) A description of each plug, including:

(1) Amount of cement used;

(2) Type of cement used;

(3) Depth that the drill pipe or tubing was run to set the plug;

(4) Depth to top of plug; and

(5) If the plug was verified, whether it was done by tagging or pressure testing; and

(c) A description of surface restoration procedures.

§ 3264.13 What drilling and operational records must I maintain for each well?

You must keep the following information for each well and make it available for BLM to inspect it:

(a) A complete and accurate drilling log, in chronological order;

(b) All logs;

(c) Water or steam analyses;

(d) Hydrologic or heat flow tests;

(e) Directional surveys;

(f) A complete log of all subsequent well operations such as cementing, perforating, acidizing, and well cleanouts; and

(g) Any other information regarding the well that could affect its status.

§ 3264.14 Must I notify BLM of accidents occurring on my lease?

Yes, you must verbally inform us of all accidents that affect operations or create environmental hazards within 24 hours of the accident. When you contact us, we may require you to submit a report fully describing the incident.

Subpart 3265—Inspection, Enforcement, and Noncompliance for Drilling Operations

§ 3265.10 What part of my drilling operations may BLM inspect?

(a) We may inspect all of your drilling operations regardless of surface ownership. We will inspect your operations for compliance with the requirements of 43 CFR 3200.4.

(b) We may also inspect all of your maps, well logs, surveys, records, books, and accounts related to your drilling operation. You must keep this information available for our inspection.

§ 3265.11 What records must I keep available for inspection?

You must keep a complete record of all aspects of your activities related to your drilling operation available for our inspection. Store these records in a place which makes them conveniently available to us. Examples of records which we will inspect include:

(a) Well logs;

(b) Directional surveys;

(c) Casing type and setting;

(d) Formations penetrated;

(e) Well test results;

(f) Characteristics of the geothermal resource;

(g) Emergency procedure training; and

(h) Operational problems.

§ 3265.12 What will BLM do if my operations do not comply with all requirements?

(a) We will issue you a written Incident of Noncompliance, directing you to take required corrective action within a specific time period. If the noncompliance continues or is of a serious nature, we will take one or more of the following actions:

(1) Enter your lease, and correct any deficiencies at your expense;

(2) Collect all or part of your bond;

(3) Direct modification or shutdown of your operations; and

(4) Take action against a lessee who is ultimately responsible for noncompliance.

(b) Noncompliance may result in BLM canceling your lease. See 43 CFR 3213.23 through 3213.25.

Subpart 3266—Confidential, Proprietary Information

§ 3266.10 Will BLM disclose information I submit under these regulations?

All Federal and Indian data and information submitted to the BLM are subject to part 2 of this title. Part 2 includes the regulations of the Department of the Interior covering public disclosure of data and information contained in Department of Interior records. Certain mineral information not protected from disclosure under part 2 may be made available for inspection without a Freedom Of Information Act (FOIA) request. BLM will not treat surface location, surface elevation, or well status information as confidential.

§ 3266.11 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?

When you submit data and information that you believe to be exempt from disclosure by 43 CFR part 2, you must clearly mark each page that you believe contains confidential information. BLM will keep all data and information confidential to the extent allowed by 43 CFR 2.13(c).

§ 3266.12 How long will information I give BLM remain confidential or proprietary?

The FOIA does not provide a finite period of time for which information may be exempt from disclosure to public. Each situation will need to be reviewed individually and in accordance with guidance provided by 43 CFR part 2.

Subpart 3267—Geothermal Drilling Operations Relief and Appeals

§ 3267.10 May I request a variance from any BLM requirements which apply to my drilling operations?

(a) Yes, you may request a variance regarding your approved drilling operations from the requirements of 43 CFR 3200.4. Your request must include enough information to explain:

(1) Why you cannot comply; and

(2) Why you need the variance to control your well, conserve natural resources, protect public health and safety, property, or the environment.

(b) We may approve your request verbally or in writing. If BLM gives you a verbal approval, we will follow up with written confirmation.

§ 3267.11 How may I appeal a BLM decision regarding my drilling operations?

You may appeal our decisions regarding your drilling operations in accordance with 43 CFR 3200.5.

Subpart 3270—Utilization of Geothermal Resources—General

§ 3270.10 What types of geothermal operations are governed by the utilization regulations?

(a) The regulations in 43 CFR subparts 3270 through 3279 cover the permitting and operating procedures for the utilization of geothermal resources. This includes:

(1) Electrical generation facilities;

(2) Direct use facilities;

(3) Related utilization facility operations;

(4) Actual and allocated well field production and injection; and

(5) Related well field operations.

(b) The utilization regulations in subparts 3270 through 3279 do not address conducting exploration operations, which are covered in subpart 3250 of this part, or drilling wells intended for production or injection, which are covered in subpart 3260 of this part.

§ 3270.11 What general standards apply to my utilization operations?

Your utilization operations must:

(a) Meet all operational and environmental standards;

(b) Prevent unnecessary impacts to surface and subsurface resources;

(c) Result in the maximum ultimate recovery;

(d) Result in the beneficial use of geothermal resources with minimum waste;

(e) Protect public health, safety and property; and,

(f) Comply with the requirements of 43 CFR 3200.4.

§ 3270.12 What other orders or instructions may BLM issue me?

(a) Geothermal resource operational orders, for detailed requirements that apply nationwide;

(b) Notices to lessees, for detailed requirements on a statewide or regional basis;

(c) Other orders and instructions specific to a field or area;

(d) Permit conditions of approval; and

(e) Verbal orders which will be confirmed in writing.

Subpart 3271— Utilization Operations: Getting a Permit

§ 3271.10 What do I need to start preparing a site and building and testing a utilization facility on Federal land leased for geothermal resources?

If you want to use Federal land to produce geothermal power, you have to get a site license and construction permit before you even start preparing the site. Send BLM a plan that shows what you want to do and write up a proposed site license agreement that you think is fair and reasonable. We will review it and decide whether or not to give you a permit and license to proceed with work on the site. Until and unless we do, don't even think about it.

§ 3271.11 Who may apply for a permit to build a utilization facility?

The lessee, the facility operator, or the unit operator may apply to build a utilization facility.

§ 3271.12 What do I need to start preliminary site investigations which may disturb the surface?

(a) You must:

(1) Fully describe your proposed operations in a sundry notice; and,

(2) File a bond meeting the requirements of either 43 CFR 3251.15 or 3273.19. See Subparts 3214 and 3215 for additional details on bonding procedures.

(b) Do not begin the site investigation or surface disturbing activity until BLM approves your sundry notice and bond.

§ 3271.13 What do I need to start building and testing a utilization facility which is not located on Federal lands leased for geothermal resources, but the pipelines and facilities connecting the well field are?

(a) Before constructing pipelines and well field facilities on Federal lands leased for geothermal resources, the lessee, unit operator or facility operator must submit your utilization plan and facility construction permit addressing any pipelines or facilities. Do not start construction of your pipelines or facilities until BLM approves your utilization plan and facility construction permit.

(b) Before testing a utilization facility which is not located on Federal lands leased for geothermal resources with Federal geothermal resources, send us a sundry notice which describes the testing schedule and the amount of Federal resources you expect to be delivered to the facility during the testing. Do not start delivering Federal geothermal resources to the facility until we approve your sundry notice.

(c) You do not need a BLM permit to construct a facility located on either:

(1) Private land; or

(2) Lands where the surface is privately owned and BLM has leased the underlying Federal geothermal resources, when the facility will utilize Federal geothermal resources.

§ 3271.14 How do I get a permit to begin commercial operations?

Before using Federal geothermal resources, the lessee, operator, or facility operator must send us a complete commercial use permit (43 CFR 3274.11). This also applies when you use Federal resources allocated through any form of agreement. Do not start any commercial use operations until BLM approves your commercial use permit.

Subpart 3272—What is in a Utilization Plan and Facility Construction Permit?

§ 3272.10 What must I give BLM in my utilization plan?

Describe the proposed facilities as set out in 43 CFR 3272.11, and the anticipated environmental impacts and how you propose to mitigate those impacts, as set out at 3272.12.

§ 3272.11 How should I describe the proposed utilization facility?

Your description must include:

(a) A generalized description of all proposed structures and facilities, including their size, location, and function;

(b) A generalized description of proposed facility operations, including estimated total production and injection rates; estimated well flow rates, pressures, and temperatures; facility net and gross electrical generation; and, if applicable, interconnection with other utilization facilities. If it is a direct use facility, send us the information we need to determine the amount of resource utilized;

(c) A contour map of the entire utilization site, showing production and injection well pads, pipeline routes, facility locations, drainage structures, and existing and planned access and lateral roads;

(d) A description of site preparation and associated surface disturbance, including the source for site or road building materials, amounts of cut and fill, drainage structures, analysis of all site evaluation studies prepared for the site(s), and a description of any additional tests, studies, or surveys which are planned to assess the geologic suitability of the site(s);

(e) The source, quality, and proposed consumption rate of water used during facility operations, and the source and quantity of water used during facility construction;

(f) The methods for meeting air quality standards during facility construction and operation, especially standards concerning noncondensible gases;

(g) An estimated number of personnel needed during construction and operation of the facility;

(h) A construction schedule;

(i) A schedule for testing of the facility and/or well equipment, and for the start of commercial operations;

(j) A description of architectural landscaping or other measures to minimize visual impacts; and (k) Any additional information or data which we may require.

§ 3272.12 How do I describe the environmental protection measures I intend to take?

(a) Describe, at a minimum, your proposed measures to:

(1) Prevent or control fires;

(2) Prevent soil erosion;

(3) Protect surface or ground water;

(4) Protect fish and wildlife;

(5) Protect cultural, visual, and other natural resources;

(6) Minimize air and noise pollution; and

(7) Minimize hazards to public health and safety during normal operations.

(b) If we require, you must also describe how you will monitor your facility operations to ensure they comply with the requirements of 43 CFR 3200.4, and noise, air, and water quality standards at all times. We will consult with another involved surface management agency regarding monitoring requirements. You must also include provisions for monitoring other environmental parameters we may require.

(c) Based on what level of impacts your operations may cause, we may require you to collect data concerning existing air and water quality, noise, seismicity, subsidence, ecological systems, or other environmental information for up to one year before you begin operating. We must approve your data collection methodologies, and will consult with any other surface managing agency involved.

(d) You must also describe how you will abandon utilization facilities and restore the site, to comply with the requirements of 43 CFR 3200.4.

(e) Finally, submit any additional information or data which we may require.

§ 3272.13 How will BLM review my utilization plan and notify me of their decision?

(a) When BLM receives your utilization plan, we will make sure it is complete and review it for compliance with 43 CFR 3200.4.

(b) If another Federal agency manages the surface of your lease, we will consult with them as part of the plan review.

(c) If we need any further information to complete our review, we will contact you in writing and suspend our review until we receive the information.

§ 3272.14 How do I get a permit to construct or test my facility?

(a) Before constructing or testing a utilization facility, you must submit to BLM a:

(1) Utilization plan;

(2) Complete and signed facility construction permit; and,

(3) Complete and signed site licence. (See subpart 3273.)

(b) Do not start constructing or testing your utilization facility until we have approved both your facility construction permit and your site license.

(c) After our review, we will notify you whether we have approved or denied your permit, as well as any conditions we require for conducting operations.

Subpart 3273—How to Apply for a Site License

§ 3273.10 When do I need a site license for a utilization facility?

You must obtain a site license approved by BLM unless your facility will be located on lands leased described under 43 CFR 3273.11. Do not start building or testing your utilization facility on lands leased by BLM for geothermal resources until we have approved both your facility construction permit (See 3272.14) and your site license. The facility operator must apply for the license.

§ 3273.11 Are there any situations where I do not need a site license?

Yes, you do not need one if your facility will be located:

(a) On private lands or on split estate land where the United States does not own the surface; or

(b) On Federal lands not leased for geothermal resources. In these cases, the

Federal surface management agency will issue you the permit you need.

§ 3273.12 How will BLM review my site license application?

(a) When we receive your site license application, we will make sure it is complete. If we need more information for our review, we will contact you for that information and stop our review until we receive the information.

(b) If your site license is located on leased lands managed by the Department of Agriculture, we will consult with the agency and obtain concurrence before we approve your application. The agency may require additional license terms and conditions.

(c) If the land is subject to section 24 of the Federal Power Act, we will issue the site license with the terms and conditions requested by the Federal Energy Regulatory Commission.

(d) If another Federal agency manages the surface, we will consult with them to determine if they recommend additional license terms and conditions.

(e) After our review, we will notify you whether we approved or denied your license, as well as any additional conditions we require.

§ 3273.13 Are any lands not available for geothermal site licenses?

Yes. BLM will not issue site licenses for lands that are not leased or not available for geothermal leasing. See 43 CFR 3201.11.

§ 3273.14 What area does a site license cover?

The site license covers a reasonably compact tract of Federal land, limited to as much of the surface as is necessary to adequately utilize geothermal resources. That means the site license area will only include the utilization facility itself and other necessary structures, such as substations and processing, repair, or storage facilities areas.

§ 3273.15 What must I give BLM in my site license application?

(a) A description of the boundaries of the land applied for, as determined by a certified licensed surveyor. Describe the land by legal subdivision, section, township and range, or by approved protraction surveys, if applicable;

(b) The affected acreage;

(c) A non-refundable fee of $50;

(d) A site license bond (See 43 CFR 3273.19);

(e) The first year's rent, if applicable (see 43 CFR 3273.18); and (f) Documentation that the lessee or unit operator accepts the siting of the facility, if the facility operator is neither the lessee nor unit operator.

§ 3273.16 What is the annual rent for a site license?

We will specify the amount in your license, if you are required to pay rent. (See 43 CFR 3273.18.) Your rent will be at least $100 per acre or fraction thereof for an electrical generation facility, and at least $10 per acre or fraction thereof for a direct use facility. Send the first year's rent to BLM, and all subsequent rental payments to MMS under 30 CFR part 218.

§ 3273.17 May BLM reassess the annual rent for my site license?

Yes, we may reassess the rent for lands covered by the license beginning with the tenth year and every ten years after that.

§ 3273.18 Must all facility operators pay the annual site license rent?

No, if you are a lessee siting a utilization facility on your own lease, or a unit operator siting a utilization facility on leases committed to the unit, you do not need to pay rent. Only a facility operator who is not also a lessee or unit operator must pay rent.

§ 3273.19 What are the bonding requirements for a site license?

(a) For an electrical generation facility, the facility operator must submit a surety or personal bond for at least $100,000, and which meets the requirements of subpart 3214. BLM may increase the required bond amount. See subparts 3214 and 3215 for additional details on bonding procedures.

(b) For a direct use facility, the facility operator must furnish BLM with a surety or personal bond that meets the requirements of subpart 3214 in an amount BLM will specify.

(c) The bond's terms must cover compliance with the requirements of 43 CFR 3200.4.

(d) Until you provide a bond and BLM approves it, do not start construction, testing, or anything else that would disturb the surface.

§ 3273.20 When will BLM release my bond?

We will release your bond after you request it and we determine that you have:

(a) Reclaimed the land; including removing the utilization facility and all associated equipment; and

(b) Met all the requirements of 43 CFR 3200.4.

§ 3273.21 What are my obligations under the site license?

As the facility operator, you:

(a) Must comply with the requirements of 43 CFR 3200.4;

(b) Are liable for all damages to the lands, property or resources of the United States caused by yourself, your employees, contractors or the contractors' employees;

(c) Must indemnify the United States against any liability for damages or injury to persons or property arising from the occupancy or use of the lands authorized under the site license; and

(d) Must remove all structures and restore any disturbed surface, when no longer needed for facility construction or operation. This applies to the utilization facility if you cannot operate the facility and you are not diligent in your efforts to return the facility to operation.

§ 3273.22 How long will my site license remain in effect?

(a) The primary term is 30 years, with a preferential right to renew the license under terms and conditions set by BLM.

(b) If your lease on which the site license is located ends, you may apply for a facility permit under section 501 of FLPMA, 43 U.S.C. 1761, if your facility is on BLM-managed lands. Otherwise, you must get permission to continue using the surface for your facility from the surface management agency.

§ 3273.23 May I renew my site license?

(a) You have a preferential right to renew your site license under terms and conditions we determine.

(b) If your site license is located on leased lands managed by the Department of Agriculture, we will consult with the Federal surface management agency and obtain concurrence prior to renewing your license. The agency may require additional license terms and conditions. If another federal agency manages the surface, we will consult with them before granting your renewal.

§ 3273.24 May BLM terminate my site license?

Yes, by written order. To prevent termination, you will have 30 days after you receive the order to correct the violation, unless we determine the violation cannot be corrected within 30 days and you are diligently attempting to correct it. We may terminate your site license if you:

(a) Do not comply with the requirements of 43 CFR 3270.11; or

(b) Do not comply with the requirements of 43 CFR 3200.4.

§ 3273.25 May I relinquish my site license?

Yes. Send us a written notice for review and approval. We will not approve the relinquishment until you comply with 43 CFR 3273.21.

§ 3273.26 May I assign or transfer my site license?

Yes, you may transfer your site license in whole or in part. Send us your complete and signed transfer application and a $50 filing fee. Your application must include a written statement that the transferee will comply with all license terms and conditions, and that the lessee accepts the transfer. The transferee must submit a bond meeting the requirements of 43 CFR 3273.19. The transfer is not effective until we approve the bond and site license transfer.

Subpart 3274—Applying for and Obtaining a Commercial Use Permit

§ 3274.10 Do I need a commercial use permit to start commercial operations?

You need your commercial use permit approved by BLM before you begin commercial operations from a Federal lease, a Federal unit, or your utilization facility.

§ 3274.11 What must I give BLM to approve my commercial use permit application?

Submit a complete and signed commercial permit form with the following information:

(a) The design, specifications, inspection, and calibration schedule of production, injection, and royalty meters;

(b) A schematic diagram of the utilization site or individual well showing the location of each production and royalty meter. If the sales point is located off the utilization site, give us a generalized schematic diagram of the electrical transmission or pipeline system, including meter locations;

(c) A copy of the sales contract for the sale and/or utilization of geothermal resources;

(d) A description and analysis of reservoir, production, and injection characteristics, including the flow rates, temperatures, and pressures of each production and injection well;

(e) A schematic diagram of each production or injection well showing the wellhead configuration, including meters;

(f) A schematic flow diagram of the utilization facility, including interconnections with other facilities, if applicable;

(g) A description of the utilization process in sufficient detail to enable BLM to determine if the resource will be utilized in an acceptable manner;

(h) The planned safety provisions for emergency shutdown to protect public health, safety, property and the environment. This should include a schedule for the testing and maintenance of safety devices;

(i) The environmental and operational parameters that will be monitored during the operation of the facility and/or well(s); and

(j) Any additional information or data that we may require.

§ 3274.12 How will BLM review my commercial use permit application?

(a) When we receive your complete and signed commercial use permit, we will make sure it is complete and review it for compliance with the requirements of 43 CFR 3200.4.

(b) If another Federal agency manages the surface of your lease, we will consult with them before we approve your commercial use permit.

(c) We will review your commercial use permit to make sure it conforms with your utilization plan and any mitigation measures we developed while reviewing your plan.

(d) We will check your commercial use permit for technical adequacy and will ensure that your meters meet the accuracy standards. See 43 CFR 3275.14 and 3275.15.

(e) If we need any further information to complete our review, we will contact you in writing and suspend our review until we receive the information.

(f) After our review, we will notify you whether your permit has been approved or denied, as well as any conditions we require for conducting operations.

§ 3274.13 May I get a permit even if I cannot currently demonstrate I can operate within required standards?

Yes, but we may limit your operations to a set period of time, during which we will give you a chance to show you can operate within environmental and operational standards, based on actual facility and well data you collect. Send us a sundry notice to get BLM approval for extending your permit. If during this set time period you still cannot demonstrate your ability to operate within the required standards, we will terminate your authorization. You must then stop all operations and restore the surface to the standards we set in the termination notice.

Subpart 3275—Conducting Utilization Operations

§ 3275.10 How do I change my operations if I have an approved facility construction or commercial use permit?

Send us a complete and signed sundry notice describing your proposed change. Until we approve your sundry notice, you must continue to comply with the original permit terms.

§ 3275.11 What are a facility operator's obligations?

(a) Your obligations are to:

(1) Keep the facility in proper operating condition at all times;

(2) Conduct training during your operation which ensure your personnel are capable of performing emergency procedures quickly and effectively;

(3) Use properly maintained equipment; and

(4) Use operational practices which allow for quick and effective emergency response.

(b) Base the design of the utilization facility siting and operation on sound engineering principles and other pertinent geologic and engineering data; and,

(c) Prevent waste of, or damage to, geothermal and other energy and minerals resources.

(d) Comply with the requirements of 43 CFR 3200.4.

§ 3275.12 What environmental and safety requirements apply to facility operations?

(a) You must perform all utilization facility operations to:

(1) Protect the quality of surface and subsurface waters, air, and other natural resources, including wildlife, soil, vegetation, and natural history;

(2) Prevent unnecessary or undue degradation of the lands;

(3) Protect the quality of cultural, scenic and recreational resources;

(4) Accommodate other land uses as much as possible;

(5) Protect people and wildlife from unacceptable levels of noise;

(6) Prevent injury; and

(7) Prevent damage to property.

(b) You must monitor facility operations to identify and address local environmental resources and concerns associated with your facility or lease operations.

(c) You must remove or, with BLM approval, properly store all equipment and materials not in use.

(d) You must properly abandon and reclaim any disturbed surface to standards approved or prescribed by us, when the land is no longer needed for facility construction or operation.

(e) When we require, you must submit a contingency plan describing procedures to protect public health and safety, property, and the environment.

(f) You must comply with the requirements of 43 CFR 3200.4.

§ 3275.13 Does the facility operator have to measure the geothermal resources?

Yes, the facility operator must:

(a) Measure all production, injection and utilization in accordance with methods and standards we approve (see 43 CFR 3275.15); and

(b) Maintain and test all metering equipment. If your equipment is defective or out of tolerance, you must promptly recalibrate, repair, or replace it. Determine the amount of production and/or utilization in accordance with the methods and procedures we approve (See 43 CFR 3275.17).

§ 3275.14 What aspects of my geothermal operations must I measure?

(a) For all well operations, you must measure wellhead flow, wellhead temperature, and wellhead pressure.

(b) For all electrical generation facilities, you must measure:

(1) Steam and/or hot water flow into the facility;

(2) Temperature of the water and/or steam into the facility;

(3) Pressure of the water and/or steam into the facility;

(4) Gross electricity generated;

(5) Net electricity at the facility tailgate;

(6) Electricity delivered to the sales point; and

(7) Temperature of the steam and/or hot water exiting the facility.

(c) For direct use facilities, you must measure:

(1) Flow of steam and/or hot water;

(2) Temperature into the facility; and

(3) Temperature out of the facility.

(d) We may also require additional measurements depending on the type of facility, the type and quality of the resource, and the terms of the sales contract.

§ 3275.15 How accurately must I measure my production and utilization?

It depends on whether you use the meter in calculating Federal production or royalty, and what quantity of resource you are measuring.

(a) For meters that you use to calculate Federal royalty:

(1) If the meter measures electricity, it must have an accuracy of ±0.25% or better of reading;

(2) If the meter measures steam flowing more than 100,000 lbs/hr on a monthly basis, it must have an accuracy of ±2 percent or better of reading;

(3) If the meter measures steam flowing less than 100,000 lbs/hr on a monthly basis, it must have an accuracy of ±4 percent or better of reading;

(4) If the meter measures water flowing more than 500,000 lbs/hr on a monthly basis, it must have an accuracy of ±2 percent or better of reading;

(5) If the meter measures water flowing 500,000 lbs/hr or less on a monthly basis, it must have an accuracy of ±4 percent or better of reading;

(6) If the meter measures heat content, it must have an accuracy of ±4 percent or better; or

(7) If the meter measures two phase flow at any rate, we will determine meter accuracy requirements. You must obtain our prior written approval before installing and using meters for two phase flow.

(b) Any meters that you do not use to calculate Federal royalty are considered production meters, which must maintain an accuracy of ±5 percent or better of reading.

(c) We may modify these requirements as necessary to protect the interests of the United States.

§ 3275.16 What standards apply to installing and maintaining my meters?

(a) You must install and maintain all meters we require according to the manufacturer's recommendations and specifications or paragraphs (b) through (e) of this section, whichever is more restrictive.

(b) If you use an orifice plate to calculate Federal royalty, the orifice plate installation must comply with ''API Manual of Petroleum Standards, Chapter 14, Section 3, part 2, Third Edition, February, 1991.''

(c) For meters used to calculate Federal royalty, you must calibrate the meter against a known standard as follows:

(1) You must calibrate meters measuring electricity annually;

(2) You must calibrate meters measuring steam or hot water flow with a turbine, vortex, ultrasonics, or other linear devices, every six months, or as recommended by the manufacturer, whichever is more frequent; and

(3) You must calibrate meters measuring steam or hot water flow with an orifice plate, venturi, pitot tube, or other differential device, every month and you must inspect and repair the primary device (orifice plate, venturi, pitot tube) annually.

(d) You must use calibration equipment that is more accurate than the equipment you are calibrating.

(e) BLM may modify any of these requirements as necessary to protect the resources of the United States.

§ 3275.17 What must I do if I find an error in a meter?

(a) If you find an error in a meter used to calculate Federal royalty, you must correct the error immediately and notify BLM by the next working day of its discovery.

(b) If the meter is not used to calculate Federal royalty, you must correct the error and notify us within three days of its discovery.

(c) If correcting the error will cause a change in the sales quantity of more than 2% for the month(s) in which the error occurred, you must adjust the sales quantity for that month(s) and submit an amended facility report to us within three working days.

§ 3275.18 May BLM require me to test for byproducts associated with geothermal resource production?

Yes, you must conduct any tests we require, including tests for byproducts.

§ 3275.19 May I commingle production?

To request approval to commingle production, send us a complete and signed sundry notice. We will review your request to commingle production from wells on your lease with production from your other leases or from leases where you do not have an interest. Do not commingle production until we have approved your sundry notice.

§ 3275.20 What will BLM do if I waste geothermal resources?

We will determine the amount of any resources you have lost through waste. If you did not take all reasonable precautions to prevent waste, we will require you to pay compensation based on the value of the lost production. If you do not adequately correct the situation, we will follow the noncompliance procedures identified at 43 CFR 3277.12.

§ 3275.21 May BLM order me to drill and produce wells on my lease?

Yes, when necessary to protect Federal interests, prevent drainage and to ensure that lease development and production occur in accordance with sound operating practices.

Subpart 3276—Reports: Utilization Operations

§ 3276.10 What are my reporting requirements for facility and lease operations involving Federal geothermal resources?

(a) When you begin commercial production and operation, you must notify us in writing within five business days.

(b) Submit complete and signed monthly reports to BLM as follows:

(1) If you are a lessee or unit operator supplying Federal geothermal resources to a utilization facility on Federal land leased for geothermal resources, submit a monthly report of well operations for all wells on your lease or unit.

(2) If you are the operator of a utilization facility on Federal land leased for geothermal resources, submit a monthly report of facility operations.

(3) If you are both a lessee or unit operator and the operator of a utilization facility on Federal land leased for geothermal resources, you may combine

the requirements of paragraphs (b)(1) and (b)(2) of this section into one report.

(4) If you are a lessee or unit operator supplying Federal geothermal resources to a utilization facility not located on Federal land leased for geothermal resources, and the sales point for the resource utilized is at the facility tailgate, submit all the requirements of paragraphs (b)(1) and (b)(2) of this section. You may combine these into one report.

(c) Unless BLM grants a variance, your reports are due by the end of the month following the month that the report covers. For example, the report covering the month of July is due by August 31.

§ 3276.11 What information must I include for each well in the monthly report of well operations?

(a) Any drilling operations or changes made to a well;

(b) Total production or injection in thousands of pounds (klbs);

(c) Production or injection temperature in degrees Fahrenheit (deg.F);

(d) Production or injection pressure in pounds per square inch (psi). You must also specify whether this is gauge pressure (psig) or absolute pressure (psia);

(e) The number of days the well was producing or injecting;

(f) The well status at the end of the month;

(g) The amount of steam or hot water lost to venting or leakage, if the amount is greater than 0.5 percent of total lease production. We may modify this standard by a written order describing the change;

(h) The lease number or unit name where the well is located;

(i) The month and year the report applies to;

(j) Your name, title, signature, and a phone number where BLM may contact you; and

(k) Any other information that we may require.

§ 3276.12 What information must I give BLM in the monthly report for facility operations?

(a) For all electrical generation facilities, include in your monthly report of facility operations:

(1) Mass of steam and/or hot water used or brought into the facility, in klbs. For facilities using both steam and hot water, you must report the mass of each;

(2) The temperature of the steam or hot water in deg.F;

(3) The pressure of the steam or hot water in psi. You must also specify whether this is psig or psia;

(4) Gross generation in kiloWatt hours (kWh);

(5) Net generation at the tailgate of the facility in kWh;

(6) Temperature in deg.F and volume of the steam or hot water exiting the facility;

(7) The number of hours the plant was on line;

(8) A brief description of any outages; and

(9) Any other information we may require.

(b) For electrical generation facilities where Federal royalty is based on the sale of electricity to a utility, you must include the following additional information in your monthly report of facility operations:

(1) Amount of electricity delivered to the sales point in kWh, if the sales point is different from the tailgate of the facility;

(2) Amount of electricity lost to transmission;

(3) A report from the utility purchasing the electricity which documents the total number of kWhs delivered to the sales point during the month, or monthly reporting period if it is not a calendar month, and the number of kWhs delivered during diurnal and seasonal pricing periods; and

(4) Any other information we may require.

§ 3276.13 What extra information must I give BLM in the monthly report for flash and dry steam facilities?

In addition to the regular monthly report information, send us:

(a) Steam flow into the turbine in klbs; for dual flash facilities, you must separate the steam flow into high pressure steam and low pressure steam;

(b) Condenser pressure in psia;

(c) Condenser temperature in deg.F;

(d) Auxiliary steam flow used for gas ejectors, steam seals, pumps, etc., in klbs;

(e) Flow of condensate out of the plant (after the cooling towers) in klbs; and

(f) Any other information we may require.

§ 3276.14 What information must I give BLM in the monthly report for direct use facilities?

(a) A daily breakdown of flow, average temperature in, and average temperature out, in deg.F;

(b) Total monthly flow through the facility in thousands of gallons (kgal) or klbs;

(c) Monthly average temperature in, in deg.F;

(d) Monthly average temperature out, in deg.F;

(e) Total heat used in millions of BTU's (MMBTU);

(f) Number of hours that geothermal heat was used; and

(g) Any other information we may require.

§ 3276.15 Must I notify BLM of accidents occurring at my utilization facility?

Yes, you must verbally inform us of all accidents that affect operations or create environmental hazards within 24 hours after the accident. When you contact us, we may require you to submit a report fully describing the incident.

Subpart 3277—Inspections, Enforcement, and Noncompliance

§ 3277.10 Will BLM inspect my operations?

(a) Yes, we may inspect all operations to ensure compliance with the requirements of 43 CFR 3200.4. You must give us access to inspect all facilities utilizing Federal geothermal resources during normal operating hours.

§ 3277.11 What records must I keep available for inspection?

The operator or facility operator must keep all records and information pertaining to the operation of your utilization facility, royalty and production meters, and safety training available for BLM inspection for a period of six years from the time the records or information is created. This includes records and information from meters located off your lease or unit, when BLM needs them to determine resource production to a utilization facility or the allocation of resource production to your lease or unit. Store these records in a place which make them conveniently available.

§ 3277.12 What will BLM do if I do not comply with all BLM requirements?

(a) We will issue you a written Incident of Noncompliance, directing you to take required corrective action within a specific time period. If the noncompliance continues or is serious in nature, BLM will take one or more of the following actions:

(1) Enter the lease, and correct any deficiencies at your expense;

(2) Collect all or part of your bond;

(3) Order modification or shutdown of your operations; and

(4) Take action against a lessee who is ultimately responsible for noncompliance.

(b) Noncompliance may result in BLM canceling your lease. See 43 CFR 3213.23 through 3213.25.

Subpart 3278—Confidential, Proprietary Information

§ 3278.10 Will BLM disclose information I submit under these regulations?

All Federal and Indian data and information submitted to the BLM are subject to part 2 of this title. Part 2 includes the regulations of the Department of the Interior covering public disclosure of data and information contained in Department of Interior records. Certain mineral information not protected from disclosure under part 2 may be made available for inspection without a Freedom of Information Act (FOIA) request. Examples of information we will not treat information as confidential include:

(a) Facility location;

(b) Facility generation capacity; or

(c) To whom you are selling electricity or produced resources.

§ 3278.11 When I submit confidential, proprietary information, how can I help ensure it is not available to the public?

When you submit data and information that you believe to be exempt from disclosure by 43 CFR part 2, you must clearly mark each page that you believe contains confidential information. BLM will keep all data and information confidential to the extent allowed by 43 CFR 2.13(c).

§ 3278.12 How long will information I give BLM remain confidential or proprietary?

The FOIA does not provide a finite period of time for which information may be exempt from disclosure to public. Each situation will need to be reviewed individually and in accordance with guidance provided by 43 CFR part 2.

Subpart 3279—Utilization Relief and Appeals

§ 3279.10 May I request a variance from any BLM requirements?

(a) Yes, you may request a variance regarding your approved utilization operations from the requirements of 43 CFR 3200.4. Your request must include enough information to explain:

(1) Why you cannot comply; and

(2) Why you need the variance to operate your facility, conserve natural resources, protect public health and safety, property, or the environment.

(b) We may approve your request verbally or in writing. If we give you a verbal approval, we will follow up with written confirmation.

§ 3279.11 How may I appeal a BLM decision regarding my utilization operations?

You may appeal our decision regarding your utilization operations in accordance with 43 CFR 3200.5.

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Part V

Consumer Product Safety Commission

16 CFR Parts 1145 and 1212

Rule To Regulate Under the Consumer Product Safety Act Risks of Injury Associated With Multi-Purpose Lighters That Can Be Operated by Children; Multi-Purpose Lighters; Notice of Proposed Rulemaking; Proposed Rules

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1145

Rule To Regulate Under the Consumer Product Safety Act Risks of Injury Associated With Multi-Purpose Lighters That Can Be Operated by Children

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: Elsewhere in this issue of the **Federal Register**, the Commission proposes a safety standard for multi-purpose lighters to reduce risks of injury that are associated with the lighters because they can be operated by young children. In this notice, the Commission proposes to determine by rule, under section 30(d) of the Consumer Product Safety Act, that it is in the public interest to issue the safety standard, or to take any other regulatory action to address risks of injury that are associated with multi-purpose lighters due to the fact that they can be operated by children, under the Consumer Product Safety Act, rather than under the Federal Hazardous Substances Act or the Poison Prevention Packaging Act.

DATES: Comments on the proposed rule should be received by October 30, 1998.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814–4408, telephone (301) 504–0800. Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''Multi-Purpose Lighters: CPSA 30(d) Rule.''

FOR FURTHER INFORMATION CONTACT: Concerning legal aspects: Harleigh Ewell, Attorney, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0980, ext. 2217.

Concerning the proposed Safety Standard for Multi-Purpose Lighters: Barbara Jacobson, Project Manager for Multi-Purpose Lighters, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0477, ext. 1206; email bjacobson@cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Introduction

The Commission proposes to determine by rule that it will regulate those risks of death and injury that are associated with multi-purpose lighters, and that are due to the fact that the lighters can be operated by young children, under the Consumer Product Safety Act (''CPSA''), 15 U.S.C. 2051–2084. Young children do not appreciate all of the consequences of using the product. Those consequences can include the ignition of clothing and other articles in the household, and may result in injury or death of the child operating the multi-purpose lighter, or other persons. These risks will be regulated under the CPSA, rather than under the Federal Hazardous Substances Act (''FHSA''), 15 U.S.C. 1261–1277, or the Poison Prevention Packaging Act (''PPPA''), 15 U.S.C. 1471–1476.

Section 30(d) of the CPSA, 15 U.S.C. 2079(d), provides that a risk of injury associated with a consumer product that could be eliminated or reduced to a sufficient extent by action under the FHSA or the PPPA may be regulated under the CPSA only if the Commission, by rule, finds that it is in the public interest to regulate such a risk of injury under the CPSA. Elsewhere in this issue of the **Federal Register**, the Commission is proposing a rule under the CPSA that will impose child-resistance requirements on multi-purpose lighters.

The Commission recognizes that it might be possible to adequately reduce those risks by action taken under the FHSA or the PPPA. Nevertheless, the Commission has determined that it is in the public interest to regulate those risks of injury under the CPSA rather than the FHSA or the PPPA because the authority of the CPSA is more appropriate to address risks of injury associated with a mechanical, flame-producing device than are the authorities of the FHSA or the PPPA.

B. Background

Multi-purpose lighters are defined as follows:

(b)(1) *Multi-purpose lighter*, (also known as grill lighter, fireplace lighter, utility lighter, micro-torch, or gas match) means: A hand-held, self-igniting, flame-producing product that operates on fuel and is used by consumers to ignite items such as candles, fuel for fireplaces, charcoal or gas-fired grills, camp fires, camp stoves, lanterns, fuel-fired appliances or devices or pilot lights.

(2) The following products are not multi-purpose lighters:

(i) Devices intended primarily for igniting smoking materials that are within the definition of ''lighter'' in the safety standard for cigarette lighters (16 CFR 1210.2(c)).

(ii) Devices containing more than 10 oz. of fuel.

(iii) Matches.

In the **Federal Register** of January 16, 1997, the Commission published an advance notice of proposed rulemaking (''ANPR'') to begin a proceeding for development of requirements for multi-purpose lighters to address risks of injuries from fires started by children playing with multi-purpose lighters. 62 FR 2327.

The CPSC's staff has identified 178 fires occurring since January 1988 that were started by children under age 5 who were playing with multi-purpose lighters. These fires resulted in a total of 29 deaths and 71 injuries.

Of the statutes administered by the CPSC, the CPSA, the FHSA, and the PPPA provide authority for a child-resistance requirement for multi-purpose lighters. The possible regulatory options include issuing a consumer product safety standard under provisions of the CPSA, a banning rule under provisions of the FHSA, and a rule to establish requirements to make multi-purpose lighters ''significantly difficult for children under five years of age'' to operate under provisions of the PPPA.

C. Statutory Authority

1. *The Consumer Product Safety Act.* A multi-purpose lighter is a ''consumer product'' as that term is defined by section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1), because it is an article that is produced or distributed for sale to consumers for use in or around a household or school, in recreation, or otherwise. Sections 7 and 9 of the CPSA, 15 U.S.C. 2056, 2058, authorize the Commission to issue a consumer product safety standard consisting of labeling or performance requirements for a consumer product if those requirements are ''reasonably necessary to prevent or reduce an unreasonable risk of injury associated with a consumer product.''

Section 14(a) of the CPSA, 15 U.S.C. 2063(a), requires each manufacturer of a consumer product that is subject to a consumer product safety standard to issue a certificate of compliance stating that the product conforms to all applicable consumer product safety standards. Section 14(c) of the CPSA, 15 U.S.C. 2063(c), requires that the certificate of compliance must be based upon a test of each product or a ''reasonable testing program.'' Section 14(b) of the CPSA, 15 U.S.C. 2063(b), also authorizes the Commission to issue rules to prescribe a reasonable testing program. Section 14(c) of the CPSA authorizes the Commission to issue

rules requiring labels containing the date and place of manufacture and a suitable identification of the manufacturer, unless the product bears a private label. In that case, the label shall identify the private labeler and contain a code mark that will permit the seller of the product to identify the manufacturer upon the request of the purchaser.

Section 16(b) of the CPSA, 15 U.S.C. 2065(b), authorizes the Commission to issue rules requiring manufacturers to maintain records of the testing specified in any rule prescribing a reasonable testing program. Section 9(g)(2) of the CPSA, 15 U.S.C. 2058(g)(2), authorizes the Commission to issue rules prohibiting the stockpiling of products that are subject to a consumer product safety rule. Stockpiling means the manufacturing or importing of a product between the date of promulgation of the consumer product safety rule and its effective date at a rate that is established by the rule and is significantly greater than the rate at which such product was produced or imported during a specified base period ending before the promulgation of the consumer product safety rule.

2. *The Federal Hazardous Substances Act.* Under the FHSA, in order to be a hazardous substance, a product must be toxic, corrosive, an irritant, a strong sensitizer, flammable or combustible, or capable of generating pressure.[1] Butane or petroleum distillate fuel contained within a multi-purpose lighter meets the definition of ''hazardous substance'' given in section 2(f)l(A) of the FHSA, 15 U.S.C. 1261(f)l(A), because it is ''flammable,'' and in some cases is ''toxic'' or ''generates pressure,'' and may cause substantial personal injury or illness as a proximate result of customary or reasonably foreseeable use. Multi-purpose lighters that contain fuel when sold to consumers are subject to the labeling provisions of section 2(p) of the FHSA, 15 U.S.C. 1261(p), because they contain a hazardous substance that is intended or packaged in a form suitable for use in the household.

Section 3(b) of the FHSA, 15 U.S.C. 1262(b), authorizes the Commission to issue rules to prescribe special labeling requirements for hazardous substances intended for use in the household, if the Commission determines that the labeling specified by section 2(p) of the FHSA is not adequate to protect the public health and safety in view of the special hazard presented by that substance.

Section 2(q)(1)(B) of the FHSA, 15 U.S.C. 1261(q)(1)(B), authorizes the Commission to issue a rule banning a hazardous substance intended for use in the household if the Commission determines that, notwithstandinq any labeling which is or could be required by the FHSA, the degree or nature of the hazard is so great that protection of the public health and safety can be adequately served only by keeping the product out of channels of interstate commerce. A banning rule issued under section 2(q)(1)(B) of the FHSA could take the form of a conditional ban: That is, a rule banning all multi-purpose lighters that do not meet certain performance or design requirements specified in the rule.

3. *The Poison Prevention Packaging Act.* Sections 2, 3, and 5 of the PPPA, 15 U.S.C. 1471, 1472, and 1474, authorize the Commission to issue rules to require packaging that is ''significantly difficult'' for children younger than 5 years of age to open, or ''obtain a toxic or harmful amount'' from, any ''hazardous substance'' as that term is defined in the FHSA. To issue such a rule, the Commission must make and support findings that child-resistant packaging is required to protect children from serious personal injury or illness from ''handling, using, or ingesting'' the substance.

A multi-purpose lighter meets the definition of the term ''package'' set forth in section 2(3) of the PPPA, 15 U.S.C. 1471(3), because it is the ''immediate container'' of a hazardous substance. However, section 4(a) of the PPPA, 15 U.S.C. 1473(a), provides that, for the purpose of making any substance that is subject to requirements for child-resistant packaging available to elderly or handicapped persons, the manufacturer may package that substance in conventional packaging in one size, provided that (1) the substance is also supplied in child-resistant packaging; and (2) the conventional packaging is labeled with the statement ''This package for households without young children.''

D. Choice of Statute

The Commission has preliminarily determined that the CPSA is the most appropriate statute to address risks of injury associated with multi-purpose lighters that can be operated by children. Those risks of injury arise because multi-purpose lighters are mechanical devices intended to produce flame and can be operated by children.

The CPSA includes provisions authorizing the Commission to issue performance and labeling requirements applicable to multi-purpose lighters when such requirements are ''reasonably necessary'' to eliminate or reduce an unreasonable risk of injury associated with that product. This authority is suitable for issuing requirements to address hazards associated with young children starting fires with multi-purpose lighters.

The CPSA also authorizes the Commission to issue certification rules for products subject to a consumer product safety standard. Such rules may contain a prescribed testing program upon which the certificate of the manufacturer or private labeler is based. The effectiveness of the rule for multi-purpose lighters that is proposed elsewhere in this issue of the **Federal Register** depends in large part on the testing conducted by the manufacturer under the certification rule. It is possible that similar testing requirements could be promulgated under the authority of section 10(a) of the FHSA, 15 U.S.C. 1269(a), that the Commission may issue ''regulations for the efficient enforcement'' of the FHSA. However, the authority of the CPSA is explicit in this regard and, thus, is preferable.

The Commission has preliminarily determined that a stockpiling rule is in the public interest because it will help ensure the effectiveness of any standard for multi-purpose lighters. Neither the FHSA or the PPPA explicitly authorizes such a rule.

The FHSA includes provisions that authorize the Commission to require special labeling for, and in some circumstances to ban, a household product that contains or consists of a ''hazardous substance.'' The FHSA authorizes the Commission to regulate multi-purpose lighters because they are containers of lighter fuel, which is a ''hazardous substance'' as that term is defined in the FHSA. However, no provision of the FHSA expressly authorizes the Commission to address a hazard that is associated with the mechanical operation of a multi-purpose lighter as a flame-producing device. The changes needed to reduce the risk of child-play fires also involve the mechanical characteristics of the lighter's operating mechanism. Thus, the CPSA is a more appropriate statute for regulating the mechanical risk of child resistance.

Under the PPPA, the Commission may issue a rule requiring the ''package''—that is, the multi-purpose lighter—to be ''significantly difficult'' for children younger than 5 years of age ''to open or obtain a toxic or harmful amount of the substance contained

[1] Additional hazards can be addressed for children's products. Multi-purpose lighters, however, are not intended for use by children within the meaning of the FHSA.

therein.'' However, the ability of young children ''to open'' the multi-purpose lighter or ''obtain a toxic or harmful amount'' of the fuel in the multi-purpose lighter is not the risk of injury associated with multi-purpose lighters that is under consideration by the Commission. Rather, it is the risk of death and injury from fires started by children with multi-purpose lighters. This risk arises from the mechanical operation of the multi-purpose lighter, and from the ability of young children to manipulate the multi-purpose lighter to produce a flame.

Additionally, the PPPA allows the manufacturer of a substance subject to special-packaging requirements to use packaging that is not child-resistant if (1) the substance is also distributed in child-resistant packages and (2) the packages that are not child resistant are labeled ''This package for households without young children.'' This provision, by allowing the marketing of non-child-resistant multi-purpose lighters of the types covered by the rule, could significantly impair the effectiveness of the rule to reduce the risk of injury.

Therefore, for the reasons given above, the Commission is proposing a rule that would determine that it is in the public interest to regulate under the CPSA any risks of injury associated with the fact that multi-purpose lighters can be operated by young children. If issued, this finding will be codified at 16 CFR 1145.17. The Commission proposes that any final rule shall become effective immediately upon its publication in the **Federal Register**. 5 U.S.C. 553(d)(3). (There is a proposed 1-year delayed effective date for the safety standard itself.)

Section 30(d) of the CPSA provides that the comment period cannot exceed 30 days for a rule finding that it is in the public interest to regulate under the CPSA rather than another act. 15 U.S.C. 2079(d). Accordingly, comments should be received by the Commission by October 30, 1998.

D. Impact on Small Entities

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 603, requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis of the impact of any proposed rule on small entities, including small businesses. A final regulatory analysis is required when a final rule is issued. 5 U.S.C. 604. The RFA further provides, however, that an agency is not required to prepare a regulatory flexibility analysis if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). The regulation issued below does not by itself impose any legal or other obligation on any person or firm. The rule would simply express the Commission's determination that any action taken to eliminate or reduce risks of injury associated with multi-purpose lighters that can be operated by children will be taken under the authority of the CPSA rather than the FHSA or the PPPA. In issuing the safety standard for multi-purpose lighters, the Commission will follow all applicable provisions of the CPSA. The provisions of the RFA also apply to the safety standard, and the Commission has prepared an initial certification that the Safety Standard for Multi-Purpose Lighters, if issued, will not have a significant economic impact on a substantial number of small entities. However, because a final rule under section 30(d) of the CPSA would impose no obligation on any person or firm, the Commission hereby certifies that the 30(d) rule, if issued, will not have a significant economic impact on a substantial number of small entities.

F. Environmental Considerations

The rule proposed below falls within the categories of Commission action described in 16 CFR 1021.5(c) as having little or no potential for affecting the human environment, and the Commission has no information that would indicate otherwise. Therefore, neither an environmental assessment nor an environmental impact statement is required.

G. Conclusion

After consideration of the information discussed above, the Commission finds that if regulatory action is needed to address risks of injury associated with multi-purpose lighters due to the fact that they can be operated by children, it is in the public interest to regulate such risks under the CPSA rather than the FHSA or the PPPA. This determination does not affect other hazards associated with multi-purpose lighters, such as that some lighters are subject to FHSA labeling because the lighters contain fuel that is flammable or toxic or generates pressure. Provisions of the FHSA and the PPPA authorize the Commission to address risks of injury associated with the fuel contained within a multi-purpose lighter because the fuel is a ''hazardous substance'' as that term is defined by the FHSA. However, a multi-purpose lighter is more than a container or a package of a hazardous substance. It is a device that incorporates a mechanism for igniting the fuel and is intended to be operated to produce a flame. The Commission determines that the provisions of the CPSA are the most appropriate to address risks of injury associated with a mechanical device due to the fact that it can be operated by children to produce flame. The Commission also determines that it is in the public interest to regulate this risk associated with multi-purpose lighters under the CPSA because the certification and stockpiling provisions in the proposed rule are necessary to help ensure the effectiveness of the rule. Such provisions are most appropriate, and only explicitly available, under the CPSA.

List of Subjects in 16 CFR Part 1145

Administrative practice and procedure, Consumer protection, Fire protection, Infants and children, Packaging and containers, Multi-purpose lighters.

For the reasons given above, the Commission amends Title 16, Chapter II, Subchapter B, of the Code of Federal Regulations as follows:

PART 1145—REGULATION OF PRODUCTS SUBJECT TO OTHER ACTS UNDER THE CONSUMER PRODUCT SAFETY ACT

1. The authority citation for part 1145 is revised to read as follows:

Authority: 15 U.S.C. 2079(d).

2. A new § 1145.17 is added to read as follows:

§ 1145.17 Multi-purpose lighters that can be operated by children; risks of death or injury.

(a) The Commission finds that it is in the public interest to regulate under the Consumer Product Safety Act any risks of injury associated with the fact that multi-purpose lighters can be operated by young children, rather than to regulate such risks under the Federal Hazardous Substances Act or the Poison Prevention Packaging Act of 1970.

(b) Therefore, if the Commission finds regulation to be necessary, risks of death or injury that are associated with multi-purpose lighters because the lighters can be operated by young children shall be regulated under one or more provisions of the Consumer Product Safety Act. Other risks associated with such lighters, and that are based solely on the fact that the lighters contain a hazardous substance, shall continue to be regulated under the Federal Hazardous Substances Act.

Dated: September 25, 1998.

Sadye E. Dunn,

Secretary.

Consumer Product Safety Commission.

[FR Doc. 98–26170 Filed 9–29–98; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1212

Multi-Purpose Lighters; Notice of Proposed Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission has reason to believe that unreasonable risks of injury and death are associated with multi-purpose lighters that can be operated by children under age 5. Multi-purpose lighters are hand-held, self-igniting, flame-producing products that operate on fuel and typically are used to light devices such as charcoal and gas grills and fireplaces. Devices intended primarily for igniting smoking materials are excluded; such products are already subject to a child-resistance standard at 16 CFR part 1210.

The Commission is aware of 178 fires from January 1988 through August 6, 1998, that were started by children under age 5 using multi-purpose lighters. These fires resulted in 29 deaths and 71 injuries.

This notice of proposed rulemaking (''NPR'') proposes a rule mandating performance standards for the child resistance of multi-purpose lighters. The Commission solicits written comments from interested persons on the proposed rule.

DATES: Written comments and submissions in response to this notice must be received by the Commission by December 14, 1998.

Comments on elements of the proposal that, if issued, would constitute collection of information requirements under the Paperwork Reduction Act may be filed with the Office of Management and Budget (''OMB'') and with the Commission. Comments will be received by OMB until November 30, 1998.

ADDRESSES: Comments to CPSC should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland; telephone (301) 504–0800. Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''NPR for Multi-purpose lighters.''

Comments to OMB should be directed to the Desk Officer for the Consumer Product Safety Commission, Office of Information and Regulatory Affairs, OMB, Washington, DC 20503. The Commission asks commenters to provide copies of such comments to the Commission's Office of the Secretary, with a caption or cover letter identifying the materials as comments submitted to OMB on the proposed collection of information requirements for multi-purpose lighters.

FOR FURTHER INFORMATION CONTACT: Barbara Jacobson, Project Manager, Directorate for Epidemiology and Health Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0477, ext. 1206; email bjacobson@cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Background

1. *The product.* Multi-purpose lighters are defined in § 1212.2(a)(1) of the rule proposed below as follows:

(a)(1) *Multi-purpose lighter,* also known as grill lighter, fireplace lighter, utility lighter, micro-torch, or gas match, means: A hand-held, self-igniting, flame-producing product that operates on fuel and is used by consumers to ignite items such as candles, fuel for fireplaces, charcoal or gas-fired grills, camp fires, camp stoves, lanterns, fuel-fired appliances or devices, or pilot lights, or for uses such as soldering or brazing.

(2) *Exclusions.* The following products are not multi-purpose lighters:

(i) Devices intended primarily for igniting smoking materials that are within the definition of ''lighter'' in the Safety Standard for Cigarette Lighters (16 CFR 1210.2(c)).

(ii) Devices that contain more than 10 oz. of fuel.

(iii) Matches.

Multi-purpose lighters often have a nozzle long enough to reach hard-to-light places. Further, the long nozzle allows safer ignition of products, such as gas grills, where the fuel may flare up when ignited. On certain lighters, the nozzle is flexible. Multi-purpose lighters also include lighters with shorter nozzles. Some of this group include a burner that operates at a higher flame temperature than other multi-purpose lighters. These lighters are sometimes referred to as micro-torches.

Multi-purpose lighters are activated by applying pressure to a trigger or button mechanism, which initiates fuel flow and causes a spark. Most multi-purpose lighters now sold include some type of on/off switch. Usually, this is a two-position slider-type switch that must be in the ''on,'' or unlocked, position before the lighter can be activated.

Some multi-purpose lighters (micro-torches) may have a control that allows the lighter to remain lit after the user lets go of the lighter. This, in conjunction with a stable base or stand, allows hands-free operation of the lighter during operations such as soldering.

The on/off switch currently provided on multi-purpose lighters would not comply with the requirements for child resistance in the cigarette lighter standard, since the on/off switch is easy for young children to operate and does not reset to the ''off'' position automatically after each operation of the ignition mechanism of the lighter. 16 CFR 1210.3(b)(1).

2. *Procedural background.* On July 12, 1993, the Commission published a consumer product safety standard that requires disposable and novelty cigarette lighters to have a child-resistant mechanism that makes the lighters difficult for children under 5 years old to operate.[1] 16 CFR Part 1210. The cigarette lighter standard excludes lighters that are primarily intended for igniting materials other than cigarettes, cigars, and pipes.

In February 1996, Judy L. Carr petitioned the Commission to ''initiate Rulemaking Proceedings to amend 16 CFR Part 1210 Safety Standard for Cigarette Lighters to include the Scripto'' Tokai Aim'n Flame™ disposable butane 'multi-purpose' lighter within the scope of that standard and its child resistant performance requirements.''

On May 7, 1996, the Commission published a **Federal Register** notice soliciting comments on topics related to issues raised by the petition. 61 FR 20503. The Commission received nine comments in response to that notice. After considering these comments and the other available information, the Commission voted to grant the petition and commence a rulemaking proceeding that could result in a mandatory standard for the child resistance of multi-purpose lighters.

The rulemaking was commenced by publication in the **Federal Register** of an advance notice of proposed rulemaking (''ANPR''). 62 FR 2327 (January 16, 1997). In a notice published January 8,

[1] 58 FR 37554. The standard became effective July 12, 1994.

1998, the Commission extended the time for publishing a notice of proposed rulemaking until September 30, 1998. 63 FR 1077.

Nine comments were received in response to the ANPR. The Commission responds to these comments, and to three comments received earlier, in Section H of this notice. After considering these comments, the results of baseline testing of currently-marketed multi-purpose lighters for child resistance, and other available information, the Commission voted to propose the mandatory standard for multi-purpose lighters set forth below.

B. Incident Data

The CPSC's staff identified a total of 249 fires reportedly started by children playing with multi-purpose lighters from January 1988 to the present. These fires resulted in a total of 45 deaths and 97 injuries. For the incidents where age of the fire starter was known, children under age 5 ignited 178 fires (76%). These 178 fires resulted in 29 deaths and 71 injuries. See Table 1. Children age 5 and older ignited 57 fires that resulted in 16 deaths and 19 injuries. An additional 14 fires, which resulted in 7 injuries, were described as being caused by children, but their ages were not given.

TABLE 1.—FIRES, DEATHS, AND INJURIES CAUSED BY CHILDREN UNDER AGE 5 PLAYING WITH MULTI-PURPOSE LIGHTERS, BY YEAR

Year	Fires	Deaths	Injuries
1988	3	.....	.....
1989	1	.....	2
1990	2	.....	1
1991	2	.....	.....
1992	4	1	1
1993	7	3	4
1994	7	.....	1
1995	17	6	8
1996	55	8	32
1997	47	4	8
1998*	33	7	14
Total	178	29	71

*Reports received through August 6, 1998.
Source: Consumer complaints, newspaper clippings, hospital emergency room-treated injuries, fire department reports, and investigation reports.

Twenty-four of the 29 fatalities were children. See Table 2. Twenty were under age 5; four were between the ages of 5 and 14. Fourteen of the children who died had started the fire. Seven of the children who died were siblings of the fire starter. Four of the five adults who died were mothers of the children who started the fires. The four remaining fatalities were other relatives, friends, and a child in a home child-care setting.

TABLE 2.—FATALITIES THAT OCCURRED IN MULTI-PURPOSE LIGHTER FIRES CAUSED BY A CHILD UNDER AGE 5, BY AGE AND RELATIONSHIP TO THE CHILD WHO IGNITED THE FIRE, 1/1/88—8/6/98

Relationship to Fire Starter	Ages(years) of fatalities			
	Total	<5	5–14	15+
Total	29	20	4	5
Self	14	14	.....	.....
Sibling	7	5	2	.....
Mother	4	.....	.....	4
Other	4	1	2	1

*Reports received through August 6, 1998.
Source: Consumer complaints, newspaper clippings, hospital emergency room-treated injuries, fire department reports, and investigation reports.

Seventeen of the 71 people who were injured required hospitalization. Several were treated for extensive second- and third-degree burns requiring long-term treatment. In addition to the fatalities and injuries, most fires resulted in property damage. Thirty-five of the 178 reports cited property damage of $50,000 or more.

One hundred forty-six of the 178 children starting the fires were either 3 or 4 years old (about 82 percent). Three children were under age 2, indicating that even some very young children are capable of operating multi-purpose lighters. See Table 3.

TABLE 3.—AGE DISTRIBUTION OF CHILDREN UNDER AGE 5 WHO IGNITED A FIRE WHILE PLAYING WITH A MULTI-PURPOSE LIGHTER, 1/1/88–8/6/98

Age of child (years)	Total	< 2	2	3	4	< 5*
Number of children	178	3	24	81	65	5

*Children were under age 5, but the exact year of age was not reported.
Source: Consumer complaints, newspaper clippings, hospital emergency room-treated injuries, fire department reports, and investigation reports.

Many of the children found the multi-purpose lighters in easily accessible locations, such as on kitchen counters or furniture tops. Others, however, obtained the lighters from more inaccessible locations, such as high shelves or cabinets, where parents tried to hide them.

Reports of these fires were received from many sources, including the petitioner, ANPR commenters, fire departments, consumers, newspapers, and the CPSC's National Electronic Injury Surveillance System (''NEISS''). The number of fires reported each year increased sharply beginning in 1995. Part of the increase is believed to be due to CPSC's increased efforts to obtain more information on fires caused by children playing with cigarette lighters, to monitor the effectiveness of the 1994 standard. Because these data are actual incidents rather than national estimates, the extent of the total problem may be greater.

National Fire Incident Reporting System (''NFIRS'') data, upon which national fire loss estimates are based, do not specify the age of the child who started the fire or the type of lighter involved. The staff is currently conducting a study to evaluate the effectiveness of the Safety Standard for Cigarette Lighters. Data collection, based on reports from participating fire departments, began in November 1997 and will continue through the fall of 1998. The results of the Cigarette Lighter Evaluation Study will provide information about the age of the child who started the fire and the lighter type, i.e., cigarette or utility.

The 1998 NFIRS data covering the study period are not expected to be available until 2000, due to the time lag involved in local jurisdictions forwarding data to the U.S. Fire Administration. At that time, the Commission will be able to apply the results of the Cigarette Lighter Evaluation Study to the NFIRS-based data in order to provide national estimates of incidents involving multi-purpose lighters.

In the 178 incidents started by children under 5, the brand name of the lighter involved was reported in 86

incidents. Of these, 77 (90 percent) involved one manufacturer, which has about a 90 percent share of the market. There were five other brands identified in the remaining six incidents.

The high proportion of deaths of children under age 5, and the severity of the injuries, illustrate the hazard associated with children playing with multi-purpose lighters. Nationally, 39 percent of the estimated 780 children under age 5 who died in home fires annually between 1991 and 1995 were in fires started by a child playing, usually with lighters or matches. The data reported by the staff indicate that children playing with multi-purpose lighters have become a part of this problem.

C. Baseline Testing

To establish the level of child resistance of multi-purpose lighters that are currently on the market, CPSC contractors conducted ''baseline'' testing of surrogates of 5 different models of multi-purpose lighters, using the test protocol for cigarette lighters (at 16 CFR 1210.4). As far as child-resistance performance is concerned, the cigarette lighter protocol is essentially identical to the protocol proposed below for multi-purpose lighters. Three of the multi-purpose lighters tested have triggers, one has a pushbutton, and one has a squeeze handle. All of the lighters, except the model with the squeeze handle, have an on/off switch that must be in the ''on,'' or unlocked, position to operate the lighter.

The lighters tested were not designed to be child resistant. The Commission used the results of the baseline testing to calculate the potential benefits of mandatory requirements for multi-purpose lighters, as discussed in the Preliminary Regulatory Analysis at Section G of this notice.

The test protocol that was used for the baseline testing requires panels of 100–200 children to determine the child resistance of lighters. The test is conducted with pairs of children using surrogate lighters. A surrogate lighter has no fuel, and produces a signal instead of a flame when the lighter is operated. Staff engineers designed and built the battery-operated surrogate lighters used for the baseline testing. After the lighters were equipped with surrogate systems, the engineering staff verified that the operation forces were the same as the forces in the actual production lighters.

To begin the test, the tester demonstrates the signal that the lighter makes and asks the children to try to make the signal with their lighters. The children are given 5 minutes to try to operate the lighter. If one, or both, of the children are unsuccessful in the first 5 minutes, the tester demonstrates the lighters' operation using each child's lighter. This visual demonstration, with no additional description of how the lighter operates, is followed by another 5-minute test period.

The cigarette lighter test protocol allows unfueled production lighters with distinct operating sounds to be tested without special surrogate lighter systems. However, for all but one test, the staff used surrogate lighters to provide assurance, beyond the sound of the trigger click, that the children had successfully operated the lighters. One of the lighter models was tested both with and without a surrogate system to determine if the results would be comparable.

In five of the seven tests, the testers gave the lighters to the children with the switch ''off'' at the beginning of the test. Children who successfully operated these lighters turned the switch ''on'' and pulled the trigger. After the demonstration, the testers returned the lighters to the children with the switch in the same position the children left them at the end of the first 5-minute test period. In the sixth test, Model D was retested with the lighters' switch in the ''on'' position. Almost 90 percent of the children were able to operate the lighters is this test. In the seventh test, the lighters did not have an on/off switch. Over 95 percent of the children were able to operate this lighter.

Table 4 summarizes the results of the baseline testing. For a frame of reference, the standard for cigarette lighters requires a minimum child resistance of 85 percent. The child resistance of the lighters tested with the on/off switch in the ''off'' position ranged from 24 to 41 per cent. Therefore, none of the lighters met the requirements of the cigarette lighter standard.

TABLE 4.—BASELINE TEST RESULTS

Lighter	Successful operations	Child resistance (percent)
TEST 1 Model A—Trigger without surrogate system ...	63/100	37
TEST 2 Model A—Trigger	66/100	34
TEST 3 Model B—Pushbutton	63/100	37
TEST 4 Model C—Trigger	76/100	24
TEST 5 Model D—Trigger	59/100	41
TEST 6 Model D—Trigger switch unlocked (''on'')	88/100	12
TEST 7 Model E—Squeeze Handle(no on/off switch)	96/100	4

D. The Proposed Standard

Scope. As noted previously, the products subject to the draft proposed standard are multi-purpose lighters, also referred to as grill lighters, fireplace lighters, utility lighters, micro-torches, or gas matches. These are hand-held, flame-producing devices that operate on fuel and are used by consumers to ignite candles, fuel for fireplaces, charcoal or gas-fired grills, campfires, camp stoves, lanterns, or fuel-fired appliances. The definition of multi-purpose lighters excludes matches, lighters intended primarily for igniting smoking materials, and devices with more than 10 oz. of fuel.

Requirements. Most of the provisions of the proposed standard are essentially the same as the Safety Standard for Cigarette Lighters, including a required child resistance of 85 percent. The test protocol for evaluating the child resistance of lighters is also the same, although there are some wording changes for clarification of original intent.

In contrast to the Safety Standard for Cigarette Lighters, the proposed rule covers all refillable and nonrefillable multi-purpose lighters regardless of their cost. The baseline testing showed that 63 out of 100 children were able to operate a seemingly unwieldy $40.00 lighter with a very long handle and an 18-inch flexible nozzle.

Some industry members expressed concern that the additional time required to activate a child-resistant mechanism could increase the risk of flash-back from accumulated gas where the lighter did not light on the first attempt. As discussed in more detail later in this notice, the Commission does not know how the potential for flash-back would be affected by child-resistant mechanisms and solicits information on this issue. To minimize or eliminate any additional risk, however, the proposed rule specifies that a multi-purpose lighter must allow multiple operations of the ignition mechanism (with fuel flow) without

further operation of the child-resistant mechanism, unless the lighter requires only one motion to both (i) overcome the child-resistant mechanism and (ii) ignite the fuel. The Commission could reconsider this requirement if additional information indicates that any additional risk of flashback is not significant, that allowing multiple activations after operation of the child-resistant mechanism would cause an additional risk of child-play fires, or that the cost of this requirement is excessive.

Some multi-purpose lighters allow the lighter to remain lit after it is released by the user. This can allow hands-free operation during operations such as soldering. The Commission is interested in information from the public and affected industry on the need for a hands-free feature and on any additional risk of child-play fires that such a feature might bring to child-resistant lighters. The proposed rule allows a lighter to remain lit after being released by the user under certain circumstances.

To address the child-resistance issue with respect to lighters that have this hands-free feature, the Commission is proposing two requirements that are not in the cigarette lighter standard. The first new requirement (§ 1212.3(b)(2)) will help prevent the dangerous situation where a child who operates the child-resistant mechanism and lights the lighter could create a flame that would not go out when the lighter is released, even if it is dropped. The proposed rule specifies that, after the lighter is lit, an additional manual operation must be performed to activate the feature that allows the lighter to burn without being held by the user. Under normal operation, this feature will prevent multi-purpose lighters from being ignited when the hands-free feature is engaged.

The second new requirement is that a lighter that remains lit after it is released need not return automatically to the child-resistant condition when it is released. It must automatically reset, however, when or before the user lets go of the lighter after turning off the flame. This allows hands-free operation but requires that, by the time the lighter is released, either without or after hands-free operation, the child-resistant mechanism will have reset automatically.

The draft standard has recordkeeping and reporting requirements that will allow the Commission to ensure that lighters comply. The draft standard also requires manufacturers and importers to provide a certificate of compliance to any distributor or retailer to whom the lighters are delivered. Anti-stockpiling provisions are designed to prevent the importation or manufacture of excessive numbers of noncomplying lighters between publication of the final rule and the effective date. The definition of base period for the anti-stockpiling provisions has been changed to ''the most recent calendar year'' rather than ''any 1-year period during the 5-year period'' prior to publication of the final rule. This change from the Safety Standard for Cigarette Lighters was recommended by the Technical Task Group of ASTM F1502. The U.S. Customs Service keeps its records by calendar year, and it is more practical for the Commission to obtain data on imports for the most recent year. The Technical Task Group also suggested that importers be required to provide the Commission with documentation of importation numbers for both the baseline period and the anti-stockpiling period. These requirements will assist the Commission in enforcing the anti-stockpiling provisions.

E. Statutory Authority for This Proceeding

Three of the statutes administered by the Commission have at least some relevance to the risk posed by non-child-resistant multi-purpose lighters. These are the Consumer Product Safety Act (''CPSA''), 15 U.S.C. 2051–2084; the Poison Prevention Packaging Act (''PPPA''), 15 U.S.C. 1471–1476; and the Federal Hazardous Substances Act (''FHSA''), 15 U.S.C. 1261–1278. The Commission has decided to use the authority of the CPSA to issue the proposed standard for the child resistance of multi-purpose lighters. A full explanation of the Commission's reasons for that decision is published in this issue of the **Federal Register** in a notice, under section 30(d) of the CPSA, that proposes a rule determining that it is in the public interest to regulate this risk under the CPSA, rather than the FHSA or the PPPA. 15 U.S.C. 2079(d).

The procedure prescribed by the CPSA is as follows. The Commission first must issue an ANPR as provided in section 9(a) of the CPSA. 15 U.S.C. 2058(a). This was done by publishing the **Federal Register** notice of January 16, 1997. If the Commission decides to continue rulemaking proceeding after considering responses to the ANPR, the Commission must then publish the text of the proposed rule, along with a preliminary regulatory analysis, in accordance with section 9(c) of the CPSA. 15 U.S.C. 2058(c). This **Federal Register** notice constitutes the notice of proposed rulemaking. If the Commission then wishes to issue a final rule, it must publish the text of the final rule and a final regulatory analysis that includes the elements stated in section 9(f)(2) of the CPSA. 15 U.S.C. 2058(f)(2). And before issuing a final regulation, the Commission must make certain statutory findings concerning voluntary standards, the relationship of the costs and benefits of the rule, and the burden imposed by the regulation. CPSC section 9(f)(3), 15 U.S.C. 2058(f)(3). Preliminary findings are contained in this proposed rule.

Comments should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814; telephone (301) 504–0800. Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''NPR for Multi-purpose lighters.'' All comments and submissions should be received no later than December 14, 1998.

F. Market Information

The Product. Most multi-purpose lighters are sold at retail for $2.50 to $8 each. Other multi-purpose lighters have additional features, such as refillable fuel chambers, flexible extended nozzles, and spark mechanisms powered by replaceable batteries. These lighters can retail for about $20 or more. The type of multi-purpose lighter known as ''micro-torches'' also have applications in soldering, hobbies, and crafts.

Manufacturers. Although the precise number is unknown, industry sources estimate that there may be as many as 20 manufacturers of multi-purpose lighters and as many more importers and private labelers. Some manufacturers supply more than one importer or private labeler. The number of firms participating in the market is expected to increase as sales increase. Three manufacturers are members of the Lighter Association, a trade association representing manufacturers of cigarette lighters. The Lighter Association estimates that its members have more than 95 percent of the market for multi-purpose lighters in the United States. The manufacturer with the largest market share is Scripto-Tokai Corporation. Industry sources indicate that Scripto-Tokai may have 90 percent of the market. Other major manufacturers include Swedish Match (Cricket'' brand), BIC, and Flamagas.

Retail prices for multi-purpose lighters generally start at less than $2.50, and most retail for less than

$8.00. However, some high-end multi-purpose lighters retail for $20 to $40 or more. These are generally refillable lighters with battery powered ignition systems that ensure a more reliable ignition. Micro-torches have been observed retailing for as little as $12, but they more frequently retail for from about $20 to more than $100. The high-end and micro-torch lighters combined may have less than three percent of the market for multi-purpose lighters.

BIC Corporation recently introduced a multi-purpose lighter that is believed to meet the requirements of the proposed rule. BIC expected that its multi-purpose lighter would sell for between $3.99 and $4.99, but its observed retail prices have been as low as $3.49 and as high as $5.49.

BIC Corporation manufactures its multi-purpose lighter at a facility in South Carolina. Only one other manufacturer, Donel, is known to produce multi-purpose lighters domestically. Scripto-Tokai imports its lighters from Mexico. Flamagas (Clipper brand) lighters are produced in Spain. Most other lighters are manufactured in Asian countries, such as the Philippines, Taiwan, Korea, and China.

Another manufacturer is marketing a multi-purpose lighter for about $25 that has features designed to be child resistant, but this lighter has not been tested according to the protocol in the Safety Standard for Cigarette Lighters, 16 CFR part 1210.

Sales and useful product life. The most common type of multi-purpose lighters was introduced by Scripto-Tokai in 1985. According to Scripto-Tokai, it sold one million units the first year. Micro-torches, representing a small portion of the annual unit sales of multi-purpose lighters, were also introduced around 1985. Sales of multi-purpose lighters have been increasing rapidly since their introduction. An estimated 16 million units were sold in 1995, and an estimated 20 million units are expected to be sold in 1998. Industry sources expect sales to increase at the rate of 5 to 10 percent annually over the next several years. More than 100 million multi-purpose lighters have been sold since 1985.

The useful life of a multi-purpose lighter depends on the frequency and purpose for which it is used. If a typical multi-purpose lighter contains enough fuel for an average of 1,000 lights[2], a multi-purpose lighter that is used several times a day would last less than one year. On the other hand, a lighter that is used less than once a day, or only seasonally, could be expected to be used much longer. While about 20 million lighters were reportedly sold in 1997, a study based on a panel of 20,000 households indicated that fewer than 8 million U.S. households purchased multi-purpose lighters between October 1996 and October 1997.[3] This suggests that most multi-purpose lighters have a useful life of less than one year, and/or that a large proportion of households that have multi-purpose lighters use more than one lighter over the course of a year. The useful life of the more expensive models, however, can be substantially longer, since they are refillable and not designed to be disposable. Therefore, these lighters can be expected to have useful lives of several years. Thus, although the unit sales of these products account for a very small portion of the annual sales of multi-purpose lighters, they can be expected to account for a larger portion of the products in consumers' hands because they do not have to be replaced as often.

Substitutes for multi-purpose lighters. Several products are reasonable substitutes for multi-purpose lighters. The most common substitute is probably the match. Compared with about 8 million households purchasing multi-purpose lighters in 1997, a 1991 study for the CPSC indicated that more than 60 million households had either book or box matches. Cigarette lighters are also common substitutes for multi-purpose lighters.

Assuming that the typical multi-purpose lighter has enough fuel for 1,000 lights, the consumer cost per light is between 0.25 cents (i.e., one-fourth of one cent) and 0.8 cents.[4] The consumer cost per light for kitchen matches is estimated to be less than 0.3 cents. Other types of matches, such as book matches, cost less per light. The cost per light of cigarette lighters is about 0.1 cents.

There are also reasonable substitutes for micro-torches when they are used in applications such as soldering. The closest substitutes would likely be non-self-igniting micro-torches. These are functionally identical to self-igniting micro-torches, except that they must be ignited with a match or other external lighter. Electric soldering irons can also be used for many of the same applications. The cost to consumers of these substitutes may be similar to the cost of micro-torches when used in some applications.

G. Preliminary Regulatory Analysis

Potential benefits of the proposed rule. The proposed rule is intended to reduce fires resulting from young children playing with, or otherwise attempting to operate, multi-purpose lighters. The benefits to society of the proposed rule are the expected reduction in fires and in the deaths, injuries, and property damage associated with these fires. While the proposed rule is intended to address such fires caused by children under the age of 5 years, there may also be some reduction in the number of fires started by children over the age of 5 years.

The Commission is aware of 119 fires from 1995 through 1997 that were started by children under age 5 years playing with, or otherwise attempting to operate, multi-purpose lighters. These incidents, which are summarized in Table 5 below, resulted in 18 deaths, 48 injuries, and substantial property damage. Assuming a cost of $5 million for each fatality, an estimate that is consistent with the existing literature, a point estimate of the societal costs of the known fatalities between 1995 and 1997 is approximately $90 million. Of the 48 nonfatal injuries, 12 involved victims that were hospitalized with burns, some severe. An earlier CPSC study estimated that the average cost of a hospitalized fire burn was $898,000; the average cost of a nonhospitalized burn injury was estimated to be $15,000.[5] These estimates include medical treatment, lost income, and pain and suffering. Using these estimates, the total cost of known injuries from Table 5 is approximately $11.3 million [(12 × $898,000) + (34 × $15,000)]. The property damage associated with cigarette lighter fires from child play was estimated to be an average of $15,000 per incident. Assuming the incidents with multi-purpose lighters are similar to those resulting from cigarette lighters, the total property damage associated with the incidents in Table 5 is estimated to be at least $1.8 million ($15,000 × 117 fires).

[2] What constitutes an ''average'' light is less certain than with cigarette lighters, where the average time to light a cigarette is fairly predictable. While using a multi-purpose lighter to light a candle may require little time (and fuel), lighting a gas grill may require more time. The multi-purpose lighter would have to be lit and the gas turned on, and then the gas would have to build up to an ignitable level.

[3] Information Resources Inc. study. Results provided by BIC Corporation.

[4] If the retail price of a multi-purpose lighter is $2.50, then $2.50/1,000 lights is $0.0025/light. If the retail price of a multi-purpose lighter is $8.00, then $8.00/1,000 lights is $0.008/light.

[5] Ray, Dale R. and William W. Zamula, *Societal Costs of Cigarette Fires.* U. S. Consumer Product Safety Commission, August, 1993.

TABLE 5.—FIRE LOSSES RESULTING FROM CHILDREN UNDER 5 OPERATING MULTI-PURPOSE LIGHTERS

Year	1995	1996	1997	Total
Fires	17	55	47	119
Deaths	6	8	4	18
Injuries	8	32	8	48

The total societal cost of the known incidents for the three years, including the costs associated with deaths, injuries, and property damage, is about $103 million. This averages about $34.4 million per year. It is important to note that these cost estimates are based only on the incidents reported to CPSC, not on aggregate fire loss estimates. There likely are other incidents of which CPSC is not aware. If so, the $34.4 million figure understates the average annual societal cost of child-play multi-purpose lighter fires that occurred between 1995 and 1997.

The proposed rule is not expected to eliminate all fire incidents involving children under the age of 5. Some children will probably be able to operate multi-purpose lighters that meet the requirements of the rule. Indeed, a multi-purpose lighter will meet the requirements of the proposed rule if no more than 15 percent of the subjects in the test panel can operate the lighter (or the surrogate used in place of the lighter).

On the other hand, some children under the age of 5 cannot operate the ''non-child-resistant'' multi-purpose lighters currently on the market. CPSC baseline testing indicates that, depending on the model, 4 to 41 percent of test subjects cannot operate non-child-resistant multi-purpose lighters. Therefore, all other things being equal, the proposed rule for multi-purpose lighters is expected to reduce the number of children under the age of 5 that can operate multi-purpose lighters by 75 to 84 percent, depending on the model.[6] Assuming that this reduces the number of fires started with multi-purpose lighters by children under the age of 5 by the same percentage, the societal costs of the fires will be reduced. For example, for the period 1995 through 1997, societal costs would have been reduced by at least $25.7 million to $28.8 million annually had all multi-purpose lighters been child resistant.

The expected benefits of the proposed rule will be even higher if manufacturers achieve a child-resistance level greater than 85 percent. The experience with cigarette lighters indicates that most manufacturers achieve 90 percent or higher child resistance. If manufacturers of multi-purpose lighters achieve the same level of child resistance, the estimated societal benefits of the proposed rule could be 6 to 11 percent higher than set forth above.

Potential costs of the proposed rule. There would be several types of costs associated with the proposed rule. Manufacturers would have to devote some resources to develop or modify technology to produce child-resistant multi-purpose lighters. Before being marketed, the lighters must be tested and certified to the new standard. Manufacturing child-resistant lighters may require more labor or material than non-child-resistant lighters. Finally, the utility that consumers derive from lighters may be diminished if the new lighters are more difficult to operate.

Manufacturing costs. Manufacturers will have to modify their existing multi-purpose lighters to comply with the proposed rule. In general, costs that manufacturers would incur in developing, producing, and selling new complying lighters include the following:

- Research and development toward finding the most promising approaches to improving child resistance, including building prototypes and surrogate lighters for preliminary child panel testing;
- Retooling and other production equipment changes required to produce more child-resistant multi-purpose lighters, beyond normal periodic changes made to the plant and equipment;
- Labor and material costs of the additional assembly steps, or modification of assembly steps, in the manufacturing process;
- The additional labeling, recordkeeping, certification, testing, and reporting that will be required for each new model;
- Various administrative costs of compliance, such as legal support and executive time spent at related meetings and activities; and
- Lost revenue if sales are adversely affected.

Industry sources have not been able to provide firm estimates of these costs. One major manufacturer, BIC, has introduced a child-resistant multi-purpose lighter. However, because BIC did not manufacture a non-child-resistant lighter, it was unable to estimate the incremental cost of developing and manufacturing child-resistant multi-purpose lighters.

A representative of another manufacturer speculated that the costs of developing, testing, and retooling for production of multi-purpose lighters might be $1 million, if it is possible to adapt the same technology used to make cigarette lighters child resistant. However, if it were not possible to adapt the cigarette lighter technology, the commenter said that costs could be as much as $5 million. Another manufacturer expected these costs to be significantly less than $1 million.

Although it is conceivable that some manufacturers will spend as much as $5 million to develop and retool to produce child-resistant multi-purpose lighters, especially if they have to make several attempts before they come up with acceptable designs, the investment in research and development by most manufacturers will likely be closer to $1 million.[7] If, however, it is assumed that there are 15 manufacturers and that each invests an average of $2 million to develop and market complying lighters, the total industry cost for research, development, retooling, and compliance testing would be approximately $30 million. If amortized over a period of 10 years, and assuming a modest 3 percent sales growth each year, the average of these costs would be about $0.13 per unit.[8] For a manufacturer with a large market share (i.e., selling several million units or more a year), the cost per unit for the development could be lower than the estimated $0.13 per unit, even at the high end of the estimates. On the other hand, for manufacturers with a small market share, the per-unit development costs would be greater. Some manufacturers with small market shares may even drop out of the market (at least temporarily) or delay entering the market.

The costs per unit to develop and retool to produce child-resistant designs may be higher for micro-torches, since these costs would be amortized over a significantly lower production volume. The number of micro-torches sold annually is not known. One industry source estimated that sales of micro-

[6] For lighters that already have a high baseline child resistance (e.g., could not be operated by 41 percent of the test subjects, the improvement will be 75 percent [(0.85 − 0.41)/(1.0 − .41)=0.75]. For lighters that do not have a high degree of baseline child resistance (e.g., could not be operated by only 4 percent of the test subjects, the improvement will be 84 percent [(.85 − .04)/(1 − .04)=.84].

[7] This estimate is similar to the estimate used in evaluating the cigarette lighter standard.

[8] If 20 million lighters are sold in the first year (approximately the current annual sales volume) and sales increase at the rate of 3 percent a year (industry sources indicate that they have been growing at 5 to 10 percent annually), then over a 10-year period approximately 230 million lighters would be sold. $30 million/230 million = $0.13/unit.

torches are at least in the ''tens of thousands.'' Another stated that industry sales were in ''thousands rather than millions.''

Another factor that may increase the development costs for micro-torches over the costs for other multi-purpose lighters is the fact that some micro-torches can be set to allow ''hands-free'' operation. Therefore, some manufacturers may have to develop modifications in child-resistance technologies to work with this feature. Alternatively, manufacturers could eliminate the self-igniting features from micro-torches intended for hands-free operation, thus removing the micro-torch from the definition of multi-purpose lighter. Although this option would not likely impose a substantial cost on manufacturers, it could reduce the convenience and utility of multi-purpose lighters for some users.

In addition to the research, development, retooling, and testing costs, material and labor costs are likely to increase. For example, additional labor will be required to add the child-resistant mechanism to the lighter during assembly. Additional materials may also be needed to produce the child-resistant mechanism. While the CPSC staff was unable to obtain reliable estimates, some industry sources indicated that they believed that these costs would be relatively low, probably less than $0.25 per unit.

Multi-purpose lighters will also be required to have a label that identifies the manufacturer and the approximate date of manufacture. However, virtually all products are already labeled in some way. Since the requirement in the proposed rule allows substantial flexibility to the manufacturer in terms of things such as color, size, and location, this requirement is not expected to increase the costs significantly.

Certification and testing costs include costs of producing surrogate lighters, conducting child panel tests, and issuing and maintaining records for each model. The largest component of these costs is believed to be conducting child-panel tests, which, based on CPSC experience, may cost about $25,000 per lighter model. Administrative expenses associated with the compliance and related activities are difficult to quantify, since many such activities associated with the proposed rule would probably be carried out anyway and the marginal impact of the recommended rule is probably slight. Overall, certification, testing, and administrative costs are expected to cost less than $450,000 annually, industry wide.[9] On average, these costs are expected to add about $0.02 per unit to the per-unit cost of producing multi-purpose lighters ($450,000 for 20 million units).

In total, the proposed rule will likely increase the cost of manufacturing multi-purpose lighters by about $0.40 per unit.[10] The proposed rule will likely increase the cost of manufacturing micro-torch lighters by a greater amount than for other multi-purpose lighters. However the available information is insufficient to provide a reliable estimate of the increase in cost for micro-torch lighters.

The proposed rule contains anti-stockpiling provisions, authorized by section 9(g)(2) of the CPSA (15 U.S.C. 2058(g)(2)), to prohibit excessive production or importation of noncomplying lighters during the 12-month period between the final rule's publication date and its effective date. The provision limits the production or importation of noncomplying products to 120 percent of the amount produced or imported in the most recent calendar year before the publication date of the rule. Although the anti-stockpiling provision may, in the short term, prevent some companies from increasing their sales volume as quickly as they could otherwise, the Commission believes the provision should have little impact on the market as a whole.

Effects on competition and international trade. At the present time, one manufacturer has about 90 percent of the market for multi-purpose lighters. The other manufacturers, importers, and private labelers divide up the remaining 10 percent of the market, with none of the other manufacturers thought to have more than 2 or 3 percent of the market. Thus, there is already a very high degree of concentration in the market. Even so, one manufacturer has already entered the market with a model that is believed to meet the requirements of the proposed rule, another manufacturer has a model that they claim is child resistant, and at least one other firm is believed to be actively developing a child-resistant lighter. Moreover, other firms are expected to enter the market for multi-purpose lighters, and thereby increase competition, as the market expands. Therefore, the proposed rule is not expected to have any adverse impact on competition.

With the exception of BIC, which manufactures its multi-purpose lighters in South Carolina, and one smaller manufacturer, most multi-purpose lighters are imported. To the extent that BIC has developed a child-resistant multi-purpose lighter before other manufacturers have, it may enjoy at least a short-term competitive benefit from the proposed rule, particularly to the extent its competitors are not yet in a position to manufacture child-resistant multi-purpose lighters. However, other manufacturers are expected to have child-resistant multi-purpose lighters ready to market on or before the rule's effective date.

Impact on small business. The Commission gives special consideration to the potential impact of its rules on small businesses. There are more than 30 manufacturers, importers, or private labelers of multi-purpose lighters. The number of firms participating in the market is increasing as the market grows. Although the dominant firms are not small, about half of the other firms may be considered to be small businesses. The cost of developing a product that complies with the proposed rule could cause some of the small importers or private labelers to stop offering multi-purpose lighters, at least temporarily. However, many of the smaller importers and private labelers are not believed to manufacture the lighters themselves, but instead import or distribute the lighters for manufacturers based, for the most part, in other countries. It is the manufacturers that will likely bear most of the costs for development of the child-resistant models. Moreover, multi-purpose lighters probably account for only a small percentage of many of the smaller importers' and private labelers' sales. Therefore, even if a small importer or private labeler stopped importing or distributing its own line of multi-purpose lighters, it is not likely to suffer a significant adverse effect if multi-purpose lighters accounted for a small percentage of its total sales. Some small firms that manufacture or import their own proprietary multi-purpose lighters may be more severely impacted. There are at least two small firms that market high-end and micro-torch multi-purpose lighters that market their proprietary designs.

The Commission examined the information available on 30 firms that were identified as being manufacturers, importers, or private labelers of multi-purpose lighters. Of these, 16 have

[9] Assuming 15 manufacturers with 1 multi-purpose lighter model each and an average of $30,000 for certification, testing, and administrative costs per lighter, the total costs would be $450,000. Although the estimate assumes that these costs are incurred annually, in fact, these costs are likely to be lower in subsequent years.

