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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 534

RIN 3206–AJ47

Basic Pay for Employees of Temporary Organizations

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations on setting pay for employees of temporary organizations established by law or Executive order. These regulations will enable agencies to determine the rate of basic pay and locality payments for employees of temporary organizations.

EFFECTIVE DATE: The regulations are effective on November 12, 2002.

FOR FURTHER INFORMATION CONTACT: David Sweeney, (202) 606–2858, FAX: (202) 606–0824, or email: *payleave@opm.gov.*

SUPPLEMENTARY INFORMATION: On January 25, 2002, the Office of Personnel Management (OPM) issued interim regulations on compensation for employees of temporary organizations established by law or Executive order. (*See* 67 FR 3581.) Section 1101 of the Floyd D. Spence National Defense Authorization Act for fiscal year 2001 (Public Law 106–398, October 30, 2000), added a new subchapter IV to chapter 31 of title 5, United States Code. Subchapter IV provides OPM with authority to establish regulations to determine the rate of basic pay for employees of temporary organizations without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code. (*See* 5 U.S.C. 3161 (d).) The 60-day comment period for the interim regulations ended on March 26, 2002. We received no comments from either agencies or individuals. However, we are revising §§ 534.301 and 534.302 concerning the purpose and coverage of these regulations to improve readability and reduce redundancy. We are also revising § 534.304(b) to clarify that the cap on locality-adjusted rates of basic pay for employees in staff and other non-executive level positions is the rate for level IV of the Executive Schedule. This is consistent with the cap on locality rates for General Schedule employees. Other than these changes, we are adopting as final the interim rules for agencies to administer the basic pay rates for employees of temporary organizations under 5 U.S.C. part 534, subpart C. The final regulations do not apply to temporary organizations established prior to October 30, 2000.

Consistent with 5 U.S.C. 3161(d), § 534.303 of these final regulations provides that the rate of basic pay for executive level positions of a temporary organization may not exceed the maximum rate of basic pay established for the Senior Executive Service (SES) under 5 U.S.C. 5382. Employees in executive level positions must be paid locality payments under 5 U.S.C. 5304 in addition to basic pay, not to exceed the rate for level III of the Executive Schedule. Section 534.304 provides that the rate of basic pay for staff or other non-executive level positions in a temporary organization may not exceed the maximum rate of basic pay for GS–15 under 5 U.S.C. 5332. However, § 534.304(c) provides that the rate of basic pay for a senior staff position of a temporary organization may, in a case determined by the head of the temporary organization to be exceptional, exceed the maximum rate of basic pay for GS–15, but may not exceed the maximum rate of basic pay for the SES. As previously stated, staff and other non-executive positions also must be paid locality payments under 5 U.S.C. 5304, not to exceed the rate for level IV of the Executive Schedule.

In setting rates of basic pay for staff and other non-executive level positions, consideration should be given to the significance, scope, and technical complexity of the position and the qualifications required for the work involved. (*See* § 534.304 (a)(2).) This is consistent with a parallel requirement established under regulations issued by General Services Administration for setting basic pay for advisory committee members and staff under the Federal Advisory Committee Act. (*See* 41 CFR 102–3.130.)

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 534

Government employees, Hospitals, Students, Wages.

Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, the Office of Personnel Management is adopting the interim rule amending part 534 of title 5 of the Code of Federal Regulations which was published at 67 FR 3581 on January 25, 2002, as final with the following changes:

PART 534—PAY UNDER OTHER SYSTEMS

1.The authority citation for part 534 continues to read as follows:

Authority: 5 U.S.C. 1104, 3161(d), 5307, 5351, 5352, 5353, 5376, 5383, 5384, 5385, 5541, and 5550a.

2. Sections 534.301 and 534.302 are revised to read as follows:

Subpart C—Basic Pay for Employees of Temporary Organizations

§ 534.301 Purpose.

This subpart provides rules for determining the rate of basic pay and locality-adjusted rate of basic pay for employees who are appointed to positions in temporary organizations and compensated under 5 U.S.C. 3161. Such temporary organizations are established by law or Executive order. This subpart does not provide authority to establish other forms of compensation and benefits not authorized by title 5, United States Code, or another specific statutory authority.

§ 534.302 Coverage.

This subpart applies to employees in executive level and staff positions in temporary organizations. Such employees are not subject to the provisions applicable to General Schedule employees covered by chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

3. Paragraph (b) of § 534.304 is revised to read as follows:

§ 534.304 Basic pay for staff positions.

* * * * *

(b) Employees in staff and other non-executive level positions of temporary organizations must be paid locality payments in addition to basic pay in the same manner as employees covered by 5 U.S.C. 5304. Locality-adjusted rates of basic pay may not exceed the locality-adjusted rate of basic pay for grade GS–15 of the General Schedule under 5 U.S.C. 5304, for the locality pay area involved (not to exceed the rate for level IV of the Executive Schedule).

* * * * *

[FR Doc. 02–25848 Filed 10–9–02; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM217; Special Conditions No. 25–209–SC]

Special Conditions: Boeing Commercial Airplane Group, Boeing Model 747–400 Series Airplane; Forward Lower Lobe (Service/Cargo) Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Boeing Model 747–400 series airplane. This airplane, as modified by the Boeing Commercial Airplane Group, Wichita, Kansas, will have novel or unusual design features associated with the installation of a forward lower lobe compartment that will have two functions: that of a service compartment and that of a class C cargo compartment. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: September 30, 2002.

FOR FURTHER INFORMATION CONTACT: Mark Quam, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2145; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2001, Boeing Commercial Airplane Group (BCAG)—Wichita Division Designated Alteration Station (DAS) applied for a supplemental type certificate for the installation, in a Boeing Model 747–400 series airplane, of a forward lower lobe compartment that combines two functions: that of a service compartment and that of a class C cargo compartment. The Boeing Model 747–400 series airplane, currently approved under Type Certificate A20WE, is a large transport category airplane with upper and main passenger decks. The main deck is limited to 550 passengers or less and the upper deck is limited to 110 passengers or less, depending on the interior configuration. Cargo compartments are installed below the main deck. The airplane is driven by four high-bypass turbojet engines capable of a static thrust in excess of 43,000 pounds.

The 747–400 configuration proposed for certification is an interim, but certifiable, configuration. The final interior will be installed by another modifier at a later date. Boeing proposes to certificate the model with the forward half of the main deck open and the aft half of the main deck configured for passengers. However, the main deck and upper deck will be certificated with limitations specifying zero occupancy and zero cargo.

Boeing proposes to modify the configuration defined above by installing a stair from the main deck to the forward lower lobe cargo compartment and proposes to use the forward cargo compartment as a service area and as a class C cargo compartment. Further, an air-stair would be installed to allow walk-in access from the ground to the forward lower lobe (service/cargo) compartment. The forward lower lobe (service/cargo) compartment design would have provisions for flammability and smoke protection. Access would be limited to one trained crewmember and access would be allowed during flight but not during taxi, takeoff and landing, or during a fire.

To accommodate access into the forward lower lobe (service/cargo) compartment by a crewmember, Boeing proposes appropriate warning and emergency equipment will be installed as defined for a lower lobe service compartment in § 25.819. A flight attendant seat will be installed in the forward lower lobe (service/cargo) compartment for in-flight emergency use only. The seat will be located so that it meets all certification requirements for attendant seating. Speakers, warning lights, and buzzers will be installed in the forward lower lobe (service/cargo) compartment to warn the crewmember occupant of turbulent conditions, smoke detection, or the need to leave the area. A crew interphone will be provided for communications with the flight deck. In addition, emergency oxygen equipment will be provided as appropriate.

Boeing proposes the forward lower lobe (service/cargo) compartment will meet the class C requirements of § 25.857(c) and will include an approved built-in fire extinguisher or suppression system controllable from the cockpit. In the event of a fire, the forward lower lobe (service/cargo) compartment will be evacuated, and the pilot will initiate a Halon suppression system. A means will be provided to prevent inadvertent access to the compartment when the fire suppression system has been activated. The intention of the fire suppression system is to eliminate the necessity for sending someone into the compartment to fight a fire.

The existing regulations address a service area and a class C cargo compartment as independent compartments, but do not address one compartment that has two uses. The service compartment can be occupied and the class C cargo compartment cannot. Further, fire fighting is dealt with differently in each compartment. The crew fights a fire in a service compartment and a flooding extinguisher system is used to fight a fire in a class C cargo compartment. The concept Boeing proposes may be acceptable if it can be assured that when the compartment is used for either function, a level of safety would be achieved that would be equivalent to compartment installations that are independent. Therefore, special conditions requiring warnings, limitations, and equipment installations are issued to achieve a level of safety that would allow a lower lobe compartment to be used as a service compartment or a class C cargo compartment when the aircraft is to be certificated in a similar configuration to that which Boeing proposes (*i.e.* forward lower lobe compartment with stair access, emergency escape routes, etc.).

Type Certification Basis

Under the provisions of § 21.101 Amendment 21–69, effective September 16, 1991, the Boeing Commercial Airplane Group must show that the Model 747–400 series airplane, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate A20WE or the applicable regulations in effect on the date of application for the change. Subsequent changes have been made to § 21.101 as part of Amendment 21–77, but those changes do not become effective until June 10, 2003. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate A20WE for the Boeing Model 747–400 series airplanes include 14 CFR part 25, as amended by Amendments 25–1 through 25–70, with certain exceptions listed in the type data sheet. The U.S. type certification basis for the Boeing Model 747–400 series airplane is established in accordance with 14 CFR 21.17 and 21.21 and the type certification application date. The type certification basis is listed in Type Certificate Data Sheet No. A20WE.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 747–400 series airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 747–400 series airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the type certification basis in accordance with § 21.101(b)(2) Amendment 21–69, effective September 16, 1991.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1) Amendment 21–69, effective September 16, 1991.

Novel or Unusual Design Features

The Boeing Model 747–400 series airplane will incorporate the following novel or unusual design features: the forward lower lobe compartment will be used as a combined service area/class C cargo compartment.

Discussion

The requirements listed in these special conditions are developed to allow the use of the forward lower lobe as a service compartment and as a class C cargo compartment during flight conditions. To make this concept work, these special conditions establish communication, warning, and personal safety requirements, because the existing requirements, §§ 25.819 versus 25.855, 25.857, and 25.858, are exclusive. As an example, to use the fire control system of a class C cargo compartment, the compartment must not be occupied because the means of fire control is to flood the compartment with fire suppressant.

The applicant has not proposed provisions satisfying regulatory requirements for occupancy of the forward lower lobe (service/cargo) compartment during taxi, takeoff, and landing. Therefore, the FAA will apply appropriate limitations for taxi, takeoff, and landing.

The approach to establishing requirements for a common compartment with two uses is to apply the existing requirements for a service compartment when used as a service compartment and for cargo compartments when used as a class C compartment, and to propose special conditions where the rules are inadequate to address the functionality of both.

Special Condition 1

Currently, § 25.819 addresses a service compartment, which can be occupied, but does not need to be evacuated under certain normal conditions or under certain unsafe conditions (*e.g.*, in the case of fire, the occupant could function as a firefighter). The class C cargo compartment requirements address a stand-alone cargo compartment that is not occupied; fire detection is automatic and suppression relies on a total flood system. To maintain the advantages of both a service compartment and a class C cargo compartment, certain warnings need to be addressed.

Special Condition 1(a)

Special Condition 1(a) will require a visual means in the cockpit to advise the flightcrew when the forward lower lobe (service/cargo) compartment is occupied. The potential exists that the forward lower lobe (service/cargo) compartment may inadvertently be occupied when it is not supposed to be, such as during taxi, takeoff and landing, or during certain emergency events. This requirement ensures the flightcrew is aware of that situation and can take appropriate action to evacuate the forward lower lobe before flooding the compartment with fire suppressant agent. The advisory should be clear as to its intent, either by light with placard or lighted advisory message or equivalent.

Special Condition 1(b)

Special Condition 1(b) will require an ''on/off'' visual advisory/warning stating ''Do Not Enter'' (or similar words) to be located outside and on or near the entrance door from the main deck to the forward lower lobe (service/cargo) compartment. The advisory/warning is to be controlled from the flight deck. This is to prevent someone entering the forward lower lobe (service/cargo) compartment when it is not supposed to be occupied. Those conditions exist during taxi, takeoff and landing, and if smoke or fire is detected. Opening the door during a fire would, among other things, degrade the effectiveness of the fire suppressant and allow smoke, flame, and/or suppressant into the cabin.

Special Condition 1(c)

Special Condition 1(c) will require a visible and audible advisory/warning means in the forward lower lobe (service/cargo) compartment to notify the occupant that the occupant must exit the forward lower lobe (service/cargo) compartment. To be effective, the visible and audible advisory/warning must be able to be seen and heard from any part of the compartment. The visible and audible advisory/warning is to be controlled from the flight deck. As the forward lower lobe (service/cargo) compartment may be occupied on the ground or in the air, a means must be provided to notify the occupant to exit the compartment prior to taxi, takeoff and landing, or during certain emergency conditions (other than fire, which is dealt with under Special Condition 1(e)). A visual advisory/warning is included in case the audible warning were to become masked or distorted by engine, equipment, or ground noises.

Special Condition 1(d)

Special condition 1(d) will require a means (visible and audible) to notify the occupant of the forward lower lobe (service/cargo) compartment of the need

to put on supplemental oxygen equipment in the event of a decompression. As the occupant could be anywhere in the forward lower lobe (service/cargo) compartment, the means should be heard and be visible from anywhere in the forward lower lobe (service/cargo) compartment. Further, the warning should be distinct from other warnings in the forward lower lobe (service/cargo) compartment to prevent confusion and inappropriate action. An automatic decompression warning (*i.e.*, not requiring a separate crew action) ensures that the forward lower lobe (service/cargo) compartment occupant does not delay putting on the oxygen equipment. This section of the special conditions is partially in lieu of the visual effect provided by the automatic presentation feature required by § 25.1447.

Special Condition 1(e)

Special Condition 1(e) will require a visible and audible means to warn the occupant of the forward lower lobe (service/cargo) compartment of the need to evacuate the forward lower lobe (service/cargo) compartment if a fire is detected. The means must be heard and be visible from anywhere in the forward lower lobe (service/cargo) compartment and must be distinct from other warnings in the forward lower lobe (service/cargo) compartment in order to prevent confusion and to elicit correct action. The fire/smoke detection warning in the forward lower lobe (service/cargo) compartment must be automatic (*i.e.*, not requiring or depending on a separate crew action), to ensure that the occupant exits the forward lower lobe (service/cargo) compartment prior to the flight deck crew releasing the fire suppressant agent.

Special Condition 2

The lower lobe (service/cargo) compartment must be evacuated if a fire occurs. Further, a means must be provided to prevent access into the compartment during taxi, takeoff or landing, and in the event of a fire. Placards and limitations assist in these situations.

Special Condition 2(a)

Special Condition 2(a) will require a placard to be located outside the forward lower lobe (service/cargo) compartment door to limit access to the forward lower lobe (service/cargo) compartment to one crewmember trained in evacuation means. The accommodations and emergency support equipment provided necessitate limiting access (*i.e.*, one seat, one oxygen bottle, one protective breathing device, one fire extinguisher, etc.).

Special Condition 2(b)

Special Condition 2(b) will require placards, located inside and outside the forward lower lobe (service/cargo) compartment door, stating that the compartment door must remain closed except when entering and leaving the compartment. The smoke/fire detection and suppression systems are certified with the door closed, and the door needs to remain closed to retain their certified characteristics and to be effective. In the event the single occupant falls asleep in the chair provided, the smoke alarm will still function and a warning will be provided to warn the occupant to exit the compartment.

Special Condition 2(c)

Special Condition 2(c) will require a limitation be placed in the airplane flight manual (AFM) and placards be posted inside and outside the forward lower lobe (service/cargo) compartment door, all stating that the forward lower lobe (service/cargo) compartment may not be occupied during taxi, takeoff, landing, or during a fire emergency. These placards are being specified because the compartment is not being certified as occupied during taxi, takeoff, and landing and because the cargo compartment must not be occupied during a fire so that the occupant is not exposed to the fire and suppressant. These placards are somewhat redundant to the advisory required under 1(b) and 1(c), but have the benefit of the information being available to the occupant in the event the flightcrew fails to activate the advisory/warnings of 1(b) and 1(c).

Special Condition 2(d)

Special Condition 2(d), with respect to the forward lower lobe (service/cargo) compartment, will require the AFM supplement include flight deck crew instructions for: allowing access; procedures for fire/smoke/detection/fire fighting; procedures for decompression; and limitations prohibiting occupancy during taxi, takeoff, and landing. Further, this special condition would require that the weight and balance manual include cargo loading restrictions requiring cargo to be loaded and restrained in a manner so that escape paths are maintained. These actions are to ensure the single flightcrew member can safely access the cargo compartment during flight and exit safely during failure conditions.

Special Condition 2(e)

Because access is being provided to the forward lower lobe (service/cargo) compartment, there is a concern that, during flight, passengers may retrieve hazardous materials and weapons stored in luggage. Ideally, access could be prevented by locking the forward lower lobe (service/cargo) compartment and that is one solution (Special Condition 2(e)(1)). However, this airplane is being designed for private use, will have limited access, and will have placards limiting access. Further, there is notification to the flightcrew if the forward lower lobe (service/cargo) compartment is occupied (Special Condition 1(a)). Therefore, as an alternative to locking the lower lobe (service/cargo) compartment, in addition to limiting access under Special Conditions 2(a) and 2(d), prohibiting the airplane from being operated for hire, or offered for common carriage, is issued (Special Condition 2(e)(2)).

Special Condition 3

Special Condition 3 will require equipment in addition to that required by § 25.819.

Special Condition 3(a)

Special Condition 3(a) will require availability at all times of portable oxygen equipment sufficient to supply a crewmember who is allowed to occupy (except during taxi, takeoff and landing, and a fire) the forward lower lobe (service/cargo) compartment. It was first proposed that the oxygen bottle be stored inside the cargo compartment near the seat, along with a portable extinguisher and a protective breathing device. Because the portable oxygen bottle would not be immediately available (a requirement of § 25.1447(c)(1)) in the event of rapid decompression, and it would not be advisable to provide drop-down masks in a cargo compartment or store a portable oxygen bottle in the compartment (even though the bottle would be afforded some protection), the FAA elected to propose that a portable oxygen bottle be mounted at the outside of the main deck entrance of the forward lower lobe (service/cargo) compartment, along with a placard that specifies that anyone entering the forward lower lobe (service/cargo) compartment during flight must carry portable oxygen equipment on their person for the entire time that they are in the compartment.

Special Condition 3(b)

Special Condition 3(b) will require at least one readily accessible hand-held fire extinguisher and one 15-minute

protective breathing equipment device be located within the forward lower lobe (service/cargo) compartment adjacent to the seat. This ensures the occupant has the means to exit the compartment if a fire occurs between the occupant and the exit.

Special Condition 3(c)

Special Condition 3(c) will require, in addition to the two evacuation routes (including exit) requirements of § 25.819(a), a means to keep the evacuation routes clear. The cargo in the compartment should be restrained to ensure that the crewmember's paths to the exits are clear. Further, all entrances and exits from the forward lower lobe (service/cargo) compartment must be capable of being closed after exiting. In addition to the concern for cargo blocking the escape paths, there is the concern about hazardous quantities of smoke, flames, or fire suppressant agent entering any compartments occupied by passengers or crew and the concern about the loss of fire suppressant agent from the compartment during a fire. The forward lower lobe (service/cargo) compartment must be capable of being closed off because, after evacuation, it must comply with the requirements applicable to the class C cargo compartment, including §§ 25.855, 25.857, and 25.858.

Special Condition 3(d)

Special Condition 3(d) will require supplemental handheld lighting (with locator light) in the event the occupant is in the forward lower lobe (service/cargo) compartment and power to the compartment or the emergency escape path lighting is off, or lost, or visibility is poor. At least two flashlights would be required. One flashlight would be located adjacent to the secondary emergency exit in the forward lower lobe (service/cargo) compartment at the foot of the stairs in the compartment. The other would be located adjacent to the seat in the forward lower lobe (service/cargo) compartment. Note that this action is in addition to the requirement for an automatic emergency lighting system required by § 25.819(a).

Special Condition 4

Special Condition 4 addresses training manuals and the training associated with the special conditions above for:

(a) Use and actions associated with the warnings and placards of these special conditions.

(b) Accessing and exiting the cargo forward lower lobe (service/cargo) compartment, including emergency exiting (includes those special conditions associated with Special Conditions 1(b), 1(c), 1(d), 1(e), 2(a), 2(b), 2(c), 2(d), and 3(b)).

(c) Checking the oxygen bottle's pressure for adequacy prior to entering the cargo compartment (associated with Special Condition 3(a)).

(d) Carrying the oxygen bottle when entering the forward lower lobe (service/cargo) compartment (associated with Special Condition 3(a)).

(e) Maintaining an exit path aisle and access to the evacuation routes (associated with Special Condition 3(c)).

Special Condition 5

Special Conditions 25–71–NW–3, which included criteria applicable to the stairs between the main deck and upper deck, were incorporated in the Model 747 series airplane certification basis on August 27, 1976. These special conditions have been reviewed, and sections 3(a)(1), 3(a)(2) and 3(a)(7) are proposed as applicable to the stair between the forward lower lobe (service/cargo) compartment and the main deck. These special conditions are renumbered and repeated as 5(a), 5(b), and 5(c).