[10] This estimate is based on the following estimates: $0.13/unit for research, development and retooling; $.25/unit for labor and materials; and $.02/unit for certification, testing and administrative costs.

fewer than 100 employees and, thus, are considered to be small businesses according to guidelines established by the Small Business Administration. Of the 16 small businesses, one is known to manufacture its own lighters, and 12 are believed to be importers. Insufficient information was available to make these determinations on the other three firms.

Impact on consumers. Aside from increased safety, the proposed rule is likely to affect consumers in two ways. First, the increased cost for producing the child-resistant models will likely result in higher retail prices for multi-purpose lighters. Second, the utility derived from child-resistant lighters may be decreased if complying lighters are more difficult to operate.

Consumers ultimately will bear the increased cost of manufacturing multi-purpose lighters. Assuming a typical 100 percent markup over the incremental cost to manufacturers (estimated at $0.40/unit), the proposed rule may be expected to increase the retail price of multi-purpose lighters by $0.80 per unit. However, some manufacturers may be unable to pass all of the incremental costs directly to consumers. In these cases, the costs may be indirectly borne by consumers in the form of generally higher prices on the range of other products produced by the manufacturer or in the form of reduced earnings on investments in the company. The retail prices for micro-torch and high-end multi-purpose lighters will probably increase by a greater amount since the manufacturing costs per unit are greater for these lighters.

The utility that consumers receive from multi-purpose lighters may be reduced if the rule makes the lighters more difficult to operate. This could result in some consumers switching to substitute products, such as cigarette lighters or matches. However, as with child-resistant cigarette lighters, the manufacturers should be able to develop lighters that are only slightly, if any, more difficult for adults to operate. Therefore, the number of consumers who stop using multi-purpose lighters because of the child-resistant mechanisms is expected to be small.

Moreover, even if some consumers do switch to other products, the risk of fire is not expected to increase significantly. Most cigarette lighters (one possible substitute) must already meet the same child-resistant standard being proposed for multi-purpose lighters. Although consumers that switch to matches may increase the risk of child-play fires somewhat, matches seem to be inherently more child resistant than non-child-resistant multi-purpose lighters. Previously, the CPSC determined that non-child-resistant cigarette lighters were 1.4 times as likely as matches to be involved in child-play fires and 3.9 times as likely to be involved in a child-play death.[11] Thus, even if some consumers did switch to using matches, the risk of child-play fires would still likely be less than if they continued to use non-child-resistant multi-purpose lighters.

Some manufacturers of micro-torches may respond to a rule requiring all multi-purpose lighters to be child-resistant by no longer offering micro-torches that are self-igniting. Products that are not self-igniting do not present the same risk of child-play fires and are not included within the definition of multi-purpose lighter. In this case, the consumer would have to use an external ignition source to light the torch. Although this option may not increase manufacturing costs, it could reduce the convenience and utility of the multi-purpose lighters. Consumers will have to provide external ignition sources, such as matches or other multi-purpose lighters, to ignite the torches.

Estimated net benefits of the proposed rule. As previously stated, the total societal costs of fires known to have been started during 1995 through 1997 by young children playing with, or otherwise attempting to operate, multi-purpose lighters was approximately $103 million, or approximately $34.4 million per year. This is probably an underestimate, since it only includes the cases of which CPSC is aware. During the same period, there were an average of an estimated 19.4 million multi-purpose lighters, including micro-torches, were available for use each year.[12] The societal costs of the fires started by young children with multi-purpose lighters are, therefore, about $1.77 per lighter ($34.4 million ÷19.4 million lighters). The proposed rule is expected to reduce this cost by 75 to 84 percent. Therefore, the expected societal benefit of the proposed rule in terms of reduced fires, deaths, injuries, and property damage is expected to be $1.33 to $1.49 per complying lighter sold. Based on the number of multi-purpose lighters now in use (over 20 million), the total societal costs of these fires exceed $35 million annually.

The computation of the net benefits of the proposed rule depends on the expected number of years that a multi-purpose lighter is available for use. The Commission estimates that the useful life of most multi-purpose lighters, excluding micro-torches, is about one year. Therefore, since the proposed rule may increase the cost of manufacturing multi-purpose lighters by $0.40 and may increase the retail prices by as much as $0.80, the net benefit to society of the proposed rule is expected to be at least $0.53 per unit ($1.33 − $0.80). If 20 million units are sold per year, the proposed rule would result in an annual net benefit to consumers would be about $10.6 million (20 million × $0.53) each year.

Some multi-purpose lighters have useful lives of greater than one year. Therefore, the gross benefit of the proposed rule per lighter of this type is computed by summing the expected annual net benefit (estimated as $1.33 per unit above) over the expected life of the lighter. For example, if a multi-purpose lighter, such as a micro-torch, had an expected useful life of 10 years, the gross benefit would be $11.14 per lighter, assuming a discount rate of 4 percent. As stated earlier, the costs/unit for manufacturing these micro-torch type multi-purpose lighters is likely to be higher. Assuming a markup at retail of 100 percent over manufacturing costs and a 10-year product life, if the cost per unit to manufacture child-resistant micro-torches is less than $5.57/unit, net social benefits would result. However, if the expected useful life of a micro-torch was only 5 years, the gross benefit would be $6.14/unit. This would suggest positive net benefits if the per-unit manufacturing costs are less than $3.12 per unit.

The preceding benefit estimates may tend to be low because they are based on the test results for the model of multi-purpose lighter with the highest level of baseline child resistance (41 per cent) for the tests conducted with the switch in the ''off,'' or locked, position. The choice of this test for baseline purposes would tend to lower the benefit estimate in two ways. The child resistance of the other three models tested with the switch in the locked position ranged from 24 percent to 37 percent. Thus, the effective child resistance of currently used multi-purpose lighters likely is somewhat lower than the baseline figure used for the benefit estimates. In addition, essentially all of the children on the test panel were able to operate the model with no on/off switch (96 percent) and

[11] Smith, Linda E., Charles L. Smith, and Dale R. Ray, Lighters and Matches: An Assessment of Risks Associated with Household Ownership and Use,'' U.S. Consumer Product Safety Commission, Washington, DC (June 1991).

[12] The average number of multi-purpose lighters, excluding micro-torches, that were in use was 18 million. This estimate was based on estimated annual sales and an estimated useful life of 1 year. The number of micro-torches available for use was estimated to be about 1.4 million. This estimate is based on less certain data and may be subject to change as more information becomes available.

the model with the switch in the unlocked position (88 percent). This means that, to the extent that adults do not return the switch to the locked position after use, the effective child resistance of multi-purpose lighters in use would be less than that obtained from a test of a lighter in the ''off'' position. Thus, a child-resistant mechanism could provide a greater benefit than estimated above.

Alternatives to the proposed rule. There are possible alternatives to the proposed rule. These alternatives include not taking any action and relying on voluntary efforts, having only labeling requirements, narrowing the scope of the rule and establishing a different effective date. These alternatives are discussed below.

1. *No action and rely on voluntary efforts.* One alternative is to take no action to reduce the occurrence of fires started by children playing with multi-purpose lighters. If no mandatory rule were issued, some manufacturers might still introduce child-resistant multi-purpose lighters. While these manufacturers can emphasize the safety of their product, they could be at a competitive price disadvantage compared to manufacturers who continue to sell non-child-resistant lighters. Although the portion of the market that would be captured by manufacturers of child-resistant lighters is not known, it is reasonable to assume it would be substantially less than 100 percent, especially since many of the products are imported. Perhaps only two or three firms would offer such products. For example, if child-resistant lighters captured 20 percent of the market under this alternative, the annual benefits would be approximately 20 percent of the benefits of a mandatory rule.

Currently, there is no voluntary standard for child-resistant multi-purpose lighters. The Commission could work with appropriate standards-setting organizations to develop such a standard. However, for the reasons stated above, conformance with such a standard is likely to be low.

2. *Labeling requirements.* The Commission could choose not to issue a performance standard, but instead opt to rely on additional warning labels on multi-purpose lighters. However, the FHSA already requires multi-purpose lighters to be labeled ''Keep out of reach of children.'' The effectiveness of additional labeling would likely be low.

3. *Narrowing the scope.* The Commission considered exempting the more expensive lighters (e.g., those retailing for more than $20) from the proposed rule. This would have been similar to the exemption in the cigarette lighter standard for lighters with a customs value or ex-factory value greater than $2.00. This was intended to exempt certain luxury cigarette lighters for which there was little evidence of involvement in child-play fires. However, the CPSC does not have evidence that the more expensive multi-purpose lighters are less likely to be involved in child-play fires than the less expensive models. There is no evidence that the more expensive multi-purpose lighters are stored or used differently around the home than are the more common and less expensive lighters. Furthermore, baseline testing indicates that some of the expensive lighters are at least as easy for children to operate as less expensive models. Therefore, there is insufficient evidence to conclude that exempting the more expensive multi-purpose lighters from the proposed rule would significantly reduce the costs without significantly reducing the benefits.

The Commission also considered narrowing the scope of the rule by excluding from its coverage products known as micro-torches. The Commission decided against this because micro-torches serve the same function as other types of multi-purpose lighters—to provide consumers with a useful tool for accomplishing a variety of household and recreational tasks requiring a flame—and present the same risk of operation by children. Although some micro-torches have a shorter nozzle or operate at a higher temperature than do other multi-purpose lighters, the similarity of the products in function and risk outweighs any differences and warrants inclusion of micro-torches within the definition of multi-purpose lighter.

Multi-purpose lighters and micro-torches share the same features; they are hand-held, lightweight, compact, self-igniting (e.g., by pressing a trigger or button), easy to carry, and convenient to store. Further, the packaging and catalog descriptions for micro-torches promote them for lighting grills, fireplaces, camp fires, camp stoves, and lanterns. In one fire incident, a micro-torch had been used by a consumer to light a furnace pilot light. These are the same types of tasks for which other multi-purpose lighters are promoted and used.

Children also will be attracted to micro-torches in the same ways that they are attracted to other multi-purpose lighters. At age two, children begin true role play and symbolic play, and make use of less realistic objects as props for pretend play.[13] The Commission's Human Factors staff believes that micro-torches are likely to appeal to and be attractive to children because of their shapes, which, for some pocket-type micro-torches, resemble toy ''ray guns'' or hose nozzles that children often play with in the summer. Upon seeing them operated, some children will want to play with the micro-torches because of a natural curiosity about fire and because they desire to imitate adults in their make-believe play. For children, micro-torches and other types of multi-purpose lighters are the same product perceptually and cognitively, with the same attraction and the same potential hazard.

It also can be expected that children will have access to micro-torches, as well as other multi-purpose lighters. Like other multi-purpose lighters, micro-torches are often used and stored in and around the home, making them accessible to children. The Commission is aware of one case in which a three-year-old boy ignited bedding materials with a micro-torch that had been used for lighting a furnace pilot light. Even if some micro-torches are stored in home tool boxes, tackle boxes, workbenches, or other places where tools are located, the Commission's incident information shows that children obtain multi-purpose lighters from such locations.

Furthermore, micro-torch lighters represent only a small portion of the multi-purpose lighters in use. Micro-torches probably account for less than five percent of the multi-purpose lighters in use and perhaps one percent of unit sales of multi-purpose lighters. Therefore, the fact that the Commission is aware of only one incident involving a micro-torch lighter may be related to the low number of these products in use and not because these products are used more safely around the house. Although the per-unit costs to make torch-type lighters child resistant may be higher than for other multi-purpose lighters, the benefits may also be higher, since torch-type lighters have a longer useful life, which would result in exposure to children over a longer period of time for each lighter.

In sum, micro-torches and other multi-purpose lighters share sufficient similarity of function and risk to be considered as a single product for the purposes of the proposed rule.

4. *Alternate effective date.* The proposed rule incorporates an effective date of 12 months from the date of

[13] Goodson, B.D. & Bronson, M.B. (1985). Guidelines for Relating Children's Ages to Toy Characteristics (Contract No. CPSC–85–1089). Prepared for the U.S. Consumer Product Safety Commission, Washington, DC.

publication in the **Federal Register**. However, the Commission could consider shorter or longer effective dates. The 12-month effective date lessens the economic burden of the rule while providing protection to consumers as soon as reasonably possible.

While developing the Cigarette Lighter Safety Standard, the Commission estimated that it would take an average of 12 months to develop, test, retool for production, perform production tests, and manufacture and ship the product.[14] Some manufacturers, especially those that have been following the Commission's activities on cigarette lighters and multi-purpose lighters may have already begun work on child-resistant models or can take advantage of their experience with the cigarette lighter standard and be able to manufacture and market child-resistant lighters sooner than 12 months. In fact, at least one model is already on the market.

On the other hand, manufacturers who have not until very recently started following the Commission's activity with regard to this rulemaking procedure may not have begun any development work. Manufacturers of multi-purpose lighters that do not also manufacture cigarette lighters, such some micro-torch manufacturers, do not have the experience manufacturing child-resistant cigarette lighters. These manufacturers may be adversely affected by an effective date shorter than 12 months.

A 12-month effective date does not mean that no benefits will occur until 1 year after the publication of the rule in the **Federal Register**. Indeed, one manufacturer already has a child-resistant multi-purpose lighter on the market. Other manufacturers can be expected to introduce their own models as they get them developed. Therefore, the Commission expects that the number of child-resistant multi-purpose lighters on the market to begin increasing prior to the effective date of the rule.

Conclusion. The proposed rule would have substantial net benefits to consumers. The rule should approach its maximum effectiveness within a couple of years after its effective date, since multi-purpose lighters typically have useful lives of about one year or less. At that time, as a result of the proposed rule, the number of fires started by young children playing with, or otherwise attempting to operate, multi-purpose lighters should be at least 75 percent lower than what would be expected in the absence of a rule.

There is at least one model of multi-purpose lighter on the market now that probably complies with the proposed rule. It is expected that other manufacturers should be able to produce complying multi-purpose lighters before a final rule goes into effect. Therefore, the Commission does not anticipate that the rule will cause any disruption in the supply of multi-purpose lighters.

Some manufacturers, especially those with a small share of the market, may decide not to make the needed investment to develop child-resistant multi-purpose lighters. However, since the market for multi-purpose lighters is growing, other firms can be expected to enter the market as the market expands. Therefore, since a permanent reduction in the number of firms affected by the rule is not expected, any adverse impact on competition in the market would be small and temporary. Any adverse impacts would be mitigated even further if the standard in the proposed rule were adopted internationally.

A number of alternatives to the rule exist, including options regarding various aspects of the proposed rule itself. While some of the options may reduce total costs, none of the alternatives would increase the overall level of safety to consumers.

H. Comments on the ANPR

The public comment period on the ANPR closed on March 17, 1997. The Commission received nine written comments, including two received after the comment period closed. Three additional written comments that were received before the ANPR was published, but not addressed previously, are also discussed in this notice. Copies of all written comments are available from the Commission's Office of the Secretary.

The President of the Ohio Chapter of the International Association of Arson Investigators Inc., and the President of the National Association of Pediatric Nurse Associates and Practitioners, Inc., wrote in support of Commission action to require multi-purpose lighters to be child resistant.

Conrad Guthrie of Vinson & Elkins, the petitioner's attorneys, submitted information on four additional incidents, involving three deaths. Mark W. Collmer, of McDowell Collmer, L.L.P., submitted information about another incident involving a death.

D. Bruce Kehoe of Wilson, Kehoe & Winingham submitted information about an incident involving a child who is permanently disabled due to severe burns. This law firm also submitted information on 60 incidents reported to them in response to their advertisement requesting information on multi-purpose lighter incidents in the December 1997 issue of *Fire and Arson Magazine*. For a number of these incidents, the submitted information did not state that a multi-purpose lighter was used. In 22 of the 60 incidents, the child who started the fire was reported to have used a multi-purpose lighter and to be under age 5.

Carrie Craig wrote a letter describing her experience when her home burned down after her 3-year-old daughter ignited a couch with a multi-purpose lighter obtained from the fireplace mantle.

Scripto-Tokai Corporation (Scripto) and Swedish Match North America Inc., (Cricket®), importers of multi-purpose lighters, submitted comments regarding incidents. Scripto stated that during the past 12 years it has distributed approximately 100 million multi-purpose lighters and has received only about two dozen reports of children allegedly operating a multi-purpose lighter. Scripto commented that most of the incidents did not involve any claim of personal injury. Cricket® reported it has sold several million multi-purpose lighters since 1992 and never had a single report of any child-play incident.

Scripto, Cricket®, and the Lighter Association, Inc., requested that any requirement for child resistance be developed as a separate standard from the Safety Standard for Cigarette Lighters.

A summary of other issues raised by the commenters, and the Commission's responses, are provided below.

Issue: Risk of Injury

The President of the National Association of Pediatric Nurse Associates & Practitioners, Inc., ''agrees that multi-purpose lighters which can be operated by children under the age of 5 pose an unreasonably dangerous risk to children and their families.''

The Lighter Association, Inc., questions the validity of the Commission's incident data on multi-purpose lighters and whether the incidents resulting in deaths involved a fire started by children under the age of 5.

Scripto states that the data reported in the ANPR (53 fires over 106 months) equates to one child-play fire incident every two months that may have involved a multi-purpose lighter. ''Based upon available data, Scripto does not believe that multi-purpose lighters, as a class of products, present an unreasonable risk of serious injury or

[14] CPSC Memorandum dated February 8, 1991, from Dale R. Ray (ECPA) to Barbara Jacobson (HS).

death to consumers under the definitions provided by either the Consumer Product Safety Act or the Federal Hazardous Substances Act.'' Scripto states that it is unclear why the Commission has selected multi-purpose lighters for possible regulation as opposed to arguably more hazardous fire producing consumer products such as matches, stoves, candles, and heaters, as evidenced in the Commission's report, ''1994 Residential Fire Loss Estimates.'' Scripto states that ''there would be a far greater societal benefit in regulating matches than multi-purpose lighters.''

Response

The staff reported 178 fire incidents that were started by children under age 5. The staff did not include incidents in this tabulation where there was a question about the age of the child who started the fire or where there was a question about whether a multi-purpose lighter was involved.

There are no data currently available to compare the per-unit risk associated with multi-purpose lighters with any other flame source. As expected, there are many more child-play incidents involving matches, because of the larger number of these products in use. The per-unit risk for other products may or may not be greater than the per-unit risk for multi-purpose lighters. However, this does not preclude Commission action on multi-purpose lighters if the risk of injury and death can be addressed at a reasonable cost.

Issue: Effectiveness of the Cigarette Lighter Standard

The Lighter Association, Inc., states that several of the larger distributors of disposable cigarette lighters began selling child-resistant lighters before the July 12, 1994, effective date of the Safety Standard for Cigarette Lighters. The Association cites an increase in the estimated number of child-play deaths from lighters, from 170 in 1993 to 230 in 1994, as evidence that the Cigarette Lighter Standard has not been effective.

Scripto states that there are no available data to conclude that incorporating child-resistant mechanisms into multi-purpose lighters will reduce the incidence of child-play fires. ''Until the Commission has analyzed the accident data for 1995 and 1996, there is no empirical basis to conclude that the Cigarette Lighter Safety Standard has been effective in reducing the number of child play fire incidents.''

Cricket® also comments that the Commission should defer a decision about extending the standard to multi-purpose lighters until it is determined whether the cigarette lighter standard has had an impact on the incidence of child-play fires.

Response

Fire loss estimates are now available for 1995. These data were not previously available to the commenters. There were an estimated 8,200 residential structure fires caused by children (regardless of age) playing with all types of lighters in 1995, resulting in 180 deaths and 1,220 injuries. Fire and injury estimates are lower for 1995 than for any of the four preceding years. Comparing 1995 to 1994, when the Safety Standard for Cigarette Lighters went into effect, there was a greater percentage reduction in child-play lighter fires than the reduction in residential structure fires overall. This reduction could be the first indication that child-resistant cigarette lighters help prevent child-play fires. However, there was also a reduction in child-play fires started with matches in 1995, indicating that other factors, such as general fire prevention efforts, could also be involved. However, the reduction for child-play lighter fires (23 percent) was greater than the reduction for child-play match fires (6 percent).

The Commission's experience with the Poison Prevention Packaging Act, 15 U.S.C. 1471–1476, provides ample evidence that requiring a product to be child resistant effectively reduces the risk of injury. An article published in the June 5, 1996, Journal of the American Medical Association, ''The Safety Effects of Child-Resistant Packaging for Oral Prescription Drugs,'' demonstrates that child-resistant packaging has reduced childhood poisonings from oral prescription drugs for children under age 5 by about 45 percent since 1974, the year these drugs became subject to the packaging requirements. The Commission believes the child-resistant concept used under the PPPA is applicable to requiring child-resistant features on cigarette and multi-purpose lighters.

More accurate information about the effectiveness of the cigarette lighter standard will be available when the Commission completes a lighter study in the year 2000. The results of this special study will identify the specific types of lighters involved in child-play fires (e.g., cigarette lighter or multi-purpose lighter) and will also identify the proportion of fires started by children under 5 years old (the group of children most afforded protection by child resistance).

Despite the current lack of specific information on the effectiveness of the cigarette lighter standard, the Commission concludes that it should proceed with the development of a standard for multi-purpose lighters. The Commission has no reason to conclude that the Safety Standard for Cigarette Lighters is not reasonably effective in reducing child-play fires started by children under age 5 with lighters. When the cigarette lighter standard was issued, the Commission estimated that it would eventually prevent about 70 percent of child-play fire deaths with cigarette lighters. Since an even higher percentage reduction is expected from a standard for multi-purpose lighters, the Commission cannot justify risking possibly dozens of lives while waiting for enough time to pass to complete a detailed study of the effectiveness of the cigarette lighter standard.

Issue: False Sense of Security

The Lighter Association, Inc., and Scripto question whether the 1994 fire incident data, showing an increase in child-play fires involving cigarette lighters, indicate that smokers are becoming more careless in storing child-resistant lighters away from children because they assume ''child resistant'' means ''child-proof.'' The Lighter Association, Inc., states that some distributors began selling child-resistant lighters as early as mid-1992, in advance of the July 1994 effective date. Therefore, it contends, one would not expect the number of child-play deaths to increase 35 percent (from 170 in 1993 to 230 in 1994.)

Response

The Commission is unaware of any evidence that the number of child-play deaths associated with cigarette lighters increased in 1994 as a result of smokers becoming more careless in storing child-resistant lighters away from children. The 1994 fire loss estimates are too near the July 1994 effective date of the Safety Standard for Cigarette Lighters to provide a measure of its effectiveness. The 1995 Residential Fire Loss Estimates are now available. Fire and injury losses associated with lighters are lower for 1995 than for any of the 4 preceding years. In 1995, the number of child-play deaths associated with cigarette lighters is down to 180 from the 230 estimated for 1994.

Issue: Attractiveness

The President of the Ohio Chapter of the International Association of Arson Investigators Inc., and the President of the National Association of Pediatric Nurse Associates & Practitioners, Inc., expressed concern that the attractiveness of the design (gun or toy

shape) and colorful packaging of multi-purpose lighters would attract children to play with them.

Response

Multi-purpose lighters do have physical characteristics similar to a gun (barrel, trigger, and in some cases, trigger guard). Most are also functionally similar to a gun since they are activated by pulling a trigger mechanism. It seems likely that children might play with these lighters by ''shooting'' them as they would a toy gun. There are references to a ''gun'' or ''toy-like shape'' in a number of the reports of fires associated with multi-purpose lighters. It seems likely that, for some children, the combination of the ''toy-like'' shape of multi-purpose lighters and the size of the flame could enhance the attractiveness of these lighters as play objects compared with ordinary cigarette lighters or matches. Even without a toy-like appeal, knowledge that the lighter can produce a flame would motivate many children to play with it. This is one reason the Commission is proposing this new rule.

The Commission is not aware of any incidents in which the packaging was influential in attracting children to the lighters.

Issue: Supervision

Scripto comments ''that unsupervised young children are vulnerable to an array of environmental and household hazards * * *. Unfortunately, a common element among the most serious injuries to young children is a lack of proper adult supervision.''

Response

The Commission agrees that proper adult supervision is very important. However, after reviewing the fire incident reports, the Commission has concluded that the children were under reasonable levels of supervision at the time they started the fires. Fires were started while parents or guardians were present in the house.

Furthermore, children of the ages of those involved in the incidents are old enough to engage in play activities in rooms other than where their parents or guardians are present. In fact, child development experts state that at 3 and 4 years of age, children can be given some freedom from direct adult supervision. Thus, it is not realistic to expect parents to directly observe children of these ages during each moment of the day.

Issue: Voluntary Standards, Education, and Labeling as Alternative Means To Address the Hazard

The Lighter Association, Inc., refers to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056), which states that the Commission can issue performance and/or labeling standards in addressing potential risks. The Association states the ANPR ignores voluntary standards, education, and labeling, in favor of a position that product design is the most effective approach to address a hazard.

Cricket® suggests that the Commission consider addressing identified problems with ''enhanced public awareness and education programs.''

Scripto states, ''Whether or not the Commission elects to mandate a child resistancy standard for multi-purpose lighters, it must not lose sight of the goal of educating children and parents on fire safety.''

Scripto comments, ''Clear, effective warnings and labels must be provided with fire sources to adequately inform consumers of the applicable hazards * * *. Such efforts must receive immediate top priority.''

Response

The Commission does not agree that the advance notice of proposed rulemaking ignores education, labeling, and voluntary standards as possible means to address the risk of injury associated with multi-purpose lighters. The ANPR specifically invited interested persons to submit an existing standard, or a statement of intent to modify or develop a voluntary standard, to address the risks of injury and death associated with multi-purpose lighters. The ANPR also solicited comments on other possible means to effectively address the hazard.

At an April 16, 1998, meeting of ASTM Subcommittee F15.02, Safety Standards for Cigarette Lighters, the members voted to support the Commission action to develop a mandatory standard for multi-purpose lighters. Manufacturers whose multi-purpose lighters comprise a major share of the market are members of this subcommittee. The members also voted to form a technical task group for the purpose of providing input to the Commission on the provisions of the draft standard. Based on these actions, the CPSC does not expect a voluntary standard to be developed.

The Commission does not believe that warning labels or education alone can effectively address the risks associated with multi-purpose lighters. Multi-purpose lighters have always been subject to labeling requirements under the Federal Hazardous Substances Act. The required statements include: ''Keep out of the reach of children.'' The incidents indicate that many consumers were aware of the danger of lighters and took precautions to keep them out of the reach of their children.

When attempting to keep objects out of reach, caregivers often find a storage place that is up high. However, children learn to conquer height at an early age. At 2 years of age, a child can climb a play gym; at 2½ years of age, a child is quite skillful in climbing. By the time a child is 4 to 5 years of age, the motor abilities have evolved to the point where a child has the coordination and balance of an adult. The motor abilities of children in these age ranges make it very difficult to find a storage place that provides both convenient access for users and safety for young children.

Since most caregivers are fully aware of the dangers of young children playing with lighters, and since children access them in spite of attempts to store them out of reach, the Commission concludes that additional or different warning statements would not reduce the incidence of fires. The Commission preliminarily concludes that a child, resistant feature on multi-purpose lighters would be the most effective approach of addressing the hazard.

Issue: Scope

Cricket® urges the Commission to determine whether the child-play problem is related to ''issues with a particular product'' rather than to all multi-purpose lighters.

Response

Although the large majority of the reported fire incidents involved one manufacturer, there were also five other brands identified. In addition, the results of the baseline testing of five different models of multi-purpose lighters demonstrate that the majority (59 to 96 percent) of the children on the test panels were able to operate them. This is a range of child resistance of 4 to 41 percent, in contrast to the minimum requirement of 85 percent in the standard proposed below. The baseline results indicate that when the on/off switch is left unlocked, as is expected to be the case in many households, most of the children in the test panel could operate the lighters.

Issue: Requirements for Multi-purpose lighters May Create New Hazards

Scripto states that there is a concern that requiring the child-resistant mechanism to reset itself automatically

after each operation of the ignition mechanism, as required in the cigarette lighter standard, ''could create new and serious hazards for the product's users.'' Scripto states, ''It is not uncommon for piezo ignition devices to require more than one attempt to ignite. Environmental factors such as wind, low temperature, altitude or moisture can also affect the consumer's ability to properly ignite the piezo lighter.'' Scripto states that, because a child-resistant mechanism would further delay ignition, the potential for ''flashback explosions or fires'' is increased in applications such as igniting a gas grill.

Cricket® states that multi-purpose lighter ''mechanisms do not light 100% of the time, particularly when used in outdoor conditions.'' They strongly believe that the Commission should analyze the potential for a small fire or explosion as a result of the delays associated with a child-resistant mechanism before proceeding to institute a standard.

The Lighter Association, Inc., comments that ''Flashback fire is a very real issue * * *. If the new regulation reduces risks to children, but increases risks to adults (the ones who are supposed to be using the product!), then the regulation should be rejected.''

Response

The Commission acknowledges that piezo devices, such as multi-purpose lighters, often require more than one attempt to ignite. This is due, in large part, to the fact that the fuel may not reach the end of the lighter nozzle at the same time the spark is generated. Therefore, the consumer may need to pull the trigger more than once in order to create multiple sparks.

However, the Commission does not agree that child-resistant multi-purpose lighters will create hazardous use conditions. Based on testing using gas barbecue grills, the Commission's Division of Engineering concluded that the risk of flame-up or small explosion for some grills is minimal for short periods of delayed ignition, such as 5–10 seconds. The consumer can avoid this risk altogether by igniting the lighter before turning on the gas.

To further minimize the possibility of creating a hazardous use condition, the draft standard requires that multi-purpose lighters allow multiple operation attempts before letting go of the lighter causes the child-resistant feature to reset. One manufacturer is currently marketing a child-resistant multi-purpose lighter with such a design. This manufacturer has tested the lighter according to the protocol in the Safety Standard for Cigarette Lighters to establish that it is child resistant.

The Commission is aware of other manufacturers that are working on child-resistant designs that function similarly. With such designs, the lighting efficiency of a child-resistant multi-purpose lighter should be essentially the same as that of the non-child-resistant multi-purpose lighters currently in use.

The Commission is also aware of some multi-purpose lighters that have a feature that can be used to lock the fuel supply open. This allows hands-free operation of the lighter during soldering or similar activities; some consumers find this a useful feature. However, it might be difficult for this type of lighter to comply with a requirement that the child-resistant feature reset when the user puts the lighter down. To retain the potential for hands-free operation, the Commission is specifying that, for lighters that remain lit after being released, the lighter must return automatically to a child-resistant state by the time the user lets go of the lighter after turning off the flame. This scenario is not expected to increase the risk of fires started by children, since the lighter's user would likely turn the lighter off when leaving it for any period of time that would allow access by children.

The Commission is also proposing a requirement to help prevent the dangerous situation where a child who operated the child-resistant mechanism and lit the lighter could create a flame that would not go out when the lighter is released, even if it is dropped. The proposed rule specifies that, after the lighter is lit, an additional manual operation must be performed to activate the feature that allows the lighter to burn without being held by the user.

Issue: Consumer Resistance to Child-Resistant Features

Scripto challenges the Commission's position in the ANPR that consumer resistance to a child-resistant feature on multi-purpose lighters will not negate the feature's effectiveness. Scripto states that ''many consumers would resist the introduction of child-resistant multi-purpose lighters. Scripto's experience with the tremendous negative reactions to its child-resistant cigarette lighters form a solid basis for this assertion * * *. Consideration must be given to those populations that may be exposed to potentially greater fire hazards if they were physically unable to successfully operate a child resistant multi-purpose lighter. Such individuals may switch to such less safe 'non-CR' alternatives as long stem matches or a rolled up newspaper * * *.''

The Lighter Association, Inc. states that ''contrary to the (CPSC) staff's representations, complaints regarding lighters that comply with the rule continue to come in from every region of the country * * * Industry receives thousands of complaints every year. Products are being invented every month to override child-resistant lighters.''

Response

Although there were numerous complaints about the safety standard when child-resistant cigarette lighter models first became available in large numbers and non-child-resistant lighters became scarce, the number of complaints from consumers to the Commission has dwindled to almost nothing in 1998. Many of the initial complaints had to do with the difficulty of operating the child-resistant mechanism on the lighter models that were generally available in the marketplace in 1994 and early 1995. These early models usually had a lever or push-in tab to permit the gas release lever to function when the flint wheel was rotated to generate a flame. Later models of child-resistant lighters employ child-resistant features that are integrated into the lighter so that adults can operate the lighters much like they did the non-child-resistant pre-standard roll-and-press lighters.

The proposed rule requires that multi-purpose lighters must not be capable of having its child-resistant mechanism easily deactivated. The Commission interprets this as requiring that the child-resistant mechanism cannot easily be disabled with a common household tool, such as a knife or pliers, and still remain operable.

In the 4 years since the lighter standard became effective, the Commission became aware of two devices that were designed and promoted for defeating the child-resistant mechanisms on certain brands of disposable child-resistant lighter models. CPSC contacted both of those firms to discourage them from selling these devices. If the Commission obtains information indicating that such devices pose a substantial risk of injury to the public, the Commission could seek corrective actions pursuant to Section 15 of the CPSA, 15 U.S.C. 2064. Furthermore, actions could be brought against persons who disable the child-resistant mechanisms on lighters intended for resale.

The Commission would also expect some consumers to write about their dissatisfaction with child-resistant

features on multi-purpose lighters. However, the Commission believes that the level of consumer resistance would not prevent the expected reduction of child-play fires started with multi-purpose lighters. Furthermore, the Commission believes that manufacturers can design child-resistant multi-purpose lighters that offer minimal inconvenience to consumers.

Issue: Enforcement

The Lighter Association, Inc., comments, ''The record is full of examples of problems with enforcement of the current child resistancy rule * * * Importers are devising new ways every week to evade the rule. Indeed, Compliance has recently advised industry that it is now reviewing non-child-resistant lighters from Europe and Asia being rerouted to the U.S. for sale. Substantial premiums are paid for non-child-resistant lighters.''

The Lighter Association, Inc., states that the Commission's enforcement program is inadequate because of the cost of testing to assure compliance. ''If the Commission cannot enforce the existing regulation, it is absurd to extend it to another product line. Ultimately, non-complying imports will take over this product line as well.''

Scripto states that it has ''been disappointed by the Commission's historical failure to evenly enforce the labeling requirements of the Federal Hazardous Substances Act on other multi-purpose lighter distributors.'' Additionally, Scripto expresses disappointment that the Commission has not taken action against the ''Quick Fix,'' a device being sold to disable the child-resistant mechanism on cigarette lighters. It suggests that the cigarette lighter standard be amended to prohibit the intentional disarming of lighter safety devices. It also recommends that the Commission take a more proactive enforcement stance to prevent further violations of the Cigarette Lighter Standard. ''Before moving forward to implement new regulations, the Commission must be prepared to ensure consumers, distributors and manufacturers that any such regulation will be fully enforced, without loopholes and without exception.''

Cricket® comments that it has ''seen ample anecdotal evidence that disreputable importers have violated, and are continuing to flout, both the stockpiling and substantive requirements of the child-resistancy standard'' in spite of information about apparent violations provided to the Commission staff by importers and the Lighter Association.

Cricket® urges the Commission to work for international acceptance of lighter standards to address the enforcement evasion issue.

Response

While CPSC is aware that some unscrupulous importers and distributors of lighters have taken actions to circumvent the intent and purposes of the standard, their overall numbers have been small, and hardly constitute a large number of schemes to ''evade the rule,'' as alleged in this comment. CPSC and Customs have taken vigorous action against importers and distributors who do not comply with the standard, seizing and refusing entry to millions of noncomplying lighters since July 1994, working with importers to recall millions of lighters that made it into the marketplace before their noncompliance with the standard was discovered, and filing legal actions against firms that purposely distributed and sold lighters that had the child-resistant feature intentionally removed or disabled prior to sale to the public.

Finally, CPSC and Customs have seized several small shipments that originated in Europe of popular name brand non-child-resistant disposable cigarette lighters manufactured for the European market that were sent to United States importers as premium items with other products intended for sale in the United States. These lighters invariably were decorated with product logos (e.g., liquor or beer brands, or other consumer product logos). They were included in the shipment by the European exporter as advertising items, not products intended to be sold separately from the main goods in the shipment. Evidence in these cases suggests that in almost every instance, the inclusion of the non-child-resistant lighters in the shipment was done due to ignorance of the standard on the part of the exporter in Europe, not on an intentional attempt to thwart the safety standard. Based on this experience with the cigarette lighter standard, the Commission concludes that the compliance with a multi-purpose lighter standard will be sufficient to produce the benefits discussed above.

Issue: Requirements

Scripto comments, ''The cigarette lighter experience has seen the approval of some mechanisms which are so easy to operate that safety objectives are compromised * * *. Any device which lends child resistancy to a product must be more inconvenient to use or it will not be effective * * *. Therefore, definitions must recognize and clarify this fundamental trade-off between safety and convenience.''

Response

The Safety Standard for Cigarette Lighters requires manufacturers to conduct testing to assure that their lighters comply with all of the requirements. The manufacturers are also required to report the results of this testing to CPSC's Office of Compliance and to certify to their distributors or retailers that the lighters comply. If there is any reason to believe that the lighters are not child resistant, the Office of Compliance requests further substantiation from the manufacturer. Additionally, a program is in place at CPSC to conduct enforcement testing of cigarette lighters where warranted.

In regard to Scripto's recommendation that definitions be developed to preclude child-resistant mechanisms that are too easy to operate, the Commission points out that, just like the cigarette lighter standard, the proposed standard for multi-purpose lighters is drafted as a performance standard rather than a design standard. Any multi-purpose lighter, however designed, that meets the requirements in the proposed rule would be considered child resistant:

Issue: Market Impact

Swedish Match stated:

The market for the multi-purpose lighters is totally different from the one analyzed by the CPSC in connection with the cigarette lighter standard. As there are fewer competitors, we strongly urge the CPSC to study closely the likely competitive impact of the imposition of a child resistancy requirement on the multi-purpose lighter industry * * *. Any company would have to consider whether it could absorb successfully the added research, development, and production costs that surely would be associated with the standard and still remain competitive in the market * * *. Many firms (especially those with a marginal position in the market place) likely will react to the standard by exiting the market, thereby resulting in less competition and higher prices to be borne by the consuming public.

Response

The market for multi-purpose lighters is obviously smaller than the market for cigarette lighters, in terms of both the number of units sold annually and the number of manufacturers. It is conceivable that some firms may react to the standard by exiting the market. However, the CPSC does not agree that this will likely have a significant adverse impact on competition.

Currently, the market for multi-purpose lighters already is highly concentrated, with one manufacturer having approximately a 90 percent

market share. However, CPSC expects that the degree of competition in the market may increase. One major cigarette lighter manufacturer recently entered the market for multi-purpose lighters with a model that is child resistant. Additionally, the market for multi-purpose lighters is growing at a rate of 5 to 10 percent annually, according to industry sources. As the market expands, more manufacturers may enter and thereby increase the level of competition. Furthermore, multi-purpose lighters face competition from other flame sources, including matches and cigarette lighters. These products are less expensive than multi-purpose lighters and, therefore, limit the amount that manufacturers can increase prices for multi-purpose lighters without significant sales loss, even if there are few manufacturers in the market. Finally, CPSC expects that only manufacturers with a minor presence in the market might exit. The loss of these firms would not substantially reduce the level of competition in this already highly-concentrated industry.

Issue: International Application

Swedish Match commented that one way to attempt to address the concern about the evasion of a standard by foreign manufacturers is ''the adoption, internationally of any standard that is applied in the United States.''

Response

The CPSC agrees that international adoption of the standard would reduce the likelihood that some manufacturers or importers would attempt to evade the requirements of the rule. However, CPSC does not have the authority to regulate products intended solely for use in other countries.

Issue: Lulling Effect

The Lighter Association and Scripto-Tokai stated that ''child resistant'' is often incorrectly construed by the general public as ''childproof.'' They argue that this can create a false sense of security and sometimes results in parents taking less care to protect children from the product.

Response

The CPSC agrees that parents sometimes mistake child resistant as meaning childproof. However, the evidence suggests that the impact is less significant than some claim. For example, studies of poisoning deaths of children have shown that child-resistant packages have been effective in reducing poisonings in young children. Therefore, on balance, even if some parents do become less vigilant, the overall impact of the rule is expected to be positive.

Issue: Estimates of Incidents

The Lighter Association states that the Commission improperly used a peak year or years of injuries and fatalities for its cost-benefit analysis, rather than an average over a more reasonable period.

Response

In the preliminary regulatory analysis included in this notice, the Commission based its estimates on the incidents of which CPSC is aware that occurred from 1995 through 1997. These are the best data available. CPSC did not have a special project or study that attempted to collect data before 1995, and, therefore, data before that time are incomplete. Furthermore, our analysis of the data from 1995 through 1997 may understate the number of fires involving multi-purpose lighters because they consist strictly of cases of which the CPSC is aware. There are likely other cases of which the Commission is not aware. Finally, preliminary data suggest that the 1998 experience will be similar to the period 1995 to 1997. Already in 1998, the CPSC knows of 33 fires that resulted in 7 deaths and 14 injuries. The actual number is probably higher.

Issue: Costs of Modifying Lighters

The Lighter Association and Scripto-Tokai commented that the Commission underestimates the costs of modifying multi-purpose lighters and ignored the Lighter Association-provided data that it would cost $.25 to $.75 per unit to modify multi-purpose lighters.

Response

These commenters are referring to a preliminary examination of the economic issues made by the Commission that was based on very limited data. The regulatory analysis included with this notice is based on more recent data, including the Lighter Association's estimates of costs.

Comments provided by the Lighter Association, and conversations between the CPSC's staff and several manufacturers, suggest that the upper end of the industry's cost estimates were based on the assumption that the proposed rule would contain provisions which it does not (e.g., requiring a minimum level of reliability in achieving ignition on each attempt). Therefore, the Commission believes that the low and middle ranges of the cost estimates provided by the Lighter Association are more reasonable. The cost estimate included in the preliminary regulatory analysis was $0.40 per unit. This is roughly in the mid-range of these estimates. Even if retail markups added another $0.40/unit to the retail price, the proposed rule would result in net benefits of $0.53 per multi-purpose lighter sold.

Issue: Costs of Development

The Lighter Association and Scripto-Tokai argued that it should be understood that the technology for cigarette lighters cannot simply be added to a multi-purpose lighter. Rather, the multi-purpose lighter must be completely redesigned, resulting in research and development costs, investment in new equipment or retooling of existing equipment, testing of the product, and further review of the product. These commenters contend that the Commission's assumption that one simply takes an existing child-resistant feature and adds it to a multi-purpose lighter is simplistic and inaccurate.

Response

CPSC is aware that manufacturers will incur costs to develop and test new designs for child-resistant multi-purpose lighters, as well as to retool their plants for production. The CPSC accounted for these costs in its preliminary regulatory analysis, which is based on the information currently available (much of it provided by industry). CPSC does not assume that any particular child-resistant design can be adapted from a cigarette lighter to a multi-purpose lighter without further development, if at all. CPSC welcomes additional information on these costs from manufacturers or other parties with such knowledge, and will include the most recent cost information in any future analysis of this issue.

Issue: Need for Regulation of Matches

Scripto-Tokai stated that the 750 injuries and 140 deaths attributable to children playing with matches in 1994 represents a societal cost in the billions of dollars, as opposed to $10.2 million for children playing with multi-purpose lighters. The commenter concludes that there would be a far greater benefit in regulating matches than multi-purpose lighters.

Response

The CPSC is concerned about the societal costs of fires attributable to children playing with matches. However, in taking action to address a problem, it is necessary to take into account the feasibility of a solution and its costs, as well as its benefits. The manner in which multi-purpose lighters are operated can be changed in ways that will substantially reduce the

number of incidents resulting from children playing with multi-purpose lighters. Such changes will increase societal benefits more than they will increase societal costs. According to the preliminary regulatory analysis, the proposed rule is expected to result in substantial net benefits to consumers. The fact that the Commission might investigate or regulate other products, which present their own feasibility and cost-benefit issues, does not counsel against action on multi-purpose lighters.

I. Preliminary Environmental Assessment

Pursuant to the National Environmental Policy Act and in accordance with CPSC's procedures, the Commission considered the potential environmental effects of the proposed rule. Less than 1 percent of the approximately 20 million non-child-resistant multi-purpose lighters that are sold in this country each year are manufactured domestically. One large manufacturer has begun to produce multi-purpose lighters domestically, but these lighters are already child resistant.

The proposed rule is not expected to significantly alter the amount of materials, energy, or waste generated during production of the lighters. Nor is the proposed rule expected to cause manufacturers to shift production to other countries or locations. Molds and other tools used by manufacturers in the production of multi-purpose lighters or their components are periodically replaced. The proposed rule may cause some manufacturers to replace the molds and other tools earlier than they would have otherwise. However, the proposed effective date of 1 year from the publication date of a final rule should allow manufacturers time to plan and minimize any impact.

Pursuant to section 9(g)(1) of the CPSA, 15 U.S.C. 2058(g)(1), the proposed rule does not apply to non-child-resistant lighters manufactured before the rule's effective date. Therefore, no non-child-resistant lighters in use or in U.S. commerce on the effective date will need to be recalled or disposed of. Accordingly, there are not disposal issues with regard to such lighters. Further, the proposed rule is not expected to affect the manner in which multi-purpose lighters are packaged for sale or the amount of butane or other fuel used in the operation of the lighters.

From the available information, the Commission concludes that the proposed rule would not significantly affect raw material use, air or water quality, manufacturing processes or disposal practices in such a way as to cause any significant impact on the environment.

J. Paperwork Reduction Act

As explained above, the standard and certification provisions will require manufacturers and importers of multi-purpose lighters to perform testing, maintain records, and report data to the Commission relating to the multi-purpose lighters that they produce or import. For this reason, the rule published below contains ''collection of information requirements,'' as that term is used in the Paperwork Reduction Act, 44 U.S.C. 3501–3520. Therefore, the proposed rule has been submitted to the Office of Management and Budget (''OMB'') in accordance with 44 U.S.C. 3507(d) and implementing regulations codified at 5 CFR 1320.11.

Based on estimates made in the course of developing the cigarette lighter standard and on information obtained from industry sources, the Commission estimates that complying with the testing, recordkeeping, and reporting requirements of the proposed rule will require approximately 100 hours per model annually. The time required for testing is expected to average about 80 hours per model per year. The time required for recordkeeping and reporting is expected to be about 10 hours for each model per year. The exact number of manufacturers and importers is not known. However, the number of manufacturers and importers appears to be increasing. Currently, the Commission believes that there may be as many as 40 different models of multi-purpose lighters on the market. With a few exceptions, most manufacturers and importers have only one model. Therefore, the total amount of time that will be required for complying with the testing, recordkeeping, and reporting requirements of the proposed rule is approximately 4,000 hours annually.

OMB may comment to CPSC between 30 and 60 days after the publication of the proposal. Therefore, although OMB will accept comments until November 30, 1998, a comment will be assured of having its maximum effect if it is filed by October 30, 1998.

Comments to OMB should be directed to the Desk Officer for the Consumer Product Safety Commission, Office of Information and Regulatory Affairs, OMB, Washington, DC 20503; telephone (202)395–7340. The Commission encourages commenters to provide copies of such comments to the Commission's Office of the Secretary, with a caption or cover letter identifying the materials as comments submitted to OMB on the proposed collection of information requirements for multi-purpose lighters.

K. Initial Regulatory Flexibility Analysis

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 et seq., generally requires the agency to prepare initial and final regulatory flexibility analyses describing the impact of the rule on small businesses and other small entities. The purpose of the RFA, as stated in section 2(b) (5 U.S.C. 602 note), is to require agencies, consistent with their objectives, to fit the requirements of regulations to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulations.[15]

Section 603 of the RFA calls for the Commission to prepare and make available for public comment an initial regulatory flexibility analysis describing the impact of the proposed rule on small entities and identifying impact-reducing alternatives. The initial regulatory flexibility analysis is to contain:

(1) A description of the reasons why action by the agency is being considered;

(2) A succinct statement of the objectives of, and legal basis for, the proposed rule;

(3) A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

(4) A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities subject to the requirements and the type of professional skills necessary for the preparation of reports or records; and

(5) An identification, to the extent possible, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

In addition, the initial regulatory flexibility analysis must describe any significant alternatives to the proposed rule that would accomplish the stated objectives of the applicable statutes and that would minimize any significant economic impact of the proposed rule on small entities. RFA-suggested alternatives for discussion include: different compliance or reporting requirements for small entities; clarification, consolidation, or simplification of compliance or

[15] The Regulatory Flexibility Act provides than an agency is not required to prepare a regulatory flexibility analysis if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605.

reporting requirements for small entities; the use of performance rather than design standards; and partial or total exemptions from coverage for small entities.

The Commission routinely considers the potential effects on competition and small businesses as part of the agency's overall evaluation of potential economic effects of rulemaking actions. A summary of these effects is included in the preliminary regulatory analysis required for the proposed rule under section 9(c) of the CPSA. Since some number of the affected firms are considered to be small companies, the Commission gives particular consideration to the potential economic effects of the proposed rule on such firms, and is issuing this initial regulatory flexibility analysis of the proposed rule.

Reasons for Agency Action

The Commission's proposed rule on multi-purpose lighters addresses the risk of death and injury from accidental residential fires started by young children playing with these lighters. Detailed data concerning these fires is presented in Section B of this notice.

The Commission is required to consider whether appropriate voluntary standards could adequately address the problem rather than imposing a mandatory rule. However, no voluntary standard was submitted to the Commission for its consideration in response to the ANPR, and the Commission is not aware of any voluntary standard that addresses the problem. Therefore, deferring to a voluntary standard does not represent an adequate alternative to the proposed mandatory rule.

Objectives of and Legal Basis for the Proposed Rule

The history of this rulemaking proceeding is set forth in Section A of this notice. The legal basis for this action is described in Section E of this notice, which discusses the Commission's statutory authorities. Other than the definition of the covered product, the provisions of the proposed rule are essentially the same as the Safety Standard for Cigarette Lighters, 16 CFR Part 1210.

The purpose of the proposed rule is to reduce the risk of accidental child-play multi-purpose lighter fires. It is expected that making multi-purpose lighters child-resistant will substantially reduce the incidence and cost to society of these fires. The rule is being proposed under the authority of the CPSA. Section 9(c) of the CPSA requires the agency to consider economic effects of the proposed rule on industry and consumers, and to consider alternatives that might reduce the burden of the rule generally.

Requirements of the Proposed Rule

The proposed rule contains performance requirements that would require all lighters that meet the definition of a multi-purpose lighter to be child-resistant. It also describes the test protocol to be used in establishing and verifying compliance. The protocol prescribes tests in which panels of young children attempt to operate modified or non-fuel-containing multi-purpose lighters. Manufacturers and importers would be required to label individual lighters, certify that their products comply with the rule, provide evidence of a reasonable testing program to support such certification, maintain testing and production records, and provide reports and product samples to the Commission.

Most manufacturers would build modified or surrogate lighters to perform the test protocol. Complying lighter designs would be those for which the test lighters or surrogates were successfully operable by fewer than 15 percent of children tested. All multi-purpose lighters manufactured or imported 12 months after the date of publication of a final rule in the **Federal Register** would have to comply. In addition, proposed anti-stockpiling provisions would limit the production or importation of noncomplying lighters between the publication date and the effective date of a final rule.

Firms Subject to the Proposed Rule and Possible Impacts

The proposed rule covers manufacturers and importers of multi-purpose lighters intended for sale to consumers. The number of firms that manufacture or import these lighters is increasing. While at least 30 firms have been identified, there probably are other companies that manufacture or import multi-purpose lighters in the U.S. that have not been identified. With the exception of one large manufacturer and perhaps one other smaller manufacturer, all firms are believed to be importers rather than domestic manufacturers. Several of the firms are affiliates or subsidiaries of larger firms or foreign manufacturers.

The Commission examined the information available on 30 firms that were identified as being manufacturers, importers, or private labelers of multi-purpose lighters. Of these, 16 are believed to have fewer than 100 employees and are, therefore, considered to be small businesses according to size standards established by the Small Business Administration. 13 CFR 121.601. Of these 16 small businesses, 12 are believed to be importers that also sell products other than multi-purpose lighters. One of these firms may manufacture its own multi-purpose lighters. At least two importers have lighters that are produced exclusively for them by foreign manufacturers. The information available was not sufficient to make such determinations on the remaining 3 small businesses. One small firm claims that its multi-purpose lighter has child-resistant features. However, it has not tested its product according to the requirements of the proposed rule.

Most of the small importers and private labelers distribute lighters produced by foreign manufacturers. It is likely that the manufacturers will bear most of the costs for development and testing of the child-resistant models and amortize these costs over several years of production. These costs, as well as increases in the costs of production attributable to the child-resistant mechanism, are expected to be passed through importers and private labelers to the consuming public.

Some small importers may experience some disruption in their supply of multi-purpose lighters if some of the foreign suppliers opt not to develop child-resistant multi-purpose lighters. However, the 12-month period between the publication of the final rule and its effective date should allow time for most importers to take action to ensure that they have a source for child-resistant multi-purpose lighters. Many of the smaller importers of multi-purpose lighters appear to be primarily engaged in manufacturing or importing other products, such as housewares, kitchen and barbecue utensils, hardware products, cigarette lighters, and other tobacco accessories. Multi-purpose lighters probably account for only a small percentage of these importers' sales. Therefore, even if a small importer stopped distributing multi-purpose lighters, it probably would not suffer a significant adverse effect if sales of multi-purpose lighters accounted for only a small percentage of the firm's total sales.

Since the rule contains performance requirements, rather than requiring a specific technology, it allows flexibility to firms in designing child-resistant mechanisms. This should reduce the burden of compliance on many firms, both large and small. However, some small firms that manufacture their own multi-purpose lighters may not have the technical or financial resources to develop lighters that would meet the

proposed rule. It is also possible that some small manufacturers will determine that the cost of developing a product that complies with the proposed rule is too high relative to their market share or output level. This could lead some small manufacturers to leave the market. However, the number of small firms that actually manufacture their own multi-purpose lighters is believed to be low. As noted above, the Commission is aware of only one small firm that may manufacture its own lighters and two small firms that have their proprietary designs of lighters that are manufactured for them overseas.

Small manufacturers and importers would be subject to all of the performance, testing, certification, and reporting provisions of the proposed rule. Although some small manufacturers and importers may not possess the necessary skills to conduct the required testing, there are independent quality control and engineering laboratories, and other private consultants, that could perform the required testing with which these firms could contract. Records of the testing would probably be compiled by the testing laboratory and maintained by the manufacturer personnel. Copies of the reports and certification records would probably be maintained by the importers or their legal counsels.

The proposed rule allows importers to rely on testing that has been performed by or for a foreign manufacturer to support the certification and reporting requirements of the proposed rule, provided that the records: (1) Are in English, (2) are complete, (3) can be provided to the Commission within a reasonable time period, if requested, and (4) provide reasonable assurance the multi-purpose lighters are child resistant. This provision may reduce the testing burden on some small importers, since some manufacturers may supply product to more than one importer.

The reporting requirements of the proposed rule are necessary for the CPSC to monitor compliance. The Commission is not aware of any method by which the reporting burden on small businesses could be reduced while still accomplishing the purpose of the proposed rule. The estimated reporting burden, however, is low, probably less than 100 hours per model per year.

Other Federal Rules

No Federal rules are known to exist that may duplicate, overlap, or conflict with the proposed rule. Although the Cigarette Lighter Safety Standard is similar to the proposed rule, multi-purpose lighters are not subject to that rule, because multi-purpose lighters are not intended primarily for lighting tobacco products.

Alternatives to the Proposed Rule

The Commission considered four basic alternatives to certain elements of the proposed rule. Specifically, the CPSC considered (1) narrowing the scope to exclude micro-torches and the more expensive multi-purpose lighters, (2) requiring only additional labeling, (3) taking no action and relying on voluntary efforts, and (4) changing the effective date.

Narrowing the Scope

The CPSC considered excluding from coverage of the proposed rule the more expensive multi-purpose lighters, some of which retail for more than $20, as opposed to the less than $8 for which most multi-purpose lighters retail. This would have been similar to the exemption in the cigarette lighter standard for lighters with a customs value or ex-factory value greater than $2.00. The CPSC also considered excluding micro-torches from coverage.

Industry sources believe that the market share of the more expensive multi-purpose lighters, including micro-torches, is low, probably accounting for less than three percent of the unit sales. There are three firms that are known to market high-end multi-purpose lighters. All of these firms have fewer than 100 employees and are considered to be small businesses. (One firm claims that its multi-purpose lighter has features that should make it child-resistant.) Of the six firms that are known to distribute micro-torches, three have fewer than 100 employees and are considered to be small businesses.

While excluding the more expensive multi-purpose lighters from the scope of the proposed rule might reduce the impact of the rule on some small businesses, the CPSC does not have evidence that these multi-purpose lighters are less likely to be involved in child-play fires than the less expensive models. Baseline testing indicates that some of the more expensive models are at least as easy to operate as some less expensive models. And, there is no evidence that the more expensive multi-purpose lighters are stored or used differently around the home than are the less expensive lighters. Therefore, the Commission determined that the more expensive multi-purpose lighters and micro-torches should be required to meet the same child-resistance standard that the less expensive ones must meet.

Labeling Requirements

Although a labeling-only requirement would significantly reduce the burden of the proposed rule on all firms, large and small, the Commission did not believe that any additional labeling would have a significant impact on the incidence of child-play fires. Furthermore, all multi-purpose lighter labels are already labeled ''Keep out of reach of children.'' Therefore, a labeling-only rule was not considered to be a preferable alternative to the proposed rule.

Taking No Action or Relying on a Voluntary Standard

Because there currently is no voluntary standard for child-resistance for multi-purpose lighters and none is being developed, relying on a voluntary standard is not an alternative for the Commission. Additionally, it seems unlikely that many firms would voluntarily market child-resistant multi-purpose lighters in the absence of a mandatory standard. If the non-child-resistant multi-purpose lighters cost less than the child-resistant lighters, the manufacturers of child-resistant lighters would be at a cost disadvantage in the marketplace, resulting in a limited market share for the child-resistant lighters. Consequently, reliance on voluntary efforts would not adequately address the hazard associated with multi-purpose lighters.

Summary and Conclusions

The proposed rule for multi-purpose lighters will affect all manufacturers and importers of such lighters in the U.S. Perhaps half or more of these firms would be considered to be small businesses. Most of the small firms are believed to be importers of lighters manufactured by foreign suppliers. These importers will be impacted by the proposed rule's certification, recordkeeping, and reporting requirements. The higher costs of manufacturing child-resistant lighters incurred by their suppliers will likely be passed onto to these firms as well. Some of the firms may also have temporary disruptions in their supply of multi-purpose lighters. However, it is uncertain whether any of these effects would be ''significant.''

In addition to the small importers, there may be a few small firms that manufacture their own multi-purpose lighters or have their own proprietary designs manufactured for them. The proposed rule may have a significant impact on these firms if the firms do not have the technical expertise or resources to develop child-resistant mechanisms for their multi-purpose lighters.

Some alternatives to the proposed rule were considered that might have reduced the burden on small

manufacturers. However, these alternatives were rejected, since the number of injuries would be larger. These alternatives included taking no action, requiring additional labeling only, exempting micro-torches or the more expensive multi-purpose lighters from the scope of the proposed rule, and different effective dates.

L. Executive Orders

This proposed rule has been evaluated in accordance with Executive Order No. 12,612, and the rule raises no substantial federalism concerns.

Executive Order No. 12,988 requires agencies to state the preemptive effect, if any, to be given to the regulation. The preemptive effect of this rule is established by 15 U.S.C. 2075(a), which states:

(a) Whenever a consumer product safety standard under the CPSA applies to a risk of injury associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or continue in effect any provision of a safety standard or regulation which prescribed any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such products which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the Federal standard.

Subsection (b) of 15 U.S.C. 2075 provides a circumstance under which subsection (a) does not prevent the Federal Government or the government of any State or political subdivision of a State from establishing or continuing in effect a safety standard applicable to a consumer product for its own (governmental) use, and which is not identical to the consumer product safety standard applicable to the product under the CPSA. This occurs if the Federal, State, or political subdivision requirement provides a higher degree of protection from such risk of injury than the consumer product safety standard.

Subsection (c) of 15 U.S.C. 2075 authorizes a State or a political subdivision of a State to request an exemption from the preemptive effect of a consumer product safety standard. The Commission may grant such a request, by rule, where the State or political subdivision standard or regulation (1) provides a significantly higher degree of protection from such risk of injury than does the consumer product safety standard and (2) does not unduly burden interstate commerce.

M. Extension of Time To Issue Final Rule

Section 9(d)(1) of the CPSA, 15 U.S.C. 2058(d)(1), provides that a final consumer product safety rule must be published within 60 days of publication of the proposed rule unless the Commission extends the 60-day period for good cause and publishes its reasons for the extension in the **Federal Register**.

Executive Order No. 12662, which implements the United States-Canada Free-Trade Implementation Act, provides that publication of standards-related measures shall ordinarily be at least 75 days before the comment due date. Accordingly, the Commission provided a comment period of 75 days for this proposal.

After the comment period ends, the CPSC's staff will need to prepare draft responses to the comments, along with a draft regulatory analysis and either a draft regulatory flexibility analysis or a draft finding of no substantial impact on a significant number of small entities. Then the staff will prepare a briefing package for the Commission. The Commission is likely to then be briefed, and will later vote on whether to issue a final rule. The Commission expects that this additional work will take about 9 months. Accordingly, the Commission extends the time by which it must either issue a final rule or withdraw the NPR until June 30, 1999. If necessary, this date may be further extended.

List of Subjects in 16 CFR Part 1212

Consumer protection, Fire prevention, Hazardous materials, Infants and children, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Multi-purpose lighters.

For the reasons set out in the preamble, the Commission proposes to amend Title 16, Chapter II, Subchapter B, of the Code of Federal Regulations as set forth below.

1. A new part 1212 is added to read as follows:

PART 1212—SAFETY STANDARD FOR MULTI-PURPOSE LIGHTERS

Subpart A—Requirements for Child-Resistance

Sec.
1212.1 Scope and application.
1212.2 Definitions.
1212.3 Requirements for multi-purpose lighters.
1212.4 Test protocol.
1212.5 Findings.

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Subpart A—Requirements for Child-Resistance

Authority: 15 U.S.C. 2056, 2058, 2079(d).

§ 1212.1 Scope and application.

This part 1212, a consumer product safety standard, prescribes requirements for multi-purpose lighters. These requirements are intended to make the multi-purpose lighters subject to the standard's provisions resistant to successful operation by children younger than 5 years of age. This standard applies to all multi-purpose lighters, as defined in § 1212.2, that are manufactured or imported after the date that is 12 months after publication of a final rule in the **Federal Register**.

§ 1212.2 Definitions.

As used in this part 1212:

(a)(1) *Multi-purpose lighter*, (also known as grill lighter, fireplace lighter, utility lighter, micro-torch, or gas match) means: A hand-held, self-igniting, flame-producing product that operates on fuel and is used by consumers to ignite items such as candles, fuel for fireplaces, charcoal or gas-fired grills, camp fires, camp stoves, lanterns, fuel-fired appliances or devices, or pilot lights, or for uses such as soldering or brazing.

(2) The following products are not multi-purpose lighters:

(i) Devices intended primarily for igniting smoking materials that are within the definition of ''lighter'' in the safety standard for cigarette lighters (16 CFR 1210.2(c)).

(ii) Devices containing more than 10 oz. of fuel.

(iii) Matches.

(b) *Successful operation* means one signal of any duration from a surrogate multi-purpose lighter within either of the two 5-minute test periods specified in § 1212.4(f).

(c) ''Surrogate multi-purpose lighter'' means a device that approximates the appearance, size, shape, and weight of, and is identical in all other factors that affect child resistance (including operation and the force(s) required for operation), within reasonable manufacturing tolerances, to, a multi-purpose lighter intended for use by consumers, has no fuel, does not produce a flame, and produces an audible, or audible and visual, signal that will be clearly discernible when the surrogate multi-purpose lighter is activated in each manner that would produce a flame in a fueled production multi-purpose lighter. (This definition does not require a multi-purpose lighter

to be modified with electronics or the like to produce a signal. Manufacturers may use a multi-purpose lighter without fuel as a surrogate multi-purpose lighter if a distinct audible signal, such as a ''click,'' can be heard clearly when the mechanism is operated in each manner that would produce a flame in a production lighter and if a flame cannot be produced in a production multi-purpose lighter without the signal. But see § 1212.4(f)(1).)

(d) *Child-resistant mechanism* means the mechanism of a multi-purpose lighter that makes the lighter resist successful operation by young children, as specified in § 1212.3.

(e) *Model* means one or more multi-purpose lighters from the same manufacturer or importer that do not differ in design or other characteristics in any manner that may affect child resistance. Lighter characteristics that may affect child resistance include, but are not limited to, size, shape, case material, and ignition mechanism (including child-resistant features).

§ 1212.3 Requirements for multi-purpose lighters.

(a) A multi-purpose lighter subject to this part 1212 shall be resistant to successful operation by at least 85 percent of the child-test panel when tested in the manner prescribed by § 1212.4.

(b) A multi-purpose lighter must:

(1) allow multiple operations of the ignition mechanism (with fuel flow) without further operation of the child-resistant mechanism, unless the lighter requires only one motion to both:

(i) Overcome the child-resistant mechanism and

(ii) Ignite the fuel,

(2) Not allow the lighter to remain lit after the user has let go unless an additional manual operation is performed after the lighter is lit,

(3) Return automatically to the child-resistant condition either:

(i) When or before the user lets go of the lighter or

(ii) For multi-purpose lighters that remain lit after the users have let go, when or before the user lets go of the lighter after turning off the flame,

(4) Operate safely when used in a normal and convenient manner,

(5) Comply with this § 1212.3 for the reasonably expected life of the lighter, and

(6) Not be capable of having its child-resistant mechanism easily deactivated or prevented from complying with this § 1212.3.

§ 1212.4 Test protocol.

(a) *Child test panel.* (1) The test to determine if a multi-purpose lighter is resistant to successful operation by children uses a panel of children to test a surrogate multi-purpose lighter representing the production multi-purpose lighter. Written informed consent shall be obtained from a parent or legal guardian of a child before the child participates in the test.

(2) The test shall be conducted using at least one, but no more than two, 100-child test panels in accordance with the provisions of § 1212.4(f).

(3) The children for the test panel shall live within the United States.

(4) The age and sex distribution of each 100-child panel shall be:

(i) 30 ± 2 children (20 ± 1 males; 10 ± 1 females) 42 through 44 months old;

(ii) 40 ± 2 children (26 ± 1 males; 14 ± 1 females) 45 through 48 months old;

(iii) 30 ± 2 children (20 ± 1 males; 10 ± 1 females) 49 through 51 months old.

Note: To calculate a child's age in months: Subtract the child's birth date from the test date. The following calculation shows how to determine the age of the child at the time of the test. Both dates are expressed numerically as Month-Day-Year.

Example: Test Date (*e.g.*, 8/3/94) minus Birth Date—(*e.g.*, 6/23/90). Subtract the number for the year of birth from the number for the year of the test (*i.e.*, 94 minus 90 = 4). Multiply the difference in years by 12 months (*i.e.*, 4 years × 12 months = 48 months). Subtract the number for the month of the birth date from the number of the month of the test date (*i.e.*, 8 minus 6 = 2 months). Add the difference in months obtained above to the number of months represented by the difference in years described above (48 months + 2 months = 50 months). If the difference in days is greater than 15 (*e.g.*, 16, 17 * * *), add 1 month. If the difference in days is less than −15 (*e.g.*, −16, −17), subtract 1 month (*e.g.*, 50 months − 1 month = 49 months). If the difference in days is between −15 and 15 (*e.g.*, −15, −14, * * * 14, 15), do not add or subtract a month.

(5) No child with a permanent or temporary illness, injury, or handicap that would interfere with the child's ability to operate the surrogate multi-purpose lighter shall be selected for participation.

(6) Two children at a time shall participate in testing of surrogate multi-purpose lighters. Extra children whose results will not be counted in the test may be used if necessary to provide the required partner for test subjects, if the extra children are within the required age range and a parent or guardian of each such child has signed a consent form.

(7) No child shall participate in more than one test panel or test more than one surrogate multi-purpose lighter. No child shall participate in both surrogate multi-purpose lighter testing and either surrogate cigarette lighter testing or child-resistant package testing on the same day.

(b) *Test sites, environment, and adult testers.* (1) Surrogate multi-purpose lighters shall be tested within the United States at 5 or more test sites throughout the geographical area for each 100-child panel if the sites are the customary nursery schools or day care centers of the participating children. No more than 20 children shall be tested at each site. In the alternative, surrogate multi-purpose lighters may be tested within the United States at one or more central locations, provided the participating children are drawn from a variety of geographical locations.

(2) Testing of surrogate multi-purpose lighters shall be conducted in a room that is familiar to the children on the test panel (for example, a room the children frequent at their customary nursery school or day care center). If the testing is conducted in a room that initially is unfamiliar to the children (for example, a room at a central location), the tester shall allow at least 5 minutes for the children to become accustomed to the new environment before starting the test. The area in which the testing is conducted shall be well-lighted and isolated from distractions. The children shall be allowed freedom of movement to work with their surrogate multi-purpose lighters, as long as the tester can watch both children at the same time. Two children at a time shall participate in testing of surrogate multi-purpose lighters. The children shall be seated side by side in chairs approximately 6 inches apart, across a table from the tester. The table shall be normal table height for the children, so that they can sit up at the table with their legs underneath and so that their arms will be at a comfortable height when on top of the table. The children's chairs shall be ''child size.''

(3) Each tester shall be at least 18 years old. Five or 6 adult testers shall be used for each 100-child test panel. Each tester shall test an approximately equal number of children from the 100-child test panel (20 ± 2 children each for 5 testers and 17 ± 2 children each for 6 testers).

Note: When a test is initiated with five testers and one tester drops out, a sixth tester may be added to complete the testing. When a test is initiated with six testers and one tester drops out, the test shall be completed using the five remaining testers. When a tester drops out, the requirement for each tester to test an approximately equal number of children does not apply to that tester. When testing is initiated with five testers, no tester shall test more than 19 children until

it is certain that the test can be completed with five testers.

(c) *Surrogate multi-purpose lighters.* (1) Six surrogate multi-purpose lighters shall be used for each 100-child panel. The six multi-purpose lighters shall represent the range of forces required for operation of multi-purpose lighters intended for use. All of these surrogate multi-purpose lighters shall have the same visual appearance, including color. The surrogate multi-purpose lighters shall be labeled with sequential numbers beginning with the number one. The same six surrogate multi-purpose lighters shall be used for the entire 100-child panel. The surrogate multi-purpose lighters may be used in more than one 100-child panel test. The surrogate multi-purpose lighters shall not be damaged or jarred during storage or transportation. The surrogate multi-purpose lighters shall not be exposed to extreme heat or cold. The surrogate multi-purpose lighters shall be tested at room temperature. No surrogate multi-purpose lighter shall be left unattended.

(2) Each surrogate multi-purpose lighter shall be tested by an approximately equal number of children in a 100-child test panel (17 ± 2 children).

Note: If a surrogate multi-purpose lighter is permanently damaged, testing shall continue with the remaining multi-purpose lighters. When a multi-purpose lighter is dropped out, the requirement that each multi-purpose lighter be tested by an approximately equal number of children does not apply to that lighter.

(3) Before each 100-child panel is tested, each surrogate multi-purpose lighter shall be examined to verify that it approximates the appearance, size, shape, and weight of a production multi-purpose lighter intended for use.

(4) Before and after each 100-child panel is tested, force measurements shall be taken on all operating components that could affect child resistance to verify that they are within reasonable operating tolerances for the corresponding production multi-purpose lighter.

(5) Before and after testing surrogate multi-purpose lighters with each child, each surrogate multi-purpose lighter shall be operated outside the presence of any child participating in the test to verify that the surrogate multi-purpose lighters produce a signal. If the surrogate multi-purpose lighter will not produce a signal before the test, it shall be repaired before it is used in testing. If the surrogate multi-purpose lighter does not produce a signal when it is operated after the test, the results for the preceding test with that multi-purpose lighter shall be eliminated. An explanation shall be recorded on the data collection record. The multi-purpose lighter shall be repaired and tested with another eligible child (as one of a pair of children) to complete the test panel.

(d) *Encouragement.* (1) Prior to the test, the tester shall talk to the children in a normal and friendly tone to make them feel at ease and to gain their confidence.

(2) The tester shall tell the children that he or she needs their help for a special job. The children shall not be promised a reward of any kind for participating, and shall not be told that the test is a game or contest or that it is fun.

(3) The tester shall not discourage a child from attempting to operate the surrogate multi-purpose lighter at any time (either verbally or with body language such as facial expressions), unless a child is in danger of hurting himself or another child. The tester shall not discuss the dangers of multi-purpose lighters or matches with the children to be tested prior to the end of the 10-minute test.

(4) Whenever a child has stopped attempting to operate the surrogate multi-purpose lighter for a period of approximately one minute, the tester shall encourage the child to try by saying ''keep trying for just a little longer.''

(5) Whenever a child says that his or her parent, grandparent, guardian, etc., said never to touch lighters, say ''that's right—never touch a real lighter—but your [parent, etc.] said it was OK for you to try to make a noise with this special lighter because it can't hurt you.''

(6) The children in a pair being tested may encourage each other to operate the surrogate multi-purpose lighter and may tell or show each other how to operate it. (This interaction is not considered to be disruption as described in paragraph (e)(2) of this section.) However, neither child shall be allowed to touch or operate the other child's multi-purpose lighter. If one child takes the other child's surrogate multi-purpose lighter, that surrogate lighter shall be immediately returned to the proper child. If this occurs, the tester shall say ''No. He(she) has to try to do it himself(herself).''

(e) *Children who refuse to participate.* (1) If a child becomes upset or afraid, and cannot be reassured before the test starts, select another eligible child for participation in that pair.

(2) If a child disrupts the participation of another child for more than 1 minute during the test, the test shall be stopped and both children eliminated from the results. An explanation shall be recorded on the data collection record. These two children should be replaced with other eligible children to complete the test panel.

(3) If a child is not disruptive but refuses to attempt to operate the surrogate multi-purpose lighter throughout the entire test period, that child shall be eliminated from the test results and an explanation shall be recorded on the data collection record. The child shall be replaced with another eligible child (as one of a pair of children) to complete the test panel.

(f) *Test procedure.* (1) To begin the test, the tester shall say ''I have a special multi-purpose lighter that will not make a flame. It makes a noise like this.'' Except where doing so would block the child's view of a visual signal, the adult tester shall place a 8½ by 11 inch sheet of cardboard or other rigid opaque material upright on the table in front of the surrogate multi purpose lighter, so that the surrogate multi-purpose lighter cannot be seen by the child, and shall operate the surrogate multi-purpose lighter once to produce its signal. The tester shall say ''Your parents said it is OK for you to try to make that noise with your lighter.'' The tester shall place a surrogate multi-purpose lighter in each child's hand and say ''now you try to make a noise with your lighter. Keep trying until I tell you to stop.''

Note: For multi-purpose lighters with an ''off/on'' switch, the surrogate lighter shall be given to the child with the switch in the ''off,'' or locked, position.

(2) The adult tester shall observe the children for 5 minutes to determine if either or both of the children can successfully operate the surrogate multi-purpose lighter by producing one signal of any duration. If a child achieves a spark without defeating the child-resistant feature, say ''that's a spark—it won't hurt you—try to make a noise with your lighter.'' If any child successfully operates the surrogate multi-purpose lighter during this first 5-minute period, the lighter shall be taken from that child and the child shall not be asked to try to operate the lighter again. The tester shall ask the successful child to remain until the other child is finished.

(3) If either or both of the children are unable to successfully operate the surrogate multi-purpose lighter during the 5-minute period specified in § 1212.4(f)(3), the adult tester shall demonstrate the operation of the surrogate multi-purpose lighter. To conduct the demonstration, secure the children's full attention by saying ''Okay, give me your lighter(s) now.''

Take the surrogate multi-purpose lighters and place them on the table in front of you out of the children's reach. Then say, ''I'll show you how to make the noise with your lighters. First I'll show you with (child's name) lighter and then I'll show you with (child's name) lighter.'' Pick up the first child's surrogate multi-purpose lighter. Hold the lighter approximately 2 feet in front of the children at their eye level. Hold the surrogate multi-purpose lighter in a vertical position in one hand with the child-resistant feature exposed (not covered by fingers, thumb, etc.). Orient the child-resistant mechanism on the multi-purpose lighter toward the children. (This may require a change in your orientation to the children such as sitting sideways in the chair to allow a normal hand position for holding the multi-purpose lighter while assuring that both children have a clear view of the mechanism. You may also need to reposition your chair so your hand is centered between the children.) Say ''now watch the lighter.'' Look at each child to verify that they are looking at the lighter. Operate the multi-purpose lighter one time in a normal manner according to the manufacturer's instructions. Do not exaggerate operating movements. Do not verbally describe the lighter's operation. Place the first child's lighter back on the table in front of you and pick up the second child's lighter. Say, ''Okay, now watch this lighter.'' Repeat the demonstration as described above using the second child's multi-purpose lighter. Notes: The demonstration is conducted with each child's lighter, even if one child has successfully operated the lighter. Testers shall be trained to conduct the demonstration in a uniform manner, including the words spoken to the children, the way the multi-purpose lighter is held and operated, and how the tester's hand and body is oriented to the children. All testers must be able to operate the surrogate multi-purpose lighters using only appropriate operating movements in accordance with the manufacturer's instructions. If any of these requirements are not met during the demonstration for any pair of children, the results for that pair of children shall be eliminated from the test. Another pair of eligible children shall be used to complete the test panel.

(4) Each child who fails to successfully operate the surrogate multi-purpose lighter in the first 5 minutes is then given another 5 minutes in which to attempt to complete the successful operation of the surrogate multi-purpose lighter. After the demonstrations, give the same surrogate multi-purpose lighter back to each child who did not successfully operate the surrogate multi-purpose lighter in the first 5 minutes by placing the multi-purpose lighter in the child's hand. Say ''Okay, now you try to make the noise with your lighter(s)—keep trying until I tell you to stop.'' If any child successfully operates the surrogate multi-purpose lighter during this period, the surrogate multi-purpose lighter shall be taken from that child and the child shall not be asked to try to operate the lighter again. If the other child has not yet successfully operated the surrogate multi-purpose lighter, the tester shall ask the successful child to remain until the other child is finished.

Note: Multi-purpose lighters having an on/off switch shall have the switch returned to the position the child left it at the first 5-minute test period before returning the lighter to the child.

(5) At the end of the second 5-minute test period, take the surrogate multi-purpose lighter from any child who has not successfully operated it.

(6) After the test is over, ask the children to stand next to you. Look at the children's faces and say: ''These are special lighters that don't make fire. Real lighters can burn you. Will you both promise me that if you find a real lighter you won't touch it and that you'll tell a grownup right away?'' Wait for an affirmative response from each child; then thank the children for helping.

(7) Escort the children out of the room used for testing.

(8) After a child has participated in the testing of a surrogate multi-purpose lighter, and on the same day, provide written notice of that fact to the child's parent or guardian. This notification may be in the form of a letter provided to the school to be given to a parent or guardian of each child. The notification shall state that the child participated, shall ask the parent or guardian to warn the child not to play with matches or lighters, and shall remind the parent or guardian to keep all lighters and matches, whether child-resistant or not, out of the reach of children. For children who operated the surrogate multi-purpose lighter, the notification shall state that the child was able to operate the child-resistant multi-purpose lighter. For children who do not defeat the child-resistant feature, the notification shall state that, although the child did not defeat the child-resistant feature, the child may be able to do so in the future.

(g) *Data collection and recording.* Except for recording the times required for the children to activate the signal, recording of data should be avoided while the children are trying to operate the multi-purpose lighters, so that the tester's full attention is on the children during the test period. If actual testing is videotaped, the camera shall be stationary and shall be operated remotely in order to avoid distracting the children. Any photographs shall be taken after actual testing and shall simulate actual test procedure(s) (for example, the demonstration). The following data shall be collected and recorded for each child in the 100-child test panel:

(1) Sex (male or female).

(2) Date of birth (month, day, year).

(3) Age (in months, to the nearest month).

(4) The number of the multi-purpose lighter tested by that child.

(5) Date of participation in the test (month, day, year).

(6) Location where the test was given (city, state, and the name of the site).

(7) The name of the tester who conducted the test.

(8) The elapsed time at which the child achieved any operation of the surrogate signal in the first 5-minute test period.

(9) The elapsed time at which the child achieved any operation of the surrogate signal in the second 5-minute test period.

(10) For a single pair of children from each 100-child test panel, photograph(s) or video tape to show how the multi-purpose lighter was held in the tester's hand, and the orientation of the tester's body and hand to the children, during the demonstration.

(h) *Evaluation of test results and acceptance criterion.* To determine whether a surrogate multi-purpose lighter resists operation by at least 85 percent of the children, sequential panels of 100 children each, up to a maximum of 2 panels, shall be tested as prescribed below.

(1) If no more than 10 children in the first 100-child test panel successfully operated the surrogate multi-purpose lighter, the multi-purpose lighter represented by the surrogate multi-purpose lighter shall be considered to be resistant to successful operation by at least 85 percent of the child test panel, and no further testing is conducted. If 11 through 18 children in the first 100-child test panel successfully operate the surrogate multi-purpose lighter, the test results are inconclusive, and the surrogate multi-purpose lighter shall be tested with a second 100-child test panel in accordance with this § 1212.4. If 19 or more of the children in the first 100-child test panel successfully operated the surrogate multi-purpose lighter, the lighter represented by the

surrogate shall be considered not resistant to successful operation by at least 85 percent of the child test panel, and no further testing is conducted.

(2) If additional testing of the surrogate multi-purpose lighter is required by paragraph (h)(1) of this section, conduct the test specified by this § 1212.4 using a second 100-child test panel and record the results. If a total of no more than 30 of the children in the combined first and second 100-child test panels successfully operated the surrogate multi-purpose lighter, the multi-purpose lighter represented by the surrogate multi-purpose lighter shall be considered resistant to successful operation by at least 85 percent of the child test panel, and no further testing is performed. If a total of 31 or more children in the combined first and second 100-child test panels successfully operate the surrogate multi-purpose lighter, the multi-purpose lighter represented by the surrogate shall be considered not resistant to successful operation by 85 percent of the child test panel, and no further testing is conducted. Thus, for the first panel of 100 children, the surrogate passes if there are 0–10 successful operations by the children; the surrogate fails if there are 19 or greater successful operations; and testing is continued if there are 11–18 successes. If testing is continued with a second panel of children, the surrogate passes if the combined total of the successful operations of the two panels is 30 or less, and it fails if there are 31 or more.

§ 1212.5 Findings.

Section 9(f) of the Consumer Product Safety Act (15 U.S.C. 2058(f)) requires the Commission to make findings concerning the following topics and to include the findings in the rule.

(a) *The degree and nature of the risk of injury the rule is designed to eliminate or reduce.* The standard is designed to reduce the risk of death and injury from accidental fires started by children playing with multi-purpose lighters. The CPSC's staff has identified 178 fires that occurred between January 1988 and August 6, 1998, that were started by children under age 5 playing with multi-purpose lighters. These fires resulted in a total of 29 deaths and 71 injuries. Fire-related injuries include thermal burns—many of high severity—as well as anoxia and other, less serious injuries. The annual cost of these fires, which averaged about $34.4 million per year during 1996–1997, are now estimated to exceed $35 million annually. This is based on increases in the sales and use of multi-purpose lighters in recent years. Because these data are from known fires rather than national estimates, the extent of the total problem may be greater. Fires started by children under age 5 are those which the standard would most effectively reduce.

(b) *The approximate number of consumer products, or types or classes thereof, subject to the rule.* The standard covers certain flame-producing devices, commonly known as multi-purpose lighters, that are defined in § 1212.2(a) of this part 1212. This definition includes products that are referred to as micro-torches. Multi-purpose lighters may use any fuel and may be refillable or nonrefillable. Over 20 million multi-purpose lighters are expected to be sold to consumers in the U.S. during 1998. Multi-purpose lighters manufactured after [insert date that is 1 year after publication of a final rule] will be required to meet child-resistance requirements.

(c) *The need of the public for the consumer products subject to the rule, and the probable effect of the rule on the utility, cost, or availability of such products to meet such need.* Consumers use multi-purpose lighters primarily to ignite items such as candles, fuel for fireplaces, charcoal or gas-fired grills, camp fires, camp stoves, lanterns, or fuel-fired appliances or devices or their pilot lights. The following products are not multi-purpose lighters: devices, intended primarily for igniting smoking materials, that are within the definition of ''lighter'' in the Safety Standard for Cigarette Lighters (16 CFR 1210.2(c)); devices that contain more than 10 oz. of fuel; and matches. The standard's requirements should ensure that most children under 52 months of age cannot operate the lighters.

(1) There will be several types of costs associated with the rule. Manufacturers would have to devote some resources to the development or modification of technology to produce child-resistant multi-purpose lighters. Before being marketed, the lighters must be tested and certified to the new standard. It is also possible that manufacturing child-resistant lighters may require more labor or material than non-child-resistant lighters.

(2) Manufacturers will have to modify their existing multi-purpose lighters to comply with the rule. In general, costs that manufacturers would incur in developing, producing, and selling new complying lighters include the following:

(i) Research and development toward finding the most promising approaches to improving child resistance, including building prototypes and surrogate lighters for preliminary child panel testing;

(ii) Retooling and other production equipment changes required to produce more child-resistant multi-purpose lighters, beyond normal periodic changes made to the plant and equipment;

(iii) Labor and material costs of the additional assembly steps, or modification of assembly steps, in the manufacturing process;

(iv) The additional labeling, recordkeeping, certification, testing, and reporting that will be required for each new model;

(v) Various administrative costs of compliance, such as legal support and executive time spent at related meetings and activities; and

(vi) Lost revenue if sales are adversely affected.

(3) Industry sources have not been able to provide firm estimates of these costs. One major manufacturer has introduced a child-resistant multi-purpose lighter. However, because that company did not previously manufacture a non-child-resistant lighter, it was unable to estimate the incremental cost of developing and manufacturing child-resistant multi-purpose lighters.

(4) Assuming that there are 15 manufacturers and that each invests an average of $2 million to develop and market complying lighters, the total industry cost for research development, retooling, and compliance testing would be approximately $30 million. If amortized over a period of 10 years, and assuming a modest 3 percent sales growth each year, the average of these costs would be about $0.13 per unit.[1] For a manufacturer with a large market share (i.e., selling several million units or more a year) the cost per unit of the development costs could be lower than the estimated $0.13 per unit, even at the high end of the estimates. On the other hand, for manufacturers with a small market share, the per-unit development costs would be greater. Some manufacturers with small market shares may even drop out of the market (at least temporarily) or delay entering the market.

(5) In addition to the research, development, retooling, and testing costs, material and labor costs are likely to increase. For example, additional

[1] If 20 million lighters are sold in the first year (approximately the current annual sales volume) and sales increase at the rate of 3 percent a year (industry sources indicate that they have been growing at 5 to 10 percent annually), then over a 10-year period approximately 230 million lighters would be sold. $30 million/230 million = $0.13/unit.

labor will be required to add the child-resistant mechanism to the lighter during assembly. Additional materials may also be needed to produce the child-resistant mechanism. While CPSC was unable to obtain reliable estimates, some industry sources indicated that they believed that these costs would be relatively low, probably less than $0.25 per unit.

(6) Multi-purpose lighters will also be required to have a label that identifies the manufacturer and the approximate date of manufacture. However, virtually all products are already labeled in some way. Since the requirement in the rule allows substantial flexibility to the manufacturer in terms of things such as color, size, and location, this requirement is not expected to increase the costs significantly.

(7) Certification and testing costs include costs of producing surrogate lighters; conducting child panel tests; and issuing and maintaining records for each model. The largest component of these costs is believed to be building surrogates and conducting child panel tests, which, based on CPSC experience, may cost about $25,000 per lighter model. Administrative expenses associated with the compliance and related activities are difficult to quantify, since many such activities associated with the rule would probably be carried out anyway and the marginal impact of the recommended rule is probably slight. Overall, certification, testing, and administrative costs are expected to add about $0.02 per unit to the cost of producing multi-purpose lighters. Because of lower sales volume, the per-unit cost for micro-torches is expected to be higher.

(8) Multi-purpose lighters are sold in countries other than the United States. Some manufacturers may develop lighters that meet the requirements of the rule for distribution in the United States, but continue to distribute the current, non-child-resistant models in other countries. Thus, some manufacturers may incur the incremental costs associated with producing multiple lines of similar products. These costs could include extra administrative costs required to maintain different lines and the incremental costs of producing different lines of similar products, such as using different molds or different assembly steps. These costs would, however, be mitigated if similar or identical standards were adopted by other countries.