Discussion of Comments

Notice of proposed special conditions No. 25–02–07–SC for the Boeing Model 747–400 series airplanes was published in the **Federal Register** on July 1, 2002 (67 FR 44111). No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 747–400 series airplane. Should Boeing Commercial Airplane Group apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate A20WE to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1) Amendment 21–69, effective September 16, 1991.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Boeing Model 747–400 series airplane is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 747–400 airplanes modified by Boeing Commercial Airplane Group, Wichita Division Designated Alteration Station, with a forward lower lobe configured for use as a service compartment and a class C cargo compartment.

1. Required Warnings (in addition to fire/smoke detection and decompression aural warnings required in § 25.819(c)):

(a) There must be a visual means in the cockpit to advise the flightcrew when the forward lower lobe (service/cargo) compartment is occupied. The advisory light should be accompanied by a placard or message indicating someone is in the forward lower lobe (service/cargo) compartment.

(b) There must be an ''on/off'' visual advisory/warning stating ''Do Not Enter'' (or similar words) to be located outside and on or near the entrance door to the forward lower lobe (service/cargo) compartment. The advisory/warning is to be controlled from the flight deck.

(c) There must be a visible and audible advisory/warning means in the forward lower lobe (service/cargo) compartment to notify the occupant that the occupant must exit the forward lower lobe (service/cargo) compartment. The visible and audible warning must be seen and heard from any part of the forward lower lobe (service/cargo) compartment. The visible and audible advisory/warning is to be controlled from the flight deck.

(d) A means (visible and audible) must be provided to notify the occupant of the forward lower lobe (service/cargo) compartment of the need to put on supplemental oxygen equipment in the event of a decompression. The means must be heard and be visible from anywhere in the forward lower lobe (service/cargo) compartment and be distinct from other warnings in the forward lower lobe (service/cargo) compartment. This decompression warning should be automatic (*i.e.*, not requiring a separate crew action), to ensure that the forward lower lobe

(service/cargo) compartment occupant does not delay putting on the oxygen equipment. This section of the special conditions is partially in lieu of the visual effect provided by the automatic presentation feature required by § 25.1447.

(e) A means (visible and audible) must be provided to warn the occupant of the forward lower lobe (service/cargo) compartment of the need to evacuate the forward lower lobe (service/cargo) compartment at fire detection. The means must be heard and be visible from anywhere in the forward lower lobe (service/cargo) compartment and be distinct from other warnings in the forward lower lobe (service/cargo) compartment. The fire/smoke detection warning in the forward lower lobe (service/cargo) compartment must be automatic (*i.e.*, not requiring a separate crew action), to ensure that the occupant exits the forward lower lobe (service/cargo) compartment prior to the flight deck crew releasing fire suppressant agent.

2. Required Placards and Limitations (beyond those required in Part 25):

(a) There must be a placard located outside the forward lower lobe (service/cargo) compartment door limiting access to the forward lower lobe (service/cargo) compartment to one crewmember trained in evacuation means.

(b) There must be placards located inside and outside the forward lower lobe (service/cargo) compartment door stating that the forward lower lobe (service/cargo) compartment door must remain closed except when entering and leaving the compartment.

(c) A limitation must be placed in the airplane flight manual (AFM) supplement and placards must be posted inside and outside the forward lower lobe (service/cargo) compartment door, all stating that the forward lower lobe (service/cargo) compartment may not be occupied during taxi, takeoff, landing, or during a fire emergency.

(d) With respect to the forward lower lobe (service/cargo) compartment, the AFM supplement must include flight deck crew instructions for: allowing access; procedures for fire/smoke/detection/fire fighting; procedures for decompression; limitations prohibiting occupancy during taxi, takeoff, and landing. The weight and balance manual must include cargo loading restrictions to maintain escape paths.

(e) A limitation must be placed in the AFM Supplement stating: ''Carriage of hazardous material and/or weapons in the forward lower lobe (service/cargo) compartment is prohibited'' unless:

(1) Access to the compartment is locked during flight and the key to the lock remains with the flight deck crew only; or

(2) The airplane is not operated for hire, or offered for common carriage. This provision does not preclude the operator from receiving remuneration to the extent consistent with 14 CFR part 125, 14 CFR part 91, and subpart F, as applicable.

3. Required Equipment (in addition to that required by § 25.819):

(a) There must be portable oxygen equipment available at all times sufficient to supply a crewmember who is allowed to occupy the forward lower lobe (service/cargo) compartment (except during taxi, takeoff and landing, and a fire). The equipment is to be mounted at the outside of the main deck entrance to the forward lower lobe (service/cargo) compartment along with a placard specifying that anyone entering the forward lower lobe (service/cargo) compartment during flight must carry portable oxygen equipment on his/her person for the entire time that he/she is in the forward lower lobe (service/cargo) compartment.

(b) At least one readily accessible hand-held fire extinguisher and one 15-minute protective breathing equipment (PBE) device must be located within the forward lower lobe (service/cargo) compartment adjacent to the seat.

(c) In addition to the two evacuation route (including exit) requirements of § 25.819(a), a means must be provided to keep the evacuation routes clear ; *i.e.*, cargo in the compartment should be restrained to ensure that the crewmember's paths to the exits are clear. All entrances and exits from the forward lower lobe (service/cargo) compartment must be capable of being closed after entering and exiting and, after closing, must prevent hazardous quantities of smoke, flames, or fire suppressant agent from entering any compartments occupied by passengers or crew and must prevent loss of fire suppressant agent during a fire.

(d) In addition to the emergency illumination required by § 25.829(a), there must be supplemental handheld lighting (with locator light) located within the forward lower lobe (service/cargo) compartment. At least two flashlights will be required. One flashlight must be located adjacent to the secondary emergency exit of the forward lower lobe (service/cargo) compartment. The other must be adjacent to the seat in the forward lower lobe (service/cargo) compartment.

4. Training manuals and training must include:

(a) Use and actions associated with warnings and placards specified herein.

(b) Accessing and exiting the cargo forward lower lobe (service/cargo) compartment, including emergency exiting.

(c) Checking the oxygen bottle's pressure for adequacy prior to entering the forward lower lobe (service/cargo) compartment.

(d) Carrying the oxygen bottle when entering the forward lower lobe (service/cargo) compartment.

(e) Maintaining exit path aisle and access for the evacuation routes.

5. The stairway between the forward lower lobe (service/cargo) compartment and the main deck (applicable portions excerpted from Special Conditions 25–71–NM–3 issued August 27, 1976) must meet the following requirements:

(a) The stairway must have essentially straight route segments with a landing at each significant change in segment direction.

(b) The stairs must have essentially rectangular treads.

(c) General illumination must be provided so that, when measured along the centerlines of each tread and landing, the illumination is not less than .05 foot-candle.

Issued in Renton, Washington, on September 30, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–25707 Filed 10–9–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, and 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 15 approved new animal drug applications (NADAs) from Cyanamid Agricultural de Puerto Rico, Inc., to Fort Dodge Animal Health.

DATES: This rule is effective October 10, 2002.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lluther@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: Cyanamid Agricultural de Puerto Rico, Inc., P.O.

Box 243, Manati, PR 00701, has informed FDA that it has transferred ownership of, and all rights and interest in, the following 15 approved NADAs to Fort Dodge Animal Health, A Division of American Cyanamid Co., P.O. Box 1339, Fort Dodge, IA 50501:

NADA Number	Trade Name
039–356	RIPERCOL L Bolus; TRAMISOL Cattle Wormer Bolus
039–357	RIPERCOL L Soluble Drench Powder
042–740	RIPERCOL L; TRAMISOL Soluble Drench Powder for Sheep
042–837	RIPERCOL L Wormer Oblets; TRAMISOL Sheep Wormer Oblets
044–015	TRAMISOL Type A Medicated Article
045–455	TRAMISOL Type A Medicated Article
045–513	RIPERCOL L
049–553	RIPERCOL L
092–237	RIPERCOL L-Piperazine Soluble
093–688	RIPERCOL L-Piperazine
101–079	TRAMISOL 10% Pig Wormer; TRAMISOL Hog Wormer
102–437	TRAMISOL Injectable Solution
104–184	STYQUIN
107–085	TRAMISOL
126–237	TRAMISOL Gel

Accordingly, the agency is amending the regulations in 21 CFR 520.1242a, 520.1242b, 520.1242c, 520.1242e, 520.1242f, 522.234, 522.1244, and 558.315 to reflect the transfer of ownership and to reflect current format.

Following this change of sponsorship, Cyanamid Agricultural de Puerto Rico, Inc., is no longer the sponsor of any approved application. Accordingly, 21 CFR 510.600(c) is being amended to remove the entries for Cyanamid Agricultural de Puerto Rico, Inc.

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

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520 and 522

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

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

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

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for ''Cyanamid Agricultural de Puerto Rico, Inc.'' and in the table in paragraph (c)(2) by removing the entry for ''043781''.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

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

§ 520.1242a [Amended]

4. Section 520.1242a *Levamisole hydrochloride drench and drinking water* is amended in paragraph (b)(1) by removing ''043781'' and by adding in its place ''No. 053501''.

§ 520.1242b [Amended]

5. Section 520.1242b *Levamisole hydrochloride tablet or oblet (bolus)* is amended in paragraph (c) by removing ''043781'' and by adding in its place ''053501''.

§ 520.1242c [Amended]

6. Section 520.1242c *Levamisole hydrochloride and piperazine dihydrochloride* is amended in paragraph (b) by removing ''043781'' and by adding in its place ''053501''.

§ 520.1242e [Amended]

7. Section 520.1242e *Levamisole hydrochloride effervescent tablets* is amended in paragraph (b) by removing ''043781'' and by adding in its place ''053501''.

§ 520.1242f [Amended]

8. Section 520.1242f *Levamisole hydrochloride gel* is amended in paragraph (b) by removing ''043781'' and by adding in its place ''053501''.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 522.234 [Amended]

10. Section 522.234 *Butamisole hydrochloride* is amended in paragraph (b) by removing ''043781'' and by adding in its place ''053501''.

§ 522.1244 [Amended]

11. Section 522.1244 *Levamisole phosphate injection* is amended in paragraph (b) by removing ''043781'' and by adding in its place ''053501''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.315 [Amended]

13. Section 558.315 *Levamisole hydrochloride (equivalent)* is amended in paragraph (a) by removing ''043781'' and by adding in its place ''No. 053501''.

Dated: September 26, 2002.

Andrew J. Beaulieu,

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

[FR Doc. 02–25880 Filed 10–9–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 020430101–2101–01; I.D. 092502H]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 12—Adjustment of the Recreational Fishery From the Queets River to Leadbetter Point, WA (Westport Area)

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

ACTION: Adjustment; request for comments.

SUMMARY: NMFS announces that the recreational fishery in the area from the Queets River to Leadbetter Point, WA (Westport Area), was modified to reopen Sunday, August 18, 2002, through midnight on Monday, August 19, 2002. The area continued with a bag limit of two fish per day, but only 1 chinook, and all retained coho required to have a healed adipose fin clip, and a chinook minimum size limit of 28 inches (71.1 cm) total length. All other restrictions remained in effect as announced for

2002 ocean salmon fisheries. The Northwest Regional Administrator, NMFS (Regional Administrator), determined that available catch and effort data indicated that these management measures should be implemented to provide greater access to the coho and chinook quotas. This action was necessary to conform to the 2002 management goals.

DATES: Adjustment in the Westport Area effective 0001 hours local time (l.t.), August 18, 2002, through 2359 hours l.t., August 19, 2002, or until modified by a subsequent inseason action, which will be published in the **Federal Register** for the west coast salmon fisheries, or until the effective date of the year 2003 management measures. Comments will be accepted through October 25, 2002.

ADDRESSES: Comments on this action must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; or faxed to 206–526–6376; or Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132; or faxed to 562–980–4018. Comments will not be accepted if submitted via e-mail or the Internet. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140.

SUPPLEMENTARY INFORMATION:

The Regional Administrator modified the season for the recreational fishery in the Westport sub-area to reopen Sunday, August 18, 2002, through midnight on Monday, August 19, 2002. The area continued with a bag limit of two fish per day, but only 1 chinook, and all retained coho required to have a healed adipose fin clip, and a chinook minimum size limit of 28 inches (71.1 cm) total length. Information provided on August 15, 2002, regarding the available catch and effort data indicated that these management measures should be implemented to provide greater access to the coho and chinook quotas. Modification of fishing seasons is authorized by regulations at 50 CFR 660.409(b)(1)(i).

In the 2002 annual management measures for ocean salmon fisheries (67 FR 30616, May 7, 2002), NMFS announced the recreational fishery in the area from the U.S.-Canada Border to Cape Falcon, OR, would have an overall chinook quota of 67,500 fish, with each of its four sub-areas having a chinook guideline. The Westport sub-area was announced to open June 30 through the earlier of September 8, 2002, or a 39,280 coho subarea quota, with a guideline of 32,000 chinook.

The recreational fishery in Westport sub-area was modified twice by inseason action. The fishery was first modified to establish a chinook minimum size limit of 28 inches (71.1 cm) total length from the U.S.-Canada Border to Leadbetter Point, WA, and 26 inches (66.0 cm) total length from Leadbetter Point, WA, to Cape Falcon, OR, effective July 21, 2002 (67 FR 52891, August 14, 2002). Information provided on July 18, 2002, regarding the available catch and effort data indicated that modifying the minimum size limit of 24 inches (61.0 cm) total length for chinook to the adjusted size limits should be implemented to slow the catch of chinook and provide greater access to the coho quota. Second, the Westport, WA, sub-area was modified to close at midnight August 15, 2002, with the bag limit also modified to two fish per day, but only 1 chinook, and all retained coho required to have a healed adipose fin clip (67 FR 61041, September 27, 2002). The chinook minimum size limit continued to be 28 inches (71.1 cm) total length. These modifications to the fishing season were adopted to avoid closing the fishery early due to reaching the chinook quota, thus precluding the opportunity to catch available marked hatchery coho salmon that typically show up in greater numbers later in the season.

On August 15, 2002, the Regional Administrator consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife by conference call. Information related to catch to date, the chinook and coho catch rates, and effort data indicated that there was enough chinook left in the quota to allow two more days of fishing, without foreclosing opportunity of fishers to harvest marked coho in the other sub-areas. As a result, the States of Washington and Oregon recommended, and the Regional Administrator concurred, that the recreational fishery in the Westport, WA, sub-area needed modification to reopen on Sunday, August 18, 2002, through midnight on Monday, August 19, 2002, to access the available chinook and marked coho left in the sub-area quotas. In addition, the area was to continue with a bag limit of two fish per day, but only 1 chinook, and all retained coho required to have a healed adipose fin clip, and a chinook minimum size limit of 28 inches (71.1 cm) total length. All other restrictions that applied to this fishery remained in effect as announced in the 2002 annual management measures.

The Regional Administrator determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason action recommended by the States. The States manage the fisheries in State waters adjacent to the areas of the U.S. exclusive economic zone in accordance with this Federal action. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishers of the above described action was given prior to the effective date by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF–FM and 2182 kHz.

This action does not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B), or delaying the effectiveness of this rule for 30 days under 5 U.S.C. 553(d)(3), because such notification and delay would be impracticable and contrary to the public interest. As previously noted, actual notice of this action was provided to fishers through telephone hotline and radio notification. This action complies with the requirements of the annual management measures for ocean salmon fisheries (67 FR 30616, May 7, 2002) and the West Coast Salmon Plan. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies have insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data are collected to determine the extent of the fisheries, and the time the limits to which the fishery must be adjusted to reduce harvest rates in the fishery must be in place. Moreover, such prior notice and the opportunity for public comment is contrary to the public interest because it does not allow recreational fishermen appropriately controlled access to the available fish at the time they are available.

The AA finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C. 553(d)(3). A delay in effectiveness of this action would not allow recreational fishermen

appropriately controlled access to the available fish at the time they are available.

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

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

Dated: October 3, 2002.

Virginia M. Fay,

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

[FR Doc. 02–25710 Filed 10–9–02; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 020430101–2101–01; I.D. 092602A]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action 13—Adjustment of the Commercial Fishery from the U.S.–Canada Border to Cape Falcon, OR

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

ACTION: Adjustments; request for comments.

SUMMARY: NMFS announces that the commercial fishery in the area from the U.S.-Canada Border to Cape Falcon, OR was modified to reopen on August 22, 2002, and close at midnight, August 28, 2002, with a vessel limit of 250 chinook salmon for the entire 7–day open period. In addition, the gear restriction limiting fishers to no more than four spreads per line between Cape Falcon, OR and Leadbetter Point, WA was suspended for the open period. All other restrictions and regulations remain in effect as announced for 2002 ocean salmon fisheries. The Northwest Regional Administrator, NMFS (Regional Administrator), determined that available catch and effort data indicated that these management measures should be implemented to provide fishers greater access to the chinook and coho quotas. This action was necessary to conform to the 2002 management goals.

DATES: Adjustments in the area from the U.S.-Canada Border to Cape Falcon, OR, effective 0001 hours local time (l.t.), August 22, 2002, through 2359 hours l.t. August 28, 2002, after which the fishery will remain closed until opened through an additional inseason action, which will be published in the **Federal Register** for the west coast salmon fisheries, or until the effective date of the year 2003 management measures. Comments will be accepted through October 25, 2002.

ADDRESSES: Comments on these actions must be mailed or faxed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070, facsimile 206–526–6376; or

Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132, facsimile 562–980–4018.

Comments will not be accepted if submitted via e-mail or the Internet. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140.

SUPPLEMENTARY INFORMATION: The Regional Administrator modified the season for the commercial fishery in the commercial fishery in the area from the U.S.-Canada Border to Cape Falcon, OR to reopen on August 22, 2002, and close at midnight, August 28, 2002, with a vessel limit of 250 chinook salmon for the entire 7–day open period. In addition, the gear restriction limiting fishers to no more than four spreads per line between Cape Falcon, OR and Leadbetter Point, WA was suspended for the open period. Information provided on August 21, 2002, regarding the available catch and effort data indicated that these management measures should be implemented to allow fishers to fully access the chinook and coho quotas. Modification of fishing seasons and gear restriction are authorized by regulations at 50 CFR 660.409(b)(1)(i) and 50 CFR 660.409(b)(1)(iv), respectively.

In the 2002 annual management measures for ocean salmon fisheries (67 FR 30616, May 7, 2002), NMFS announced that the commercial fishery for all salmon except coho in the area from the U.S.-Canada Border to Cape Falcon, OR would open July 1, 2002, and run through the earlier of September 8, 2002, or a 32,500–chinook quota, except for a selective fishery for marked coho in the sub-area from Leadbetter Point, WA to Cape Falcon, OR scheduled at the end of the season with a 5,000–marked coho quota.

The fishery in the area from the U.S.-Canada Border to Cape Falcon, OR, has been modified four times so far by inseason action. The first inseason action opened the fishery as scheduled on July 1, 2002, but modified it to close at midnight, July 8, 2002, with the provision that no vessel may possess, land, or deliver more than 250 chinook for the entire 8–day open period (67 FR 47334, July 18, 2002). The second inseason action reopened the area on July 12, 2002, and closed it at midnight, July 22, 2002, with the provision that no vessel may possess, land, or deliver more than 400 chinook for the entire 11–day open period (67 FR 49875, August 1, 2002). The third inseason action reopened the area on July 26, 2002, and closed it at midnight, August 5, 2002, with the provision that no vessel may possess, land, or deliver more than 500 chinook salmon for the entire 11–day open period (67 FR52889, August 14, 2002). The fourth inseason action reopened the area on August 9, 2002, and closed it at midnight, August 18, 2002, with the provision that no vessel may possess, land, or deliver more than 400 chinook salmon for the entire 10–day open period (67 FR 60599, September 26, 2002). In addition, the gear restriction limiting fishers to no more than four spreads per line between Cape Falcon, OR and Leadbetter Point, WA was suspended for the fourth open period. These modifications to the fishing season were adopted to avoid closing the fishery early due to reaching the chinook quota, thus precluding the opportunity to catch available marked hatchery coho salmon later in the season.

On August 21, 2002, the Regional Administrator consulted with representatives of the Pacific Fishery Management Council, Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife (ODFW) by conference call. Information related to catch to date, the chinook catch rate, and effort data indicated that it was likely that the chinook quota would be reached prematurely unless adequately controlled, potentially foreclosing opportunity of fishers to conduct the selective fishery for marked coho later. As a result, the States of Washington and Oregon recommended, and the Regional Administrator concurred, that the commercial fishery in the area from the U.S.-Canada Border to Cape Falcon, OR, would reopen on August 22, 2002, and close at midnight, August 28, 2002, with the provision that no vessel may possess, land, or deliver more than 250 chinook for the entire 7–day open period. In addition, the gear restriction limiting fishers to no more than four spreads per line between Cape

Falcon, OR and Leadbetter Point, WA was again suspended for the open period, because this gear restriction was no longer needed to limit the catch of coho. All other restrictions that apply to this fishery remain in effect as announced in the 2002 annual management measures. The State of Oregon continued the landing restriction for this fishery in their regulations requiring that fishers fishing north of Cape Falcon, OR and intending to land salmon south of Cape Falcon, OR notify the ODFW before they leave the area at the following phone number (541) 867–0300, Ext. 252. In addition, the parties agreed to reevaluate the fishery on August 30, 2002, and assess the possibility of further openers.