(9) In total, the rule will likely increase the cost of manufacturing multi-purpose lighters by about $0.40 per unit. The proposed rule will likely increase the per-unit cost of manufacturing micro-torches and other high-end multi-purpose lighters by a greater amount. However the available information is insufficient to make a reliable estimate of this cost.

(10) At the present time, one manufacturer has about 90 percent of the market for multi-purpose lighters. The other manufacturers, importers, and private labelers divide up the remaining 10 percent of the market. Thus, there is already a very high degree of concentration in the market. Even so, at least two manufacturers have already entered the market with models that are believed to meet the requirements of the rule and at least one other firm is believed to be actively developing a child-resistant lighter. Therefore, the rule is not expected to have any significant impact on competition. Moreover, other firms are expected to enter the market for multi-purpose lighters, and thereby increase competition, as the market expands. Firms that market child-resistant multi-purpose lighters before the standard's effective date may gain an initial competitive advantage. However, any differential impact is likely to be slight and short-lived. Other manufacturers can be expected to have child-resistant multi-purpose lighters developed and ready to market before or soon after the rule goes into effect.

(11) Impact on consumers. Aside from increased safety, the rule is likely to affect consumers in two ways. First, the increased cost for producing the child-resistant models will likely result in higher retail prices for multi-purpose lighters. Second, the utility derived from child-resistant lighters may be decreased if complying lighters are less easy to operate.

(12) Assuming a 100 percent markup over the incremental cost to manufacturers (estimated at $0.40/unit), the rule may be expected to increase the retail price of multi-purpose lighters by $0.80 per unit. The per-unit price increase for micro-torches and other high-end multi-purpose lighters may be higher due to the smaller numbers of such lighters produced.

(13) The utility that consumers receive from multi-purpose lighters may be reduced if the rule makes the lighters more difficult to operate. This could result in some consumers switching to substitute products, such as matches. However, as with child-resistant cigarette lighters, the increased difficulty of operating child-resistant multi-purpose lighters is expected to be slight. Moreover, even if some consumers do switch to other products, the risk of fire is not expected to increase significantly. Most cigarette lighters (one possible substitute) must already meet the same child-resistant standard as those applicable to multi-purpose lighters. Although consumers that switch to matches may increase the risk of child-play fires somewhat, matches seem to be inherently more child resistant than are non-child-resistant multi-purpose lighters. Previously, the CPSC determined that non-child-resistant cigarette lighters were 1.4 times as likely as matches to be involved in child-play fires and 3.9 times as likely to be involved in a child-play death. Thus, even if some consumers did switch to using matches, the risk of child-play fires would still likely be less than if they continued to use non-child-resistant multi-purpose lighters.

(14) As previously stated, the total societal costs of fires known to have been started during 1995 through 1997 by children under age 5 playing with multi-purpose lighters was approximately $103 million, or $34.4 million per year. This is probably an underestimate, since it only includes the cases of which CPSC is aware. During the same period, an estimated 19.4 million multi-purpose lighters were available for use each year. The societal costs of the fires started by young children attempting to operate multi-purpose lighters is, therefore, about $1.77 per lighter ($34.4 million ÷ 19.4 million lighters). The rule is expected to reduce this cost by 75 to 84 percent. Therefore, the expected societal benefit of the rule in terms of reduced fires, deaths, injuries, and property damage is expected to be $1.33 to $1.49 per complying lighter sold.

(15) As discussed above, the rule may increase the cost of manufacturing multi-purpose lighters by $0.40 and may increase the retail prices by as much as $0.80. Therefore, assuming that sales of multi-purpose lighters remain the same, the net benefit (benefits minus costs) of the rule to consumers is expected to be at least $0.53 per unit ($1.33 − $0.80). Based on 1998 sales of approximately 20 million units per year, the rule would result in an annual net benefit to consumers as high as $10.6 million (20 million × $0.53) annually. If sales of multi-purpose lighters continue to increase at current rates (5 to 10 percent annually), the annual net benefit will also increase by a similar percentage.

(16) Some multi-purpose lighters, especially the micro-torch type, have useful lives of greater than one year. Therefore, the gross benefit of the proposed rule per lighter of this type is computed by summing the expected annual net benefit (estimated above as

$1.33 per unit) over the expected life of the lighter. For example, if a multi-purpose lighter, such as a micro-torch, had an expected useful life of 10 years the gross benefit would be $11.14 per lighter, assuming a discount rate of 4 percent. As stated earlier, the costs/unit for manufacturing these micro-torch type multi-purpose lighters is likely to be higher. Assuming a markup at retail of 100 percent over manufacturing costs and a 10-year product life, if the cost per unit to manufacture child-resistant micro-torches is less than $5.57/unit, net social benefits would result. However, if the expected useful life of a micro-torch was only 5 years, the gross benefit would be $6.14/unit. This would suggest positive net benefits if the per unit manufacturing costs are less than $3.12 per unit.

(17) The actual level of benefits observed could be higher if some multi-purpose lighters are stored with the on/off switch in the ''on'' position. If a significant number of consumers commonly store multi-purpose lighters with the switch on, the effective level of child resistance of multi-purpose lighters currently in use may be lower than indicated by CPSC's baseline testing. This would increase the effectiveness of the rule and the value of the net benefits.

(d) *Any means of achieving the objective of the order while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety.* The performance requirements of this part 1212 are based on the Commission's Safety Standard for Cigarette Lighters, 16 CFR part 1210. In developing that standard, the Commission considered the potential effects on competition and business practices of various aspects of the standard, and incorporated some burden-reducing elements into the standard. One possible alternative to this mandatory standard would be for the Commission to rely on voluntary conformance to the requirements of the standard to provide safety to consumers. The expected level of conformance to a voluntary standard is uncertain, however. Although some of the largest firms may market some child-resistant multi-purpose lighters that conform to these requirements, most firms (possibly including some of the largest) probably would not. Even under generous assumptions about the level of voluntary conformance, net benefits to consumers would be substantially lower under this alternative than under the standard. Thus, the Commission finds that reliance on voluntary conformance to the provisions of this part 1212 would not adequately reduce the unreasonable risk associated with multi-purpose lighters.

(e) *The rule (including its effective date) is reasonably necessary to eliminate or reduce an unreasonable risk.* The Commission's hazard data and regulatory analysis demonstrate that multi-purpose lighters covered by the standard pose an unreasonable risk of death and injury to consumers. The Commission considered a number of alternatives to address this risk, and believes that the standard strikes the most reasonable balance between risk reduction benefits and potential costs. Further, the amount of time before the standard becomes effective (one year after publication of the final rule) will provide manufacturers and importers of most products adequate time to design, produce, and market safer multi-purpose lighters. Thus, the Commission finds that the standard and its effective date are reasonably necessary to reduce the risk of fire-related death and injury associated with young children playing with multi-purpose lighters.

(f) *The benefits expected from the rule bear a reasonable relationship to its costs.* The standard will substantially reduce the number of fire-related deaths, injuries, and property damage associated with young children playing with multi-purpose lighters. The cost of these accidents, which is estimated to be greater than $35 million annually, will also be greatly reduced. The rule is expected to reduce this societal cost by 75–84 percent, or by greater than $26 million. The estimated annual costs to the public are expected to be less than this amount. Therefore, substantial net benefits will accrue to consumers. Thus, the Commission finds that a reasonable relationship exists between potential benefits and potential costs of the standard.

(g) *The rule imposes the least burdensome requirement which prevents or adequately reduces the risk of injury for which the rule is being promulgated.* The Commission incorporated a number of features from the cigarette lighter standard, 16 CFR part 1210, in order to minimize the potential burden of the rule on industry and consumers. The Commission also considered alternatives involving different performance and test requirements and different definitions determining the scope of coverage among products. The other alternatives considered generally would be more burdensome to industry and would have higher costs to consumers. Some less burdensome alternatives would have lowered the risk-reduction benefits to consumers; none has been identified that would result in a higher level of safety. A less stringent acceptance criterion of 80 percent (rather than the standard's 85 percent) might slightly reduce costs to industry and consumers. The safety benefits of this alternative, however, would likely be reduced disproportionately to the potential reduction in costs. A higher (90 percent) acceptance criterion was also considered. This higher performance level may not be commercially or technically feasible for many firms, however. The Commission believes that this more stringent alternative would have substantial adverse effects on manufacturing and competition, and would increase costs disproportionate to benefits. The Commission believes that the requirement that complying multi-purpose lighters not be operable by at least 85 percent of children in prescribed tests strikes a reasonable balance between improved safety for a substantial majority of young children and other potential fire victims and the potential for adverse competitive effects and manufacturing disruption. The standard will become effective 12 months from its date of publication in the **Federal Register**. The Commission also considered an effective date of 6 months after the date of issuance of the final rule. While most multi-purpose lighters sold in the U.S. could probably be made child-resistant within 6 months, the supply of some imported multi-purpose lighters would be disrupted. The 12-month period in the standard would minimize this potential effect, and would allow more time for firms to design, produce, and import complying multi-purpose lighters. The Commission estimates that there would be no significant adverse impact on the overall supply of multi-purpose lighters for the U.S. market.

(h) *The promulgation of the rule is in the public interest.* As required by the CPSA and the Regulatory Flexibility Act, the Commission considered the potential benefits and costs of the standard and various alternatives. While certain alternatives to the final rule are estimated to have net benefits to consumers, they would decrease the level of safety. Thus, the Commission finds that the standard is in the public interest.

Subpart B—Certification Requirements

Authority: 15 U.S.C. 2063, 2065(b), 2066(g), 2076(e), 2079(d).

§ 1212.11 General.

Section 14(a) of the Consumer Product Safety Act (CPSA), 15 U.S.C.

2063(a), requires every manufacturer, private labeler, or importer of a product that is subject to a consumer product safety standard and that is distributed in commerce to issue a certificate that such product conforms to the applicable standard and to base that certificate upon a test of each item or upon a reasonable testing program. The purpose of this subpart B of part 1212 is to establish requirements that manufacturers, importers, and private labelers must follow to certify that their products comply with the Safety Standard for Multi-purpose lighters. This Subpart B describes the minimum features of a reasonable testing program and includes requirements for labeling, recordkeeping, and reporting pursuant to sections 14, 16(b), 17(g), and 27(e) of the CPSA, 15 U.S.C. 2063, 2065(b), 2066(g), and 2076(e).

§ 1212.12 Certificate of compliance.

(a) *General requirements.*—(1) *Manufacturers (including importers).* Manufacturers of any multi-purpose lighter subject to the standard must issue the certificate of compliance required by section 14(a) of the CPSA, 15 U.S.C. 2063(a), and this subpart B, based on a reasonable testing program or a test of each product, as required by §§ 1212.13, 1212.14, and 1212.16. Manufacturers must also label each multi-purpose lighter subject to the standard as required by paragraph (c) of this section and keep the records and make the reports required by §§ 1212.15 and 1212.17. For purposes of this requirement, an importer of multi-purpose lighters shall be considered the ''manufacturer.''

(2) *Private labelers.* Because private labelers necessarily obtain their products from a manufacturer or importer that is already required to issue the certificate, private labelers are not required to issue a certificate. However, private labelers must ensure that the multi-purpose lighters are labeled in accordance with paragraph (c) of this section and that any certificate of compliance that is supplied with each shipping unit of multi-purpose lighters in accordance with paragraph (b) of this section is supplied to any distributor or retailer who receives the product from the private labeler.

(3) *Testing on behalf of importers.* If the required testing has been performed by or for a foreign manufacturer of a product, an importer may rely on such tests to support the certificate of compliance, provided that the importer is a resident of the United States or has a resident agent in the United States and the records are in English and the records and the surrogate multi-purpose lighters tested are kept in the United States and can be provided to the Commission within 48 hours (§ 1212.17(a)) or, in the case of production records, can be provided to the Commission within 7 calendar days in accordance with § 1212.17(a)(3). The importer is responsible for ensuring that

(i) The foreign manufacturer's records show that all testing used to support the certificate of compliance has been performed properly (§§ 1212.14–1212.16),

(ii) The records provide a reasonable assurance that all multi-purpose lighters imported comply with the standard (§ 1212.13(b)(1)),

(iii) The records exist in English (§ 1212.17(a)),

(iv) The importer knows where the required records and multi-purpose lighters are located and that records required to be located in the United States are located there,

(v) Arrangements have been made so that any records required to be kept in the United States will be provided to the Commission within 48 hours of a request and any records not kept in the United States will be provided to the Commission within 7 calendar days (§ 1212.17(a)), and

(vi) The information required by § 1212.17(b) to be provided to the Commission's Office of Compliance has been provided.

(b) *Certificate of compliance.* A certificate of compliance must accompany each shipping unit of the product (for example, a case), or otherwise be furnished to any distributor or retailer to whom the product is sold or delivered by the manufacturer, private labeler, or importer. The certificate shall state:

(1) That the product ''complies with the Consumer Product Safety Standard for Multi-purpose lighters (16 CFR part 1212)'',

(2) The name and address of the manufacturer or importer issuing the certificate or of the private labeler, and

(3) The date(s) of manufacture and, if different from the address in paragraph (b)(2) of this section, the address of the place of manufacture.

(c) *Labeling.* The manufacturer or importer must label each multi-purpose lighter with the following information, which may be in code.

(1) An identification of the period of time, not to exceed 31 days, during which the multi-purpose lighter was manufactured.

(2) An identification of the manufacturer of the multi-purpose lighter, unless the multi-purpose lighter bears a private label. If the multi-purpose lighter bears a private label, it shall bear a code mark or other label that will permit the seller of the multi-purpose lighter to identify the manufacturer to the purchaser upon request.

§ 1212.13 Certification tests.

(a) *General.* As explained in § 1212.11 certificates of compliance required by section 14(a) of the CPSA, 15 U.S.C. 2063(a), must be based on a reasonable testing program.

(b) *Reasonable testing programs.*—(1) *Requirements.* (i) A reasonable testing program for multi-purpose lighters is one that demonstrates with a high degree of assurance that all multi-purpose lighters manufactured for sale or distributed in commerce will meet the requirements of the standard, including the requirements of § 1212.3. Manufacturers and importers shall determine the types and frequency of testing for their own reasonable testing programs. A reasonable testing program should be sufficiently stringent that it will detect any variations in production or performance during the production interval that would cause any multi-purpose lighters to fail to meet the requirements of the standard.

(ii) All reasonable testing programs shall include:

(A) Qualification tests, which must be performed on surrogates of each model of multi-purpose lighter produced, or to be produced, to demonstrate that the product is capable of passing the tests prescribed by the standard (see § 1212.14) and

(B) Production tests, which must be performed during appropriate production intervals as long as the product is being manufactured (see § 1212.16).

(iii) Corrective action and/or additional testing must be performed whenever certification tests of samples of the product give results that do not provide a high degree of assurance that all multi-purpose lighters manufactured during the applicable production interval will pass the tests of the standard.

(2) *Testing by third parties.* At the option of the manufacturer or importer, some or all of the testing of each multi-purpose lighter or multi-purpose lighter surrogate may be performed by a commercial testing laboratory or other third party. However, the manufacturer or importer must ensure that all certification testing has been properly performed with passing results and that all records of such tests are maintained in accordance with § 1212.17.

§ 1212.14 Qualification testing.

(a) *Testing.* Before any manufacturer or importer of multi-purpose lighters distributes multi-purpose lighters in commerce in the United States, surrogate multi-purpose lighters of each model shall be tested in accordance with § 1212.4, to ensure that all such multi-purpose lighters comply with the standard. However, if a manufacturer has tested one model of multi-purpose lighter, and then wishes to distribute another model of multi-purpose lighter that differs from the first model only by differences that would not have an adverse effect on child resistance, the second model need not be tested in accordance with § 1212.4.

(b) *Product modifications.* If any changes are made to a product after initial qualification testing that could adversely affect the ability of the product to meet the requirements of the standard, additional qualification tests must be made on surrogates for the changed product before the changed multi-purpose lighters are distributed in commerce.

(c) *Requalification.* If a manufacturer or importer chooses to requalify a multi-purpose lighter design after it has been in production, this may be done by following the testing procedures at § 1212.4.

§ 1212.15 Specifications.

(a) *Requirement.* Before any multi-purpose lighters that are subject to the standard are distributed in commerce, the manufacturer or importer shall ensure that the surrogate multi-purpose lighters used for qualification testing under § 1212.14 are described in a written product specification. (Section 1212.4(c) requires that six surrogate multi-purpose lighters be used for testing each 100-child panel.)

(b) *Contents of specification.* The product specification shall include the following information:

(1) A complete description of the multi-purpose lighter, including size, shape, weight, fuel, fuel capacity, ignition mechanism, and child-resistant features.

(2) A detailed description of all dimensions, force requirements, or other features that could affect the child-resistance of the multi-purpose lighter, including the manufacturer's tolerances for each such dimension or force requirement.

(3) Any further information, including, but not limited to, model names or numbers, necessary to adequately describe the multi-purpose lighters and any child-resistant features.

§ 1212.16 Production testing.

(a) *General.* Manufacturers and importers shall test samples of multi-purpose lighters subject to the standard as they are manufactured, to demonstrate that the multi-purpose lighters meet the specifications, required under § 1212.15, of the surrogate that has been shown by qualification testing to meet the requirements of the standard.

(b) *Types and frequency of testing.* Manufacturers, private labelers, and importers shall determine the types of tests for production testing. Each production test shall be conducted at a production interval short enough to provide a high degree of assurance that, if the samples selected for testing pass the production tests, all other multi-purpose lighters produced during the interval will meet the standard.

(c) *Test failure.*—(1) *Sale of multi-purpose lighters.* If any test yields results which indicate that any multi-purpose lighters manufactured during the production interval may not meet the standard, production and distribution in commerce of multi-purpose lighters that may not comply with the standard must cease until it is determined that the lighters meet the standard or until corrective action is taken. (It may be necessary to modify the multi-purpose lighters or perform additional tests to ensure that only complying multi-purpose lighters are distributed in commerce. Multi-purpose lighters from other production intervals having test results showing that multi-purpose lighters from that interval comply with the standard could be produced and distributed unless there was some reason to believe that they might not comply with the standard.)

(2) *Corrective actions.* When any production test fails to provide a high degree of assurance that all multi-purpose lighters comply with the standard, corrective action must be taken. Corrective action may include changes in the manufacturing process, the assembly process, the equipment used to manufacture the product, or the product's materials or design. The corrective action must provide a high degree of assurance that all multi-purpose lighters produced after the corrective action will comply with the standard. If the corrective action changes the product from the surrogate used for qualification testing in a manner that could adversely affect its child-resistance, the multi-purpose lighter must undergo new qualification tests in accordance with § 1212.14.

§ 1212.17 Recordkeeping and reporting.

(a) Every manufacturer and importer of lighters subject to the standard shall maintain the following records in English on paper, microfiche, or similar media and make such records available to any designated officer or employee of the Commission in accordance with section 16(b) of the Consumer Product Safety Act, 15 U.S.C. 2065(b). Such records must also be kept in the United States and provided to the Commission within 48 hours of receipt of a request from any employee of the Commission, except as provided in paragraph (a)(3) of this section. Legible copies of original records may be used to comply with these requirements.

(1) Records of qualification testing, including a description of the tests, photograph(s) or a video tape for a single pair of children from each 100-child test panel to show how the lighter was held in the tester's hand, and the orientation of the tester's body and hand to the children, during the demonstration, the dates of the tests, the data required by § 1212.4(d), the actual surrogate lighters tested, and the results of the tests, including video tape records, if any. These records shall be kept for a period of 3 years after the production of the particular model to which such tests relate has ceased. If requalification tests are undertaken in accordance with § 1212.14(c) above, the original qualification test results may be discarded 3 years after the requalification testing, and the requalification test results and surrogates, and the other information required in this subsection for qualifications tests, shall be kept in lieu thereof.

(2) Records of procedures used for production testing required by this subpart B, including a description of the types of tests conducted (in sufficient detail that they may be replicated), the production interval selected, the sampling scheme, and the pass/reject criterion. These records shall be kept for a period of 3 years after production of the lighter has ceased.

(3) Records of production testing, including the test results, the date and location of testing, and records of corrective actions taken, which in turn includes the specific actions taken to improve the design or manufacture or to correct any noncomplying lighter, the date the actions were taken, the test result or failure that triggered the actions, and the additional actions taken to ensure that the corrective action had the intended effect. These records shall be kept for a period of 3 years following the date of testing. Records of production testing results may be kept

on paper, microfiche, computer tape, or other retrievable media. Where records are kept on computer tape or other retrievable media, however, the records shall be made available to the Commission on paper copies upon request. A manufacturer or importer of a lighter that is not manufactured in the United States may maintain the production records required by this paragraph (a)(3) outside the United States, but shall make such records available to the Commission in the United States within 1 week of a request from a Commission employee for access to those records under section 16(b) of the CPSA, 15 U.S.C. 2065(b).

(4) Records of specifications required under § 1212.15 shall be kept for 3 years after production of each lighter model has ceased.

(b) *Reporting.* At least 30 days before it first imports or distributes in commerce any model of lighter subject to the standard, every manufacturer and importer must provide a written report to the Office of Compliance, Consumer Product Safety Commission, 4330 East-West Highway, Room 610, Bethesda, Maryland 20814–4408. Such report shall include:

(1) The name, address, and principal place of business of the manufacturer or importer,

(2) A detailed description of the lighter model and the child-resistant feature(s) used in that model,

(3) A description of the qualification testing, including a description of the surrogate lighters tested (including a description of the point in the operation at which the surrogate will signal operation—e.g., the distance by which a trigger must be moved), the specification of the surrogate lighter required by § 1212.15, a summary of the results of all such tests, the dates the tests were performed, the location(s) of such tests, and the identity of the organization that conducted the tests,

(4) An identification of the place or places that the lighters were or will be manufactured,

(5) The location(s) where the records required to be maintained by paragraph (a) of this section are kept, and

(6) A prototype or production unit of that lighter model.

(c) *Confidentiality.* Persons who believe that any information required to be submitted or made available to the Commission is trade secret or otherwise confidential shall request that the information be considered exempt from disclosure by the Commission, in accordance with 16 CFR 1015.18. Requests for confidentiality of records provided to the Commission will be handled in accordance with section 6(a)(2) of the CPSA, 15 U.S.C. 2055(a)(2), the Freedom of Information Act as amended, 5 U.S.C. 552, and the Commission's regulations under that act, 16 CFR part 1015.

§ 1212.18 Refusal of Importation.

(a) *For noncompliance with reporting and recordkeeping requirements.* The Commission has determined that compliance with the recordkeeping and reporting requirements of this subpart is necessary to ensure that lighters comply with this part 1212. Therefore, pursuant to section 17(g) of the CPSA, 15 U.S.C. 2066(g), the Commission may refuse to permit importation of any lighters with respect to which the manufacturer or importer has not complied with the recordkeeping and reporting requirements of this subpart. Since the records are required to demonstrate that production lighters comply with the specifications for the surrogate, the Commission may refuse importation of lighters if production lighters do not comply with the specifications required by this subpart, or if any other recordkeeping or reporting requirement in this part is violated.

(b) *For noncompliance with this standard or for lack of a certification certificate.* As provided in section 17(a) of the CPSA, 15 U.S.C. 2066(a), products subject to this standard shall be refused admission into the customs territory of the United States if, among other reasons, the product either fails to comply with this standard or is not accompanied by the certificate required by this standard.

Subpart C—Stockpiling

Authority: 15 U.S.C. 2058(g)(2), 2065(b), 2079(d).

§ 1212.20 Stockpiling.

(a) *Definition. Stockpiling* means to manufacture or import a product that is subject to a consumer product safety rule between the date of issuance of the rule and its effective date at a rate which is significantly greater than the rate at which such product was produced or imported during a base period.

(b) *Base period.* For purposes of this rule, ''base period'' means the most recent calendar year prior to [insert date of publication of a final rule in the **Federal Register**].

(c) *Prohibited act.* Manufacturers and importers of multi-purpose lighters shall not manufacture or import such lighters that do not comply with the requirements of this part between the date of publication of the final rule in the **Federal Register** and the date that is 365 days after publication of the final rule in the **Federal Register**, at a rate that is greater than the rate of production or importation during the base period plus 20 per cent of that rate.

(d) *Reporting and recordkeeping requirements.* All firms and persons who make or import multi-purpose lighters, after the date of publication of this rule, that do not meet the requirements of this standard, shall supply the Commission's Office of Compliance with:

(1) Supporting information to establish the number of multi-purpose lighters made or imported during the base period. This information shall be submitted within 30 days of publication of any final rule.

(2) Supporting information to establish the number of lighters made or imported during the year following publication of the final rule. This information shall be submitted within 10 days after the lighters are shipped.

(3) Supporting information shall be sufficient to identify the manufacturer or importer, the party to which the lighters were sold, the destination of the lighters, and shall include copies of relevant invoices and importation documents.

Dated: September 25, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 98–26169 Filed 9–29–98; 8:45 am]

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federal register

Wednesday
September 30, 1998

Part VI

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 12, 19, and 52

Federal Acquisition Regulation; Reform of Affirmative Action in Federal Procurement; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[FAC 97–08; FAR Case 97–004C]

RIN 9000–AH59

48 CFR Parts 12, 19, and 52

Federal Acquisition Regulation; Reform of Affirmative Action in Federal Procurement

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration have agreed to issue Federal Acquisition Circular 97–08, as an interim rule to make amendments to the Federal Acquisition Regulation (FAR) concerning programs for small disadvantaged business (SDB) concerns. These amendments accommodate the use of the price evaluation adjustment for small disadvantaged business concerns in those Standard Industrial Classification (SIC) Major Groups where eligibility has been determined by region. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: *Effective Date:* October 1, 1998.

Applicability Date: The policies, provisions, and clauses of this interim rule are effective for all solicitations issued on or after October 1, 1998.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before November 30, 1998 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

E-Mail comments submitted over the Internet should be addressed to: farcase.97–004C@gsa.gov.

Please cite FAC 97–08, FAR case 97–004C in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Moss, Procurement Analyst, Federal Acquisition Policy Division, General Services Administration, 1800 F Street NW, Washington, DC 20405, Telephone: (202) 501–4764

or

Mr. Mike Sipple, Procurement Analyst, Contract Policy and Administration, Director, Defense Procurement, Department of Defense, 3060 Defense Pentagon, Washington, DC 20301–3060, Telephone: (703) 695–8567

For general information call the FAR Secretariat at (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

In *Adarand*, the Supreme Court extended strict judicial scrutiny to Federal affirmative action programs that use racial or ethnic criteria as a basis for decisionmaking. In procurement, this means that any use of race in the decision to award a contract is subject to strict scrutiny. Under strict scrutiny, any Federal programs that make race a basis for contract decisionmaking must be narrowly tailored to serve a compelling Government interest.

The Department of Justice (DoJ) developed a proposed structure to reform affirmative action in Federal procurement designed to ensure compliance with the constitutional standards established by the Supreme Court in *Adarand*. The DoJ proposal was published in the **Federal Register** for public notice and invitation for comments at 61 FR 26042, May 23, 1996. The DoJ model is being implemented in several parts: revisions to the FAR and the FAR supplements; Small Business Administration (SBA) regulations; and procurement mechanisms and applicable factors (percentages) determined by the Department of Commerce (DoC). This interim rule revises the FAR rule published in the **Federal Register** at 63 FR 35719, June 30, 1998 (FAR Case 97–004A, Reform of Affirmative Action in Federal Procurement), to accommodate the use of the price evaluation adjustment for small disadvantaged business concerns in those Standard Industrial Classification (SIC) Major Groups where eligibility has been determined by region. The DoC determination was issued on June 30, 1998.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely reflects eligibility requirements in the FAR that are governed by the Small Business Administration. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subparts also will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAC 97–08, FAR Case 97–004C), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) applies because the interim rule contains reporting requirements. This rule amends the information collection requirements contained in the FAR rule published at 63 FR 35719, June 30, 1998. Those requirements were submitted to the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*, and were approved under OMB clearance number 9000–0150 through June 30, 2000. The clearance 9000–0150 has been amended to add the certification requirements in this rule.

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to accommodate the determination by the Department of Commerce (DoC) to limit eligibility for a price evaluation adjustment to businesses within specific regions for certain industry categories. The DoC determination was issued on June 30, 1998. This interim rule must be published immediately because it revises FAR case 97–004A, which goes into effect on October 1, 1998. Pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 12, 19, and 52

Government procurement.

Dated: September 25, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Federal Acquisition Circular

FAC 97–08

Federal Acquisition Circular (FAC) 97–08 is issued under the authority of the Secretary

of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

The policies, provisions, and clauses of this interim rule are effective for all solicitations issued on or after October 1, 1998.

Dated: September 24, 1998.

Eleanor R. Spector,

Director, Defense Procurement.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: September 24, 1998.

Tom Luedtke,

Acting Associate Administrator for Procurement, National Aeronautics and Space Administration.

Therefore, 48 CFR Parts 12, 19, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 12, 19, and 52 continues to read as follows:

Authority: 41 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 12—ACQUISITION OF COMMERCIAL ITEMS

2. Section 12.301 is amended at the end of paragraph (b)(2) by adding a sentence to read as follows:

12.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

* * * * *

(b) * * *

(2) * * * Use the provision with its Alternate II in solicitations for acquisitions for which small disadvantaged business procurement mechanisms are authorized on a regional basis;

* * * * *

PART 19—SMALL BUSINESS PROGRAMS

3. Section 19.201 is amended in the introductory text of paragraph (b) by adding a sentence after the fifth sentence to read as follows:

19.201 General policy.

* * * * *

(b) * * * The General Services Administration shall post the Department of Commerce determination at http://www.arnet.gov/References/sdbadjustments.htm. * * *

* * * * *

4. Section 19.306 is amended at the end of paragraph (b) by adding a sentence to read as follows:

19.306 Solicitation provision and contract clause.

* * * * *

(b) * * * Use the provision with its Alternate I in solicitations for acquisitions for which a price evaluation adjustment for small disadvantaged business concerns is authorized on a regional basis.

* * * * *

5. Section 19.1103 is amended by revising paragraph (a)(1) to read as follows:

19.1103 Procedures.

(a) * * *

(1) Offers from small disadvantaged business concerns that have not waived the evaluation adjustment; or, if a price evaluation adjustment for small disadvantaged business concerns is authorized on a regional basis, offers from small disadvantaged business concerns, whose address is in such a region, that have not waived the evaluation adjustment;

* * * * *

6. Section 19.1104 is revised to read as follows:

19.1104 Solicitation provisions and contract clauses.

The contracting officer shall insert the clause at 52.219–23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, in solicitations and contracts when the circumstances in 19.1101 and 19.1102 apply. If a price evaluation adjustment is authorized on a regional basis, the clause shall be included in the solicitation even if the place of performance is outside an authorized region. The contracting officer shall insert the authorized price evaluation adjustment factor. The clause shall be used with its Alternate I when the contracting officer determines that there are no small disadvantaged business manufacturers that can meet the requirements of the solicitation. The clause shall be used with its Alternate II when a price evaluation adjustment is authorized on a regional basis.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Section 52.212–3 is amended by adding Alternate II following Alternate I to read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

(End of provision)

* * * * *

Alternate II (Oct 1998). As prescribed in 12.301(b)(2), add the following paragraph (c)(7)(iii) to the basic provision:

(iii) *Address.* The offeror represents that its address_____is, _____is not in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at http://www.arnet.gov/References/sdbadjustments.htm. The offeror shall use the list in effect on the date of this solicitation. ''Address,'' as used in this provision, means the address of the offeror as listed on the Small Business Administration's register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR part 124, subpart B. For joint ventures, ''address'' refers to the address of the small disadvantaged business concern that is participating in the joint venture.

8. Section 52.219–22 is amended by adding Alternate I following ''(End of provision)'' to read as follows:

52.219–22 Small Disadvantaged Business Status.

* * * * *

(End of provision)

Alternate I (Oct 1998). As prescribed in 19.306(b), add the following paragraph (b)(3) to the basic provision:

(3) *Address.* The offeror represents that its address_____is, _____is not in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at http://www.arnet.gov/References/sdbadjustments.htm. The offeror shall use the list in effect on the date of this solicitation. ''Address,'' as used in this provision, means the address of the offeror as listed on the Small Business Administrations register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR part 124, subpart B. For joint ventures, ''address'' refers to the address of the small disadvantaged business concern that is participating in the joint venture.

9. Section 52.219–23 is amended by adding Alternate II following Alternate I to read as follows:

52.219–23 Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.

* * * * *

(End of clause)

* * * * *

Alternate II (Oct 1998). As prescribed in 19.1104, substitute the following paragraph (b)(i) for paragraph (b)(i) of the basic clause:

(i) Offers from small disadvantaged business concerns, that have not waived the adjustment, whose address is in a region for which an evaluation adjustment is authorized;

[FR Doc. 98–26158 Filed 9–29–98; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration. This Small Entity Compliance Guide has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 97–08 which amends the Federal Acquisition Regulation (FAR). Further information regarding this rule may be obtained by referring to FAC 97–08 which precedes this document. This document may be obtained from the Internet at http://www.arnet.gov/far.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, (202) 501–4755.

Reform of Affirmative Action in Federal Procurement

FAC 97–08/FAR Case 97–004C. FAC 97–06, FAR case 97–004A, Reform of Affirmative Action in Federal Procurement, published in the **Federal Register** at 63 FR 35719, June 30, 1998, established in the FAR a price evaluation adjustment (PEA) of up to 10 percent for small disadvantaged businesses (SDB) for acquisitions in the Standard Industrial Classification (SIC) Major Groups designated by the Department of Commerce. This rule amends those regulations to accommodate the use of the PEA in those Major Groups where eligibility has been determined by region.

Dated: September 25, 1998.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 98–26159 Filed 9–29–98; 8:45 am]

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federal register

Wednesday
September 30, 1998

Part VII

Environmental Protection Agency

Final Modification of the National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities; Termination of the EPA NPDES Storm Water Baseline Industrial General Permit; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6162–4]

Final Modification of the National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities; Termination of the EPA NPDES Storm Water Baseline Industrial General Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final notice of modifications to the NPDES Storm Water Multi-Sector General Permit for Industrial Activities and Termination of the EPA Storm Water Baseline Industrial General Permit.

SUMMARY: The Regional Administrators of EPA Regions I, II, III, IV, VI, IX, and X are today providing final notice of modifications to EPA's final NPDES Storm Water Multi-Sector General Permit (MSGP) which was first issued on September 29, 1995 (60 FR 50804), and amended on February 9, 1996 (61 FR 5248), February 20, 1996 (61 FR 6412), and September 24, 1996 (61 FR 50020). EPA has modified the MSGP to authorize storm water discharges from previously excluded facilities so that they may be covered by the MSGP after expiration of EPA's Baseline Industrial General Permit. EPA also finalized the following limited specific changes to the MSGP as published on September 29, 1995 (60 FR 50804): (1) Authorization of mine dewatering discharges from construction sand and gravel, industrial sand, and crushed stone mines in EPA Regions I, II and X; (2) inclusion in Sector A of the MSGP of the effluent limitation guideline in 40 CFR Part 429, Subpart I for discharges resulting from spray down of lumber and wood products in storage yards (wet decking); (3) clarification that Sectors X and AA authorize discharges from all facilities in major SIC groups 27 and 34 respectively; (4) addition of new Sector AD to the MSGP to authorize discharges from Phase I facilities which may not fall into one of the original sectors of the permit, and selected Phase II discharges which are designated for permitting in accordance with 40 CFR 122.26(g)(1)(i); (5) modification of inspection requirements in Sector I for inactive oil and gas extraction facilities which are remotely located and unstaffed; (6) addition of new Addendum I to provide guidance and information to assist applicants with determining permit eligibility concerning protection of historic properties; and (7) update of the county/species list of endangered and threatened species found in Addendum H, and provide a listing of additional sources to reference for future updates to the list.

The Regional Administrators are also providing final notice that the Agency is not reissuing the NPDES storm water Baseline Industrial General Permit which was issued on September 9, 1992 (57 FR 41236) or September 25, 1992 (57 FR 44438), depending on the geographic area of applicability, and to terminate this permit (with the limited exceptions discussed in Section I below) upon final modification of the multi-sector permit. As a result, all industrial facilities previously permitted under the Baseline Industrial General Permit, except as otherwise specified in this notice, are required to seek storm water permit coverage under the modified MSGP within 90 days after the publication of this final notice or submit an application for an individual NPDES permit.

This action also provides notice for the issuance of the final NPDES MSGP (including today's modifications) for storm water discharges associated with industrial activity for American Samoa and the Commonwealth of the Northern Mariana Islands (CNMI). The geographic area of coverage of the MSGP is being revised today to include American Samoa and CNMI on the list of areas for which discharges may be authorized.

DATES: The modifications to the MSGP are effective upon publication of this notice for discharges for which EPA is currently the permitting authority. This will allow new dischargers which have not been able to obtain discharge authorization since the Baseline Industrial General Permit expired to obtain coverage under the MSGP as soon as possible. Except as specified otherwise in this notice, termination of administratively extended permit coverage for facilities permitted under the Baseline Industrial General Permit will take effect 92 days after the date of publication of this notice in areas where EPA is the NPDES permitting authority. Where EPA has approved State NPDES programs with authority over discharges covered by the Baseline Industrial General Permit, that permit will remain in effect by operation of law until superseded by either a State-issued NPDES permit or an EPA permit issued under section 402(d)(4) of the Clean Water Act.

ADDRESSES: The index to the administrative record for this permit is available at the appropriate Regional Office or from the EPA Water Docket Office in Washington, DC. The administrative record is stored in two locations. Documents immediately referenced in this modification notice are stored at the EPA Water Docket Office at the address listed below. All other documents which were used to support the original issuance of the MSGP in 1995 are a supplement to the record for this modification action but are stored at Science Applications International Corporation (SAIC), 1710 Goodridge Drive, McLean, Virginia 22102. These materials include, for example, the permit applications and sampling data provided to EPA by group applicants. The immediate and supplemental record is available for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. For appointments to examine any portion of the administrative record, please call the Water Docket Office at (202) 260–3027. Copies of the final permit modifications may be acquired from the Office of Water Resource Center by dialing (202) 260–7786. A reasonable fee may be charged for copying. Specific record information can also be made available at the appropriate Regional Office upon request.

FOR FURTHER INFORMATION CONTACT: For further information on the final permit modifications, contact the appropriate EPA Regional Office. The name, address and phone number of the EPA Regional Storm Water Coordinators are provided in Part III.H of this Fact Sheet.

SUPPLEMENTARY INFORMATION: The following Fact Sheet provides background information and explanations for the permitting actions and modifications taken by EPA in today's notice. The actual language of the final permit modifications appears after Appendix B of the Fact Sheet.

Fact Sheet

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I. Background

On September 9, 1992 (57 FR 41175) or September 25, 1992 (57 FR 44412), depending on the geographic area involved, EPA issued a final NPDES storm water baseline industrial general permit (not including construction activity) for the following areas:

EPA Region I—for the States of Maine, Massachusetts and New Hampshire; and for Indian country located in Massachusetts, New Hampshire and Maine.

EPA Region II—for Puerto Rico and Indian country located in New York. (On April 14, 1993, EPA proposed modifications to the baseline general permit issued in Puerto Rico to address changes to the 401 certification conditions requested by the Environmental Quality Board (EQB) of Puerto Rico. On September 24, 1993 the changes became final. These modifications, however, did not alter the original issuance and expiration date of the baseline general permit in Puerto Rico.)

EPA Region III—for the District of Columbia and Federal facilities in Delaware.

EPA Region IV—for the State of Florida; and for Indian country located in Florida, Mississippi, and North Carolina.

EPA Region VI—for the States of Louisiana, New Mexico, Oklahoma and Texas; and for Indian country located in Louisiana, New Mexico (except Navajo lands and Ute Mountain Reservation lands), Oklahoma, and Texas.

EPA Region VIII—for the State of South Dakota; for Indian country located in Colorado, Montana, South Dakota, North Dakota, Utah (except Goshute Reservation and Navajo Reservation lands), and Wyoming; for Federal facilities in Colorado; and for the Ute Mountain Reservation in Colorado and New Mexico.

EPA Region IX—for the State of Arizona; for the Territories of Johnston Atoll, American Samoa, Guam, and Midway and Wake Islands; and for Indian country located in California, and Nevada; and for the Goshute Reservation in Utah and Nevada, the Navajo Reservation in Utah, New Mexico, and Arizona, the Duck Valley Reservation in Nevada and Idaho.

EPA Region X—for the States of Alaska and Idaho; for Indian country located in Alaska, Idaho (except Duck Valley Reservation lands), and Washington; and for Federal facilities in Washington.

Most of the above areas were covered by the September 9, 1992, notice of permit issuance. The September 25, 1992, notice covered only the States of Florida (except for Indian lands which were covered by the September 9, 1992 notice) and Massachusetts, Puerto Rico, the District of Columbia, Guam and American Samoa, Indian country in New York and Federal facilities in Delaware. The baseline permit expired on September 9, 1997 or September 25, 1997, depending on the area of applicability, and EPA is not reissuing the baseline permit in those areas where today's MSGP modification is effective. As a result, most industrial facilities previously permitted under the baseline permit (except for those located in certain excluded areas discussed below) are therefore required to seek storm water permit coverage under today's modified MSGP or an individual permit. The MSGP which was originally issued on September 29, 1995 (60 FR 50804), and amended on February 9, 1996 (61 FR 5248), February 20, 1996 (61 FR 6412), and September 24, 1996 (61 FR 50020).

The excluded areas where the baseline permit will continue to apply are those areas where the baseline permit had been effective, but where the modified MSGP is not effective. These areas include Federal facilities in Colorado, and Indian country located in Colorado (including the portion of the Ute Mountain Reservation located in New Mexico), Montana, North Dakota, South Dakota (including the portion of the Pine Ridge Reservation located in Nebraska), Utah (except for the Goshute and Navajo Reservation lands (see Region IX)) and Wyoming. Maintaining storm water permit coverage under the baseline permit is necessary since the MSGP does not apply to facilities located in these areas, and the Agency is not expanding the MSGP's scope of coverage to include them through this modification. In addition, for facilities where individual permits are required, baseline permit coverage will be extended until final determinations are made on the individual permit applications.

EPA's July 11, 1997 notice of the proposed modification of the MSGP had included American Samoa among the areas where the baseline permit would be extended (62 FR 37448). However, since the MSGP is now effective in American Samoa by today's action (see Section X below), extension of the baseline permit is no longer necessary in this area.

There are also a few areas where the baseline permit was issued but not the MSGP, where the baseline permit is nevertheless being terminated. These areas are Indian country in New York, North Carolina and Mississippi. Only a very small number of permittees exist in these areas and individual permits will be issued as needed.

Permit numbers for New Hampshire Federal Indian Reservations (NHR05*##F) and Vermont Federal Indian Reservations (VTR05*##F) have been removed from the EPA Region I ''Areas of Coverage'' in the final permit modification because no Federally recognized Tribes exist in these States.

It should also be pointed out that in certain states which had been covered by the 1992 baseline permit, the NPDES permit program has now been delegated to the state (except for Indian country in these states). These states are South Dakota, Louisiana and Oklahoma, and permittees in these states (except for certain oil and gas facilities in Oklahoma) are now subject to permitting by the state. In Oklahoma, EPA will maintain NPDES permitting authority over oil and gas exploration and production related industries, and pipeline operations, which are regulated by the Oklahoma Corporation Commission (See 61 FR 65049). Oklahoma received NPDES program authorization for only those discharges covered by the authority of the Oklahoma Department of Environmental Quality (ODEQ).

The action of transferring permittees currently covered by the baseline permit to the MSGP is consistent with the long-term permitting strategy for storm water discharges associated with industrial activity which was finalized on April 2, 1992 (57 FR 11394). This strategy includes the following four permitting tiers:

Tier I—Baseline Permitting—One or more general permits will be developed to initially cover the majority of storm water discharges associated with industrial activity.

Tier II—Watershed Permitting—Facilities within watersheds shown to be adversely impacted by storm water discharges associated with industrial activity will be targeted for individual or watershed-specific general permits.

Tier III—Industry-Specific Permitting—Specific industry categories will be targeted for individual or industry-specific general permits.

Tier IV—Facility-Specific Permitting—A variety of factors will be used to target specific facilities for individual permits.

The long-term permitting strategy begins with baseline permitting as was done in 1992 with the baseline general permit. However, baseline permitting may not provide optimum water quality benefits since the same basic permit conditions are applied to a wide variety of facilities operating in different geographic areas. As such, the long-term strategy also calls for additional permitting over time with more specific permit conditions developed for facilities in Tiers II, III and IV above.

The MSGP is based on information received as a result of the group permit application process described at 40 CFR 122.26(c)(2). EPA received applications from approximately 1,200 groups representing nearly all of the categories of industrial facilities listed in the storm water regulations at 40 CFR 122.26(b)(14). To facilitate permit issuance for the group applications, EPA consolidated the groups into 29 industrial sectors, with subsectors also included in certain sectors as appropriate.

The group applications included information concerning the specific types of operations which are present at the different types of industrial facilities, potential sources of pollutants from the facilities, industry-specific best management practices (BMPs) which are available, and monitoring data from the different types of facilities. Using this information, EPA was able to develop sector-specific BMPs for the MSGP which are better tailored to controlling the discharges of pollutants from the various facilities than the requirements of the baseline permit which only include generic BMP requirements which are applied across a wide variety of industries. In addition, the monitoring requirements of the MSGP are based on actual monitoring data rather than best professional judgment which is largely the case for the baseline permit.

Given the above factors, EPA believes that the MSGP should provide improved water quality benefits as compared to the baseline permit. For this reason, and in accordance with the long-term permitting strategy, EPA is transferring permit coverage from the baseline permit to the MSGP after expiration of the baseline permit.

As discussed in Section II below, the MSGP omitted coverage for a small number of categories of facilities which were authorized to discharge under the baseline general permit. As such, EPA is today modifying the coverage of the MSGP to include these categories in order that they may be eligible for coverage when transferring from the baseline permit to the MSGP.

II. Coverage of Final Modified MSGP

The final modified multi-sector storm water permit covers storm water discharges associated with industrial activity in most geographic areas where EPA is the NPDES permitting authority, described earlier in this fact sheet. In accordance with the long-term permitting strategy discussed above, EPA's intent when issuing the baseline general permit was to cover all of the categories of industrial facilities which may discharge storm water associated with industrial activity as defined at 40 CFR 122.26(b)(14). The baseline permit did include certain generic coverage limitations which are also found in Section I.B.3 of the MSGP. These exclusions include discharges such as those which may contribute to a violation of a water quality standard, and discharges which adversely affect endangered species or their critical habitat.

As noted above, group applications were not received from all of the categories of facilities listed at 40 CFR 122.26(b)(14), and certain categories were not included in the MSGP which had been included in the baseline permit. In order to cover all the types of facilities to be transferred from the baseline permit, EPA is today expanding the coverage of the MSGP to authorize storm water discharges from these additional categories of facilities.

The MSGP had already authorized storm water discharges from a wide range of industrial facilities which are summarized below in Table 1:

TABLE 1.—SECTOR/SUBSECTORS COVERED BY THE MSGP

Subsector	SIC code	Activity represented
Sector A. Timber Products		
1*	2421	General Sawmills and Planning Mills.
2	2491	Wood Preserving.
3*	2411	Log Storage and Handling.
4*	2426	Hardwood Dimension and Flooring Mills.
	2429	Special Product Sawmills, Not Elsewhere Classified.
	243X** (except 2434)	Millwork, Veneer, Plywood, and Structural Wood.
	244X	Wood Containers.
	245X	Wood Buildings and Mobile Homes.
	2493	Reconstituted Wood Products.
	2499	Wood Products, Not Elsewhere Classified.
Sector B. Paper and Allied Products Manufacturing		
1	261X	Pulp Mills.
2	262X	Paper Mills.
3*	263X	Paperboard Mills.
4	265X	Paperboard Containers and Boxes.

TABLE 1.—SECTOR/SUBSECTORS COVERED BY THE MSGP—Continued

Subsector	SIC code	Activity represented
5	267X	Converted Paper and Paperboard Products, Except Containers and Boxes.
Sector C. Chemical and Allied Products Manufacturing		
1*	281X	Industrial Inorganic Chemicals.
2*	282X	Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers Except Glass.
4*	284X	Soaps, Detergents, and Cleaning Preparations; Perfumes, Cosmetics, and Other Toilet Preparations.
5	285X	Paints, Varnishes, Lacquers, Enamels, and Allied Products.
6	286X	Industrial Organic Chemicals.
7*	287X	Agricultural Chemicals.
8	289X	Miscellaneous Chemical Products.
9	3952 (limited to list)	Inks and Paints, Including China Painting Enamels, India Ink, Drawing Ink, Platinum Paints for Burnt Wood or Leather Work, Paints for China Painting, Artist's Paints and Artist's Watercolors.
Sector D. Asphalt Paving and Roofing Materials Manufacturers and Lubricant Manufacturers		
1*	295X	Asphalt Paving and Roofing Materials.
2	299X	Miscellaneous Products of Petroleum and Coal.
Sector E. Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing		
1	321X	Flat Glass.
	322X	Glass and Glassware, Pressed or Blown.
	323X	Glass Products Made of Purchased Glass.
2	3241	Hydraulic Cement.
3*	325X	Structural Clay Products.
	326X (except 3261)	Pottery and Related Products.
	3297	Non-Clay Refractories.
4*	327X (except 3274)	Concrete, Gypsum and Plaster Products.
	3295	Minerals and Earth's, Ground, or Otherwise Treated.
Sector F. Primary Metals		
1*	331X	Steel Works, Blast Furnaces, and Rolling and Finishing Mills.
2*	332X	Iron and Steel Foundries.
3	333X	Primary Smelting and Refining of Nonferrous Metals.
4	334X	Secondary Smelting and Refining of Nonferrous Metals.
5*	335X	Rolling, Drawing, and Extruding of Nonferrous Metals.
6*	336X	Nonferrous Foundries (Castings).
7	339X	Miscellaneous Primary Metal Products.
Sector G. Metal Mining (Ore Mining and Dressing) ***		
1	101X	Iron Ores.
2*	102X	Copper Ores.
3	103X	Lead and Zinc Ores.
4	104X	Gold and Silver Ores.
5	106X	Ferroalloy Ores, Except Vanadium.
6	108X	Metal Mining Services.
7	109X	Miscellaneous Metal Ores.
Sector H. Coal Mines and Coal Mining-Related Facilities		
NA*	12XX	Coal Mines and Coal Mining-Related Facilities.
Sector I. Oil and Gas Extraction		
1*	131X	Crude Petroleum and Natural Gas.
2	132X	Natural Gas Liquids.
3*	138X	Oil and Gas Field Services.
Sector J. Mineral Mining and Dressing		
1*	141X	Dimension Stone.
	142X	Crushed and Broken Stone, Including Rip Rap.
	148X	Nonmetallic Minerals, Except Fuels.
2*	144X	Sand and Gravel.
3	145X	Clay, Ceramic, and Refractory Materials.
4	147X	Chemical and Fertilizer Mineral Mining.

TABLE 1.—SECTOR/SUBSECTORS COVERED BY THE MSGP—Continued

Subsector	SIC code	Activity represented
	149X	Miscellaneous Nonmetallic Minerals, Except Fuels.
Sector K. Hazardous Waste Treatment Storage or Disposal Facilities		
NA*	NA	Hazardous Waste Treatment Storage or Disposal.
Sector L. Landfills and Land Application Sites		
NA*	NA	Landfills and Land Application Sites.
Sector M. Automobile Salvage Yards		
NA*	5015	Automobile Salvage Yards.
Sector N. Scrap Recycling Facilities		
NA*	5093	Scrap Recycling Facilities.
Sector O. Steam Electric Generating Facilities		
NA*	NA	Steam Electric Generating Facilities.
Sector P. Land Transportation		
1	40XX	Railroad Transportation.
2	41XX	Local and Highway Passenger Transportation.
3	42XX (except 4221–4225)	Motor Freight Transportation and Warehousing.
4	43XX	United States Postal Service.
5	5171	Petroleum Bulk Stations and Terminals.
Sector Q. Water Transportation		
NA*	44XX	Water Transportation.
Sector R. Ship and Boat Building or Repairing Yards		
NA	373X	Ship and Boat Building or Repairing Yards.
Sector S. Air Transportation Facilities		
NA*	45XX	Air Transportation Facilities.
Sector T. Treatment Works		
NA*	NA	Treatment Works.
Sector U. Food and Kindred Products		
1	201X	Meat Products.
2	202X	Dairy Products.””
3	203X	Canned, Frozen and Preserved Fruits, Vegetables and Food Specialties.
4*	204X	Grain Mill Products.
5	205X	Bakery Products.
6	206X	Sugar and Confectionery Products.
7*	207X	Fats and Oils.
8	208X	Beverages.
9	209X	Miscellaneous Food Preparations and Kindred Products Manufacturing.
	21XX	Tobacco Products Manufacturing.
Sector V. Textile Mills, Apparel, and Other Fabric Product		
1	22XX	Textile Mill Products.
2	23XX	Apparel and Other Finished Products Made From Fabrics and Similar Materials.
Sector W. Furniture and Fixtures		
NA	25XX	Furniture and Fixtures.
	2434	Wood Kitchen Cabinets.
Sector X. Printing and Publishing		
NA	2732	Book Printing.
	2752	Commercial Printing, Lithographic.
	2754	Commercial Printing, Gravure.

TABLE 1.—SECTOR/SUBSECTORS COVERED BY THE MSGP—Continued

Subsector	SIC code	Activity represented
	2759	Commercial Printing, Not Elsewhere Classified.
	2796	Platemaking and Related Services.
Sector Y. Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries		
1*	301X	Tires and Inner Tubes.
	302X	Rubber and Plastics Footwear.
	305X	Gaskets, Packing, and Sealing Devices and Rubber and Plastics Hose and Belting.
	306X	Fabricated Rubber Products, Not Elsewhere Classified.
2	308X	Miscellaneous Plastics Products.
	393X	Musical Instruments.
	394X	Dolls, Toys, Games and Sporting and Athletic Goods.
	395X	Pens, Pencils, and Other Artists' Materials.
	396X	Costume Jewelry, Costume Novelties, Buttons, and Miscellaneous Notions, Except Precious Metal.
	399X	Miscellaneous Manufacturing Industries.
Sector Z. Leather Tanning and Finishing		
NA	311X	Leather Tanning and Finishing.
NA	NA	Facilities that Make Fertilizer Solely from Leather Scraps and Leather Dust.
Sector AA. Fabricated Metal Products		
1*	3429	Cutlery, Hand Tools, and General Hardware.
	3441	Fabricated Structural Metal Products.
	3442	Metal Doors; Sash, Frames Molding and Trim.
	3443	Fabricated Plate Work (Boiler Shops).
	3444	Sheet Metal Work.
	3451	Screw Machine Products.
	3452	Bolts, Nuts, Screws, Rivets, and Washers.
	3462	Metal Forgings and Stampings.
	3471	Electroplating, Plating, Polishing, Anodizing, and Coloring.
	3494	Valves and Pipe Fittings, Not Elsewhere Classified.
	3496	Miscellaneous Fabricated Wire Products.
	3499	Miscellaneous Fabricated Metal Products.
	391X	Jewelry, Silverware, and Plated Ware.
2*	3479	Coating, Engraving, and Allied Services.
Sector AB. Transportation Equipment, Industrial or Commercial Machinery		
NA	35XX (except 357)	Industrial and Commercial Machinery (except Computer and Office Equipment.
NA	37XX (except 357)	Transportation Equipment (except Ship and Boat Building and Repairing).
Sector AC. Electronic, Electrical, Photographic and Optical Goods		
NA	36XX	Electronic, Electrical.
	38XX	Measuring, Analyzing and Controlling Instrument; Photographic and Optical Goods.
	357	Computer and Office Equipment.

*Denotes subsector with analytical (chemical) monitoring requirements.
**X or XX denotes any number or numbers from 0 to 9 in the SIC code. NA indicates those industry sectors in which subdivision into subsectors was determined to be not applicable.
***EPA intends to issue a modification of the MSGP for this section shortly, in a separate FR notice.

EPA reviewed the categories of additional facilities to be added to the MSGP and also considered the coverage and existing requirements of the various sectors/subsectors already included in the MSGP. Based on this review, EPA concluded that for each category of facility to be added, a sector/subsector of the MSGP was available with appropriate BMP and monitoring requirements for the new categories. The new categories of facilities, and the sectors/subsectors in which they have been added by today's MSGP modification, are summarized in Table 2 below. EPA has also added a new Sector AD which will allow coverage for any regulated storm water discharge associated with industrial activity not described by any of the other sectors.

TABLE 2.—PLACEMENT OF ADDITIONAL FACILITIES INTO THE MSGP

SIC code	MSGP sector/subsector
2833–2836—Medicinal chemicals and botanical products; pharmaceutical preparations; in vitro and in vivo diagnostic substances; biological products, except diagnostic substances.	Subsector i (Drugs) of Sector C—Chemical and Allied Products Manufacturing
2911—Petroleum refining	Sector I—Oil and Gas Extraction

TABLE 2.—PLACEMENT OF ADDITIONAL FACILITIES INTO THE MSGP—Continued

SIC code	MSGP sector/subsector
3131—Boot and shoe cut stock and findings (leather soles, inner soles, other boot and finished wood heels).	Sector V—Textile Mills, Apparel and other Fabric Products
3142–3144—house slippers; men's dress, street and work shoes; women's dress, street and work shoes.	Sector V—Textile Mills, Apparel and other Fabric Products
3149—Footwear, except rubber, include athletic shoes	Sector V—Textile Mills, Apparel and other Fabric Products
3151—Leather gloves and mittens	Sector V—Textile Mills, Apparel and other Fabric Products
3161—Luggage and cases	Sector V—Textile Mills, Apparel and other Fabric Products
3171—Women's handbags and purses, leather	Sector V—Textile Mills, Apparel and other Fabric Products
3172—Personal leather goods, e.g., billfolds, key cases, coin purses, checkbooks, etc..	Sector V—Textile Mills, Apparel and other Fabric Products
3199—Leather goods, not elsewhere classified, e.g., saddlery, belts, holsters, leather aprons.	Sector V—Textile Mills, Apparel and other Fabric Products
3231—Glass products, made of purchased glass	Subsector 1 (Glass Products) of Sector E—Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing
3261—Vitreous china plumbing fixtures, and china and earthenware fitting and bathroom accessories.	Subsector 3 (Structural clay products, pottery and related products and non-clay refractories) of Sector E—Glass, Clay , Cement, Concrete and Gypsum Product Manufacturing
3274—Lime, agricultural/building lime, dolomite, lime plaster	Subsector 4 (Concrete, Gypsum and Plaster Products) of Sector E—Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing
3281—Cut stone and stone products, benches, blackboards, table tops, pedestals, etc..	Subsector 1 (Glass Products) of Sector E—Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing
3291—Abrasive products	Subsector 1 (Glass Products) of Sector E—Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing
3292—Asbestos products, tiles, building materials, except paper, insulating pipe coverings.	Subsector 1 (Glass Products) of Sector E—Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing
3296—Mineral wool, insulation	Subsector 1 (Glass Products) of Sector E—Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing
3299—Nonmetallic mineral products, not elsewhere classified, plaster of Paris and paper-mache, etc..	Subsector 1 (Glass Products) of Sector E—Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing
4221–5—Warehousing facilities without trucking services.	Subsector 3 (Motor Freight Transportation and Warehousing) of Sector P—Land Transportation
LF—Open dumps	Sector L—Landfills and Land Application Sites

After a permittee previously covered by the baseline permit transfers to the MSGP, the effluent limitations, monitoring requirements and other conditions of the MSGP apply to the permittee's facility as appropriate based on the sector/subsector in which facility falls. The requirements for the new categories of facilities which have been added to the MSGP are those set forth in the MSGP for the sectors/subsectors shown above in Table 2. Section III below discusses the differences between the baseline permit and the MSGP and the requirements for transferred facilities.

III. Requirements for Transferred Facilities

In today's notice, EPA is making certain clarifications and interpretations regarding how certain conditions of the MSGP will apply to permittees transferring from the baseline general permit. These interpretations and clarifications address: (1) Deadlines for storm water pollution prevention plan revisions and implementation for transferring permittees; (2) MSGP sampling schedules and sample types; (3) the submittal of sampling data; (4) applicability of certain limitations; (5) the applicability of the Endangered Species Act (ESA) and National Historic Preservation Act (NHPA); (6) the applicability of the co-located activities requirements; (7) use of the NOI form; (8) applicability of the new North American Industry Classification System (NAICS); (9) non-storm water discharges; (10) releases of reportable quantities of hazardous substances and oil; and (11) exemptions from analytical monitoring. These clarifications are discussed below.

The requirements of the MSGP, including sector-specific requirements were described in detail in the fact sheet accompanying the original issuance of the MSGP (September 29, 1995, 60 FR 50804) and is incorporated by reference into this fact sheet. All transferring facility operators should acquire a copy of the 1995 multi-sector general permit and study it carefully to ensure full compliance with all terms and conditions. Certain important requirements for facilities which transfer to the MSGP from the baseline general permit are emphasized below.

A. Notifications Requirements

To obtain coverage under the modified MSGP, facilities which acquired extended coverage under the baseline industrial general permit in accordance with the provisions of the Administrative Procedures Act must submit a Notice of Intent (NOI) not later than 90 days after the effective date of this MSGP modification. Baseline general permittees that applied for and received extended coverage which are located in areas identified in Part II.A.9. of this modification where the permit is *not* being terminated may remain covered by the baseline permit until further notice from EPA. Conversely, baseline general permittees that applied for and received extended baseline permit coverage which are *ineligible* for MSGP coverage per Part II.A.10 must submit an application for an individual NPDES permit and may remain covered under the baseline permit until a final decision is made by EPA on their individual permit.

Under today's final modification, Part II.A.9 is added to the MSGP which includes a 90 day period after the effective date of the modified MSGP for submittal of an NOI for facilities transferring to the MSGP. The NOI form currently in use for the MSGP can be found in Addendum B to the MSGP published on September 29, 1995 (60 FR 51265). For convenience, this form is also attached to this modification.

The NOI form for the MSGP differs from the form for the original 1992 baseline permit in that new requirements have been added to ensure compliance with the National Historic Preservation Act (NHPA) and Endangered Species Act (ESA). A discussion of these requirements, as applicable to facilities transferring permit coverage to the MSGP, follows below:

1. Historic Preservation

The National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of Federal undertakings, including undertakings on historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places. The term ''Federal undertaking'' is defined in the existing NHPA regulations to include any project, activity, or program under the direct or indirect jurisdiction of a Federal agency that can result in changes in the character or use of historic properties, if any such historic properties are located in the area of potential effects for that project, activity, or program. See 36 CFR 802(o). Historic properties are defined in the NHPA regulations to include prehistoric or historic districts, sites, buildings, structures, or objects that are included in, or are eligible for inclusion in, the National Register of Historic Places. See 36 CFR 802(e).

Federal undertakings include the EPA's issuance of general NPDES permits. In light of NHPA requirements, EPA included a provision in the eligibility requirements of the 1995 MSGP for the consideration of the effects to historic properties. That provision provides that an applicant is eligible for permit coverage only if: (1) the applicant's storm water discharges and best management practices (BMPs) to control storm water runoff do not affect a historic property, or (2) the applicant has obtained, and is in compliance with, a written agreement between the applicant and the State Historic Preservation Officer (SHPO) that outlines all measures to be taken by the applicant to mitigate or prevent adverse effects to the historic property. See Part I.B.6, 60 FR 51112 (September 29, 1995). When applying for permit coverage, applicants are required to certify in the NOI that they are in compliance with the Part I.B.6 eligibility requirements. Provided there are no other factors limiting permit eligibility, MSGP coverage is then granted 48 hours after the postmark on the envelope used to mail the NOI.

In today's modification EPA is including two revisions with respect to historic properties. First, EPA is amending Part I.B.6.(ii) to include a reference to Tribal Historic Preservation Officers (THPOs) because MSGP coverage extends to Tribal lands and in recognition of the central role Tribal governments play in the protection of historic resources. Second, EPA is including guidance and a list of SHPO and THPO addresses in new Addendum I to the MSGP to assist applicants with the certification process for permit eligibility under this condition.

Facilities being transferred from the baseline permit which cannot certify compliance with the NHPA requirements must submit individual permit applications to the permitting authority in accordance with the time frames set forth above for NOI submittal.

2. Endangered Species

The ESA of 1973 requires Federal Agencies such as EPA to insure, in consultation with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (also known collectively as the ''Services''), that any actions authorized, funded, or carried out by the Agency (e.g., EPA issued NPDES permits authorizing discharges to waters of the United States) are not likely to jeopardize the continued existence of any Federally-listed endangered or threatened species or adversely modify or destroy critical habitat of such species (see 16 U.S.C. 1536(a)(2), 50 CFR 402 and 40 CFR 122.49(c)). This consultation resulted in a joint Service biological opinion issued by the FWS on March 31, 1995, and by the NMFS on April 5, 1995, which concluded that the issuance and operation of the MSGP was not likely to jeopardize the existence of any listed endangered or threatened species, or result in the adverse modification or destruction of any critical habitat. The MSGP contains a number of conditions to protect listed species and critical habitat. Permit coverage is only provided where:

- The storm water discharge(s), and the construction of Best Management Practices (BMPs) to control storm water runoff, are not likely to adversely affect species identified in Addendum H of the permit; or
- The applicant's activity has received previous authorization under the Endangered Species Act and established an environmental baseline that is unchanged; or,
- The applicant is implementing appropriate measures as required by the Director to address adverse effects.

Addendum H of the permit contained a list of proposed and listed endangered and threatened species that could be affected by the discharges and measures to control pollutants in the discharges. The Addendum also provided instructions to assist applicants in determining whether they met the above eligibility requirements.

Because EPA determined that this permit modification is an action that may affect listed endangered and threatened species, EPA reinitiated ESA § 7 consultation on July 16, 1997. On April 24, 1998, the US Fish and Wildlife Service and on May 1, 1998, the National Marine Fisheries Service provided written concurrences on EPA's findings that this modification is not likely to result in adverse effects to listed species or critical habitat.

As a result of this consultation and in response to public comments on the modification, EPA has updated the species list in Addendum H to include species that were listed or proposed for listing since the Addendum H list was compiled on March 31, 1995. EPA has also decided to expand the list to include all of the terrestrial (i.e., non-aquatic) listed and proposed species in recognition that those species may be impacted by permitted activities such as the construction and operation of the BMPs. The Addendum H list will be updated on a regular basis and an electronic copy of that list will be made available at the Office of Wastewater Management website at ''http://www.epa.gov/owm''. Information on the availability of an electronic list is also being added to the Addendum H instructions. Addendum H, updated as of July 8, 1998, has been attached in Section VII of today's final MSGP modification.

EPA is not changing any other ESA-related conditions in this modification because it believes that the current permit conditions have been successful in ensuring the protection of listed and proposed species and critical habitat.

To be eligible for coverage under the MSGP, facilities which are being transferred from the baseline permit must review the list of species and their locations which are contained in the updated Addendum H of the MSGP and which are described in the instructions for completing the application requirements under this permit. If an applicant determines that none of the species identified in the Addendum are found in the county in which the facility is located, then there is no likelihood of an adverse effect and they are eligible for permit coverage. Applicants must then certify that their discharges, and the construction of storm water BMPs, are not likely to adversely affect species and will be granted MSGP permit coverage 48 hours

after the date of the postmark on the envelope used to mail the NOI form, provided there are no other factors limiting permit eligibility.

If species identified in Addendum H are found to be located in the same county as the facility seeking MSGP coverage, then the applicant must determine whether the species are in proximity to the storm water discharges at the facility, or any BMPs to be constructed to control storm water runoff. A species is in proximity to a storm water discharge when the species is located in the path or down gradient area through which or over which point source storm water flows from industrial activities to the point of discharge into the receiving water, and once discharged into the receiving water, in the immediate vicinity of, or nearby, the discharge point. A species is also in proximity if a species is located in the area of a site where storm water BMPs are planned to be constructed. If an applicant determines there are no species in proximity to the storm water discharge, or the BMPs to be constructed, then there is no likelihood of adversely affecting the species and the applicant is eligible for permit coverage.

If species are in proximity to the storm water discharges or areas of BMP construction, as long as they have been considered as part of a previous ESA authorization of the applicant's activity, and the environmental baseline established in that authorization is unchanged, the applicant may be covered under the permit. The environmental baseline generally includes the past and present impacts of all Federal, state and private actions that were occurring at the time the initial NPDES authorization and current ESA section 7 action by EPA was taken. Therefore, if a permit applicant has received previous authorization and nothing has changed or been added to the environmental baseline established in the previous authorization, then coverage under this permit will be provided.

In the absence of such previous authorization, if species identified in Addendum H are in proximity to the discharges or construction areas for BMPs, then the applicant must determine whether there is any likely adverse effect upon the species. This is done by the applicant conducting a further examination or investigation, or an alternative procedure, as described in the instructions in Addendum H of the permit. If the applicant determines that there is no likely adverse effect upon the species, then the applicant is eligible for permit coverage. If the applicant determines that there likely is, or will likely be an adverse effect, then the applicant is not eligible for MSGP coverage.

All dischargers applying for coverage under the MSGP must provide in the application information on the Notice of Intent form: (1) A determination as to whether there are any species identified in Addendum H in proximity to the storm water discharges and BMP construction areas, and (2) a certification that their storm water discharges and the construction of BMPs to control storm water are not likely to adversely affect species identified in Addendum H, or are otherwise eligible for coverage due to a previous authorization under the ESA. Coverage is contingent upon the applicant's providing truthful information concerning certification and abiding by any conditions imposed by the permit.

Dischargers (including those being transferred to the MSGP from the baseline permit) who are not able to determine whether there will be any adverse effect on species, cannot sign the certification to gain coverage under the MSGP and must apply to EPA for an individual NPDES storm water permit. The deadlines for the individual applications are the same as those given above for the NOIs for facilities transferred from the baseline permit. As appropriate, EPA will conduct ESA section 7 consultation when issuing such individual permits.

Regardless of the above conditions, EPA may require that a permittee apply for an individual NPDES permit on the basis of possible adverse effects on species or critical habitats. Where there are concerns that coverage for a particular discharger is not sufficiently protective of listed species, the Services (as well as any other interested parties) may petition EPA to require that the discharger obtain an individual NPDES permit and conduct an individual section 7 consultation as appropriate.

In addition, the Assistant Administrator for Fisheries for the National Oceanic and Atmospheric Administration, or his/her authorized representative, or the U.S. Fish and Wildlife Service (as well as any other interested parties) may petition EPA to require that a permittee obtain an individual NPDES permit. The permittee is also required to make the SWPPP, annual site compliance inspection report, or other information available upon request to the Assistant Administrator for Fisheries for the National Oceanic and Atmospheric Administration, or his/her authorized representative, or the U.S. Fish and Wildlife Service Regional Director, or his/her authorized representative.

These mechanisms allow for the broadest and most efficient coverage for the permittee while still providing for the most efficient protection of endangered species. They significantly reduce the number of dischargers that must be considered individually and therefore allow the Agency and the Services to focus their resources on those discharges that are indeed likely to adversely affect listed species. Straightforward mechanisms such as these allow applicants more immediate access to permit coverage, and eliminates ''permit limbo'' for the greatest number of permitted discharges. At the same time it is more protective of endangered species because it allows both agencies to focus on the real problems, and thus, provide endangered species protection in a more expeditious manner.

3. North American Industry Classification System

EPA recognizes that a new North American Industry Classification System (NAICS) was recently adopted by the Office of Management and Budget (62 FR 17288, April 9, 1997). NAICS replaces the 1987 standard industrial classification (SIC) code system for the collection of statistical economic data. However, the use of the new system for nonstatistical purposes is optional. EPA considered the use of NAICS for the modified multi-sector permit, but elected to retain the 1987 SIC code system since the storm water regulations (40 CFR 122.26(b)(14)) reference the existing system and this system has generally proven to be adequate. EPA will address the new NAICS system in future rule making.

B. Special Conditions

The MSGP includes certain special conditions which are similar to corresponding conditions found in the baseline general permit. Except for the requirements for co-located facilities (Section III.B.3 below), permittees which have been operating under the baseline permit should generally be familiar with these requirements already.

1. Non-storm Water Discharges

Non-storm water discharges are generally not authorized by either the MSGP or the baseline permit. However, both permits do authorize a list of minor non-storm discharges such as fire hydrant flushings, potable water sources, routine external building washdown water, uncontaminated ground water and certain other

discharges, provided the discharges are identified in the SWPPP and appropriate pollution prevention measures are included for the discharges. In addition, permittees should also check the sector-specific SWPPP requirements in the MSGP for any additional requirements pertaining to non-storm water requirements.

2. Releases of Reportable Quantities of Hazardous Substances and Oil

The MSGP and the baseline general permit include the same conditions pertaining to releases of reportable quantities of hazardous substances and oil. Such releases must be reported to the National Response Center and the permitting authority, and the SWPPP must be amended to prevent such discharges in the future.

3. Co-located Industrial Facilities

The MSGP includes a special condition pertaining to co-located facilities which was not included in the baseline general permit (see 60 FR 50813). If an industrial plant includes co-located facilities which fall into more than one sector of the MSGP, then the sector-specific SWPPP and monitoring requirements for both sectors apply to the plant. The baseline permit had required that when an industrial plant includes facilities which fall into more than one monitoring category, then the facility overall must comply with the monitoring requirements of both categories. However, the baseline permit did not include sector-specific BMP requirements. In addition, both the baseline permit and the MSGP provide that if monitoring for the same parameter is required for more than one category (or sector), then only one sample analysis is required for that parameter.

C. SWPPP Requirements

Both the baseline general permit and the MSGP require that permittees develop and implement SWPPPs to control the discharge of pollutants in storm water discharges. The SWPPPs required by the baseline permit included various generic BMPs for all categories of facilities covered by the permit. The following is a summary of the requirements:

- Pollution Prevention Team—the SWPPP must identify the individuals who are responsible for development and implementation of the SWPPP.
- Site Evaluation—the SWPPP must include a map of the facility and an assessment of the potential sources of storm water pollution at the facility.
- Generic BMPs including good housekeeping, preventive maintenance, spill prevention and response, employee training, record keeping, non-storm water discharge evaluation, erosion control measures and storm water management measures as appropriate.
- Comprehensive site inspection/compliance evaluation.
- Special requirements for Emergency Planning and Community Right to Know Act (EPCRA) Section 313 facilities.

The baseline general permit required that covered facilities develop their SWPPPs no later than April 1, 1993, and come into compliance with their SWPPPs by October 1, 1993. The MSGP (as amended on February 9, 1996, 61 FR 5248) required that covered facilities develop and implement their SWPPPs by September 25, 1996. However, the MSGP also allows up to 3 years after permit finalization (i.e., no later than September 29, 1998) for completion of control measures identified in the SWPPP which involve construction.

The SWPPP which is required by the MSGP includes the same basic BMPs which are found in the baseline general permit and also sector-specific BMPs which are unique to the types of facilities in the various sectors. As such, the SWPPPs which have been developed by facilities which are currently operating under the baseline permit should already include the basic requirements of the MSGP. However, facilities which are transferred to the MSGP from the baseline permit will have to review the sector-specific BMP requirements of the MSGP and, as needed, upgrade their SWPPPs to comply with the requirements of the MSGP. Appendix B to this fact sheet summarizes the sector-specific requirements of the MSGP, including sector-specific SWPPP requirements, monitoring requirements (with a comparison to baseline permit requirements), numeric effluent limitations and inspection requirements. A more detailed description can be found in Section VIII of the September 29, 1995 fact sheet.

1. Deadline for SWPPP Revision and Implementation for Transferred Facilities

EPA has added a special deadline to the MSGP for SWPPP revision and implementation for transferred facilities (Part IV.A.10). The modified MSGP requires SWPPP modification and implementation within 180 days after the effective date of the MSGP modification. However, to implement control measures involving construction, transferred facilities have until October 1, 2000, which provides approximately the same amount of time for implementing constructed BMPs as the original MSGP. During the time period prior to SWPPP upgrade, the existing requirements of the baseline permit apply and are incorporated into the MSGP.

2. Special Requirements for Facilities Subject to EPCRA Section 313 Requirements

The MSGP includes the same special BMP requirements for facilities subject to the reporting requirements of Section 313 of the EPCRA as are found in the baseline general permit. Both permits require certain additional BMPs for facilities which are required to report for ''water priority chemicals.'' However, the list of such chemicals in the MSGP (Addendum F of the MSGP) differs somewhat from the list in the baseline permit due to changes in EPCRA reporting requirements which occurred subsequent to the issuance of the baseline permit. As such, facilities transferring to the MSGP should check the MSGP's list of ''water priorities chemicals'' to determine whether the special EPCRA requirements would apply.

The baseline permit also requires that the SWPPP for facilities subject to EPCRA Section 313 be certified by a professional engineer every 3 years. However, the MSGP only requires certification in accordance with the regular signatory requirements of the permit, i.e., by a responsible corporate official.

The MSGP also provides an exemption from the EPCRA Section 313 requirements for situations where an operator certifies that all water priority chemicals which are handled and/or stored on-site are only in gaseous or non-soluble liquid or solid forms (at atmospheric pressure and temperature). This exemption was not included in the baseline permit, and some facilities may be eligible for this exemption upon transfer from the baseline permit to the MSGP.

D. Monitoring and Reporting Requirements

Both the baseline general permit and the MSGP include analytical storm water monitoring requirements for certain categories of dischargers. However, the requirements differ somewhat with regard to the parameters for which sampling and analysis are required, and the industrial categories which are affected. In addition, the MSGP (Sector M) does not include the provision in the baseline permit for auto recyclers that monitoring only be required for facilities above a certain

size. The group application monitoring data did not support such an exemption.

Appendix B to this fact sheet summarizes the monitoring requirements of the MSGP, and the differences from the baseline permit. Additional information can be found in the fact sheets accompanying the issuance of the baseline permit (see 57 FR 41248) and the MSGP (see 60 FR 50822). Facilities which are transferred to the MSGP from the baseline permit are required to comply with the requirements of the MSGP. The key differences are discussed below:

1. Sampling Schedule

The MSGP differs from the baseline permit with regards to the schedule for analytical monitoring. The baseline permit had required monitoring for certain facilities once or twice each year during the term of the permit. The MSGP, however, requires monitoring quarterly, as appropriate, during years two and four of the term of the permit. For purposes of this monitoring, year two runs from October 1, 1996, through September 30, 1997. For transferred facilities and other dischargers obtaining MSGP coverage after September 30, 1997 (i.e., new dischargers, existing unpermitted dischargers and dischargers transitioning industrial storm water discharge permit coverage from an individually drafted NPDES permit to the MSGP), monitoring will only be required in year four (October 1, 1998, through September 30, 1999) since year two has already passed.

Also, as discussed below in Section III.E, both the baseline permit and the MSGP authorize certain discharges subject to numeric effluent limitations. Section III.E discusses the limits, and the sampling and reporting requirements.

2. Sample Type

The baseline general permit required grab and composite sampling for most parameters. As an alternative, the baseline permit also provided that one grab sample may be taken from a holding pond with a retention period greater than 24 hours. The requirements of the MSGP, however, have been simplified in that only a grab sample is required for all sectors except Sector S (air transportation) where grab and composite samples are required. Both the baseline permit and MSGP require that the grab sample be taken within the first 30 minutes of the discharge, unless this is impractical, in which case sampling is required within the first hour of discharge.

3. Quarterly Visual Examination Requirements of the MSGP

The MSGP requires quarterly visual examinations of storm water discharges for all sectors except Sector S, which covers air transportation. A full description of the requirements for the visual examinations is found in Section VI.E.8 of the fact sheet accompanying the issuance of the MSGP. Basically, the MSGP requires that grab samples of storm water discharges be taken and examined visually for the presence of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen or other obvious indicators of storm water pollution. The grab samples must be taken within the first 30 minutes after storm water discharges begin, or as soon as practicable, but not longer than 1 hour after discharges begin. The sampling must be conducted quarterly during the following time periods: January-March, April-June, July-September and October-December of each year. The reports summarizing these quarterly visual storm water examinations must be maintained on-site with the SWPPP.

The baseline general permit did not include requirements for visual examinations and facilities which are transferred to the MSGP will have to comply with these additional sampling requirements. For transferred facilities, these sampling requirements would begin in the first full calendar quarter of coverage of the MSGP. EPA believes that this type of sampling provides an inexpensive means for permittees to quickly assess the effectiveness of their SWPPPs and make any necessary modifications to address the results of the visual examinations.

4. Exemptions from Analytical Monitoring

Both the MSGP and the baseline general permit include certain provisions for exemptions from analytical monitoring. Both permits provide that facilities need not monitor if they certify that no significant materials or industrial activities are exposed to storm water. For the MSGP, however, the certification is on a pollutant-by-pollutant, outfall-by-outfall basis; i.e., if there are no exposed sources of a particular pollutant, then monitoring for that pollutant at that outfall does not need to be conducted. For the baseline permit, monitoring must be conducted for the entire suite of pollutants required by the permit if any industrial materials or activities are exposed.

The MSGP also includes an exemption from monitoring (again on a pollutant-by-pollutant basis) in the fourth year of the permit if the monitoring results of the second year are below certain benchmark values which are found below in Table 3:

TABLE 3.—PARAMETER BENCHMARK VALUES

Parameter name	Benchmark level	Source
Biochemical Oxygen Demand(5)	30 mg/L	4
Chemical Oxygen Demand	120 mg/L	5
Total Suspended Solids	100 mg/L	7
Oil and Grease	15 mg/L	8
Nitrate + Nitrite Nitrogen	0.68 mg/L	7
Total Phosphorus	2.0 mg/L	6
pH	6.0–9.0 s.u.	4
Acrylonitrile (c)	7.55 mg/L	2
Aluminum, Total (pH 6.5–9)	0.75 mg/L	1
Ammonia	19 mg/L	1
Antimony, Total	0.636 mg/L	9
Arsenic, Total (c)	0.16854 mg/L	9
Benzene	0.01 mg/L	10
Beryllium, Total (c)	0.13 mg/L	2
Butylbenzyl Phthalate	3 mg/L	3
Cadmium, Total (H)	0.0159 mg/L	9
Chloride	860 mg/L	1
Copper, Total (H)	0.0636 mg/L	9

TABLE 3.—PARAMETER BENCHMARK VALUES—Continued

Parameter name	Benchmark level	Source
Dimethyl Phthalate	1.0 mg/L	11
Ethylbenzene	3.1 mg/L	3
Fluoranthene	0.042 mg/L	3
Fluoride	1.8 mg/L	6
Iron, Total	1.0 mg/L	12
Lead, Total (H)	0.0816 mg/L	1
Manganese	1.0 mg/L	13
Mercury, Total	0.0024 mg/L	1
Nickel, Total (H)	1.417 mg/L	1
PCB–1016 (c)	0.000127 mg/L	9
PCB–1221 (c)	0.10 mg/L	10
PCB–1232 (c)	0.000318 mg/L	9
PCB–1242 (c)	0.00020 mg/L	10
PCB–1248 (c)	0.002544 mg/L	9
PCB–1254 (c)	0.10 mg/L	10
PCB–1260 (c)	0.000477 mg/L	9
Phenols, Total	1.0 mg/L	11
Pyrene (PAH,c)	0.01 mg/L	10
Selenium, Total (*)	0.2385 mg/L	9
Silver, Total (H)	0.0318 mg/L	9
Toluene	10.0 mg/L	3
Trichloroethylene (c)	0.0027 mg/L	3
Zinc, Total (H)	0.117 mg/L	1

Sources

1. ''EPA Recommended Ambient Water Quality Criteria.'' Acute Aquatic Life Freshwater
2. ''EPA Recommended Ambient Water Quality Criteria.'' LOEL Acute Freshwater
3. ''EPA Recommended Ambient Water Quality Criteria.'' Human Health Criteria for Consumption of Water and Organisms
4. Secondary Treatment Regulations (40 CFR 133)
5. Factor of 4 times BOD5 concentration—North Carolina benchmark
6. North Carolina storm water benchmark derived from NC Water Quality Standards
7. National Urban Runoff Program (NURP) median concentration
8. Median concentration of Storm Water Effluent Limitation Guideline (40 CFR Part 419)
9. Minimum Level (ML) based upon highest Method Detection Limit (MDL) times a factor of 3.18
10. Laboratory derived Minimum Level (ML)
11. Discharge limitations and compliance data
12. ''EPA Recommended Ambient Water Quality Criteria.'' Chronic Aquatic Life Freshwater
13. Colorado—Chronic Aquatic Life Freshwater—Water Quality Criteria

Notes

(*) Limit established for oil and gas exploration and production facilities only.
(c) carcinogen
(H) hardness dependent
(PAH) Polynuclear Aromatic Hydrocarbon

Assumptions

Receiving water temperature—20 C
Receiving water pH—7.8
Receiving water hardness CaCO3 100 mg/L
Receiving water salinity 20 g/kg
Acute to Chronic Ratio (ACR)—10

Note that the benchmark value for total mercury listed above is correctly listed as 0.0024 mg/L. The benchmark value for total mercury in the original publication of the MSGP (60 FR 50826) had been incorrectly listed as 10.0024 mg/L. In addition, as further discussed in EPA's notice of technical correction of February 9, 1996 (61 FR 5248), the benchmark for zinc is correctly listed above as 0.117 mg/l rather than 0.065 mg/l which was an error in the original MSGP.

EPA believes that monitoring results below these benchmarks indicate that a generally effective SWPPP is being implemented at a facility, and that further monitoring should not be required. The exemption also provides an incentive for facilities to implement an effective SWPPP which will reduce pollutant discharges.

The baseline permit required continued analytical monitoring for certain categories of facilities throughout the term of the permit regardless of sampling results. For facilities which are transferred to the MSGP from the baseline industrial permit, monitoring is not required in year four for particular pollutants if the average of the two most recent monitoring results conducted for the baseline permit are below the benchmarks. However, if monitoring was not conducted for the appropriate pollutants, then the exemption would not be available. In addition, the exemption would not be available if the industrial activities at a facility have changed to the extent that the most recent monitoring results do not reflect discharges from current activities.

It should also be pointed out that the monitoring exemption discussed above based on the absence of exposure at a facility is available in year 4 of the MSGP regardless of past monitoring results. This exemption is available for facilities already covered by the MSGP and those to be transferred to the MSGP from the baseline permit. EPA believes that the exemption provides an incentive for facilities to eliminate exposure of materials and activities to storm water, thereby reducing pollutant discharges. We should also point out, however, that the discharges discussed in Section III.E below which are subject to numeric effluent limitations are not eligible for any of the exemptions from monitoring.

5. Reporting Requirements

The baseline permit required annual reporting of analytical monitoring results for those facilities subject to semi-annual monitoring. Facilities which are subject to annual monitoring were required to retain the results on-site. The MSGP requires that monitoring results be submitted to the permitting authority at the end of each year in which sampling is required (postmarked by March 31 of the year following the monitoring period, e.g., by March 31, 2000, for the year four monitoring period). The results of the quarterly visual examinations need not be

submitted, but must be retained on-site in the SWPPP.

E. Numeric Effluent Limitations

The MSGP includes the same numeric effluent limitations for coal pile runoff as were found in the baseline general permit. These limits are: (1) maximum of 50 mg/L for total suspended solids (TSS) and a pH range of 6–9 standard units. Any untreated overflow from facilities designed, constructed and operated to treat the runoff associated with a 10-year, 24-hour rainfall event is not subject to the 50 mg/L limit for TSS. Dischargers previously covered under the baseline general permit must be compliant with this limitation upon submittal of the NOI for coverage under MSGP.

The baseline general permit did not authorize storm water discharges subject to numeric effluent limitation guidelines (ELGs). The MSGP, however, does authorize certain storm water discharges subject to ELGs including the coal pile runoff at steam electric power plants, and for the following categories: Phosphate fertilizer manufacturing (40 CFR part 418), asphalt paving and roofing emulsions (40 CFR part 443), and cement manufacturing materials storage pile runoff (40 CFR part 411). In addition, the modified MSGP authorizes mine dewatering discharges from construction sand and gravel, industrial sand, and crushed stone facilities (40 CFR Part 436) in EPA Regions I, II, VI, X and Arizona. These numeric effluent limitations can be found in Appendix B to this fact sheet.

The baseline permit required semi-annual monitoring (with annual reporting) of coal pile runoff. However, the MSGP only requires annual monitoring for all of the discharges subject to numeric effluent limits (except mine dewatering discharges in Sector J where the monitoring frequency is quarterly). The annual monitoring periods run from October 1 through September 30 of each year, and reporting is required by November 30 of each year. The quarterly monitoring results are due no later than the last day of the month following the collection of the sample.