The Regional Administrator determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason action recommended by the States. The States manage the fisheries in State waters adjacent to the areas of the U.S. exclusive economic zone in accordance with this Federal action. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishers of the above described action was given prior to the effective date by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

This action does not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B), or delaying the effectiveness of this rule for 30 days under 5 U.S.C. 553(d)(3), because such notification and delay would be impracticable and contrary to the public interest. As previously noted, actual notice of this action was provided to fishers through telephone hotline and radio notification. This action complies with the requirements of the annual management measures for ocean salmon fisheries (67 FR 30616, May 7, 2002) and the West Coast Salmon Plan. Prior notice and opportunity for public comment was impracticable because NMFS and the State agencies have insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data are collected to determine the status of the fisheries and the time the limits to which the fishery must be adjusted to reduce harvest rates in the fishery must be in place. Moreover, such prior notice and the opportunity for public comment is contrary to the public interest because it does not allow commercial fishermen appropriately controlled access to the available fish at the time they are available.

The AA finds good cause to waive the 30–day delay in effectiveness required under 5 U.S.C. 553(d)(3). A delay in effectiveness of this action would not allow commercial fishermen appropriately controlled access to the available fish at the time they are available. This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

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

Dated: October 7, 2002.

Virginia M. Fay,

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

[FR Doc. 02–25865 Filed 10–9–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 197
Thursday, October 10, 2002

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 JUSTICE

Bureau of Prisons

28 CFR Part 549

[BOP–1111–P]

RIN 1120–AB11

Inmate Fees for Health Care Services

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) proposes rules describing procedures we will follow for charging inmates fees for certain kinds of health services, as required under the Federal Prisoner Health Care Copayment Act of 2000.

DATES: Please send comments by December 9, 2002.

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

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION: Under the Federal Prisoner Health Care Copayment Act of 2000 (Pub. L. 106–294, October 12, 2000, 114 Stat. 1038), the Bureau of Prisons may assess and collect a fee for health care services provided in connection with certain kinds of inmate health care visits. In this document, we propose rules describing procedures we will follow for charging inmates health service fees for certain kinds of health care services.

Who Do These Rules Apply To?

These rules apply to anyone incarcerated in an institution under our jurisdiction and to anyone, as designated by the Director, who has been charged with or convicted of an offense against the United States.

What Will This Rule Do?

Through this rule, the Bureau will add a subpart F to its regulations in 28 CFR part 549, on Medical Services. Under these rules, an inmate must pay a $2.00 fee for health care services if (1) he/she receives services in connection with a visit that he/she requested, except for certain services, or (2) he/she injured an inmate who, as a result of the injury, needs a health care visit.

Under these rules, and under the Federal Prisoner Health Care Copayment Act of 2000, we will not charge fees for health care services based on staff referrals, staff-approved follow-up treatment for a chronic condition, preventative health care services, emergency services, prenatal care, diagnosis or treatment of chronic infectious diseases, mental health care, or substance abuse treatment.

If inmates disagree with a health care service fee that we charge them, they may appeal it through the Bureau's Administrative Remedy Program.

Also, if an inmate is indigent and unable to pay the health care service fee, we will not charge that inmate.

Where To Send Comments

You can send written comments on this rule to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

We will consider comments received during the comment period before taking final action. We will try to consider comments received after the end of the comment period. In light of comments received, we may change the rule.

We do not plan to have oral hearings on this rule. All the comments received remain on file for public inspection at the above address.

Executive Order 12866

The Office of Management and Budget (OMB) determined that certain rules are part of a category of actions which are not ''significant regulatory actions'' under section 3(f) of Executive Order 12866. Because this rule falls within that category, OMB did not review it.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications for which we would prepare a Federalism Assessment.

Regulatory Flexibility Act

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

Unfunded Mandates Reform Act of 1995

This rule will not cause State, local and tribal governments, or the private sector, to spend $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. We do not need to take action under the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

Plain Language Instructions

We want to make Bureau documents easier to read and understand. If you can suggest how to improve the clarity of these regulations, call or write to Sarah Qureshi at the address or telephone number listed above.

List of Subjects in 28 CFR Part 549

Prisoners.

Kathleen Hawk Sawyer,
Director, Bureau of Prisons.

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of

Prisons, we propose to amend 28 CFR part 549 as follows.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 549—MEDICAL SERVICES

1. Revise the authority citation for 28 CFR 549 to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4005, 4014, 4042, 4045, 4081, 4082, (Repealed in part as to offenses committed on or after November 1, 1987), 4241–4247, 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

2. Add a new Subpart F to read as follows:

Subpart F—Fees for Health Care Services

Sec.
549.70 Purpose and scope.
549.71 Inmates affected.
549.72 Services provided without fees.
549.73 Appealing the fee.
549.74 Inmates without funds.

§ 549.70 Purpose and scope.

(a) The Bureau of Prisons (Bureau) may, under certain circumstances, charge you, an inmate under our care and custody, a fee for providing you with health care services.

(b) Generally, if you are an inmate as described in § 549.71, you must pay a fee for health care services of $2.00 per health care visit if you:

(1) Receive health care services in connection with a health care visit that you requested, (except for services described in § 549.72); or

(2) Are found responsible through the Disciplinary Hearing Process to have injured an inmate who, as a result of the injury, requires a health care visit.

§ 549.71 Inmates affected.

This subpart applies to:

(a) Any individual incarcerated in an institution under the Bureau's jurisdiction; or

(b) Any other individual, as designated by the Director, who has been charged with or convicted of an offense against the United States.

§ 549.72 Services provided without fees.

We will not charge a fee for:

(a) Health care services based on staff referrals;

(b) Staff-approved follow-up treatment for a chronic condition;

(c) Preventive health care services;

(d) Emergency services;

(e) Prenatal care;

(f) Diagnosis or treatment of chronic infectious diseases; (g) Mental health care; or

(g) Mental health care; or

(h) Substance abuse treatment.

§ 549.73 Appealing the fee.

You may seek review through the Bureau's Administrative Remedy Program (see 28 CFR part 542) if you disagree with either the fee charge or the amount.

§ 549.74 Inmates without funds.

You will not be charged a health care service fee if you are considered indigent and unable to pay the health care service fee. The Warden may establish rules and processes to prevent abuses of this provision.

[FR Doc. 02–25850 Filed 10–9–02; 8:45 am]

BILLING CODE 4410–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OEI–2002–0010; FRL–6724–4]

Overburden Exemption; Toxic Chemical Release Reporting; Community Right-to-Know; Administrative Procedure Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of petition.

SUMMARY: EPA is denying an Administrative Procedure Act (APA) petition to modify its definition of ''overburden'' to include both consolidated and unconsolidated material. Currently, unconsolidated material is eligible for the overburden exemption to reporting required under 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). Specifically, EPA is denying this petition because EPA's review of the petition and available information resulted in the conclusion that consolidated rock includes materials that often contain toxic chemicals above negligible amounts, often in significant quantities.

FOR FURTHER INFORMATION CONTACT: Peter South, Petition Manager, U.S. Environmental Protection Agency, Mail Code 2844T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, 202–566–0745, e-mail: *south.peter@epa.gov*. For specific information on this document, or for more information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Hotline, U.S. Environmental Protection Agency, Mail Code 5101, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Toll free: 1–800–535–0202, in Virginia and Alaska: 703–412–9877 or Toll free TDD: 1–800–553–7672. Information concerning this notice is also available on EPA's Web site at *http://www.epa.gov/tri*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This notice does not make any changes to existing regulations. However, you may be affected by this notice if you are a metal mining facility, or a facility that carries out metal mining activities. Potentially affected categories and entities may include, but are not limited to:

Category	Examples of potentially interested entities
Industry	Metal mining facilities that remove and manage overburden and waste rock to access target ore; SIC major group codes 10 (except 1011, 1081, and 1094).
Federal Government.	Federal facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in part 372, subpart B of Title 40 of the Code of Federal Regulations (CFR). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Copies Of This Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. OEI–2002–0010.

The public docket includes information considered by EPA in developing this action, including the documents listed below, which are physically located in the docket. In addition, interested parties should consult documents that are referenced in the documents that EPA has placed in the docket, regardless of whether these referenced documents are physically located in the docket. For assistance in locating documents that are referenced in documents that EPA has placed in the docket, but that are not physically located in the docket, please consult the person listed in the

preceding **FOR FURTHER INFORMATION CONTACT** section. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Overburden Exemption Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1742, and the telephone number for the Overburden Exemption Docket is (202) 566–1752.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. Once in the system, select ''search,'' then key in the appropriate docket identification number.

II. Introduction

A. What Is the Statutory Authority for This Action?

This action is taken under the Administrative Procedure Act (APA), 5 U.S.C. secs 551–559, 701–706.

B. What Is the General Background for This Action?

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals in amounts above reporting threshold levels, to report their environmental releases of such chemicals annually. These facilities must also report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13106.

On May 1, 1997, EPA added metal mining and six other industry groups to the list of facilities subject to the reporting requirements of section 313 of EPCRA. 62 FR 23833. EPA added these groups in order to enhance the public's knowledge about the use and disposition of toxic chemicals in their communities.

EPA defines ''overburden'' as ''the unconsolidated material that overlies a deposit of useful materials or ores.'' 40 CFR 372.3. Due to the Agency's understanding that overburden contained EPCRA section 313 chemicals in negligible amounts and that reporting was unlikely to provide the public with information valuable enough to warrant reporting, EPA exempted EPCRA section 313 chemicals in overburden from EPCRA section 313 and PPA section 6607 reporting requirements. EPA does not require compliance determinations or reporting of releases or other waste management information for listed chemicals which exist in overburden removed prior to removal of waste rock or extraction of the target ore. The Agency's rationale in providing the overburden exemption, as defined above, was dependent on EPA's understanding that overburden contained toxic chemicals only in negligible amounts, and therefore was unlikely to generate any reporting. 62 FR 23859. The same, however, could not be determined for consolidated rock, and therefore EPA did not extend the exemption to this material. Id.

III. What Does This Petition Request of the Agency?

EPA received a petition from the National Mining Association (NMA) on December 22, 1998, and additional information in a letter on May 7, 1999. NMA petitioned the Agency to modify the EPCRA section 313 definition of ''overburden'' to include both consolidated and unconsolidated material. Refs. 1 and 2. Currently, only unconsolidated material is considered as overburden under the Toxics Release Inventory (TRI) program, and therefore only unconsolidated material is eligible for the overburden exemption under EPCRA section 313.

NMA asserts that the EPCRA section 313 definition of overburden is inconsistent with that of the mining industry, the body of technical evidence, leading technical authorities, and other federal regulatory definitions. Refs. 1 and 2. NMA considers overburden to include both the consolidated and unconsolidated material that overlies an ore deposit. NMA petitioned EPA to include consolidated material in addition to unconsolidated material in the definition of overburden under EPCRA section 313 and thus make consolidated material eligible for the overburden exemption.

NMA cites two technical references: the American Geological Institute (AGI) Dictionary of Mining, Mineral, and Related Terms, Ref. 3, and the Glossary of Selected Geologic Terms with Special Reference to Their Use in Engineering, Ref. 4. The AGI defines overburden as: overburden (a) Designates material of any nature, consolidated or unconsolidated, that overlies a deposit of useful materials, ores, or coal—esp. those deposits that are mined from the surface by open cuts. (Stokes, 1955) (b) Loose soil, sand, gravel, etc. that lies above the bedrock. Also called burden, capping cover, drift, mantle, surface. See also: baring; burden; top. (Stokes, 1955). Ref. 3.

The Glossary of Selected Geologic Terms with Special Reference to Their Use in Engineering, by W. L Stokes and D. J. Varnes, defines overburden as: overburden, n. A term used by geologists and engineers in several different senses. By some it is used to designate material of any nature, consolidated or unconsolidated, that overlies a deposit of useful materials, ores, or coal, especially those deposits that are mined from the surface by open cuts. As employed by others overburden designates only loose soil, sand, gravel, etc., that lies above the bedrock. The term should not be used without specific definition. Ref. 4.

In addition, NMA cites two EPA definitions and four other federal regulatory definitions that define overburden to include both consolidated and unconsolidated material. The EPA's National Pollutant Discharge Elimination System (NPDES) (40 CFR 122.26(b)(10)) defines overburden as: Overburden means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally-occurring surface materials that are not disturbed by mining operations. Ref. 2.

EPA's Office of Solid Waste (OSW) 1985 Report to Congress: Wastes from the Extraction and Beneficiation of Metallic Ores, Phosphate Rock, Asbestos, Overburden from Uranium Mining, and Oil Shale defines overburden as: ''consolidated or unconsolidated material overlying the mined area.'' Ref. 5.

The other federal agency definitions include: the Mine Safety and Health Administration (MSHA), the Office of Surface Mining (OSM), the Bureau of Land Management (BLM), and the Bureau of Indian Affairs (BIA). Ref. 2.

IV. What Is the Regulatory Status of the Overburden Exemption?

The regulatory definition of overburden under EPCRA section 313 is the unconsolidated material that overlies a deposit of useful materials or ores. 40 CFR 372.3. In most cases, overburden contains EPCRA section 313 chemicals in negligible amounts and reporting is unlikely to provide the public with sufficient valuable information to justify reporting.

In contrast, waste rock (including consolidated rock) may be acid-generating and may contain toxic metals above negligible amounts that after release can be mobilized and be transported through the environment. EPA considers waste rock (including consolidated rock) as distinct from overburden for purposes of reporting under EPCRA section 313. 62 FR 23859. In fact, EPA's definition of overburden specifically excludes waste rock: ''It [overburden] does not include any portion of the ore or waste rock.'' 40 CFR 372.3. Waste rock (including consolidated rock) is generally considered that portion of the ore body that is barren or submarginal rock or ore which has been mined but under normal conditions is not considered of sufficient value to warrant treatment. Waste rock is part of the ore body and may, depending upon economic conditions, become a valuable source of metal. Waste rock (including consolidated rock) may also be further distributed in commerce for other uses such as road construction. Although waste rock (including consolidated rock) may typically contain lower concentrations of metals and other constituents than the target ore, it often contains toxic chemicals above negligible amounts.

V. What Is EPA's Rationale for Denial?

In adding metal mining to the list of facilities subject to the reporting requirements of EPCRA section 313 (62 FR 23833), EPA provided the overburden exemption due to the Agency's understanding that overburden contained EPCRA section 313 chemicals in negligible amounts and that reporting was unlikely to provide the public with sufficient valuable information to justify reporting. EPA was not able to make the same determination for the consolidated rock that surrounds the ore body or the ore body itself. Therefore, the Agency specifically defined overburden to only include ''unconsolidated material that overlies a deposit of useful materials or ores.'' 40 CFR 372.3.

The Agency specifically did not exempt consolidated mining material (*i.e.,* waste rock, including consolidated rock) due to EPA's understanding that consolidated rock and/or waste rock often contains toxic chemicals above negligible amounts. Neither the petition submitted by NMA nor the documents which define overburden in a broader manner than the TRI program contain information that would allow EPA to change its conclusion. Without that type of information, EPA is unwilling to extend an exemption to materials which contain toxic chemicals above negligible amounts and for which reporting is likely to provide the public with valuable information. EPA's determination relies on the legal doctrine of the de minimis non curat lex: ''the law does not concern itself with trifling matters,'' Alabama Power Co. v. Costle, 636 F.2d 323, 360 (D.C. Cir. 1979). The de minimis principle recognizes that most regulatory statutes permit the ''implication'' that an agency has the authority to craft exemptions ''when the burdens of regulation yield a gain of trivial or no value.'' Alabama Power, 636 F .2d at 360–61. EPA has found no information to conclude that consolidated mining material contains EPCRA section 313 chemicals in only negligible amounts. As such, EPA limited this particular exemption to include overburden as defined under EPCRA section 313 (*i.e.,* unconsolidated material) and did not extend it to consolidated material (*i.e.,* waste rock including consolidated rock) which often contains EPCRA section 313 toxic chemicals above negligible amounts.

Furthermore, after they are released, the metals that are contained in waste rock and consolidated rock can be mobilized and transported through the environment. Significant human health and environmental damages are caused by the management of mining wastes (*i.e.,* extraction and beneficiation). Refs. 6, 7, and 8. Therefore, reporting on these materials will be valuable to the public.

In addition, NMA's proposed basis for expansion of the TRI definition of overburden—that EPA's definition is inconsistent with that of the industry—is not persuasive. Both the AGI definition and the Stokes and Varnes definition provide similar two-part sub-definitions that are significantly different. Although the first sub-definition provided by AGI is consistent with NMA's assertion that overburden can contain both consolidated and unconsolidated material, the second sub-definition clearly supports EPA's understanding that overburden is also defined to include only loose material (*e.g.,* ''Loose soil, sand, gravel, etc. that lies above the bedrock.''). Stokes and Varnes provide a similar two-part definition by recognizing two equally acceptable definitions of the term overburden. Stokes and Varnes define overburden as (a) ''* * * material of any nature, consolidated or unconsolidated * * *'' and (b) ''only loose soil, sand, gravel, etc., that lies above bedrock.'' In addition, Stokes and Varnes highlight the fact that the term overburden should not be used without ''specific definition,'' which EPA provided in the initial rule. Although the term overburden is used by certain government and industry groups to include both consolidated and unconsolidated material, EPA's current definition for the TRI program that overburden includes only unconsolidated material is clearly consistent with the leading technical industry references. As was noted by Stokes and Varnes, the term overburden can accurately be defined to include only unconsolidated material. It is critical, however, when using the term to provide specific definition.

In addition, NMA asserts that the EPCRA section 313 definition of overburden is inconsistent with EPA's Office of Solid Waste (OSW) 1985 Report to Congress, Wastes from the Extraction and Beneficiation of Metallic Ores, Phosphate Rock, Asbestos, Overburden from Uranium Mining, and Oil Shale. The 1985 Report to Congress defines overburden as the ''consolidated or unconsolidated material overlying the mined area.'' Ref. 5. From a regulatory standpoint under the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901–6992k), all overburden which is not returned to the pit is a component of the term mine waste. The 1985 Report to Congress defines mine waste as ''the soil or rock that mining operations generate during the process of gaining access to an ore or mineral body, and includes the overburden (consolidated or unconsolidated material overlying the mined area) from surface mines, underground mine development rock (rock removed while sinking shafts, accessing, or exploiting the ore body), and other waste rock, including the rock interbedded with the ore or mineral body.'' Ref. 5. Mine waste is a RCRA solid waste, but is exempt from regulation as a hazardous waste. 40 CFR 261.4(b)(7).

The 1985 Report to Congress reflects the understanding the Agency had at the time on the nature and types of mining wastes. The 1985 Report to Congress did, however, clearly point out the Agency's concerns that overburden and other types of mine wastes had caused

significant environmental damages. Since then, as a result of the Bevill rulemakings (54 FR 36592 September 1, 1989; 55 FR 2322, January 23, 1990; 56 FR 27300, June 13, 1991) and the Land Disposal Restrictions Phase IV rulemaking (63 FR 28556, May 26, 1998), the Agency has significantly improved its understanding of the nature and types of mining wastes. The Bevill rulemakings were promulgated to establish a regulatory approach to identify the differences between extraction/beneficiation wastes from mineral processing wastes. The Agency's most recent assessment of the environmental risks posed by mining waste confirms the Agency's 1985 concerns and indicates that mine waste continues to cause environmental damage throughout the U.S. Refs. 7 and 8.

NMA also asserts that the EPCRA section 313 definition of overburden is inconsistent with EPA's National Pollutant Discharge Elimination System (NPDES) (CFR 122.26(b)(10)) and other federal agency definitions, including: the Mine Safety and Health Administration (MSHA), the Office of Surface Mining (OSM), the Bureau of Land Management (BLM), and the Bureau of Indian Affairs (BIA). Ref. 2.

Because the statutes governing these programs and the purposes of these programs are different from those for the TRI program, it is reasonable for the TRI program to define overburden differently than other programs. Clearly, the purpose of each of these programs (direct regulation) is quite different from the purposes related to the reporting of releases and other waste management under EPCRA section 313 (information collection and dissemination). The TRI program was established by Congress under EPCRA section 313 in response to public demand for information on toxic chemicals being released in their communities. For example, in a study of 306 of the approximately 1,000 operating hard rock mines in the U.S., EPA found that approximately 228,145 people (including 55,374 children under the age of four) and 89,335 households live within 1 mile of one of the 306 active mine sites. Ref. 9. The entire concept of the TRI program is founded on the belief that the public has the right to know about chemical usage and release in the areas in which they live, as well as the hazards that may be associated with these chemicals. As such, it is reasonable that the EPCRA section 313 program defines overburden differently than other federal regulatory programs.

In the TRI Program's final facility expansion rulemaking (62 FR 23833), EPA determined that it was important for the communities that surrounded mining facilities to have information on the releases and other waste management activities that are associated with those facilities. A broader interpretation of the EPCRA section 313 definition of overburden would result in significantly less information being transmitted to these communities. Recognizing that the purpose of EPCRA section 313 is to provide information to the public, it is reasonable for the TRI program to have more narrowly defined the term overburden—and therefore the scope of the overburden exemption—in order to accomplish the goals of the facility expansion rulemaking, the TRI program, and the statute.

In conclusion, NMA makes the argument that the EPCRA section 313 definition of overburden is inconsistent with that of the mining industry, the body of technical evidence, leading technical authorities, and other federal regulatory definitions. As stated above, NMA's argument is not persuasive because the EPCRA definition of overburden is actually consistent with leading technical industry references. Neither the petition submitted by NMA nor the documents which define overburden in a broader manner than the TRI program contain information that would allow EPA to change its conclusion that consolidated rock and/or waste rock often contain toxic chemicals above negligible amounts. Without that type of information, EPA is unwilling to extend an exemption to materials which contain toxic chemicals above negligible amounts and for which reporting is likely to provide the public with valuable information. Therefore, EPA is denying this petition.