F. Miscellaneous Permitting Actions

In today's notice, EPA has also made the following limited specific changes to the MSGP as published on September 29, 1995 (60 FR 50804): (1) authorization of mine dewatering discharges from construction sand and gravel, industrial sand, and crushed stone mines in EPA Regions I, II and X; (2) inclusion in Sector A of the MSGP of the effluent limitation guideline in 40 CFR Part 429 Subpart I for discharges resulting from spray down of lumber and wood products in storage yards (wet decking); (3) clarification that Sectors X and AA authorize discharges from all facilities in major SIC groups 27 and 34 respectively; and (4) addition of new sector (Sector AD) to the MSGP to authorize discharges from Phase I facilities which may not fall into one of the sectors of the modified MSGP, and selected Phase II discharges which are designated for permitting in accordance with 40 CFR 122.26(g)(1)(i). These are discussed below.

1. Coverage of Mine Dewatering Discharges in EPA Regions I, II and X

Sector J of the original MSGP authorized mine dewatering discharges composed entirely of storm water or ground water seepage from construction sand and gravel, industrial sand and crushed stone mines in EPA Region VI and Arizona. These discharges are subject to effluent limitations guidelines found at 40 CFR Part 436, Subparts B, C and D. An individual permit or an alternate general permit was needed for these types of discharges in areas other than Region VI and Arizona. For increased permitting flexibility, today's modification extends this authorization to facilities in the areas of EPA Regions I, II and X where EPA is the NPDES regulating authority (see ''Areas of Coverage'' at the beginning of the Final Permit Modifications section of this notice to identify specific areas in these Regions where the modifications apply). This action avoids the need to issue individual NPDES permits, or an alternate general permit, for discharges in these areas. As discussed in the Response to Public Comments found in Appendix A of this Fact Sheet, today's final action includes EPA Region I which increased the affected area beyond that which was proposed by the Agency on July 11, 1997.

2. Discharges Resulting From Spray Down of Lumber and Wood Products in Storage Yards in Sector A

The MSGP authorizes non-storm water discharges resulting from the spray down of lumber and wood products in storage yards (wet decking), provided that no chemical additives are used in the spray and no chemicals are applied to the wood during storage. The MSGP, however, inadvertently omitted the numerical effluent limitation guideline in 40 CFR part 429, Subpart I which applies to such discharges. Accordingly, EPA has modified the MSGP to incorporate the applicable effluent limitation guideline and appropriate monitoring requirements for clarification.

The numerical limits which apply to these non-storm water discharges are: there shall be no debris discharged and the pH shall range from 6.0 to 9.0. The term ''debris'' refers to woody material such as bark, twigs, branches, heartwood or sapwood that does not pass through a 2.54 cm (1.0 inch) diameter round opening and is present in the discharge from a wet storage facility. EPA has included these effluent limitations and also a requirement for annual monitoring of the discharges.

3. Clarification of Coverage in Sectors X and AA of the MSGP

Sectors X and AA of the MSGP contain narrative descriptions of industrial activities, SIC code major group listings and specific four digit SIC codes listings for which coverage would be available. These three methods of describing the types of industry allowed coverage under these two sectors has proven to be confusing and EPA is now clarifying the coverage of these two sectors in this modification.

Sector X was intended by EPA to cover all industry in major SIC group 27 (printing, publishing and allied industries), and Sector AA was intended to cover all industry in major SIC group 34. EPA has been accepting NOIs from all facilities within these two major SIC groups, regardless of the four digit SIC code listings, which mistakenly, have been interpreted to be more restrictive. Through this clarification, EPA wants to make it clear that all qualifying industries in these two major groups can make use of the MSGP.

4. Addition of Sector AD to the MSGP

EPA has also added another sector to the MSGP (Sector AD) to cover discharges from Phase I facilities which may not fall into one of the sectors of the final modified MSGP, and to provide a readily available means for covering many of the Phase II storm water facilities which are designated for permitting prior to the permit application deadline for Phase II sources of August 7, 2001. As discussed earlier, EPA has modified the MSGP to include all facilities which were authorized under the baseline general permit, but excluded from the MSGP. Although EPA believes that all such previously excluded facilities have been identified and included in the final modified MSGP, Sector AD has been added to cover any inadvertent omissions.

For Phase II storm water sources, NPDES regulations at 40 CFR 122.26(g)(1)(i) provide that permit applications may be required within 180

days of notice for discharges which contribute to a violation of a water quality standard, or are determined to be significant sources of pollutants. For discharges other than municipal separate storm sewer discharges, 40 CFR 122.26(g)(2) provides that individual permit applications may be required in accordance with 40 CFR 122.26(c)(1), or an NOI under a general permit may be required. Sector AD provides a means through which general permit coverage may be obtained for many designated Phase II facilities and as such, facilitates implementation of the requirements of 40 CFR 122.26(g)(1)(i). However, for cases where Sector AD is inappropriate, individual permits or an alternate general permit are required. In addition, Part I.B.3.f of the MSGP does not authorize coverage for discharges which may be contributing to a violation of a water quality standard. As such, for discharges permitted under 40 CFR 122.26(g)(1)(i), Sector AD could only be used for discharges which are determined to be a significant source of pollutants.

Sector AD is added in Part XI.AD of the MSGP. The SWPPP requirements for this sector are the same as in the baseline general permit to ensure flexibility given the broad universe of potential types of facilities which may be covered. Also, no analytical monitoring requirements are included for the new sector; however, quarterly visual examinations are required as in most other sectors. In addition, the requirements common to all sectors of the MSGP which are set forth in Parts I–X and XII of the MSGP also apply to Sector AD.

5. Modification of Inspection Requirements for Inactive Oil and Gas Extraction Facilities in Sector I

As discussed further in the Summary of Responses to Public Comments, EPA has modified the inspection requirements for inactive oil and gas extraction facilities which are remotely located and unstaffed (within major SIC group 13) covered by Sector I. The modification provides that only annual inspections are required (rather than quarterly or semi-annual inspections) for inactive facilities which are remotely located and unstaffed. This modification is being made in response to concerns regarding the practicality of quarterly or semi-annual inspections for inactive, unstaffed facilities, particularly those in remote areas. Sector J (for mineral mining and processing) also requires only annual inspections for inactive facilities and EPA believes that this requirement is appropriate for inactive oil and gas extraction facilities which are remotely located and unstaffed as well.

G. Response to National Mining Association Concerning Sector G of the MSGP

As discussed above, the MSGP authorizes selected storm water discharges subject to ELGs. However, Sector G for the ore mining and dressing industry is not among the sectors for which the MSGP authorizes such discharges. In section VIII.G of the fact sheet for the MSGP, EPA provided a table (Table G–4) regarding the applicability of ELGs to storm water discharges from ore mining operations. On October 10, 1995, the National Mining Association (NMA) challenged the interpretations of the ELGs contained in Table G–4, particularly the interpretation of the term ''mine drainage'' to include runoff from waste rock and overburden represented by the Table (*National Mining Association* v. *EPA*, No. 95–3519 (8th Cir.)).

On October 22, 1997 (62 FR 54950), EPA proposed a clarification to the interpretation in Table G–4 and modification of Sector G of the MSGP in response to the challenge from the NMA. On August 7, 1998, EPA published final revisions to Sector G in the **Federal Register** which modified Table G–4 to only include those specific storm water discharges which are authorized by the MSGP and are not subject to ELGs. Monitoring requirements for storm water discharges from waste rock and overburden piles were also included in the final revisions.

H. Regional Offices

Notice of Intent Address. Notices of Intent to be authorized to discharge under the MSGP should be sent to: Storm Water Notice of Intent (4203), USEPA, 401 M Street, S.W., Washington, DC 20460.

For further information, please call the appropriate EPA Regional storm water contacts listed below:

- ME, MA, NH, Indian country in CT, MA, ME, RI, and Federal Facilities in VT
  EPA Region I, Office of Ecosystem Protection, JFK Federal Building (CMU), Boston, MA 02203, Contact: Thelma Hamilton (617) 565–3569
- PR
  U.S. Environmental Protection Agency, Caribbean Environmental Protection Division, Centro Europa Building, 1492 Ponce de Leon Avenue, Suite 417 Santurce, Puerto Rico 00907–4127 Contact: Sergio Bosques (787) 729–6951
- DC and Federal Facilities in DE
  EPA Region III, Water Protection Division, (3WP13), Storm Water Staff, 841 Chestnut Building, Philadelphia, PA 19107, Contact: Cheryl Atkinson (215) 566–3392
- FL and Indian country in FL
  EPA Region IV, Water Management Division, Surface Water Permits Section (SWPFB), 61 Forsyth Street, SW, Atlanta, GA 30303–3104, Contact: Floyd Wellborn (404) 562–9296
- NM and TX; Indian country in LA, OK, TX and NM (Except Navajo and Ute Mountain Reservation Lands); and oil and gas exploration and production related industries, and pipeline operations (which under State law are regulated by the Oklahoma Corporation Commission and not the Oklahoma Department of Environmental Quality).
  EPA Region VI, NPDES Permits Section (6WQ–PP), 1445 Ross Avenue, Dallas, TX 75202–2733, Contact: Brian Burgess (214) 665–7534
- AZ, American Samoa, Commonwealth of Northern Mariana Islands, Johnston Atoll, Guam, Midway Island and Wake Island; all Indian country in AZ, CA, and NV; those portions of the Duck Valley, Fort McDermitt and Goshute Reservations that are outside NV; those portions of the Navajo Reservation that are outside AZ.
  EPA Region IX, Water Management Division, (WTR–5), Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105, Contact: Eugene Bromley (415) 744–1906
- AK and ID; Indian country in AK, ID (except the Duck Valley Reservation), OR (except the Fort McDermitt Reservation), and WA; and Federal facilities in WA
  EPA Region X, Office of Water (OW–130), Storm Water Staff, 1200 Sixth Avenue, Seattle, WA 98101, Contact: Joe Wallace (206) 553–8399

IV. Cost Estimates

Cost estimates for the MSGP were included with the final fact sheet accompanying the issuance of the MSGP on September 29, 1995 and are not being repeated here. However, costs for the facilities being transferred to the MSGP from the baseline permit are expected to be lower than for those initially applying for coverage under the MSGP since the transferred facilities will already have responded to some of the requirements of the MSGP.

V. Economic Impact (Executive Order 12866)

Under Executive Order 12866 [58 FR 51735 (October 4, 1993)], the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may 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; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this modified general permit is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to formal OMB review prior to proposal.

VI. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), P.L. 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' on State, local, and tribal governments and the private sector. UMRA uses the term ''regulatory actions'' to refer to regulations. (See, e.g., UMRA section 201, ''Each agency shall * * * assess the effects of Federal regulatory actions * * * (other than to the extent that such regulations incorporate requirements specifically set forth in law)'' (emphasis added)). UMRA section 102 defines ''regulation'' by reference to 2 U.S.C. 658 which in turn defines ''regulation'' and ''rule'' by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines ''rule'' as ''any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of [the Administrative Procedure Act (APA)], or any other law * * *''

As discussed in the RFA section of this notice, NPDES general permits are not ''rules'' under the APA and thus not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on draft general permits, it does so pursuant to the CWA section 402(a) requirement to provide ''an opportunity for a hearing.'' Thus, NPDES general permits are not ''rules'' for RFA or UMRA purposes.

EPA has determined that the final modifications will not contain a Federal mandate that may result in expenditures of $100 million or more for State, local and Tribal governments, in the aggregate, or the private sector in any one year.

The Agency also believes that the final modifications will not significantly nor uniquely affect small governments. For UMRA purposes, ''small governments'' is defined by reference to the definition of ''small governmental jurisdiction'' under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) ''Small governmental jurisdiction'' means governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

The final modifications also will not uniquely affect small governments because compliance with the final permit conditions affects small governments in the same manner as any other entities seeking coverage under the modified permit.

VII. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities resulting from the final permitting actions under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The information collection requirements of the MSGP have already been approved in previous submissions made for the NPDES permit program under the provisions of the Clean Water Act.

VIII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. Under 5 U.S.C. 605(b), no Regulatory Flexibility Analysis is required where the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The Agency has determined that the permit modification being published today is not subject to the Regulatory Flexibility Act (''RFA''). By its terms, the RFA only applies to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (''APA'') or any other statute. Today's permit modification is not subject to notice and comment requirements under the APA or any other statute because the APA defines ''rules'' in a manner that excludes permits. See APA section 551 (4), (6), and (8). The APA distinguishes between agency action that is a ''rule'' and agency action that is an ''order.'' An order is any final agency disposition, including agency action in issuing licenses or permits, in a matter other than rulemaking. Adjudication is the agency process for formulating an order and rulemaking the process for formulating a rule. The requirements of APA section 553 apply only to the issuance of ''rules.'' Informal adjudications, which typically include agency process for issuing permits, are not rules and are not subject to the rulemaking requirements of section 553(b). In the Agency's view, the issuance by EPA of a license (in the form of an NPDES general permit) that may apply to a large number of different dischargers does not necessarily convert the permit issuance of the general permit from an adjudication to rulemaking. The Agency has explained in further detail its reasons for concluding that issuance of a general NPDES permit is not subject to the RFA at 63 FR 7898 (February 17, 1998).

Today's final permit modification actions will provide small entities the opportunity to obtain storm water permit coverage under the MSGP, which was originally developed based on the group application process. The group application information submitted to EPA provided a basis for the development of storm water permit conditions tailored specifically for each industry. Today's action expands applicability provisions for some sectors so that permittees previously authorized under the expired Baseline Industrial General Permit may be eligible for authorization. Today's modifications also create a ''default'' category for permittees covered by the expired baseline permit where there is no applicable or relevant industrial sector category in the MSGP. The MSGP requirements were designed to minimize significant administrative and economic impacts on small entities. Transfer of permit coverage from the baseline permit to the MSGP should not have a significant impact on industry in general. Moreover, the MSGP reduces a significant burden on regulated sources of applying for individual permits.

Part IX—Official Signatures

Accordingly, I hereby find consistent with the provisions of the Regulatory

Flexibility Act, that these final permit modifications will not have a significant impact on a substantial number of small entities. Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: July 1, 1998.

John DeVillars,

Regional Administrator, Region 1.

Dated: August 26, 1998.

Jeanne M. Fox,

Regional Administrator, Region 2.

Dated: August 6, 1998.

Thomas Voltaggio,

Acting Regional Administrator, Region 3.

Dated: August 4, 1998.

Robert F. McGhee,

Acting Regional Administrator, Region 4.

Dated: July 20, 1998.

Gregg A. Cooke,

Regional Administrator, Region 6.

Dated: August 17, 1998.

Laura Yoshii,

Acting Regional Administrator, Region 9.

Dated: July 26, 1998.

Chuck Findley,

Acting Regional Administrator, Region 10.

X. Notice of Final MSGP for American Samoa and the Commonwealth of the Northern Mariana Islands (CNMI)

The draft MSGP was proposed by EPA on November 19, 1993 (58 FR 61146), and American Samoa and the CNMI were proposed to be included among the areas of coverage of the MSGP. However, at the time of issuance of the final MSGP for most areas (September 29, 1995), the American Samoa EPA and the Division of Environmental Quality of CNMI had not completed their review of the MSGP for certification purposes pursuant to Section 401 of the CWA. As such, EPA did not issue the MSGP for American Samoa and CNMI at that time.

On September 5, 1997 and October 6, 1997, respectively, the CNMI Division of Environmental Quality and the American Samoa EPA provided their 401 certifications for the MSGP (including today's modifications). The certifications also include certain special conditions necessary to ensure compliance with the CWA. Today, EPA is providing notice of the issuance of the final MSGP for American Samoa and CNMI, including the special conditions which were required. The area of coverage of the MSGP is being revised today to include American Samoa and CNMI among the areas for which discharges may be authorized. The other modifications of the MSGP which are discussed elsewhere in this fact sheet also apply to the MSGP issued for American Samoa and CNMI. The 401 certification conditions required by American Samoa and CNMI are found in Part XII of today's revised MSGP.

The MSGP includes industry-specific sections that describe the storm water pollution prevention plan requirements, numeric effluent limitations and monitoring requirements for the specific industries. These industry-specific sections are contained in Part XI of the MSGP and are described in Part VIII of the fact sheet published on September 29, 1995. There are also a number of permit requirements that apply to all industries which are found elsewhere in the MSGP and described in the fact sheet.

Today's notice incorporates by reference the permit terms and conditions set forth at 60 FR 51108–51255 published on September 29, 1995, and also incorporates by reference the technical corrections of February 9, 1996 (61 FR 5251–5254) and February 20, 1996 (61 FR 6412). These requirements may be found in Parts I through XI of the permit.

A. Contacts

Notices of Intent (NOIs) to be covered under the MSGP and Notices of Termination (NOTs) to terminate coverage under the MSGP must be sent to the Storm Water Notice of Intent Processing Center (see address below). The complete administrative record for the MSGP is available through the Water Docket MC–4101, Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460. A reasonable fee may be charged for copying.

Notice of Intent Address. Notices of Intent to be authorized to discharge under the MSGP should be sent to: NOI/NOT Processing Center (4203), 401 M Street SW, Washington, D.C. 20460.

Address for Other Submittals. Other submittals of information required under the MSGP for American Samoa and CNMI should be sent to EPA, Region 9, Water Division (WTR–7), 75 Hawthorne Street, San Francisco, CA 94105.

B. 401 Certification

Section 401 of the CWA provides that no Federal license or permit, including NPDES permits, to conduct any activity that may result in any discharge into navigable waters, shall be granted until the state in which the discharge originates certifies that the discharge will comply with the applicable provisions of Sections 301, 302, 303, 306 and 307 of the CWA.

For American Samoa, the following special conditions were included with its 401 certification:

1. NOIs must be sent to the American Samoa EPA simultaneously with submittal to EPA.
2. Storm water pollution prevention plans (SWPPPs) must be submitted to the American Samoa EPA for review and approval. (Although the American Samoa EPA did not specify a deadline for submittal, it is presumed that submittal is required as soon as the SWPPP is completed.)

For CNMI, the following special conditions were included with its 401 certification:

1. NOIs submitted to the CNMI DEQ must be postmarked 7 days prior to any storm water discharges.
2. The NOI which is submitted to CNMI must be accompanied by a letter from the CNMI DEQ approving the SWPPP.
3. SWPPPs required by the permit must be submitted to the CNMI DEQ for review and approval along with applicable fees associated with a 401 Water Quality Certification prior to submittal of an NOI to EPA and the CNMI DEQ.
4. NOIs must be submitted to the CNMI DEQ and EPA Region 9 as well as the regular NOI address in Washington, D.C.

The 401 certification requirements for American Samoa and CNMI are added to Part XII of the MSGP in the section for EPA Region 9 requirements.

C. Deadlines

NOI Submittal. NOIs for facilities in CNMI must be submitted no later than 90 days after today's date which is the effective date of the permit. This is consistent with the time frame for NOI submittal of the original MSGP issued on September 29, 1995. Although the NOI deadline of the original MSGP was extended 90 additional days, EPA does not believe this should be necessary in CNMI given the relatively small number of facilities in CNMI. A special condition was added to the MSGP (Part II.A.11) to clarify the deadline for NOI submittal for CNMI since the baseline general permit was never issued for CNMI. Permittees in CNMI will be requesting initial permit coverage under the MSGP rather than transferring from the baseline permit to the MSGP.

Facilities in American Samoa transferring to the MSGP from the baseline permit will also have 90 days to request coverage under the MSGP, which is the same amount of time given to any other permittees transferring to the MSGP.

SWPPP Preparation and Compliance. For facilities in CNMI, preparation and compliance with SWPPPs must be completed no later than 270 days after

the date of today's MSGP issuance. This provides the same amount of time that was provided in the original MSGP of September 29, 1995. However, for BMPs involving construction, the deadline is October 1, 2000, which provides roughly the same amount of time as provided by the original MSGP.

The expiration date for the MSGP for American Samoa and CNMI has been set at October 1, 2000, which is the same expiration date for areas covered by the September 29, 1995 MSGP. Although this results in a permit term somewhat less than the usual five years, alignment of the expiration dates will facilitate permit reissuance.

D. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in the final MSGP for American Samoa and CNMI under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq. The information collection requirements in today's final notice for American Samoa and CNMI have already been approved by the Office of Management and Budget in previous submissions made for the NPDES permit program under the provisions of the CWA.

E. Considerations Under Other Federal Laws

For the MSGP issued for American Samoa and CNMI by today's notice, EPA is required to conduct and certify certain analyses under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Unfunded Mandates Reform Act, Pub. L. No. 104–4. By today's action, EPA adopts, incorporates, and certifies the relevant findings under the Regulatory Flexibility Act and the Unfunded Mandates Reform Act made in the September 29, 1995 MSGP (and elsewhere in this fact sheet for today's modifications of the MSGP) for the purposes of the MSGP issued for American Samoa and CNMI.

F. Regulatory Flexibility Act Certification

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to prepare a Regulatory Flexibility Analysis to assess the impact of rules on small entities. Under 5 U.S.C. 605(b), no Regulatory Flexibility Analysis is required where the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Today's permit will provide any small entity the opportunity to obtain storm water permit coverage as a result of the group application process. Group applications provided small entities a mechanism to reduce their permit application burden by grouping together with other industrial facilities and submitting a common permit application with reduced monitoring requirements and shared costs. The group application information submitted to EPA provided a basis for the development of storm water permit conditions tailored specifically for each industry. The permit requirements have been designed to minimize significant administrative and economic impacts on small entities and should not have a significant impact on industry in general. Moreover, the permit reduces a significant burden on regulated sources of applying for individual permits.

Accordingly, I hereby certify consistent with 5 U.S.C. 605(b) that this permit will not have a significant impact on a substantial number of small entities.

Dated: July 18, 1998.

Laura Yoshii,

Acting Regional Administrator, Region 9.

Appendix A—Summary of Responses To Public Comments on the July 11, 1997, Proposal To Modify the MSGP and Terminate the Baseline Industrial General Permit

The following discussion is a summary of the major issues identified by EPA that were raised during the public comment period regarding the proposal to modify the MSGP and terminate the Baseline Industrial General Permit, along with EPA's response to each major issue. This summary aggregates comments by similarity of the issues. A comprehensive discussion of each comment that was raised is provided in a separate document which is maintained by EPA as a part of the record for these permitting actions.

Notice of Intent Comments

Several comments were received concerning the need for EPA to streamline the permit process and reduce the administrative burden on the regulated community for permittees that chose to remain under the Baseline Industrial General Permit (BGP) after its expiration date. Comments included the following: The procedure required by the BGP for permittees to follow to obtain extended coverage beyond the permit's expiration date was confusing and cumbersome (i.e., submission of a NOI between August 1, 1997, and 2 days prior to the expiration date); the submission of an NOI for extended coverage under the BGP, followed by submission of another NOI at a later date to transition coverage to the MSGP and submission of a Notice of Termination (NOT) to end BGP coverage would be especially burdensome on companies with multiple facilities; and, the timing of the MSGP permit modification with the changeover from the expiring BGP to the MSGP was arbitrary and therefore burdensome on the regulated community.

In response, EPA acknowledges that the permit process could have been improved but doing so would have required that EPA draft, propose and finalize a modification to Part VII.B of the BGP (i.e., Part VII.B of the BGP requires that permittees submit a second NOI during the period of August 1, 1997, through September 29, 1997, if they wish to maintain permit coverage beyond the expiration date of October 1, 1997). This process may not have been completed in a timely manner (i.e., before the permit's expiration date) and would have diverted limited Agency resources from the more important task of modifying the MSGP. Also, the submission of a NOT to end BGP coverage when a permittee submits its NOI for transition to the MSGP is not a permit requirement (see Part IX.A of the BGP), but does assist EPA with its database management activities. Furthermore, under Part VII.B of the MSGP (Continuation of the Expired Permit; 60 FR 51120), permittees are not required to submit a second NOI to remain covered beyond the expiration date of that permit. Another NOI would only have to be submitted to obtain coverage under a new or alternate general permit.

One commenter suggested that EPA automatically extend permit coverage for BGP permittees under the authority of the Administrative Procedure Act (APA). Another commenter suggested that EPA provide permittees with a ''post card'' type notice to submit instead of another NOI to facilitate the process. Yet another commenter suggested that EPA consider BGP permittees automatically extended after the expiration date unless they specifically indicate an intention to terminate permit coverage, or that the Agency will not take enforcement action against any permittee that fails to submit a NOI to extend permit coverage.

In response, EPA notes that Part VII.B of the BGP requires that permittees submit a second NOI during the period of August 1, 1997, through September 29, 1997, if they wish to maintain permit coverage beyond the expiration date of October 1, 1997. Development and distribution of a ''post card'' type notice for BGP permittees to submit in lieu of a NOI would have conflicted with this permit requirement. Furthermore, the NOI is an official

Agency form approved by the US Office of Management and Budget and is required for storm water permittee or applicant use where directed by permit conditions. To change these permit requirements and allow automatic extensions or use of ''post card'' type notices as the commenters suggested would have required that EPA draft, propose and finalize a modification to the BGP. As mentioned above, this process may not have been completed in a timely manner (i.e., before the permit's expiration date) and would have diverted limited Agency resources from the more important task of modifying the MSGP. To assist permittees with understanding their options in view of the pending expiration of the permit, EPA sent a letter to all BGP permittees in August 1997 which described in detail their permitting options (i.e., submission of a NOI to either transition to the MSGP permit or remain covered under the BGP past its expiration date). Finally, failure by a BGP permittee to submit a NOI for extended coverage would be a permit violation and may subject the permittee to potential enforcement action.

Similar comments were received concerning the need for BGP permittees to submit another NOI to transfer coverage to the MSGP, and that EPA should do this automatically to reduce the administrative burden on both permittees and the Agency. In response, EPA notes that according to NPDES permit regulations found at 40 CFR 122.28(b)(2), dischargers seeking coverage under a general permit such as the MSGP must submit a Notice of Intent to EPA. Further, though the BGP and the MSGP are similar, they are separate NPDES permits with specific eligibility requirements and application procedures which must be followed when applying for permit coverage. Applying for and receiving permit coverage under one does not mean that a permittee has also automatically received coverage under the other. This is especially evident since there are specific questions and certification provisions concerning the Endangered Species Act and the National Historic Preservation Act on the current NOI form (OMB No. 2040–0086) which MSGP applicants must respond to but not BGP applicants.

Several commenters were confused whether a statement in the modification proposal (62 FR 37455) that BGP permittees were eligible for voluntary transferral to the MSGP also applied to ''orphan'' facilities (i.e., BGP permittees who, prior to today's final MSGP permit modification, were not eligible for transfer to the MSGP). In response, EPA is providing clarification that the option to voluntarily transfer to the MSGP from the BGP applied only to non-orphan facilities since orphan facilities were not eligible for transfer to the MSGP at the time of the publication of the proposed modifications (July 11, 1997) and only became eligible through today's final publication of the modifications to the MSGP.

One commenter agreed with EPA's position to not modify the MSGP to require the use of the new North American Industry Classification System (NAICS) in lieu of the 1987 Standard Industrial Classification (SIC) Manual which has been used by the MSGP since its original publication in 1995. EPA agrees with the commenter's assertion that switching to the new NAICS would create unnecessary confusion in the MSGP's regulated community. Further, EPA believes that a revision to the definition of ''storm water associated with industrial activity'' should be completed before any such permit modification is undertaken since the definition, which is the first step in determining whether a facility needs to apply for permit coverage, is currently based on the SIC manual and not on the NAICS.

Several commenters suggested that EPA introduce (propose) the new expanded NOI form developed by EPA in conjunction with the Urban Wet Weather Flows Federal Advisory Committee for use by industrial storm water dischargers. The commenters stated that the expanded NOI form would require facilities to not only identify the receiving water body as the current NOI form does, but also quantify storm water flows thereby improving applicants' awareness of the actual effect their storm water discharges have on water bodies. The expanded NOI form would also require permittees to identify their storm water management practices, something that is not required by the current NOI form. The commenters stated that this would improve the applicants' awareness of storm water pollution prevention as well as the myriad of practices which can be used to decrease the discharge of pollutants. Furthermore, the expanded NOI form would provide information which EPA and State agencies could use to base resource allocations on by focusing on potential problem facilities. Finally, the expanded form would vastly increase citizen access to meaningful information, thereby improving credibility of the program. The commenters argued that EPA should employ these valuable tools in the permit modification rather than delaying the benefits that the expanded NOI form would provide. In response, EPA concurs with the commenters suggestions and will be proposing the expanded NOI form for public comment in the near future. However, the expanded NOI form has not yet been approved by the Office of Management and Budget and is not ready for use in today's MSGP modification.

Several commenters stated that the certification language contained on the NOI should include a provision that the person signing the form should not only certify ''To the best of my knowledge * * *'', but should also make a reasonable investigation of the facts used to complete the form. They also stated that ignorance should not be a shield (from potential liability). In response, EPA believes that the commenters are referring to Box 2 of the current NOI form which, as stated in the box, is for MSGP applicants only. However, the provisions contained in Box 1 apply to all people who sign and date the NOI. EPA believes that the certification statement contained in Box 1 sufficiently addresses the commenters' concerns: ''I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.'' This language comes from NPDES regulations at 40 CFR 122.22. Consequently, no change to the current NOI form will be proposed. Also, EPA intends to use the same language when proposing the expanded NOI form in the near future.

Deadlines for Submitting Notices of Intent (NOIs) and for SWPPP Compliance

The proposal of July 11, 1997, provided 30 days after the effective date of the MSGP modification for NOI submittal for facilities transferring to the MSGP from the baseline industrial permit. A 90 day period after the effective date of the modification was proposed for upgrading SWPPPs as necessary to comply with the provisions of the MSGP, and facilities requiring BMP construction would be allowed up to September 29, 1998. Several commenters argued that all three of these time periods were too short, and

various extensions and justifications for the extensions were submitted. Conversely, one commenter stated that the September 29, 1998, deadline for transitioning facilities to complete BMP construction was unnecessary since any BMP construction required under the Baseline Industrial General Permit, the predecessor to the MSGP, supposedly would have already been completed. The commenter requested that this time frame be shortened to 90 days from the effective date of the permit.

Commenters had argued that 30 days for NOI submittal may be inadequate due to the possible need to coordinate with other agencies on matters such as the Endangered Species Act certification. A commenter also noted that SWPPPs are sometimes prepared by consultants and that adequate time is needed to hire a consultant and modify the SWPPP. Other commenters also argued that more than 90 days would be required due to the complexity of the requirements of the MSGP. In addition, for BMPs involving construction, the proposed deadline of September 29, 1998, would be inadequate due to factors such as the time necessary for the planning and budgeting for the projects, as well as the construction itself.

In response to these concerns, EPA has extended the deadlines are follows: NOIs would be due 90 days after the effective date of the MSGP modification; SWPPP revisions not involving construction would be due 180 days after the effective date of the MSGP modification; and SWPPP revisions which involve construction would be required no later than October 1, 2000, which is the expiration date of the MSGP. EPA believes that the revised deadlines are appropriate and generally in line with the recommendations of the commenters.

A commenter also noted that the proposed modification would require that permittees ''begin implementation'' of their revised SWPPPs by the required deadline. The commenter requested that EPA clarify that all requirements of the modified SWPPPs must be in place and in operation by the deadlines. In response, EPA believes that the words ''begin implementation'' clearly indicate that the actual implementation of any new BMPs in SWPPPs must commence (or be completed and in operation in the case of BMPs involving construction) by the appropriate deadlines. As such, no changes were made in response to this comment.

Other commenters expressed concern that the proposal of July 11, 1997, had not clarified that for facilities transferring to the MSGP prior to its modification, SWPPPs must be in compliance with the requirements of the MSGP at the time of NOI submittal. EPA agrees that such a clarification would have been helpful. However, this is a moot issue at this time since the MSGP has now been modified and hence no additional discussion of this matter is required.

Is a New NOI Required if Operations Change at a Facility?

A commenter raised the question, in connection with eligibility requirements of Sector AD of Part XI, if both a Notice of Termination (NOT) and a new Notice of Intent (NOI) would need to be submitted if conditions change at a facility covered by this sector such that the facility falls into another sector.

In response, in order to reduce the paperwork burden on permittees EPA does not require that updated NOIs be submitted for such changes. Updated information concerning the type of facility can be provided when the MSGP is reissued and the next NOI is submitted. The MSGP does, however, require that permittees update their SWPPPs in response to changes which occur at a facility. In addition, if changes occur at a facility such that the facility would fall into a different sector or an additional sector, the monitoring requirements of the other sector(s) would apply.

Must Permittees Submit Notices of Intent (NOIs) to Operators of Municipal Separate Storm Sewer Systems (MS4s)?

A commenter noted that the July 11, 1997, notice did not address the question of whether facilities must submit NOIs to the operator of a large or medium MS4 in addition to EPA. The commenter requested clarification of this issue.

Part II.D of the MSGP requires that facilities requesting coverage under the MSGP also submit a copy of the NOI to the operator of a large or medium MS4 if they discharge into the MS4. Part II.D of the MSGP is not affected by this permit modification. Therefore, copies of NOIs must be provided to large or medium MS4 operators.

Re-Publication of MSGP and Notice of Termination (NOT) Form

A commenter suggested that it may be necessary to re-published the entire MSGP so that facilities can more easily evaluate which sectors would apply to their facilities. Another commenter requested that the NOT form be published with the final permit modification in addition to the NOI form.

For the convenience of permittees, today's final modification includes the NOT form along with the NOI form. However, EPA has not re-published the entire MSGP due to its size and the fact that very little of the MSGP has actually been modified. The original MSGP can be found at 60 FR 50804. Copies can be obtained by calling the Region 2 and Region 6 storm water permitting hotline at 1–800–245–6510, or the EPA Office of Water Resources Center at 202–260–7786.

Extending the Public Comment Period

Several commenters requested that the comment period be extended given the potential effects on regulated facilities of the proposed transfer of facilities to the MSGP from the BGP. Another commenter contended that EPA had previously provided oral assurances that 60 day public comment periods would be provided for this type of action.

The July 11, 1997, notice consisted solely of the proposal to terminate the BGP and transfer facilities covered by that permit to the MSGP, along with a few minor modifications and clarifications of the MSGP. Given the limited complexity of the actual proposal, EPA believes that adequate time was provided for public comment. Further, it was necessary to limit the public comment period in consideration of the expiration of the BGP in September 1997. EPA regrets any inconvenience for permittees resulting from the fact that EPA was unable to provide a longer comment period such as 60 days.

Another commenter requested a workshop on the MSGP in Alaska. As part of the finalization of today's permitting actions, EPA is working to communicate the requirements of the MSGP to all affected industrial sectors. EPA believes that these efforts will address the concerns of the commenter regarding the MSGP.

Another commenter noted certain typographical errors in the proposal of July 11, 1997, and felt that the proposal had been rushed and not carefully thought out. In response, EPA has considered and responded to the comments received on the proposal and believes that the final permitting actions are appropriate. The typographical errors have also been corrected.

Requests for Public Hearings

Three commenters requested that additional public hearings be held on the proposals. A commenter argued that it was unfair that hearings were scheduled only in EPA Regions 6 and 9.

NPDES regulations at 40 CFR 124.12 require that a public hearing be held when a significant public interest exists in a proposed permitting action. Public hearings were held in Regions 6 and 9 in anticipation of such interest. However, since only three requests for additional hearings were received, EPA has decided not to hold additional hearings in other areas.

Reopening the Entire MSGP for Comment

Several commenters argued that the entire MSGP should be reopened for comment at this time. The commenters argued that facilities which were operating under the baseline industrial permit during the issuance process for the MSGP had no indication that they might be subject to the MSGP in the future and therefore did not comment on the MSGP.

EPA appreciates the concerns of the commenters in this regard, but for the reasons discussed below EPA nevertheless believes that the proposed permitting action is appropriate. First, a considerable amount of time was provided for comment on the original MSGP. The MSGP was proposed on November 19, 1993 (58 FR 61146), with a 90 day comment period. The MSGP was widely reviewed and commented upon by many commenters, including many representing the same types of industries which are now arguing for a reopening of the entire MSGP. Second, EPA does not believe that the commenters in their current review of the MSGP have identified any major new issues which were not raised during the original comment period. EPA believes that the vast majority of facilities covered by the baseline industrial permit will be able to transition to the MSGP without undue hardships. If the MSGP is inappropriate for a given facility, an individual permit may be requested.

EPA also does not agree with commenters who stated they had no indication the MSGP, or a permit such as the MSGP, would ever apply to them. EPA's long term permitting strategy for industrial storm water dischargers was promulgated on April 2, 1992 (57 FR 11394) well before the proposal of the MSGP. This long term strategy clearly indicated that EPA intended to issue industry-specific storm water permits, such as the MSGP, in the future. As such, EPA does not agree that facilities covered by the baseline industrial permit at the time of the proposed MSGP should not have taken an interest in the proposal.

EPA also points out that reopening the entire MSGP at this time could be a lengthy process which would not advance the objective of the Clean Water Act of expeditiously controlling pollutants in storm water discharges. In view of these factors, EPA has terminated the baseline industrial permit (with the limited exceptions discussed in the fact sheet) and as proposed is requiring facilities previously covered by the baseline industrial permit to transition to the MSGP.

Retaining the 1992 Baseline Industrial General Permit

Many commenters recommended that EPA reissue the 1992 baseline industrial permit and provided various reasons for this recommendation. For example, commenters believed that the baseline industrial permit has proven to be adequate for protection of the environment and that the MSGP is not needed. Other commenters objected to the complexities of the MSGP and the transition from the baseline industrial permit. Others were concerned about a perceived inflexibility of the MSGP (which is also discussed elsewhere in this Summary of Responses to Comments). Another commenter argued that the baseline industrial permit already requires compliance with the Best Available Control Technology Economically Achievable/Best Conventional Pollutant Control Technology (BAT/BCT) requirements of the Clean Water Act and nothing more should be required. Still others asked whether EPA has any actual data which shows that the MSGP provides improved water quality benefits compared to the baseline industrial permit. Many commenters recommended that the 1992 baseline industrial permit should at least be reissued until the year 2000 when the MSGP expires.

EPA appreciates the concerns which have been raised but nevertheless believes that the July 11, 1997, proposal is a workable and reasonable permitting action given the present circumstances. For example, over 10,000 facilities are currently covered by the MSGP and EPA has no evidence that the permit is excessively complex or inflexible. The MSGP requires at least a consideration by permittees of various sector-specific Best Management Practices (BMPs) which have been identified for various types of industries. Such BMPs may or may not have been considered and incorporated into SWPPPs by permittees operating under the baseline industrial permit. Common sense indicates the MSGP should provide environmental benefits equal to or better than the baseline industrial permit. EPA also points out SWPPPs are technology-based requirements which are required by the BAT/BCT requirements of the Clean Water Act regardless of water quality considerations. However, EPA also does not believe that the requirements of the MSGP are such that only negligible additional reductions in pollutant discharges would result. In addition, while the baseline industrial permit represented a good first step in establishing BAT/BCT effluent limitations for industrial storm water discharges in 1992, EPA believes that the MSGP is an appropriate next step to further define BAT/BCT for specific industries in 1995. As noted elsewhere, EPA's intent to require industry-specific permits was announced on April 2, 1992 (57 FR 11394), in the long term permitting strategy for industries.

EPA also points out that the first storm water monitoring results from facilities currently operating under MSGP were not due until March 31, 1998. As such, EPA has little actual monitoring data from these facilities to compare with data from baseline industrial permit facilities. Nevertheless, as noted above, EPA believes that the improved SWPPPs developed pursuant to the MSGP should lead to water quality benefits.

Several other commenters supported the proposal to terminate the baseline industrial permit and transition facilities covered by it to the MSGP. An industrial representative agreed with EPA that the MSGP should be more effective in regulating industrial storm water discharges than the baseline industrial permit which only included generic BMP requirements. Another commenter noted that historic properties would receive increased protection via the NOI requirements of the MSGP, and supported the proposal on that basis. Today's final permitting actions differ only slightly from the proposals of July 11, 1997, and EPA believes that the final actions are consistent with the comments received from these commenters.

Expiration Date of the Baseline Industrial General Permit

Comments were received concerned the conflicting expiration dates listed in the baseline industrial permit. Part VII.B of the baseline industrial permit lists October 1, 1997, as the expiration date while the signature pages list September 9, 1997 (57 FR 41300). In accordance with NPDES regulations found at 40 CFR 122.46, an NPDES permit can be issued for no more that five years. (Note that permittees may obtain administrative extension of permit coverage beyond the expiration date

provided they have reapplied within the appropriate time frame.) Therefore, the correct expiration date is September 9, 1997, rather than October 1, 1997. In view of this inconsistency, EPA would use enforcement discretion and does not intend to initiate enforcement action for non-compliance with the CWA in instances where the discharger submits an NOI postmarked no later than 48 hours before October 1, 1997, to either obtain extended coverage under the baseline industrial permit or transition to the MSGP. The Agency conducted a mass-mailing in August 1997 to provide information concerning the expiration of the baseline industrial permit as well as the options available to permittees.

Another commenter requested that once the modifications are finalized, the Agency notify all permittees and inform them of precisely what the permit requirements are as well as the deadlines for all submittals and permit conditions. In response, the Agency is making the permit modifications widely known through publication in today's **Federal Register**. Due to the tremendous numbers of facilities affected by the modifications to the MSGP (i.e., all transitioning industrial baseline permittees), resources do not allow the Agency to provide individual attention to each permittee. The MSGP was drafted to be as self-implementing as possible in each industrial sector as well as the other parts which have general applicability to many or all permittees. To assist permittees with answering questions, EPA has several sources available by phone and over the Internet (please see Part III.H of the Fact Sheet for a list of EPA storm water contacts). Other sources include State and local government, trade associations and consultants.

Requesting an Individual Permit

EPA has proposed that facilities would be required to submit an individual permit application if they are ineligible for coverage under the MSGP due to Endangered Species Act or National Historic Preservation Act restrictions, or other conditions. Several commenters noted that the BGP would be terminated 30 days from the effective date of the MSGP modification. The commenters expressed concern that the individual permit would probably take longer than 30 days to issue and could leave the discharger without a permit.

Part II.A.9 of the proposed modified MSGP provided that the baseline permit would remain in effect until the individual permit was issued for the scenario described by the commenters. As such, EPA believes that the proposal addressed the commenters' concern and no changes were made in the final modified MSGP in response to this comment. It should also be noted that the individual permit application is due 90 days after the effective date of the final modified MSGP, rather than 30 days as had been proposed.

Issues Related to Requirements for Co-Located Facilities

Several commenters raised questions and concerns regarding the provisions in the MSGP regarding co-located facilities. The MSGP requires that when one facility includes operations which fall into more than one sector, the SWPPP and monitoring requirements of both sectors apply to the facility. It should also be noted, however, that if monitoring for the same parameter is required by two sectors, only one sample analysis is required for that parameter.

Concerns were expressed that some facilities may fall into many sectors and that it may be difficult to determine which sectors would apply. In response to this concern, EPA believes that the sectors are reasonably clear with regards to their applicability and permittees can successfully use their best judgment concerning which sectors apply. We also point out that over 10,000 facilities are currently covered by the MSGP and we have no evidence that this has been a significant problem.

Several questions were also raised specifically for airport operations and how the MSGP is intended to be implemented for airports. For example, clarification was requested regarding permitting requirements for tenant operations such as car rental agencies which may conduct on-site vehicle maintenance or fueling, but do not have a primary SIC code which is listed in the MSGP.

The implementation of the requirements of the MSGP for airports and their tenants was discussed in the final fact sheet and response to comments when the MSGP was originally issued in 1995. Further clarification is also provided below.

EPA would first like to clarify that storm water discharges from all facilities at an airport which engage in activities such as vehicle maintenance, painting, washing, fueling or de-icing need to be addressed. Tenants having an SIC code of 45xx (or otherwise listed at 40 CFR 122.26(b)(14)) must obtain NPDES permit coverage which could be accomplished by submittal of an NOI requesting MSGP coverage or by obtaining coverage under an individual permit. Tenants such as car rental agencies (SIC code 7514) with an SIC code (or narrative description) other than those listed at 40 CFR 122.26(b)(14) may obtain NPDES permit coverage. However, these tenants may also be addressed through agreements between the airport authority and the tenant with regards to appropriate storm water pollution control.

As discussed in the fact sheet and response to comments accompanying the 1995 MSGP, EPA encourages airport authorities and work cooperatively with tenants in implementing the requirements of the MSGP. For example, one SWPPP could be developed for the entire airport which addresses the pollution control activities to be implemented by the airport authority and all its tenants. Each individual tenant would only be responsible for implementing the portion of the SWPPP which applied to his or her specific facility.

In addition, the MSGP requires monitoring for an airport as a whole, and this could be accomplished most easily by permittees working together. Facilities which are not co-permittees under the MSGP, or which receive individual permits would have to comply with the monitoring and SWPPP requirements of the MSGP (or their individual storm water NPDES permit) on their own.

Another commenter noted that a facility such as a car hauler may be situated next to a car manufacturer. Concern was expressed that the car hauler might be required to comply with the SWPPP and monitoring requirements of the car manufacturer. In response, EPA points out that the requirements for the car manufacturer would not apply to the car hauler in such a situation since the car hauler would be a different operator. In addition, in response to another comment, in situations where one industrial plant includes separate operations which fall into more than one sector, the SWPPP and monitoring requirements for the individual co-located facilities do not necessarily have to be implemented throughout the entire facility. For example, in the case of a landfill at a wood treatment facility, the SWPPP requirements for the landfill would most likely be appropriate only for the landfill portion of the facility.

Exemption for Existing Facilities

A commenter recommended that only new facilities should be subject to storm water permitting requirements since they can incorporate appropriate controls into the design of the new facility. The commenter recommended that existing facilities should be exempt.

In response, EPA points out that Section 402(p) of the Clean Water Act,

as amended by the Water Quality Act of 1987, requires NPDES permits for new and existing storm water discharges associated with industrial activity. As such, EPA cannot waive storm water permit requirements for existing industrial facilities as recommended by the commenter.

Flexibility of the MSGP

Several commenters raised a number of concerns and questions related to the flexibility provided by the MSGP for different types of facilities. A commenter recommended that the MSGP only require cost-effective requirements and that the effects on small businesses be considered. In response, EPA believes that the requirements of the MSGP are reasonable and cost-effective. The MSGP was issued in 1995 after a thorough consideration of the information in the group applications concerning available storm water pollution controls at different types of industries, the costs of the controls, and the comments which were received on the proposed MSGP. EPA concluded that the effects on small businesses would not be significant, both for the original MSGP issuance and for today's modification (see 60 FR 51067 and Section VIII of the fact sheet accompanying today's modification). The commenter also recommended that the MSGP only require structural controls as a last resort and that non-structural controls should be the preferred means of pollutant control. With regard to this issue, EPA believes that the MSGP does provide flexibility to permittees in selecting an appropriate mix of structural and non-structural controls for their SWPPPs. Although numerous industry-specific BMPs are included in the MSGP, the language of the permit usually only requires that they be considered and included when appropriate as opposed to being absolute requirements. Furthermore, if non-structural controls by themselves adequately control pollutants in the discharges, then a SWPPP could consist solely of such controls.

Commenters also raised several specific concerns regarding the MSGP. One commenter expressed concern that the spill prevention and response requirements of SWPPPs could duplicate other existing requirements for spill prevention and response. In response, EPA points out that SWPPPs may include by reference spill prevention and response programs which have already been developed by a facility in accordance with another program. Another commenter recommended that only reportable spills and leaks be listed when developing a description of potential pollutant sources for a SWPPP. In response to this concern, EPA notes that spills and leaks involving less than reportable quantities may nevertheless degrade storm water quality. The MSGP requires a listing of ''significant'' spills and leaks which EPA believes is reasonable for ensuring appropriate consideration of this matter when developing SWPPPs.

Commenters also recommended that additional non-storm water discharges should be authorized for discharge by the MSGP. Specifically, it was recommended that the permit authorize minor vehicle wash water, de minimis amounts of materials such as dirt, and discharges associated with emergency situations. In response, EPA believes that the list of authorized non-storm water discharges should be limited to minor discharges which are expected to pose little risk to the environment. Discharges such as vehicle wash water or discharges associated with emergency situations may not fall into this category. EPA also notes that materials such as ''dirt'' are not prohibited from storm water discharges, provided that the amount of the material in the discharges has been minimized through proper implementation of pollution prevention practices, and that water quality standards are not exceeded.

A commenter also recommended that the permit allow modification of facilities without formal permit modification. In response to this issue, Part IV.C of the MSGP requires that SWPPPs be modified whenever there is a change at a facility which has a significant effect on the potential for discharges of pollutants to waters of the United States. This provision is intended to provide flexibility for operators to accommodate changes at a facility without formal permit modification.

Another commenter noted that the MSGP expires in the year 2000 and recommended that EPA consider a longer permit term such as 7 years which EPA has allowed in certain special programs such as Project XL. In response, the flexibilities provided under Project XL (excellence in leadership, which is part of the government's reinvention effort) are intended to be used in situations where variation from strict regulatory requirements (such as maximum permit terms) would be advantageous to permittees and the environment. It is now applied only to pilot projects after intensive review of the specific circumstances faced by individual facilities. Its broad application to all facilities regulated by the MSGP would, at best, be premature. Furthermore, the maximum five-year term for NPDES permits is established within the CWA itself in section 402(b)(1)(B) and cannot be modified via Project XL. Also, information was not provided in this case that a longer permit term is needed by permittees or that the environment would benefit. Therefore, the expiration date of the MSGP was not changed.

Comments Concerning Monitoring Requirements of the MSGP

Numerous comments and questions were received regarding the monitoring requirements of the MSGP. The Agency's responses to these comments are grouped below by subject matter.

Use of Monitoring Data Collected Under the Baseline Industrial General Permit To Satisfy MSGP Fourth Year Monitoring Requirements

For transitioning Baseline Industrial General Permittees, EPA proposed (62 FR 37464) that facilities may use their most recent monitoring results for averaging purposes to see if monitoring would be required on an outfall-by-outfall, pollutant-by-pollutant basis during the fourth year of the MSGP. EPA clarified in Section III.D.4 of the preamble to the proposed modification (62 FR 37459) that the usable monitoring data was limited to the two most recent sampling events conducted for the Baseline Industrial General Permit. One commenter stated that using only two data points was inconsistent with the intent of the MSGP as originally published in 1995, which required a minimum of four data points to determine the effectiveness of a facility's SWPPP. In response, EPA believes that for transitioning Baseline Industrial General Permittees that have been monitoring their industrial storm water discharges, the two most recent semi-annual or annual data points should provide sufficient information to reflect the effectiveness of a facility's storm water pollution prevention plan at reducing the release of pollutants. The final permit modification has been revised to clarify that monitoring results from the last two semi-annual or annual sampling events may be used by transitioning Baseline Industrial General Permittees to satisfy this requirement.

Issues Relating to the Benchmark Criteria for Analytical Monitoring Waivers

Several comments were received concerning the benchmark concentrations in Table 3 of the proposed permit modification (62 FR 37459; reprinted from Table 5 of the original MSGP [60 FR 50826]). The

MSGP currently provides a waiver on a parameter-by-parameter, outfall-by-outfall basis from the analytical monitoring requirements in the fourth year of the term of the permit if the average annual concentration of a specific pollutant at a specific outfall during the second year sampling period is less than the benchmark concentration. If it is, then the permittee is not required to monitor for that pollutant at that outfall during the fourth year monitoring period. The final modified MSGP also provides this waiver on an outfall-by-outfall, pollutant-by-pollutant basis for facilities transferring to the MSGP if the average of the two most recent sampling results for a specific pollutant at a specific outfall from the baseline industrial permit is less than the MSGP's benchmarks values, provided sampling was required by the BGP for the appropriate parameters.

Commenters expressed concern that the benchmark concentrations were in effect numeric effluent limitations for storm water discharges. However, as pointed out by EPA when the MSGP was originally issued in 1995, the benchmarks are not storm water effluent limitations. The benchmarks provide a means for identifying low risk discharges for which additional monitoring should not be required in the fourth year of the term of the permit. The benchmarks also provide an incentive for facilities to implement an effective SWPPP by eliminating the fourth year monitoring requirement if they comply with the benchmarks. However, a facility would not necessarily be in noncompliance with the permit if the facility does not comply with the benchmarks. Compliance with the permit would be based largely on whether a facility develops and implements a SWPPP in accordance with the permit requirements.

Commenters also objected that some of the benchmark concentrations were too stringent. In response, EPA points out that the benchmarks in the 1995 MSGP were revised from the proposed concentrations in response to similar comments on the proposed MSGP. EPA believes that the benchmarks are suitable for the primary purpose noted above (i.e., identifying low risk discharges).

Another commenter objected that the benchmarks do not take into consideration the dilution in the receiving water. This issue was also raised during the issuance of the original MSGP. In addition to being indicators of low risk discharges, the benchmarks are also intended to be indicators of whether an effective SWPPP is being implemented at a facility. The end-of-pipe concentrations are more appropriate when judging the effectiveness of a SWPPP than a concentration which is adjusted based on the available dilution in the receiving water. As such, the MSGP's benchmark concentrations do not consider dilution as suggested by the commenter.

Another commenter expressed concern that some of the benchmarks were based on the highest method detection limit multiplied by a factor of 3.18. The commenter noted that based on recent discussions with EPA, another multiple may be recommended in future guidance. In response, EPA points out that the multiple used for the benchmarks was based on the guidance available when the MSGP was issued in 1995. EPA has not yet finalized the additional guidance referred to by the commenter. The benchmarks are based on the latest available guidance and EPA therefore believes they are appropriate.

Another commenter argued that the benchmark concentrations should take into consideration the effect of naturally occurring pollutants at different locations. In response, the final storm water regulations of November 16, 1990 (55 FR 48010) clarify that dischargers are responsible for the quality of their discharges regardless of the source of the pollutants. As such, the benchmark concentrations do not consider the effects of naturally occurring pollutants on storm water discharges.

Visual Examinations

Several commenters objected to the requirement in the MSGP for visual examinations. A commenter argued that such sampling would not be useful, nor would permittees make meaningful modifications to their SWPPPs based on the results. The commenter noted that storm water can pick up sediment and debris naturally.

Most sectors of the MSGP require quarterly visual examinations (except Sector S which covers air transportation). EPA disagrees with the commenter concerning the usefulness of the visual examinations. Materials such as sediment and debris are pollutants which can degrade downstream receiving waters. The presence of such materials in storm water, as well as other indicators of pollution such as an oil sheen, foam or scum, are a measure of the degree to which a SWPPP is being successfully implemented and the potential effects of these discharges on receiving waters. Further, the likely origin of such materials at a facility should be readily apparent in many cases so that a permittee may appropriately modify the SWPPP or its implementation.

A commenter suggested that visual examinations only be required at the time a facility inspection takes place, regardless of whether rain and discharges are occurring at that time. Visual examinations would only be conducted if a sample were available. In response, EPA believes that this recommendation would be inadequate to fulfill the intent of the visual examinations since in most instances rainfall would not coincide with the regular facility inspections. As such, the permit was not modified in accordance with this recommendation.

A commenter also noted that discharges from oil and gas facilities may be controlled discharges from bermed areas. The commenter argued that a visual examination of the surface of the water can be made prior to the controlled releases and that a visual examination of samples should not be required in addition to such observations. In response, EPA believes that the visual examinations could provide useful information beyond that provided by observations of the surface of the bermed water. The discharger may observe additional indicators of pollution (such as turbidity, odor or color) which may be less apparent from observations of the surface of the water. Moreover, the visual examinations are quick and inexpensive and should not place a significant burden on permittees. As such, EPA has not modified the MSGP in response to this comment.

Compliance Monitoring by the Timber Industry

A commenter expressed concern regarding the effluent limitations guidelines (ELGs) which were proposed to be added for discharges associated with the spray down of lumber and wood products in storage yards (wet decking) used by the timber industry. The proposal would add to the MSGP the ELGs from 40 CFR Part 429, Subpart I for ''debris'' and pH. These ELGs were inadvertently omitted from the MSGP when it was originally issued in 1995.

The commenter objected that the proposed ELG for ''debris'' in the discharges would be too lax. The term ''debris'' refers to woody material such as bark, twigs, branches, heartwood or sapwood that does not pass through a 2.54 cm (1.0 inch) diameter round opening and is present in the discharge. The commenter recommended that the limit be set at ½ inch instead. The commenter also recommended more

frequent monitoring than once/year as proposed. In addition, the commenter noted that discharges would be allowed provided no chemicals were used in the spray and no chemicals were applied to the wood during storage. The commenter recommended that the permit also prohibit discharges if chemicals had been used prior′ to storage.

In response to these concerns, EPA proposed the modification to include promulgated ELGs for wet deck discharges which were inadvertently omitted from the MSGP. The definition of the term ''debris'' was established when the ELGs for the timber industry were promulgated in 1981. Comments on the ELG for ''debris'' should have been submitted at the time of the development of the guidelines. EPA also believes that the monitoring frequency for debris and pH is appropriate considering the risks posed by the discharges, and is generally consistent with other compliance monitoring frequencies in the MSGP.

Usefulness of Monitoring Results

Several commenters objected that the monitoring requirements of the MSGP may not provide useful information and could simply divert resources away from effective implementation of the SWPPPs. These commenters argued that site inspections would be adequate for effectively controlling pollutants. The commenters also argued that EPA should be focusing more on receiving water monitoring to evaluate the overall health of the receiving waters in a given watershed. According to the commenters, this type of monitoring would be more consistent with recommendations which are being developed by EPA's Urban Wet Weather Flows Advisory Committee.

In response, EPA believes that the monitoring requirements of the MSGP are appropriate despite the points made by the commenters. For most facilities, as recommended by the commenters, the MSGP only requires site inspections as opposed to analytical monitoring. Of the over 10,000 facilities currently covered by the MSGP, only about 2,600 (or approximately 26%) indicated on their NOIs that they would fall into a category for which monitoring is required. The monitoring requirements are also targeted toward the highest risk facilities as determined by the storm water monitoring data submitted with the group applications. EPA does not necessarily agree that site inspections (or even visual examinations) are adequate as a complete substitute for analytical monitoring. Visual site inspections may simply overlook significant sources of pollutants which contribute to storm water pollution, and visual examinations of discharges will not detect certain pollutants such as dissolved metals. Analytical monitoring is still useful in identifying and evaluating important specific sources of pollutants.

EPA agrees with many of the points made the commenters regarding the benefits of watershed and receiving water monitoring. In 1996, EPA and the Center for Watershed Protection published a report entitled Environmental Indicators to Assess Stormwater Control Programs and Practices'' which lays out numerous alternatives to chemical monitoring to assess the environmental effects of storm water discharges and measure the progress of storm water management programs. However, at the present time, we also believe that the monitoring requirements of the MSGP are appropriate to gather additional information on the quality of storm water discharges from specific sources and assess the effectiveness of the SWPPPs which are currently being implemented. A shift toward more resource monitoring and less chemical monitoring may be appropriate over time as additional data are gathered. Facilities wishing to pursue watershed monitoring, or receiving water monitoring as an alternative to the monitoring requirements of the MSGP at this time should pursue individual permits or an alternate general permit.

Using Representative Outfalls

The MSGP provides that when a facility has two or more outfalls which are ''substantially identical,'' only one of the outfalls needs to be monitored. However, a commenter objected that the criteria for determining whether two outfalls are ''substantially identical'' are too stringent and inflexible.

EPA disagrees that the MSGP is too inflexible in this regard. The permit simply requires an explanation in the SWPPP of why the discharges from the outfalls would be similar based on a review of the industrial activities and pollutant controls in the drainage areas of the outfalls. These requirements do not impose an excessive burden on permittees.

Arid Climate Issues

A commenter noted that in arid areas of the country, a quarter may pass with no measurable storm water discharges. The commenter asked how an annual average would be determined for purposes of comparison with permit benchmark values; i.e., should a zero be included in determining the annual average or should the average be based solely on actual data measurements collected during the year.

The MSGP requires that the average concentration be determined on the basis of all monitoring data collected during the monitoring year. Therefore, a zero would not be included in determining the annual average if a discharge did not occur within a particular quarter; only actual monitoring results would be used.

New Mexico Issues

A commenter asked whether the low concentration waiver for Sector O (steam electric power plants) would apply to the additional monitoring requirements set forth in Part XII of the MSGP (State certification requirements) for New Mexico. In response, EPA is clarifying that the low concentration waiver applies not only to pollutants listed in Part XI, such as the one for total recoverable iron found in Table O–1, but also to the additional pollutants listed in Part XII for dischargers located in New Mexico.

The commenter also asked about the basis for the list of additional pollutants to be monitored for Sector O facilities in New Mexico. In response, EPA points out that monitoring for these pollutants was determined by the State to be necessary to ensure compliance with State water quality standards based on a review of the monitoring data submitted by facilities in the sector.

The commenter also objected to the benchmark concentration of 100 mg/l for total suspended solids arguing that it is not appropriate for the arid southwest which has less vegetation than other areas. The commenter noted that the value of 100 mg/l was derived from the Nationwide Urban Runoff Program (NURP) study which looked at urban runoff at 28 locations around the country, but generally excluding the arid southwest. However, EPA believes that it would be difficult to try to develop different benchmarks for different areas of the country as the commenter suggested. In addition, many facilities in the arid southwest are already covered by the MSGP and we have no evidence that the benchmark for total suspended solids is unworkable. Therefore, no changes were made in response to this comment.

Miscellaneous Monitoring Issues

A number of miscellaneous comments and questions were received concerning the monitoring requirements of the MSGP. One commenter objected to the requirement to test the runoff from storms of at least 0.1 inches of rain that occur at least 72 hours from the

previous such event. The commenter noted that such restrictions can be problematic in arid areas as well as areas where rainfall is common. In response, EPA believes that the MSGP's provisions for monitoring waivers adequately address these concerns. For arid areas, the MSGP includes a waiver from monitoring requirements when dry conditions persist for extended periods of time. A waiver is also available for wetter areas of the country where a time period less than 72 hours between storms is representative of local conditions.

Another commenter recommended that monitoring results not be used for enforcement purposes. In response, the purpose of the monitoring is primarily to assist the facility in evaluating whether the SWPPP is being successfully implemented and identifying any shortcomings. In addition, the overall risks posed by a given facility can be evaluated. However, aside from the small number of facilities subject to effluent limitations guidelines, the MSGP includes few numeric effluent limitations for which permittees are subject to enforcement action where there are excursions above these limits. For most facilities, compliance with the MSGP would be based largely on whether or not the facility had developed and was implementing an adequate SWPPP.

One commenter also expressed concern regarding the effects of the monitoring requirements on small businesses. The effects on small businesses of the original MSGP and today's modification were both considered by EPA (see 60 FR 51067 and Section VIII of the fact sheet accompanying today's permit modification). EPA concluded that the permit requirements would not have a significant impact on a substantial number of small entities.

Another commenter objected to the test method for total phenols, EPA method 420.1. The commenter noted that total phenols is included in Table 5 of the fact sheet which sets forth the benchmark concentrations for the fourth year monitoring waiver. The commenter argued that the test method fails to detect some priority pollutant phenols and should not be used in the permit. In response, NPDES regulations at 40 CFR 136 require that test methods approved under 40 CFR 136 be used for the monitoring which is required by NPDES permits, unless alternate methods have been approved. The only currently approved method for total phenols is EPA method 420.1 and therefore the permit retains the requirement for the use of this method.

Another commenter noted that ''subsectors'' of a larger facility may occupy only a small fraction of an overall facility and may contribute little in the way of storm water pollutants. The commenter argued that monitoring should not be required for such subsectors unless there is concern that there may be pollutants from the activities of the subsector. In response, a subsector of a larger facility may be required to monitor because the subsector falls into a sector of the MSGP which requires monitoring. However, this is simply a consequence of the fact that the industrial activity in question was identified as a high risk activity by the group application monitoring data. As such, EPA believes that the monitoring requirement is appropriate. However, the MSGP does not require that the entire facility monitor storm water because of the presence of a small subsector for which monitoring is required. In addition, the MSGP provides that monitoring would not be required if permittees can certify on a pollutant-by-pollutant, outfall-by-outfall basis that their industrial activities are not exposed to storm water.

One commenter requested that the MSGP not require that monitoring data be submitted to the corresponding State environmental management agency as well as to EPA. Some States had required submittal of monitoring data as a requirement of their Clean Water Act Section 401 certification for the MSGP as originally published in 1995. In response, EPA points out that States may require the addition of any special conditions in the MSGP which they believe are necessary to ensure compliance with applicable State requirements. EPA believes this is not an unreasonable condition and no changes were made to the MSGP in response to the comment.

Another commenter recommended that the construction industry not be subject to analytical monitoring requirements. In response, EPA notes that the MSGP only regulates onsite construction discharges at permitted industrial facilities consisting of less than five acres of disturbance. Analytical monitoring is not required at such construction projects as recommended by the commenter. Construction projects disturbing five or more acres are regulated by separate individual or general permits in non-NPDES delegated states which, as recommended by the commenter, usually do not require analytical monitoring of storm water discharges.

Another commenter expressed concern regarding Part J.4.a of Sector J of the MSGP which prohibits dilution of mine dewatering discharges with ''other storm water runoff or flows'' to meet the effluent limitation guideline. The commenter was concerned that the wording implied that dilution would be acceptable if water sources other than those specifically mentioned were used as the dilution water. In response, EPA believes that the condition is sufficiently clear that mine dewatering discharges are not to be diluted with any other water sources to comply with the effluent limitation. As such, no changes were made to the permit in response to the comment.

A commenter disagreed with what the commenter perceived to be a proposal to authorize storm water discharges from open dumps which receive wastes from ''vehicle maintenance, truck washing and/or recycling'' facilities. In addition, if such facilities were authorized to discharge, the commenter recommended monitoring for oil and grease at a minimum. In response, EPA notes that the July 11, 1997, proposed permit modification included the proposal to authorize industrial storm water from open dumps which was one of the categories of facilities covered by the Baseline Industrial General Permit but originally excluded from the MSGP. Open dumps were not included in Sector L of the original MSGP which covered only landfills and land application sites. The reference to ''vehicle maintenance, truck washing, and/or recycling'' in Sector L pertains to the overall requirements of the MSGP for co-located facilities. For example, if a particular landfill includes a vehicle maintenance facility at the same location, the requirements of Sector P, including its monitoring requirements, would apply to that portion of the overall facility. Although Sector P does not require monitoring for oil and grease, EPA believes that the requirements are appropriate based on the data received in the group applications.

Another commenter requested a clarification of the monitoring schedule which would apply to new facilities seeking coverage under the MSGP, other than facilities transferring from the BGP. In response, new facilities other than baseline industrial permit facilities which seek coverage under the MSGP at this time would only be subject to the monitoring requirements during the fourth year of the MSGP (i.e., October 1, 1998—September 30, 1999). It should also be noted, however, that the MSGP also includes annual or quarterly compliance monitoring for a small

number of facilities with discharges subject to numeric effluent limitations. The compliance monitoring requirements would apply immediately upon submittal of the NOI.

Concern was also expressed regarding the availability of laboratories to perform the analytical tests required by the MSGP. In response, EPA points out that except for facilities subject to effluent limitations guidelines, the MSGP does not require additional analytical testing until the last quarter of the 1998 calendar year. This should provide adequate lead time for permittees to ensure the availability of a testing laboratory for their samples. Moreover, many transitioning baseline industrial permit facilities will no longer be subject to analytical monitoring once they transfer to the MSGP.

No Exposure Incentive

Several commenters expressed concern regarding EPA's proposal for a ''no exposure incentive'' and the potential effects of this proposal on the MSGP. This proposal is being developed in connection with the development of regulations under CWA section 402(p)(6) (aka ''Phase II'').

The Phase II storm water regulations were proposed by EPA on January 9, 1998 (63 FR 1536) with a 90 day comment period. The regulations are scheduled to be finalized by March 1, 1999. In the meantime, the requirements of existing storm water regulations will continue to apply. Comments on the ''no exposure incentive'' proposal should have been submitted during the comment period for the Phase II regulations.

Consistency With EPA's Long Term NPDES Permitting Strategy

A commenter noted that EPA's long term NPDES permitting strategy for industries calls for industry-specific permitting as the third tier, with watershed permitting as the second tier. The commenter argued that in accordance with this strategy, EPA should be engaging in watershed permitting prior to industry-specific permitting.

In response, EPA would encourage that special watershed permits be issued where they are needed. However, EPA also points out that storm water permitting for industrial sources does not necessarily have to follow the tiered schedule exactly as set forth in the long term permitting strategy. Further, the MSGP was the end result of the group permit application process for industrial storm water dischargers provided by the regulations at 40 CFR 122.26(c)(2). EPA had a responsibility to develop timely industry-specific storm water permits in response to the group applications which were submitted.

Orphan Facility Economic Advantage

Several commenters objected to the proposed inclusion of the ''orphan'' facilities in the MSGP, arguing that such facilities would receive an economic advantage over facilities which participated in the group application process. In response, EPA notes that essentially the same issue arose during the issuance of the MSGP in 1995. Commenters expressed concern that the MSGP would be open to all facilities, not just those that had participated in group applications. As in 1995, however, EPA has not identified any practical means of providing some sort of credit for group members. EPA notes that the ''orphan'' facilities have required permit coverage under the baseline industrial permit since 1992 and have been subject to the costs associated with that permit for a considerably longer period of time than facilities which participated in the group application process and which have required permit coverage since 1995.

A commenter also recommended that storm water data should be collected for the orphan facilities to more appropriately determine permit conditions for them. EPA disagrees that more storm water data are necessarily required to determine appropriate permit requirements for the facilities. These facilities closely resemble other facilities in their proposed sectors and should be appropriately regulated by the requirements of those sectors.

Permit as a Shield

A commenter requested that EPA clarify that coverage under and compliance with the MSGP would shield the permittee for discharges which occur and are not prohibited by the permit. In response, EPA notes that the MSGP authorizes storm water discharges and certain listed non-storm water discharges, subject to the terms and conditions of the permit. These are the only discharges which are authorized by the permit. CWA section 402(k) provides that compliance with an NPDES permit is also considered to be compliance, for purposes of section 309 and 505 enforcement, with sections 301, 302, 306, 307 and 403 of the Clean Water Act (except for any standard imposed under section 307 for a toxic pollutant injurious to human health). Therefore, permittees discharging in compliance with the MSGP are not shielded from non-compliance with the Clean Water Act for discharges that are not identified, and thus authorized and limited by the permit.

Emergency Planning and Community Right to Know Act (EPCRA) Requirements

A commenter noted that EPCRA reporting requirements were modified on May 1, 1997, (62 FR 23834). Addendum F of the MSGP provides a list of water priority chemicals which trigger certain additional SWPPP requirements for facilities covered by the permit. The list of chemicals in Addendum F is based on EPCRA reporting requirements in effect in September, 1995, at the time of the issuance of the MSGP.

The commenter also noted that the proposed modification of the MSGP is limited to a few selected provisions, not including the list of chemicals in Addendum F. The commenter requested confirmation that Addendum F would not be modified at this time. EPA has reviewed this matter and confirms that Addendum F is not being modified at this time. The primary intent of the current MSGP modification is to allow coverage of ''orphan'' facilities (those facilities covered by the baseline permit but not the MSGP) under the MSGP and for simplicity, minimize the number of other modifications.

Addition of Sector AD to the MSGP

Several commenters expressed concerns over the proposed addition of Sector AD to Part XI of the MSGP. One commenter observed that there appears to be no need for this sector since EPA is proposing to modify the MSGP to cover all facilities which were covered by the BGP but excluded from the original MSGP. This commenter also argued that there would be no basis for the permit conditions if the type of facilities to be covered were not known.

In Section III.F.4 of the draft fact sheet, EPA indicated that the modified MSGP should cover all the facilities which were covered by the BGP but excluded from the MSGP. As such, we expect that the commenter will prove to be correct regarding the need for Sector AD. Nevertheless, EPA has retained the sector in the final modified MSGP to cover any inadvertent omissions. In addition, the sector provides for a readily available means for permitting many Phase II storm water sources which may be designated by permitting authorities pursuant to 40 CFR 122.26(g)(1)(i). The permit requirements for the new sector are the same as the requirements in the baseline industrial permit. Based on our experiences with the BGP, these requirements should be

appropriate and sufficiently flexible to accommodate a wide variety of facilities which may be permitted under Sector AD. If the requirements are inappropriate for a given facility, an individual permit could be issued.

Other commenters argued that general permits may only be issued for similar (and identified) discharges and this may not be the case for discharges which may be covered by this sector. However, NPDES regulations at 40 CFR 122.28(a)(2)(i) provide broad discretion when issuing general permits for storm water discharges. EPA disagrees that the facilities and discharges which may be covered would be too dissimilar to be covered by a general permit. The permit conditions provide considerable flexibility and can be applied to a wide variety of facilities. Moreover, as pointed out above, individual permits could also be issued if the requirements of Sector AD are inappropriate for a particular facility.

Commenters also objected to some of the specific permit requirements for Sector AD. In particular, concerns were expressed regarding: 1) Part XI.AD.3.a(2) which only requires a description of sources which may contribute ''significant'' amounts of pollutants to storm water discharges; 2) Part XI.AD.3.a(3) which only requires ''appropriate'' controls for a facility; 3) Part XI.AD.3.a(3)(c) which provides that clean up equipment ''should'' be available for spills as opposed to ''must'' be available; 4) Part XI.AD.3.a(3)(d) which requires periodic inspections but fails to require an inspection interval (e.g., once per month); 5) Part XI.AD.3.a(3)(g)(i) which requires that permittees only certify that outfalls have been evaluated for non-storm water discharges ''if feasible''; and 6) the perceived absence of requirements for storm water controls to capture and remove pollutants, and for process changes such as changes in material handling which could prevent pollution of storm water.

In response to these issues, EPA points out that Sector AD in Part XI includes the same conditions that were included in the Baseline Industrial General Permit issued in 1992. Further, EPA believes that the language is appropriate and ensures the necessary flexibility for the variety of facilities which could be covered by this sector. EPA also points out the Part XI.AD.3.a(3)(h) does require a consideration of structural storm water controls to capture and remove pollutants and requires that such controls be included in SWPPPs when appropriate. In addition, the permit requires a consideration of material management practices and whether modified practices would be available to reduce exposure of materials to storm water (see Part XI.AD.3.a.(3)(c) for an example).

One commenter requested that EPA clarify that not all components of the SWPPP required by Part AD are necessarily applicable to all facilities. In response, EPA agrees that not all components of the SWPPP as described may apply to all facilities. However, each component must be considered by permittees in developing SWPPPs and included as appropriate.

Another commenter identified typographical errors in Parts XI.AD.3.a(3)(g)(i) and 3.a(3)(i) which EPA has subsequently corrected in the final modified MSGP. The same commenter also stated that Part XI.AD.4 only requires that a comprehensive site compliance evaluation be conducted once a year, and believed that EPA's intention was that these evaluations be conducted ''at least once a year.'' In response, EPA agrees with this comment and has revised the final modified permit to allow for more than one evaluation per year in order to address changing conditions at facilities in a more timely manner.

Inclusion of Manufacturers of Leather Products Into Sector V

Several commenters inquired about the basis for EPA's proposed inclusion of manufacturers of leather products into Sector V which covers textile mills, apparel and other fabric product manufacturing. The commenters argued that the use of a general permit for the facilities, at a minimum, would require a showing that the facilities would have similar discharges.

In response, EPA points out that NPDES regulations at 40 CFR 122.28(a)(2)(i) provide broad discretion when using general permits for storm water discharges. The criteria cited by the commenter regarding similarity of discharges and other factors apply to discharges other than storm water. Nevertheless, EPA believes that the nature of the operations and discharges from leather products manufacturers would be similar to other facilities in Sector V. EPA also notes that the facilities which are being added to Sector V manufacture finished products as do the existing facilities in the sector. Sector Z (leather tanning, which is another sector which might have been considered) covers facilities which produce leather from animal hides and skins. EPA believes Sector V is the more appropriate sector for the leather product manufacturers since finished products are involved in both cases.

Requirements of Sector N

A commenter expressed concern regarding some of the specific requirements of Sector N (scrap and waste recycling) and argued that some of the requirements were too inflexible. In response, EPA believes that the commenter is mistaken regarding the perceived inflexibility of this sector. The permit generally requires that certain BMPs be considered by permittees and included in SWPPPs as appropriate as opposed to being absolute requirements.

The commenter also objected that the requirements of this sector seemed to be more stringent than the requirements of another sector which, in the commenter's view, should have been at least as stringent. In response, EPA conducted a thorough review of available BMPs and monitoring requirements for the different sectors when the MSGP was originally issued in 1995. EPA believes that the requirements of the different sectors, such as Sector N, are appropriate based on the information submitted in the group applications concerning available BMPs and the monitoring results which were submitted. Therefore, no changes were made in response to this comment.

The commenter also recommended that the majority of the pollutants for which monitoring is required in Sector N should be deleted. The commenter recommended that monitoring for lead should be the only sampling parameter required. Further, the commenter recommended that only one sample should be required during the term of the MSGP. In response, EPA points out that the list of pollutants for which monitoring is required by the MSGP is based on the data submitted in the group permit applications. EPA believes that the parameters selected for monitoring for Sector N are appropriate based on these data. EPA also believes that one sampling event only during the term of the permit would be inadequate to characterize the storm water discharges from those facilities. Therefore, no changes have been made to this sector in the permit.

Response to Comments on the Agency's Separate Proposal to Modify Sector G

One commenter stated that it generally agreed with EPA's interpretation of the applicability of effluent limitation guidelines to the ore mining activities contained in Table G–4 of the MSGP, particularly the broad interpretation of the term ''mine drainage'' to include runoff from waste rock and overburden. The commenter requested that EPA reiterate its position

regarding this issue, but believes that use of the term ''continuing authorization'' for some mining operations which may have misinterpreted this table as well as the applicability of the effluent limitation guidelines in order to obtain coverage under the Baseline Industrial General Permit, is incorrect and should be deleted.

On October 22, 1997, EPA proposed revisions to Sector G of the MSGP (62 FR 54950) to (1) delete those portions of Table G–4 that address effluent guidelines, (2) describe only those parts of a hard rock mining operation that could claim coverage under the permit, and (3) slightly expand the categories of sources at a hard rock mining and dressing operation that could claim coverage under the permit. EPA anticipates that this final permit modification will be published in the **Federal Register** in the near future and will clarify which discharges are eligible for coverage under the MSGP.

Signatory Requirements

One commenter recommended that EPA finalize its proposal of December 11, 1996 (61 FR 65268), regarding NPDES signatory requirements concurrently with the modification of the MSGP. This would provide some relief by giving facility managers the authority to sign notifications.

The proposal of December 11, 1996, is an extensive Agency-wide effort to respond to a directive issued by the President on February 21, 1995, which directed Federal agencies to review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. However, EPA has not yet completed its final response to the directive. EPA's response to the issue raised by the commenter will accompany the Agency's overall response to the directive.

Spill Response Requirements

Comments were received suggesting that a restoration or remediation requirement be incorporated into the permit to address spills of oil or hazardous substances which require reporting to the National Response Center.

In response, EPA believes that appropriate provisions are already in place which require MSGP permittees to: (1) implement measures to prevent spills or unauthorized releases; (2) ensure prompt clean-up of such releases to prevent their discharge during a subsequent storm event; and (3) revise their SWPPPs to prevent such releases in the future. EPA also points out that the purpose of the NPDES permit program is to control discharges of pollutants before they enter waters of the United States. Restoration could be addressed, however, through enforcement action against a permittee for noncompliance with the permit.

Guidance for Louisiana, Oklahoma and Puerto Rico Permittees

Comments were received requesting guidance for Baseline Industrial General Permittees in the States of Louisiana and Oklahoma which were both recently authorized to implement the NPDES permitting program in lieu of the EPA. The date when the baseline industrial permit was issued in Puerto Rico was also requested. EPA's responses follow below by area:

Louisiana

The State of Louisiana was authorized by EPA to implement the NPDES permitting program, including authority over general permits such as the baseline industrial permit and the MSGP, on August 27, 1996, and regulate all facilities in the State except those located on Indian country which will continue to be covered by the EPA. Operators completing an NOI for industrial storm water discharge permit coverage which answered ''yes'' to the question of whether their facility is located on Indian country continue to be regulated by the EPA.

In Louisiana, the Louisiana Department of Environmental Quality (LDEQ) is the State agency which administers the NPDES program except in Indian country. Currently, all Baseline Industrial General Permittees located outside of Indian country in Louisiana which submitted an NOI within the time frames prescribed in Part VII.B of the permit will remain covered by operation of law until they receive further instructions from the LDEQ. MSGP permittees located outside of Indian country in Louisiana are not affected by today's modifications to EPA's MSGP.

To assist the LDEQ with administering its baseline industrial permit and MSGP outside of Indian country, EPA continues to maintain data management functions such as processing NOI and NOT forms. Permittees will be informed by the appropriate regulatory agency (i.e., EPA or LDEQ) when there are changes to their respective permits or programs.

Oklahoma

A more detailed response is needed for industrial storm water discharge permitting in Oklahoma. Though the State of Oklahoma (specifically, the Oklahoma Department of Environmental Quality or ODEQ) was authorized by EPA to implement the NPDES permitting program except in Indian country on November 19, 1996, it did not include the authority to issue or administer general permits such as the Baseline Industrial General Permit or the MSGP until September 11, 1997. Consequently, EPA administered the industrial storm water discharge program in Oklahoma until that time. In addition, EPA continues to maintain NPDES authority over discharges from oil, gas and pipeline operations which are regulated at the State level by the Oklahoma Corporation Commission, and discharges regulated at the State level by the Oklahoma Department of Agriculture. Since it appears that the only type of facilities regulated by the Oklahoma Department of Agriculture which require industrial storm water discharge permitting are concentrated animal feeding operations (CAFO), no modifications were proposed to the MSGP since CAFOs are covered by a different NPDES general permit. To summarize, the following entities will continue to be regulated by the EPA and not the ODEQ for industrial storm water discharge purposes: Operators completing an NOI for industrial storm water discharge permit coverage which answered ''yes'' to the question of whether their facility is located in Indian country; operators who are regulated by the Oklahoma Corporation Commission and submitted a Notice of Intent with a primary Standard Industrial Classification code in the 1300 series for oil and gas exploration and production related industries or pipeline operations; and facilities regulated by the Oklahoma Department of Agriculture. All other industrial storm water discharges are regulated by the ODEQ.

Currently, all Baseline Industrial General Permittees located outside of Indian country in Oklahoma which submitted an NOI within the time frame prescribed in Part VII.B of the permit will remain covered by operation of law until they receive further instructions from the ODEQ. MSGP permittees located outside of Indian country in Oklahoma and not regulated by Oklahoma Corporation Commission are not affected by today's modifications to EPA's MSGP.

In November 1997, the ODEQ assumed data management functions such as processing NOI and NOT forms for the industrial storm water facilities which it regulates. NOIs and NOTs received by EPA's NOI/NOT data center for facilities regulated by the ODEQ will be forwarded to the Department for processing.

Puerto Rico

The Baseline Industrial General Permit was issued in Puerto Rico on September 25, 1992. The above information has been incorporated into the final Fact Sheet.

Requirements for Petroleum Refineries

Several commenters stated that the language incorporating petroleum refineries into the MSGP was too broad and not restrictive enough considering the types and amounts of pollutants which could be discharged during storm events.

EPA disagrees and believes that the proposed language places a clear boundary on the areas of refineries which may be eligible for industrial storm water discharge coverage under the MSGP. As proposed, EPA cautioned that areas eligible for coverage at petroleum refineries will be very limited because the term ''contaminated runoff,'' as defined under 40 CFR 419.11, includes storm water runoff which comes into contact with any raw material, intermediate product, finished product, by-product or waste product located on petroleum refinery property, and is therefore not eligible for coverage under the MSGP. To provide clarification as to which areas at a petroleum refinery may be eligible for MSGP coverage, provided discharges from these areas do not co-mingle with contaminated runoff, EPA listed as examples vehicle and equipment storage, maintenance and refueling areas. Further, EPA listed areas not eligible for MSGP coverage including those handling raw materials, intermediate products, by-products, waste materials, chemicals and material storage; loading and unloading areas; transmission pipelines; and processing area.

The permit remains as proposed with the following exception. EPA notes that the term ''finished products'' was inadvertently omitted from the list of areas not eligible for permit coverage in the proposal and has included it in the final permit modification.

Accessibility of Storm Water Pollution Prevention Plans (SWPPPs)

One commenter recommended that the MSGP provide the same type of public access to SWPPPs as that proposed in the reissuance of EPA's Construction General Permit. In response, EPA notes that the final Construction General Permit was revised so that it encourages but does not require public access to SWPPPs. The Clean Water Act grants EPA the authority to require the submission of information by the regulated community. It does not, however, require the regulated community to provide information to private citizens upon request. When EPA reissues the MSGP in the year 2000, EPA will review the current plan availability issues. The plan access provisions currently contained in the MSGP have not been modified.

Permitting of Open Dumps

Several comments were received against the inclusion of open dumps in the expanded scope of coverage of the modified MSGP. Reasons ranged from the extreme variability of wastes received; illegality of open dumps; possibility of leachate first seeping through the ground then surfacing and becoming indistinguishable from other storm water discharges; and, the high potential for erosion. Other comments concerned the definition of ''qualified personnel'' and the dissemination of Discharge Monitoring Reports to local governments as well as to large and medium Municipal Separate Storm Sewer Systems (MS4s) that receive open dump industrial storm water discharges.

In response, through this permit modification EPA is neither facilitating the continuation of open dumps nor condoning illegal waste disposal practices. By allowing the inclusion of open dumps under Section XI.L of the modified MSGP, EPA is expeditiously providing continued permit coverage of allowable industrial storm water discharges from such facilities. Non-storm water discharges such as leachate, and vehicle and equipment wash waters, are explicitly prohibited from coverage under the MSGP per Section XI.L.2.(a). Such non-storm water discharges would require coverage under another NPDES permit such as an individually drafted permit with site-specific effluent monitoring and limitation requirements. Since individually drafted permits are site-specific, they are resource and time intensive to draft and issue. Further, Section XI.L.3.a.(2)(a)(i) requires the identification and description of any potential sources of pollution, including leachate springs and open dumping areas. Section XI.L.3.a.(3) requires the development of measures to eliminate or control such pollutants. To assist permittees, a definition of ''leachate'' was included in Part XI.L.2.(a) of the permit.

With respect to the comment that Section XI.L.2.b.(3)(h) be revised so that sediment and erosion control plans address areas other than those exhibiting a high potential for significant erosion (i.e., those areas that may have a potential for erosion), EPA found the language as originally published in the September 29, 1995, version of the MSGP to be acceptable and did not propose any modifications. This portion of the permit will remain unchanged.

The term ''open dump'' is defined as any solid waste disposal facility which does not meet the criteria of Subtitle D of RCRA. Regulations for Subtitle D are found under 40 CFR Parts 257 and 258. Thus, the term could be applied to any solid waste disposal facility which does not comply with appropriate requirements. Implementation of the industrial storm water discharge management provisions contained in the modified MSGP will assist open dump operators with addressing sediment and waste run-off problems through storm water run-on and run-off controls.

The term ''qualified operator'' is used throughout the MSGP. It is a general term which means a person who is familiar with a facility's SWPPP and industrial operations, and can identify sources of pollution contacting storm water as well as devise ways to reduce or eliminate its impact on receiving waters. Due to the large scope of coverage of the MSGP, it is not feasible nor is it necessary to require a certain level of education, licensing or experience to meet the definition of ''qualified personnel.'' Licenses, education and experience requirements are best required by other applicable Federal, State, Tribal or local government rules and regulations. As always, EPA recommends the use of good engineering, land and waste management practices at all landfills, land application sites and open dumps to minimize impacts on the environment.

With regard to a comment that Section XI.L.5.b.(1) of the MSGP be modified to require that Discharge Monitoring Reports (DMRs) documenting sample analyses of industrial storm water discharges from open dumps be also sent to local governments that are operators of smaller than medium or large municipal separate storm sewer systems (i.e., based upon a population of less than 100,000), EPA believes that the decision to receive such information is best made at the local level of government. Nothing in the MSGP precludes permittees from complying with all applicable State, Tribal or local laws. Further, though EPA encourages cooperation between local governments and facility operators, it believes that mandating such a requirement may be unduly

burdensome on both facilities and local governments.

In summary, due to the limited allowable types of discharges that Part XI.L allows for open dumps and the prohibition against the discharge of storm water that contacts waste (i.e., leachate), regulation of open dumps will remain in the final permit modification.

Sand, Gravel and Crushed Stone Mine Dewatering Discharges

Comments were received requesting that EPA Region 1 be included among the Regions allowing sand, gravel and crushed stone mine dewatering discharges (see 40 CFR 436 Subparts B, C and D) under the MSGP. Currently, such mine dewatering discharges in Region 1 require coverage under an individual NPDES permit. Since Region 1 does not currently have sufficient resources to draft and issue individual NPDES permits to facilities solely for such discharges and MSGP limitations covering these discharges are adequate to protect receiving surface water quality, EPA is extending the coverage under Part XI. J. to include Region 1 along with Regions 2, 6, 10 and the State of Arizona. The permit has been revised accordingly.

Sampling, Inspection and Reporting Burdens Associated With the MSGP

Comments were received concerning the increased cost and administrative burdens placed on the regulated community by increasing the inspections, sampling, analysis and reporting from annual to quarterly.

In the proposed modifications to the MSGP, facilities transitioning to the MSGP from the baseline industrial permit would be required to sample their industrial storm water discharge on a quarterly basis only during the fourth year of the permit (i.e., October 1, 1998–September 30, 1999), provided sampling was required in the sector(s) which applied to a particular facility. This would result in a maximum of four sampling events per facility. If sampling was required in the baseline industrial permit, it was on either an annual or semi-annual basis for each year a facility was covered by the permit. This would result in a maximum of five to ten sampling events for a facility which is comparable to the MSGP requirements. In addition, EPA proposed to allow transitioning baseline industrial permitees to use the last two years of annual or last year of semi-annual monitoring data to determine if fourth year MSGP sampling requirements could be waived on a pollutant-by-pollutant, outfall-by-outfall basis. This proposal was retained in the final modified MSGP.

As in the Baseline Industrial General Permit, the MSGP provides sampling waivers where a permittee can certify on a pollutant-by-pollutant basis that their industrial storm water discharge does not have the potential to contain the pollutant, thus relieving the facility from sampling for that substance at that outfall.

With regard to inspection frequency, the MSGP does require more frequent inspections for certain types of facilities than the Baseline Industrial General Permit. However, these inspections are targeted toward the facilities which pose the greatest risk to storm water and this is generally in accord with the recommendation of the commenter. For reporting sampling results, the submission of DMRs is required once annually at the conclusion of the fourth year of the MSGP. The Baseline Industrial General Permit had a similar requirement for facilities sampling on a semi-annual basis; however, facilities which were required to monitor on an annual basis only needed to submit the results when requested by EPA.

With regard to the comments that more complex SWPPPs will not result in decreased discharges of pollutants through gravel pads, EPA crafted the MSGP so that it provides general industrial storm water discharge and spill controls for maximum flexibility and applicability as the Baseline Industrial General Permit does, but also provides more industry-specific controls. These industry-specific controls provide SWPPP managers with additional information on identifying and controlling the discharge of pollutants which may improve water quality when compared to the Baseline Industrial General Permit. For facilities with gravel pads, general spill prevention measures from both permits would be similar (e.g., use of drip pans under leaking equipment until repairs can be completed; replacement of gravel pads with an impervious surface such as concrete to contain pollutants rather than allowing them to discharge or seep into the ground).

Comments Specific to Alaska

One Alaskan commenter expressed support of EPA's position not to require inspections at inactive and unmanned facilities. In response, EPA notes that the frequency for conducting inspections varies from sector to sector in Part XI of the MSGP, and that some sectors allow for a reduction of the number of required inspections for inactive sites. EPA encourages permittees to carefully review the inspection requirements for each sector which apply to their facilities in order to incorporate the correct inspection frequencies into their SWPPPs. However, in response to comments from the Alaskan oil and gas industry, EPA has modified Section I of the MSGP (for Oil and Gas Extraction Facilities) to include the same reduced inspection frequency found in Sector J for temporarily or permanently inactive mineral mining facilities. The modification provides that only annual inspections (rather than quarterly or semi-annual inspections) are required for temporarily or permanently inactive oil and gas extraction facilities, but only those which are remotely located and unstaffed. EPA believes that this change is appropriate considering the similar nature of the facilities in the two sectors and will address the concerns of commenters regarding the accessibility of remote Alaskan oil and gas facilities in winter. EPA does not intend for this waiver to be applied merely as a cost saving measure or for convenience to limit the number of inspections. It should also be noted that this modification only applies to inactive oil and gas extraction operations (within major SIC group 13) and not to inactive oil refinery operations (SIC 2911) which are added to Sector I by today's MSGP modification.

Another comment requested that EPA set seasonal inspection schedules for Alaska rather than calendar schedules. The comment stated that during a typical year in Alaska snow melt occurs in May or early June, there is little precipitation from June through August, and the ground is frozen from September through May. In response to this comment, it appears that the commenter was referring to the MSGP requirement that permittees conduct visual examinations of storm water on a quarterly calendar basis for the life of the permit unless the site is inactive or unstaffed and that ''the ability to conduct visual examinations would be severely hampered and result in the inability to meet the time and representative rainfall sampling specifications'' (see 60 FR 50829). Another waiver, which is found throughout the permit, allows temporary waivers from sampling requirements based on adverse climatic conditions which also includes periods of extended frozen conditions which make sample collection impractical. Though many facilities located in the State of Alaska appear to have unique climatic conditions, EPA believes that the MSGP provides sufficient flexibility to address those situations.

Another comment requested that inspections in Alaska be performed before ice break-up occurs. Ice break-up affects large areas simultaneously, thus creating difficulty in reaching remote areas. In response, EPA believes that the MSGP provides sufficient flexibility for scheduling inspections, and, as noted above, the inspection frequency for temporarily or permanently inactive oil and gas extraction facilities which are remotely located and unstaffed was modified in response to comments.

One comment was received stating that it should not be necessary to document the inactive/unmanned status of a facility every quarter. The comment stated that the waiver provision contained in the MSGP which addresses these facilities should remain in effect as long as the facility remains unmanned. In response, EPA notes that the chemical sampling waiver for such facilities requires that permittees certify on their Discharge Monitoring Report (DMR) that they are utilizing the waiver in lieu of submitting sampling results for each monitoring period that the waiver is used. However, permittees do not have to submit such certifications on DMR's when utilizing the quarterly visual examination waiver. They are only required to certify uses of this waiver in the facility's SWPPP. EPA does not believe that these provisions create an undue burden on the regulated community. In fact, it provides an opportunity for permittees to maintain an up-to-date status of their inactive and unmanned facilities.

Commenters noted that facilities in Alaska, such as oil and gas facilities and mineral mining facilities, are often located in remote, relatively inaccessible locations and that compliance with the monitoring requirements of the MSGP would be difficult. In response, the MSGP provides a waiver from the chemical and visual monitoring requirements for facilities which are inactive and unstaffed. As such, EPA believes that the MSGP addresses this concern.

Commenters also expressed concern that a good sampling location may be difficult to find at the gravel pads used by the oil and gas industry. In response, EPA notes that the issue concerning a suitable sampling location is not unique to the oil and gas industry. EPA believes that the sampling can still be accomplished by creating an artificial sampling site, or simply sampling at the best available location. A sample for testing may also be obtained by collecting several smaller samples taken at representative discharge locations at the facility. For further guidance on this issue, dischargers should refer to EPA's storm water monitoring guidance manual (EPA 833-B–92–001).

Several additional comments were received from a commenter representing the Alaska oil and gas industry stating that EPA should recognize the special climatic conditions in Alaska. The commenter stated that since storm water runoff in Alaska generally occurs only during the months of April to September, a five-month period, quarterly or six-month inspections or sampling requirements are not appropriate. EPA notes that the MSGP provides an adverse weather sampling waiver which should address the commenter's concern. As noted above, EPA has modified Section I of the MSGP to include the same reduced inspection frequency for temporarily or permanently inactive oil and gas extraction facilities which are remotely located and unstaffed as is found in Section J.

The commenter also raised the following issues:

- Field personnel routinely perform inspections to identify contamination to the environment during their day-to-day duties. The requirement for formal inspections and supporting paperwork duplicates ongoing efforts and provides additional administrative burden to produce and maintain inspection files without providing environmental benefit. This requirement should be deleted in consideration of the significant requirements the oil and gas industry already complies with including the Oil Pollution Act and State of Alaska regulations 18 AAC 75.
- Chemical mixing and storage areas are generally contained within buildings or lined, bermed holding areas as required by the Oil Pollution Act and State of Alaska regulations 18 AAC 75, and should be deleted from detailed description requirements. The requirements for these areas will not provide any increased storm water protection. The requirement for marking hazardous materials duplicates laws and regulations directed toward the regulation of hazardous materials and is unnecessary.
- The reportable quantity release requirements also duplicate the requirements for the Oil Pollution Act and State of Alaska regulations 18 AAC 75 and should be deleted from the permit.
- The proposed site description requirements duplicate the requirements for the Oil Pollution Act and State of Alaska regulations 18 AAC 75 and should be deleted from the permit.

In response to these comments, EPA notes that such existing requirements may be incorporated by reference into the SWPPP to reduce duplication.

Cost Burden

Many comments were received regarding the cost of complying with the MSGP versus the BGP. EPA developed the MSGP to include sufficient flexibility so an operator could design and implement a storm water pollution prevention program (SWPPP) in a cost effective manner provided it meets the goals of the NPDES program and the CWA. For specific industry sectors, costs may vary for the MSGP when compared to the BGP depending on whether the monitoring requirements increased or decreased and the nature of any sector specific BMP requirements. The MSGP also allows dispensation from monitoring under several scenarios if the facility can demonstrate that it doesn't have the potential to discharge parameters requiring monitoring. Requirements for protecting endangered species and historic properties may result in some added expenditures but EPA has minimized that burden to the extent consistent with providing adequate protection of those resources. Otherwise, the burdens and requirements of the MSGP should essentially be the same as for the BGP.

For the MSGP, industry specific BMP requirements resulted from industry supplied data, making the regulated community a participant in the generation of its own permit conditions. These BMPs should be economically attainable since they are in use already at many facilities. Claims made by electric generating facilities that they would face increases of $60,000 to $140,000 for compliance with the new requirements are not felt to be valid, especially since electric generator monitoring requirements were reduced compared to those required by the BGP.

Administrative and paperwork burdens were a concern of one commenter. In response, EPA again notes that the flexibility inherent to general permits largely makes these burdens proportional to each permittees' needs and technical and administrative ability. Paperwork requirements which must be submitted to EPA to satisfy MSGP conditions are minimal (e.g., a completed Notice of Intent form to obtain coverage, a completed Notice of Termination form to end coverage, and Discharge Monitoring Reports if storm water monitoring is required). Since other paperwork and record keeping documents can be completed internally (e.g., SWPPPs, spill and inspection reports), savings of time and money can be realized by permittees.

Some comments were received regarding the need for employing economic analyses because pollution control requires the use of best conventional pollutant control technology (BCT) or best available control technology economically achievable (BAT). The BAT level of performance is the very best control and treatment measures that have been or are capable of being achieved for nonconventional or toxic pollutants. The Agency must consider the cost of attainability, but it is not required to balance cost against the effluent reduction benefits. BCT is the best technology for controlling conventional pollutants and for this EPA must consider the cost of attaining the pollution reduction against the resulting benefits. In many instances it is infeasible to develop numerical end-of-pipe effluent limitations for controlling storm water because the quality and quantity of the storm water at specific sites is unknown. Except for discharges subject to effluent limitation guidelines, the MSGP imposes BMPs as BAT/BCT in lieu of end-of-pipe numeric limitations consistent with 40 CFR 122.44(k)(1) and Natural Resources Defense Council v. Costle, 568 F.2d 1369 (D.C. Cir. 1977). The same lack of data which justifies this use of BMPs also renders it infeasible to precisely quantify the costs of pollutant removal associated with their use. The Agency may not generally use a lack of precise data to avoid imposing BAT/BCT controls; CWA § 401(a)(1)(B) requires it to establish such controls in permits on the basis of best professional judgement (BPJ). Using its BPJ, EPA developed the BMPs that MSGP permittees are required to consider. Consequently, the flexibility accorded permittees in choosing which BMPs to implement in specific situations should avoid unreasonable economic consequences.

Paperwork Reduction Act Requirements

One commenter stated that many aspects of the MSGP are cumbersome and require unneeded paperwork. In response, EPA has required a minimum amount of paperwork under the MSGP and specifically designed the permit to be as streamlined as possible. The only paperwork that is required to be submitted to EPA include a one-page Notice of Intent (NOI), discharge monitoring reports (for some facilities) and a Notice of Termination if a facility is terminating permit coverage. Each of these documents is essential and cannot be eliminated without compromising the integrity of the permit.

One commenter stated that a facility should be able to file only one NOI for the entire facility rather than separate NOI's for each regulated activity, and that support activities and subsectors can be addressed through the facility's SWPPP. In response, EPA notes that the MSGP already requires that only one NOI be submitted per operator per facility, and that multiple activities occurring on-site are addressed through the facility's SWPPP. When multiple activities are conducted by different operators at a facility, each operator is required to submit a NOI for permit coverage and develop a SWPPP which addresses their regulated activities, or work with other on-site operators to develop a single comprehensive plan. Such a situation would occur at an industrial park. Accordingly, the permit will not be revised since it already addresses the commenter's concerns.

One commenter believes few facilities changing from the BGP to the MSGP have storm water discharges that will impact historic properties, or endangered species or critical habitats. The commenter stated that the requirement for all permittees to submit two NOI forms to ensure that the relatively few dischargers that will have an impact are identified is counter to EPA's effort to reduce the burden on the regulated community. In response, the requirement for facilities transitioning from the BGP to the MSGP to submit another NOI, not two NOIs, is necessary to meet the general permit application requirements found at 40 CFR 122.28(b)(2), and to address sections 7(a) (2) and (9) of the Endangered Species Act (ESA) and section 106 of the National Historic Preservation Act (NHPA). The burden to submit an additional NOI is minimal. EPA has provided guidance in the permit to minimize the burden of completing the ESA and NHPA certifications.

Regulatory Flexibility Act Requirements

One commenter stated that EPA did not consider the significant economic impacts on industrial facilities that would result from termination of the BGP. Thus, EPA failed to comply with rulemaking requirements mandated under the Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act, other applicable Federal requirements, and the Clean Water Act. The commenter stated that EPA must take the administrative and paperwork burdens imposed on these facilities into account in the storm water program. The commenter recommended that EPA evaluate the costs of the proposed action on smaller businesses.

One commenter stated that under the Regulatory Flexibility Act (RFA) and Small Business Regulatory Enforcement Fairness Act (SBREFA), EPA must prepare an initial and final regulatory flexibility analysis when the Agency has engaged in a notice-and-comment rulemaking action. These analyses must examine, among other things, the impact of EPA's proposal on small entities, and must evaluate other alternatives that the Agency could implement. EPA's decision not to conduct the required analyses under the RFA is contrary to the requirements of the RFA in substantive and procedural respects. The commenter believes the proposed permit modification would have a significant economic impact on numerous types of industrial facilities, and would therefore trigger the requirement to conduct both an initial and final regulatory flexibility analysis as required under SBREFA and the RFA. Further, EPA's assertion that its general storm water permits are not ''rules'' for RFA and Unfunded Mandates Reform Act (UMRA) purposes is contradicted by the applicable case law and other authorities which make clear that all Agency actions such as the proposal which have general applicability and affect the future conduct of regulated entities are properly classified as ''rules.'' EPA has effectively conceded the applicability of the RFA to this proceeding by certifying that the proposed permit modification will not have a significant economic impact on industry pursuant to Section 605(b) of the RFA. The commenter asked EPA to: (1) Withdraw the proposal until an initial regulatory flexibility analysis is prepared and made available for public comment; (2) provide a copy of this analysis to the Small Business Association for review and consultation with affected small businesses; and (3) if a proposed permit is issued following an initial regulatory flexibility analysis, conduct a final regulatory flexibility analysis, including an analysis and explanation of the steps that EPA has taken to minimize the significant economic impacts of the action on small entities and to comply with analysis requirements of SBREFA and RFA.

In view of the comments received, EPA further considered whether NPDES general permits are subject to rulemaking requirements. The Agency reviewed its previous NPDES general permitting actions and related statements in the **Federal Register** or elsewhere. This review suggests that the Agency has generally treated NPDES general permits effectively as rules, though at times it has given contrary indications as to whether these actions are rules or permits. EPA also reviewed applicable laws, including the CWA,

relevant CWA case law and the Administrative Procedure Act (APA), as well as the Attorney General's Manual on the APA (1947). On the basis of its review, EPA has concluded that NPDES general permits are permits under the APA and thus not subject to APA rulemaking requirements or the RFA.

The APA defines two broad, mutually exclusive categories of Agency actions: ''rules'' and ''orders.'' Its definition of ''rule'' encompasses ''an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency * * *.'' APA section 551(4). Its definition of ''order'' is residual: ''a final disposition * * * of an agency in a matter other than rule making but including licensing.'' APA section 551(6) (emphasis added). The APA defines ''license'' to ''include * * * an agency permit * * *.'' APA section 551(8). The APA thus categorizes a permit as an order, which by the APA's definition is not a rule.

Section 553 of the APA establishes ''rule making'' requirements. The APA defines ''rule making'' as ''the agency process for formulating, amending, or repealing a rule.'' APA § 551(5). By its terms, then, § 553 applies only to ''rules'' and not also to ''orders,'' which include permits. As the Attorney General's Manual on the APA explains, ''the entire Act is based upon a dichotomy between rule making and adjudication [the agency process for formulation of an order]'' (p. 14).

The CWA specifies the use of permits for authorizing the discharge of pollutants to waters of the United States. Section 301(a) of the CWA prohibits discharges of pollutants ''[except as in compliance with'' specified sections of the CWA, including section 402.33 U.S.C. § 1311(a). Section 402 of the CWA authorizes EPA ''to issue a permit for the discharge of any pollutant * * *, notwithstanding section [301(a) of the CWA].'' 33 U.S.C. § 1342(a). Thus, the only circumstances in which a discharge of pollution may be authorized is where the Agency has issued a permit for the discharge. Courts, recognizing that a permit is the necessary condition-precedent to any lawful discharge, specifically suggested the use of area-wide and general permits as a mechanism for addressing the Agency's need to issue a substantial number of permits. See *NRDC* v. *Train*, 396 F.Supp. 1393, 1402 (D.D.C. 1975); *NRDC* v. *Costle*, 568 F.2d 1369, 1381. (D.C. Cir. 1977). Adopting the courts' suggestion, EPA has made increasing use of general permits in its CWA regulatory program, particularly for storm water discharges.

In the Agency's view, the fact that an NPDES general permit may apply to a large number of different dischargers does not convert it from a permit into a rule. As noted above, the courts which have faced the issue of how EPA can permit large numbers of discharges under the CWA have suggested use of a general *permit*, not a rule. Under the APA, the two terms are mutually exclusive. Moreover, an NPDES general permit retains unique characteristics that distinguish a permit from a rule. First, today's modification of the MSGP is effective only with respect to those dischargers that *choose* to be bound by the permit. Thus, unlike the typical rule, this NPDES general permit does not impose immediately effective obligations of general applicability. A discharger must choose to be covered by this general permit and so notify EPA. A discharger always retains the option of obtaining its own individual permit. Relatedly, the terms of the NPDES general permit are enforceable only against dischargers that choose to make use of the permit. If a source discharges without authorization of a general or an individual permit, the discharger violates § 301 of the Act for discharging without a permit, not for violating the terms of an NPDES general permit.

Because the CWA and its case law make clear that NPDES permits are the congressionally chosen vehicle for authorizing discharges of pollutants to waters of the United States, the APA's rulemaking requirements are inapplicable to issuance of such permits, including today's general permit. Further, while the CWA requires that NPDES permits be issued only after an opportunity for a hearing, it does not require publication of a general notice of proposed rulemaking. Thus, NPDES permitting is not subject to the requirement to publish a general notice of proposed rulemaking under the APA or any other law. Accordingly, it is not subject to the RFA.

At the same time, the Agency recognizes that the question of the applicability of the APA, and thus the RFA, to the issuance of a general permit is a difficult one, given the fact that a large number of dischargers may choose to use the general permit. Indeed, the point of issuing a general permit is to provide a speedier means of permitting large number of sources and save dischargers and EPA time and effort. Since the Agency hopes that many dischargers will make use of a general permit and since the CWA requires EPA to provide an opportunity for ''a hearing'' prior to issuance of a permit, EPA provides the public with notice of a draft general permit and an opportunity to comment on it. From public comments, EPA learns how to better craft a general permit to make it appropriate for, and acceptable to, the largest number of potential permittees. This same process also provides an opportunity for EPA to consider the potential impact of general permit terms on small entities and how to craft the permit to avoid any undue burden on small entities. This process, however, is voluntary, and does not trigger rulemaking or RFA requirements.

In the case of the modification to the MSGP being issued today, the Agency has considered and addressed the potential impact of the modification on small entities in a manner that would meet the requirements of the RFA if it applied. EPA has analyzed the potential impact of this modification to the MSGP on small entities and found that it will not have a significant economic impact on a substantial number of small entities. Like the existing general permit, the modification to the general permit will make available to many small entities a streamlined process for obtaining authorization to discharge. Of the possible permitting mechanisms available to dischargers subject to the CWA, NPDES general permits are designed to reduce the reporting and monitoring burden associated with NPDES permit authorization, especially for small entities with discharges having comparatively less potential for environmental degradation than discharges typically regulated under individual NPDES permits. Thus, general permits like the modification of the general permit at issue here provide small entities with a permitting application option that is much less burdensome than NPDES individual permit applications.

EPA is committed to issuing general permits that meet the substantive and procedural requirements of the statute authorizing the particular general permit and any other applicable law. The Agency intends to review its use of general permits across EPA programs to ensure that its general permits meet all applicable requirements.

Protection of Endangered Species

A large number of comments were received regarding provisions in the permit to protect endangered or threatened species. For reading convenience, similar comments have been grouped together for response and are listed below in items A–M.

A. Some commenters have asked whether the permittees must address

only those threatened and endangered species that are listed at Addendum H.

EPA wishes to clarify that permittees must address only those species found in Addendum H. However, the Addendum H list has been updated (as part of the modification) to reflect recent threatened and endangered species listings and proposals and has been expanded to include terrestrial species which may be affected by storm water discharges or construction of best management practices (BMPs) to control those discharges. As a result, the Addendum H list now contains all listed and proposed species for the geographic areas covered by the permit. The Addendum H list will be updated on a regular basis and an electronic copy of that list will be made available at of the Office of Wastewater Management website at ''http://www.epa.gov/owm''. Information on the availability of an electronic list is also being added to the Addendum H instructions.

B. A number of comments were received regarding the area of impacts to be considered for listed species. Some commenters questioned EPA's delineation of the area of impacts to be considered. Some commenters believed the ''Endangered Species Act review'' should encompass the entire site, not just certain portions of the site.

The MSGP criteria of the geographic areas to be examined for effects to species is found in Addendum H. The Addendum H instructions direct applicants to determine if species listed in Addendum H are found in proximity to a facility's storm water discharges. A species would be in proximity to those dischargers where the species is:

- Located in the path or immediate area through which or over which contaminated point source storm water flows from industrial activities to the point of discharge into the receiving water.
- Located in the immediate vicinity of, or nearby, the point of discharge into receiving waters.
- Located in the area of a site where storm water BMPs are planned or are to be constructed.

These location criteria are intended to be flexible to allow for more accurate, site specific determinations of effects to species. The Addendum explicitly notes that the area to be searched/surveyed for listed species will vary with the size of the facility, the nature and quantity of the storm water discharges, and the type of receiving waters.

EPA declines to require that applicants consider effects to species for the ''entire'' site because such criterion may not be flexible enough to accurately account for effects to species from storm water discharges. Some of the facilities covered by this permit may comprise only a very small portion of a large ''site'' or tract of land such as an industrial park. In such instances, a requirement that applicants examine effects to species for the entire site without regard to the location of storm water discharges and BMPs may impose unnecessary costs and other burdens on applicants. In some situations, the suggested criterion may not be sufficiently protective of Addendum H species because it does not extend beyond the borders of a site to the point of discharge (and immediate vicinity) in the receiving water. EPA believes the current criteria provide EPA and applicants with the appropriate degree of flexibility to determine whether species are directly or indirectly affected by storm water discharges and BMPs that are regulated under this permit.

C. Some commenters noted that the species list in Addendum H was outdated and requested that EPA publish an updated list with specific contacts at the Fish and Wildlife Service to answer questions.

EPA is publishing an updated list and is also providing an address list of Fish and Wildlife Service and National Marine Fisheries Service offices in the permit. The Addendum H list will be updated on a regular basis and an electronic copy of the updated list will be made available at of the Office of Wastewater Management website at ''http://www.epa.gov/owm''. Information on the availability of an electronic list is also being added to the Addendum H instructions.

D. Some commenters noted that EPA should provide complete and up-to-date details to applicants and permittees on how to certify compliance with National Historic Preservation Act (NHPA) and ESA.

EPA believes that the permit conditions and Addendum H (including the updated species list) provide comprehensive, current information on how to comply with the Notice of Intent ESA certification provisions. EPA does not believe that it would be possible to provide ''complete information'' to applicants/permittees for these certifications given the number and variety of activities covered by the permit. With respect to the NHPA, see EPA's response to the NHPA comments below.

E. Some commenters have questioned the relevancy of provisions in the MSGP to protect endangered and threatened species. They believe that merely adding requirements to assess threats to species will not enhance pollution prevention, and if these provisions are implemented no companies will identify endangered species and subsequently improve BMPs to prevent storm water pollution. Some commenters believed that the requirements of the ESA apply to applicants regardless of whether there is a permit.

EPA disagrees with the notion that dischargers will simply ignore the requirements of this permit to identify species in accordance with the terms of the permit. Moreover, where species are present, and steps are identified to ensure protection of those species, this could, contrary to these commenters' assertions, enhance pollution prevent efforts. The commenter's point about the ESA applying regardless of whether there is a permit is correct as it relates to section 9 of the Act, which prohibits take of listed species by any person, regardless of whether it is authorized by a federal agency. The NOI screening procedures applicants must undertake should assist them in complying with ESA § 9. In addition, this process facilitates compliance by EPA with ESA § 7(a)(2) in issuing a general permit authorizing numerous storm water discharges in many locations. This process ensures that any needed measures to protect species are implemented, but retains the significant advantages of reducing unnecessary paperwork, to the advantage of both the permittees and EPA. The benefits using a general permit provides to both the Agency and operators could not be realized without these or similar screening procedures. In the absence of a general permit, and given the huge administrative burden that would be associated with permitting these discharges individually (and the resulting likelihood of delays in receiving authorization, some industrial storm water discharges would thus likely have to choose between avoiding the discharges altogether or subjecting themselves to potential liability for violating the CWA § 301(a).

EPA believes the protection of listed and proposed species is an integral goal of the Clean Water Act (CWA), and it is consistent with the goals of both of these statutes that EPA establish the eligibility criteria contained in this general permit. This permit basically establishes an optional process (i.e., an alternative to the individual permitting process) that dischargers may seek to pursue, and which provides the significant advantage for the permittees of potentially receiving authorization to discharge far more quickly that would

be possible through the individual permitting process.

The primary goal of the CWA is the restoration and maintenance of the chemical, physical, and biological integrity of the Nation's waters. This includes the attainment of water quality that provides for the protection and propagation of fish, shellfish, wildlife. See 33 U.S.C. 1251. In EPA's view, the breadth of these goals are entirely consistent with the goal of protecting threatened and endangered species. Moreover, EPA has broad authority under the CWA to include conditions in NPDES that are necessary to implement water quality standards requirements established by the Act, and those standards are designed to ensure to protect, among other things, use of waters by aquatic-dependent wildlife. See CWA sections 301(b)(1)(C) and 303(c).

The eligibility provisions of the MSGP only authorize storm water discharges and the construction of BMPs that are not likely to adversely affect species identified in Addendum H, or are authorized under the ESA through the successful conclusion of ESA § 7 consultation (formal or informal) or by obtaining an ESA § 10 permit. See 60 FR 51112 (Sept. 29, 1995). EPA also notes that § 9 ESA places an obligation on applicants/permittees to ensure that their activities do not result in any prohibited takes of species (e.g., harassment or harm). This obligation applies regardless of whether a discharger's activities are authorized by a federal agency that is subject to the requirements of § 7 of the ESA. Nonetheless, compliance with the eligibility criteria for coverage under this permit should facilitate permittee's compliance with their own obligations under § 9.

F. Some commenters complained about the burden imposed by the MSGP's endangered and threatened species eligibility screening provisions. Other commenters found the Addendum H provisions to be burdensome and impractical for existing dischargers. Other commenters have alleged that these provisions violate the Paperwork Reduction Act (PRA).

The provisions to protect species in the MSGP were drafted in consultation with the Services. They were written to provide applicants the greatest degree of flexibility in ensuring that their activities are protective of endangered and threatened species. The MSGP has been in use since September 29, 1995, and EPA has found that the ESA provisions do not appear to have caused any wide spread delay or difficulties in applicants obtaining permit coverage. Out of a total of over 10,000 applicants, slightly more than 5% reported that Addendum H species were found to be in proximity to the facility. Of that total number, EPA believes that fewer than 10 applicants where denied permit coverage on this basis of impacts to endangered and threatened species. Thus, EPA believes the Addendum H procedures are not overly burdensome to applicants.

With respect to the PRA, EPA notes that the MSGP is covered by current information collection requests (OMB Nos. 2040–0004, 2040–0086, and 2040–0110) and is in compliance with the PRA.

G. Some commenters asserted that the review requirements of the ESA apply to Federal actions but not to those of individual permittees. They believe that EPA is seeking to expand the scope of the ESA to private businesses whose industrial activities cannot reasonably be viewed as actions of the Federal Government. If EPA's approach was consistently applied, some commenters believed that any Federally regulated activity would be subject to ESA review requirements.

Section 7(a)(2) of the ESA requires that Federal agencies consult with the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) (''the Services'') to insure that any action authorized, funded or carried out by them (also known as ''agency actions'') are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. The ESA § 7 implementing regulations at 50 CFR 402 apply this consultation requirement to any action authorized by a Federal agency that may affect listed species or critical habitat, including permits. Those regulations also define action to include, but are not limited to: ''the granting of licenses, contracts, leases, easements, rights-of-way, permits, or grants-in-aid'' or ''actions directly or indirectly causing modifications to the land, water, or air.'' See 50 CFR 402.02. In light of the plain meaning of the ESA and its implementing regulations, EPA believes the scope of consultations on its permit actions must include the actions of its permittees. As explained above, EPA could not comply with ESA § 7(a)(2) in authorizing this many discharges in a reasonable time if it had to make ''no effect'' determinations or consult on each discharge and on each BMP employed to control them.

By allowing them to use procedures functionally equivalent to those EPA uses in issuing individual permits, the Agency has provided a mechanism which applicants may use to avoid long delays which are typically associated with obtaining individual permits for their storm water discharges. Operators that think the NOI screening procedures are too onerous may choose to apply for individual permits, but they should be aware that it will probably take them far longer to obtain discharge authorizations.

With respect to actions authorized by other Federal agencies, those agencies must make their own determinations on the applicability of ESA § 7. See 50 CFR 402.14(a).

H. Some commenters have also noted that the review process selected by EPA is irrational and creates a subsequent risk of unequally treated dischargers.

While EPA is not sure what is meant by ''unequally treated dischargers,'' EPA assumes that the commenters are concerned that the MSGP requires some applicants to undertake measures to protect listed species while not imposing such requirements on others. EPA notes that the permit treats all applicants fairly by requiring that all applicants meet the same eligibility criteria for permit coverage. However, this permit regulates the storm water discharges and requires site-specific storm water controls for thousands of facilities throughout the United States. To require that all permittees develop identical treatment plans would impose unnecessary economic burdens on many permittees and not provide sufficient environmental controls (including those for the protection for listed and proposed species) for others. Instead, the MSGP allows each facility to develop its own individually tailored storm water pollution prevention plan (SWPPP). This gives applicants and permittees the flexibility to ensure that their permitted activities are protective of the environment in a cost efficient manner. Since the presence or absence of listed species are factors that are specific to each facility, EPA believes that the ESA certification process in the permit is the best way to ensure that species are protected in a cost effective manner.

I. Some commenters questioned the accuracy of EPA's list of species and allege that the list is created out of data which is not disclosed on record, and that such a list could impose huge burdens on applicants. The commenters noted that some applicants may have the misfortune to be located in a county which the government claims is occupied by an endangered or threatened species and can be required to undertake, without regard to cost, a full biological survey.

The Addendum H species list is based on a database developed by EPA's Office of Pesticide Programs (OPP). The OPP database was developed in close cooperation with the Services to assist EPA in meeting ESA § 7 consultation requirements for its pesticides programs and has been used successfully in that role for a number of years. Most of the underlying information for the OPP database (and hence the Addendum H list) comes from **Federal Register** notices for listing and proposing endangered and threatened species. These ''listing documents'' undergo public notice and comment and contain information on the location of species (usually in the form of maps). They frequently include county location information. Where more specific information was required to determine which county(ies) species were located in, EPA staff conducted further research, often using the supporting documentation for the listing documents. Where necessary, EPA consulted with the Services' Regional and Field offices that authored a particular listing document. While it is possible that there may be some minor errors because of inherent difficulties in establishing location data for some mobile species, EPA believes that the Addendum H list is substantially accurate for its intended purpose of notifying applicants whether further inquiry is needed to assess whether Addendum H species are in proximity to the facility.

EPA notes that the MSGP does not require that all applicants conduct formal biological surveys to determine if Addendum H species are located in proximity to a facility. In fact, the permit does not require that the applicant use a specific method. Instead, it directs applicants to use the method or methods which best allows them to determine to the best of their knowledge whether species are in proximity to their facility. See 60 FR 51278. These methods may include: Visual inspections, contacting State wildlife agencies or the Services, contacting local or regional conservation groups, as well as conducting biological surveys. EPA notes that slightly more than 5% of permit applicants reported that species were in proximity to their facilities. Overall, EPA does not believe this process imposes too great a burden on applicants.

J. Some commenters noted that any ESA review requirements do not apply to permitting actions undertaken by NPDES authorized States and that EPA should not intend to impose such procedures on States.

EPA agrees with this comment that ESA section 7 does not apply to States but notes that State NPDES permits are issued under State law and are not within the scope of this EPA permitting action.

K. Some commenters have asked that the ESA review procedures be streamlined.

EPA declines to take this action for reasons listed above in item F. above. EPA believes the current approach contained in the MSGP's Addendum H review procedures provides applicants with the greatest degree of flexibility in ensuring the protection of threatened and endangered species in a cost effective manner. To assist applicants with completing the Addendum H review procedures, EPA has updated the County/Species List and provided additional sources which can be referenced after October 8, 1998, to identify future revisions to the list (see comment A of this section).

L. Some commenters complained that the ESA review process cannot provide answers to questions regarding distances downstream from permitted discharges for adverse effect assessments.

EPA cannot provide answers on how far downstream from the point of discharge applicants must search for the presence of species because this area will vary with each facility. Instead, EPA directs applicants to check whether Addendum H species are located in the immediate vicinity of, or nearby, the point of discharge into receiving waters. EPA believes this standard is appropriate given the large number and variety of facilities covered the permit and because any permitted storm water discharges must meet water quality standards (in the receiving waters, including any downstream water quality standards) which are designed to be protective of aquatic life and consequently listed species.

M. Some commenters have expressed concerns about the degree of certainty which must be made in the permit application. The application (i.e., NOI form) requires that applicants certify ''to the best of my knowledge'' that a storm water discharge or construction of a BMP will not impact endangered or threatened species, whereas ESA § 7(a)(3) requires that EPA consult with the US Fish and Wildlife Service where the applicant has ''reason to believe'' that an endangered or threatened species may be present in area affected by his project. The commenters believe it is unfair to hold applicants to a higher standard and have requested that EPA adopt the statutory standard for the NOI.

Congress enacted ESA § 7(a)(3) in 1982 to establish the ''early consultation'' process under which a prospective permit applicant who ''has reason to believe'' a listed species may be present in its project area may compel the prospective permitting agency to consult even before it receives the permit application. This enables prospective applicants to avoid delays in subsequent permit actions and allows them to resolve endangered species issues at an early stage of project planning when submission of a permit application would be premature. The ''reason to believe'' threshold for initiating early consultation does not, however, apply to a Federal agency's obligation to consult under ESA § 7(a)(2). Unless it can rely on an earlier consultation, the agency must consult on any action which may affect listed species regardless of whether it has reason to believe the species is present in the action area. Only after it affirmatively finds no listed species are present may the agency forego consultation if the action might otherwise affect them.

As explained earlier in this notice, the NOI screening process established at Addendum H allows EPA to authorize a large number of discharges in many locations without the delays associated with independent consideration of each discharge and each BMP used to control them. Although it serves some of the same purposes as early consultation, the NOI screening process is designed to allow efficient EPA compliance with ESA § 7(a)(2), not ESA § 7(a)(3). All factual assertions in NPDES permit applications are subject to the ''best of my knowledge'' standard under 40 CFR 122.22(d) and there is no apparent reason to depart from it in NOIs submitted to obtain coverage under the MSGP.

Protection of Historic Properties

Many comments were received regarding permit eligibility requirements to protect historic properties. For reading convenience, similar comments have been grouped together for response and are listed below in items A.–H.

A. A number of commenters contend that EPA has not provided sufficient guidance to assist applicants in completing the National Historic Preservation Act (NHPA) NOI screening process. At a minimum, EPA should provide a list of State Historic Preservation Officers (SHPOs) or State Historic Preservation Agencies.

In response, EPA has included guidance in the final permit modification under new Addendum I

for applicants to use when determining whether their industrial storm water discharge or construction of Best Management Practices (BMPs) to control such discharges, may have an adverse effect on historic properties. The guidance includes a stepwise procedure, an address list of State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), and the Advisory Council on Historic Preservation.

B. Some commenters have noted that EPA has failed to mention that adverse impacts to historic resources can include visual impacts and that some areas consider structures as recent as 50 years old to be potentially ''historic.''

EPA acknowledges that adverse effects to historic properties, as defined in the NHPA regulations, can include visual impacts. EPA also acknowledges that historic properties can include structures that are 50 years or older.

C. Some commenters have complained that determining the impacts to ''historic protected resources'' can be cost prohibitive for small businesses and will require the hiring of consultants.

EPA believes that the MSGP provides for the consideration of historic properties in a cost effective manner for all applicants. The vast majority of dischargers covered under the MSGP are existing facilities that discharge storm water into well defined areas or pathways. In most of those situations, EPA believes it is a relatively simple matter to determine if the storm water discharges are adversely affecting historic properties. In many cases, a visual inspection may suffice. While the construction of structural BMPs may have a greater potential impact on historic properties, EPA believes that only a very small percentage of sites will have that potential. EPA expects the likelihood of adverse effects to historic properties will be small for most facilities covered under the MSGP.

D. Some commenters noted that while the MSGP requirements to protect historic resources constitute a significant improvement over past practices, they questioned how EPA intended for NHPA certification to be accomplished. In particular, they wondered whether this certification was left up to the applicant, or whether supporting documentation was required.

EPA is not requiring that applicants provide EPA with any documentation for the basis of their eligibility certifications in the NOI. However, meeting the permit eligibility requirements may require that an applicant enter into a written agreement with a SHPO or THPO which describes mutually agreed upon actions that the applicant will undertake to avoid, reduce or mitigate adverse effects to historic properties. As a general matter, applicants are advised to document the basis of their eligibility certifications since a failure to correctly certify eligibility may render the applicant/permittee ineligible for permit coverage and possibly be subject to Clean Water Act enforcement for unpermitted discharges or other Federal actions.

E. One commenter asked for clarification regarding what was meant by the phrase on the NOI form that asks ''[i]s the applicant subject to and in compliance with a written historic preservation agreement.''

A written historic preservation agreement is an agreement in writing between a SHPO/THPO and an applicant which outlines all measures to be taken by the applicant to mitigate or prevent adverse effects to a historic property. EPA intends for these agreements to document and provide assurance that effects to historic properties from activities regulated by the MSGP are given an appropriate level of consideration. EPA wishes to clarify that the NHPA does not prohibit adverse effects to historic properties. It merely requires that such effects be considered so as to avoid unnecessary harm to historic properties.

F. Some commenters recommended that EPA develop guidance for the NHPA certification provisions that is similar to that which is found at Addendum H for endangered species. Some commenters also complained that EPA does not explain how applicants are to comply with the certification provisions of the NHPA.

As mentioned above in response to comment B., EPA has included such guidance in new Addendum I to the MSGP.

G. Some commenters contend that certifying that discharges have no adverse effects on historic properties has no relevance to controlling pollution from storm water. They have requested that the NHPA provisions be removed from the permit.

As mentioned above in the Fact Sheet to this permit, EPA believes that NHPA § 106 places obligations on it to ensure that effects to historic properties are considered for both the issuance of the MSGP and for those activities regulated by it. In light of those requirements, EPA declines to remove the NHPA eligibility provisions from the permit.

EPA believes its authority to include these eligibility provisions to be well established. The NHPA has been listed in 40 CFR 122.49 of EPA's permit regulations since 1979 as a Federal law which may apply to EPA issuance of NPDES permits. See 44 FR 32917 (June 7, 1979). EPA's regulations at 40 CFR 122.49(b) and 122.43(a) provide for measures in procedures prior to issuance of NPDES permits to protect historic properties where feasible. For purposes of NHPA section 106, EPA's issuance of the MSGP falls within the definition of ''Federal undertakings'' in the existing NHPA regulations which define that term to include ''any project, activity, or program that can result in changes in the character or use of historic properties, if any such historic properties are located in the area of potential effects * * * [and the project, activity, or program is] under the direct or indirect jurisdiction of a Federal agency or licensed or assisted by a Federal agency.'' See 36 CFR 802(o) and 16 USC section 470w(7) which contains a reference to Federal permits in the statutory definition of ''undertaking'' in the 1992 amendments to the NHPA.

While it is possible that some NHPA considerations may not relate to the goal of protecting water quality, many NHPA considerations will relate to that goal; e.g., where BMPs are to be constructed nearby or on historic properties. Therefore, EPA believes that conditions to ensure consideration of historic properties as a precondition for eligibility are appropriate for Federally-issued NPDES general permits.

H. Some commenters have alleged that these NHPA requirements violate the Paperwork Reduction Act (PRA).

In response, EPA notes that information required by applicants to determine if they are eligible for MSGP coverage is authorized by current Information Collection Requests from the US Office of Management and Budget (OMB Nos. 2040–0004, 2040–0086, and 2040–0110) and is in compliance with the Paperwork Reduction Act.

APPENDIX B—SUMMARY OF MSGP AND BASELINE PERMIT REQUIREMENTS

Sector	Monitoring		MSGP sector-specific SWPPP considerations	Performance standards/limits	Inspections
	Baseline	MSGP			
Timber Products Facilities	Wood treatment facilities must monitor semi-annually for oil and grease, pH, COD, TSS, penta chlorphenol, acute WET total recoverable; arsenic, chromium and copper.	General sawmills and planing mills must collect quarterly grab samples for the following parameters: COD, TSS, and total recoverable zinc during the second and fourth years of permit coverage. Wood preserving facilities must collect quarterly grab samples for the following parameters: total recoverable arsenic and total recoverable copper during the second and fourth years of permit coverage. Log storage and handling facilities must collect quarterly grab samples for TSS during the second and fourth years of permit coverage. Mills, wood containers, and other wood products must collect quarterly grab samples for the following parameters: COD and TSS during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	• Site map: material handling; treatment, storage, disposal of wastes; liquid storage tanks; processing; treatment chemical storage; treated wood and residue storage; wet and dry decking; untreated wood and residue storage; treatment equipment storage. • Inventory: facilities that have used chlorophenolic, creosote, or inorganic formulations in the past must identify contaminated soils, equipment, and stored materials. • Identify specific BMPs for specific areas of site: good housekeeping measures to limit discharge of wood debris; minimize leachate from decaying wood; minimize dust generation. • Periodic removal of debris from storm water BMPs. • Develop response schedules to limit tracking of spilled materials. Treatment chemicals must be cleaned up immediately. • Develop BMPs for sediment and erosion control in specific areas of site. • Discharges of boiler blowdown, water treatment, wastewaters, non-contact cooling waters, contact cooling waters, wash down waters from treatment equipment and s.w. that have come in contact with site areas where hand spraying of surface protection chemicals is performed are not authorized. • Authorized non-storm water discharges include: discharges from spray down of lumber and wood product storage yards where no chemical additives are used in the spray water and no chemicals are applied to the wood during storage. • Periodic employee training.	Wet deck storage area discharge limitations adopted from 40 CFR 429 Subpart I are as follows: pH range within 6.0 to 9.0. No discharge of debris which can not pass through a 1″ diameter opening. (Note: Wet deck storage area discharges are only allowable under this permit if no chemical additives are used in the spray water or applied to the logs).	• Material handling and unloading and loading areas daily with activity. • Processing and treated wood storage areas monthly for drippage on unprotected soils. • Annual comprehensive site compliance evaluation.
Paper and Allied Products Facilities	Paper and allied products facilities are not subject to monitoring requirements unless they are EPCRA 313 facilities.	Paperboard mills must collect quarterly grab samples for COD during the second and fourth years of permit coverage.	No specific considerations beyond baseline.	NONE	• Annual comprehensive site compliance evaluations must be conducted at least once per year.

APPENDIX B—SUMMARY OF MSGP AND BASELINE PERMIT REQUIREMENTS—Continued

Sector	Monitoring		MSGP sector-specific SWPPP considerations	Performance standards/limits	Inspections
	Baseline	MSGP			
		All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.			
Chemical and Allied Products Manufacturing Facilities	Facilities with storm water discharges that come into contact with solid chemical storage piles must collect annually samples for oil and grease, COD, TSS, pH, and any pollutant limited in an effluent guideline to which the facility is subject.	Industrial inorganic chemical manufacturing facilities (SIC 281) must collect quarterly grab samples for the following parameters: total recoverable aluminum, total recoverable iron, and nitrate + nitrite nitrogen during the second and fourth years of permit coverage. Plastic and synthetic materials manufacturing facilities (SIC 282) must collect quarterly grab samples for total recoverable zinc during the second and fourth years of permit coverage. Soap and detergent manufacturing facilities (SIC 284) must collect quarterly grab samples for the following parameters: total recoverable zinc and nitrate + nitrite nitrogen during the second and fourth years of permit coverage. Agricultural chemical manufacturing facilities must collect quarterly grab samples for the following parameters: total recoverable lead, total recoverable iron, total recoverable zinc, phosphorus, and nitrate + nitrite nitrogen during the second and fourth years of permit coverage.	Site map: location of structures, total area of Industrial Activity • Identify parameters associated with pollutant sources. • Contained areas must have valves or other means to prevent the discharge of a spill or leak. • Schedule regular waste pickup. • Saintain up-to-date inventory. • Consider using berms, curbing, hose connections points, manual valves, drip pans, and overhangs in material storage areas. • Annual employee training.	Limits on the ''contaminated storm water'' at phosphate fertilizer manufacturing facilities. Storm water limits are equivalent to 40 CFR 418. The limits are as follows: Total phosphorus daily maximum = 105.0 mg/L.. Total phosphorus 30-day average = 35.0 mg/L. Fluoride daily max. = 75.0 mg/L. Fluoride 30-day ave. = 25.0 mg/L.	• 2 wet weather and 2 dry weather inspections throughout each year. • Annual comprehensive site compliance evaluation.

APPENDIX B—SUMMARY OF MSGP AND BASELINE PERMIT REQUIREMENTS—Continued

Sector	Monitoring		MSGP sector-specific SWPPP considerations	Performance standards/limits	Inspections
	Baseline	MSGP			
		All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.			
Asphalt Paving and Roofing Materials and Lubricant Manufacturers (does not apply to petroleum refineries)	No monitoring is required under the baseline unless the facility is and EPCRA 313 facility.	Asphalt paving and roofing materials manufacturing facilities must collect quarterly grab samples for TSS during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	No specific considerations beyond baseline. Portable plants are covered by permit.	Limits for storm water discharges from asphalt emulsion facilities. The limits, established in 40 CFR Part 443 Subpart A, are as follows: TSS daily maximum = 23 mg/L. TSS 30-day average = 15. Oil and grease daily max. = 15 mg/L. Oil and grease 30-day average = 10 mg/L– pH within range of 6.0 to 9.0.	• Periodic facility inspections. • Annual comprehensive site compliance evaluation. —At least once at portable plants.
Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing Facilities	Cement manufacturers and ready mix concrete manufacturers must monitor their discharges annually for oil and grease, COD, TSS, and any pollutant in an effluent guideline to which the facility is subject.	Clay product facilities must collect quarterly grab samples for total recoverable aluminum during the second and fourth years of permit coverage. Concrete product facilities must collect quarterly grab samples for TSS and total recoverable iron during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed.	• Removal of spilled material in handling areas by sweeping or other equivalent measures. • Fine solids should be stored in areas not exposed to storm water where practicable. • Must ensure that vehicle washwater is not discharged with storm water.. • Periodic employee training.	Numeric effluent limitations for runoff from storage piles at cement manufacturing facilities established under 40 CFR Part 411.37 are included: TSS ? 50 mg/L. pH within range of 6.0 to 9.0.	• Monthly inspections while the facility is in operation. • Annual comprehensive site compliance evaluation. Annual comprehensive site compliance evaluation.

APPENDIX B—SUMMARY OF MSGP AND BASELINE PERMIT REQUIREMENTS—Continued

Sector	Monitoring		MSGP sector-specific SWPPP considerations	Performance standards/limits	Inspections
	Baseline	MSGP			
		All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.			
Primary Metals Facilities	Primary metals facilities must perform semiannual monitoring for: oil and grease, COD, TSS, pH, WET, total recoverable lead, total recoverable cadmium, total recoverable arsenic, chromium, and any pollutant limited in an effluent guideline to which the facility is subject.	Steel works, blast furnaces, and mills must collect quarterly grab samples for the following parameters: total recoverable aluminum and zinc during the second and fourth years of permit coverage. Iron and steel foundries must collect quarterly grab samples for the following parameters: total recoverable copper, zinc, iron, and aluminum and TSS during the second and fourth years of permit coverage. Non-ferrous rolling and drawing must collect quarterly grab samples for the following parameters: total recoverable copper and zinc during the second and fourth years of permit coverage. Non-ferrous foundries must collect quarterly grab samples for the following parameters: total recoverable copper and zinc during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	• Site map: identify locations of all emissions control equipment • Significant materials should include areas of potential settling or deposition from particulate emissions. • Consider: cleaning or maintenance program, paving areas with vehicle traffic, relocating materials inside, waste removal schedule, product substitution, and covering stockpiles. • Periodic employee training.	NONE	• Quarterly inspections of facility including pollution control equipment. • Annual comprehensive site compliance evaluations.

APPENDIX B—SUMMARY OF MSGP AND BASELINE PERMIT REQUIREMENTS—Continued

Sector	Monitoring		MSGP sector-specific SWPPP considerations	Performance standards/limits	Inspections
	Baseline	MSGP			
Metal Mining (Ore Mining and Dressing) Facilities SIC 10 [Discharges subject to effluent guidelines for mine drainage (40 CFR 440) are not eligible for coverage].	Baseline does not require metal mining facilities to perform any monitoring.	Active copper ore mining and dressing facilities must collect quarterly grab samples for the following parameters: total recoverable copper and total recoverable zinc during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	*Active or Temporarily Inactive* Description of mining activities • Site map-mine boundaries, all outfalls subject to effluent limitations, drainage of process water discharge. • Annual employee training. • Test for non-storm water discharges or discharges subject to effluent limitation guidelines (such as mine drainage or process water of any kind). • Limit erosion and/or remove sediment. *Inactive* Description of the mining activities—— • Site map—existing structural controls, process water discharge points, storm water outfalls. • Inventory of exposed materials—describe significant material that may be at site. • Risk Identification—identify pollutants and their associated sources, assess potential for storm water contamination.	NONE	Active: • Designated equipment and mine areas and sediment & erosion control—monthly. • Annual comprehensive site compliance evaluation. Temporarily inactive: • Designated equipment and mine areas and sediment & erosion control—quarterly. • Annual comprehensive site compliance evaluation except where impractical due to remoteness and inaccessibility in which case inspection must be performed once every 3 years.
Coal Mines and Coal Mining-Related Facilities (Discharges subject to 40 CFR 434 are not allowable. Floor drains from maintenance buildings are excluded).	Baseline does not impose any monitoring for coal mines or related facilities.	Coal mines and coal mining-related facilities must collect quarterly grab samples for the following parameters: TSS, total recoverable aluminum and total recoverable iron during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	*Good housekeeping* • Sweeping or road watering to keep dust down. *Preventive maintenance* • Timely inspection. • Periodic debris and sediment removed from BMP. • Replacement of worn BMP. *Sediment and erosion control* • Plan must contain all reasonable and appropriate SMCRA regulations. • Passive/low maintenance treatment for reducing pollutants from inactive sites. • Consider stabilization and structural measures.	NONE	• Quarterly inspection for active sites and SMCRA inactive. • Annual inspection for inactive sites. • Annual comprehensive site compliance evaluation for all. Annual comprehensive site compliance evaluation.
Oil and Gas Extraction Facilities (only those which had an RQ release that was discharged through a storm water discharge event); petroleum refineries	Baseline does not impose any monitoring on these types of facilities unless they are EPCRA 313 facilities.	All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed.	• Describe measures to clean up RQ releases. • Address vehicle and equipment storage, cleaning, and maintenance areas. • Erosion controls (vegetative and structural practices).		• Quarterly for equipment and vehicles that store or transport hazardous materials. • Weekly inspection of sediment and erosion controls. • Semiannual for all equipment and areas addressed in PPP. • Annual comprehensive site compliance evaluation. • Annual inspections for inactive oil and gas extraction facilities.

APPENDIX B—SUMMARY OF MSGP AND BASELINE PERMIT REQUIREMENTS—Continued

Sector	Monitoring		MSGP sector-specific SWPPP considerations	Performance standards/limits	Inspections
	Baseline	MSGP			
Mineral Mining and Processing Facilities	Baseline does not impose any monitoring on these types of facilities unless they are EPCRA 313 facilities.	Dimension stone, crushed stone, and nonmetallic minerals except fuels mining and processing facilities must collect quarterly grab samples for TSS during the second and fourth years of permit coverage. Sand and gravel mining and processing facilities must collect quarterly grab samples for TSS and nitrate + nitrite nitrogen during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	• Site map must indicate monitoring points. • Assess the applicability of certain BMPs commonly used at such mining sites. • Sediment and erosion control BMPs must be planned for new activities and implemented for existing activities.	Numeric effluent limitations for mine dewatering discharges in EPA Regions I, II, VI, X and Arizona established under 40 CFR Part 436 are included: TSS daily max. = 45 mg/L. TSS 30 day ave. = 25 mg/L. pH within range of 6.0 to 9.0.	• Quarterly visual inspections of all BMPs for active mines. • Annual inspections for inactive operations. • Annual comprehensive site compliance evaluation for active sites. • Once every 3 years comprehensive site compliance evaluation for inactive sites.
Hazardous Waste Treatment Storage or Disposal Facilities (TSDFs)	Storm water discharges from incinerators and BIFs that burn hazardous waste must semiannually monitor for ammonia, magnesium (dissolved), TKN, COD, TDS, TOC, oil and grease, pH; total recoverable: arsenic, barium, cadmium, chromium, cyanide, lead, selenium, silver; total mercury; and acute WET.	TSDFs must collect quarterly grab samples for the following parameters: ammonia, magnesium, COD, total recoverable arsenic, total recoverable cadmium, free cyanide, total recoverable lead, total recoverable mercury, total recoverable selenium, and total recoverable silver during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed.	• Specific pollutants of concern should be identified under risk identification.	NONE	• Inspect equipment and areas of facility at intervals specified in plan. • Annual comprehensive site compliance evaluation.

APPENDIX B—SUMMARY OF MSGP AND BASELINE PERMIT REQUIREMENTS—Continued

Sector	Monitoring		MSGP sector-specific SWPPP considerations	Performance standards/limits	Inspections
	Baseline	MSGP			
		All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.			
Landfills, Land Application Sites, and Open Dumps	Land disposal units must monitor semiannually for ammonia, magnesium (dissolved), TKN, COD, TDS, TOC, oil and grease, pH; total recoverable: arsenic, barium, cadmium, chromium, cyanide, lead, selenium, silver; total mercury; and acute WET.	Landfills, land application sites, and open dumps must collect quarterly grab samples for total recoverable iron and TSS during the second and fourth years of permit coverage. Municipal solid waste landfills closed in accordance with 40 CFR 258.60 are not required to monitor total recoverable iron. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	—Must identify specific waste that have been disposed. —Provide data on leachate generated at the site. —Additional sources of pollutants must be identified under risk identification. —Tracking system for waste disposed. —Additional sediment and erosion control requirement.	NONE	Active landfills: —Inspections—weekly. —Monthly for finally stabilized facilities and those located in arid areas. —*Monthly* inspections if stabilized on during arid seasons. Inactive landfills-quarterly Annual comprehensive site compliance evaluation.
Automobile Salvage Yards	Automobile salvage yards must collect annual grab and composite samples for the following parameters: oil and grease, pH, COD, and TSS. Requirements apply only to facilities where the following is exposed to storm water: (a) over 250 auto/truck bodies with drivelines, 250 drivelines, or any combination thereof, or (b) over 500 auto/truck units, or (c) over 100 units dismantled per year where automotive fluids are drained or stored.	Automobile salvage yards must collect quarterly grab samples for total recoverable iron, total recoverable aluminum, total recoverable lead, and TSS during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	• Site map: monitoring points, total area of industrial activities • Identify parameters associated with pollutant sources. • Drain vehicles of fluids or other equivalent measures.	NONE	• Cars upon arrival for leaks. • Oily equipment 4X/yr for leaks. • Storage of fluids (including containers) 4X/yr for leaks. • BMPs 4X/yr. • Annual comprehensive site compliance evaluation.

APPENDIX B—SUMMARY OF MSGP AND BASELINE PERMIT REQUIREMENTS—Continued

Sector	Monitoring		MSGP sector-specific SWPPP considerations	Performance standards/limits	Inspections
	Baseline	MSGP			
Scrap and Waste Material Processing and Recycling Facilities (Permit conditions broken out between facilities that handle non-liquid recyclable wastes and facilities that handle liquid recyclable wastes).	Baseline imposes monitoring requirements on facilities engaged in reclaiming batteries. Battery reclaimers must monitor semi-annually for oil and grease, COD, TSS, pH, copper, and lead.	Scrap and waste material processing and recycling (non-liquid) facilities must collect quarterly grab samples for the following parameters: total recoverable copper, total recoverable aluminum, total recoverable iron, total recoverable lead, total recoverable zinc, COD, and TSS during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	• Site map: identify locations of all scrap processing equipment and locations of all significant material storage, e.g., scrap. • Schedule preventative maintenance of all pollution control equipment. • Erosion and sediment controls. • Inbound recyclable materials control program, scrap lead-acid battery program. • Control of storm water discharges from turnings piles exposed to cutting fluids.	NONE	Non-liquid Recyclable Waste Facilities: • Quarterly inspections of facility including pollution control equipment . • Annual comprehensive site compliance evaluations. Liquid Recyclable Wastes: • Site inspections. • Annual comprehensive site compliance evaluations.
Steam Electric Power Generating Facilities, Including Coal Handling Areas and Coal Piles	Baseline requires oil fired facilities to sample storm water annually for oil and grease, COD, TSS, pH, and any pollutant limited in an effluent guideline. Baseline requires coal-fired for steam electric to sample annually for oil and grease, pH, TSS, total recoverable copper, nickel, and zinc from coal handling sites (other than runoff from coal piles, which is not eligible for coverage).	Steam electric generating facilities must collect quarterly grab samples for total recoverable iron during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	• Tracking of fugitive dusts. • Liquid storage tank controls. • Measures to reduce oils spills. • Controls of oil bearing equipment in switchyards. • Annual employee training.	Numeric effluent limitations for coal pile runoff established under 40 CFR Part 423 effluent limitations are as follows: TSS ? 50 mg/L. pH within range of 6.0 to 9.0. (Note: These effluent limitations apply to all sectors with coal pile runoff.)	• In addition to or as part of the comprehensive site evaluation, the following areas must be inspected on a monthly basis: coal handling areas, loading/unloading areas, switchyards, fueling areas, bulk storage areas, ash handling areas, areas adjacent to disposal ponds and landfills, maintenance areas, liquid storage tanks, and long term and short term material storage areas. • Annual comprehensive site compliance evaluation.
Motor Freight Transportation Facilities, Passenger Transportation Facilities, Rail Transportation Facilities, and United States Postal Service Transportation Facilities	Baseline does not impose monitoring on these facilities unless they are EPCRA 313 facilities.	All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed.	• Site Map: vehicle and equipment storage areas • Measures and Controls: —Vehicle and equipment storage areasCconfined to designated area; prevent or minimize contamination. —Fueling areaCprevent or minimize contamination. —Material Storage Areas—maintain containers in good condition; prevent or minimize contamination. —Vehicle and equipment cleaning areas—prevent or minimize contamination.	NONE	• Qualified facility or company personnel shall be identified to perform inspection on a quarterly basis. • Annual comprehensive site compliance evaluation.

APPENDIX B—SUMMARY OF MSGP AND BASELINE PERMIT REQUIREMENTS—Continued

Sector	Monitoring		MSGP sector-specific SWPPP considerations	Performance standards/limits	Inspections
	Baseline	MSGP			
			—Vehicle and equipment maintenance areas—prevent or minimize contamination. —Sanding areas—prevent or minimize contamination. • Spill Prevention and Response—SPCC plan may be referenced. • Annual Employee Training—on specified topics. • Attach copy of washwater NPDES or IU permit/application.		
Water Transportation Facilities That Have Vehicle Maintenance Shops and/or Equipment Cleaning Operations	Baseline does not impose monitoring on these types of facilities unless they are EPCRA 313 facilities.	Water transportation facilities must collect quarterly grab samples for total recoverable aluminum, total recoverable iron, total recoverable lead, and total recoverable zinc during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	Site map: vessel maintenance and repair, pressure washing, painting, sanding, blasting, welding, metal fabrication, liquid storage areas, and material storage areas. • Measures and Controls —Pressure washing areas—collect and contain discharge, remove all visible solids, identify where washwater is released. —Blasting and Painting Areas—consider containing activities; prevent or minimize contamination. —Material Storage Areas—all materials stored in protected, secured location; prevent or minimize contamination; describe containments or enclosure. —Engine Maintenance and Repair Areas—prevent or minimize contamination. —Material Handling Areas—prevent or minimize contamination. —Drydock Activities—prevent or minimize contamination. —General Yard Area—schedule routine yard cleanup. • Annual employee training.		• Monthly in specified areas, including: —Pressure washing area. —Blasting, sanding, and painting areas. —Material storage areas. —Engine maintenance and repair areas. —Material handling areas. —Drydock areas. —General yard area. • Annual comprehensive site compliance evaluation.
Ship and Boat Building or Repairing Yards	Baseline permit requires annual monitoring for: oil and grease, COD, TSS, pH, any pollutant limited in an effluent guideline to which the facility is subject.	All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed.	Site map: vessel maintenance and repair, pressure washing, painting, sanding, blasting, welding, metal fabrication, liquid storage areas, and material storage areas. • Measures and Controls —Pressure washing areas—collect and contain discharge, remove all visible solids, identify where washwater is released. —Blasting and Painting Areas—consider containing activities; prevent or minimize contamination. —Material Storage Areas—all materials stored in protected, secured location; prevent or minimize contamination; describe containments or enclosure. —Engine Maintenance and Repair Areas—prevent or minimize contamination. —Material Handling Areas—prevent or minimize. —Drydock Activities—prevent or minimize. —General Yard Area—schedule routine yard cleanup. • Annual employee training on specified topics.	NONE	• Monthly in specified areas • Annual comprehensive site compliance evaluation.

APPENDIX B—SUMMARY OF MSGP AND BASELINE PERMIT REQUIREMENTS—Continued

Sector	Monitoring		MSGP sector-specific SWPPP considerations	Performance standards/limits	Inspections
	Baseline	MSGP			
Vehicle Maintenance Areas, Equipment Cleaning Areas, or Deicing Areas Located at Air Transportation Facilities	Baseline requires those airports with over 50,000 flight operations per year to sample oil and grease, pH, BOD5, COD, TSS, and the primary ingredient used in deicing materials.	Facilities that use more than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or more than 100 tons of urea on an average annual basis, shall prepare annual pollutant loading estimates for discharges of spent deicing/anti-icing chemicals and collect quarterly grab samples for BOD, COD, ammonia, and pH during the second and fourth years of permit coverage. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	• Site maps must be developed for areas occupied by the tenant(s) of the airport facility. • Summary of potential pollutant sources: maintain a record of the types and quantities of deicing chemicals used. • Source reduction: evaluate alternative operating procedures which reduce the overall amount of deicing chemicals used and/or lessen the environmental.	NONE	• In addition to comprehensive site evaluation and standard inspections, 1/week for areas where deicing operations are being conducted. • Annual comprehensive site compliance evaluation.
Treatment Works	Baseline does not require monitoring unless they are EPCRA 313 facilities.	All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed.	Annual employee training.	NONE	• Inspect equipment and industrial areas periodically. • Annual comprehensive site compliance evaluation.
Food and Kindred Products Facilities	Animal handling/meat packaging facilities must annually collect grab and composite samples (where appropriate) for BOD, oil and grease, COD, TSS, TKN, Total Phosphorus, pH, and fecal coliform.	Grain mill product facilities must collect quarterly grab samples for TSS during the second and fourth years of permit coverage. Fats and oils facilities must collect quarterly grab samples for BOD, COD, TSS and nitrate + nitrite nitrogen during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	• Site map to indicate all industrial activities exposed to storm water. • Pest control chemical application/storage practices. • Annual inspections of potential pollutant source areas. • Annual employee training.	NONE	Routine inspection of: • Loading/unloading areas. • storage areas. • Waste management units. • Vents and stacks from industrial activities. • Spoiled products and broken product container holding areas. • Animal holding pens. • Staging areas. • Air pollution control equipment. Annual comprehensive site compliance evaluation.

APPENDIX B—SUMMARY OF MSGP AND BASELINE PERMIT REQUIREMENTS—Continued

Sector	Monitoring		MSGP sector-specific SWPPP considerations	Performance standards/limits	Inspections
	Baseline	MSGP			
Textile Mills, Apparel, and Other Fabric Product Manufacturing Facilities	Baseline does not impose monitoring on these types of facilities unless they are EPCRA 313 facilities.	All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed.	• Summary of potential pollutant sources: industry-specific-significant materials, industrial activities (examples listed). • Measures and controls: —Material storage area: store materials in a protected area; prevent and minimize contamination; describe containment of enclosure for materials stored outdoors. —Fueling areas—prevent or minimize contamination. —Above ground storage tank areas—prevent or minimize contamination. —Annual employee training.	NONE	• Monthly, include: all containments, storage areas, transfers, and transmission lines; spill prevention; good housekeeping practices; management of process waste products; all structural and nonstructural management practices. • Annual comprehensive site compliance evaluation.
Wood and Metal Furniture and Fixture Manufacturing Facilities	Baseline does not require these types of facilities to monitor storm water discharges unless they are EPCRA 313 facilities.	All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed.	• Ineffective BMPs must be recorded and date of corrective action noted.	NONE	• Quarterly inspections of designated areas. • Annual comprehensive site compliance evaluation.
Printing and Publishing Facilities	Baseline does not impose monitoring on these facilities unless they are EPCRA 313 facilities.	All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed.	• Good housekeeping; address material handling/storage; fueling. • Employee training annually on specified topics.	All materials must be stored in protected area away from drains and labeled.	Annual inspection—all containment and material storage areas, fueling areas, loading and unloading areas, equipment cleaning areas. Annual comprehensive site compliance evaluation.
Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries	Baseline requires monitoring at rubber manufacturer when storm water contacts solid chemical storage areas.	Rubber product manufacturing facilities must collect quarterly grab samples for total recoverable zinc during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	Rubber Product Manufacturers: • Review the use of zinc and possible means for zinc to enter s.w. discharges. • Develop specific BMPs to control zinc.	NONE	Perform routine inspections as required within the permit. Annual comprehensive site compliance evaluation.
Leather Tanning and Finishing Facilities	Baseline does not impose monitoring requirements on leather tanning facilities unless they are EPCRA 313 facilities.	All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed.	Address: —Material storage areas. —Buffing/shaving areas. —Receiving, unloading and storage areas. —Outdoor storage of contaminated equipment. —Waste management. Annual employee training.	NONE	Quarterly inspections of leather processing vehicle and equipment maintenance areas, material storage areas, loading and unloading areas, and waste management areas. Annual comprehensive site compliance evaluation.

APPENDIX B—SUMMARY OF MSGP AND BASELINE PERMIT REQUIREMENTS—Continued

Sector	Monitoring		MSGP sector-specific SWPPP considerations	Performance standards/limits	Inspections
	Baseline	MSGP			
Fabricated Metal Products Industry	Baseline does not impose monitoring on these facilities unless they are EPCRA 313 facilities.	Fabricated metal products except coating manufacturing facilities must collect quarterly grab samples for the following parameters: total recoverable iron,total recoverable aluminum, total recoverable zinc, and nitrate + nitrite nitrogen during the second and fourth years of permit coverage. Fabricated metal coating and engraving manufacturing facilities must collect quarterly grab samples for the following parameters: total recoverable zinc and nitrate + nitrite nitrogen during the second and fourth years of permit coverage. All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed. All facilities may exercise the low concentration waiver, inactive and unstaffed waiver, or alternative certification in lieu of analytical monitoring.	• Focus primarily on storage areas, unloading and loading areas, and any other area where outside operations occur. • Address: storage areas for raw metal, receiving, unloading, and loading areas, storage of heavy equipment, metal working fluid areas, unprotected liquid storage tanks, chemical cleaners and wastewaters, raw steel collection, paints and painting equipment, hazardous waste storage, chemical transportation, galvanized products, vehicle and equipment maintenance, wooden pallets and empty drums, and retention ponds.	NONE	Periodic inspections of raw metal storage areas, finished product storage areas, material and chemical storage areas, recycling areas, loading and unloading areas, equipment storage areas, paint areas, fueling and maintenance areas, and waste management areas. Annual comprehensive site compliance evaluation.
Facilities That Manufacture Transportation Equipment, Industrial, *or Commercial Machinery Manufacturers	Baseline does not impose monitoring on these facilities unless they are EPCRA 313 facilities.	All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed.	• Annual employee training on specified topics. • Good housekeeping for exposed areas. • Spill prevention and response procedure for exposed areas.	NONE	Annual inspections for loading and unloading areas, storage areas, waste management units, and vents and stacks. Annual comprehensive site compliance evaluation.
Facilities That Manufacture Electronic and Electrical Equipment and Components, Photographic and Optical Goods	Baseline does not impose monitoring on these facilities unless they are EPCRA 313 facilities.	All facilities must conduct quarterly visual examinations of storm water discharges unless inactive and unstaffed.	There are no considerations beyond the baseline.	NONE	Perform routine inspections. Annual comprehensive site compliance evaluation.

These permit modifications shall become effective on the date of publication in the **Federal Register**.

Final Permit Modification

This permit modification shall become effective on September 30, 1998.

Region 1

Signed and issued this 29th day of June, 1998.

Linda M. Murphy,

Director, Office of Ecosystem Protection.

Areas of coverage	
Connecticut Indian Country	CTR05*##F
Maine	MER05*###
Maine Indian Country	MER05*##F
Massachusetts	MAR05*###
Massachusetts Indian Country	MAR05*##F
New Hampshire	NHR05*###
Rhode Island Indian Country	RIR05*##F
Vermont Federal Facilities	VTR05*##F

Region II

Signed this 21st day of July, 1998.

Kathleen C. Callahan,

Division of Environmental Planning and Protection Director.

Areas of coverage	Permit No.
Puerto Rico	PRR05*###
Federal Facilities	PRR05*##F

Region III

Signed this 6th day of August, 1998.

Thomas J. Maslany,

Water Protection Division Director.

Areas of coverage	Permit No.
District of Columbia	DCR05*###
Federal Facilities	DCR05*##F
Delaware Federal Facilities	DER05*##F

Region IV

Signed this 7th day of July, 1998.

Robert F. McGhee,

Water Management Division Director.

Areas of coverage	Permit No.
Florida	FLR05*###
Indian country	FLR05*##F

Region VI

William B. Hathaway,

Water Quality Protection Division Director.

Areas of coverage	Permit No.
Louisiana Indian country	LAR05*##F
New Mexico	NMR05*###
Indian country (except Navajo and Ute Mountain Reservation lands)	NMR05*##F
Oklahoma:	
Indian country	OKR05*##F
Oil and gas exploration and production related industries and pipeline industries that are regulated by the Oklahoma CorporationCommission.	OKR05*###
Texas	TXR05*###
Indian country	TXR05*##F

Region IX

Signed this 17th day of July, 1998.

John Ong,

Acting Director, Water Division.

Areas of coverage	Permit No.
Arizona	AZR05*###
Indian country	AZR05*###F
Federal Facilities	AZR05*##F
California	
Indian country	CAR05*##F
Guam	GUR05*###
Federal Facilities	GUR05*##F
Idaho	
Duck Valley Reservation	NVR05*##F
Nevada Indian country	NVR05*##F
New Mexico	
Navajo Reservation	AZR05*##F
Oregon	
Fort McDermitt Reservation	NVR05*##F
Utah	
Goshute Reservation	NVR05*##F
Navajo Reservation	AZR05*##F
Johnston Atoll	JAR05*###
Federal Facilities	JAR05*##F
Midway Island and Wake Island	MWR05*###
Federal Facilities	MWR05*###F

Region X

Signed this 26th day of June, 1998.

Philip G. Millam,

Director, Office of Water.

Areas of coverage	Permit No.
Alaska	AKR05*###
Indian country	AKR05*##F
Idaho	IDR05*###
Federal facilities	IDR05*##F
Indian country (except Duck Valley Reservation lands)	IDR05*##F
Oregon Indian country (except for Fort Dermitt Reservation lands)	ORR05*##F
Washington Indian country	WAR05*##F
Washington Federal Facilities	WAR05*##F

Final Modification of the National Pollutant Discharge Elimination System

(NPDES) Storm Water Multi-Sector General Permit for Industrial Activities; Termination of the EPA NPDES Storm Water Baseline Industrial General Permit

For reasons set forth in the Fact Sheet, the Table of Contents, Parts I, II, IV, VI, and XI.A, XI.C, XI.D, XI.E, XI.I, XI.J, XI.L, XI.P, XI.V, XI.X and XI.AA, XII, and Addendum H of the NPDES Storm Water Multi-Sector General Permit (MSGP) are modified as described below. A new Part XI.AD and Addendum I have been added to the MSGP. These modifications and additional requirements will become effective on the date of **Federal Register** publication of the final modifications. For applicant and permittee convenience, copies of the current NOI and NOT have been included at the end of today's notice.

Notice is also being published of EPA's termination of the NPDES Storm Water Baseline Industrial General Permit, with certain exceptions described below in Part II.A.9, 92 days after the effective date of these MSGP modifications where the Baseline Industrial General Permit is extended in accordance with the provisions of the Administrative Procedure Act (APA).

I. Modification of Permit Table of Contents

Table of Contents (Amended)

The Addenda portion of the MSGP's Table of Contents is amended to include a reference to new Addendum I—Historic Properties Guidance.

NPDES Storm Water Multi-Sector General Permit for Industrial Activities Table of Contents

* * * * *

Addenda

* * * * *

Addendum I—Historic Properties Guidance

II. Modification of Permit Eligibility Language for Protection of Historic Properties

Part I (Amended)

Part I.B.6., National Historic Preservation Act, is amended to include a reference to new Addendum I to the permit which provides guidance and references for applicants to use when determining their facility's eligibility for permit coverage regarding the protection of historic properties and places. Part

I.B.6(ii) is also amended to add the term ''Tribal Historic Preservation Officers'' to the term ''State Historic Preservation Officers'' found in the original permit.

Part I. Coverage Under This Permit

B. Eligibility

* * * * *

6. *National Historic Preservation Act.* In order to be eligible for coverage under this permit, the applicant must be in compliance with the National Historic Preservation Act. A discharge of storm water associated with industrial activity may be covered under this permit only if:

(i) The discharge does not affect a property that is listed or is eligible for listing on the National Register of Historic Places as maintained by the Secretary of the Interior; or

(ii) The applicant has obtained and is in compliance with a written agreement between the applicant and the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) that outlines all measures to be undertaken by the applicant to mitigate or prevent adverse effect to the historic property.

Addendum I of this permit provides guidance and references to assist applicants with determining their facility's permit eligibility concerning this provision.

III. NOI Submittal Deadline for Facilities Transferring From the Baseline Industrial General Permit

Part II (Amended)

The deadline for NOI submittal for facilities currently covered by the Baseline Industrial General Permit that are being transferred to the MSGP is established by adding Part II.A.9 to the MSGP. Also added is Part II.A.10 which instructs facilities ineligible to transfer to the MSGP because of Endangered Species Act or National Historic Preservation Act requirements to apply for an individual NPDES permit from the appropriate EPA Regional Office.

Part II. Notification Requirements

A. Deadlines for Notification

* * * * *

9. *Facilities Being Transferred to the Multi-Sector General Permit as a Result of the Expiration of the Baseline Industrial General Permit.* Facilities currently covered by the Baseline Industrial General Permit for an existing storm water discharge associated with industrial activity that have not already submitted an NOI in accordance with Part II.A.6 to transfer coverage to the Multi-Sector General Permit, shall do so on or before 90 days after the effective date of the modification of the Multi-Sector Permit. The requirements of the Baseline Industrial General Permit will continue to apply to facilities transferring permit coverage during this time period where an extension of the Baseline Industrial General Permit has been acquired by the permittee in accordance with the Administrative Procedure Act (APA).

Where an extension of the Baseline Industrial General Permit has been acquired by a permittee under the provisions of the APA, coverage under such extended permit shall terminate in all applicable areas 92 days after the effective date of the modified MSGP with the exception of facilities subject to Part II.A.10 and for facilities located in the following areas: Federal facilities in Colorado; and Indian Country lands located in the States of Colorado (including the portion of the Ute Mountain Reservation located in New Mexico), Montana, North Dakota, South Dakota (including the portion of the Pine Ridge Reservation located in Nebraska), Utah (except for the Goshute and Navajo Reservation lands (see Region 9)), and Wyoming.

10. *Facilities Ineligible for Transfer to the Multi-Sector General Permit from the Baseline Industrial General Permit.* Facilities seeking storm water permit coverage who, after attempting to comply with all eligibility conditions of the permit, are still ineligible for transfer to the Multi-Sector General Permit due to Endangered Species Act requirements, National Historic Preservation Act requirements or other requirements of the permit shall submit an application for an individual NPDES permit to the appropriate EPA Regional Office listed in Part I.A of this permit. These individual permit applications shall be submitted no later than 90 days after the effective date of the modified Multi-Sector General Permit.

IV. Deadlines for Storm Water Pollution Prevention Plan Preparation and Compliance for Facilities Transferring from the Baseline Industrial General Permit

Part IV (Amended)

For facilities transferring to the MSGP as a result of the expiration of the Baseline Industrial General Permit, the deadline for storm water pollution prevention plan preparation and compliance is established in the MSGP by adding Part IV.A.10 as follows:

Part IV. Storm Water Pollution Prevention Plans

A. Deadlines for Plan Preparation and Compliance

* * * * *

10. *Facilities Being Transferred from the Baseline Industrial General Permit to the Multi-Sector General Permit.* Facilities transferring industrial storm water discharge coverage from the Baseline Industrial General Permit to the Multi-Sector General Permit shall revise and begin implementation of their pollution prevention plans to address requirements under Part XI no later than 180 days after the date of modification of the Multi-Sector Permit. For cases where construction is necessary to implement measures required by the plan, a schedule shall be included which provides compliance with the plan as expeditiously as practicable but no later than October 1, 2000.

V. Modification of Monitoring and Reporting Requirements

Part VI (Amended)

Part VI is amended by adding Part VI.D and referencing Part VI.D in Parts VI.A and VI.B as shown below. Also, the reporting addresses have been updated in Part VI.B.1.

Part VI. Monitoring and Reporting Requirements

A. Monitoring Requirements

1. *Limitations on Monitoring Requirements.* a. Except as required by paragraph b., only those facilities with discharges or activities identified in Part VI.C., Part VI.D. and Part XI. are required to conduct sampling of their storm water discharges associated with industrial activity. Monitoring requirements under Parts VI.C.,VI.D. and XI. are additive. Facilities with discharges or activities described in more than one monitoring section are subject to all applicable monitoring requirements from each section.

b. The Director can provide written notice to any facility otherwise exempt from the sampling requirements of Parts VI.C., VI.D. and XI. that it shall conduct discharge sampling for a specific monitoring frequency for specific parameters.

B. Reporting: Where To Submit

1. *Location.* Signed copies of discharge monitoring reports required under Parts VI.C., VI.D., and XI., individual permit applications, and all other reports required herein, shall be submitted to the Director of the NPDES program at the address of the

appropriate Regional Office listed below. For each outfall, one Discharge Monitoring Report form must be submitted per storm event sampled.

a. *CT, MA, ME, NH, RI, VT* EPA, Region I, Office of Ecosystem Protection, Municipal Assistance Unit, JFK Federal Building, Boston, MA 02203

b. *PR* U.S. Environmental Protection Agency, Caribbean Environmental Protection Division, Centro Europa Building, 1492 Ponce de Leon Avenue, Suite 417, Santurce, Puerto Rico 00907–4127

c. *DE, DC* EPA, Region III, Water Protection Division (3WP30), 841 Chestnut Building, Philadelphia, PA 19107

d. *FL* EPA, Region IV, Water Management Division, Surface Water Permits Section (SWPFB), 61 Forsyth St., SW, Atlanta, GA 30303–3104

e. *NM (except see Region IX for Navajo lands), TX; LA Indian Country lands; OK Indian Country lands; oil and gas exploration and production related industries, and pipeline operations, which are regulated by the Oklahoma Corporation Commission* EPA, Region VI, Enforcement and Compliance Assurance Division (6EN–WC), EPA SW MSGP, P.O. Box 50625, Dallas, TX 75250

f. *AZ, CA, NV, Johnson Atoll, Guam, Midway Island, Wake Island, American Samoa, the Commonwealth of Northern Mariana Islands, the Goshute Reservation in UT and NV, the Navajo Reservation in UT, NM, and AZ, the Fort McDermitt Reservation in OR, the Duck Valley Reservation in NV and ID* EPA, Region IX, Water Management Division, (WTR–5), Storm Water Staff, 75 Hawthorne Street, San Francisco, CA 94105

g. *AK, ID (except see Region IX for Duck Valley Reservation lands), OR (except see Region IX for Fort McDermitt Reservation lands), WA* EPA, Region X, Office of Water (OW–130), Storm Water Staff, 1200 Sixth Avenue, Seattle, WA 98101

* * * * *

D. Monitoring Requirements for Dischargers Transferring Permit Coverage to Multi-Sector General Permit as a Result of Expiration of Baseline Industrial General Permit, and Other Dischargers Obtaining Multi-Sector General Permit Coverage After September 30, 1997.

Facilities transferring permit coverage to the Multi-Sector General Permit as a result of the expiration of the Baseline Industrial General Permit, and other dischargers (i.e., new dischargers; existing dischargers formerly unpermitted under either an individually-drafted NPDES permit or another NPDES general permit; and, dischargers transitioning industrial storm water discharge permit coverage from an individually drafted NPDES permit to the Multi-Sector General Permit) obtaining coverage after September 30, 1997, are required to monitor in accordance with the applicable requirements listed in Part XI. during the 4th year of the Multi-Sector Permit (October 1, 1998–September 30, 1999). Submittal of Discharge Monitoring Report Forms (or certifications) reporting monitoring results are to be postmarked no later than March 31, 2000, and sent to the appropriate EPA Regional Office listed in Part VI.B.

Facilities with discharges subject to numeric effluent limitations that are eligible for coverage (see Part V.B., Part XI.A.4. Part XI.C.5., Part XI.D.4., Part XI.E.4., Part XI.J.4., and Part XI.O.4.) are to monitor and report as required by the permit.

Facilities transitioning from the Baseline Industrial General Permit to the Multi-Sector General Permit may use their two most recent monitoring results, on a parameter-by-parameter, outfall-by-outfall basis which were obtained through Baseline Permit monitoring requirements, to compare with appropriate monitoring cut-off concentrations in order to meet the Multi-Sector's 4th year monitoring requirements mentioned above. This provision is only allowable where such data represents current industrial storm water discharges from a facility. Facilities with discharges subject to the numeric effluent limitations mentioned above cannot use previously generated sampling data and must conduct monitoring for the life of the Multi-Sector General Permit for those discharges.

VI. Modification of Types of Facilities Covered by the MSGP; Inclusion of Effluent Limitations for Wet Deck Storage Areas; and, Addition of New Part XI.AD.

Part XI (Amended)

1. Parts XI.A.4 and 5 are amended to include technology-based effluent limitations and monitoring requirements for non-storm water discharges from wet deck storage areas as currently authorized under Part XI.A.2.a(2) of the MSGP.

2. Part XI.C.1 is amended by adding subsector ''i'' which authorizes discharges from facilities within SIC Code 283. The previous Part XI.C.2 is deleted which had not authorized discharges from SIC code 283 facilities. The previous Part XI.C.1.i is renumbered as Part XI.C.2. Also, clarification is added in Part XI.C.1.h that facilities with SIC code 3952 other than those listed are covered by Part XI.Y.

3. Part XI.D.1.e. is amended to show the appropriate parts of the permit which provide coverage for storm water discharges from petroleum refineries (Part XI.I.), oil recycling facilities (Part XI.N.), and fat and oil rendering facilities (Part XI.U.).

4. Part XI.E.1 is amended to authorize discharges from manufacturers of the following products: glass products made of purchased glass (SIC code 3231); vitreous china plumbing fixtures, and china and earthenware fittings and bathroom accessories (SIC code 3261), lime (SIC code 3274), stone and stone products (SIC code 3281); abrasive products (SIC code 3291); asbestos products (SIC code 3292), mineral wool (SIC code 3296), and nonmetallic mineral products not elsewhere classified (SIC code 3299). Also, the SIC code exclusions in the existing Part XI.E.1 pertaining to SIC codes 3274, 3281, 3291, 3292 and 3296 are deleted.

Part XI.E.5.a. is modified to include the following categories of facilities among those which must conduct analytical monitoring: manufacturers of vitreous china plumbing fixtures, and china and earthen ware fittings and bathroom accessories (SIC code 3261) and lime (3274). The monitoring requirements for SIC code 3261 facilities are found in Table E–1 and the requirements for SIC code 3274 facilities are found in Table E–2.

5. Part XI.I.1.a. is amended to authorize discharges from facilities in SIC code 2911 (petroleum refineries), except for discharges subject to effluent limitations guidelines.

6. Part XI.J.1.a.(1) is amended to authorize mine dewatering discharges composed entirely of storm water or ground water seepage from construction sand and gravel, industrial sand, and crushed stone mining facilities located in EPA Regions I, II and X. Similar revisions are made to Part XI.J.4.a. (Numeric Effluent Limitations) and Part XI.J.5.b. (Monitoring and Reporting Requirements). These discharges were originally authorized in the MSGP from only those facilities located in EPA Region VI and Arizona in EPA Region IX.

7. Parts XI.L.1 and 2 are amended to authorize discharges from open dumps. Similar language changes have been

made in Parts XI.L.3, 4 and 5 to include applicability to open dumps.

8. Part XI.P.1 is amended to authorize discharges from facilities in SIC code 4221–4225 (public warehousing and storage) that do not have vehicle and equipment maintenance shops and/or equipment cleaning operations but have areas (exclusive of access roads and rail lines) where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products or industrial machinery are exposed to storm water.

9. Part XI.V.1 is amended to authorize industrial storm water discharges from facilities in SIC code 31 (except 3111), which covers manufacturers of finished leather and artificial leather products.

10. Part XI.X.1 is amended to clarify that this sector authorizes industrial storm water discharges from all SIC 27 facilities.

11. Part XI.AA.1 is amended to clarify that this sector authorizes industrial storm water discharges from all SIC 34 facilities.

12. Part XI.AD. is added to provide an industrial sector for facilities which meet the definition of storm water associated with industrial activity (40 CFR 122.26(b)(14)) and are required by the Director to obtain permit coverage in accordance with 40 CFR 122.26(a)(1)(v) or 40 CFR 122.26(a)(9) and 122.26.(g)(1)(i), but cannot be classified in another industrial sector of this permit (i.e., Parts XI.A—XI.AC).

13. Part XI.I.3.a.(3)(d) is modified to require only annual inspections (rather than quarterly or semi-annual inspections) of temporarily or permanently inactive oil and gas extraction facilities which are unstaffed and remotely located.