VI. What Are the References Cited in This Notice?

1. National Mining Association. Letter entitled: EPA Response to NMA Queries. December 22, 1998.

2. National Mining Association. Letter entitled: December 22, 1998, NMA Petition on TRI Regulatory Definition of ''Overburden.'' May 7, 1999.

3. American Geological Institute. Dictionary of Mining, Mineral, and Related Terms, 2nd Edition, American Geological Institute (1997).

4. Stokes, W. L. and Varnes, D.J. Glossary of Selected Geologic Terms With Special Reference to Their Use in Engineering, Colorado Scientific Society Proceedings, Vol. 16, (1955).

5. U.S. EPA. Report to Congress, Wastes from the Extraction and Beneficiation of Metallic Ores, Phosphate Rock, Asbestos, Overburden from Uranium Mining, and Oil Shale, U.S. Environmental Protection Agency, EPA 530–SW–85–033 (December 31, 1985).

6. U.S. EPA/Region 10. EPA and Hard Rock Mining: A Source Book for Industry in the Northwest and Alaska (Draft), U.S. Environmental Protection Agency, EPA 910–R–99–016 (November 1999).

7. U.S. EPA/Office of Solid Waste. Human Health and Environmental Damages from Mining and Mineral Processing Wastes, U.S. Environmental Protection Agency, Technical Background Document Supporting the Final Rule: Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters, RCRA Docket No. F–98–2P4F–FFFFF (April 1998).

8. U.S. EPA/Office of Solid Waste. Damage Cases and Environmental Releases from Mines and Mineral Processing Sites, U.S. Environmental Protection Agency, Technical Background Document Supporting the Final Rule: Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters, RCRA Docket No. F–98–2P4F–FFFFF (April 1998).

9. U.S. EPA/Office of Solid Waste. Population Studies of Mines and Mineral Processing Sites, U.S. Environmental Protection Agency, Technical Background Document Supporting the Final Rule: Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters, RCRA Docket No. F–98–2P4F–FFFFF (April 1998).

VII. What Are the Regulatory Assessment Requirements for This Action?

A. Executive Order 12866

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),

because denial of an APA rulemaking petition is not a ''significant regulatory action'' subject to review by OMB under E.O. 12866.

B. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this denial will not have a significant impact on a substantial number of small entities. This determination is based on the fact that this denial will not result in any adverse economic impacts on the facilities subject to reporting under EPCRA section 313, regardless of the size of the facility.

C. Paperwork Reduction Act

This petition denial will not reduce or increase the overall reporting and record keeping burden estimate provided for the TRI program, and does not require any review or approval by OMB under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* As such, it is not necessary for EPA to determine the total TRI burden associated with this action.

The reporting and record keeping burdens associated with TRI are approved by OMB under OMB No. 2070–0093 (Form R, EPA ICR No. 1363) and under OMB No. 2070–0145 (Form A, EPA ICR No. 1704). The current public reporting burden for TRI is estimated to average 52.1 hours for a Form R submitter and 34.6 hours for a Form A submitter. These estimates include the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection appears above. In addition, the OMB control number for EPA's regulations, after initial display in the final rule, are displayed on the collection instruments and are also listed in 40 CFR part 9.

D. Unfunded Mandates Reform Act and Executive Orders 13084 and 13132

Since this action involves the denial of an APA rulemaking petition, it does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, it is not subject to the requirement for prior consultation with Indian tribal governments as specified in Executive Order 13084, entitled Consultation and Coordination with Indian Tribal Governments (63 FR 27655, May 19,1998). Nor will this action have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999).

E. Executive Order 12898

Pursuant to Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), the Agency must consider environmental justice related issues with regard to the potential impacts of this action on environmental and health conditions in low-income populations and minority populations. The Agency has determined that this action will not result in environmental justice related issues.

F. Executive Order 13045

Pursuant to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), if an action is economically significant under Executive Order 12866, the Agency must, to the extent permitted by law and consistent with the Agency's mission, identify and assess the environmental health risks and safety risks that may disproportionately affect children. Since this action is not economically significant under Executive Order 12866, this action is not subject to Executive Order 13045.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, etc.) 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, nor did EPA consider the use of any voluntary consensus standards. In general, EPCRA does not prescribe technical standards to be used for threshold determinations or completion of EPCRA section 313 reports. EPCRA section 313(g)(2) states that ''In order to provide the information required under this section, the owner or operator of a facility may use readily available data (including monitoring data) collected pursuant to other provisions of law, or, where such data are not readily available, reasonable estimates of the amounts involved. Nothing in this section requires the monitoring or measurement of the quantities, concentration, or frequency of any toxic chemical released into the environment beyond that monitoring and measurement required under other provisions of law or regulation.''

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: September 19, 2002.

Kimberly T. Nelson,

Assistant Administrator, Office of Environmental Information.

[FR Doc. 02–25851 Filed 10–9–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH94

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Blackburn's Sphinx Moth

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; public hearing announcement.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice of a public hearing on the proposed critical habitat designation for Blackburn's sphinx moth (*Manduca blackburni*). The public hearing on the island of Hawaii and extension of the comment period will allow all interested parties to submit oral or written comments on the proposal. We are seeking comments or suggestions from the public, other concerned agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: The comment period for this proposal closes on December 30, 2002. Any comments received by the closing date will be considered in the final decision on this proposal. One public hearing will be held on the island of Hawaii, on Tuesday, October 29, 2002, in Kailua-Kona from 5:30 to 8:30 p.m. Prior to the public hearing, the Service will be available from 3:30 to 4:30 p.m. to provide information and to answer questions.

ADDRESSES: The public hearing in Kailua-Kona will be held at the King Kamehameha Hotel, 75–5660 Palani Road, Kailua-Kona, Hawaii. Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, Room 3–122, PO Box 50088, Honolulu, HI 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Henson, at the above address, (telephone 808/541–3441, facsimile 808/541–3470).

SUPPLEMENTARY INFORMATION: The public hearing for the proposed rule to designate critical habitat for Blackburn's sphinx moth announced in this **Federal Register** notice and the public hearing for the proposed designation of critical habitat for 47 plants from the island of Hawaii announced in a separate **Federal Register** notice are scheduled for the same date, time, and location in Kailua-Kona, Hawaii as a matter of convenience to the public. We will accept comments at this public hearing on the proposed designation of critical habitat for Blackburn's sphinx moth, as well as the proposed designation of critical habitat for 47 plants from the island of Hawaii.

Background

On June 13, 2002, we published a proposed critical habitat rule for the Blackburn's sphinx moth (*Manduca blackburni*) listed under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et. seq.*), known historically from the islands of Hawaii, Kauai, Maui, Molokai, and Oahu, and known currently from the islands of Hawaii, Kahoolawe, and Maui (67 FR 40633). The original comment period closed on August 12, 2002. The comment period now closes on December 30, 2002.

A final listing rule, listing the Blackburn's sphinx moth as endangered, was published in the **Federal Register** on February 1, 2000 (65 FR 4770). In that final rule, we determined that critical habitat designation for the moth would be prudent, and we also indicated that we were not able to develop a proposed critical habitat designation for the species at that time due to budgetary and workload constraints.

On June 2, 2000, we were ordered by the U.S. District Court for the District of Hawaii (in *Center for Biological Diversity* v. *Babbitt and Clark,* Civ. No. 99–00603 (D. Haw.) to publish the final critical habitat designation for Blackburn's sphinx moth by February 1, 2002. The plaintiffs and the Service entered into a consent decree in a separate action agreeing to jointly seek an extension of this deadline (*Center for Biological Diversity* v. *Norton,* Civ. No. 01–2063 D.D.C. October 2, 2001).

On January 30, 2002, the U.S. District Court in Hawaii approved a joint stipulation to modify the terms of the June 2 order to extend the deadline to August 10, 2002. Subsequently, the Service determined that an additional extension of time was needed to complete this designation making process. On August 21, 2002, the U.S. District Court in Hawaii approved another joint stipulation extending the date for the final rule designating critical habitat for this species to May 30, 2003.

The proposed rule published June 13, 2002, proposes to designate eight separate units, totaling approximately 40,240 hectares (99,433 acres) on the Hawaiian Islands of Maui, Hawaii, Molokai, and Kahoolawe as critical habitat for Blackburn's sphinx moth. For locations of these proposed units, please consult the proposed rule (67 FR 40633).

Section 4(b)(5)(E) of the Act, requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to requests from various parties, we will hold a public hearing on the date and at the address described in the **DATES** and **ADDRESSES** sections above. The public hearing and extension of the comment period allows all interested parties to submit oral or written comments on the proposal.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed to us. Legal notices announcing the date, time, and location of the public hearing will be published in newspapers concurrently with the **Federal Register** notice.

Persons needing reasonable accommodations in order to attend and participate in the public hearing should contact Patti Carroll at 503/231–2080 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing date. Information regarding this proposal is available in alternative formats upon request.

Comments from the public regarding this proposed rule are sought, especially regarding:

(1) The reasons why any particular area should or should not be designated as critical habitat for this species, as defined by section 3 of the Act;

(2) Specific information on the amount, distribution, and quality of habitat for the species, and what habitat is essential to the conservation of the species and why;

(3) Land use practices and current or planned activities in the subject areas, and their possible impacts on proposed critical habitat;

(4) Any economic or other impacts resulting from the proposed designations of critical habitat, including any impacts on small entities, energy development, low-income households, and local governments;

(5) Economic and other potential values associated with designating critical habitat for the above species such as those derived from non-consumptive uses (*e.g.*, hiking, camping, birding, enhanced watershed protection, increased soil retention, ''existence values'', and reductions in administrative costs); and

(6) Information for use, under section 4(b)(2) of the Act, in determining if the benefits of excluding an area from critical habitat outweigh the benefits of specifying the area as critical habitat.

The comment period on this proposal closes on December 30, 2002. Written comments should be submitted to the Service office listed in the **ADDRESSES** section.

Author

The primary author of this notice is Mike Richardson (*see* **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: October 1, 2002.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–25722 Filed 10–9–02; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI24

Endangered and Threatened Wildlife and Plants; Designations of Critical Habitat for Plant Species From the Island of Oahu, HI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period, and public hearing announcement.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice of a public hearing on the proposed critical habitat designations for 99 plants from the island of Oahu, Hawaii. In addition, the comment period (which originally closed on July 29, 2002) was reopened on August 26, 2002, and closed on September 30, 2002, will now be reopened. The new comment period and public hearing will allow all interested parties to submit oral or written comments on the proposal. We are seeking comments or suggestions from the public, other concerned agencies, the scientific community, industry, or any other interested parties concerning the proposed rule. Comments already submitted on the proposed rule need not be resubmitted as they will be fully considered in the final determination.