The final revisions of the MSGP listed above in PART XI (AMENDED), items 1 through 13, appear in the modified MSGP as follows:

Part XI. Specific Requirements for Industrial Activities

A. Storm Water Discharges Associated With Industrial Activity From Timber Products Facilities

* * * * *

2. Special Conditions

a. Prohibition of Non-storm Water Discharges.

* * * * *

(2) In addition to the discharges described in part III.A.2., the following non-storm water discharges may be authorized by this permit provided the non-storm water component of the discharge is in compliance with paragraph XI.A.3.a.(3)(g)(i) (Measures and Controls for Non-storm Water Discharges) and the effluent limitations described in paragraph XI.A.4.a.: Discharges from the spray down of lumber and wood product storage yards where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage.

* * * * *

4. *Numeric Effluent Limitations.* In addition to the numeric effluent limitations described in Part V.B, the following limitations shall be met by existing and new dischargers.

a. *Wet Deck Storage Area Runoff.* Non-storm water discharges from areas used for the storage of logs where water, without chemical additives, is intentionally sprayed or deposited on logs to deter decay or infestation by insects are required to meet the following effluent limitations: pH shall be within the range of 6.0–9.0, and there will be no discharge of debris. Chemicals are not allowed to be applied to the stored logs. The term ''debris'' is defined as woody material such as bark, twigs, branches, heartwood or sapwood that will not pass through a 2.54 cm (1 in.) diameter round opening and is present in the discharge from a wet deck storage area. Dischargers subject to these numeric limitations must be in compliance with these limitations through the duration of permit coverage.

5. *Monitoring and Reporting Requirements.*

* * * * *

d. *Compliance Monitoring Requirements.* Permittees with log storage area spray water discharges which are covered by this permit must monitor the discharge for the presence of debris and pH at least annually beginning October 1, 1998, and continuing for the duration of permit coverage. Facilities must report in accordance with 5.d.(2) below (reporting). In addition to the parameters listed above, the permittee shall provide an estimate of the total volume (in gallons) of the discharge sampled.

(1) *Sample Type.* A minimum of one grab sample shall be taken. All samples shall be collected from the discharge point of the wet deck storage area and will not be taken during a storm water event. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the discharger shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.

(2) *Reporting.* Permittees with log storage area spray water discharges shall submit monitoring results, obtained during the reporting period beginning on the effective date of permit modification, on Discharge Monitoring Report Form(s) postmarked no later than November 30 of each year following each annual monitoring period. Signed copies of Discharge Monitoring Reports shall be submitted to the Director of the NPDES program at the address of the appropriate Regional Office indicated in Part VI.B. of this permit. For each outfall, one signed Discharge Monitoring Report form shall be submitted for each sampling event.

(3) *Additional Notification.* In addition to filing copies of discharge monitoring reports in accordance with paragraph (2) (above), permittees with discharges of log storage area spray water through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph 5.d.(2) (above).

* * * * *

C. Storm Water Discharges Associated With Industrial Activity From Chemical and Allied Products Manufacturing Facilities

1. *Discharges Covered Under This Section.* The requirements listed under this section shall apply to storm water discharges associated with industrial activity from a facility engaged in manufacturing the following products and generally described by the SIC code shown:

* * * * *

h. Ink and paints, including china painting enamels, India ink, drawing ink, platinum paints for burnt wood or leather work, paints for china painting, artists' paints and artists' water colors (SIC 3952, limited to those listed; for others in SIC 3952 not listed above, see Part XI.Y).

i. Medicinal chemicals and pharmaceutical products, including the grading, grinding and milling of botanicals (including SIC 283).

2. *Co-located Industrial Activities.* When an industrial facility, described by the above coverage provisions of this section, has industrial activities being conducted onsite that meet the description(s) of industrial activities in another section(s), that industrial facility shall comply with any and all

applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to all applicable requirements in this section. The monitoring and pollution prevention plan terms and conditions of this multi-sector permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which other monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

* * * * *

D. Storm Water Discharges Associated With Industrial Activity From Asphalt Paving and Roofing Materials and Lubricant Manufacturers

1. *Discharges Covered Under This Section.*

* * * * *

e. *Limitations on Coverage.* The following storm water discharges associated with industrial activity are not authorized by this section of the permit:

(1) Storm water discharges from petroleum refining facilities, including those that manufacture asphalt or asphalt products and that are classified as SIC code 2911 (see Part XI.I),

(2) Storm water discharges from oil recycling facilities (see Part XI.N), and

(3) Storm water discharges associated with fats and oils rendering (see Part XI.U).

* * * * *

E. Storm Water Discharges Associated With Industrial Activity From Glass, Clay, Cement, Concrete, and Gypsum Product Manufacturing Facilities

1. *Discharges Covered Under This Section.* The requirements listed under this section shall apply to storm water discharges from the following activities: manufacturing flat, pressed, or blown glass or glass containers; manufacturing hydraulic cement; manufacturing clay products including tile and brick; manufacturing of pottery and porcelain electrical supplies; manufacturing concrete products; manufacturing gypsum products; nonclay refractories; and grinding or otherwise treating minerals and earths. This section generally includes the following types of manufacturing operations: flat glass, (SIC code 3211); glass containers, (SIC code 3221); pressed and blown glass, not elsewhere classified, (SIC code 3229); glass products made of purchased glass (SIC code 3231) where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water; hydraulic cement, (SIC code 3241); brick and structural clay tile, (SIC code 3251); ceramic wall and floor tile, (SIC code 3253); clay refractories, (SIC code 3255); structural clay products not elsewhere classified (SIC code 3259); vitreous china plumbing fixtures, and china and earthen ware fittings and bathroom accessories (SIC code 3261); vitreous china table and kitchen articles (SIC code 3262); fine earthenware table and kitchen articles (SIC code 3263); porcelain electrical supplies, (SIC code 3264); pottery products, (SIC code 3269); concrete block and brick, (SIC code 3271); concrete products, except block and brick (SIC code 3272); ready-mix concrete (SIC code 3273); lime (SIC code 3274); gypsum products, (SIC code 3275); cut stone and stone products (SIC code 3281); abrasive products (SIC code 3291); asbestos products (SIC code 3292); minerals and earths, ground or otherwise treated, (SIC code 3295); mineral wool (SIC code 3296); nonclay refractories (SIC code 3297); and nonmetallic mineral products not elsewhere classified (SIC code 3299).

* * * * *

5. *Monitoring and Reporting Requirements.*

a. *Analytical Monitoring Requirements.* During the period October 1, 1996 lasting through to September 30, 1997 and the period beginning October 1, 1998 lasting through September 30, 1999, permittees that manufacture clay products and concrete products and gypsum products must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year during years 2 and 4) except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification).

Clay product manufacturers include; brick and structural clay tile manufacturers (SIC 3251), ceramic wall and floor tile manufacturers (SIC 3253), clay refractories (SIC 3255), manufacturers of structural clay products, not elsewhere classified (SIC 3259), manufacturers of vitreous china table and kitchen articles (SIC 3232), manufacturers of vitreous china plumbing fixtures, and china and earthen ware fittings and bathroom accessories (SIC code 3261), manufacturers of fine earthenware table and kitchen articles (SIC 3263), manufacturers of porcelain electrical supplies (SIC 3264), pottery products (SIC 3269) and non-clay refractories (3297). Facilities with these industrial activities must monitor for the pollutant listed in Table E–1.

Concrete and gypsum product manufacturers include concrete block and brick manufacturers (SIC 3271), concrete products manufacturers (SIC 3272), ready mix concrete manufacturers (SIC 3273), lime (3274), gypsum product manufacturers (SIC 3275) and manufacturers of mineral and earth products (SIC 3295). Facilities with these industrial activities must monitor for the pollutants listed in Table E–2.

* * * * *

I. Storm Water Discharges Associated With Industrial Activity From Oil and Gas Extraction Facilities and Petroleum Refineries

1. *Discharges Covered Under This Section.*

(a) *Coverage.* This section of the permit covers all existing point source discharges of storm water associated with industrial activity to waters of the United States from oil and gas facilities listed under Standard Industrial Classification (SIC) Major Group 13 which are required to be permitted under 40 CFR 122.26(c)(1)(iii). These include ''* * * oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with any overburden raw material, intermediate products, finished products, by-products or waste products located on the site of such operations.'' Industries in SIC Major Group 13 include the extraction and production of crude oil, natural gas, oil sands and shale; the production of hydrocarbon liquids and natural gas from coal; and associated oil field service, supply and repair industries. This section also covers petroleum refineries listed under SIC code 2911. Contaminated storm water discharges from petroleum refining or drilling operations that are subject to nationally established BAT or BPT guidelines found at 40 CFR 419 and 435 respectively are not included.

Note that areas eligible for coverage at petroleum refineries will be very limited because the term ''contaminated runoff,'' as defined under 40 CFR 419.11, includes ''* * * runoff which comes into contact with any raw material, intermediate product, finished product, by-product or waste product located on petroleum refinery property.'' Areas at petroleum refineries which may be eligible for permit coverage, provided discharges from these areas are not co-mingled with ''contaminated runoff,'' include: vehicle

and equipment storage, maintenance and refueling areas. Most areas at refineries will not be eligible for coverage including: raw material, intermediate product, by-product, final product, waste material, chemical, and material storage areas; loading and unloading areas; transmission pipelines; and, processing areas.

* * * * *

3. *Storm Water Pollution Prevention Plan Requirements.*

a. *Contents of Plan.*

* * * * *

(3) *Measures and Controls.*

* * * * *

(d) *Inspections.* In addition to or as part of the comprehensive site evaluation required under paragraph XI.I.3.a.(4) of this section, qualified facility or plant personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. All equipment and areas addressed in the pollution prevention plan shall be inspected at a minimum of 6-month intervals. Equipment and vehicles which store, mix, or transport hazardous materials will be inspected routinely, but not less than quarterly. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained. For temporarily or permanently inactive oil and gas extraction facilities which are remotely located and unstaffed (within major SIC group 13), the above inspections shall be performed at least annually.

* * * * *

J. Storm Water Discharges Associated With Industrial Activity From Mineral Mining and Processing Facilities

1. *Discharges Covered Under This Section.*

* * * * *

a. *Limitations on Coverage.* The following storm water discharges associated with industrial activity are not authorized by this permit:

(1) Storm water discharges associated with industrial activity which are subject to an existing effluent limitation guideline (40 CFR part 436), except mine dewatering discharges composed entirely of storm water or ground water seepage from construction sand and gravel, industrial sand, and crushed stone mining facilities located in Regions I, II, VI, X and Arizona.

* * * * *

4. *Numeric Effluent Limitations.*

Except as discussed in 4a. below, there are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

a. *Regions I, II, VI and X, and Arizona—Construction Sand and Gravel; Industrial Sand, and Crushed Stone Mining, Mine Dewatering.* Any discharge composed entirely of storm water or ground water seepage that derives from mine dewatering activities at construction sand and gravel, industrial sand, or crushed stone mining facilities located in Regions I, II, VI, and X, and in Arizona shall not exceed a maximum concentration for any day of 45 mg/L or an average of daily values for 30 consecutive days of 25 mg/L Total Suspended Solids (TSS) nor the 6.0 to 9.0 range limitation for pH. The discharge from the dewatering activity shall not be diluted with other storm water runoff or flows to meet this limitation. Dischargers subject to these numeric effluent limitations must be in compliance with these limits upon commencement of coverage and for the entire term of this permit.

* * * * *

5. *Monitoring and Reporting Requirements.*

* * * * *

d. *Compliance Monitoring Requirements.* Permittees with construction sand and gravel, industrial sand, and crushed stone mining facilities in Regions I, II, VI and X, and Arizona that have mine dewatering discharges composed entirely of storm water or ground water seepage which are covered by this permit must monitor the discharge from the dewatering activity for the presence of TSS and pH at least quarterly (four times per year). Facilities must report in accordance with 5.d.(2) below (reporting). In addition to the parameters listed above, the permittee shall provide the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and an estimate of the total volume (in gallons) of the discharge sampled.

* * * * *

L. Storm Water Discharges Associated With Industrial Activity From Landfills, Open Dumps, and Land Application Sites

1. *Discharges Covered Under This Section.*

a. *Coverage.* The requirements listed under this section shall apply to storm water discharges associated with industrial activity from waste disposal at landfills, land application sites, and open dumps that receive or have received industrial wastes. Open dumps are solid waste disposal units that are not in compliance with State/Federal criteria established under RCRA Subtitle D. Landfills, land application sites, and open dumps that have storm water discharges from other types of industrial activities such as vehicle maintenance, truck washing, and/or recycling may be subject to additional requirements specified elsewhere in this permit.

* * * * *

b. *Limitations.* Storm water discharges associated with industrial activities from inactive landfills, land application sites, and open dumps occurring on Federal lands where an operator cannot be identified are ineligible for coverage under this permit.

2. *Special Conditions.*

a. *Prohibition of Non-storm Water Discharges.* In addition to the broad non-storm water prohibition in Part III.A of this permit, the discharge of leachate and vehicle and equipment washwaters to waters of the United States or a municipal separate storm sewer system is not authorized by this permit. For purposes of this permit, ''leachate'' is defined as any liquid (including storm water) that has passed through or emerged from waste material and contains soluble, suspended or miscible materials removed from such wastes. Operators with such discharges must obtain coverage under a separate NPDES permit (other than this permit).

3. *Storm Water Pollution Prevention Plan Requirements.*

a. *Contents of Plan.* The plan shall include, at a minimum, the following items:

* * * * *

(2) *Description of Potential Pollutant Sources.*

(a) *Drainage.*

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations of active and closed landfill cells or trenches, locations of active and closed land application areas, locations where open dumping is occurring or has occurred, locations of any known leachate springs or other areas where uncontrolled leachate may commingle with runoff, locations of any leachate collection and handling systems, locations where major spills or leaks identified under Part XI.L.3.a.(2)(c) (Spills and Leaks) of this permit have occurred, and locations of the following activities where such

activities are exposed to precipitation: fueling station, vehicle and equipment maintenance and/or cleaning areas, and waste and other significant material loading/unloading and storage areas. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

* * * * *

(e) *Risk Identification and Summary of Potential Pollutant Sources.* Include a narrative description of potential pollutant sources associated with any of the following, providing they occur at the facility: fertilizer, herbicide and pesticide application; earth/soil moving; waste hauling and loading/unloading; outdoor storage of significant materials including daily, interim and final cover material stockpiles as well as temporary waste storage areas; exposure of active and inactive landfill, land application, or open dumping areas; uncontrolled leachate flows; failure or leaks from leachate collection and treatment systems; haul roads; and vehicle tracking of sediments. The description shall specifically list any significant potential sources of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

* * * * *

(3) *Measures and Controls.*

* * * * *

(d) *Inspections.* Qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan.

(i) For operating landfills, open dumps, and land application sites, inspections shall be conducted at least once every 7 days. Qualified personnel shall inspect areas of landfills and open dumps that have not yet been finally stabilized, active land application areas, areas used for storage of materials/wastes that are exposed to precipitation, stabilization and structural control measures, leachate collection and treatment systems, and locations where equipment and waste trucks enter and exit the site. Where landfill areas and open dumps have been finally stabilized and where land application has been completed, or during seasonal arid periods in arid areas (areas with an average annual rainfall of 0 to 10 inches) and semiarid areas (areas with an average annual rainfall of 10 to 20 inches), inspections will be conducted at least once every month. Erosion and sediment control measures shall be observed to ensure they are operating correctly.

(ii) For inactive landfills, open dumps, and land application sites, inspections shall be conducted at least quarterly, and qualified personnel shall inspect: landfill or open dump stabilization and structural erosion control measures and leachate collection and treatment systems, and all closed land application areas.

* * * * *

(f) *Record keeping and Internal Reporting Procedures.* A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan. Landfill and open dump operators shall provide for a tracking system for the types of wastes disposed of in each cell or trench of a landfill or open dump. Land application site operators shall track the types and quantities of wastes applied in specific areas.

* * * * *

(h) *Sediment and Erosion Control.* The plan shall identify areas which, due to topography activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion. Landfill and open dump operators shall provide for temporary stabilization of materials stockpiled for daily, intermediate, and final cover. Stabilization practices to consider include, but are not limited to, temporary seeding, mulching, and placing geotextiles on the inactive portions of the stockpiles. Landfill and open dump operators shall provide for temporary stabilization of inactive areas of the landfill or open dump which have an intermediate cover but no final cover. Landfill and open dump operators shall provide for temporary stabilization of any landfill or open dumping areas which have received a final cover until vegetation has established itself. Land application site operators shall also stabilize areas where waste application has been completed until vegetation has been established.

* * * * *

(4) *Comprehensive Site Compliance Evaluation.*

* * * * *

(a) Areas contributing to a storm water discharge associated with industrial activity at landfill, open dump and land application sites shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

* * * * *

5. *Monitoring and Reporting Requirements.*

(a) *Analytical Monitoring Requirements.* During the period October 1, 1996, lasting through to September 30, 1997, and the period beginning October 1, 1998, lasting through September 30, 1999, permittees with landfill/land application/open dump sites must monitor their storm water discharges associated with industrial activity at least quarterly (4 times per year) during years 2 and 4 of this permit except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Landfill/land application/open dump sites are required to monitor their storm water discharges for the pollutants of concern listed in Table L–1 below. Facilities must report in accordance with 5.b. (Reporting). In addition to the parameters listed in Table L–1 below, the permittee shall provide: the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event; and, an estimate of the total volume (in gallons) of the discharge sampled.

TABLE L–1.—INDUSTRY MONITORING REQUIREMENTS

Pollutants of concern	Cut-off concentration
Total Suspended Solids (TSS) [1]	100 mg/L
Total Recoverable Iron [2]	1.0 mg/L

[1] Applicable to all landfill, open dump, and land application sites.

[2] Applicable to all facilities except MSWLF areas closed in accordance with 40 CFR 258.60 requirements.

(1) *Monitoring Periods.* Landfill/land application/open dump sites shall

monitor samples collected during the sampling periods of: January through March, April through June, July through September, and October through December for the years specified in paragraph 5a. (above).

* * * * *

b. *Reporting.* Permittees with landfill/land application/open dump sites shall submit monitoring results for each outfall associated with industrial activity [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the monitoring period beginning October 1, 1996, and lasting through September 30, 1997, on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the month of March, 1998. Monitoring results [or a certification in accordance with Sections (3), (4), or (5) above] obtained during the period beginning October 1, 1998 and lasting through September 30, 1999, shall be submitted on Discharge Monitoring Report Form(s) postmarked no later than the 31st day of the month of March, 2000. For each outfall, one Discharge Monitoring Report form must be submitted per storm event sampled. Signed copies of Discharge Monitoring Reports, or alternative certifications, shall be submitted to the Director of the NPDES program at the address of the appropriate EPA Regional Office listed in Part VI.G. of the fact sheet for this permit.

(1) *Additional Notification.* In addition to filing copies of discharge monitoring reports in accordance with paragraph 1.b. (above) landfill/land application/open dump sites, with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system in accordance with the dates provided in paragraph 1.b. (above).

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P. Storm Water Discharges Associated With Industrial Activity From Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and United States Postal Service Transportation Facilities

1. *Discharges Covered Under This Section.* Storm water discharges from ground transportation facilities and rail transportation facilities (generally identified by Standard Industrial Classification (SIC) codes 40, 41, 42, 43, and 5171), that have vehicle and equipment maintenance shops (vehicle and equipment rehabilitation, mechanical repairs, painting, fueling and lubrication) and/or equipment cleaning operations are eligible for coverage under this section. Also covered under this section are facilities found under SIC code 4221–4225 (public warehousing and storage) that do not have vehicle and equipment maintenance shops and/or equipment cleaning operations but have areas (exclusive of access roads and rail lines) where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products or industrial machinery are exposed to storm water.

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V. Storm Water Discharges Associated With Industrial Activity From Textile Mills, Apparel and Other Fabric Product Manufacturing Facilities, Leather and Leather Product Manufacturing Facilities

1. *Discharges Covered Under This Section.* The requirements listed under this section shall apply to storm water discharges from the following activities: Textile Mill Products, of and regarding facilities and establishments engaged in the preparation of fiber and subsequent manufacturing of yarn, thread, braids, twine, and cordage, the manufacturing of broad woven fabrics, narrow woven fabrics, knit fabrics, and carpets and rugs from yarn; processes involved in the dyeing and finishing of fibers, yarn fabrics, and knit apparel; the integrated manufacturing of knit apparel and other finished articles of yarn; the manufacturing of felt goods (wool), lace goods, nonwoven fabrics, miscellaneous textiles, and other apparel products (generally described by SIC codes 22 and 23). This section also covers facilities engaged in manufacturing finished leather and artificial leather products (SIC 31, except 3111).

* * * * *

X. Storm Water Discharges Associated With Industrial Activity From Printing and Publishing Facilities

1. *Discharges Covered Under This Section.* The requirements listed under this section shall apply to storm water discharges associated with industrial activity from the following types of facilities: newspaper, periodical, and book publishing or publishing and printing (SIC Codes 2711–2731); book printing (SIC Code 2732); miscellaneous publishing (SIC Code 2741); commercial printing, lithographic (SIC Code 2752); commercial printing, gravure (SIC Code 2754); commercial printing, not elsewhere classified (SIC Code 2759); manifold business forms, greeting cards, bankbooks, looseleaf binders and devices, bookbinding and related work, and typesetting (SIC Codes 2761–2791); and, plate making and related services (SIC Code 2796).

* * * * *

AA. Storm Water Discharges Associated With Industrial Activity From Fabricated Metal Products Industry

1. *Discharges Covered Under This Section.* The requirements listed under this section shall apply to storm water discharges associated with industrial activity from the fabricated metals industry listed below, except for electrical related industries: fabricated metal products, except machinery and transportation equipment, SIC 34, and jewelry, silverware, and plated ware (SIC Code 391).

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AD. Storm Water Discharges Associated With Industrial Activity From Non-Classified Facilities

1. Discharges Covered Under This Section. The requirements of this section shall apply to all storm water discharges associated with industrial activity from facilities that: meet the definition of storm water associated with industrial activity (40 CFR 122.26(b)(14), except for construction activities as defined under 40 CFR 122.26(b)(14)(x)), can not be classified in another industrial sector of this permit (i.e., Parts XI.A–XI.AC), and are not excluded from permit coverage elsewhere in this permit; or, the Director has designated as needing a storm water permit under 40 122.26(g)(1)(i). Should conditions at a facility covered by this section change and industrial activities in another section(s) contained in XI.A.–XI.AC. apply, the facility shall comply with any and all applicable monitoring and pollution prevention plan requirements of the other section(s) in addition to those contained in this section. The monitoring and pollution prevention plan terms and conditions of this permit are additive for industrial activities being conducted at the same industrial facility (co-located industrial activities). The operator of the facility shall determine which monitoring and pollution prevention plan section(s) of this permit (if any) are applicable to the facility.

2. *Special Conditions.*

a. *Prohibition of Non-storm Water Discharges.* Other than as provided in use this Section III.A. of this permit,

non-storm water discharges are not authorized by this permit.

3. *Storm Water Pollution Prevention Plan Requirements.*

a. *Contents of Plan.* The plan shall include, at a minimum, the following items:

(1) Pollution Prevention Team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

(2) Description of Potential Pollutant Sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(a) *Drainage.*

(i) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part XI.AD.3.a.(2)(c) (Spills and Leaks) of this section have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas. The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls.

(ii) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of chemical; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

(b) *Inventory of Exposed Materials.* An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

(c) *Spills and Leaks.* A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the date of the submission of a Notice of Intent (NOI) to be covered under this permit. Such list shall be updated as appropriate during the term of the permit.

(d) *Sampling Data.* A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

(e) *Risk Identification and Summary of Potential Pollutant Sources.* A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

(3) *Measures and Controls.* Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

(a) *Good Housekeeping.* Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner.

(b) *Preventive Maintenance.* A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

(c) *Spill Prevention and Response Procedures.* Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

(d) *Inspections.* In addition to or as part of the comprehensive site evaluation required under paragraph XI.AD.3.a.(4) of this section, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

(e) *Employee Training.* Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the

components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.

(f) *Recordkeeping and Internal Reporting Procedures.* A description of incidents (such as spills, or other discharges), along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

(g) *Non-storm Water Discharges.*

(i) The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges. The certification shall include the identification of potential significant sources of non-storm water at the site, a description of the results of any test and/or evaluation for the presence of non-storm water discharges, the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with Part VII.G. of this permit. Such certification may not be feasible if the facility operating the storm water discharge associated with industrial activity does not have access to an outfall, manhole, or other point of access to the ultimate conduit which receives the discharge. In such cases, the source identification section of the storm water pollution prevention plan shall indicate why the certification required by this part was not feasible, along with the identification of potential significant sources of non-storm water at the site. A discharger that is unable to provide the certification required by this paragraph must notify the Director in accordance with paragraph XI.AD.3.a.(3)(g)(iii) (below).

(ii) Except for flows from fire fighting activities, sources of non-storm water listed in Part III.A.2 (Prohibition of Non-storm Water Discharges) of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

(iii) *Failure to Certify.* Any facility that is unable to provide the certification required (testing for non-storm water discharges), must notify the Director 180 days after submitting an NOI to be covered by this permit. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water discharges to the storm sewer; and why adequate tests for such storm sewers were not feasible. Non-storm water discharges to waters of the United States which are not authorized by an NPDES permit are unlawful, and must be terminated.

(h) *Sediment and Erosion Control.* The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

(i) *Management of Runoff.* The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity [see paragraph XI.AD.3.a.(2) of this section (Description of Potential Pollutant Sources)] shall be considered when determining reasonable and appropriate measures. Appropriate measures or equivalent measures may include: vegetative swales, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

(4) *Comprehensive Site Compliance Evaluation.* Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:

(a) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

(b) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with paragraph XI.AD.3.a.(2) of this section (Description of Potential Pollutant Sources) and pollution prevention measures and controls identified in the plan in accordance with paragraph XI.AD.3.a.(3) of this section (Measures and Controls) shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 12 weeks after the evaluation.

(c) A report summarizing the scope of the inspection, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with paragraph XI.AD.3.a.(4)(b) (above) of the permit shall be made and retained as part of the storm water pollution prevention plan for at least 3 years from the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part VII.G. (Signatory Requirements) of this permit.

(d) Where compliance evaluation schedules overlap with inspections required under 3.a.(3)(d), the compliance evaluation may be conducted in place of one such inspection.

4. *Numeric Effluent Limitations.* There are no additional numeric effluent limitations beyond those described in Part V.B of this permit.

5. *Monitoring and Reporting Requirements.*

(a) *Monitoring Requirements*

(1) *Quarterly Visual Examination of Storm Water Quality.* Facilities shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The examination must be made at least once in each designated

period [described in (a), below] during daylight hours unless there is insufficient rainfall or snow melt to produce a runoff event.

(a) Examinations shall be conducted in each of the following periods for the purposes of visually inspecting storm water quality associated with storm water runoff or snow melt: January through March; April through June; July through September; and October through December.

(b) Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Whenever practicable the same individual will carry out the collection and examination of discharges for the life of the permit.

(c) Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

(d) When a facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the observation data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explaining in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.

(e) When a discharger is unable to collect samples over the course of the monitoring period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

(f) When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

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VII. Additional Requirements to Part XII. Coverage Under This Permit

Part XII (Amended)

In addition to the applicable conditions contained in Parts I–XI of this permit, the following requirements are placed on permittees located in the listed States, Federal Indian Reservations or Territories in order to meet applicable Clean Water Act section 401 or Coastal Zone Management Act certification requirements.

Part XII. Coverage Under This Permit

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Part XII. Coverage Under This Permit

The provisions of this Part provide modifications or additions to the applicable conditions of Parts I through XI of this permit in order to reflect specific conditions required as part of a State, Tribal or Territory Clean Water Act section 401 certification process, or Coastal Zone Management Act certification process, or as otherwise established by the permitting authority. The additional revisions and requirements listed below are set forth in connection with, and only apply to, the following States, Federal Indian Reservations, Territories and Federal facilities.

Region I

Massachusetts (MAR05*###)

The following Massachusetts 401 certification requirements revise the permit accordingly:

1. Part II.B.8. is added to the permit as follows:

Special Permit Eligibility Requirements for the State of Massachusetts. Discharges covered by the Multi-Sector General Permit must comply with the provisions of 314 CMR 3.00, 314 CMR 4.00, 314 CMR 9.00 and 310 CMR 10.00 and any related policies promulgated under the authority of the Massachusetts Clean Waters Act, M.G.L. c.21, ss.26–53, and Wetlands Protection Act, M.G.L. c.131, s. 40. Specifically, new facilities or the redevelopment of existing facilities subject to this permit must comply with applicable storm water performance standards prescribed by State regulation or policy. A permit under 314 CMR 3.04 is not required for existing facilities which meet State storm water performance standards; an application for a permit under 314 CMR 3.00 is required only when required under 314 CMR 3.04(2)(b) (designation of a discharge on a case-by-case basis) or is otherwise identified in 314 CMR 3.00 or Department policy as a discharge requiring a permit application. Department regulations and policies may be obtained through the State House Bookstore (617–727–2834) or on the Internet at ''www.magnet.state.ma.us/dep''.

2. Part VI.B.3. is added to the permit as follows:

Special Reporting Requirement for the State of Massachusetts. The results of any quarterly monitoring required by this permit must be sent to the appropriate regional office of the Department listed below when the monitoring identifies violations of State Surface Water Quality Standards, 314 CMR 4.00, for any parameter which requires monitoring under this permit. Monitoring results must also be submitted upon request to the Department.

Western Region: 436 Dwight Street—Suite 402, Springfield, MA 01103, (413) 784–1100

Southeast Region: Lakeville Hospital—Route 105, Lakeville, MA 02347, (508) 946–2700

Central Region: 627 Main Street, Worcester, MA, 01608, (508) 792–7650

Northeast Region: 10 Commerce Way, Woburn, MA, 01801, (781) 932–7677

3. Part IV.B.2.a. is added to the permit as follows:

Special Storm Water Pollution Prevention Plan Availability Requirement for the State of Massachusetts. The Department may request a copy of the storm water pollution prevention plan for any facility covered by this permit to ensure compliance with State law requirements, including State Water Quality Standards. The Department may enforce its certification conditions.

4. Part VII.Q.1. is added to the permit as follows: Special Inspection Requirements for the State of Massachusetts. The Department may conduct an inspection of any facility covered by this permit to ensure compliance with State law requirements, including State Water Quality Standards. The Department may enforce its certification conditions.

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Region VI

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Federal Indian Reservations in the State of New Mexico (NMR05*##F)

1. *Pueblo of Isleta* The following Pueblo of Isleta 401 certification requirements revise the permit accordingly:

(a) Part II.C.1. is added to the permit as follows: Special NOI Requirement for the Pueblo of Isleta. Copies NOIs shall also be submitted to the Pueblo of Isleta's Environment Department, Water Quality Program, at the following address concurrently with NOI submission to EPA: Isleta Environment Department, Water Quality Program, Pueblo of Isleta, PO Box 1270, Isleta, New Mexico 87022.

(b) Part IX.B.1. is added to the permit as follows: Special NOT Requirement for the Pueblo of Isleta. Copies NOTs shall also be submitted to the Pueblo of Isleta's Environment Department, Water Quality Program, concurrently with NOT submission to EPA. Copies are to be sent to the address given in Part II.C.1.

(c) Part IV.F. is added to the permit as follows: Special Storm Water Pollution Prevention Plan Requirement for the Pueblo of Isleta. Storm water pollution prevention plans must be submitted to the Pueblo of Isleta Environment Department, Water Quality Program, within 30 days of plan development. SWPPPs are to be sent to the address given in Part II.C.1.

2. *Pueblo of Pojoaque* The following Pueblo of Pojoaque 401 certification requirements revise the permit accordingly:

(a) Part II.C.1. is added to the permit as follows: Special NOI Requirement for the Pueblo of Pojoaque. Copies of NOIs shall also be submitted to the Pueblo of Pojoaque Environment Department at the following address concurrently with NOI submittal to EPA: Pueblo of Pojoaque, Environment Department, Route 11, P.O. Box 208, Santa Fe, New Mexico 87501, Phone (505) 455–2087, Fax (505) 455–2177.

(b) Part IX.B.1. is added to the permit as follows: Special NOT Requirement for the Pueblo of Pojoaque. Copies of NOTs shall also be submitted to the Pueblo of Pojoaque Environment Department concurrently with NOT submittal to EPA. Copies are to be sent to the address given in Part II.C.1.

3. *Pueblo of Sandia* The following Pueblo of Sandia 401 certification requirements revise the permit accordingly:

(a) Part II.C.1. is added to the permit as follows: Special NOI Requirement for the Pueblo of Sandia. Copies of NOIs shall also be submitted to the Pueblo of Sandia Environment Department at the following address concurrently with NOI submittal to EPA: Pueblo of Sandia, Environment Department, Box 6008, Bernalillo, New Mexico 87004, Phone (505) 867–4533; Fax (505) 867–9235.

(b) Part IX.B.1. is added to the permit as follows: Special NOT Requirement for the Pueblo of Sandia. Copies of NOTs shall also be submitted to the Pueblo of Sandia Environment Department concurrently with NOT submittal to EPA. Copies are to be sent to the address given in Part II.C.1.

(c) Part IV.F. is added to the permit as follows: Special Storm Water Pollution Prevention Plan Requirement for the Pueblo of Sandia. Storm water pollution prevention plans must be submitted to the Pueblo of Sandia Environment Department before commencement of the project on Pueblo of Sandia tribal lands. SWPPPs are to be sent to the address given in Part II.C.1.

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Region IX

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American Samoa (ASR05*###) and Federal Facilities in American Samoa (ASR05*##F)

The following American Samoa 401 certification requirements revise the permit accordingly:

1. Part II.C.1. is added to the permit as follows: Special NOI Requirement for American Samoa. Copies of NOIs shall also be submitted to the American Samoa Environmental Protection Agency at the following address concurrently with NOI submittal to EPA: American Samoa Environmental Protection Agency, American Samoa Government, Pago Pago, American Samoa 96799.

2. Part IV.F. is added to the permit as follows: Special Storm Water Pollution Prevention Plan Requirement for American Samoa. Storm water pollution prevention plans must be submitted to the American Samoa Environmental Protection Agency at the following address for review and approval as soon as they are completed. American Samoa Environmental Protection Agency, American Samoa Government, Pago Pago, American Samoa 96799.

The Island of Guam (GUR05*###) and Federal Facilities on Guam (GUR05*##F)

The Island of Guam 401 certification requirements revise the permit accordingly:

1. Part II.A.10(a) is added to the permit as follows: Special NOI Requirement for Guam. Facilities ineligible for Multi-Sector General Permit coverage which are required to submit an individual NPDES permit application in accordance Part II.A.10 must send a copy to the following address at the time of submittal to EPA: Guam Environmental Protection Agency, P.O. Box 22439 GMF, Barrigada, Guam 96921.

2. Part II.C.1. is added to the permit as follows: Special NOI Requirement for Guam. Copies of NOIs shall also be submitted to the following address concurrently with NOI submittal to EPA: Guam Environmental Protection Agency, P.O. Box 22439 GMF, Barrigada, Guam 96921.

3. Part VII.M.4. is added to the permit as follows: Special Requirement for Guam. Permittees required by the Director to submit an individual NPDES permit application or alternative general NPDES permit application must send a copy to the following address at the time of submittal to EPA: Guam Environmental Protection Agency, P.O. Box 22439 GMF, Barrigada, Guam 96921.

Commonwealth of the Northern Mariana Islands (NIR05*###) and Federal Facilities in the Commonwealth of the Northern Mariana Islands (NIR05*##F)

The Commonwealth of the Northern Mariana Islands (CNMI) 401 certification requirements revise the permit accordingly:

1. Part I.B.8 is added to the permit as follows: Special Eligibility Requirement for CNMI. Storm water pollution prevention plans required by this permit shall be submitted to the CNMI DEQ for

review and approval along with applicable fees associated with a CNMI 401 Water Quality Certification prior to submittal of an NOI to EPA and the CNMI DEQ. Storm water pollution prevention plans are to be sent to the CNMI DEQ at the following address: Commonwealth of the Northern Mariana Islands, Division of Environmental Quality, P.O. Box 1304, Saipan, MP 96950.

2. Part II.C.1. is added to the permit as follows: Special NOI Requirement for CNMI. Copies of the facility's NOI and letter from the CNMI DEQ approving the facility's storm water pollution prevention plans shall be submitted to the following addresses. The NOI submitted to the CNMI DEQ shall be postmarked at least seven (7) calendar days prior to any storm water discharges.

Commonwealth of the Northern Mariana Islands, Division of Environmental Quality, P.O. Box 1304, Saipan, MP 96950

US EPA, Region IX (WTR–5), 75 Hawthorne Street, San Francisco, CA 94105

California Federal Indian Reservations (CAR05* ##F)

Hoopa Valley Indian Reservation 401 certification requirements revise the permit accordingly:

1. Part II.C.1. is added to the permit as follows: Special NOI Requirement for Hoopa Valley Indian Reservation. Copies of NOIs shall also be submitted to the Tribal Environmental Protection Agency at the following address concurrently with NOI submittal to EPA: Tribal Environmental Protection Agency, P.O. Box 1348, Hoopa, CA 95546.

2. Part IV.F. is added to the permit as follows: Special Storm Water Pollution Prevention Plan Requirement for Hoopa Valley Indian Reservation. Storm water pollution prevention plans must be submitted to the Tribal Environmental Protection Agency at the following address for review and approval as soon as they are completed. Tribal Environmental Protection Agency, P.O. Box 1348, Hoopa, CA 95546.

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Region X

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The State of Alaska, Except Indian Country (AKR05*###)

The State of Alaska 401 certification requirements revise the permit accordingly:

1. Part II.C.1. is added to the permit as follows: Special NOI Requirement for the State of Alaska. Copies of NOIs shall also be submitted to one of the Department of Environmental Conservation offices listed below at the same time of NOI submittal to EPA:

For projects nearest to Anchorage or Fairbanks: Alaska Department of Environmental Conservation, Water Quality Permitting Section/Storm, Water, 555 Cordova Street, Anchorage, AK 99501, (907) 563–6529; FAX (907) 562–4026.

For projects in southeast Alaska, nearest to Juneau: Alaska Department of Environmental Conservation, Water Quality Permitting Section/Storm Water, 410 Willoughby Avenue, Juneau, AK 99801, (907) 465–5300; FAX (907) 465–5274.

2. Part IV.A.3. is added to the permit as follows: Special Storm Water Pollution Prevention Plan Requirements for the State of Alaska. Storm water pollution prevention plans must be submitted to the Department of Environmental Conservation prior to discharging. SWPPPs are to be sent to the same Department office that the facility's NOI is sent to in Part II.C.1. (18 AAC 72.600(a), 18 AAC 72.610(a)(8), and 18 AAC 72.990(32)).

3. Part IX.B.1 is added to the permit as follows: Special NOT Requirement for the State of Alaska. Copies of NOTs shall also be submitted to the Department of Environmental Conservation at the same time of NOT submittal to EPA. NOTs copies are to be sent to the same Department office that the facility's NOI was sent to in Part II.C.1.

The State of Idaho, Except Indian Country (IDR05* ###)

The State of Idaho 401 certification requirements revise the permit accordingly:

1. Part IV.F. is added to the permit as follows: Special Storm Water Pollution Prevention Plan Requirement for the State of Idaho. Storm water pollution prevention plan design and associated storm water discharge quality shall demonstrate compliance with applicable Idaho Water Quality Standards.

Federal Indian Reservations in the State of Washington (WAR05* ##F)

1. *Confederated Tribes of the Chehalis Reservation.* The following Confederated Tribes of the Chehalis Reservation 401 certification requirements revise the permit accordingly:

(a) Part I.B.8(a) is added to the permit as follows: Special Water Quality Standard Requirement for the Confederated Tribes of the Chehalis Reservation. The permittee shall be responsible for achieving compliance with Confederated Tribes of Chehalis Reservation's Water Quality Standards.

(b) Part I.B.8(b) is added to the permit as follows: Special Permit Eligibility Requirement for the Confederated Tribes of the Chehalis Reservation. Storm water pollution prevention plans shall be submitted to the Chehalis Tribal Department of Natural Resources at the following address for review and approval prior to discharge: Confederated Tribes of Chehalis Reservation, Department of Natural Resources, 420 Howanut Road, Oakville, WA 98568.

2. *Puyallup Tribe of Indians.* The following Puyallup Tribe of Indians 401 certifications revise the permit accordingly:

(a) Part I.B.8(a) is added to the permit as follows: Special Water Quality Standard Requirement for the Puyallup Tribe of Indians. The permittee shall be responsible for achieving compliance with Puyallup Tribe's Water Quality Standards.

(b) Part I.B.8(b) is added to the permit as follows: Special Permit Eligibility Requirement for the Puyallup Tribe of Indians. Storm water pollution prevention plans shall be submitted to the Puyallup Tribe Environmental Department at the following address for review and approval prior to discharge: Puyallup Tribe Environmental Department, 2002 East 28th Street, Tacoma, WA 98404.

(c) Part II.C.1. is added to the permit as follows: Special NOI Requirement for the Puyallup Tribe of Indians. Copies of NOIs shall also be submitted to the Puyallup Tribe Environmental Department at the address listed in Part I.B.8(b) at time of NOI submittal to EPA:

* * * * *

VIII. Modification of Addendum H—Endangered Species Guidance

Addendum H has been modified to update the County/Specie list that was published in the original MSGP on September 29, 1995. Part I, Step 1 of the Addendum H instructions has also been modified to provide additional sources of information such as an EPA Internet web page address and EPA Regional Office telephone numbers which permit applicants can use to access future list updates. For applicant convenience, the modified Addendum H, including the updated County/Specie list, has been printed in its entirety.

Addendum H—Endangered Species Guidance

I. Instructions

Found below in Part II of this Addendum is a list of species that EPA has determined may be affected by the activities covered by the Multi-Sector General Permit (MSGP). These species are listed by county. In order to get MSGP coverage, applicants must:

- Indicate in box provided on the NOI whether any species listed in this Addendum are in proximity to the facility, and
- Certify pursuant to Section II.B.12 of the MSGP that their storm water discharges, and Best Management Practices (BMPs) constructed to control storm water runoff, are not likely, and will not be likely to adversely affect species identified in Addendum H of this permit.

To do this, please follow steps 1 through 4 below.

Step 1: Review the County Species List To Determine if Any Species Are Located in the Discharging Facility County

If no species are listed in a facility's county or if a facility's county is not found on the list, an applicant is eligible for MSGP coverage and may indicate in the NOI that no species are found in proximity and provide the necessary certification. If species are located in the county, follow step 2 below. Where a facility is located in more than one county, the lists for all counties should be reviewed.

The enclosed list is current as of July 8, 1998. Applicants applying for permit coverage after October 8, 1998, must also make reasonable inquiries to determine whether new species have been listed for their county(ies). Such information may be available from the following sources: U.S. Fish and Wildlife Service or National Marine Fisheries Service offices; EPA's Office of Wastewater Management's web page at ''http://www.epa.gov/owm'' where updates of the county-by-county list will be posted on a periodic basis; **Federal Register** notices; State wildlife protection offices; or a biologist or similar professional in the environmental field. Applicants may also call the following EPA Regional Offices: Region 1 (Boston) 617–565–3569; Region 2 (New York City) 800–245–6510; Region 3 (Philadelphia) 215–566–3392; Region 4 (Atlanta) 404–562–9296; Region 6 (Dallas) 800–245–6510; Region 9 (San Francisco) 415–744–1906; Region 10 (Seattle) 206–553–8399.

Step 2: Determine if Any Species May Be Found ''In Proximity'' to the Facility

A species is in proximity to a facility's storm water discharge when the species is:

- Located in the path or immediate area through which or over which contaminated point source storm water flows from industrial activities to the point of discharge into the receiving water.
- Located in the immediate vicinity of, or nearby, the point of discharge into receiving waters.
- Located in the area of a site where storm water BMPs are planned or are to be constructed.

The area in proximity to be searched/surveyed for listed species will vary with the size of the facility, the nature and quantity of the storm water discharges, and the type of receiving waters. Given the number of facilities potentially covered by the MSGP, no specific method to determine whether species are in proximity is required for permit coverage under the MSGP. Instead, applicants should use the method or methods which best allow them to determine to the best of their knowledge whether species are in proximity to their particular facility. These methods may include:

- *Conducting visual inspections.* This method may be particularly suitable for facilities that are smaller in size, facilities located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no nature habitat; and facilities that discharge directly into municipal storm water collection systems. For other facilities, a visual survey of the facility site and storm water drainage areas may be insufficient to determine whether species are likely to be located in proximity to the discharge.
- *Contacting the nearest State Wildlife Agency or U.S. Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) offices.* Many endangered and threatened species are found in well-defined areas or habitats. That information is frequently known to state or federal wildlife agencies. FWS has offices in every state. NMFS has regional offices in: Gloucester, Massachusetts; St. Petersburg, Florida; Long Beach, California; Portland, Oregon; and Juneau, Alaska.
- *Contacting local/regional conservation groups.* These groups inventory species and their locations and maintain lists of sightings and habitats.
- *Conducting a formal biological survey.* Larger facilities with extensive storm water discharges may choose to conduct biological surveys as the most effective way to assess whether species are located in proximity and whether there are likely adverse effects.

If no species are in proximity, an applicant is eligible for MSGP coverage and may indicate that in the NOI and provide the necessary certification. If listed species are found in proximity to a facility, applicants must follow step 3 below.

Step 3: Determine If Species Could Be Adversely Affected by the Facility's Storm Water Discharges or by BMP's To Control Those Discharges

Scope of Adverse Effects. Potential adverse effects from storm water include:

- *Hydrological.* Storm water may cause siltation, sedimentation or induce other changes in the receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely.
- *Habitat.* Storm water may drain or inundate listed species habitat.
- *Toxicity.* In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. Applicants must also consider the likelihood of adverse effects on species from any BMPs to control storm water. Most adverse impacts from BMPs are likely to occur from the construction activities.

Using earlier ESA authorizations for MSGP eligibility. In some cases, a facility may be eligible for MSGP coverage because actual or potential adverse affects were addressed or discounted through an earlier ESA authorization. Examples of such authorization include:

- An earlier ESA section 7 consultation for that facility.
- A section 10(a) permit issued for the facility.
- An area-wide Habitat Conservation Plan applicable to that facility.
- A clearance letter from the Services (which discounts the possibility of an adverse impact from the facility).

In order for applicants to use an earlier ESA authorization to meet eligibility requirements: (1) the authorization must adequately address impacts for storm water discharges and BMPs from the facility on endangered and threatened species, (2) it must be current because there have been no subsequent changes in facility

operations or circumstances which might impact species in ways not considered in the earlier authorization, and (3) the applicant must comply with any requirements from those authorizations to avoid or mitigate adverse effects to species. Applicants who wish to pursue this approach should carefully review documentation for those authorizations to ensure that the above conditions are met.

If adverse effects are not likely, an applicant is eligible for MSGP coverage and may indicate in the NOI that species are found in proximity and provide the necessary certification. If adverse effects are likely, follow step 4 below.

Step 4: Determine If Measures Can Be Implemented To Avoid Any Adverse Effects

If an applicant determines that adverse effects are likely, it can receive coverage if appropriate measures are undertaken to avoid or eliminate any actual or potential adverse effects prior to applying for permit coverage. These measures may involve relatively simple changes to facility operations such as re-routing a storm water discharge to bypass an area where species are located.

At this stage, applicants may wish to contact the FWS and/or NMFS to see what appropriate measures might be suitable to avoid or eliminate adverse impacts to species.

If applicants adopt these measures, they must continue to abide by them during the course of permit coverage.

If appropriate measures are not available, the applicant is not eligible at that time for coverage under the MSGP. Applicants should contact the appropriate EPA regional office about either:

- Entering into Section 7 consultation in order to obtain MSGP coverage, or
- Obtaining an individual NPDES storm water permit.

II. County/Species List

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
ALASKA				
ALEUTIAN ISLANDS	BIRDS	GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
ALEUTIAN ISLANDS	PLANTS	FERN, ALEUTIAN SHIELD	Polystichum aleuticum	E
ALEUTIANS, EAST	BIRDS	EIDER, STELLER'S	Polysticta stelleri	T
ALEUTIANS, WEST	BIRDS	EIDER, STELLER'S	Polysticta stelleri	T
ANCHORAGE AREA	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
FAIRBANKS AREA	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
KENAI PENINSULA	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
MATANUSKA SUSITNA	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
NORTH SLOPE	BIRDS	CURLEW, ESKIMO	Numenius borealis	E
		EIDER, SPECTACLED	Somateria fischeri	T
		FALCON, PEREGRINE	Falco peregrinus	E
NORTHWEST ARCTIC	BIRDS	EIDER, SPECTACLED	Somateria fischeri	T
UNORGANIZED BOROUGH	BIRDS	EIDER, SPECTACLED	Somateria fischeri	T
		FALCON, PEREGRINE	Falco peregrinus	E
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
AMERICAN SAMOA				
AMERICAN SAMOA	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
ARIZONA				
APACHE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	MINNOW, LOACH	Rhinichthys (=Tiaroga) cobitis	T
		SPINEDACE, LITTLE COLORADO	Lepidomeda vittata	T
		TROUT, APACHE	Salmo apache	T
	PLANTS	DOCK, CHIRICAHUA	Rumex orthoneurus	T
		FLEABANE, ZUNI	Erigeron rhizomatus	T
		SEDGE, NAVAJO	Carex specuicola	T
COCHISE	AMPHIBIANS	SALAMANDER, SONORA TIGER	Ambystoma tigrinum	E
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	CATFISH, YAQUI	Ictalurus pricei	T
		CHUB, YAQUI	Gila purpurea	E
		PUPFISH, DESERT	Cyprinodon macularius	E
		SHINER, BEAUTIFUL	Notropis formosus	T
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis	E
	MAMMALS	BAT, LESSER (=SANBORN'S) LONG-NOSED.	Leptonycteris sanborni	E
		JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
		WOLF, GRAY	Canis lupus	E, T
	PLANTS	CACTUS, COCHISE PINCUSHION	Coryphantha robbinsorum (=Cochiseia r., Escobaria r.).	T
		DOCK, CHIRICAHUA	Rumex orthoneurus	T
		LADIES'-TRESSES, CANELO HILLS	Spiranthes delitescens	E
	REPTILES	RATTLESNAKE, NEW MEXICAN RIDGE-NOSED.	Crotalus willardi obscurus	T
COCONINO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	CHUB, HUMPBACK	Gila cypha	E
		SPINEDACE, LITTLE COLORADO	Lepidomeda vittata	T
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	MAMMALS	VOLE, HUALAPAI MEXICAN	Microtus mexicanus hualpaiensis	E
	PLANTS	CACTUS, BRADY PINCUSHION	Pediocactus bradyi	E
		CACTUS, SILER PINCUSHION	Pediocactus sileri	T
		GROUNDSEL, SAN FRANCISCO PEAKS.	Senecio franciscanus	T
		MILK-VETCH, SENTRY	Astragalus cremnophylax var. cremnophylax.	E
		MILKWEED, WELSH'S	Asclepias welshii	T
		SEDGE, NAVAJO	Carex specuicola	T
	SNAILS	AMBERSNAIL, KANAB	Oxyloma haydeni kanabensis	E
GILA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
	FISHES	MINNOW, LOACH	Rhinichthys (=Tiaroga) cobitis	T
		SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis	E
	PLANTS	AGAVE, ARIZONA	Agave arizonica	E
		CACTUS, ARIZONA HEDGEHOG	Echinocereus triglochidiatus var. arizonicus.	E
		DOCK, CHIRICAHUA	Rumex orthoneurus	T
GRAHAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
		PYGMY-OWL, CACTUS FERRUGINOUS	Glaucidiumbrasilianum cactorum	E
	FISHES	MINNOW, LOACH	Rhinichthys (=Tiaroga) cobitis	T
		PUPFISH, DESERT	Cyprinodon macularius	E
		SPIKEDACE	Meda fulgida	T
		SUCKER, RAZORBACK	Xyrauchen texanus	E
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis	E
		TROUT, APACHE	Salmo apache	T
	MAMMALS	BAT, LESSER (=SANBORN'S) LONG-NOSED.	Leptonycteris sanborni	E
		JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
		SQUIRREL, MOUNT GRAHAM RED	Tamiasciurus hudsonicus grahamensis	E
	PLANTS	CLIFFROSE, ARIZONA	Cowania subintegra	E
		DOCK, CHIRICAHUA	Rumex orthoneurus	T
GREENLEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	MINNOW, LOACH	Rhinichthys (=Tiaroga) cobitis	T
		SPIKEDACE	Meda fulgida	T
		SUCKER, RAZORBACK	Xyrauchen texanus	E
		TROUT, APACHE	Salmo apache	T
	PLANTS	DOCK, CHIRICAHUA	Rumex orthoneurus	T
LA PAZ	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis	E
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		PUPFISH, DESERT	Cyprinodon macularius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
MARICOPA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
		PYGMY-OWL, CACTUS FERRUGINOUS	Glaucidiumbrasilianum cactorum	E
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis	E
	FISHES	PUPFISH, DESERT	Cyprinodon macularius	E
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis	E
	MAMMALS	BAT, LESSER (=SANBORN'S) LONG-NOSED.	Leptonycteris sanborni	E
		PRONGHORN, SONORAN	Antilocapra americana sonoriensis	E
	PLANTS	AGAVE, ARIZONA	Agave arizonica	E
		CACTUS, ARIZONA HEDGEHOG	Echinocereus triglochidiatus var. arizonicus.	E
		CLIFFROSE, ARIZONA	Cowania subintegra	E
MOHAVE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis	E
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		CHUB, HUMPBACK	Gila cypha	E
		CHUB, VIRGIN RIVER	Gila robusta seminuda	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	MAMMALS	VOLE, HUALAPAI MEXICAN	Microtus mexicanus hualpaiensis	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	PLANTS	CACTUS, SILER PINCUSHION	Pediocactus sileri	T
		CLIFFROSE, ARIZONA	Cowania subintegra	E
		CYCLADENIA, JONES	Cycladenia humilis var. jonesii	T
	REPTILES	TORTOISE, DESERT	Gopherus (=Xerobates, =Scaptochelys agassizii.	T
	SNAILS	AMBERSNAIL, KANAB	Oxyloma haydeni kanabensis	E
NAVAJO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	CHUB, HUMPBACK	Gila cypha	E
		MINNOW, LOACH	Rhinichthys (=Tiaroga) cobitis	T
		SPINEDACE, LITTLE COLORADO	Lepidomeda vittata	T
		TROUT, APACHE	Salmo apache	T
	MAMMALS	JAGUAR	Panthera onca	E
	PLANTS	CACTUS, PEEBLES NAVAJO	Pediocactus peeblesianus var. peeblesianus.	E
		DOCK, CHIRICAHUA	Rumex orthoneurus	T
		GRASS, PARISH'S ALKALI	Puccinellia parishii	E
		SEDGE, NAVAJO	Carex specuicola	T
PIMA	BIRDS	BOBWHITE, MASKED	Colinus virginianus ridgwayi	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
		PYGMY-OWL, CACTUS FERRUGINOUS	Glaucidiumbrasilianum cactorum	E
	FISHES	PUPFISH, DESERT	Cyprinodon macularius	E
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis	E
	MAMMALS	BAT, LESSER (=SANBORN'S) LONG-NOSED.	Leptonycteris sanborni	E
		PRONGHORN, SONORAN	Antilocapra americana sonoriensis	E
	PLANTS	BLUESTAR, KEARNEY'S	Amsonia kearneyana	E
		CACTUS, NICHOL'S TURK'S HEAD	Echinocactus horizonthalonius var. nicholii.	E
		CACTUS, PIMA PINEAPPLE	Coryphantha scheeri var. robustispina	E
	SNAILS	TALUSSNAIL, SAN XAVIER	Sonorella eremita	E
PINAL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PYGMY-OWL, CACTUS FERRUGINOUS	Glaucidiumbrasilianum cactorum	E
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis	E
	FISHES	MINNOW, LOACH	Rhinichthys (=Tiaroga) cobitis	T
		PUPFISH, DESERT	Cyprinodon macularius	E
		SPIKEDACE	Meda fulgida	T
		SUCKER, RAZORBACK	Xyrauchen texanus	E
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis	E
	MAMMALS	BAT, LESSER (=SANBORN'S) LONG-NOSED.	Leptonycteris sanborni	E
	PLANTS	CACTUS, ARIZONA HEDGEHOG	Echinocereus triglochidiatus var. arizonicus.	E
		CACTUS, NICHOL'S TURK'S HEAD	Echinocactus horizonthalonius var. nicholii.	E
SANTA CRUZ	AMPHIBIANS	SALAMANDER, SONORA TIGER	Ambystoma tigrinum	E
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
		PYGMY-OWL, CACTUS FERRUGINOUS	Glaucidiumbrasilianum cactorum	E
	FISHES	CHUB, SONORA	Gila ditaenia	T
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis	E
	MAMMALS	BAT, LESSER (=SANBORN'S) LONG-NOSED.	Leptonycteris sanborni	E
		OCELOT	Felis pardalis	E
	PLANTS	CACTUS, PIMA PINEAPPLE	Coryphantha scheeri var. robustispina	E
		LADIES'-TRESSES, CANELO HILLS	Spiranthes delitescens	E
		UMBEL, HUACHUCA WATER	Lilaeopsis schaffneriana spp. recuva	E
YAVAPAI	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	PUPFISH, DESERT	Cyprinodon macularius	E
		SPIKEDACE	Meda fulgida	T
		SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis	E
		TROUT, GILA	Salmo gilae	E
	PLANTS	AGAVE, ARIZONA	Agave arizonica	E
		CLIFFROSE, ARIZONA	Cowania subintegra	E
YUMA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis	E
	FISHES	SUCKER, RAZORBACK	Xyrauchen texanus	E
	MAMMALS	BAT, LESSER (=SANBORN'S) LONG-NOSED.	Leptonycteris sanborni	E
		PRONGHORN, SONORAN	Antilocapra americana sonoriensis	E
	REPTILES	LIZARD, FLATTAILED HORNED	Phrynosoma mcallii	T
CALIFORNIA				
ALAMEDA	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	E
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	E
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, LONGHORN FAIRY	Branchinecta longiantenna	E
		SHRIMP, VERNAL POOL FAIRY	Branchinecta lynchi	T
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhyncus mykiss	T
	INSECTS	BUTTERFLY, BAY CHECKERSPOT	Euphydryas editha bayensis	T
		CALLIPPE SILVERSPOT BUTTERFLY	Speyeria callippe callippe	E
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		MOUSE, SALT MARSH HARVEST	Reithrodontomys raviventris	E
	PLANTS	BIRD'S-BEAK, PALMATE-BRACTED	Cordylanthes palmatus	E
		CLARKIA, PRESIDIO	Clarkia franciscana	E
		DUDLEYA, SANTA CLARA VALLEY	Dudleya setchellii	E
		FIDDLENECK, LARGE-FLOWERED	Amsinckia grandiflora	E
		GOLDFIELDS, CONTRA COSTA	Lasthenia conjugens	E
		MANZANITA, PALLID	Arctostaphylos pallida	T
		NAVARRETIA, FEW-FLOWERED	Navarretia leucocephala ssp. pauciflora	E
		NAVARRETIA, MANY-FLOWERED	Navarretia leucocephala ssp. plieantha	E
		STONECROP, LAKE COUNTY	Parvisedum leiocarpum	E
	REPTILES	WHIPSNAKE, ALAMEDA	Masticophis lateralis euryxanthus	E
		WHIPSNAKE, ALAMEDA (STRIPED RACER).	Masticophis lateralis euryxanthus	T
ALPINE	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
		TROUT, PAIUTE CUTTHROAT	Salmo clarki seleniris	T
AMADOR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhyncus mykiss	T
	PLANTS	BUCKWHEAT, IONE	Eriogonum apricum	E
		MANZANITA, IONE	Arctostaphylos myrtifolia	T
BUTTE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
	CRUSTACEAN	SHRIMP, CONSERVANCY FAIRY	Brancinecta conservatio	E
		SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (SACRAMENTO RIVER WINTER RUN).	Oncorhynchus tshawytscha	E
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhyncus mykiss	T
		STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	PLANTS	MEADOWFOAM, BUTTE COUNTY	Limnanthes floccosa ssp. californica	E
		SPURGE, HOOVER'S	Chamaesyce hooveri	T
		TUCTORIA, GREEN'S	Tuctoria greenei	E
	REPTILES	SNAKE, GIANT GARTER	Thamnophis gigas	T
CALAVERAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhyncus mykiss	T
	PLANTS	MANZANITA, IONE	Arctostaphylos myrtifolia	T

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
COLUSA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
		TROUT, STEELHEAD (CENTRAL VALLEY DRUM).	Oncorhyncus mykiss	T
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	PLANTS	BIRD'S-BEAK, PALMATE-BRACTED	Cordylanthes palmatus	E
	REPTILES	SNAKE, GIANT GARTER	Thamnophis gigas	T
CONTRA COSTA	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	E
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	E
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, LONGHORN FAIRY	Branchinecta longiantenna	E
		SHRIMP, VERNAL POOL FAIRY	Branchinecta lynchi	T
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SACRAMENTO RIVER WINTER RUN).	Oncorhynchus tshawytscha	E
		STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
		TARPLANT, SANTA CRUZ	Holocarpha macradenia	T
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhyncus mykiss	T
	INSECTS	BUTTERFLY, BAY CHECKERSPOT	Euphydryas editha bayensis	T
		BUTTERFLY, LANGE'S METALMARK	Apodemia mormo langei	E
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		MOUSE, SALT MARSH HARVEST	Reithrodontomys raviventris	E
	PLANTS	DUDLEYA, SANTA CLARA VALLEY	Dudleya setchellii	E
		EVENING-PRIMROSE, ANTIOCH DUNES.	Oenothera deltoides ssp. howellii	E
		FIDDLENECK, LARGE-FLOWERED	Amsinckia grandiflora	E
		GOLDFIELDS, CONTRA COSTA	Lasthenia conjugens	E
		MANZANITA, PALLID	Arctostaphylos pallida	T
		NAVARRETIA, FEW-FLOWERED	Navarretia leucocephala ssp. pauciflora	E
		NAVARRETIA, MANY-FLOWERED	Navarretia leucocephala ssp. plieantha	E
		SOFT BIRD'S BEAK	Cordylanthus mollis	E
		STONECROP, LAKE COUNTY	Parvisedum leiocarpum	E
		WALLFLOWER, CONTRA COSTA	Erysimum capitatum var. angustatum	E
	REPTILES	WHIPSNAKE, ALAMEDA	Masticophis lateralis euryxanthus	E
		WHIPSNAKE, ALAMEDA (STRIPED RACER).	Masticophis lateralis euryxanthus	T
COWLITZ	FISHES	STEELHEAD, LOWER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Lower Columbia ESU).	T
DEL NORTE	AMPHIBIANS	FROG, CALIFORNIA RED-LEGGED	Rana Aurora Draytonii	T
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).	Oncorhynchus tshawytscha	T
		SALMON, COHO (SOUTHERN OREGON/NORTHERN CALIFORNIA COAST).	Oncorhynchus kisutch	T
	INSECTS	BUTTERFLY, OREGON SILVERSPOT	Speyeria zerene hippolyta	T
	PLANTS	WALLFLOWER, MENZIE'S	Erysimum menziesii	E
EL DORADO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	PLANTS	BEDSTRAW, EL DORADO	Galium californicum ssp. Sierrae	E
		BUTTERWEED, LAYNE'S	Senecio layneae	T
		CEANOTHUS, PINE HILL	Ceanothus roderickii	E
		FLANNELBUSH, PINE HILL	Fremontodendron californicum ssp. decumbens.	E
		MORNING-GLORY, STEBBINS	Calystegia stebbinsii	E
FRESNO	PLANTS	ADOBE SUNBURST, SAN JOAQUIN	Pseudobahia peirsonii	T
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, LITTLE KERN GOLDEN	Salmo aguabonita whitei	T
		TROUT, PAIUTE CUTTHROAT	Salmo clarki seleniris	T
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		RAT, FRESNO KANGAROO	Dipodomys nitratoides exilis	E
		RAT, GIANT KANGAROO	Dipodomys ingens	E
	PLANTS	BIRD'S-BEAK, PALMATE-BRACTED	Cordylanthes palmatus	E
		CARPENTERIA	Carpenteria californica	T
		DUDLEYA, SANTA CLARA VALLEY	Dudleya setchellii	E
		GOLDEN SUNBURST, HARTWEG'S	Pseudobahia bahiifolia	E
		JEWELFLOWER, CALIFORNIA	Caulanthus californicus	E
		OWL'S-CLOVER, FLESHY	Castilleja campestris ssp. succulenta	E
		PUSSYPAWS, MARIPOSA	Calyptridium pulchellum	E
		WOOLLY-STAR, HOOVER'S	Eriastrum hooveri	T
		WOOLLY-THREADS, SAN JOAQUIN	Lembertia congdonii	E
	REPTILES	LIZARD, BLUNT-NOSED LEOPARD	Gambelia (crotaphytus) silus	E
		SNAKE, GIANT GARTER	Thamnophis gigas	T
GLENN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		SPRING RUN)	.	
		SALMON, CHINOOK (SACRAMENTO RIVER WINTER RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).		
		STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhynchus mykiss	T
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	PLANTS	GRASS, HAIRY ORCUTT	Orcuttia pilosa	E
		SPURGE, HOOVER'S	Chamaesyce hooveri	T
	REPTILES	SNAKE, GIANT GARTER	Thamnophis gigas	T
HOKE	PLANTS	ADOBE SUNBURST, SAN JOAQUIN	Pseudobahia peirsonii	T
HUMBOLDT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).		
		SALMON, COHO (CENTRAL CALIFORNIA COAST POP).	Oncorhynchus kisutch	E
		SALMON, COHO (SOUTHERN OR/NORTHERN CALIFORNIA COAST).	Oncorhynchus kisutch	T
		STEELHEAD, NORTHERN CALIFORNIA POPULATION.	Oncorhynchus mykiss, (Northern California ESU).	T
	PLANTS	LAYIA, BEACH	Layia carnosa	E
		LILY, WESTERN	Lilium occidentale	E
		PENNYCRESS, KNEELAND PRAIRIE	Thalspi californicum	E
		WALLFLOWER, MENZIE'S	Erysimum menziesii	E
	REPTILES	TURTLE, OLIVE (PACIFIC) RIDLEY SEA	Lepidochelys olivacea	E, T
IMPERIAL	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	Bufo microscaphus californicus	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis	E
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		PUPFISH, DESERT	Cyprinodon macularius	E
		SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	MAMMALS	SHEE DESERT BIGHORN (PENINSULAR SEGMENT).	Ovis canadensis	E
	PLANTS	MILK-VETCH, PIERSON'S	Astragalus magdalenae var. piersonii	E
	REPTILES	LIZARD, FLAT-TAILED HORNED	Phrynosoma mcallii	T
	REPTILES	TORTOISE, DESERT	Gopherus(=Xerobates, =Scaptochelys) agassizii.	T
INYO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		TOWHEE, INYO BROWN	Pipilo fuscus eremophilus	T
		VIREO, LEAST BELL'S	Vireo bellii pusillus	E
	FISHES	CHUB, OWENS TUI	Gila bicolor snyderi	E
		DACE, ASH MEADOWS SPECKLED	Rhinichthys osculus nevadensis	E
		PUPFISH, OWENS	Cyprinodon radiosus	E
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
	MAMMALS	VOLE, AMARGOSA	Microtus californicus scirpensis	E
	PLANTS	CENTAURY, SPRING-LOVING	Centaurium namophilum var. namophilum	T
		EVENING-PRIMROSE, EUREKA VALLEY.	Oenothera avita ssp. eurekensis	E
		GRASS, EUREKA DUNE	Swallenia alexandrae	E
		GUMPLANT, ASH MEADOWS	Grindelia fraxino-pratensis	T
		IVESIA, ASH MEADOWS	Ivesia eremica	T
		MILK-VETCH, FISH SLOUGH	Astragalus lentiginosus var. Piscinensis	E
		MILK-VETCH, SHINING	Astragalus lentiginosus var. micans	T
		MILK-VETCH, SODAVILLE	Astragalus lentiginosus var. seslquimetralis.	T
		NITERWORT, AMARGOSA	Nitrophila mohavensis	E
	REPTILES	TORTOISE, DESERT	Gopherus (=Xerobates,=Scaptochelys) agassizii.	T
KERN	BIRDS	CONDOR, CALIFORNIA	Gymnogyps californianus	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
		VIREO, LEAST BELL'S	Vireo bellii pusillus	E
	INSECTS	MOTH, KERN PRIMROSE SPHINX	Euproserpinus euterpe	T
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		RAT, GIANT KANGAROO	Dipodomys ingens	E
		RAT, TIPTON KANGAROO	Dipodomys nitratoides	E
	PLANTS	CACTUS, BAKERSFIELD	Opuntia treleasei	E
		GRASS, PARISH'S ALKALI	Puccinellia parishii	E
		JEWELFLOWER, CALIFORNIA	Caulanthus californicus	E
		LILY, GREENHORN ADOBE	Fritillaria striata	T
		MALLOW, KERN	Eremalche kernensis	E
		MONKEY-FLOWER, KELSO CREEK	Mimulus shevockii	E
		NAVARRETIA, PIUTE MOUNTAINS	Navarretia setiloba	T
		WOOLLY-STAR, HOOVER'S	Eriastrum hooveri	T
		WOOLLY-THREADS, SAN JOAQUIN	Lembertia congdonii	E
	REPTILES	LIZARD, BLUNT-NOSED LEOPARD	Gambelia (Crotaphytus) silus	E
		TORTOISE, DESERT	Gopherus (=Xerobates, =Scaptochelys) agassizii.	T
KINGS	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		RAT, FRESNO KANGAROO	Dipodomys nitratoides exilis	E
		RAT GIANT KANGAROO	Dipodomys ingens	E
		RAT, TIPTON KANGAROO	Dipodomys nitratoides	E
	PLANTS	JEWELFLOWER, CALIFORNIA	Caulanthus californicus	E
		WOOLLY-STAR, HOOVER'S	Eriastrum hooveri	T
		WOOLLY-THREADS, SAN JOAQUIN	Lembertia congdonii	E
	REPTILES	LIZARD, BLUNT-NOSED LEOPARD	Gambelia (Crotaphytus) silus	E
LAKE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).	Oncorhynchus tshawytscha	T
		SPLITTAIL, SACRAMENTO	Pogonichthys macrolepidotus	T
	PLANTS	COYOTE-THISTLE, LOCH LOMOND	Eryngium constancei	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		GOLDFIELDS, BURKE'S	Lasthenia burkei	E
		GRASS, SLENDER ORCUTT	Orcuttia tenuis	T
LASSEN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SUCKER, MODOC	Catostomus microps	E
LOS ANGELES	PLANTS	CEANOTHUS, VAIL LAKE	Ceanothus ophiochilus	T
	BIRDS	MOUNTAIN-MAHOGANY, CATALINA ISLAND.	Cerocarpus traskiae	E
		RUSH-ROSE, ISLAND	Helianthemum greenei	T
	PLANTS	SANDWORT, MARSH	Arenaria paludicola	E
	BIRDS	WOODLAND-STAR, SAN CLEMENTE ISLAND.	Lithophragma maximum	E
	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	Bufo microscaphus californicus	E
	BIRDS	CONDOR, CALIFORNIA	Gymnogyps californianus	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
		GNATCATCHER, COASTAL CALIFORNIA.	Polioptila californica californica	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, LIGHT-FOOTED CLAPPER	Rallus longirostris levipes	E
		SHRIKE, SAN CLEMENTE LOGGERHEAD.	Lanius ludovicianus mearnsi	E
		SPARROW, SAN CLEMENTE SAGE	Amphispiza belli clementeae	T
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	E
		VIREO, LEAST BELL'S	Vireo bellii pusillus	E
	FISHES	CHUB, MOHAVE TUI	Gila bicolor mohavensis	E
		GOBY, TIDEWATER	Eucyclogobius newberryi	E
		STEELHEAD, SOUTHERN CALIFORNIA POPULATION.	Oncorhynchus mykiss, (Southern California) ESU.	E
		STICKLEBACK, UNARMORED THREESPINE.	Gasterosteus aculeatus williamsoni	E
	INSECTS	BUTTERFLY, EL SEGUNDO BLUE	Euphilotes (=Shijimiaeoides) battoides allyni.	E
		BUTTERFLY, PALOS VERDES BLUE	Glaucopsyche lygdamus palosverdesensis.	E
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		MOUSE, PACIFIC POCKET	Perognathus longimembris pacificus	E
	PLANTS	BARBERRY, NEVIN'S	Berberis nevinii	T
		BEARGRASS, DEHESA	Nolina interrata	T
		BIRD'S-BEAK, SALT MARSH	Cordylanthus maritimus ssp. maritimus	E
		BRODIAEA, THREAD-LEAVED	Brodiaea filifolia	T
		BROOM, SAN CLEMENTE ISLAND	Lotus dendroideus ssp. traskiae	E
		BUSH-MALLOW, SAN CLEMENTE ISLAND.	Malacothamnus clementinus	E
		CEANOTHUS, VAIL LAKE	Ceanothus ophiochilus	T
		CROWNSCALE, SAN JACINTO VALLEY	Atriplex coronata var notatior	E
		DUDLEYA, MARCESCENT	Dudleya cymosa ssp. marcescens	T
		DUDLEYA, SANTA MONICA MOUNTAINS.	Dudleya cymosa ssp. ovbatifolia	T
		FLANNELBUSH, MEXICAN	Fremontodendron mexicanum	T
		LARKSPUR, SAN CLEMENTE ISLAND	Delphinium kinkiense	E
		MILK-VETCH, BRAUNTON'S	Astragalus brauntonii	E
		NAVARRETIA, SPREADING	Navarretia fossalis	T
		ONION, MUNZ'S	Allium munzii	E
		PAINTBRUSH, SAN CLEMENTE ISLAND INDIAN.	Castilleja grisea	E
		PENTACHAETA, LYON'S	Pentachaeta lyonii	E
		SPINEFLOWER, SLENDER-HORNED	Centrostegia leptoceras	E
		WATERCRESS, GAMBEL'S	Rorippa gambellii	E
	REPTILES	LIZARD, BLUNT-NOSED LEOPARD	Gambelia (Crotaphytus) silus	E
		LIZARD, ISLAND NIGHT	Xantusia (Klaubernina) riversiana	T
		TORTOISE, DESERT	Gopherus (=Xerobates, =Scaptochelys) agassizii.	T
MADERA	PLANTS	ADOBE SUNBURST, SAN JOAQUIN	Pseudobahia peirsonii	T
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
		TROUT, PAIUTE CUTTHROAT	Salmo clarki seleniris	T
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		RAT, FRESNO KANGAROO	Dipodomys nitratoides exilis	E
	PLANTS	BIRD'S-BEAK, PALMATE-BRACTED	Cordylanthes palmatus	E
		GOLDEN SUNBURST, HARTWEG'S	Pseudobahia bahiifolia	E

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		GRASS, HAIRY ORCUTT	Orcuttia pilosa	E
		LUPINE, CLOVER	Lupinus tidestromii	E
		OWL'S-CLOVER, FLESHY	Castilleja campestris ssp. succulenta	E
		PUSSYPAWS, MARIPOSA	Calyptridium pulchellum	E
	REPTILES	LIZARD, BLUNT-NOSED LEOPARD	Gambelia (Crotaphytus) silus	E
MARIN	AMPHIBIANS	FROG, CALIFORNIA RED-LEGGED	Rana Aurora Draytonii	T
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	E
	CRUSTACEAN	SHRIMP, CALIFORNIA FRESHWATER	Syncaris pacifica	E
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (SACRAMENTO RIVER WINTER RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).	Oncorhynchus tshawytscha	T
		SALMON, COHO (CENTRAL CALIFORNIA COAST POP).	Oncorhynchus kisutch	E
		STEELHEAD, CENTRAL CALIFORNIA POPULATION.	Oncorhynchus mykiss, (Central California Coast ESU).	T
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhyncus mykiss	T
	INSECTS	BUTTERFLY, MISSION BLUE	Icaricia icarioides missionensis	E
		BUTTERFLY, MYRTLE'S SILVERSPOT	Speyeria zerene myrtleae	E
	MAMMALS	MOUSE, SALT MARSH HARVEST	Reithrodontomys raviventris	E
	PLANTS	ALLOCARYA, CALISTOGA	Plagiobothrys strictus	E
		ALOPECURUS, SONOMA	Alopecurus aequalis var. sonomensis	E
		BLUEGRASS, NAPA	Poa napensis	E
		CHECKER-MALLOW, KENWOOD MARSH.	Sidalcea oregana ssp. valida	E
		CLARKIA, VINE HILL	Clarkia imbricata	E
		CLOVER, SHOWY INDIAN	Trifolum amoenum	E
		DWARF-FLAX, MARIN	Hesperolinon congestum	T
		JEWELFLOWER, TIBURON	Streptanthus niger	E
		LARKSPUR, BAKER'S	Delphinium bakeri	E
		LAYIA, BEACH	Layia carnosa	E
		LILY, PITKIN MARSH	Lilium pitkinense	E
		LUPINE, CLOVER	Lupinus tidestromii	E
		MILK-VETCH, CLARA HUNT'S	Astragalus clarianus	E
		PAINTBRUSH, TIBURON	Castilleja affinis ssp. neglecta	E
		PENTACHAETA, WHITE-RAYED	Pentachaeta bellidiflora	E
		SEDGE, WHITE	Carex albida	E
		SPINEFLOWER, SONOMA	Chorizanthe valida	E
MARIPOSA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	PLANTS	LUPINE, MARIPOSA	Lupinus citrinus var. deflexus	E
		PUSSYPAWS, MARIPOSA	Calyptridium pulchellum	E
MENDOCINO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, NORTHERN CALIFORNIA POPULATION.	Oncorhynchus mykiss, (Northern California ESU).	T
	INSECTS	BUTTERFLY, BEHREN'S SILVERSPOT	Speyeria zerene behrensii	E
		BUTTERFLY, LOTIS BLUE	Lycaeides argyrognomon lotis	E
	MAMMALS	BEAVER, POINT ARENA MOUNTAIN	Aplodontia rufa nigra	E
	PLANTS	GOLDFIELDS, BURKE'S	Lasthenia burkei	E
		GOLDFIELDS, CONTRA COSTA	Lasthenia conjugens	E
		NAVARRETIA, FEWF-LOWERED	Navarretia leucocephala ssp. pauciflora	E
		NAVARRETIA, MANY-FLOWERED	Navarretia leucocephala ssp. plieantha	E
		ROCK-CRESS, MCDONALD'S	Arabis mcdonaldiana	E
		SPINEFLOWER, HOWELL'S	Chorizanthe howellii	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		STONECROP, LAKE COUNTY	Parvisedum leiocarpum	E
		WALLFLOWER, MENZIE'S	Erysimum menziesii	E
	REPTILES	BEHREN'S SILVERSPOT BUTTERFLY	Speyeria callippe callippe	LE
		TURTLE, OLIVE (PACIFIC) RIDLEY SEA	Lepidochelys olivacea	E, T
MERCED	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, CONSERVANCY FAIRY	Brancinecta conservatio	E
		SHRIMP, VERNAL POOL FAIRY	Branchinecta lynchi	T
	FISHES	STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhynchus mykiss	T
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		RAT, FRESNO KANGAROO	Dipodomys nitratoides exilis	E
		RAT, GIANT KANGAROO	Dipodomys ingens	E
	PLANTS	GRASS, COLUSA	Neostapfia colusana	T
		GRASS, HAIRY ORCUTT	Orcuttia pilosa	E
		OWL'S-CLOVER, FLESHY	Castilleja campestris ssp. succulenta	E
		TUCTORIA, GREEN'S	Tuctoria greenei	E
	REPTILES	LIZARD, BLUNT-NOSED LEOPARD	Gambelia (Crotaphytus) silus	E
		SNAKE, GIANT GARTER	Thamnophis gigas	T
MODOC	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	CHUB, COWHEAD LAKE TUI	Gila bicolor vaccaceps	E
		SUCKER, LOST RIVER	Deltistes luxatus	E
		SUCKER, MODOC	Catostomus microps	E
		SUCKER, SHORTNOSE	Chasmistes brevirostris	E
	PLANTS	BARBERRY, TRUCKEE	Berberis (=Mahonia) sonnei	E
MONO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
	FISHES	CHUB, OWENS TUI	Gila bicolor snyderi	E
		CHUB, COWHEAD LAKE TUI	Gila bicolor vaccaceps	E
		PUPFISH, OWENS	Cyprinodon radiosus	E
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
		TROUT, PAIUTE CUTTHROAT	Salmo clarki seleniris	T
	PLANTS	MILK-VETCH, FISH SLOUGH	Astragalus lentiginosus var. piscinensis	E
MONTEREY	BIRDS	POTENTILLA, HICKMANN'S	Potentilla hickmanii	E
	AMPHIBIANS	FROG, CALIFORNIA RED-LEGGED	Rana Aurora Draytonii	T
		SALAMANDER, SANTA CRUZ LONG-TOED.	Ambystoma macrodactylum croceum	E
	BIRDS	CONDOR, CALIFORNIA	Gymnogyps californianus	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	E
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	E
		VIREO, LEAST BELL'S	Vireo bellii pusillus	E
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, VERNAL POOL FAIRY	Branchinecta lynchi	T
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		STEELHEAD, SOUTH-CENTRAL CALIFORNIA POP.	Oncorhynchus mykiss, (South-Central Calif. ESU).	T
	INSECTS	BUTTERFLY, SMITH'S BLUE	Euphilotes (=Shijimiaeoides) enoptes smithi.	E
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		RAT, GIANT KANGAROO	Dipodomys ingens	E
		OTTER, SOUTHERN SEA	Enhydra lutris nereis	T
		RAT, GIANT KANGAROO	Dipodomys ingens	E
	PLANTS	AMOLE, PURPLE	Chlorogalum purpureum	T
		CINQUEFOIL, HICKMAN'S	Potentilla hickmanii	E
		CLOVER, MONTEREY	Trifolium trichocalyx	E
		CYPRESS, GOWEN	Cupressus goveniana ssp. goveniana	T
		DUDLEYA, SANTA CLARA VALLEY	Dudleya setchellii	E
		GILIA, MONTEREY	Gilia tenuiflora ssp. arenaria	E
		LAYIA, BEACH	Layia carnosa	E
		LUPINE, CLOVER	Lupinus tidestromii	E
		MILK-VETCH, COASTAL DUNES	Astragalus tener var. titi	E
		PIPERIA, YADON'S	Piperia yadonii	E
		SPINEFLOWER, MONTEREY	Chorizanthe pungens var. pungens	T
		SPINEFLOWER, ROBUST	Chorizanthe robusta var. robusta	E
		TARPLANT, SANTA CRUZ	Holocarpha macradenia	T
		WALLFLOWER, MENZIE'S	Erysimum menziesii	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	REPTILES	LIZARD, BLACK LEGLESS	Anniella pulchra nigra	E
		TURTLE, OLIVE (PACIFIC) RIDLEY SEA	Lepidochelys olivacea	E, T
NAPA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	E
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, CALIFORNIA FRESHWATER	Syncaris pacifica	E
		SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
	FISHES	SALMON, CHINOOK (SACRAMENTO RIVER WINTER RUN).	Oncorhynchus tshawytscha	E
		STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
		STEELHEAD, CENTRAL CALIFORNIA POPULATION.	Oncorhynchus mykiss, (Central California Coast ESU).	T
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		MOUSE, SALT MARSH HARVEST	Reithrodontomys raviventris	E
	PLANTS	ALLOCARYA, CALISTOGA	Plagiobothrys strictus	E
		ALOPECURUS, SONOMA	Alopecurus aequalis var. sonomensis	E
		BLUEGRASS, NAPA	Poa napensis	E
		CALISTOGA ALLOCARYA	Plagiobothrys strictus	E
		CHECKER-MALLOW, KENWOOD MARSH.	Sidalcea oregana ssp. valida	E
		CLARKIA, VINE HILL	Clarkia imbricata	E
		CLOVER, SHOWY INDIAN	Trifolum amoenum	E
		GOLDFIELDS, CONTRA COSTA	Lasthenia conjugens	E
		LILY, PITKIN MARSH	Lilium pitkinense	E
		MILK-VETCH, CLARA HUNT'S	Astragalus clarianus	E
		NAVARRETIA, FEW-FLOWERED	Navarretia leucocephala ssp. pauciflora	E
		NAVARRETIA, MANY-FLOWERED	Navarretia leucocephala ssp. plieantha	E
		PAINTBRUSH, TIBURON	Castilleja affinis ssp. neglecta	E
		SEDGE, WHITE	Carex albida	E
		SOFT BIRD'S BEAK	Cordylanthus mollis	E
		STONECROP, LAKE COUNTY	Parvisedum leiocarpum	E
NEVADA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhyncus mykiss	T
	PLANTS	BARBERRY, TRUCKEE	Berberis (=Mahonia) sonnei	E
ORANGE	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	Bufo microscaphus californicus	E
	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
		GNATCATCHER, COASTAL CALIFORNIA.	Polioptila californica californica	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, LIGHTFOOTED CLAPPER	Rallus longirostris levipes	E
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	E
		VIREO, LEAST BELL'S	Vireo bellii pusillus	E
	CRUSTACEAN	SHRIMP, RIVERSIDE FAIRY	Streptocephalus woottoni	E
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
	MAMMALS	MOUSE, PACIFIC POCKET	Perognathus longimembris pacificus	E
	PLANTS	ASTER, DEL MAR SAND	Corethrogyne filaginifolia var. linifolia	E
		BACCHARIS, ENCINITAS	Baccharis vanessae	T
		BIRD'S-BEAK, SALT MARSH	Cordylanthus maritimus ssp. maritimus	E
		BRODIAEA, THREAD-LEAVED	Brodiaea filifolia	T
		CROWN-BEARD, BIG-LEAVED	Verbesina dissita	T
		CROWNSCALE, SAN JACINTO VALLEY	Atriplex coronata var notatior	E
		DUDLEYA, MARCESCENT	Dudleya cymosa ssp. marcescens	T
		DUDLEYA, SANTA MONICA MOUNTAINS.	Dudleya cymosa ssp. ovatifolia	T
		LIVEFOREVER, LAGUNA BEACH	Dudleya stolonifera	E
		MANZANITA, DEL MAR	Arctostaphylos glandulosa ssp. crassifolia	E
		MILK-VETCH, BRAUNTON'S	Astragalus brauntonii	E
		MONARDELLA, WILLOWY	Monardella linoides ssp. viminea	E
		NAVARRETIA, SPREADING	Navarretia fossalis	T
		ONION, MUNZ'S	Allium munzii	E
		SPINEFLOWER, ORCUTT'S	Chorizanthe orcuttiana	E
		TARWEED, OTAY	Hemizonia conjugens	E
		THORNMINT, SAN DIEGO	Acanthomintha ilicifolia	E
		WOOLLY-STAR, SANTA ANA RIVER	Eriastrum densifolium ssp. santorum	E
PIMA	BIRDS	FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
PLACER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, VERNAL POOL FAIRY	Branchinecta lynchi	T
		SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhynchus mykiss	T
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	PLANTS	BARBERRY, TRUCKEE	Berberis (=Mohonia) sonnei	E
PLUMAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	PLANTS	GRASS, SLENDER ORCUTT	Orcuttia tenuis	T
RIVERSIDE	AMPHIBIANS	SALAMANDER, DESERT SLENDER	Batrachoseps aridus	E
		TOAD, ARROYO SOUTHWESTERN	Bufo microscaphus californicus	E
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
		GNATCATCHER, COASTAL CALIFORNIA.	Polioptila californica californica	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		RAIL, YUMA CLAPPER	Rallus longirostris Dyumanensis	E
		VIREO, LEAST BELL'S	Vireo bellii pusillus	E
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, RIVERSIDE FAIRY	Streptocephalus woottoni	E
		SHRIMP, VERNAL POOL FAIRY	Branchinecta lynchi	T
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		PUPFISH, DESERT	Cyprinodon macularius	E
		SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	INSECTS	BUTTERFLY, QUINO CHECKERSPOT	Euphydryas editha quino	E
		FLY, DELHI SANDS FLOWER-LOVING	Rhophiamidas terminatus abdominalis	E
	MAMMALS	RAT, SAN BERNARDINO KANGAROO	Dipodomys merriami paravus	E
		RAT, STEPHENS' KANGAROO	Dipodomys stephensi	T
		SHEE DESERT BIGHORN (PENINSULAR SEGMENT).	Ovis canadensis	E
	PLANTS	BARBERRY, NEVIN'S	Berberis nevinii	T
		BEARGRASS, DEHESA	Nolina interrata	T
		BRODIAEA, THREADLEAVED	Brodiaea filifolia	T
		BUTTON-CELERY, SAN DIEGO	Eryngium aristulatum var. parishii	E
		CEANOTHUS, VAIL LAKE	Ceanothus ophiochilus	T
		CROWNSCALE, SAN JACINTO VALLEY	Atriplex coronata var. notatior	E
		DAISY, PARISH'S	Erigeron parishii	T
		DOWNINGIA, CUYAMACA LAKE	Downingia concolor var. brevior	E
		FLANNELBUSH, MEXICAN	Fremontodendron mexicanum	T
		GRASS, CALIFORNIA ORCUTT	Orcuttia californica	E
		MILK-VETCH, COACHELLA VALLEY	Astragalus lentiginosus var. coachellae	E
		MILK-VETCH, TRIPLE-RIBBED	Astragalus tricarinatus	E
		MINT, OTAY MESA	Pogogyne nudiuscula	E
		NAVARRETIA, SPREADING	Navarretia fossalis	T
		ONION, MUNZ'S	Allium munzii	E
		SPINEFLOWER, SLENDER-HORNED	Centrostegia leptoceras	E
		WOOLLY-STAR, SANTA ANA RIVER	Eriastrum densifolium ssp. santorum	E
	REPTILES	LIZARD, COACHELLA VALLEY FRINGE-TOED.	Uma inornata	T
		LIZARD, FLAT-TAILED HORNED	Phrynosoma mcallii	T
		TORTOISE, DESERT	Gopherus (=Xerobates,=Scaptochelys) agassizii.	T
SACRAMENTO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, VERNAL POOL FAIRY	Branchinecta lynchi	T
		SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (SACRAMENTO RIVER WINTER RUN).	Oncorhynchus tshawytscha	E
		SMELT, DELTA	Hypomesus transpacificus	T
		STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhynchus mykiss	T

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	PLANTS	EVENING-PRIMROSE, ANTIOCH DUNES.	Oenothera deltoides ssp. howellii	E
		GRASS, SACRAMENTO ORCUTT	Orcuttia viscida	E
		GRASS, SLENDER ORCUTT	Orcuttia tenuis	T
	REPTILES	SNAKE, GIANT GARTER	Thamnophis gigas	T
SAN BENITO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	INSECTS	FLY, DELHI SANDS FLOWER-LOVING	Rhophiamidas terminatus abdominalis	E
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		RAT, GIANT KANGAROO	Dipodomys ingens	E
	PLANTS	DUDLEYA, SANTA CLARA VALLEY	Dudleya setchellii	E
		EVENING-PRIMROSE, SAN BENITO	Camissonia benitensis	T
		WOOLLY-THREADS, SAN JOAQUIN	Lembertia congdonii	E
	REPTILES	LIZARD, BLUNT-NOSED LEOPARD	Gambelia (Crotaphytus) silus	E
SAN BERNADINO	BIRDS	FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
	PLANTS	ONION, MUNZ'S	Allium munzii	E
		SANDWORT, MARSH	Arenaria paludicola	E
	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	Bufo microscaphus californicus	E
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
		GNATCATCHER, COASTAL CALIFORNIA.	Polioptila californica californica	T
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis	E
		VIREO, LEAST BELL'S	Vireo bellii pusillus	E
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		CHUB, MOHAVE TUI	Gila bicolor mohavensis	E
		PUPFISH, DESERT	Cyprinodon macularius	E
		SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		STICKLEBACK, UNARMORED THREESPINE.	Gasterosteus aculeatus williamsoni	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	INSECTS	FLY, DELHI SANDS FLOWER-LOVING	Rhophiamidas terminatus abdominalis	E
	MAMMALS	RAT, SAN BERNARDINO KANGAROO	Dipodomys merriami paravus	E
		RAT, STEPHENS' KANGAROO	Dipodomys stephensi	T
		VOLE, AMARGOSA	Microtus californicus scirpensis	E
	PLANTS	BARBERRY, NEVIN'S	Berberis nevinii	T
		BEARGRASS, DEHESA	Nolina interrata	T
		BLADDERPOD, SAN BERNARDINO MOUNTAINS.	Lesquerella kingii ssp. bernardina	E
		BLUECURLS, HIDDEN LAKE	Trichostema austromontanum ssp. compactum.	T
		BLUEGRASS, SAN BERNARDINO	Poa atropurpurea	E
		BRODIAEA, THREAD-LEAVED	Brodiaea filifolia	T
		BUCKWHEAT, CUSHENBURY	Eriogonum ovalifolium var. vineum	E
		BUCKWHEAT, SOUTHERN MOUNTAIN WILD.	Eriogonum kennedyi var. austromontanum.	T
		CEANOTHUS, VAIL LAKE	Ceanothus ophiochilus	T
		CHECKER-MALLOW, PEDATE	Sidalcea pedata	E
		CROWNSCALE, SAN JACINTO VALLEY	Atriplex coronata var notatior	E
		DAISY, PARISH'S	Erigeron parishii	T
		DANDELION, CALIFORNIA	Taraxacum californicum	E
		FLANNELBUSH, MEXICAN	Fremontodendron mexicanum	T
		GRASS, PARISH'S ALKALI	Puccinellia parishii	E
		MILK-VETCH, CUSHENBURY	Astragalus albens	E
		MILK-VETCH, LANE MOUNTAIN	Astragalus jaegerianus	E
		MILK-VETCH, TRIPLE-RIBBED	Astragalus tricarinatus	E
		MUSTARD, SLENDER-PETALED	Thelypodium stenopetalum	E
		NAVARRETIA, SPREADING	Navarretia fossalis	T
		OXYTHECA, CUSHENBURY	Oxytheca parishii var. goodmaniana	E
		PAINTBRUSH, ASH-GREY INDIAN	Castilleja cinerea	T
		ROCK-CRESS, JOHNSTON'S	Arabis johnstonii	T
		SANDWORT, BEAR VALLEY	Arenaria ursina	T
		SPINEFLOWER, SLENDER-HORNED	Centrostegia leptoceras	E
		WATERCRESS, GAMBEL'S	Rorippa gambellii	E
		WOOLLY-STAR, SANTA ANA RIVER	Eriastrum densifolium ssp. santorum	E
	REPTILES	TORTOISE, DESERT	Gopherus (=Xerobates, =Scaptochelys) agassizii.	T
SAN DIEGO	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	Bufo microscaphus californicus	E
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
		GNATCATCHER, COASTAL CALIFORNIA.	Polioptila californica californica	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, LIGHT-FOOTED CLAPPER	Rallus longirostris levipes	E
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	E
		VIREO, LEAST BELL'S	Vireo bellii pusillus	E
	CRUSTACEAN	SHRIMP, RIVERSIDE FAIRY	Streptocephalus woottoni	E
		SHRIMP, SAN DIEGO FAIRY	Branchinecta sandiegoensis	E
	FISHES	CHUB, MOHAVE TUI	Gila bicolor mohavensis	E
		GOBY, TIDEWATER	Eucyclogobius newberryi	E
		PUPFISH, DESERT	Cyprinodon macularius	E
		STICKLEBACK, UNARMORED THREESPINE.	Gasterosteus aculeatus williamsoni	E
	INSECTS	SKIPPER, LAGUNA MOUNTAIN	Pyrgus ruralis lagunae	E
	MAMMALS	MOUSE, PACIFIC POCKET	Perognathus longimembris pacificus	E
		RAT, STEPHENS' KANGAROO	Dipodomys stephensi	T
		SHEE DESERT BIGHORN (PENINSULAR SEGMENT).	Ovis canadensis	E
	PLANTS	ASTER, DEL MAR SAND	Corethrogyne filaginifolia var. linifolia	E
		BACCHARIS, ENCINITAS	Baccharis vanessae	T
		BARBERRY, NEVIN'S	Berberis nevinii	T
		BEARGRASS, DEHESA	Nolina interrata	T
		BIRD'S-BEAK, SALT MARSH	Cordylanthus maritimus ssp. maritimus	E
		BRODIAEA, THREAD-LEAVED	Brodiaea filifolia	T
		BUTTON-CELERY, SAN DIEGO	Eryngium aristulatum var. parishii	E
		CEANOTHUS, VAIL LAKE	Ceanothus ophiochilus	T
		CROWN-BEARD, BIG-LEAVED	Verbesina dissita	T
		CROWNSCALE, SAN JACINTO VALLEY	Atriplex coronata var notatior	E
		DOWNINGIA, CUYAMACA LAKE	Downingia concolor var. brevior	E
		FLANNELBUSH, MEXICAN	Fremontodendron mexicanum	T
		GRASS, CALIFORNIA ORCUTT	Orcuttia californica	E
		LIVEFOREVER, LAGUNA BEACH	Dudleya stolonifera	E
		MANZANITA, DEL MAR	Arctostaphylos glandulosa ssp. crassifolia	E
		MEADOWFOAM, PARISH'S	Limnanthes gracilis ssp. parishii	T
		MILK-VETCH, PIERSON'S	Astragalus magdalenae var. piersonii	E
		MINT, OTAY MESA	Pogogyne nudiuscula	E
		MINT, SAN DIEGO MESA	Pogogyne abramsii	E
		MONARDELLA, WILLOWY	Monardella linoides ssp. viminea	E
		NAVARRETIA, SPREADING	Navarretia fossalis	T
		ONION, MUNZ'S	Allium munzii	E
		SPINEFLOWER, ORCUTT'S	Chorizanthe orcuttiana	E
		SPINEFLOWER, SLENDER-HORNED	Centrostegia leptoceras	E
		TARWEED, OTAY	Hemizonia conjugens	E
		THORNMINT, SAN DIEGO	Acanthomintha ilicifolia	E
		WATERCRESS, GAMBEL'S	Rorippa gambellii	E
	REPTILES	LIZARD, FLAT-TAILED HORNED	Phrynosoma mcallii	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, OLIVE (PACIFIC) RIDLEY SEA	Lepidochelys olivacea	E, T
SAN FRANCISCO	PLANTS	SANDWORT, MARSH	Arenaria paludicola	E
	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		STEELHEAD, CENTRAL CALIFORNIA POPULATION.	Oncorhynchus mykiss, (Central California Coast ESU).	T
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhyncus mykiss	T
	INSECTS	BUTTERFLY, BAY CHECKERSPOT	Euphydryas editha bayensis	T
		BUTTERFLY, CALLIPPE SILVERSPOT	Speyeria callippe callippe	E
		BUTTERFLY, MISSION BLUE	Icaricia icarioides missionensis	E
		BUTTERFLY, MYRTLE'S SILVERSPOT	Speyeria zerene myrtleae	E
	PLANTS	CLARKIA, PRESIDIO	Clarkia franciscana	E
		DWARF-FLAX, MARIN	Hesperolinon congestum	T
		JEWELFLOWER, METCALF CANYON	Streptanthus albidus ssp albidus	E
		LAYIA, BEACH	Layia carnosa	E
		LESSINGIA, SAN FRANCISCO	Lessingia germanorum	E
		LILY, TIBURON MARIPOSA	Calochortus tiburonensis	T
		MANZANITA, PRESIDIO (=RAVEN'S)	Arctostaphylos pungens ssp. ravenii	E
		MANZANITA, SAN BRUNO MOUNTAIN	Arctostaphylos imbricata	E
SAN JOAQUIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, VERNAL POOL FAIRY	Branchinecta lynchi	T
		SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	SALMON, CHINOOK (SACRAMENTO RIVER WINTER RUN).	Oncorhynchus tshawytscha	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		SMELT, DELTA	Hypomesus transpacificus	T
		STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhyncus mykiss	T
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		RIPARIAN BRUSH RABBIT	Sylvilagus bachmani	E
		RIPARIAN (SAN JOAQUIN VALLEY) WOODRAT.	Neotoma fuscipes riparia	E
	PLANTS	BIRD'S-BEAK, PALMATE-BRACTED	Cordylanthes palmatus	E
		FIDDLENECK, LARGE-FLOWERED	Amsinckia grandiflora	E
	REPTILES	SNAKE, GIANT GARTER	Thamnophis gigas	T
SAN LUIS OBISPO	PLANTS	SANDWORT, MARSH	Arenaria paludicola	E
	BIRDS	CONDOR, CALIFORNIA	Gymnogyps Californianus	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	E
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	E
		VIREO, LEAST BELL'S	Vireo bellii pusillus	E
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, LONGHORN FAIRY	Branchinecta longiantenna	E
		AMOLE, PURPLE	Chlorogalum purpureum	T
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		LOMPOC YERBA SANTA	Eriodictyon capitatum	E
		LUPINE, NIPOMO MESA	Lupinus nipomensis	E
		STEELHEAD, SOUTH-CENTRAL CALIFORNIA POP.	Oncorhynchus mykiss, (South-Central Calif. ESU).	T
		STEELHEAD, SOUTHERN CALIFORNIA POPULATION.	Oncorhynchus mykiss, (Southern California ESU).	E
		TARPLANT, GAVIOTA	Hemizonia increscens ssp. villosa	E
		THISTLE, LA GRACIOSA	Cirsium loncholepis	E
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		OTTER, SOUTHERN SEA	Enhydra lutris nereis	T
		RAT, GIANT KANGAROO	Dipodomys ingens	E
		RAT, MORRO BAY KANGAROO	Dipodomys heermanni morroensis	E
	PLANTS	BIRD'S-BEAK, SALT MARSH	Cordylanthus maritimus ssp. maritimus	E
		CLARKIA, PISMO	Clarkia speciosa ssp. immaculata	E
		JEWELFLOWER, CALIFORNIA	Caulanthus californicus	E
		MANZANITA, MORRO	Arctostaphylos morroensis	T
		MOUNTAINBALM, INDIAN KNOB	Eriodictyon altissimum	E
		SANDWORT, MARSH	Arenaria paludicola	E
		SEA-BLITE, CALIFORNIA	Suaeda californica	E
		THISTLE, CHORRO CREEK BOG	Cirsium fontinale var. obispoense	E
		WATERCRESS, GAMBEL'S	Rorippa gambellii	E
		WOOLLY-STAR, HOOVER'S	Eriastrum hooveri	T
		WOOLLY-THREADS, SAN JOAQUIN	Lembertia congdonii	E
	REPTILES	LIZARD, BLUNT-NOSED LEOPARD	Gambelia (Crotaphytus) silus	E
	SNAILS	SNAIL, MORRO SHOULDERBAND	Helminthoglypta walkeriana	E
SAN MATEO	AMPHIBIANS	FROG, CALIFORNIA RED-LEGGED	Rana Aurora Draytonii	T
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	E
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	E
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, COHO (CENTRAL CALIFORNIA COAST POP).	Oncorhynchus kisutch	E
		STEELHEAD, CENTRAL CALIFORNIA POPULATION.	Oncorhynchus mykiss, (Central California Coast ESU).	T
	INSECTS	BUTTERFLY, BAY CHECKERSPOT	Euphydryas editha bayensis	T
		BUTTERFLY, MISSION BLUE	Icaricia icarioides missionensis	E
		BUTTERFLY, SAN BRUNO ELFIN	Callophrys mossii bayensis	E
		CALLIPPE SILVERSPOT BUTTERFLY	Speyeria callippe callippe	E
	MAMMALS	MOUSE, SALT MARSH HARVEST	Reithrodontomys raviventris	E
	PLANTS	CYPRESS, SANTA CRUZ	Cupressus abramsiana	E
		LESSINGIA, SAN FRANCISCO	Lessingia germanorum	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		MANZANITA, SAN BRUNO MOUNTAIN	Arctostaphylos imbricata	E
		PENTACHAETA, WHITE-RAYED	Pentachaeta bellidiflora	E
		SUNFLOWER, SAN MATEO WOOLLY	Eriophyllum latilobum	E
		THISTLE, FOUNTAIN	Cirsium fontinale var fontinale	E
		THORNMINT, SAN MATEO	Acanthomintha obovata ssp. duttonii	E
	REPTILES	SNAKE, SAN FRANCISCO GARTER	Thamnophis sirtalis tetrataenia	E
SANTA BARBARA	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	Bufo microscaphus californicus	E
	BIRDS	CONDOR, CALIFORNIA	Gymnogyps californianus	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, LIGHT-FOOTED CLAPPER	Rallus longirostris levipes	E
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	E
		VIREO, LEAST BELL'S	Vireo bellii pusillus	E
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		STEELHEAD, SOUTH-CENTRAL CALIFORNIA POP.	Oncorhynchus mykiss, (South-Central California ESU).	T
		STEELHEAD, SOUTHERN CALIFORNIA POPULATION.	Oncorhynchus mykiss, (Southern California ESU).	E
		STICKLEBACK, UNARMORED THREESPINE.	Gasterosteus aculeatus williamsoni	E
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		RAT, GIANT KANGAROO	Dipodomys ingens	E
		SEAL, GUADALUPE FUR	Arctocephalus townsendi	T
		BARBERRY, ISLAND	Berberis pinnata ssp. insularis	E
		BEDSTRAW, ISLAND	Galium buxifolium	E
	PLANTS	BIRD'SBEAK, SALT MARSH	Cordylanthus maritimus ssp. maritimus	E
		BRODIAEA, CHINESE CAMP	Brodiaea pallida	E
		BUSHMALLOW, SANTA CRUZ ISLAND	Malacothamnus fasciculatus nesioticus	E
		CLARKIA, SPRINGVILLE	Clarkia springvillensis	T
		DUDLEYA, MARCESCENT	Dudleya cymosa ssp. marcescens	T
		DUDLEYA, SANTA CRUZ ISLAND	Dudleya nesiotica	T
		FRINGEPOD, SANTA CRUZ ISLAND	Thysanocarpus conchuliferus	E
		GILIA, HOFFMAN'S SLENDER-FLOWERED.	Gilia tenuiflora ssp. hoffmannii	E
		GOLDFIELDS, CONTRA COSTA	Lasthenia conjugens	E
		JEWELFLOWER, CALIFORNIA	Caulanthus californicus	E
		LAYIA, BEACH	Layia carnosa	E
		LIVEFOREVER, SANTA BARBARA ISLAND.	Dudleya traskiae	E
		LOMPOC YERBA SANTA	Eriodictyon capitatum	E
		LUPINE, MARIPOSA	Lupinus citrinus var. deflexus	E
		LUPINE, NIPOMO MESA	Lupinus nipomensis	E
		MALACOTHRIX, ISLAND	Malacothrix squalida	E
		MALACOTHRIX, SANTA CRUZ ISLAND	Malacothrix indecora	E
		MANZANITA, SANTA ROSA ISLAND	Arctostaphylos confertiflora	E
		MONKEY-FLOWER, KELSO CREEK	Mimulus shevockii	E
		NAVARRETIA, FEW-FLOWERED	Navarretia leucocephala ssp. pauciflora	E
		NAVARRETIA, MANY-FLOWERED	Navarretia leucocephala ssp. plieantha	E
		NAVARRETIA, PIUTE MOUNTAINS	Navarretia setiloba	T
		ONION, RAWHIDE HILL	Allium tuolumnense	T
		PAINTBRUSH, SOFT-LEAVED	Castilleja mollis	E
		PHACELIA, ISLAND	Phacelia insularis ssp. insularis	E
		PUSSYPAWS, MARIPOSA	Calyptridium pulchellum	E
		ROCK-CRESS, HOFFMAN'S	Arabis hoffmannii	E
		STONECROP, LAKE COUNTY	Parvisedum leiocarpum	E
		TARPLANT, GAVIOTA	Hemizonia increscens ssp. villossa	E
		THISTLE, FOUNTAIN	Cirsium fontinale var. fontinale	E
		THISTLE, LA GRACIOSA	Cirsium loncholepis	E
		VERVAIN, RED HILLS	Verbena californica	T
		WOOLLY-STAR, HOOVER'S	Eriastrum hooveri	T
		WOOLLY-THREADS, SAN JOAQUIN	Lembertia congdonii	E
	REPTILES	LIZARD, BLUNT-NOSED LEOPARD	Gambelia (Crotaphytus) silus	E
		LIZARD, ISLAND NIGHT	Xantusia (Klaubernina) riversiana	T
SANTA CLARA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	E
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	E
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
	INSECTS	BUTTERFLY, BAY CHECKERSPOT	Euphydryas editha bayensis	T
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		MOUSE, SALT MARSH HARVEST	Reithrodontomys raviventris	E
	PLANTS	CEANOTHUS, COYOTE	Ceanothus ferrisae	E
		DUDLEYA, SANTA CLARA VALLEY	Dudleya setchellii	E
		GOLDFIELDS, CONTRA COSTA	Lasthenia conjugens	E
		NAVARRETIA, FEW-FLOWERED	Navarretia leucocephala ssp. pauciflora	E
		NAVARRETIA, MANY-FLOWERED	Navarretia leucocephala ssp. plieantha	E
		PAINTBRUSH, TIBURON	Castilleja affinis ssp. neglecta	E
		STONECROP, LAKE COUNTY	Parvisedum leiocarpum	E
		THISTLE, FOUNTAIN	Cirsium fontinale var fontinale	E
SANTA CRUZ	PLANTS	SANDWORT, MARSH	Arenaria paludicola	E
		TARPLANT, SANTA CRUZ	Holocarpha macradenia	T
	AMPHIBIANS	SALAMANDER, SANTA CRUZ LONG-TOED.	Ambystoma macrodactylum croceum	E
	BIRDS	MURRELET, MARBLED	Brachyramphus marmoratus	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		SALMON, COHO (CENTRAL CALIFORNIA COAST POP).	Oncorhynchus kisutch	E
		STEELHEAD, CENTRAL CALIFORNIA POPULATION.	Oncorhynchus mykiss, (Central California Coast ESU).	T
		STEELHEAD, SOUTH-CENTRAL CALIFORNIA POP.	Oncorhynchus mykiss, (South-Central Calif. ESU).	T
	INSECTS	BEETLE, MOUNT HERMON JUNE	Polyphylla barbata	E
		BEETLE, SANTA CRUZ RAIN	Pleocoma conjugens conjugens	E
		GRASSHOPPER, ZAYANTE BAND-WINGED.	Trimerotropis infantillis	E
	MAMMALS	OTTER, SOUTHERN SEA	Enhydra lutris nereis	T
	PLANTS	CYPRESS, SANTA CRUZ	Cupressus abramsiana	E
		PENTACHAETA, WHITE-RAYED	Pentachaeta bellidiflora	E
		SPINEFLOWER, BEN LOMOND	Chorizanthe pungens var. hartwegiana	E
		SPINEFLOWER, MONTEREY	Chorizanthe pungens var. pungens	T
		SPINEFLOWER, ROBUST	Chorizanthe robusta var. robusta	E
		SPINEFLOWER, SCOTTS VALLEY	Chorizanthe robusta var. hartwegii	E
		WALLFLOWER, BEN LOMOND	Erysimum teretifolium	E
	REPTILES	SNAKE, SAN FRANCISCO GARTER	Thamnophis sirtalis tetrataenia	E
SHASTA	AMPHIBIANS	FROG, CALIFORNIA RED-LEGGED	Rana Aurora Draytonii	T
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	CRUSTACEAN	CRAYFISH, SHASTA	Pacifasticus fortis	E
		SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	SALMON, CHINOOK (SACRAMENTO WINTER RIVER RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, CALIFORNIA CENTRAL VALLEY POP).	Oncorhynchus mykiss, (Central Valley ESU).	E
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhynchus mykiss	T
	PLANTS	GRASS, SLENDER ORCUTT	Orcuttia tenuis	T
		TUCTORIA, GREEN'S	Tuctoria greenei	E
SIERRA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
SISKIYOU	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).	Oncorhynchus tshawytscha	T
		SUCKER, LOST RIVER	Deltistes luxatus	E
	PLANTS	GRASS, SLENDER ORCUTT	Orcuttia tenuis	T
		PHLOX, YREKA	Phlox hirsuta	E
SOLANO	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	E
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, VERNAL POOL FAIRY	Branchinecta lynchi	T
		SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
		SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN)	Oncorhynchus tshawytscha	E
	FISHES	SALMON, CHINOOK (SACRAMENTO RIVER WINTER RUN).	Oncorhynchus tshawytscha	E

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		SMELT, DELTA	Hypomesus transpacificus	T
		STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhynchus mykiss	T
	INSECTS	BEETLE, DELTA GREEN GROUND	Elaphrus viridis	T
		BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	MAMMALS	MOUSE, SALT MARSH HARVEST	Reithrodontomys raviventris	E
	PLANTS	GOLDFIELDS, CONTRA COSTA	Lasthenia conjugens	E
		GRASS, COLUSA	Neostapfia colusana	T
		GRASS, SOLANO	Tuctoria mucronata (=Orcuttia m.)	E
		NAVARRETIA, MANY-FLOWERED	Navarretia leucocephala ssp. plieantha	E
		SOFT BIRD'S BEAK	Cordylanthus mollis	E
		STONECROP, LAKE COUNTY	Parvisedum leiocarpum	E
		SUISUN THISTLE	Cirsium hydrophilum hydrophilum	E
SONOMA	FISHES	SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, CENTRAL CALIFORNIA POPULATION.	Oncorhynchus mykiss, (central California coast).	T
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhynchus mykiss	T
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, CALIFORNIA CLAPPER	Rallus longirostris obsoletus	E
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, CALIFORNIA FRESHWATER	Syncaris pacifica	E
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		SALMON, CHINOOK (SACRAMENTO RIVER WINTER RUN).	Oncorhynchus tshawytscha	E
		SALMON, COHO (CENTRAL CALIFORNIA COAST POP).	Oncorhynchus kisutch	E
		STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
	INSECTS	BUTTERFLY, BEHREN'S SILVERSPOT	Speyeria zerene behrensii	E
		BUTTERFLY, MYRTLE'S SILVERSPOT	Speyeria zerene myrtleae	E
	MAMMALS	MOUSE, SALT MARSH HARVEST	Reithrodontomys raviventris	E
	PLANTS	ALLOCARYA, CALISTOGA	Plagiobothrys strictus	E
		ALOPECURUS, SONOMA	Alopecurus aequalis var. sonomensis	E
		BIRD'S-BEAK, PENNELL'S	Cordylanthus tenuis ssp. capillari	E
		BLUEGRASS, NAPA	Poa napensis	E
		CHECKERMALLOW, KENWOOD MARSH.	Sidalcea oregana ssp. valida	E
		CLARKIA, VINE HILL	Clarkia imbricata	E
		CLOVER, SHOWY INDIAN	Trifolum amoenum	E
		GOLDFIELDS, BURKE'S	Lasthenia burkei	E
		LARKSPUR, YELLOW	Delphinium luteum	E
		LILY, PITKIN MARSH	Lilium pitkinense	E
		LUPINE, CLOVER	Lupinus tidestromii	E
		MEADOWFOAM, SEBASTOPOL	Limnanthes vinculans	E
		MILKVETCH, CLARA HUNT'S	Astragalus clarianus	E
		SEDGE, WHITE	Carex albida	E
		SPINEFLOWER, SONOMA	Chorizanthe valida	E
		STICKYSEED, BAKER'S	Blennosperma bakeri	E
STANISLAUS	PLANTS	ADOBE SUNBURST, SAN JOAQUIN	Pseudobahia peirsonii	T
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhynchus mykiss	T
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
	PLANTS	GOLDEN SUNBURST, HARTWEG'S	Pseudobahia bahiifolia	E
		GRASS, COLUSA	Neostapfia colusana	T
		GRASS, HAIRY ORCUTT	Orcuttia pilosa	E
		OWL'S-CLOVER, FLESHY	Castilleja campestris ssp. succulenta	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		SPURGE, HOOVER'S	Chamaesyce hooveri	T
SUTTER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (SACRAMENTO RIVER WINTER RUN).	Oncorhynchus tshawytscha	E
		STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhynchus mykiss	T
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	REPTILES	SNAKE, GIANT GARTER	Thamnophis gigas	T
TEHAMA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (SACRAMENTO RIVER WINTER RUN).	Oncorhynchus tshawytscha	E
		STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhyncus mykiss	T
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	PLANTS	GRASS, HAIRY ORCUTT	Orcuttia pilosa	E
		GRASS, SLENDER ORCUTT	Orcuttia tenuis	T
		MEADOWFOAM, BUTTE COUNTY	Limnanthes floccosa ssp. californica	E
		SPURGE, HOOVER'S	Chamaesyce hooveri	T
		TUCTORIA, GREEN'S	Tuctoria greenei	E
TRINITY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).	Oncorhynchus tshawytscha	T
TULARE	BIRDS	CONDOR, CALIFORNIA	Gymnogyps californianus	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, LITTLE KERN GOLDEN	Salmo aguabonita whitei	T
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
		RAT, GIANT KANGAROO	Dipodomys ingens	E
		RAT, TIPTON KANGAROO	Dipodomys nitratoides	E
		CHECKER-MALLOW, KECK'S	Sidalcea keckii	E
		CHECKER-MALLOW, KECK'S	Sidalcea keckii	E
	PLANTS	CLARKIA, SPRINGVILLE	Clarkia springvillensis	T
		JEWELFLOWER, CALIFORNIA	Caulanthus californicus	E
		LILY, GREENHORN ADOBE	Fritillaria striata	T
		SPURGE, HOOVER'S	Chamaesyce hooveri	T
		WOOLLY-THREADS, SAN JOAQUIN	Lembertia congdonii	E
	REPTILES	LIZARD, BLUNT-NOSED LEOPARD	Gambelia (Crotaphytus) silus	E
TUOLUMNE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhyncus mykiss	T
	PLANTS	BRODIAEA, CHINESE CAMP	Brodiaea pallida	E
		BUTTERWEED, LAYNE'S	Senecio layneae	T
		CLARKIA, SPRINGVILLE	Clarkia springvillensis	T
		LILY, GREENHORN ADOBE	Fritillaria striata	T
		LUPINE, MARIPOSA	Lupinus citrinus var. deflexus	E
		MONKEY-FLOWER, KELSO CREEK	Mimulus shevockii	E
		NAVARRETIA, PIUTE MOUNTAINS	Navarretia setiloba	T
		ONION, RAWHIDE HILL	Allium tuolumnense	T
		PUSSYPAWS, MARIPOSA	Calyptridium pulchellum	E
		VERVAIN, RED HILLS	Verbena californica	T
VENTURA	AMPHIBIANS	TOAD, ARROYO SOUTHWESTERN	Bufo microscaphus californicus	E
	BIRDS	CONDOR, CALIFORNIA	Gymnogyps californianus	E
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		RAIL, LIGHT-FOOTED CLAPPER	Rallus longirostris levipes	E
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	E
		VIREO, LEAST BELL'S	Vireo bellii pusillus	E
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, CONSERVANCY FAIRY	Brancinecta conservatio	E
	FISHES	GOBY, TIDEWATER	Eucyclogobius newberryi	E
		STEELHEAD, SOUTHERN CALIFORNIA POPULATION.	Oncorhynchus mykiss, (Southern California ESU).	E
	MAMMALS	FOX, SAN JOAQUIN KIT	Vulpes macrotis mutica	E
	PLANTS	BIRD'S-BEAK, SALT MARSH	Cordylanthus maritimus ssp. maritimus	E
		DUDLEYA, CONEJO	Dudleya abramsii ssp. parva	T
		DUDLEYA, SANTA MONICA MOUNTAINS.	Dudleya cymosa ssp. ovatifolia	T
		DUDLEYA, VERITY'S	Dudleya verityi	T
		GRASS, CALIFORNIA ORCUTT	Orcuttia californica	E
		MILK-VETCH, BRAUNTON'S	Astragalus brauntonii	E
		PENTACHAETA, LYON'S	Pentachaeta lyonii	E
		WATERCRESS, GAMBEL'S	Rorippa gambellii	E
	REPTILES	LIZARD, BLUNT-NOSED LEOPARD	Gambelia (Crotaphytus) silus	E
		LIZARD, ISLAND NIGHT	Xantusia (Klaubernina) riversiana	T
YOLO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	CRUSTACEAN	SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	SALMON, CHINOOK (CENTRAL VALLEY FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (SACRAMENTO RIVER WINTER RUN).	Oncorhynchus tshawytscha	E
		SMELT, DELTA	Hypomesus transpacificus	T
		STEELHEAD, CALIFORNIA CENTRAL VALLEY POP.	Oncorhynchus mykiss, (Central Valley ESU).	E
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhynchus mykiss	T
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
	PLANTS	BIRD'S-BEAK, PALMATE-BRACTED	Cordylanthes palmatus	E
		GRASS, COLUSA	Neostapfia colusana	T
	REPTILES	SNAKE, GIANT GARTER	Thamnophis gigas	T
YUBA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PELICAN, BROWN	Pelicanus occidentalis	E
	CRUSTACEAN	LINDERIELLA, CALIFORNIA	Linderiella occidentalis	E
		SHRIMP, VERNAL POOL FAIRY	Branchinecta lynchi	T
		SHRIMP, VERNAL POOL TADPOLE	Lepidurus packardi	E
	FISHES	SALMON, CHINOOK (CENTRAL VALLEY SPRING RUN).	Oncorhynchus tshawytscha	E
		TROUT, STEELHEAD (CENTRAL VALLEY RUN).	Oncorhyncus mykiss	T
	INSECTS	BEETLE, VALLEY ELDERBERRY LONGHORN.	Desmocerus californicus dimorphus	T
COMMONWEALTH OF THE NORTHERN MARIANAS				
NORTHERN MARIANAS	BIRDS	CROW, MARIANA	Corvus kubaryi	E
		MALLARD, MARIANA	Anas oustaleti	E
		MEGAPODE, MICRONESIAN (=LA POROUSE'S).	Megapodius laperouse	E
		MOORHEN (=GALLINULE), MARIANA COMMON.	Gallinula chloropus guami	E
		SWIFTLET, MARIANA GRAY (=VANIKORO).	Aerodranus vanikorensis bartschi	E
		WARBLER, NIGHTINGALE REED	Acrocephalus luscinia	E
	INSECTS	MONARCH, TINIAN	Monarcha takatsukasae	T
	MAMMALS	BAT, MARIANA FRUIT	Pteropus mariannus mariannus	T
	PLANTS	HAYUN LAGU (GUAM), TRONKON GUAFI (ROTA).	Serianthes nelsonii	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	T
CONNECTICUT				
FAIRFIELD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	REPTILES	TURTLE, BOG	Clemmys muhlenbergii	T
HARTFORD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
LITCHFIELD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
	REPTILES	TURTLE, BOG	Clemmys muhlenbergii	T
MIDDLESEX	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	INSECTS	BEETLE, PURITAN TIGER	Cicindela puritana	T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
NEW HAVEN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, ROSEATE	Sterna dougalli dougalli	E, T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
NEW LONDON	BIRDS	PLOVER, PIPING	Charadrius melodus	E, T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
TOLLAND	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
WINDHAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
DELAWARE				
KENT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	PLANTS	PINK, SWAMP	Helonias bullata	T
	REPTILES	TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
NEW CASTLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	PLANTS	PINK, SWAMP	Helonias bullata	T
		POGONIA, SMALL WHORLED	Isotria medeoloides	T
	REPTILES	TURTLE, BOG	Clemmys muhlenbergii	T
SUSSEX	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
	MAMMALS	SQUIRREL, DELMARVA PENINSULA FOX.	Sciurus niger cinereus	E
	PLANTS	PINK, SWAMP	Helonias bullata	T
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
DISTRICT OF COLUMBIA				
DISTRICT OF COLUMBIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	CRUSTACEAN	AMPHIPOD, HAY'S SPRING	Stygobromus hayi	E
FLORIDA				
ALACHUA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	CLAMS	OVAL PIGTOE	Pleurobema pyriforme	E
	CRUSTACEAN	SHRIMP, SQUIRREL CHIMNEY CAVE	Palaemonetes cummingi	T
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
BAKER	AMPHIBIANS	FLATWOODS SALAMANDER	Ambystoma cingulatum	T
	BIRDS	STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
BAY	BIRDS	PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		MOUSE, CHOCTAWHATCHEE BEACH	Peromyscus polionotus allophrys	E
	PLANTS	BIRDS-IN-A-NEST, WHITE	Macbridea alba	T
		BUTTERWORT, GODFREY'S	PINGUICULA IONANTHA	T
		SPURGE, TELEPHUS	Euphorbia telephioides	T
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
BRADFORD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		STORK, WOOD	Mycteria americana	E
	CLAMS	OVAL PIGTOE	Pleurobema pyriforme	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
BREVARD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		MOUSE, SOUTHEASTERN BEACH	Peromyscus polionotus niveiventris	T
	REPTILES	SNAKE, ATLANTIC SALT MARSH	Nerodia fasciata taeniata	T
		SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
BROWARD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		PANTHER, FLORIDA	Felis conconcolor coryi	E
	PLANTS	JACQUEMONTIA, BEACH	JACQUEMONTIA RECLINATA	E
	REPTILES	CROCODILE, AMERICAN	Crocodylus acutus	E
		SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
CALHOUN	AMPHIBIANS	FLATWOODS SALAMANDER	Ambystoma cingulatum	T
	BIRDS	STORK, WOOD	Mycteria americana	E
	CLAMS	CHIPOLA SLABSHELL	Elliptio chipolaensis	T
		FAT THREERIDGE	Amblema neislerii	E
		GULF MOCCASINSHELL	Medionidus penicillatus	E
		OVAL PIGTOE	Pleurobema pyriforme	E
		PURPLE BANKCLIMBER	Elliptoideus sloatianus	T
		SHINYRAYED POCKETBOOK	Lampsilis subangulata	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	PLANTS	PINKROOT, GENTIAN	Spigelia gentianoides	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
CHARLOTTE	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	PAWPAW, BEAUTIFUL	Deeringothamus pulchellus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
CITRUS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
CLAY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	RHODODENDRON, CHAPMAN	Rhododendron chapmanii	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
COLLIER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		PLOVER, PIPING	Charadrius melodus	E, T
		SPARROW, CAPE SABLE SEASIDE	Ammodramus (=Ammospiza) maritimus mirabilis.	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		PANTHER, FLORIDA	Felis conconcolor coryi	E
	PLANTS	SNAKEROOT	Eryngium cuneifolium	E
	REPTILES	CROCODILE, AMERICAN	Crocodylus acutus	E
		SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
COLUMBIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	CLAMS	OVAL PIGTOE	Pleurobema pyriforme	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
DADE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		SPARROW, CAPE SABLE SEASIDE	Ammodramus (=Ammospiza) maritimus mirabilis.	E
		SPARROW, FLORIDA GRASSHOPPER	Ammodramus savannarum floridanus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	INSECTS	BUTTERFLY, SCHAUS SWALLOWTAIL	Heraclides (Papilio) aristodemus ponceanus.	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		PANTHER, FLORIDA	Felis conconcolor coryi	E
	PLANTS	JACQUEMONTIA, BEACH	JACQUEMONTIA RECLINATA	E
		LEAD-PLANT, CRENULATE	Amorpha crenulata	E
		MILKPEA, SMALL'S	Galactia smallii	E
		POLYGALA, TINY	Polygala smallii	E
		SPURGE, DELTOID	Euphorbia (=Chamaesyce) deltoidea ssp. deltoidea.	E
		SPURGE, GARBER'S	Euphorbia (=Chamaesyce) garberi	T
	REPTILES	CROCODILE, AMERICAN	Crocodylus acutus	E
		SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
DE SOTO	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		STORK, WOOD	Mycteria americana	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
DIXIE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
DUVAL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
ESCAMBIA	BIRDS	PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MOUSE, PERDIDO KEY BEACH	Peromyscus polionotus trissyllepsis	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
FLAGLER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
FRANKLIN	AMPHIBIANS	FLATWOODS SALAMANDER	Ambystoma cingulatum	T
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	CLAMS	FAT THREERIDGE	Amblema neislerii	E
		PURPLE BANKCLIMBER	Elliptoideus sloatianus	T
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTI).	T
	PLANTS	BEAUTY, HARPER'S	Harperocallis flava	E
		BIRDS-IN-A-NEST, WHITE	Macbridea alba	T
		BUTTERWORT, GODFREY'S	PINGUICULA IONANTHA	T
		SKULLCAP, FLORIDA	Scutellaria floridana	T
		SPURGE, TELEPHUS	Euphorbia telephioides	T
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
GADSDEN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		STORK, WOOD	Mycteria americana	E
	CLAMS	FAT THREERIDGE	Amblema neislerii	E
		OCHOLOCKONEE MOCCASINSHELL	Medionidus simpsonianus	E
		OVAL PIGTOE	Pleurobema pyriforme	E
		PURPLE BANKCLIMBER	Elliptoideus sloatianus	T
		SHINYRAYED POCKETBOOK	Lampsilis subangulata	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (OXYRHYNCHUS DESOTOI).	T
	PLANTS	CAMPION, FRINGED	Silene polypetala	E
		CHAFFSEED, AMERICAN	SCHWALBEA AMERICANA	E
		RHODODENDRON, CHAPMAN	Rhododendron chapmanii	E
		TORREYA, FLORIDA	Torreya taxifolia	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
GILCHRIST	BIRDS	JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
GLADES	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		SPARROW, FLORIDA GRASSHOPPER	Ammodramus savannarum floridanus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		PANTHER, FLORIDA	Felis conconcolor coryi	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
GULF	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	CLAMS	FAT THREERIDGE	Amblema neislerii	E
		PURPLE BANKCLIMBER	Elliptoideus sloatianus	T
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		ST. ANDREW BEACH MOUSE	Peromyscus polionotus peninsularis	E
	PLANTS	BIRDS-IN-A-NEST, WHITE	Macbridea alba	T
		BUTTERWORT, GODFREY'S	PINGUICULA IONANTHA	T
		RHODODENDRON, CHAPMAN	Rhododendron chapmanii	E
		SPURGE, TELEPHUS	Euphorbia telephioides	T
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
HAMILTON	BIRDS	STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
HARDEE	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	BONAMIA, FLORIDA	Bonamia grandiflora	T
		FRINGE TREE, PYGMY	Chionanthus pygmaeus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
HENDRY	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		PANTHER, FLORIDA	Felis conconcolor coryi	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
HERNANDO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	BEARGRASS, BRITTON'S	NOLINA BRITTONIANA	E
		BELLFLOWER, BROOKSVILLE	Campanula robinsiae	E
		WATER-WILLOW, COOLEY'S	Justicia cooleyi	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
HIGHLANDS	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		SPARROW, FLORIDA GRASSHOPPER	Ammodramus savannarum floridanus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	PANTHER, FLORIDA	Felis conconcolor coryi	E
	PLANTS	BEARGRASS, BRITTON'S	NOLINA BRITTONIANA	E
		BLAZING STAR, SCRUB	Liatris ohlingerae	E
		BONAMIA, FLORIDA	Bonamia grandiflora	T
		BUCKWHEAT, SCRUB	ERIOGONUM LONGIFOLIUM VAR. GNAPHALIFOLIUM.	T
		CLADONIA, FLORIDA PERFORATE	CLADONIA PERFORATA	E
		FRINGE TREE, PYGMY	Chionanthus pygmaeus	E
		HAREBELLS, AVON PARK	CROTALARIA AVONENSIS	E
		HYPERICUM, HIGHLANDS SCRUB	Hypericum cumulicola	E
		MINT, GARRETT'S	Dicerandra christmanii	E
		MINT, SCRUB	Dicerandra frutescens	E
		MUSTARD, CARTER'S	Warea carteri	E

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		PLUM, SCRUB	Prunus geniculata	E
		POLYGALA, LEWTON'S	POLYGALA LEWTONII	E
		ROSEMARY, SHORT-LEAVED	CONRADINA BREVIFOLIA	E
		SNAKEROOT	Eryngium cuneifolium	E
		WHITLOW-WORT, PAPERY	Paronychia chartacea	T
		WINGS, PIGEON	CLITORIA FRAGRANS	T
		WIREWEED	Polygonella basiramia	E
		ZIZIPHUS, FLORIDA	Ziziphus celata	E
	REPTILES	SKINK, BLUE-TAILED MOLE	Eumeces egregius lividus	T
		SKINK, SAND	Neoseps reynoldsi	T
		SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
HILLSBOROUGH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	ASTER, FLORIDA GOLDEN	Chrysopsis floridana (=Heterotheca floridana).	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
HOLMES	AMPHIBIANS	FLATWOODS SALAMANDER	Ambystoma cingulatum	T
	BIRDS	STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
INDIAN RIVER	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		MOUSE, SOUTHEASTERN BEACH	Peromyscus polionotus niveiventris	T
	PLANTS	MINT, LAKELA'S	Dicerandra immaculata	E
	REPTILES	SNAKE, ATLANTIC SALT MARSH	Nerodia fasciata taeniata	T
		SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
JACKSON	AMPHIBIANS	FLATWOODS SALAMANDER	Ambystoma cingulatum	T
	BIRDS	STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	CLAMS	CHIPOLA SLABSHELL	Elliptio chipolaensis	T
		FAT THREERIDGE	Amblema neislerii	E
		GULF MOCCASINSHELL	Medionidus penicillatus	E
		OVAL PIGTOE	Pleurobema pyriforme	E
		PURPLE BANKCLIMBER	Elliptoideus sloatianus	T
		SHINYRAYED POCKETBOOK	Lampsilis subangulata	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	BAT, GRAY	Myotis grisescens	E
		BAT, INDIANA	Myotis sodalis	E
	PLANTS	PINKROOT, GENTIAN	Spigelia gentianoides	E
		TORREYA, FLORIDA	Torreya taxifolia	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
JEFFERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		STORK, WOOD	Mycteria americana	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	PLANTS	GOOSEBERRY, MICCOSUKEE (FLORIDA).	Ribes echinellum	T
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
LAFAYETTE	BIRDS	STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
LAKE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	BEARGRASS, BRITTON'S	NOLINA BRITTONIANA	E
		BONAMIA, FLORIDA	Bonamia grandiflora	T
		BUCKWHEAT, SCRUB	ERIOGONUM LONGIFOLIUM VAR. GNAPHALIFOLIUM.	T
		FRINGE TREE, PYGMY	Chionanthus pygmaeus	E
		PLUM, SCRUB	Prunus geniculata	E
		POLYGALA, LEWTON'S	POLYGALA LEWTONII	E
		WAREA, WIDE-LEAF	Warea amplexifolia	E
		WHITLOW-WORT, PAPERY	Paronychia chartacea	T
	REPTILES	SKINK, SAND	Neoseps reynoldsi	T
		SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
LEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		PANTHER, FLORIDA	Felis conconcolor coryi	E
	PLANTS	PAWPAW, BEAUTIFUL	Deeringothamus pulchellus	E
	REPTILES	CROCODILE, AMERICAN	Crocodylus acutus	E
		SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
LEON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	CLAMS	OCHOLOCKONEE MOCCASINSHELL	Medionidus simpsonianus	E
		OVAL PIGTOE	Pleurobema pyriforme	E
		PURPLE BANKCLIMBER	Elliptoideus sloatianus	L, T
		SHINYRAYED POCKETBOOK	Lampsilis subangulata	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
LEVY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		VOLE, FLORIDA SALT MARSH	Microtus pennsylvanicus dukecampbelli	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
LIBERTY	AMPHIBIANS	FLATWOODS SALAMANDER	Ambystoma cingulatum	T
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	CLAMS	FAT THREERIDGE	Amblema neislerii	E
		PURPLE BANKCLIMBER	Elliptoideus sloatianus	L, T
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	PLANTS	BEAUTY, HARPER'S	Harperocallis flava	E
		BIRDS-IN-A-NEST, WHITE	Macbridea alba	T
		BUTTERWORT, GODFREY'S	PINGUICULA IONANTHA	T
		RHODODENDRON, CHAPMAN	Rhododendron chapmanii	E
		ROSEMARY, APALACHICOLA	CONRADINA GLABRA	E
		SKULLCAP, FLORIDA	Scutellaria floridana	T
		TORREYA, FLORIDA	Torreya taxifolia	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
MADISON	BIRDS	STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
MANATEE	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
MARION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	BONAMIA, FLORIDA	Bonamia grandiflora	T
		BUCKWHEAT, SCRUB	Eriogonum Longifolium Var. Gnaphalifolium.	T
		MINT, LONGSPURRED	Dicerandra cornutissima	E
		POLYGALA, LEWTON'S	Polygala Lewtonii	E
	REPTILES	SKINK, SAND	Neoseps reynoldsi	T
		SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
MARTIN	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	PAWPAW, FOUR-PETAL	Asimina tetramera	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
MONROE	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		SPARROW, CAPE SABLE SEASIDE	Ammodramus (=Ammospiza) maritimus mirabilis.	E
		STORK, WOOD	Mycteria americana	E
		TERN, ROSEATE	Sterna dougalli dougalli	E, T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	INSECTS	BUTTERFLY, SCHAUS SWALLOWTAIL	Heraclides (Papilio) aristodemus ponceanus.	E
	MAMMALS	DEER, KEY	Odocoileus virginianus clavium	E
		MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		MOUSE, KEY LARGO COTTON	Peromyscus gossypinus allapaticola	E
		PANTHER, FLORIDA	Felis conconcolor coryi	E
		RABBIT, LOWER KEYS	Sylvilagus palustris hefneri	E
		RAT, SILVER RICE	Oryzomys palustris natator (=O. argentatus).	E
		RICE RAT (=SILVER RICE RAT)	Oryzomys palustris natator (=O. argentatus.	E
		WOODRAT, KEY LARGO	Neotoma floridana smalli	E
	PLANTS	CACTUS, KEY TREE	Cereus robinii	E
		SPURGE, GARBER'S	Euphorbia (=Chamaesyce) garberi	T
	REPTILES	CROCODILE, AMERICAN	Crocodylus acutus	E
		SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
	SNAILS	SNAIL, STOCK ISLAND	Orthalicus reses	T
NASSAU	BIRDS	STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
OKALOOSA	AMPHIBIANS	FLATWOODS SALAMANDER	Ambystoma cingulatum	T
	BIRDS	PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	DARTER, OKALOOSA	Etheostoma okaloosae	E
		STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	PLANTS	CLADONIA, FLORIDA PERFORATE	CLADONIA PERFORATA	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
OKEECHOBEE	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		SPARROW, FLORIDA GRASSHOPPER	Ammodramus savannarum floridanus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
ORANGE	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	PLANTS	BEARGRASS, BRITTON'S	NOLINA BRITTONIANA	E
		BONAMIA, FLORIDA	Bonamia grandiflora	T
		BUCKWHEAT, SCRUB	ERIOGONUM LONGIFOLIUM VAR. GNAPHLIFOLIUM.	T
		LUPINE, SCRUB	Lupinus aridorum	E
		PAWPAW, BEAUTIFUL	Deeringothamus pulchellus	E
		SANDLACE	POLYGONELLA MYRIOPHYLLA	E
		WHITLOW-WORT, PAPERY	Paronychia chartacea	T
	REPTILES	SKINK, SAND	Neoseps reynoldsi	T
		SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
OSCEOLA	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		SPARROW, FLORIDA GRASSHOPPER	Ammodramus savannarum floridanus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	PLANTS	BUCKWHEAT, SCRUB	ERIOGONUM LONGIFOLIUM VAR. GNAPHALIFOLIUM.	T
		FRINGE TREE, PYGMY	Chionanthus pygmaeus	E
		POLYGALA, LEWTON'S	POLYGALA LEWTONII	E
		SANDLACE	POLYGONELLA MYRIOPHYLLA	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
PALM BEACH	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	GOURD, OKEECHOBEE	CUCURBITA OKEECHEOBEENSIS	E
		JACQUEMONTIA, BEACH	JACQUEMONTIA RECLINATA	E
		PAWPAW, FOURPETAL	Asimina tetramera	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
PASCO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
PINELLAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
POLK	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		SPARROW, FLORIDA GRASSHOPPER	Ammodramus savannarum floridanus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	PLANTS	BEARGRASS, BRITTON'S	NOLINA BRITTONIANA	E
		BLAZING STAR, SCRUB	Liatris ohlingerae	E
		BONAMIA, FLORIDA	Bonamia grandiflora	T
		FRINGE TREE, PYGMY	Chionanthus pygmaeus	E
		HAREBELLS, AVON PARK	CROTALARIA AVONENSIS	E
		HYPERICUM, HIGHLANDS SCRUB	Hypericum cumulicola	E
		LUPINE, SCRUB	Lupinus aridorum	E
		MUSTARD, CARTER'S	Warea carteri	E
		PLUM, SCRUB	Prunus geniculata	E
		POLYGALA, LEWTON'S	POLYGALA LEWTONII	E
		ROSEMARY, SHORTLEAVED	CONRADINA BREVIFOLIA	E
		SANDLACE	POLYGONELLA MYRIOPHYLLA	E
		WAREA, WIDELEAF	Warea amplexifolia	E
		WHITLOW-WORT, PAPERY	Paronychia chartacea	T
		WINGS, PIGEON	CLITORIA FRAGRANS	T
		WIREWEED	Polygonella basiramia	E
		ZIZIPHUS, FLORIDA	Ziziphus celata	E
	REPTILES	SKINK, BLUETAILED MOLE	Eumeces egregius lividus	T
		SKINK, SAND	Neoseps reynoldsi	T
		SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
PUTNAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	ROSEMARY, ETONIA	CONRADINA ETONIA	E
		SNAKEROOT	Eryngium cuneifolium	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
SANTA ROSA	AMPHIBIANS	FLATWOODS SALAMANDER	Ambystoma cingulatum	T
	BIRDS	PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
SARASOTA	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
SEMINOLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
ST. JOHNS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		MOUSE, ANASTASIA ISLAND BEACH	Peromyscus polionotus phasma	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
ST. LUCIE	BIRDS	CARACARA, AUDUBON'S CRESTED	Caracara cheriway audubonii	T
		EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
		MOUSE, SOUTHEASTERN BEACH	Peromyscus polionotus niveiventris	T
	PLANTS	MINT, LAKELA'S	Dicerandra immaculata	E
		PRICKLY-APPLE, FRAGRANT	Cereus eriophorus var. fragrans	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
SUMTER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
SUWANNEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
TAYLOR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
UNION	BIRDS	STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	CLAMS	OVAL PIGTOE	Pleurobema pyriforme	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
VOLUSIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		JAY, FLORIDA SCRUB	Aphelocoma coerulescens coerulescens	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		KITE, EVERGLADE SNAIL	Rostrhamus sociabilis plumbeus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	PAWPAW, RUGEL'S	Deeringothamus rugelii	E
	REPTILES	SNAKE, ATLANTIC SALT MARSH	Nerodia fasciata taeniata	T
		SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
WAKULLA	AMPHIBIANS	FLATWOODS SALAMANDER	Ambystoma cingulatum	T
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
WALTON	AMPHIBIANS	FLATWOODS SALAMANDER	Ambystoma cingulatum	T
	BIRDS	PLOVER, PIPING	Charadrius melodus	E, T
		STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	DARTER, OKALOOSA	Etheostoma okaloosae	E
		STURGEON, GULF	ACIPENSER OXYRHYNCHUS (=OXYRHYNCHUS DESOTOI).	T
	MAMMALS	MOUSE, CHOCTAWHATCHEE BEACH	Peromyscus polionotus allophrys	E
	PLANTS	MEADOWRUE, COOLEY'S	Thalictrum cooleyi	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
WASHINGTON	AMPHIBIANS	FLATWOODS SALAMANDER	Ambystoma cingulatum	T
	BIRDS	STORK, WOOD	Mycteria americana	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	REPTILES	SNAKE, EASTERN INDIGO	Drymarchon corais couperi	T
GUAM				
GUAM	BIRDS	BROADBILL, GUAM	Myiagra freycineti	E
		CROW, MARIANA	Corvus kubaryi	E
		KINGFISHER, GUAM MICRONESIAN	Halcyon cinnamomina cinnamomina	E
		MALLARD, MARIANA	Anas oustaleti	E
		MOORHEN, MARIANA COMMON	Gallinula chloropus guami	E
		RAIL, GUAM	Rallus owstoni	E
		SWIFTLET, MARIANA GRAY (=VANIKORO).	Aerodramus vanikorensis bartschi	E
		WHITE-EYE, BRIDLED (NOSSA)	Zosterops conspicillata conspicillata	E
	MAMMALS	BAT, LITTLE MARIANA FRUIT	Pteropus tokudae	E
		BAT, MARIANA FRUIT	Pteropus mariannus mariannus	E
		DUGONG	Dugong dugon	E
	PLANTS	HAYUN LAGU (TRONKON GUAFI)	Serianthes nelsonii	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
IDAHO				
ADA	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
ADAMS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		STEELHEAD, SNAKE RIVER BASIN POPULATION.	Oncorhynchus mykiss, (Snake River Basin ESU).	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	MAMMALS	SQUIRRE NORTHERN IDAHO GROUND	Spermophilus brunneus brunneus	T
		WOLF, GRAY	Canis lupus	E, T
BANNOCK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
BEAR LAKE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
BENEWAH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
	MAMMALS	WOLF, GRAY	Canis lupus	E, T
BINGHAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
BLAINE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
	MAMMALS	WOLF, GRAY	Canis lupus	E, T
BOISE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	MAMMALS	WOLF, GRAY	Canis lupus	E, T
BONNER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		CARIBOU, WOODLAND	Rangifer tarandus caribou	D, E
		WOLF, GRAY	Canis lupus	E, T
BONNEVILLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	MAMMALS	WOLF, GRAY	Canis lupus	E, T
BOUNDARY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	STURGEON, WHITE (KOOTENAI RIVER POP.).	Acipenser transmontanus	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		CARIBOU, WOODLAND	Rangifer tarandus caribou	E
		WOLF, GRAY	Canis lupus	E, T
BUTTE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
CAMAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
CANYON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
CARIBOU	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
CASSIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
CLARK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	MAMMALS	WOLF, GRAY	Canis lupus	E, T
CLEARWATER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		STEELHEAD, SNAKE RIVER BASIN POPULATION.	Oncorhynchus mykiss, (Snake River Basin ESU).	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
CUSTER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		STEELHEAD, SNAKE RIVER BASIN POPULATION.	Oncorhynchus mykiss, (Snake River Basin ESU).	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	MAMMALS	WOLF, GRAY	Canis lupus	E, T
ELMORE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
	SNAILS	LIMPET, BANBURY SPRINGS	Lanx n. sp	E
		SNAIL, BLISS RAPIDS	Family Hydrobiidae n. sp	T
		SNAIL, SNAKE RIVER PHYSA	Physa natricina	E
		SNAIL, UTAH VALVATA	Valvata utahensis	E
		SPRINGSNAIL, IDAHO	Fontelicella idahoensis	E
FRANKLIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
FREMONT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
GEM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
GOODING	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	SNAILS	LIMPET, BANBURY SPRINGS	Lanx n. sp	E
		SNAIL, BLISS RAPIDS	Family Hydrobiidae n. sp	T
		SNAIL, SNAKE RIVER PHYSA	Physa natricina	E
		SNAIL, UTAH VALVATA	Valvata utahensis	E
IDAHO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		STEELHEAD, SNAKE RIVER BASIN POPULATION.	Oncorhynchus mykiss, (Snake River Basin ESU).	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
	PLANTS	FOUR-O'CLOCK, MACFARLANE'S	Mirabilis macfarlanei	T
JEFFERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
JEROME	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
KOOTENAI	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	MAMMALS	WOLF, GRAY	Canis lupus	E, T
	PLANTS	HOWELLIA, WATER	Howellia aquatilis	T
LATAH	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
	PLANTS	HOWELLIA, WATER	Howellia aquatilis	T
LEMHI	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		STEELHEAD, SNAKE RIVER BASIN	Oncorhynchus mykiss, (Snake	T
		POPULATION	River Basin ESU)	
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	MAMMALS	WOLF, GRAY	Canis lupus	E, T
LEWIS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		STEELHEAD, SNAKE RIVER BASIN POPULATION.	Oncorhynchus mykiss, (Snake River Basin ESU).	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
MADISON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
MINIDOKA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
NEZ PERCE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
OWYHEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, BULL (JARBRIDGE RIVER ESU).	Salvelinus confluentus	T
	SNAILS	SNAIL, SNAKE RIVER PHYSA	Physa natricina	E
		SPRINGSNAIL, BRUNEAU HOT	Pyrgulopsis bruneauenis	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		SPRINGSNAIL, IDAHO	Fontelicella idahoensis	E
PAYETTE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
POWER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	SNAILS	SNAIL, UTAH VALVATA	Valvata utahensis	E
SHOSHONE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
TETON	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
TWIN FALLS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	SNAILS	SNAIL, BLISS RAPIDS	Family Hydrobiidae n. sp.	T
		SNAIL, SNAKE RIVER PHYSA	Physa natricina	E
VALLEY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		STEELHEAD, SNAKE RIVER BASIN POPULATION.	Oncorhynchus mykiss, (Snake River Basin ESU).	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	MAMMALS	SQUIRREL, NORTHERN IDAHO GROUND.	Spermophilus brunneus brunneus	T
		WOLF, GRAY	Canis lupus	E, T
WASHINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
LOUISIANA	.			
ACADIA	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
ALLEN	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
ASCENSION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	CLAMS	HEELSPLITTER, INFLATED	Potamilus inflatus	T
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus (=oxyrhynchus desotoi).	T
		STURGEON, PALLID	Scaphirhynchus albus	E
ASSUMPTION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
AVOYELLES	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
BEAUREGARD	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
BIENVILLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
BOSSIER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
CADDO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
CALCASIEU	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
CALDWELL	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
CAMERON	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
CATAHOULA	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
CLAIBORNE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
CONCORDIA	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, AMERICAN BLACK	Ursus americanus	T
		BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
DE SOTO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
EAST BATON ROUGE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	CLAMS	HEELSPLITTER, INFLATED	Potamilus inflatus	T
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus (=oxyrhynchus desotoi).	T
		STURGEON, PALLID	Scaphirhynchus albus	E
EAST CARROLL	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
EAST FELICIANA	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
EVANGELINE	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
FRANKLIN	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
GRANT	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	CLAMS	PEARLSHELL, LOUISIANA	Margaritifera hembeli	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
IBERIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
IBERVILLE	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
JACKSON	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
JEFFERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
JEFFERSON DAVIS	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
LA SALLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
LAFAYETTE	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
LAFOURCHE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
LINCOLN	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
LIVINGSTON	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	CLAMS	HEELSPLITTER, INFLATED	Potamilus inflatus	T
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus (=oxyrhynchus desotoi).	T
MADISON	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		TERN, CALIFORNIA LEAST	Sterna antillarum browni	E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
MOREHOUSE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
NATCHITOCHES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
ORLEANS	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		PELICAN, BROWN	Pelicanus occidentalis	E
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus (=oxyrhynchus desotoi).	T
		STURGEON, PALLID	Scaphirhynchus albus	E
OUACHITA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
PLAQUEMINES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
POINTE COUPEE	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
RAPIDES	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	CLAMS	PEARLSHELL, LOUISIANA	Margaritifera hembeli	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
RED RIVER	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
RICHLAND	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
SABINE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
ST. BERNARD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus (=oxyrhynchus desotoi).	T
		STURGEON, PALLID	Scaphirhynchus albus	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
ST. CHARLES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus (=oxyrhynchus desotoi).	T
		STURGEON, PALLID	Scaphirhynchus albus	E
ST. HELENA	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
ST. JAMES	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
ST. JOHN THE BAPTIST	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus (=oxyrhynchus desotoi).	T
		STURGEON, PALLID	Scaphirhynchus albus	E
ST. LANDRY	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
ST. MARTIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
ST. MARY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
ST. TAMMANY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus (=oxyrhynchus desotoi).	T
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
	PLANTS	QUILLWORT, LOUISIANA	Isoetes louisianensis	E
	REPTILES	TORTOISE, GOPHER	Gopherus polyphemus	T
		TURTLE, RINGED SAWBACK	Graptemys oculifera	T
TANGIPAHOA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus (=oxyrhynchus desotoi).	T
	REPTILES	TORTOISE, GOPHER	Gopherus polyphemus	T
TENSAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
TERREBONNE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
UNION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
VERMILION	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
VERNON	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
WASHINGTON	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, GULF	Acipenser oxyrhynchus (=oxyrhynchus desotoi).	T
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
	PLANTS	QUILLWORT, LOUISIANA	Isoetes louisianensis	E
	REPTILES	TORTOISE, GOPHER	Gopherus polyphemus	T
		TURTLE, RINGED SAWBACK	Graptemys oculifera	T
WEBSTER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
WEST BATON ROUGE	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
WEST CARROLL	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
WEST FELICIANA	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
WINN	BIRDS	FALCON, ARCTIC PEREGRINE	Falco peregrinus tundrius	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	STURGEON, PALLID	Scaphirhynchus albus	E
	PLANTS	GEOCARPON MINIMUM	Geocarpon minimum	E
MAINE				
ANDROSCOGGIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
AROOSTOOK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		LOUSEWORT, FURBISH	Pedicularis furbishiae	E
		ORCHID, EASTERN PRAIRIE FRINGED	Platanthera leucophaea	T
CUMBERLAND	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
FRANKLIN	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
HANCOCK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
KENNEBEC	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
KNOX	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	COUGAR, EASTERN	Felis concolor couguar	E
LINCOLN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	COUGAR, EASTERN	Felis concolor couguar	E
OXFORD	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
PENOBSCOT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
PISCATAQUIS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
SAGADAHOC	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
SOMERSET	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	COUGAR, EASTERN	Felis concolor couguar	E
WALDO	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
WASHINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, ROSEATE	Sterna dougalli dougalli	E, T
YORK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
	REPTILES	TURTLE, BOG	Clemmys muhlenbergii	T
	REPTILES	TURTLE, BOG	Clemmys muhlenbergii	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	REPTILES	TURTLE, BOG	Clemmys muhlenbergii	T
	REPTILES	TURTLE, BOG	Clemmys muhlenbergii	T
MASSACHUSETTS				
BARNSTABLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, ROSEATE	Sterna dougalli dougalli	E, T
	PLANTS	GERARDIA, SANDPLAIN	Agalinus acuta	E
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
BERKSHIRE	MAMMALS	BAT, INDIANA	Myotis sodalis	E
		COUGAR, EASTERN	Felis concolor couguar	E
	REPTILES	TURTLE, BOG	Clemmys muhlenbergii	T
BRISTOL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
DUKES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
	INSECTS	BEETLE, NORTHEASTERN BEACH TIGER.	Cicindela dorsalis dorsalis	T
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
ESSEX	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
FRANKLIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	BULRUSH, NORTHEASTERN (=BARBED BRISTLE).	Scirpus ancistrochaetus	E
HAMPDEN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
HAMPSHIRE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	INSECTS	BEETLE, PURITAN TIGER	Cicindela puritana	T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
		COUGAR, EASTERN	Felis concolor couguar	E
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
MIDDLESEX	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
NANTUCKET	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
NORFOLK	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
PLYMOUTH	BIRDS	CURLEW, ESKIMO	Numenius borealis	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, ROSEATE	Sterna dougalli dougalli	E, T
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
		TURTLE, PLYMOUTH RED-BELLIED	Pseudemys (Chrysemys) rubriventris bangsi.	E
SUFFOLK	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
	REPTILES	TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
SUFFOLK	REPTILES	TURTLE, LOGGERHEAD SEA	Caretta caretta	T
WORCESTER	BIRDS	CROW, MARIANA	Corvus kubaryi	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		MALLARD, MARIANA	Anas oustaleti	E
		MEGAPODE, MICRONESIAN (LA PEROUSE'S).	Megapodius laperouse	E
		MONARCH, TINIAN	Monarcha takatsukasae	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		MOORHEN, MARIANA COMMON	Gallinula chloropus guami	E
		STARLING, PONAPE MOUNTAIN	Aplonis pelzelni	E
		SWIFTLET, MARIANA GRAY (=VANIKORO).	Aerodramus vanikorensis bartschi	E
		WARBLER (OLD WORLD), NIGHTINGALE REED.	Acrocephalus luscinia	E
		WARBLER (OLD WORLD), NIGHTINGALE REED.	Acrocephalus luscinia	E
		WHITE-EYE, PONAPE GREATER	Rukia longirostra (=sanfordi)	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
		BAT, LITTLE MARIANA FRUIT	Pteropus tokudae	E
		BAT, MARIANA FRUIT	Pteropus mariannus mariannus	E
		COUGAR, EASTERN	Felis concolor couguar	E
		DUGONG	Dugong dugon	E
	PLANTS	HAYUN LAGU (TRONKON GUAFI)	Serianthes nelsonii	E
		POGONIA, SMALL WHORLED	Isotria medeoloides	T
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
MISSOURI				
BOONE	FISH	TOPEKA SHINER	Notropis topeka	E
CALLAWAY	FISH	TOPEKA SHINER	Notropis topeka	E
CLARK	FISH	TOPEKA SHINER	Notropis topeka	E
COOPER	FISH	TOPEKA SHINER	Notropis topeka	E
DAVIESS	FISH	TOPEKA SHINER	Notropis topeka	E
HARRISON	FISH	TOPEKA SHINER	Notropis topeka	E
MONITEAU	FISH	TOPEKA SHINER	Notropis topeka	E
NEW HAMPSHIRE				
BELKNAP	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
CARROLL	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
CHESHIRE	CLAMS	MUSSEL, DWARF WEDGE	Alasmidonta heterodon	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
COOS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	PLANTS	CINQUEFOIL, ROBBINS'	Potentilla robbinsiana	E
GRAFTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	CINQUEFOIL, ROBBINS'	Potentilla robbinsiana	E
HILLSBOROUGH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
MERRIMACK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	INSECTS	BUTTERFLY, KARNER BLUE	Lycaeides melissa samuelis	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
ROCKINGHAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
STRAFFORD	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
SULLIVAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	CLAMS	MUSSEL, DWARF WEDGE	Alasmidonta heterodon	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	MILKVETCH, JESUP'S	Astragalus robbinsii var. jesupi	E
NEW MEXICO				
BERNALILLO	BIRDS	FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	MINNOW, RIO GRANDE SILVERY	Hybognathus amarus	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
CATRON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	MINNOW, LOACH	Rhinichthys (=Tiaroga) cobitis	T
		SPIKEDACE	Meda fulgida	T
		TROUT, GILA	Salmo gilae	E
	MAMMALS	FERRET, BLACKFOOTED	Mustela nigripes	E
	PLANTS	DOCK, CHIRICAHUA	Rumex orthoneurus	T
		FLEABANE, ZUNI	Erigeron rhizomatus	T
CHAVES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E

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State/County	Group name	Inverse name	Scientific name	Status
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	FISHES	GAMBUSIA, PECOS	Gambusia nobilis	E
		PUPFISH, PECOS	Cyprinodon pecosensis	E
		SHINER, PECOS BLUNTNOSE	Notropis simus peconsensis	T
	MAMMALS	FERRET, BLACKFOOTED	Mustela nigripes	E
	PLANTS	CACTUS, KUENZLER HEDGEHOG	Echinocereus fendleri var. kuenzleri	E
		SUNFLOWER, PECOS	Helianthus, paradoxus	T
CIBOLA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empidonax traillii extimus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	MAMMALS	FERRET, BLACKFOOTED	Mustela nigripes	E
	PLANTS	SUNFLOWER, PECOS	Helianthus, paradoxus	T
COLFAX	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	MAMMALS	FERRET, BLACKFOOTED	Mustela nigripes	E
CURRY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	FERRET, BLACKFOOTED	Mustela nigripes	E
DE BACA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	SHINER, PECOS BLUNTNOSE	Notropis simus peconsensis	T
	MAMMALS	FERRET, BLACKFOOTED	Mustela nigripes	E
DONA ANA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empidonax traillii extimus	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	MAMMALS	FERRET, BLACKFOOTED	Mustela nigripes	E
	PLANTS	CACTUS, SNEED PINCUSHION	Coryphantha sneedii var. sneedii	E
EDDY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	FISHES	GAMBUSIA, PECOS	Gambusia nobilis	E
		PUPFISH, PECOS	Cyprinodon pecosensis	E
		SHINER, PECOS BLUNTNOSE	Notropis simus peconsensis	T
	MAMMALS	FERRET, BLACKFOOTED	Mustela nigripes	E
	PLANTS	CACTUS, LEE PINCUSHION	Coryphantha sneedii var. leei	T
		CACTUS, LLOYD'S HEDGEHOG	Echinocereus lloydii	E
		WILDBUCKWHEAT, GYPSUM	Eriogonum gypsophilum	T
GRANT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	CHUB, CHIHUAHUA	Gila nigrescens	T
		MINNOW, LOACH	Rhinichthys (=Tiaroga) cobitis	T
		SHINER, BEAUTIFUL	Notropis formosus	T
		SPIKEDACE	Meda fulgida	T
		TOPMINNOW, GILA (YAQUI)	Poeciliopsis occidentalis	E
		TROUT, GILA	Salmo gilae	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
		WOLF, GRAY	Canis lupus	E, T
GUADALUPE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	SUNFLOWER, PECOS	Helianthus, paradoxus	T
HARDING	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
HIDALGO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	SPIKEDACE	Meda fulgida	T
	MAMMALS	BAT, LESSER (=SANBORN'S) LONG-NOSED.	Leptonycteris sanborni	E
		BAT, MEXICAN LONG-NOSED	Leptonycteris nivalis	E
		FERRET, BLACK-FOOTED	Mustela nigripes	E
		WOLF, GRAY	Canis lupus	E, T

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
	REPTILES	RATTLESNAKE, NEW MEXICAN RIDGE-NOSED.	Crotalus willardi obscurus	T
LEA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
LINCOLN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	CACTUS, KUENZLER HEDGEHOG	Echinocereus fendleri var. kuenzleri	E
LOS ALAMOS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
LUNA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SHINER, BEAUTIFUL	Notropis formosus	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
		WOLF, GRAY	Canis lupus	E, T
MCKINLEY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	FLEABANE, ZUNI	Erigeron rhizomatus	T
MORA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empidonax traillii extimus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
OTERO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	CACTUS, KUENZLER HEDGEHOG	Echinocereus fendleri var. kuenzleri	E
		PENNYROYAL, TODSEN'S	Hedeoma todsenii	E
		POPPY, SACRAMENTO PRICKLY	Argemone pleiacantha ssp. pinnatisecta	E
		THISTLE, SACRAMENTO MOUNTAINS	Cirsium vinaceum	T
QUAY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
RIO ARRIBA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
ROOSEVELT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
SAN JUAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empidonax traillii extimus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	CACTUS, KNOWLTON	Pediocactus knowltonii	E
		CACTUS, MESA VERDE	Sclerocactus mesae-verdae (=Pediocactus m.).	T
		MILK-VETCH, MANCOS	Astragalus humillimus	E
SAN MIGUEL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empidonax traillii extimus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	DOCK, CHIRICAHUA	Rumex orthoneurus	T
		IPOMOPSIS, HOLY GHOST	Ipomopsis sanctispiritus	E
SANDOVAL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empidonax traillii extimus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	MINNOW, RIO GRANDE SILVERY	Hybognathus amarus	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
SANTA FE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empidonax traillii extimus	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	DOCK, CHIRICAHUA	Rumex orthoneurus	T
SIERRA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empidonax traillii extimus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	TROUT, GILA	Salmo gilae	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	PENNYROYAL, TODSEN'S	Hedeoma todsenii	E
SOCORRO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empidonax traillii extimus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	CRUSTACEAN	ISOPOD, SOCORRO	Thermosphaeroma (=Exosphaeroma) thermophilus.	E
	FISHES	MINNOW, RIO GRANDE SILVERY	Hybognathus amarus	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	SNAILS	SPRINGSNAIL, ALAMOSA	Tryonia alamosae	E
		SPRINGSNAIL, SOCORRO	Pyrgulopsis neomexicana	E
TAOS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empidonax traillii extimus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
TORRANCE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
UNION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
VALENCIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	MINNOW, RIO GRANDE SILVERY	Hybognathus amarus	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	SUNFLOWER, PECOS	Helianthus, paradoxus	T
NEVADA				
CARSON CITY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
CHURCHILL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
CLARK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		RAIL, YUMA CLAPPER	Rallus longirostris yumanensis	E
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		CHUB, VIRGIN RIVER	Gila robusta seminuda	E
		DACE, MOAPA	Moapa coriacea	E
		POOLFISH, PAHRUMP (=PAHRUMP KILLIFISH).	Empetrichythys latos	E
		PUPFISH, DEVILS HOLE	Cyprinodon diabolis	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
		WOUNDFIN	Plagopterus argentissimus	E
	REPTILES	TORTOISE, DESERT	Gopherus (=Xerobates,=Scaptochelys) agassizii.	T
DOUGLAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
ELKO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	DACE, CLOVER VALLEY SPECKLED	Rhinichthys osculus oligoporous	E
		DACE, INDEPENDENCE VALLEY SPECKLED.	Rhinichthys osculus lethoporous	E
		TROUT, BULL (JARBRIDGE RIVER ESU).	Salvelinus confluentus	T
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
ESMERALDA	REPTILES	TORTOISE, DESERT	Gopherus (=Xerobates, Scaptochelys) agassizii.	T
EUREKA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
HUMBOLDT	FISHES	DACE, DESERT	Eremichthys acros	T
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
LANDER	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
LINCOLN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	FISHES	CHUB, PAHRANAGAT ROUNDTAIL	Gila robusta jordani	E
		DACE, MOAPA	Moapa coriacea	E
		SPINEDACE, BIG SPRING	Lepidomeda mollispinis pratensis	T
		SPRINGFISH, HIKO WHITE RIVER	Crenichthys baileyi grandis	E
		SPRINGFISH, WHITE RIVER	Crenichthys baileyi baileyi	E
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	T
	REPTILES	TORTOISE, DESERT	Gopherus (=Xerobates, =Scaptochelys) agassizii.	T
LYON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
MINERAL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	SPRINGFISH, HIKO WHITE RIVER	Crenichthys baileyi grandis	E
		SPRINGFISH, RAILROAD VALLEY	Crenichthys nevadae	T
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
	PLANTS	MILK-VETCH, SODAVILLE	Astragalus lentiginosus var. Seslquimetralis.	T
NYE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	DACE, ASH MEADOWS SPECKLED	Rhinichthys osculus nevadensis	E
		POOLFISH, PAHRUMP (=PAHRUMP KILLIFISH).	Empetrichythys latos	E
		PUPFISH, ASH MEADOWS AMARGOSA	Cyprinodon nevadensis mionectes	E
		PUPFISH, DEVILS HOLE	Cyprinodon diabolis	E
		PUPFISH, WARM SPRINGS	Cyprinodon nevadensis pectoralis	E
		SPINEDACE, WHITE RIVER	Lepidomeda albivallis	E
		SPRINGFISH, RAILROAD VALLEY	Crenichthys nevadae	T
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
	INSECTS	NAUCORID, ASH MEADOWS	Ambrysus amargosus	T
	PLANTS	BLAZING STAR, ASH MEADOWS	Mentzelia leucophylla	T
		CENTAURY, SPRING-LOVING	Centaurium namophilum var. namophilum	T
		GUMPLANT, ASH MEADOWS	Grindelia fraxin-opratensis	T
		IVESIA, ASH MEADOWS	Ivesia eremica	T
		MILK-VETCH, ASH MEADOWS	Astragalus phoenix	T
		NITERWORT, AMARGOSA	Nitrophila mohavensis	E
		SUNRAY, ASH MEADOWS	Enceliopsis nudicaulis var. corrugata	T
	REPTILES	TORTOISE, DESERT	Gopherus (=Xerobates, =Scaptochelys) agassizii.	T
PERSHING	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
STOREY	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
WASHOE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	CUIUI	Chasmistes cujus	E
		SUCKER, WARNER	Catostomus warnerensis	T
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
	PLANTS	BUCKWHEAT, STEAMBOAT	Eriogonum ovalifolium var. williamsiae	E
WHITE PINE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	POOLFISH, PAHRUMP (=PAHRUMP KILLIFISH).	Empetrichythys latos	E
		SPINEDACE, WHITE RIVER	Lepidomeda albivallis	E
OKLAHOMA				
ADAIR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	BAT, GRAY	Myotis grisescens	E
		BAT, INDIANA	Myotis sodalis	E
		BAT, OZARK BIG-EARED	Plecotus townsendii ingens	E
ALFALFA	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
ATOKA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
BEAVER	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
BECKHAM	BIRDS	CRANE, WHOOPING	Grus americana	E
BLAINE	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
BRYAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	INSECTS	BEETLE, AMERICAN BURYING	Nicrophorus americanus	E

II. COUNTY/SPECIES LIST—Continued

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	REPTILES	ALLIGATOR, AMERICAN	Alligator mississippiensis	T
CADDO	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
CANADIAN	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
CARTER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
CHEROKEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	INSECTS	BEETLE, AMERICAN BURYING	Nicrophorus americanus	E
	MAMMALS	BAT, GRAY	Myotis grisescens	E
		BAT, INDIANA	Myotis sodalis	E
		BAT, OZARK BIG-EARED	Plecotus townsendii ingens	E
CHOCTAW	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	PLANTS	ORCHID, EASTERN PRAIRIE FRINGED	Platanthera leucophaea	T
CIMARRON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	FISHES	SHINER, ARKANSAS RIVER	Notropis girardi	E
CLEVELAND	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
COMANCHE	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
COTTON	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
CRAIG	FISHES	CAVEFISH, OZARK	Amblyopsis rosae	T
		MADTOM, NEOSHO	Noturus placidus	T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	ORCHID, WESTERN PRAIRIE FRINGED	Platanthera praeclara	T
CREEK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
CUSTER	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
DELAWARE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	CAVEFISH, OZARK	Amblyopsis rosae	T
	MAMMALS	BAT, GRAY	Myotis grisescens	E
		BAT, INDIANA	Myotis sodalis	E
		BAT, OZARK BIG-EARED	Plecotus townsendii ingens	E
DEWEY	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
ELLIS	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
GARFIELD	BIRDS	CRANE, WHOOPING	Grus americana	E
GARVIN	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
GRADY	BIRDS	CRANE, WHOOPING	Grus americana	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E

II. COUNTY/SPECIES LIST—Continued

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GRANT	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
GREER	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
HARMON	BIRDS	CRANE, WHOOPING	Grus americana	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
HARPER	BIRDS	CRANE, WHOOPING	Grus americana	E
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
HASKELL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	INSECTS	BEETLE, AMERICAN BURYING	Nicrophorus americanus	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
HUGHES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
JACKSON	BIRDS	CRANE, WHOOPING	Grus americana	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
JEFFERSON	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
JOHNSTON	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
KAY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
KINGFISHER	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
KIOWA	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
LATIMER	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	INSECTS	BEETLE, AMERICAN BURYING	Nicrophorus americanus	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
LE FLORE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	CLAMS	ROCK-POCKETBOOK, OUACHITA	Arkansia (=Arcidens) wheeleri	E
		ROCK-POCKETBOOK, OUACHITA (=WHEELER'S PM).	Arkansia (=Arcidens) wheeleri	E
	FISHES	DARTER, LEOPARD	Percina pantherina	T
	INSECTS	BEETLE, AMERICAN BURYING	Nicrophorus americanus	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
LINCOLN	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
LOGAN	BIRDS	CRANE, WHOOPING	Grus americana	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
LOVE	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
MAJOR	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
MARSHALL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
MAYES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	CAVEFISH, OZARK	Amblyopsis rosae	T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
MCCLAIN	BIRDS	CRANE, WHOOPING	Grus americana	E
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST	Sterna antillarum .	E
MCCURTAIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		TERN, INTERIOR (POPULATION) LEAST	Sterna antillarum .	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	FISHES	DARTER, LEOPARD	Percina pantherina	T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	REPTILES	ALLIGATOR, AMERICAN	Alligator mississippiensis	T
MCINTOSH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
MURRAY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
MUSKOGEE	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	INSECTS	BEETLE, AMERICAN BURYING	Nicrophorus americanus	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
NOBLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
NOWATA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
OKLAHOMA	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
OSAGE	BIRDS	CRANE, WHOOPING	Grus americana	E
		CURLEW, ESKIMO	Numenius borealis	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
OTTAWA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	CAVEFISH, OZARK	Amblyopsis rosae	T
		MADTOM, NEOSHO	Noturus placidus	T
	MAMMALS	BAT, GRAY	Myotis grisescens	E
		BAT, INDIANA	Myotis sodalis	E
		BAT, OZARK BIG-EARED	Plecotus townsendii ingens	E
PAWNEE	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
PAYNE	BIRDS	CRANE, WHOOPING	Grus americana	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
PITTSBURG	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
PONTOTOC	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
POTTAWATOMIE	BIRDS	TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
PUSHMATAHA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	CLAMS	ROCK-POCKETBOOK, OUACHITA	Arkansia (=Arcidens) wheeleri	E
		ROCK-POCKETBOOK, OUACHITA (=WHEELER'S PM).	Arkansia (=Arcidens) wheeleri	E
	FISHES	DARTER, LEOPARD	Percina pantherina	T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
ROGER MILLS	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
ROGERS	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	PLANTS	ORCHID, WESTERN PRAIRIE FRINGED	Platanthera praeclara	T
SEMINOLE	BIRDS	TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
SEQUOYAH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	INSECTS	BEETLE, AMERICAN BURYING	Nicrophorus americanus	E
		BAT, INDIANA	Myotis sodalis	E
		BAT, OZARK BIG-EARED	Plecotus townsendii ingens	E
STEPHENS	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
TEXAS	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
TILLMAN	BIRDS	CRANE, WHOOPING	Grus americana	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
TULSA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	INSECTS	BEETLE, AMERICAN BURYING	Nicrophorus americanus	E
WAGONER	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
WASHINGTON	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
WASHITA	BIRDS	CRANE, WHOOPING	Grus americana	E
WOODS	BIRDS	CRANE, WHOOPING	Grus americana	E
		CURLEW, ESKIMO	Numenius borealis	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
WOODWARD	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
OREGON				
BAKER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
	PLANTS	THELYPODY, HOWELL'S SPECTACULAR.	Thelypodium howellii ssp. spectabilis	T
BENTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	CHUB, OREGON	Oregonichthys crameri	E
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		STEELHEAD, OREGON COAST POPULATION.	Oncorhynchus mykiss, (Oregon Coast ESU).	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	INSECTS	BUTTERFLY, FENDER'S BLUE	Icaricia icarioides	E
	PLANTS	CHECKER-MALLOW, NELSON'S	SIDALCEA NELSONIANA	T
		DAISY, WILLAMETTE	Erigeron decumbens var. decumbens	E
		LOMATIUM, BRADSHAW'S	Lomatium bradshawii	E
		LUPINE, KINCAID'S	Lupinus sulphureus ssp. kincaidii	T
CLACKAMAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	CHUB, OREGON	Oregonichthys crameri	E
		SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		STEELHEAD, LOWER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Lower Columbia ESU).	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (LOWER COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	PLANTS	CHECKER-MALLOW, NELSON'S	Sidalcea nelsoniana	T
CLATSOP	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		TROUT, STEELHEAD (LOWER COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
		STEELHEAD, OREGON COAST POPULATION.	Oncorhynchus mykiss, (Oregon Coast ESU).	T
	INSECTS	BUTTERFLY, OREGON SILVERSPOT	Speyeria zerene hippolyta	T
	MAMMALS	DEER, COLUMBIAN WHITE-TAILED	Odocoileus virginianus leucurus	E
COLUMBIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	FISHES	SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		TROUT, STEELHEAD (LOWER COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	MAMMALS	DEER, COLUMBIAN WHITETAILED	Odocoileus virginianus leucurus	E
COOS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		STEELHEAD, OREGON COAST POPULATION.	Oncorhynchus mykiss, (Oregon Coast ESU).	T
	PLANTS	LILY, WESTERN	Lilium occidentale	E
CROOK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
CURRY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).	Oncorhynchus tshawytscha	T
		SALMON, COHO (SOUTHERN OR/NORTHERN CA COAST).	Oncorhynchus kisutch	T
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		STEELHEAD, OREGON COAST POPULATION.	Oncorhynchus mykiss, (Oregon Coast ESU).	T
	PLANTS	ROCKCRESS, RED MT.	Arabis mcdonaldiana	E
DESCHUTES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
DOUGLAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		STEELHEAD, OREGON COAST POPULATION.	Oncorhynchus mykiss, (Oregon Coast ESU).	T
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
		TROUT, CUTTHROAT (UMPQUA RIVER POPULATION).	Oncorhynchus clarki clarki	E
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T

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State/County	Group name	Inverse name	Scientific name	Status
	MAMMALS	DEER, COLUMBIAN WHITETAILED	Odocoileus virginianusleucurus	E
	PLANTS	LUPINE, KINCAID'S	Lupinus sulphureus ssp. kincaidii	T
		ROUGH POPCORNFLOWER	Plagiobothrys hirtus	E
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
GILLIAM	FISHES	SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
GRANT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
HARNEY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	CHUB, BORAX LAKE	Gila boraxobius	E
		TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
	PLANTS	WIRE-LETTUCE, MALHEUR	Stephanomeria malheurensis	E
HOOD RIVER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
	FISHES	SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		STEELHEAD, LOWER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Lower Columbia ESU).	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (LOWER COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
JACKSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
	PLANTS	FRITILLARY, GENTNER'S (MISSION BELLS).	Fritillaria gentneri	E
JEFFERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
JOSEPHINE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		STEELHEAD, OREGON COAST POPULATION.	Oncorhynchus mykiss, (Oregon Coast ESU).	T
	PLANTS	FRITILLARY, GENTNER'S (MISSION BELLS).	Fritillaria gentneri	E
KLAMATH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		SALMON, CHINOOK (SOUTHERN OREGON AND CALIFORNIA COASTAL RUN).	Oncorhynchus tshawytscha	T
	FISHES	STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		SUCKER, LOST RIVER	Deltistes luxatus	E
		SUCKER, SHORTNOSE	Chasmistes brevirostris	E
		TROUT, BULL (KLAMATH RIVER POPULATION).	Salvelinus confluentus	E
	PLANTS	MILK-VETCH, APPLEGATE'S	Astragalus applegatei	E
LAKE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	CHUB, HUTTON TUI	Gila bicolor ssp.	T
		DACE, FOSKETT SPECKLED	Rhinichthys osculus ssp.	T
		SUCKER, WARNER	Catostomus warnerensis	T
		TROUT, BULL (KLAMATH RIVER POPULATION).	Salvelinus confluentus	E
LANE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	CHUB, OREGON	Oregonichthys crameri	E
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		STEELHEAD, OREGON COAST POPULATION.	Oncorhynchus mykiss, (Oregon Coast ESU).	T
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	INSECTS	BUTTERFLY, FENDER'S BLUE	Icaricia icarioides	E
		BUTTERFLY, OREGON SILVERSPOT	Speyeria zerene hippolyta	T
	MAMMALS	DEER, COLUMBIAN WHITE-TAILED	Odocoileus virginianus leucurus	E
	PLANTS	DAISY, WILLAMETTE	Erigeron decumbens var. decumbens	E
		LOMATIUM, BRADSHAW'S	Lomatium bradshawii	E
		LUPINE, KINCAID'S	Lupinus sulphureus ssp. kincaidii	T
LINCOLN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
	FISHES	STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		STEELHEAD, OREGON COAST POPULATION.	Oncorhynchus mykiss, (Oregon Coast ESU).	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	INSECTS	BUTTERFLY, OREGON SILVERSPOT	Speyeria zerene hippolyta	T
LINN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	CHUB, OREGON	Oregonichthys crameri	E
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	INSECTS	BUTTERFLY, FENDER'S BLUE	Icaricia icarioides	E
	PLANTS	CHECKER-MALLOW, NELSON'S	Sidalcea nelsoniana	T
		DAISY, WILLAMETTE	Erigeron decumbens var. decumbens	E
		LOMATIUM, BRADSHAW'S	Lomatium bradshawii	E
		LUPINE, KINCAID'S	Lupinus sulphureus ssp. kincaidii	T
MALHEUR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
MARION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	CHUB, OREGON	Oregonichthys crameri	E
		SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		TROUT, STEELHEAD (LOWER COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	PLANTS	CHECKERMALLOW, NELSON'S	Sidalcea nelsoniana	T
		DAISY, WILLAMETTE	Erigeron decumbens var. decumbens	E
		LOMATIUM, BRADSHAW'S	Lomatium bradshawii	E
MORROW	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
	FISHES	SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
MULTNOMAH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		STEELHEAD, LOWER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Lower Columbia ESU).	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (LOWER COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (MIDDLECOLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	MAMMALS	DEER, COLUMBIAN WHITETAILED	Odocoileus virginianus leucurus	E
POLK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	CHUB, OREGON	Oregonichthys crameri	E
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	INSECTS	BUTTERFLY, FENDER'S BLUE	Icaricia icarioides	E
	PLANTS	CHECKERMALLOW, NELSON'S	Sidalcea nelsoniana	T
		DAISY, WILLAMETTE	Erigeron decumbens var. decumbens	E
		LOMATIUM, BRADSHAW'S	Lomatium bradshawii	E
		LUPINE, KINCAID'S	Lupinus sulphureus ssp. kincaidii	T
SHERMAN	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
TILLAMOOK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		STEELHEAD, OREGON COAST POPULATION.	Oncorhynchus mykiss, (Oregon Coast ESU).	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	INSECTS	BUTTERFLY, OREGON SILVERSPOT	Speyeria zerene hippolyta	T
	PLANTS	CHECKER-MALLOW, NELSON'S	Sidalcea nelsoniana	T
UMATILLA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
UNION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
	PLANTS	THELYPODY, HOWELL'S SPECTACULAR.	Thelypodium howellii ssp. spectabilis	T
WALLAWA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
	PLANTS	FOUR-O'CLOCK, MACFARLANE'S	Mirabilis macfarlanei	T
WASCO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus Confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
WASHINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		TROUT, STEELHEAD (LOWER COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	PLANTS	CHECKER-MALLOW, NELSON'S	Sidalcea nelsoniana	T
WHEELER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
YAMHILL	BIRDS	OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
	FISHES	STEELHEAD, KLAMATH MOUNTAINS PROVINCE.	Oncoryhnchus mykiss	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	INSECTS	BUTTERFLY, FENDER'S BLUE	Icaricia icarioides	E
		BUTTERFLY, OREGON SILVERSPOT	Speyeria zerene hippolyta	T
	PLANTS	CHECKER-MALLOW, NELSON'S	Sidalcea nelsoniana	T
		LUPINE, KINCAID'S	Lupinus sulphureus ssp. kincaidii	T
PUERTO RICO				
ADJUNTAS	AMPHIBIANS	COQUI, GOLDEN	Eleutherodactylus jasperi	T
	PLANTS	ERUBIA	Solanum drymophilum	E
		WALNUT, NOGAL	Juglans jamaicensis	L
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
AGUADA	BIRDS	PELICAN, BROWN	Pelicanus occidentalis	E
	PLANTS	BOXWOOD, VAHL'S	Buxus vahlii	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
AGUADILLA	BIRDS	PELICAN, BROWN	Pelicanus occidentalis	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
ANASCO	BIRDS	PELICAN, BROWN	Pelicanus occidentalis	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
ARECIBO	BIRDS	FALCON, AMERICAN PEREGRINE	Falco peregrinus anatum	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	CHUPACALLOS	Pleodendron macranthum	E
		MYRCIA PAGANII	Myrcia paganii	E
		PALMA DE MANACA	Calyptronoma rivalis	T
		PALO DE NIGUA	Cornutia obovata	E
		TECTARIA ESTREMERANA	Tectaria estremerana	E
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
ARROYA	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
BARCELONETA	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
BARRANQUITAS	BIRDS	BLACKBIRD, YELLOW-SHOULDERED	Agelaius xanthomus	E
	PLANTS	PALO DE NIGUA	Cornutia obovata	E
BAYAMON	PLANTS	BOXWOOD, VAHL'S	Buxus vahlii	E
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
CABO ROJO	BIRDS	BLACKBIRD, YELLOW-SHOULDERED	Agelaius xanthomus	E
		FALCON, PEREGRINE	Falco peregrinus	E
		NIGHTJAR, PUERTO RICO	Caprimulgus noctitherus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	ARISTIDA CHASEAE	Aristida chaseae	E
		BARIACO	Trichilia triacantha	E
		COBANA NEGRA	Stahlia monosperma	T
		EUGENIA WOODBURYANA	Eugenia woodburyana	E
		LYONIA TRUNCATA VAR. PROCTORII	Lyonia truncata var. proctorii	E
		MITRACARPUS MAXWELLIAE	Mitracarpus maxwelliae	E
		MITRACARPUS POLYCLADUS	Mitracarpus polycladus	E
		NONE	Catesbaea melanocarpa	E
		PELOS DEL DIABLO	Aristida portoricensis	E
		VERNONIA PROCTORII	Vernonia proctorii	E
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
CAMUY	PLANTS	PALMA DE MANACA	Calyptronoma rivalis	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
CAROLINA	BIRDS	BLACKBIRD, YELLOW-SHOULDERED	Agelaius xanthomus	E
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
		TURTLE, GREEN SEA	Chelonia mydas	E, T
CARTAGENA	BIRDS	FALCON, PEREGRINE LAGOON	Falco peregrinus	E
CATANO	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
CAYEY	BIRDS	PIGEON, PUERTO RICAN PLAIN	Columbia inornata wetmorei	E
	PLANTS	UVILLO	Eugenia haematocarpa	E
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
CEIBA	BIRDS	BLACKBIRD, YELLOW-SHOULDERED	Agelaius xanthomus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus	E
	PLANTS	ILEX SINTENISII	Ilex sintenisii	E
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
CIALES	PLANTS	FERN, THELYPTERIS INABONENSIS	Fern, thelypteris inabonensis	E
		FERN, THELYPTERIS YAUCOENSIS	Fern, thelypteris yaucoensis	E
CIDRA	BIRDS	PIGEON, PUERTO RICAN PLAIN	Columbia inornata wetmorei	E
COAMO	AMPHIBIANS	TOAD, PUERTO RICAN CRESTED	Peltophryne lemur	T
	PLANTS	PRICKLY-ASH, ST. THOMAS	Zanthoxylum thomasianum	E
COMERIO	BIRDS	PIGEON, PUERTO RICAN PLAIN	Columbia inornata wetmorei	E
CULEBRA	BIRDS	PELICAN, BROWN	Pelicanus occidentalis	E
		TERN, ROSEATE	Sterna dougalli dougalli	E, T
	PLANTS	LEPTOCEREUS GRANTIANUS	Leptocereus grantianus	E
		PEPEROMIA, WHEELER'S	Peperomia wheeleri	E
	REPTILES	ANOLE, CULEBRA ISLAND GIANT	Anolis roosevelti	E
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
DORADO	AMPHIBIANS	TOAD, PUERTO RICAN CRESTED	Peltophryne lemur	T
	BIRDS	PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	CASSIA MIRABILIS	Cassia mirabilis	E
		DAPHNOPSIS HELLERANA	Daphnopsis hellerana	E
		PALO DE RAMON	Banara vanderbiltii	E
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
FAJARDO	BIRDS	BLACKBIRD, YELLOW-SHOULDERED	Agelaius xanthomus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	ORTEGON	Coccolobra rugosa	T
		SCHOEPFIA ARENARIA	Schoepfia arenaria	T
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
GUANICA	AMPHIBIANS	TOAD, PUERTO RICAN CRESTED	Peltophryne lemur	T
	BIRDS	NIGHTJAR, PUERTO RICO	Caprimulgus noctitherus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	BARIACO	Trichilia triacantha	E
		EUGENIA WOODBURYANA	Eugenia woodburyana	E
		MITRACARPUS MAXWELLIAE	Mitracarpus maxwelliae	E
		MITRACARPUS POLYCLADUS	Mitracarpus polycladus	E
		PALO DE ROSA	Ottoschulzia rhodoxylon	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
GUAYAMA	BIRDS	BLACKBIRD, YELLOW-SHOULDERED	Agelaius xanthomus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
GUAYANILLA	BIRDS	NIGHTJAR, PUERTO RICO	Caprimulgus noctitherus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	BARIACO	Trichilia triacantha	E
GURABO	PLANTS	ORTEGON	Coccolobra rugosa	T
HATILLO	PLANTS	FERN, THELYPTERIS VERECUNDA	Fern, thelypteris verecunda	E
		PALMA DE MANACA	Calyptronoma rivalis	T
		PALO DE NIGUA	Cornutia obovata	E
HORMIGUEROS	PLANTS	PELOS DEL DIABLO	Aristida portoricensis	E
HUMACAO	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
	PLANTS	ORTEGON	Coccolobra rugosa	T
	REPTILES	TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
ISABELA	AMPHIBIANS	TOAD, PUERTO RICAN CRESTED	Peltophryne lemur	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	PLANTS	AUERODENDRON PAUCIFLORUM (NCN).	Auerodendron pauciflorum	E
		AUERODENDRON PAUCIFLORUM (NCN).	Auerodendron pauciflorum	E
		DAPHNOPSIS HELLERANA	Daphnopsis hellerana	E
		GOETZEA, BEAUTIFUL (MATABUEY)	Goetzea elegans	E
		PEPEROMIA, WHEELER'S	Peperomia wheeleri	E
		PRICKLY-ASH, ST. THOMAS	Zanthoxylum thomasianum	E
		SCHOEPFIA ARENARIA	Schoepfia arenaria	T
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
JAYUYA	PLANTS	FERN, ELAPHOGLOSSUM SERPENS	Fern, elaphoglossum serpens	E
		HOLLY, COOK'S	Ilex cookii	E
		TREE FERN, ELFIN	Cyathea dryopteroides	E
JUANA DIAZ	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
LAJAS	BIRDS	BLACKBIRD, YELLOW-SHOULDERED	Agelaius xanthomus	E
		FALCON, AMERICAN PEREGRINE	Falco peregrinus anatum	E
		NIGHT JAR, PUERTO RICO	Caprimulgus noctitherus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		TERN, ROSEATE	Sterna dougalli dougalli	E, T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	ARISTIDA CHASEAE	Aristida chaseae	E
		COBANA NEGRA	Stahlia monosperma	T
		EUGENIA WOODBURYANA	Eugenia woodburyana	E
		LYONIA TRUNCATA VAR. PROCTORII	Lyonia truncata var. proctorii	E
		MITRACARPUS MAXWELLIAE	Mitracarpus maxwelliae	E
		MITRACARPUS POLYCLADUS	Mitracarpus polycladus	E
		PELOS DEL DIABLO	Aristida portoricensis	E
		VERNONIA PROCTORII	Vernonia proctorii	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
LARES	PLANTS	PALO DE NIGUA	Cornutia obovata	E
LOIZA	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	SCHOEPFIA ARENARIA	Schoepfia arenaria	T
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
LUQUILLO	BIRDS	HAWK, PUERTO RICAN BROAD-WINGED.	Buteo platypterus brunnescens	E
		HAWK, PUERTO RICAN SHARP-SHINNED.	Accipiter striatus venator	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	COBANA NEGRA	Stahlia monosperma	T
		ORTEGON	Coccolobra rugosa	T
		PALO COLORADO (TERNSTROEMIA LUQUILLENSIS).	Ternstroemia luquillensis	E
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
MANATI	PLANTS	CASSIA MIRABILIS	Cassia mirabilis	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
MARICAO	BIRDS	HAWK, PUERTO RICAN BROAD-WINGED.	Buteo platypterus brunnescens	E
		HAWK, PUERTO RICAN SHARP-SHINNED.	Accipiter striatus venator	E
	PLANTS	CORDIA BELLONIS (NCN)	Cordia bellonis (ncn)	E
		CRANICHIS RICARTII	Cranichis ricartii	E
		GESNERIA PAUCIFLORA	Gesneria pauciflora	T
		HIGUERO DE SIERRA	Crecentia portoricensis	E
		PALO DE ROSA	Ottoschulzia rhodoxylon	E
MAUNABO	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
MAYAGUEZ	BIRDS	BLACKBIRD, YELLOWSHOULDERED	Agelaius xanthomus	E
		FALCON, AMERICAN PEREGRINE	Falco peregrinus anatum	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	CHUMBO, HIGO	Harrisia (=Cereus) portoricensis	T
		PELOS DEL DIABLO	Aristida portoricensis	E
	REPTILES	BOA, MONA	Epicrates monensis monensis	T
		BOA, PUERTO RICAN	Epicrates inornatus	E
		GECKO, MONITO	Sphaerodactylus micropithecus	E
		IGUANA, MONA GROUND	Cyclura stejnegeri	T
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
NAGUABO	BIRDS	PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	CAPA ROSA	Callicarpa ampla	E
		CHUPACALLOS	Pleodendron macranthum	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		LEPANTHES ELTORENSIS	Lepanthes eltorensis	E
		ORTEGON	Coccolobra rugosa	T
		TERNSTROEMIA SUBSESSILIS	Ternstroemia subsessilis	E
		UVILLO	Eugenia haematocarpa	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
PATILLAS	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
PENUELAS	BIRDS	NIGHTJAR, PUERTO RICO	Caprimulgus noctitherus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	POLYSTICHUM CALDERONENSE (NCN).	Polystichum calderonenense	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
PONCE	BIRDS	NIGHTJAR, PUERTO RICO	Caprimulgus noctitherus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	FERN, THELYPTERIS INABONENSIS	Fern, thelypteris inabonensis	E
		HOLLY, COOK'S	Ilex cookii	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
QUEBRADILLAS	AMPHIBIANS	TOAD, PUERTO RICAN CRESTED	Peltophryne lemur	T
	PLANTS	ADIANTUM VIVESII (NCN)	Adiantum vivesii	E
		FERN, ADIANTUM VIVESII	Fern, adiantum vivesii	E
		FERN, THELYPTERIS VERECUNDA	Fern, thelypteris verecunda	E
		GOETZEA, BEAUTIFUL (MATABUEY)	Goetzea elegans	E
		MYRCIA PAGANII	Myrcia paganii	E
		PALMA DE MANACA	Calyptronoma rivalis	T
RINCON	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	BOXWOOD, VAHL'S	Buxus vahlii	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
RIO GRANDE	BIRDS	BLACKBIRD, YELLOW-SHOULDERED	Agelaius xanthomus	E
		FALCON, AMERICAN PEREGRINE	Falco peregrinus anatum	E
		PARROT, PUERTO RICAN	Amazona vittata	E
	PLANTS	CAPA ROSA	Callicarpa ampla	E
		CHUPACALLOS	Pleodendron macranthum	E
		COBANA NEGRA	Stahlia monosperma	T
		ILEX SINTENISII	Ilex sintenisii	E
		LEPANTHES ELTORENSIS	Lepanthes eltorensis	E
		ORTEGON	Coccolobra rugosa	T
		PALO COLORADO (TERNSTROEMIA LUQUILLENSIS).	Ternstroemia luquillensis	E
		PALO DE JAZMIN	Styrax portoricensis	E
		PALO DE NIGUA	Cornutia obovata	E
		UVILLO	Eugenia haematocarpa	E
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
SABANA GRANDE	PLANTS	GESNERIA PAUCIFLORA	Gesneria pauciflora	T
		HIGUERO DE SIERRA	Crecentia portoricensis	E
		PALO DE ROSA	Ottoschulzia rhodoxylon	E
SALINAS	BIRDS	BLACKBIRD, YELLOW-SHOULDERED	Agelaius xanthomus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PIGEON, PUERTO RICAN PLAIN	Columbia inornata wetmorei	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
SAN GERMAN	BIRDS	BLACKBIRD, YELLOW-SHOULDERED	Agelaius xanthomus	E
	PLANTS	CRANICHIS RICARTII	Cranichis ricartii	E
		HIGUERO DE SIERRA	Crecentia portoricensis	E
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
SAN JUAN	BIRDS	BLACKBIRD, YELLOW-SHOULDERED	Agelaius xanthomus	E
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
SAN LORENZO	AMPHIBIANS	GUAJON (ELEUTHERODACTYLUS COOKI).	Eleutherodactylus cooki	T
SAN SEBASTIAN	PLANTS	FERN, THELYPTERIS VERECUNDA	Fern, thelypteris verecunda	E
		PALMA DE MANACA	Calyptronoma rivalis	T
SANTA ISABEL	BIRDS	PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
TOA BAJA	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	DAPHNOPSIS HELLERANA	Daphnopsis hellerana	E
		ORTEGON	Coccolobra rugosa	T
		PALO DE ROSA	Ottoschulzia rhodoxylon	E
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
UTUADO	BIRDS	HAWK, PUERTO RICAN BROAD-WINGED.	Buteo platypterus brunnescens	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		HAWK, PUERTO RICAN SHARP-SHINNED.	Accipiter striatus venator	E
		PIGEON, PUERTO RICAN PLAIN	Columbia inornata wetmorei	E
	PLANTS	PALMA DE MANACA	Calyptronoma rivalis	T
		PALO DE NIGUA	Cornutia obovata	E
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
VEGA ALTA	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	CASSIA MIRABILIS	Cassia mirabilis	E
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
		TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
VEGA BAJA	PLANTS	CASSIA MIRABILIS	Cassia mirabilis	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
VI	PLANTS	NONE	Catesbaea melanocarpa	E
VIEQUES	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	CALYPTRANTHES THOMASIANA	Calyptranthes thomasiana	E
		COBANA NEGRA	Stahlia monosperma	T
		MYRCIA PAGANII	Myrcia paganii	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
YABUCOA	AMPHIBIANS	GUAJON (ELEUTHERODACTYLUS COOKI).	Eleutherodactylus cooki	T
	MAMMALS	MANATEE, WEST INDIAN (FLORIDA)	Trichechus manatus	E
	PLANTS	ORTEGON	Coccolobra rugosa	T
	REPTILES	BOA, PUERTO RICAN	Epicrates inornatus	E
YAUCO	BIRDS	NIGHTJAR, PUERTO RICO	Caprimulgus noctitherus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
	PLANTS	BARIACO	Trichilia triacantha	E
		FERN, THELYPTERIS YAUCOENSIS	Fern, thelypteris yaucoensis	E
		HIGUERO DE SIERRA	Crecentia portoricensis	E
		PALO DE ROSA	Ottoschulzia rhodoxylon	E
	REPTILES	TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
RHODE ISLAND				
KENT	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
NEWPORT	BIRDS	PLOVER, PIPING	Charadrius melodus	E, T
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
PROVIDENCE	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	POGONIA, SMALL WHORLED	Isotria medeoloides	T
WASHINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PLOVER, PIPING	Charadrius melodus	E, T
	FISHES	STURGEON, SHORTNOSE	Acipenser brevirostrum	E
	INSECTS	BEETLE, AMERICAN BURYING	Nicrophorus americanus	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	GERARDIA, SANDPLAIN	Agalinus acuta	E
TEXAS				
ANDERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, REDCOCKADED	Picoides borealis	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
ANGELINA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, REDCOCKADED	Picoides borealis	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
ARANSAS	BIRDS	CRANE, WHOOPING	Grus americana	E
		CURLEW, ESKIMO	Numenius borealis	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
		PRAIRIE-CHICKEN, ATTWATER'S GREATER.	Tympanuchus cupido attwateri	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
		JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
ARCHER	BIRDS	CRANE, WHOOPING	Grus americana	E
ATASCOSA	MAMMALS	OCELOT	Felis pardalis	E

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
AUSTIN	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis	E
	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PRAIRIE-CHICKEN, ATTWATER'S GREATER.	Tympanuchus cupido attwateri	E
BAILEY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
BANDERA	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
	PLANTS	CACTUS, TOBUSCH FISHHOOK	Ancistrocactus tobuschii (=Echinocactus t., Mammila.	E
BASTROP	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis	E
	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
BAYLOR	BIRDS	CRANE, WHOOPING	Grus americana	E
BEE	BIRDS	CRANE, WHOOPING	Grus americana	E
BELL	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		VIREO, BLACKCAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
BEXAR	BIRDS	CRANE, WHOOPING	Grus americana	E
		VIREO, BLACKCAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
BLANCO	BIRDS	CRANE, WHOOPING	Grus americana	E
		VIREO, BLACKCAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
BOSQUE	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		VIREO, BLACKCAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
BOWIE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
		WOODPECKER, REDCOCKADED	Picoides borealis	E
BRAZORIA	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
BRAZOS	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii	E
BREWSTER	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		FLYCATCHER, SOUTHWESTERN WILLOW.	Empiodonax traillii extimus	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
	FISHES	GAMBUSIA, BIG BEND	Gambusia gaigei	E
	MAMMALS	BAT, MEXICAN LONG-NOSED	Leptonycteris nivalis	E
	PLANTS	CACTUS, BUNCHED CORY	Coryphantha ramillosa	T
		CACTUS, CHISOS MOUNTAIN HEDGEHOG.	Echinocereus reichenbachii var. chisoensis.	T
		CACTUS, LLOYD'S HEDGEHOG	Echinocereus lloydii	E
		CACTUS, LLOYD'S MARIPOSA	Neolloydia mariposensis	T
		CACTUS, NELLIE CORY	Coryphantha minima	E
		CAT'S-EYE, TERLINGUA CREEK	Cryptantha crassipes	E
		PITAYA, DAVIS' GREEN	Echinocereus viridiflorus var. davisii	E
BROOKS	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		PYGMY-OWL, CACTUS FERRUGINOUS	Glaucidiumbrasilianum cactorum	E
	MAMMALS	JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
BROWN	BIRDS	CRANE, WHOOPING	Grus americana	E
	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata	T
BURLESON	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis	E
	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii	E
BURNET	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
CALDWELL	BIRDS	CRANE, WHOOPING	Grus americana	E
	FISHES	DARTER, FOUNTAIN	Etheostoma fonticola	E
CALHOUN	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
CAMERON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
		PYGMY-OWL, CACTUS FERRUGINOUS	Glaucidiumbrasilianum cactorum	E
	FISHES	MINNOW, RIO GRANDE SILVERY	Hybognathus amarus	E
	MAMMALS	JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
CASS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
CHAMBERS	BIRDS	CURLEW, ESKIMO	Numenius borealis	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
CHEROKEE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
CHILDRESS	BIRDS	CRANE, WHOOPING	Grus americana	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
CLAY	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
COKE	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
	PLANTS	POPPY-MALLOW, TEXAS	Callirhoe scabriuscula	E
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata	T
COLEMAN	BIRDS	CRANE, WHOOPING	Grus americana	E
	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata	T
COLLINGSWORTH	BIRDS	CRANE, WHOOPING	Grus americana	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
COLORADO	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis	E
	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PRAIRIE-CHICKEN, ATTWATER'S GREATER.	Tympanuchus cupido attwateri	E
COMAL	AMPHIBIANS	SALAMANDER, SAN MARCOS	Eurycea nana	T
	BIRDS	WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
	CRUSTACEAN	AMPHIPOD, PECK'S CAVE	Stygobromus pecki	E
	FISHES	DARTER, FOUNTAIN	Etheostoma fonticola	E
	INSECTS	BEETLE, COMAL SPRINGS DRYOPID	Stygoparnus comalensis	E
		BEETLE, COMAL SPRINGS RIFFLE	Heterelmis comalensis	E
	REPTILES	TURTLE, CAGLE'S MAP	Graptemys caglei	T
COMANCHE	BIRDS	CRANE, WHOOPING	Grus americana	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
CONCHO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata	T
COOKE	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
CORYELL	BIRDS	CRANE, WHOOPING	Grus americana	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
CROCKETT	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
CULBERSON	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	PUPFISH, PECOS	Cyprinodon pecosensis	E
	PLANTS	CACTUS, LLOYD'S HEDGEHOG	Echinocereus lloydii	E
		CACTUS, SNEED PINCUSHION	Coryphantha sneedii var. sneedii	E
DALLAS	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
DE WITT	BIRDS	CRANE, WHOOPING	Grus americana	E
	REPTILES	TURTLE, CAGLE'S MAP	Graptemys caglei	T
DIMMIT	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
	MAMMALS	OCELOT	Felis pardalis	E
DUVAL	MAMMALS	OCELOT	Felis pardalis	E
ECTOR	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
EDWARDS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
	PLANTS	CACTUS, TOBUSCH FISHHOOK	Ancistrocactus tobuschii (=Echinocactus t., Mammila.	E
		SNOWBELLS, TEXAS	Styrax texana	E
EL PASO	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
	PLANTS	CACTUS, SNEED PINCUSHION	Coryphantha sneedii var. sneedii	E
ELLIS	BIRDS	CRANE, WHOOPING	Grus americana	E
ERATH	BIRDS	CRANE, WHOOPING	Grus americana	E
		VIREO, BLACKCAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
FALLS	BIRDS	CRANE, WHOOPING	Grus americana	E
FANNIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
FAYETTE	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
FORT BEND	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis	E
	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	PLANTS	DAWN-FLOWER, TEXAS PRAIRIE (=TEXAS BITTERWEED).	Hymenoxys texana	E
		FLOWER, TEXAS PRAIRIE DAWN	Hymenoxys texana	E
FREESTONE	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis	E
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii	E
		SAND-VERBENA, LARGE-FRUITED	Abronia macrocarpa	E
FRIO	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
GALVESTON	BIRDS	CURLEW, ESKIMO	Numenius borealis	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
		PRAIRIE-CHICKEN, ATTWATER'S GREATER.	Tympanuchus cupido attwateri	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
GILLESPIE	BIRDS	CRANE, WHOOPING	Grus americana	E
GOLIAD	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PRAIRIE-CHICKEN, ATTWATER'S GREATER.	Tympanuchus cupido attwateri	E
GONZALES	BIRDS	CRANE, WHOOPING	Grus americana	E
	REPTILES	TURTLE, CAGLE'S MAP	Graptemys caglei	T
GRAYSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		PLOVER, PIPING	Charadrius melodus	E, T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
GREGG	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
GRIMES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	PLANTS	LADIES-TRESSES, NAVASOTA	Spiranthes parksii	E
GUADALUPE	BIRDS	CRANE, WHOOPING	Grus americana	E
	REPTILES	TURTLE, CAGLE'S MAP	Graptemys caglei	T
HALL	BIRDS	TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
HAMILTON	BIRDS	CRANE, WHOOPING	Grus americana	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
HARDEMAN	BIRDS	CRANE, WHOOPING	Grus americana	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
HARDIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	PLANTS	PHLOX, TEXAS TRAILING	Phlox nivalis ssp. texensis	E
HARRIS	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
	PLANTS	DAWN-FLOWER, TEXAS PRAIRIE (=TEXAS BITTERWEED).	Hymenoxys texana	E
		FLOWER, TEXAS PRAIRIE DAWN	Hymenoxys texana	E
HARRISON	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis	E
	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
	PLANTS	DAWN-FLOWER, TEXAS PRAIRIE (=TEXAS BITTERWEED).	Hymenoxys texana	E
		FLOWER, TEXAS PRAIRIE DAWN	Hymenoxys texana	E
HASKELL	BIRDS	CRANE, WHOOPING	Grus americana	E
HAYS	AMPHIBIANS	SALAMANDER, SAN MARCOS	Eurycea nana	T
		SALAMANDER, TEXAS BLIND	Typhlomolge rathbuni	E
	BIRDS	CRANE, WHOOPING	Grus americana	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
	CRUSTACEAN	AMPHIPOD, PECK'S CAVE	Stygobromus pecki	E
	FISHES	DARTER, FOUNTAIN	Etheostoma fonticola	E
		GAMBUSIA, SAN MARCOS	Gambusia georgei	E
	INSECTS	BEETLE, COMAL SPRINGS DRYOPID	Stygoparnus comalensis	E
		BEETLE, COMAL SPRINGS RIFFLE	Heterelmis comalensis	E
	PLANTS	WILD-RICE, TEXAS	Zizania texana	E
HEMPHILL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
HENDERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
HIDALGO	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		PYGMY-OWL, CACTUS FERRUGINOUS	Glaucidiumbrasilianum cactorum	E
	MAMMALS	JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
	PLANTS	AYENIA, TEXAS	Ayenia limitaris	E
		MANIOC, WALKER'S	Manihot walkerae	E
HILL	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
HOOD	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
HOUSTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
HUDSPETH	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
	PLANTS	CACTUS, LLOYD'S HEDGEHOG	Echinocereus lloydii	E
		CACTUS, SNEED PINCUSHION	Coryphantha sneedii var. sneedii	E
HUNT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
HUTCHINSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
IRION	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata	T
JACKSON	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PELICAN, BROWN	Pelicanus occidentalis	E
JASPER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
	PLANTS	LADIES-TRESSES, NAVASOTA	Spiranthes parksii	E
JEFF DAVIS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	GAMBUSIA, PECOS	Gambusia nobilis	E
		PUPFISH, COMANCHE SPRINGS	Cyprinodon elegans	E
	PLANTS	PONDWEED, LITTLE AGUJA CREEK	Potamogeton clystocarpus	E
JEFFERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
JIM HOGG	MAMMALS	OCELOT	Felis pardalis	E
JIM WELLS	MAMMALS	JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
	PLANTS	CACTUS, BLACK LACE	Echinocereus reichenbachii var. albertii	E
JOHNSON	BIRDS	CRANE, WHOOPING	Grus americana	E
JONES	BIRDS	CRANE, WHOOPING	Grus americana	E
KARNES	BIRDS	CRANE, WHOOPING	Grus americana	E
KENDALL	REPTILES	TURTLE, CAGLE'S MAP	Graptemys caglei	T
KENEDY	BIRDS	CURLEW, ESKIMO	Numenius borealis	E
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
		PYGMY-OWL, CACTUS FERRUGINOUS	Glaucidiumbrasilianum cactorum	E
	MAMMALS	JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
KERR	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
	PLANTS	CACTUS, TOBUSCH FISHHOOK	Ancistrocactus tobuschii =Echinocactus t., Mammila.	E
	REPTILES	TURTLE, CAGLE'S MAP	Graptemys caglei	T
KIMBLE	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
	PLANTS	CACTUS, TOBUSCH FISHHOOK	Ancistrocactus tobuschii =Echinocactus t., Mammila.	E
		SNOWBELLS, TEXAS	Styrax texana	E
KING	BIRDS	CRANE, WHOOPING	Grus americana	E
KINNEY	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
	FISHES	MINNOW, DEVILS RIVER	Dionda diaboli	E
	PLANTS	CACTUS, TOBUSCH FISHHOOK	Ancistrocactus tobuschii =Echinocactus t., Mammila.	E
KLEBERG	BIRDS	CURLEW, ESKIMO	Numenius borealis	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	MAMMALS	JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
	PLANTS	AMBROSIA, SOUTH TEXAS	Ambrosia cheiranthifolia	E
		AYENIA, TEXAS	Ayenia limitaris	E
		CACTUS, BLACK LACE	Echinocereus reichenbachii var. albertii	E
		RUSH-PEA, SLENDER	Hoffmannseggia tenella	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
KNOX	BIRDS	CRANE, WHOOPING	Grus americana	E
LAMAR	BIRDS	CRANE, WHOOPING	Grus americana	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
LAMPASAS	BIRDS	CRANE, WHOOPING	Grus americana	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata	T
LAVACA	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis	E
	BIRDS	CRANE, WHOOPING	Grus americana	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
LEE	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis	E
	BIRDS	CRANE, WHOOPING	Grus americana	E
LEON	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis	E
	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii	E
		SAND-VERBENA, LARGE-FRUITED	Abronia macrocarpa	E
LIBERTY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
LIMESTONE	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
LIPSCOMB	BIRDS	CRANE, WHOOPING	Grus americana	E
LIVE OAK	MAMMALS	JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
	PLANTS	SPIDERLING, MATHIS	Boerhavia mathisiana	E
LLANO	BIRDS	CRANE, WHOOPING	Grus americana	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
LOVING	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
MADISON	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii	E
MARION	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
MASON	BIRDS	CRANE, WHOOPING	Grus americana	E
MATAGORDA	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
MAVERICK	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
	MAMMALS	OCELOT	Felis pardalis	E
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata	T
MC LENNAN	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
MC MULLEN	MAMMALS	OCELOT	Felis pardalis	E
MEDINA	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
MENARD	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
MENARD	FISHES	GAMBUSIA, CLEAR CREEK	Gambusia heterochir	E
MIDLAND	BIRDS	CRANE, WHOOPING	Grus americana	E
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
MILAM	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis	E
MILLS	BIRDS	CRANE, WHOOPING	Grus americana	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata	T
MITCHELL	PLANTS	POPPY-MALLOW, TEXAS	Callirhoe scabriuscula	E
MONTAGUE	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
MONTGOMERY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
MOORE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
MORRIS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
NACOGDOCHES	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
NEWTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
NUECES	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	MAMMALS	JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
	PLANTS	AMBROSIA, SOUTH TEXAS	Ambrosia cheiranthifolia	E
		AYENIA, TEXAS	Ayenia limitaris	E
		RUSH-PEA, SLENDER	Hoffmannseggia tenella	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
OCHILTREE	BIRDS	CRANE, WHOOPING	Grus americana	E
ORANGE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
PALO PINTO	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
PANOLA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
PARKER	BIRDS	CRANE, WHOOPING	Grus americana	E
PECOS	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
	FISHES	GAMBUSIA, PECOS	Gambusia nobilis	E
		PUPFISH, LEON SPRINGS	Cyprinodon bovinus	E
	PLANTS	CACTUS, LLOYD'S HEDGEHOG	Echinocereus lloydii	E
		SUNFLOWER, PECOS	Helianthus, paradoxus	T
POLK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	PLANTS	PHLOX, TEXAS TRAILING	Phlox nivalis ssp. Texensis	E
POTTER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
PRESIDIO	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
	PLANTS	CACTUS, LLOYD'S HEDGEHOG	Echinocereus lloydii	E
		CACTUS, LLOYD'S MARIPOSA	Neolloydia mariposensis	T
		OAK, HINCKLEY	Quercus hinckleyi	T
RANDALL	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
REAL	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
	PLANTS	CACTUS, TOBUSCH FISHHOOK	Ancistrocactus tobuschii =Echinocactus t., Mammila.	E
		SNOWBELLS, TEXAS	Styrax texana	E
RED RIVER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
		WOODPECKER, RED-COCKADED	Picoides borealis	E
REEVES	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	GAMBUSIA, PECOS	Gambusia nobilis	E
		PUPFISH, COMANCHE SPRINGS	Cyprinodon elegans	E
		PUPFISH, PECOS	Cyprinodon pecosensis	E
REFUGIO	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
		PRAIRIE-CHICKEN, ATTWATER'S GREATER.	Tympanuchus cupido attwateri	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
	PLANTS	CACTUS, BLACK LACE	Echinocereus reichenbachii var. albertii	E
ROBERTS	BIRDS	TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
ROBERTSON	AMPHIBIANS	TOAD, HOUSTON	Bufo houstonensis	E
	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
		SAND-VERBENA, LARGEFRUITED	Abronia macrocarpa	E
RUNNELS	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
	PLANTS	POPPY-MALLOW, TEXAS	Callirhoe scabriuscula	E
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata	T
RUSK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
SABINE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
SAN AUGUSTINE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	PLANTS	BLADDERPOD, WHITE	Lesquerella pallida	E
SAN JACINTO	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
SAN PATRICIO	BIRDS	CRANE, WHOOPING	Grus americana	E
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
	MAMMALS	JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
	PLANTS	SPIDERLING, MATHIS	Boerhavia mathisiana	E
SAN SABA	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata	T
SHACKELFORD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
SHELBY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
SOMERVELL	BIRDS	CRANE, WHOOPING	Grus americana	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
STARR	BIRDS	PYGMYOWL, CACTUS FERRUGINOUS	Glaucidiumbrasilianum cactorum	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	MAMMALS	JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
	PLANTS	BLADDERPOD, ZAPATA	Lesquerella thamnophila	E
		CACTUS, STAR	Astrophytum asterias (=echinocactus asterias).	E
		DOGWEED, ASHY	Dyssodia tephroleuca	E
		FRANKENIA, JOHNSTON'S	Frankenia johnstonii	E
		MANIOC, WALKER'S	Manihot walkerae	E
STEPHENS	BIRDS	WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
		CRANE, WHOOPING	Grus americana	E
TARRANT	BIRDS	PLOVER, PIPING	Charadrius melodus	E, T
TAYLOR	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
TERRELL	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
	PLANTS	CACTUS, BUNCHED CORY	Coryphantha ramillosa	T
THROCKMORTON	BIRDS	CRANE, WHOOPING	Grus americana	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
TOM GREEN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
	REPTILES	SNAKE, CONCHO WATER	Nerodia harteri paucimaculata	T
TRAVIS	AMPHIBIANS	SALAMANDER, BARTON SPRINGS	Eurycea sosorum	E
	ARACHNIDS	HARVESTMAN, BEE CREEK CAVE	Texella reddelli	E
		HARVESTMAN, BONE CAVE	Texella reyesi	E
		PSEUDOSCORPION, TOOTH CAVE	Microcreagris texana	E
		SPIDER, TOOTH CAVE	Leptoneta myopica	E
	BIRDS	CRANE, WHOOPING	Grus americana	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
	INSECTS	BEETLE, COFFIN CAVE MOLD	Bastrisodes texanus	E
		BEETLE, KRETSCHMARR CAVE MOLD	Texamaurops reddelli	E
		BEETLE, TOOTH CAVE GROUND	Rhadine persephone	E
TRINITY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
TYLER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
	PLANTS	PHLOX, TEXAS TRAILING	Phlox nivalis ssp. Texensis	E
UPSHUR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
UVALDE	BIRDS	VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
	PLANTS	CACTUS, BLACK LACE	Echinocereus reichenbachii var. albertii	E
		CACTUS, TOBUSCH FISHHOOK	Ancistrocactus tobuschii (=Echinocactus t., Mammila.	E
		SNOWBELLS, TEXAS	Styrax texana	E
VAL VERDE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
	FISHES	MINNOW, DEVILS RIVER	Dionda diaboli	E
	PLANTS	CACTUS, TOBUSCH FISHHOOK	Ancistrocactus tobuschii (=Echinocactus t., Mammila.	E
		SNOWBELLS, TEXAS	Styrax texana	E
VICTORIA	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PELICAN, BROWN	Pelicanus occidentalis	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
	REPTILES	TURTLE, CAGLE'S MAP	Graptemys caglei	T
WALKER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		WOODPECKER, RED-COCKADED	Picoides borealis	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
WARD	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
WASHINGTON	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
		PRAIRIE-CHICKEN, ATTWATER'S GREATER.	Tympanuchus cupido attwateri	E
	MAMMALS	BEAR, LOUISIANA BLACK	Ursus americanus luteolus	T
	PLANTS	LADIES'-TRESSES, NAVASOTA	Spiranthes parksii	E
WEBB	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
	MAMMALS	OCELOT	Felis pardalis	E
	PLANTS	DOGWEED, ASHY	Dyssodia tephroleuca	E
WHARTON	BIRDS	CRANE, WHOOPING	Grus americana	E
		EAGLE, BALD	Haliaeetus leucocephalus	T
WHEELER	BIRDS	CRANE, WHOOPING	Grus americana	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
WICHITA	BIRDS	CRANE, WHOOPING	Grus americana	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
WILBARGER	BIRDS	CRANE, WHOOPING	Grus americana	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E
WILLACY	BIRDS	CURLEW, ESKIMO	Numenius borealis	E
		FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		FALCON, PEREGRINE	Falco peregrinus	E
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, PIPING	Charadrius melodus	E, T
		PYGMY-OWL, CACTUS FERRUGINOUS	Glaucidiumbrasilianum cactorum	E
	MAMMALS	JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
	REPTILES	TURTLE, GREEN SEA	Chelonia mydas	E, T
		TURTLE, HAWKSBILL SEA	Eretmochelys imbricata	E
		TURTLE, KEMP'S (ATLANTIC) RIDLEY SEA.	Lepidochelys kempii	E
		TURTLE, LEATHERBACK SEA	Dermochelys coriacea	E
		TURTLE, LOGGERHEAD SEA	Caretta caretta	T
WILLIAMSON	ARACHNIDS	HARVESTMAN, BEE CREEK CAVE	Texella reddelli	E
		HARVESTMAN, BONE CAVE	Texella reyesi	E
		PSEUDOSCORPION, TOOTH CAVE	Microcreagris texana	E
		SPIDER, TOOTH CAVE	Leptoneta myopica	E
	BIRDS	CRANE, WHOOPING	Grus americana	E
		VIREO, BLACK-CAPPED	Vireo atricapillus	E
		WARBLER (WOOD), GOLDEN-CHEEKED.	Dendroica chrysoparia	E
	INSECTS	BEETLE, COFFIN CAVE MOLD	Bastrisodes texanus	E
		BEETLE, KRETSCHMARR CAVE MOLD	Texamaurops reddelli	E
		BEETLE, TOOTH CAVE GROUND	Rhadine persephone	E
WILSON	BIRDS	CRANE, WHOOPING	Grus americana	E
WINKLER	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
WISE	BIRDS	CRANE, WHOOPING	Grus americana	E
YOUNG	BIRDS	CRANE, WHOOPING	Grus americana	E
ZAPATA	BIRDS	FALCON, NORTHERN APLOMADO	Falco femoralis septentrionalis	E
		TERN, INTERIOR (POPULATION) LEAST.	Sterna antillarum	E

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	MAMMALS	JAGUARUNDI	Felis yagouaroundi tolteca	E
		OCELOT	Felis pardalis	E
	PLANTS	BLADDERPOD, ZAPATA	Lesquerella thamnophila	E
		DOGWEED, ASHY	Dyssodia tephroleuca	E
		FRANKENIA, JOHNSTON'S	Frankenia johnstonii	E
UTAH				
BEAVER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	PRAIRIE DOG, UTAH	Cynomys parvidens	T
BOX ELDER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	TROUT, LAHONTAN CUTTHROAT	Salmo clarki henshawi	T
CACHE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	PLANTS	PRIMROSE, MAGUIRE	Primula maguirei	T
CARBON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		CHUB, HUMPBACK	Gila cypha	E
		SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	PLANTS	CACTUS, UINTA BASIN HOOKLESS	Sclerocactus glaucus (=Echinocactus g., s. whipplei).	T
DAGGETT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	T
DAVIS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
DUCHESNE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	CACTUS, UINTA BASIN HOOKLESS	Sclerocactus glaucus (=Echinocactus g., s. whipplei).	T
		CRESS, TOAD-FLAX	Glaucocarpum suffrutescens	E
		CRESS, TOAD-FLAX	Glaucocarpum suffrutescens	E
		LADIES'-TRESSES, UTE	Spiranthes diluvialis	T
		REED-MUSTARD, SHRUBBY	Schoenocrambe suffrutescens	E
		RIDGE-CRESS (=PEPPER-CRESS), BARNEBY.	Lepidium barnebyanum	E
EMERY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		CHUB, HUMPBACK	Gila cypha	E
		SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	CACTUS, SAN RAFAEL	Pediocactus despainii	E
		CACTUS, WRIGHT FISHHOOK	Sclerocactus wrightiae (=Pediocactus w.)	E
		CYCLADENIA, JONES	Cycladenia humilis var. jonesii	T
		DAISY, MAGUIRE	Erigeron maguirei var. maguirei	T
		REED-MUSTARD, BARNEBY	Schoenocrambe barnebyl	E
		TOWNSENDIA, LAST CHANCE	Townsendia aprica	T
GARFIELD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		CHUB, HUMPBACK	Gila cypha	E
		SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
		PRAIRIE DOG, UTAH	Cynomys parvidens	T
	PLANTS	BUTTERCUP, AUTUMN	Ranunculus acriformis var. aestivalis	E
		CYCLADENIA, JONES	Cycladenia humilis var. jonesii	T
		LADIES'-TRESSES, UTE	Spiranthes diluvialis	T
GRAND	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		CHUB, HUMPBACK	Gila cypha	E
		SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	CYCLADENIA, JONES	Cycladenia humilis var. jonesii	T
IRON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	MAMMALS	PRAIRIE DOG, UTAH	Cynomys parvidens	T
	REPTILES	TORTOISE, DESERT	Gopherus (=Xerobates, =Scaptochelys) agassizii.	T

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JUAB	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	CHUB, LEAST	Lotichthys phlegethontis	E
KANE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	PLANTS	BLADDERPOD, KODACHROME	Lesquerella tumulosa	E
		CACTUS, SILER PINCUSHION	Pediocactus sileri	T
		CYCLADENIA, JONES	Cycladenia humilis var. jonesii	T
		MILKWEED, WELSH'S	Asclepias welshii	T
		PEPPER-GRASS, KODACHROME	Lepidium montanum var. stellae	E
	SNAILS	AMBERSNAIL, KANAB	Oxyloma haydeni kanabensis	E
MILLARD	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
MORGAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
PIUTE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	PRAIRIE DOG, UTAH	Cynomys parvidens	T
RICH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
SALT LAKE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	T
SAN JUAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		CHUB, HUMPBACK	Gila cypha	E
		SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	CACTUS, SPINELESS HEDGEHOG	Echinocereus triglochidiatus var. inermis	E
		SEDGE, NAVAJO	Carex specuicola	T
SANPETE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	PLANTS	MILK-VETCH, HELIOTROPE	Astragalus limnocharis var. montii	E
SEVIER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	PRAIRIE DOG, UTAH	Cynomys parvidens	T
	PLANTS	CACTUS, WRIGHT FISHHOOK	Sclerocactus wrightiae (=Pediocactus w.)	E
		MILK-VETCH, HELIOTROPE	Astragalus limnocharis var. montii	E
		TOWNSENDIA, LAST CHANCE	Townsendia aprica	T
SUMMIT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
TOOELE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	T
UINTAH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		CHUB, HUMPBACK	Gila cypha	E
		SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	MAMMALS	FERRET, BLACK-FOOTED	Mustela nigripes	E
	PLANTS	CACTUS, UINTA BASIN HOOKLESS	Sclerocactus glaucus (=Echinocactus g., s. whipplei).	T
		CRESS, TOAD-FLAX	Glaucocarpum suffrutescens	E
		LADIES'-TRESSES, UTE	Spiranthes diluvialis	T
		REED-MUSTARD, CLAY	Schoenocrambe argillacea	E
		REED-MUSTARD, SHRUBBY	Schoenocrambe suffrutescens	E
UTAH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SUCKER, JUNE	Chasmistes liorus	E
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	T
		MILK, VETCH, DESERET	Astragalus desereticus	T
		PHACELIA, CLAY	Phacelia argillacea	E
WASATCH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
WASHINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	CHUB, VIRGIN RIVER	Gila robusta seminuda	E
		WOUNDFIN	Plagopterus argentissimus	E
	MAMMALS	PRAIRIE DOG, UTAH	Cynomys parvidens	T
	PLANTS	BEAR-POPPY, DWARF	Arctomecon humilis	E
		CACTUS, PURPLE-SPINED HEDGE-HOG.	Echinocereus engelmannii var. Purpureus	E
		CACTUS, SILER PINCUSHION	Pediocactus sileri	T
	REPTILES	TORTOISE, DESERT	Gopherus (=Xerobates, =Scaptochelys) agassizii.	T
WAYNE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E

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		OWL, MEXICAN SPOTTED	Strix occidentalis lucida	T
	FISHES	CHUB, BONYTAIL	Gila elegans	E
		CHUB, HUMPBACK	Gila cypha	E
		SQUAWFISH, COLORADO	Ptychocheilus lucius	E
		SUCKER, RAZORBACK	Xyrauchen texanus	E
	MAMMALS	PRAIRIE DOG, UTAH	Cynomys parvidens	T
	PLANTS	CACTUS, WRIGHT FISHHOOK	Sclerocactus wrightiae (=Pediocactus w.)	E
		DAISY, MAGUIRE	Erigeron maguirei var. maguirei	T
		LADIES'-TRESSES, UTE	Spiranthes diluvialis	T
		REED-MUSTARD, BARNEBY	Schoenocrambe barnebyl	E
		TOWNSENDIA, LAST CHANCE	Townsendia aprica	T
WEBER	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	PLANTS	LADIES'-TRESSES, UTE	Spiranthes diluvialis	T
VERMONT				
ADDISON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
BENNINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
CALEDONIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
CHITTENDEN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
ESSEX	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
FRANKLIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
GRAND ISLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
LAMOILLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
ORANGE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
ORLEANS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
RUTLAND	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
WASHINGTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
WINDHAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	BULRUSH, NORTHEASTERN (=BARBED BRISTLE).	Scirpus ancistrochaetus	E
WINDSOR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	CLAMS	MUSSEL, DWARF WEDGE	Alasmidonta heterodon	E
	MAMMALS	BAT, INDIANA	Myotis sodalis	E
	PLANTS	MILK-VETCH, JESUP'S	Astragalus robbinsii var. jesupi	E
WASHINGTON				
ADAMS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISH	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
ASOTIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		STEELHEAD, SNAKE RIVER BASIN POPULATION.	Oncorhynchus mykiss, (Snake River Basin ESU).	T
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
BENTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		STEELHEAD, UPPER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Upper Columbia ESU).	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T

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State/County	Group name	Inverse name	Scientific name	Status
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
CHELAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		STEELHEAD, UPPER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Upper Columbia ESU).	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		STEELHEAD, UPPER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Upper Columbia ESU).	E
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
	PLANTS	CHECKER-MALLOW, WENATCHEE MOUNTAINS.	Sidalcea oregona ssp. calva	E
CLALLAM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
	FISHES	SALMON, CHINOOK (PUGET SOUND RUN).	Oncorhynchus tshawytscha	T
		SALMON, SOCKEYE (OZETTE LAKE, WASHINGTON RUN).	Oncorhyncus nerka	T
		TROUT, BULL (COASTAL/PUGET SOUND ESU).	Salvelinus confluentus	T
CLARK	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	BIRDS	FALCON, PEREGRINE	Falco peregrinus	E
	BIRDS	OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		STEELHEAD, LOWER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Lower Columbia ESU).	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (LOWER COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	MAMMALS	WOLF, GRAY	Canis lupus	E, T
	PLANTS	HOWELLIA, WATER	Howellia aquatilis	T
COLUMBIA	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
COWLITZ	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (LOWER COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	MAMMALS	WOLF, GRAY	Canis lupus	E, T
	PLANTS	CHECKER-MALLOW, NELSON'S	Sidalcea nelsoniana	T
DOUGLAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
	FISHES	FALCON, PEREGRINE	Falco peregrinus	E
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		STEELHEAD, UPPER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Upper Columbia ESU).	E
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
FERRY	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	STEELHEAD, UPPER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Upper Columbia ESU).	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
FRANKLIN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
	FISHES	SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
GARFIELD	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
GRANT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		STEELHEAD, UPPER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Upper Columbia ESU).	E
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
GRAYS HARBOR	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	SALMON, CHINOOK (PUGET SOUND RUN).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COASTAL/PUGET SOUND ESU).	Salvelinus confluentus	T
ISLAND	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	PLANTS	PAINTBRUSH, GOLDEN	Castilleja levisecta	T
JEFFERSON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
	FISHES	SALMON, CHINOOK (PUGET SOUND RUN).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COASTAL/PUGET SOUND ESU).	Salvelinus confluentus	T
KING	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (PUGET SOUND RUN).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COASTAL/ PUGET SOUND ESU)	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
KITSAP	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
	FISHES	SALMON, CHINOOK (PUGET SOUND RUN).	Oncorhynchus tshawytscha	T
KITTITAS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		STEELHEAD, UPPER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Upper Columbia ESU).	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
KLICKITAT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER FALL RUN)	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER)	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
	MAMMALS	WOLF, GRAY	Canis lupus	E, T
LEWIS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (PUGET SOUND RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, LOWER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Lower Columbia ESU).	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (LOWER COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
	PLANTS	LUPINE, KINCAID'S	Lupinus sulphureus ssp. Kincaidii	T
LINCOLN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		STEELHEAD, UPPER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Upper Columbia ESU).	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
MASON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (PUGET SOUND RUN).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COASTAL/PUGET SOUND ESU).	Salvelinus confluentus	T
	PLANTS	HOWELLIA, WATER	Howellia aquatilis	T
NEZ PERCE	FISHES	STEELHEAD, SNAKE RIVER BASIN POPULATION.	Oncorhynchus mykiss, (Snake River Basin ESU).	T
OKANOGAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T

II. COUNTY/SPECIES LIST—Continued

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State/County	Group name	Inverse name	Scientific name	Status
	FISHES	SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		STEELHEAD, UPPER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Upper Columbia ESU).	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
PACIFIC	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		GOOSE, ALEUTIAN CANADA	Branta canadensis leucopareia	T
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
		PLOVER, WESTERN SNOWY	Charadrius alexandrinus nivosus	T
	FISHES	SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, STEELHEAD (LOWER COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	INSECTS	BUTTERFLY, OREGON SILVERSPOT	Speyeria zerene hippolyta	T
	MAMMALS	DEER, COLUMBIAN WHITETAILED	Odocoileus virginianus leucurus	E
PEND OREILLE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	STEELHEAD, UPPER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Upper Columbia ESU).	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		CARIBOU, WOODLAND	Rangifer tarandus caribou	E
		WOLF, GRAY	Canis lupus	E, T
PIERCE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (PUGET SOUND RUN).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COASTAL/PUGET SOUND ESU).	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
SAN JUAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (PUGET SOUND RUN).	Oncorhynchus tshawytscha	T
	PLANTS	PAINTBRUSH, GOLDEN	Castilleja levisecta	T
SKAGIT	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (PUGET SOUND RUN).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COASTAL/PUGET SOUND ESU).	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
SKAMANIA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		STEELHEAD, LOWER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Lower Columbia ESU).	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (LOWER COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
	MAMMALS	WOLF, GRAY	Canis lupus	E, T
SNOHOMISH	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (PUGET SOUND RUN).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COASTAL/PUGET SOUND ESU).	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
SPOKANE	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	PLANTS	HOWELLIA, WATER	Howellia aquatilis	T
STEVENS	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	STEELHEAD, UPPER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Upper Columbia ESU).	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
THURSTON	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (PUGET SOUND RUN).	Oncorhynchus tshawytscha	T
		TROUT, BULL (COASTAL/PUGET SOUND ESU).	Salvelinus confluentus	T
	PLANTS	HOWELLIA, WATER	Howellia aquatilis	T
		PAINTBRUSH, GOLDEN	Castilleja levisecta	T
WAHKIAKUM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
		PELICAN, BROWN	Pelicanus occidentalis	E
	FISHES	SALMON, CHINOOK (LOWER COLUMBIA RIVER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E
		SALMON, CHINOOK (UPPER WILLAMETTE RIVER RUN).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, STEELHEAD (LOWER COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
		TROUT, STEELHEAD (UPPER WILLAMETE RIVER RUN).	Oncorhyncus mykiss	T
	MAMMALS	DEER, COLUMBIAN WHITE-TAILED	Odocoileus virginianus leucurus	E
WALLA WALLA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		SALMON, CHINOOK (UPPER COLUMBIA RIVER SPRING RUN).	Oncorhynchus tshawytscha	E

II. COUNTY/SPECIES LIST—Continued

[The following list identifies federally listed or proposed U.S. species by State and County. It has been updated through July 8, 1998. Species listed below with a status of both E and T are generally either endangered or threatened within the specified county.]

State/County	Group name	Inverse name	Scientific name	Status
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
WHATCOM	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		MURRELET, MARBLED	Brachyramphus marmoratus	T
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	SALMON, CHINOOK (PUGET SOUND RUN).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, BULL (COASTAL/PUGET SOUND ESU).	Salvelinus confluentus	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T
WHITMAN	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
	FISHES	SALMON, CHINOOK (SNAKE RIVER FALL RUN).	Oncorhynchus tshawytscha	T
		SALMON, CHINOOK (SNAKE RIVER SPRING/SUMMER).	Oncorhynchus tshawytscha	T
		SALMON, SNAKE RIVER SOCKEYE	Oncorhynchus nerka	E
		TROUT, BULL (COLUMBIA RIVER ESU)	Salvelinus confluentus	T
YAKIMA	BIRDS	EAGLE, BALD	Haliaeetus leucocephalus	T
		FALCON, PEREGRINE	Falco peregrinus	E
		OWL, NORTHERN SPOTTED	Strix occidentalis caurina	T
	FISHES	STEELHEAD, UPPER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Upper Columbia ESU).	E
		STEELHEAD, UPPER COLUMBIA RIVER POPULATION.	Oncorhynchus mykiss, (Upper Columbia ESU).	E
		TROUT, BULL (COLUMBIA RIVER POPULATION).	Salvelinus confluentus	T
		TROUT, STEELHEAD (MIDDLE COLUMBIA RIVER RUN).	Oncorhyncus mykiss	T
	MAMMALS	BEAR, GRIZZLY	Ursus arctos (=U.a. horribilis)	T
		WOLF, GRAY	Canis lupus	E, T

Note: Species listed above with a status of both E and T are generally either endangered or threatened within the specified county. The assignment of two status designations for a species in a specific county is a function of the data set used to develop this list. For purposes of this permit, however, the obligation to assess the impact of storm water discharges on listed species does not vary based on which of the two statuses (e.g., endangered threatened) is assigned (see Addendum A Instructions).

Key: E—Endangered, T—Threatened

IX. Addition of Addendum I—Historic Properties Guidance

Addendum I is added to provide guidance to help applicants determine their permit eligibility regarding the protection of historic properties or places under Part I.B.6 of this permit.

Addendum I—Historic Properties Guidance

This addendum provides guidance to help applicants determine their permit eligibility regarding the protection of historic properties or places under Part I.B.6 of this permit. In order to do this, applicants must determine whether their facility's industrial storm water discharge, or construction of best management practices (BMPs) to control such discharge, has potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places.

For existing dischargers who do not need to construct BMPs for permit coverage, a simple visual inspection may be sufficient to determine whether historic properties are affected. However, for facilities which are new industrial storm water dischargers and for existing facilities which are planning to construct BMPs for permit eligibility, applicants should conduct further inquiry to determine whether historic properties may be affected by the storm water discharge or BMPs to control the discharge. In such instances, applicants should first determine whether there are any historic properties or places listed on the National Register or if any are eligible for listing on the register (e.g., they are ''eligible for listing''). Due to the large number of entities seeking coverage under this permit and the limited number of personnel available to State and Tribal Historic Preservation Officers nationwide to respond to inquiries concerning the location of historic properties, EPA suggests that applicants to first access the ''National Register of Historic Places'' information listed on the National Park Service's web page (see Part I of this addendum). Addresses for State Historic Preservation Officers and Tribal Historic Preservation Officers are listed in Parts II and III of this addendum, respectively. In instances where a Tribe does not have a Tribal Historic Preservation Officer, applicants should contact the appropriate Tribal government office when responding to this permit eligibility condition. Applicants may also contact city, county or other local historical societies for assistance, especially when determining if a place or property is eligible for listing on the register.

The following three scenarios describe how applicants can meet the permit eligibility criteria for protection of historic properties under this permit:

(1) If historic properties *are not* identified in the path of a facility's industrial storm water discharge or where construction activities are planned to install BMPs to control such discharges (e.g., diversion channels or retention ponds), then the applicant has met the permit eligibility criteria under Part I.B.6.

(2) If historic properties *are* identified but it is determined that they will not be affected by the discharge or

construction of BMPs to control the discharge, the applicant has met the permit eligibility criteria under Part I.B.6(i).

(3) If historic properties *are* identified in the path of a facility's industrial storm water discharge or where construction activities are planned to install BMPs to control such discharges, and it is determined that there is the potential to *adversely affect* the property, the applicant can still meet the permit eligibility criteria under Part I.B.6(ii) if he/she obtains and complies with a written agreement with the appropriate State or Tribal Historic Preservation Officer which outlines measures the applicant will follow to mitigate or prevent those adverse effects. The contents of such a written agreement must be included in the facility's storm water pollution prevention plan. In situations where an agreement cannot be reached between an applicant and the State or Tribal Historic Preservation Officer, applicants should contact the Advisory Council on Historic Preservation listed in Part IV of this addendum for assistance. The term ''adverse effects'' includes but is not limited to damage, deterioration, alteration or destruction of the historic property or place. EPA encourages applicants to contact the appropriate State or Tribal Historic Preservation Officer as soon as possible in the event of a potential adverse effect to a historic property.

Applicants are reminded that they must comply with applicable State, Tribal and local laws concerning the protection of historic properties and places.

I. Internet Information on the National Register of Historic Places

An electronic listing of the ''National Register of Historic Places,'' as maintained by the National Park Service on its National Register Information System (NRIS), can be accessed on the Internet at ''http://www.nr.nps.gov/nrishome.htm''. Remember to use small case letters when accessing Internet addresses.

II. State Historic Preservation Officers (SHPO)

Alaska

Judith Bittner, SHPO, Division of Parks, Office of History and Archeology, 3601 C St., Suite 1278, Anchorage, AK 99503–5921, Telephone: (907) 269–8721 Fax: (907) 269–8908. E-mail: judyb@dnr.state.ak.us
Robert Shaw, deputy SHPO
Joan Antonson, deputy SHPO

Arizona

James W. Garrison, SHPO, Arizona State Parks, 1300 West Washington, Phoenix, AZ 85007, Telephone: (602) 542–4174 Fax: (602) 542–4180.
E-mail: jgarrison@pr.state.az.us
Carol Griffith, deputy SHPO
E-mail: cgriffith@pr.state.az.us

California

Cherilyn Widell, SHPO, Office of Historic Preservation, Department of Parks and Recreation, P.O. Box 942896, Sacramento, CA 94296–0001, Telephone: (916) 653–6624 Fax: (916) 653–9824.
E-mail: calshpo@mail2.quiknet.com
Web site: ''http://ceres.ca.gov/dpr/programs/ohp''
Daniel Abeyta, deputy SHPO,
Telephone: (916) 653–6624

Connecticut

John W. Shannahan, SHPO, Connecticut Historical Commission, 9 South Prospect Street, Hartford, CT 06106 , Telephone: (203) 566–3005 Fax: (203) 566–5078
E-mail: cthist@neca.com
Dawn Maddox, deputy SHPO, supervisor, Preservation Programs

Delaware

Daniel Griffith, SHPO, Division of Historical and Cultural Affairs, P.O. Box 1401, Dover, DE 19903, Telephone: (302) 739–5313 Fax: (302) 739–6711
Joan Larrivee, deputy SHPO, Delaware State Historic Preservation Office, 15 The Green, Dover, DE 19901, Telephone: (302) 739–5685 Fax: (302) 739–5660

District of Columbia

Hampton Cross, HPO, director, DCRD/OD, Suite 1120, 614 H Street, NW, Washington, DC 20001, Telephone: (202) 727–7120
Stephen J. Raiche, division chief, Historic Preservation Division, 614 H Street, NW, Suite 305, Washington, DC 20001, Telephone: (202) 727–7360 Fax: (202) 727–7211

Florida

George W. Percy, SHPO, director, Division of Historical Resources, Department of State, R.A. Gray Building, 500 S. Bronough Street, Tallahassee, FL 32399–0250, Telephone: (904) 488–1480 Fax: (904) 488–3353
E-mail: flshpo@gteens.com
Judee Pettijohn, deputy SHPO, Telephone: (904) 487–2333 Fax: (904) 922–0496

Guam

Richard D. Davis, HPO, Guam Historic Preservation Office, Department of Parks and Recreation, 490 Chasan Palasyo, Agana Heights, Guam 96919, Telephone: 011 (671) 477–9620/21 Fax: 011 (671) 477–2822
E-mail: davisrd@ns.gu
Web site: ''http://www.gov.gu/dpr/dprhome.html''

Idaho

Robert M. Yohe, II, Interim SHPO, Idaho State Historical Society, 1109 Main Street, Suite 250, Boise, ID 83702–5642 , Telephone: (208) 334–3847 Fax: (208) 334–2775,
E-mail: ryohe@ishs.state.id.us
Suzi Neitzel, Acting Deputy SHPO

Louisiana

Gerri Hobdy, SHPO, Department of Culture, Recreation and Tourism, P.O. Box 44247, Baton Rouge, LA 70804, Telephone: (504) 342–8200 Fax: (504) 342–8173
W. Edwin Martin, Jr., deputy SHPO, Telephone: (504) 342–8200
Jonathan Fricker, deputy SHPO, Telephone: (504) 342–8160
E-mail: hp@crt.state.la.us

Maine

Earle G. Shettleworth, Jr., SHPO, Maine Historic Preservation Commission, 55 Capitol Street, Station 65, Augusta, ME 04333, Telephone: (207) 287–2132 Fax: (207) 287–2335,
E-mail: sheshet@state.me.us
Website: ''http://www.state.me.us/mhpc/homepag1.htm''
Robert L. Bradley, deputy SHPO

Massachusetts

Judith McDonough, SHPO, Massachusetts Historical Commission, 220 Morrissey Boulevard, Boston, MA 02125, Telephone: (617) 727–8470; Fax: (617) 727–5128; TTD: (800) 392–6090,
E-mail: jmcdonough@mhc.sec.state.ma.us
Brona Simon, deputy SHPO, director, Technical Services
E-mail: jmcneil@mecn.mass.edu

Nevada

Ronald James, SHPO, Historic Preservation Office,101 S. Stewart Street, Capitol Complex, Carson City, NV 89710, Telephone: (702) 687–6360
Alice Baldrica, deputy SHPO, Telephone: (702) 687–6361
E-mail: jn@scs.unr.edu

New Hampshire

Nancy Muller, SHPO, NH Division of Historical Resources, P.O. Box 2043, Concord, NH 03302–2043, Telephone:

(603) 271–6435; Fax: (603) 271–3433; TTD: (800) 735–2964
Linda Ray Wilson, deputy SHPO, Telephone: (603) 271–6434/3558
E-mail: lwilson@lilac.nhsl.lib.nh.us

New Mexico

Lynne Sebastian, SHPO, Historic Preservation Division, Office of Cultural Affairs, 228 East Palace Avenue, Santa Fe, NM 87503, Telephone: (505) 827–6320 Fax: (505) 827–6338
E-mail: sebastian@arms.state.nm.us
David Cushman, deputy SHPO
Dorothy Victor, deputy SHPO
E-mail: nmshpo@arms.state.nm.us

New York

Bernadette Castro, SHPO, Parks, Recreation and Historic Preservation, Agency Building #1, Empire State Plaza, Albany, NY 12238, Telephone: (518) 474–0443
J. Winthrop Aldrich, deputy SHPO, Telephone: (518) 474–9113 Fax: (518) 474–4492
Ruth L. Pierpont, acting director, Bureau of Field Services, NY State Parks, Recreation & Historic Preservation, Peebles Island, P.O. Box 189, Waterford, NY 12188–1089, Telephone: (518) 237–8643, x269 Fax: (518) 233–9049
E-mail: rpierpont@aol.com

Oklahoma

J. Blake Wade, SHPO, Oklahoma Historical Society, 2100 N. Lincoln Boulevard, Oklahoma City, OK 73105, Telephone: (405) 521–2491 Fax: (405) 521–2492
Melvena Thurman Heisch, deputy SHPO, State Historic Preservation Office, 2704 Villa Prom, Shepherd Mall, Oklahoma City, OK 73105, Telephone: (405) 521–6249 Fax: (405) 947–2918,
E-mail: mheisch@oklaosf.state.ok.us

Oregon

Bob Meinen, SHPO, State Parks and Recreation Department, 1115 Commercial Street, NE, Salem, OR 97310–1001, Telephone: (503) 378–5019 Fax: (503) 378–6447 James Hamrick, deputy SHPO, Telephone: (503) 378–5001 (x231)
E-mail: james.m.hamrick@state.or.us

Puerto Rico, Commonwealth of

Lilliane D. Lopez, HPO, Office of Historic Preservation, Box 82, La Fortaleza, San Juan, Puerto Rico 00901, Telephone: (809) 721–2676/3737 Fax: (809) 723–0957
Bernice Sueiro Vazquez, deputy SHPO

Rhode Island

Frederick C. Williamson, SHPO, Rhode Island Historical Preservation Commission, Old State House, 150 Benefit Street, Providence, RI 02903, Telephone: (401) 277–2678, Fax: (401) 277–2968
Edward F. Sanderson, deputy SHPO

Texas

Curtis Tunnell, SHPO, Texas Historical Commission, P.O. Box 12276, Austin, TX 78711–2276, Telephone: (512) 463–6100, Fax: (512) 475–4872,
E-mail: ctunnell@access.texas.gov
Web site: ''http://www.thc.state.tx.us''
James Wright Steely, deputy SHPO, director, National Register Program, Telephone: (512) 463–6006, Fax: (512) 475–3122,
E-mail: jsteely@access.texas.gov
Stanley O. Graves, deputy SHPO, director, Architecture Division, Telephone: (512) 463–6094, Fax: (512) 463–6095,
E-mail: sgraves@access.texas.gov
James E. Bruseth, deputy SHPO, director, Antiquities Protection, Telephone: (512) 463–6096, Fax: (512) 463–8927,
E-mail: jbruseth@access.texas.gov

Vermont

Townsend Anderson, SHPO, Vermont Division for Historic Preservation, 135 State Street, Fourth Floor, Drawer 33, Montpelier, VT 05633–1201, Telephone: (802) 828–3056,
E-mail: tanderson@gate.dca.state.vt.us
Eric Gilbertson, deputy SHPO, Telephone: (802) 828–3043, Fax: (802) 828–3206,
E-mail: ergilbertson@gate.dca.state.vt.us
Web site: ''http://www.state.vt.us/dca''

Washington

David M. Hansen, Acting SHPO, Office of Archeology and Historic Preservation, 111 West 21st Avenue, KL–11, Olympia, WA 98504, Telephone: (360) 753–4011, Fax: (360) 586–0250,
E-mail: davidh@cted.wa.gov
Greg Griffith, acting deputy SHPO,
E-mail: gregg@cted.wa.gov

III. Tribal Historic Preservation Officers (THPO)

In instances where a Tribe does not have a Tribal Historic Preservation Officer, please contact the appropriate Tribal government office when responding to this permit eligibility condition.

John Brown, Narragansett Indian Tribe, P.O. Box 700, Wyoming, RI 02898
Michael Burney, Confederated Tribes of the Umatilla Reservation, P.O. Box 638, Pendleton, OR 97801
William Day, Tunica-Biloxi Indians of Louisiana, P.O. Box 331, Marksville, LA 71351
Alan S. Downer, Ph.D., Historic Preservation Dept., Navajo Nation, P.O. Box 4950, Window Rock, AZ 86515
Adeline Fredlin, Confederated Tribes of the Colville Reservation, P.O. Box 150, Nespelem, WA 99155
Thomas Gates, Tribal Heritage Preservation Officer, Cultural Division, Yurok Tribe, 1034 6th St., Eureka, CA 95501
Monza V. Honga, Office of Cultural Resources, Hualapai Tribe, P.O. Box 310, Peach Springs, AZ 86434
James F. SiJohn, Spokane Tribe of Indians, P.O. Box 100, Wellpinit, WA 99040
Scott E. Stuemke, Confederated Tribes of Warm Springs, Cultural Resources Department, P.O. Box C, Warm Springs, OR 97761
John Welch, White Mt. Apache Tribe, P.O. Box 1150, Whiteriver, AZ 85941

IV. Advisory Council on Historic Preservation

Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 809, Washington, DC 20004, Telephone: (202) 606–8503/8505, Fax: (202) 606–8647/8672, E-mail: achp@achp.gov

Authorization To Discharge Under the National Pollutant Discharge Elimination System

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. 1251 et. seq., the ''Act''), except as provided in Part I.B.3 of this storm water multi-sector general permit, operators of point source discharges of storm water associated with industrial activity that discharge into waters of the United States, represented by the industry sectors identified in Part XI. of this permit, are authorized to discharge in the areas of coverage listed below in accordance with the conditions and requirements set forth herein.

Area of coverage	Permit No.
American Samoa (non-Federal Facilities).	ASR05*###
American Samoa (Federal Facilities).	ASR05*##F
Commonwealth of the Northern Mariana Islands (non-Federal Facilities).	NIR05*###
Commonwealth of the Northern Mariana Islands (Federal Facilities).	NIR05*##F

Operators of storm water discharges from the industrial activities covered under this permit who intend to be

authorized by this permit must submit a Notice of Intent (NOI) in accordance with Part II.B of this permit. Operators of storm water discharges associated with industrial activity who fail to submit an NOI in accordance with Part II.B of this permit are not authorized under this general multi-sector permit.

This permit shall become effective on September 30, 1998. This permit and the authorization to discharge shall expire at midnight, October 1, 2000.

Signed this 17th day of July, 1998.

John Ong,

Acting Director, Water Division.

For reasons set forth in this preamble, Parts I, II, and IV of the NPDES storm water multi-sector general permit (MSGP), as modified elsewhere in this notice, is further amended as follows.

I. Inclusion of American Samoa and the Commonwealth of the Northern Mariana Islands (CNMI) in MSGP

Part I (Amended)

Part I is amended by revising paragraph A, Permit Area, Region IX to include American Samoa and the Commonwealth of the Northern Mariana Islands (CNMI) after the phrase ''Midway and Wake Island'' as follows:

Part I. Coverage Under This Permit

A. Permit Area

* * * * *

Region IX—the State of Arizona; the Territories of Johnston Atoll, Guam, and Midway and Wake Island, American Samoa and the Commonwealth of the Northern Mariana Islands (CNMI);

* * *

II. NOI Submittal Deadline for CNMI

Part II (Amended)

The deadline for NOI submittal for existing facilities in CNMI is established by adding Parts II.A.11 to the MSGP as follows:

Part II. Notification Requirements

A. Deadlines for Notification

* * * * *

11. Existing Facilities in CNMI. Except as provided in paragraphs II.A.4 (New Operator), and II.A.5 (Late Notification), individuals in CNMI who intend to obtain coverage for an existing storm water discharge associated with industrial activity under this general permit shall submit an NOI in accordance with the requirements of this Part on or before December 29, 1998.

III. Deadlines for Storm Water Pollution Prevention Plan Preparation and Compliance for Facilities in CNMI

Part IV (Amended)

For facilities in CNMI, the deadline for storm water pollution prevention plan preparation and compliance is established in the MSGP by adding Part IV.A.11 as follows:

Part IV. Storm Water Pollution Prevention Plans

A. Deadlines for Plan Preparation and Compliance

* * * * *

11. Facilities in CNMI. Except as provided in paragraphs 3, 4, and 5 (above), all existing facilities and new facilities that begin operation on or before June 28, 1999 shall prepare and implement the plan by June 28, 1999. BMPs involving construction shall be completed no later than October 1, 2000.

BILLING CODE 6560–50–P

THIS FORM REPLACES PREVIOUS FORM 3510-6 (8-92) Form Approved. OMB No. 2040-0086 Approval expires 8-31-98
See Reverse for Instructions

NPDES FORM

EPA

United States Environmental Protection Agency
Washington, DC 20460

Notice of Intent (NOI) for Storm Water Discharges Associated with Industrial Activity Under a NPDES Permit

Submission of this Notice of Intent constitutes notice that the party identified in Section II of this form intends to be authorized by a NPDES permit issued for storm water discharges associated with industrial activity in the State identified in Section III of this form. Becoming a permittee obligates such discharger to comply with the terms and conditions of the permit. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.

I. Permit Selection: You **must** indicate the NPDES Storm Water general permit under which you are applying for coverage. Check one of these.

Baseline Industrial ☐ Baseline Construction ☐ Multi-Sector (Group Permit) ☐

II. Facility Operator Information

Name: Phone:

Address: Status of Owner/Operator:

City: State: ZIP Code:

III. Facility/Site Location Information

Name: Is the facility located on Indian Lands? (Y or N) ☐

Address:

City: State: ZIP Code:

Latitude: Longitude: Quarter: Section: Township: Range:

IV. Site Activity Information

MS4 Operator Name:

Receiving Water Body:

If you are filing as a co-permittee, enter storm water general permit number:

SIC or Designated Activity Code: Primary: 2nd:

Is the facility required to submit monitoring data? (1, 2, 3, or 4) ☐

If You Have Another Existing NPDES Permit, Enter Permit Number:

Multi-Sector Permit Applicants Only:

Based on the Instructions provided in Addendum H of the Multi-Sector permit, are species identified in Addendum H in proximity to the storm water discharges to be covered under this permit, or the areas of BMP construction to control those storm water discharges? (Y or N) ☐

Will construction (land disturbing activities) be conducted for storm water controls? (Y or N) ☐

Is applicant subject to and in compliance with a written historic preservation agreement? (Y or N) ☐

V. Additional Information Required for Construction Activities Only

Project Start Date: Completion Date: Estimated Area to be Disturbed (in Acres): Is the Storm Water Pollution Prevention Plan in compliance with State and/or Local sediment and erosion plans? (Y or N) ☐

VI. Certification: The certification statement in Box 1 applies to all applicants.
The certification statement in Box 2 applies only to facilities applying for the Multi-Sector storm water general permit.

BOX 1

ALL APPLICANTS

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

BOX 2

MULTI-SECTOR STORM WATER GENERAL PERMIT APPLICANTS ONLY:

I certify under penalty of law that I have read and understand Part I.B. eligibility requirements for coverage under the Multi-Sector storm water general permit, including those requirements relating to the protection of species identified in Addendum H.

To the best of my knowledge, the discharges covered under this permit, and construction of BMPs to control storm water run-off, are not likely to and will not likely adversely affect any species identified in Addendum H of the Multi-Sector storm water general permit or are otherwise eligible for coverage due to previous authorization under the Endangered Species Act.

To the best of my knowledge, I further certify that such discharges, and construction of BMPs control storm water run-off, do not have an effect on properties listed or eligible for listing on the National Register of Historic Places under the National Historic Preservation Act, or are otherwise eligible for coverage due to a previous agreement under the National Historic Preservation Act.

I understand that continued coverage under the Multi-Sector general permit is contingent upon maintaining eligibility as provided for in Part I.B.

Print Name: Date:

Signature: _____

EPA Form 3510-6 (8-98)

Instructions - EPA Form 3510-6
Notice Of Intent (NOI) For Storm Water Discharges Associated With Industrial Activity To Be Covered Under a NPDES General Permit

Who Must File A Notice Of Intent (NOI) Form

Federal law at 40 CFR Part 122 prohibits point source discharges of storm water associated with industrial activity to a water body(ies) of the U.S. without a National Pollutant Discharge Elimination System (NPDES) permit. The operator of an industrial activity that has such a storm water discharge must submit a NOI to obtain coverage under a NPDES Storm Water General Permit. If you have questions about whether you need a permit under the NPDES Storm Water program, or if you need information as to whether a particular program is administered by EPA or a state agency, telephone or write to the Notice of Intent Processing Center at (703)931-3230.

Where To File NOI Form

NOIs must be sent to the following address:

Storm Water Notice of Intent (4203)
401 M Street, S.W.
Room 2104 Northeast Mall
Washington, DC 20460
(202) 260-9541*

* This telephone number should be used as the recipient's number for express deliveries. The telephone number at the Notice of Intent Processing Center is (703)931-3230.

Completing The Form

You must type or print, using upper-case letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters all owed for each item. Use one space for breaks between words, but not for punctuation marks unless they are needed to clarify your responses. If you have any questions on this form, call the Notice of Intent Processing Center at (703)931-3230.

Section I Permit Selection

You must indicate the NPDES storm water general permit under which you are applying for coverage. Check one box only. The Baseline Industrial and Baseline Construction permits were issued in September 1992. The Multi-Sector Permit became effective October 1, 1995.

Section II Facility Operator Information

Provide the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same as the name of the facility. The responsible party is the legal entity that controls the facility's operation, rather than the plant or site manager. Do not use a colloquial name. Enter the complete address and telephoneumber of the operator.

Enter the appropriate letter to indicate the legal status of the operator of the facility: F = Federal; S = State; M = Public (other than federal or state)P = Private

Section III Facility/Site Location Information

Enter the facility's or site's official or legal name and complete street address, including city, state, and ZIP code. Do not provide a P.O. Box number as the street address. **applying for a Baseline Permit and the facility or site lacks a street address**, indicate the state and either the latitude and longitude of the facility to the nearest 15 seconds or the quarter, section, township, and range (to the nearest quarter section) of the approximate center of the site.**If applying for the Multi-Sector Permit Indicate the complete street address and the latitude and longitude of the facility to the nearest 15 seconds.**

All applicants must indicate whether the facility is located on Indian lands.

Section IV Site Activity Information

If the storm water discharges to a municipal separate storm sewer system (MS4), enter the name of the operator of the MS4 (e.g., municipality name, county name) and the receiving water of the discharge from the MS4. (A MS4 is defined as a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by a state, city, town, borough, county, parish, district, association, or other public body which is designed or used for collecting or conveyin storm water.)

If the facility discharges storm water directly to receiving water(s), enter the name of the receiving water(s).

If you are filing as a co-permittee and a storm water general permit number has been issued, enter the number in the place provided.

Indicate the monitoring status of the facility. Refer to the permit for information on monitoring requirements. Indicate the monitoring status by entering one of the following:

1 = Not subject to monitoring requirements under the conditions of the permit.
2 = Subject to monitoring requirements and required to submit data.
3 = Subject to monitoring requirements but not required to submit data.
4 = Subject to monitoring requirements but submitting certification for monitoring exclusion.

List, in descending order of significance, up to two 4-digit standard industrial classification (SIC) codes that best describe the principal products or services provided at the facility or site identified in Section III of this application. If you are applying for coverage under the construction general permit, enter "CO" (which represents SIC codes 1500-1799).

For industrial activities defined in 40 CFR 122.26(b)(14)(i)-(xi) that do not have SIC codes that accurately describe the principal products produced or services provided, use the following 2-character codes.

HZ = Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA [40 CFR 122.26(b)(14)(iv)];
LF = Landfills, land application sites, and open dumps that receive or have received any industrial wastes, including those that are subject to regulation under subtitle D of RCRA [40 CFR 122.26(b)(14)(v)];
SE = Steam electric power generating facilities, including coal handling sites [40 CFR 122.26(b)(14)(vii)];
TW = Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage [40 CFR 122.26(b)(ix)]; or
CO = Construction activities [40 CFR 122.26(b)(14)(x)].

If there is an other NPDES permit presently issued for the facility or site listed in Section III, enter the permit number. If an application for the facility has been submitted but no permit number has been assigned, enter the application number.

Facilities applying for coverage under the Multi-Sector storm water general permit must answer the last three questions in Section IV. Refer to Addendum H of the Multi-Sector general permit for a list of species that are either proposed or listed as threatened or endangered. "BMP" means "Best Management Practices" that are used to control storm water discharges.

Indicate whether any construction will be conducted to install or develop storm water runoff controls.

Section V Additional Information Required for Construction Activities Only

Construction activities must complete Section V in addition to Sections I through IV. Only construction activities need to complete Section V.

Enter the project start date and the estimated completion date for the entire development plan.

Provide an estimate of the total number of acres of the site on which soil will be disturbed (round to the nearest acre).

Indicate whether the storm water pollution prevention plan for the site is in compliance with approved state and/or local sediment and erosion plans, permits, or storm water management plans.

Section VI Certification

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

*For a municipality, state, Federal, or other public facility*by either a principal executive officer or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 0.5 hours per application, 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 estimates, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, 2136, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or Director, Office of

THIS FORM REPLACES PREVIOUS FORM 3510-7 (8-92)
Please See Instructions Before Completing This Form

Form Approved. OMB No. 2040-0086
Approval expires: 8-31-98

NPDES FORM

EPA

United States Environmental Protection Agency
Washington, DC 20460

Notice of Termination (NOT) of Coverage Under a NPDES General Permit for Storm Water Discharges Associated with Industrial Activity

Submission of this Notice of Termination constitutes notice that the party identified in Section II of this form is no longer authorized to discharge storm water associated with industrial activity under the NPDES program. ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM.

I. Permit Information

NPDES Storm Water General Permit Number: ☐☐☐☐☐☐☐☐☐☐☐☐

Check Here if You are No Longer the Operator of the Facility: ☐

Check Here if the Storm Water Discharge is Being Terminated: ☐

II. Facility Operator Information

Name: ☐☐☐☐☐☐☐☐☐☐☐☐

Instructions - EPA Form 3510-7
Notice of Termination (NOT) of Coverage Under The NPDES General Permit for Storm Water Discharges Associated With Industrial Activity

Section I Permit Information

Enter the existing NPDES Storm Water General Permit number assigned to the facility or site identified in Section III. If you do not know the permit number, telephone or write your EPA Regional storm water contact person.

Indicate your reason for submitting this Notice of Termination by checking the appropriate box:

If there has been a change of operator and you are no longer the operator of the facility or site identified in Section III, check the corresponding box.

If all storm water discharges at the facility or site identified in Section III have been terminated, check the corresponding box.

Section II Facility Operator Information

Give the legal name of the person, firm, public organization, or any other entity that operates the facility or site described in this application. The name of the operator may or may not be the same name as the facility. The operator of the facility is the legal entity which controls the facility's operation, rather than the plant or site manager. Do not use a colloquial name. Enter the complete address and telephone number of the operator.

Section III Facility/Site Location Information

Enter the facility's or site's official or legal name and complete address, including city, state and ZIP code. If the facility lacks a street address, indicate the state, the latitude and longitude of the facility to the nearest 15 seconds, or the quarter, section, township, and range (to the nearest quarter section) of the approximate center of the site.

Section IV Certification

Federal statutes provide for severe penalties for submitting false information on this application form. Federal regulations require this application to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

For a municipality, State, Federal, or other public facility: by either a principal executive officer or ranking elected official.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 0.5 hours per application, 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, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, 2136, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or Director, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

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TRANSPORTATION DEPARTMENT

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

H.J. Res. 128/P.L. 105–240

Making continuing appropriations for the fiscal year 1999, and for other purposes. (Sept. 25, 1998; 112 Stat. 1566)

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