DATES: The comment period for this proposal now closes on November 30, 2002. Any comments received by the closing date will be considered in the final decision on this proposal. The public hearing will be held from 6 to 8 p.m. on Tuesday, November 19, 2002, on the island of Oahu, Hawaii. Prior to the public hearing, the Service will be available from 3:30 to 4:30 p.m. to provide information and to answer questions. We will also be available for questions after the hearing.

ADDRESSES: The public hearing will be held at the Ala Moana Hotel, 410 Atkinson Dr., Honolulu, Hawaii. Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, Room 3–122, P.O. Box 50088, Honolulu, HI 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Paul Henson, at the above address (telephone 808/541–3441; facsimile 808/541–3470).

SUPPLEMENTARY INFORMATION:

Background

On May 28, 2002, we published a proposed critical habitat rule for 99 of the 101 plant species listed under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), known historically from the island of Oahu (67 FR 37108). The original comment period closed on July 29, 2002. On August 26, 2002, we reopened the comment period for the proposed designations and non-designations of critical habitat for plant species on the island of Oahu, as well as for plant species on the islands of Kauai, Niihau, Molokai, Maui, Kahoolawe, Northwestern Hawaiian Islands, and Hawaii (67 FR 54766). The reopened comment periods allowed all interested parties to submit written comments on these proposals simultaneously and closed on September 30, 2002. With this notice, we are reopening the comment period for the proposed designations and non-designations of critical habitat for plant species on the island of Oahu. The comment period now closes on November 30, 2002. Written comments should be submitted to the Service (see **ADDRESSES** section).

A total of 101 species historically found on Oahu were listed as endangered or threatened species under the Act between 1991 and 1996. Some of these species may also occur on other Hawaiian islands. Previously, we proposed that designation of critical habitat was prudent for 45 (*Adenophorus periens, Alectryon macrococcus, Bonamia menziesii, Cenchrus agrimonioides, Centaurium sebaeoides, Colubrina oppositifolia, Ctenitis squamigera, Cyanea grimesiana* ssp. *grimesiana, Cyperus trachysanthos, Diellia erecta, Diplazium molokaiense, Eugenia koolauensis, Euphorbia haeleeleana, Flueggea neowawraea, Gouania meyenii, Gouania vitifolia, Hedyotis coriacea, Hesperomannia arborescens, Hesperomannia arbuscula, Hibiscus brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Isodendrion pyrifolium, Lobelia niihauensis, Lysimachia filifolia, Mariscus pennatiformis, Marsilea villosa, Melicope pallida, Nototrichium humile, Peucedanum sandwicense, Phlegmariurus nutans, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Platanthera holochila, Pteris lidgatei, Sanicula purpurea, Schiedea hookeri, Schiedea nuttallii, Sesbania tomentosa, Silene lanceolata, Solanum sandwicense, Spermolepis hawaiiensis, Tetramolopium lepidotum* ssp. *lepidotum,* and *Vigna o-wahuensis*) of the 101 species reported from the island of Oahu. No change is made to the 45 proposed prudency determinations in the May 28, 2002, proposed critical habitat rule for plants from Oahu. In the May 28, 2002, proposed critical habitat rule, we proposed that designation of critical habitat was not prudent for *Pritchardia kaalae* because it would likely increase the threats from vandalism or collection of this species on Oahu. In the same rule, we proposed that designation of critical habitat was not prudent for *Cyrtandra crenata* because it had not been seen recently in the wild and no viable genetic material of this species is known to exist. In the May 28, 2002, proposed critical habitat rule, we proposed that designation of critical habitat is prudent for 54 (*Abutilon sandwicense, Alsinidendron obovatum, Alsinidendron trinerve, Chamaesyce celastroides* var. *kaenana, Chamaesyce deppeana, Chamaesyce herbstii, Chamaesyce kuwaleana, Chamaesyce rockii, Cyanea acuminata, Cyanea crispa, Cyanea grimesiana* ssp. *obatae, Cyanea humboltiana, Cyanea koolauensis, Cyanea longiflora, Cyanea pinnatifida, Cyanea st.-johnii, Cyanea superba, Cyanea truncata, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Delissea subcordata, Diellia falcata, Diellia unisora, Dubautia herbstobatae, Eragrostis fosbergii, Gardenia mannii, Hedyotis degeneri, Hedyotis parvula, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lobelia oahuensis, Melicope lydgatei, Melicope saint-johnii, Myrsine juddii, Neraudia angulata, Phyllostegia hirsuta, Phyllostegia kaalaensis, Sanicula mariversa, Schiedea kaalae, Schiedea kealiae, Silene perlmanii, Stenogyne kanehoana, Tetramolopium filiforme, Tetraplasandra gymnocarpa, Trematalobelia singularis, Urera kaalae, Viola chamissoniana* ssp. *chamissoniana,* and *Viola oahuensis*) species for which prudency determinations have not been made previously.

We also propose designation of critical habitat for 99 (*Abutilon sandwicense, Adenophorus periens, Alectryon macrococcus, Alsinidendron obovatum, Alsinidendron trinerve, Bonamia menziesii, Cenchrus agrimonioides, Centaurium sebaeoides, Chamaesyce celastroides* var. *kaenana, Chamaesyce deppeana, Chamaesyce herbstii, Chamaesyce kuwaleana, Chamaesyce rockii, Colubrina oppositifolia, Ctenitis squamigera, Cyanea acuminata, Cyanea crispa,*

Cyanea grimesiana ssp. *grimesiana, Cyanea grimesiana* ssp. *obatae, Cyanea humboltiana, Cyanea koolauensis, Cyanea longiflora, Cyanea pinnatifida, Cyanea st.-johnii, Cyanea superba, Cyanea truncata, Cyperus trachysanthos, Cyrtandra dentata, Cyrtandra polyantha, Cyrtandra subumbellata, Cyrtandra viridiflora, Delissea subcordata, Diellia erecta, Diellia falcata, Diellia unisora, Diplazium molokaiense, Dubautia herbstobatae, Eragrostis fosbergii, Eugenia koolauensis, Euphorbia haeleeleana, Flueggea neowawraea, Gardenia mannii, Gouania meyenii, Gouania vitifolia, Hedyotis coriacea, Hedyotis degeneri, Hedyotis parvula, Hesperomannia arborescens, Hesperomannia arbuscula, Hibiscus brackenridgei, Isodendrion laurifolium, Isodendrion longifolium, Isodendrion pyrifolium, Labordia cyrtandrae, Lepidium arbuscula, Lipochaeta lobata* var. *leptophylla, Lipochaeta tenuifolia, Lobelia gaudichaudii* ssp. *koolauensis, Lobelia monostachya, Lobelia niihauensis, Lobelia oahuensis, Lysimachia filifolia, Mariscus pennatiformis, Marsilea villosa, Melicope pallida, Melicope saint-johnii, Myrsine juddii, Neraudia angulata, Nototrichium humile, Pelea lydgatei, Peucedanum sandwicense, Phlegmariurus nutans, Phyllostegia hirsuta, Phyllostegia kaalaensis, Phyllostegia mollis, Phyllostegia parviflora, Plantago princeps, Platanthera holochila, Pteris lidgatei, Sanicula mariversa, Sanicula purpurea, Schiedea hookeri, Schiedea kaalae, Schiedea kealiae, Schiedea nuttallii, Sesbania tomentosa, Silene lanceolata, Silene perlmanii, Solanum sandwicense, Spermolepis hawaiiensis, Stenogyne kanehoana, Tetramolopium filiforme, Tetramolopium lepidotum* ssp. *lepidotum, Tetraplasandra gymnocarpa, Trematalobelia singularis, Urera kaalae, Vigna o-wahuensis, Viola chamissoniana* ssp. *chamissoniana,* and *Viola oahuensis*) plant species. Critical habitat is not proposed for *Pritchardia munroi* and *Cyrtandra crenata* for the reasons given above. Twenty-five critical habitat units, totaling approximately 45,067 hectares (111,364 acres), are proposed for designation on the island of Oahu.

Section 4(b)(5)(E) of the Act requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to a request from a government agency of the State of Hawaii, we will hold a public hearing on the date and at the address described in the **DATES** and **ADDRESSES** sections above.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed to us. Legal notices announcing the date, time, and location of the public hearing will be published in newspapers concurrently with the **Federal Register** notice.

Persons needing reasonable accommodations in order to attend and participate in the public hearing should contact Patti Carroll at 503/231–2080 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing date.

Information regarding this proposal is available in alternate formats upon request.

Comments from the public regarding this proposed rule are sought, especially regarding:

(1) The reasons why critical habitat for any of these species is prudent or not prudent as provided by section 4 of the Act and 50 CFR 424.12(a)(1);

(2) The reasons why any particular area should or should not be designated as critical habitat for any of these species, as critical habitat is defined by section 3 of the Act;

(3) Specific information on the amount, distribution, and quality of habitat for the 99 species, and what habitat is essential to the conservation of the species and why;

(4) Land use practices and current or planned activities in the subject areas, and their possible impacts on proposed critical habitat;

(5) Any economic or other impacts resulting from the proposed designations of critical habitat, including any impacts on small entities, energy development, low income households, and local governments;

(6) Economic and other potential values associated with designating critical habitat for the above plant species such as those derived from non-consumptive uses (*e.g.*, hiking, camping, birding, enhanced watershed protection, increased soil retention, ''existence values'', and reductions in administrative costs); and

(7) Information for use, under section 4(b)(2) of the Act, in determining if the benefits of excluding an area from critical habitat outweigh the benefits of specifying the area as critical habitat.

Reopening of the comment period will enable us to respond to the request for a public hearing on the proposed action. The comment period on this proposal now closes on November 30, 2002. Written comments should be submitted to the Service office listed in the **ADDRESSES** section.

Author

The primary author of this notice is Michelle Mansker (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: October 1, 2002.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–25721 Filed 10–9–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI26

Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for Four Vernal Pool Crustaceans and Eleven Vernal Pool Plants in California and Southern Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing.

SUMMARY: We, the Fish and Wildlife Service (Service), provide notice that we are holding three public hearings to take oral comments regarding the proposed rule to designate critical habitat for 4 crustaceans and 11 plants endemic to vernal pools in California and southern Oregon.

DATES: We will hold public hearings and a public informational meeting at the following dates and times:

October 22, 2002:

San Luis Obispo, CA

First public hearing: 1 p.m. until 3 p.m.; registration begins at 12:30 p.m. Second public hearing: 6 p.m. until 8 p.m.; registration begins at 5:30 p.m. October 24, 2002:

Sacramento, CA

First public hearing: 1 p.m. until 3 p.m.; registration begins at 12:30 p.m.

Second public hearing: 6 p.m. until 8 p.m.; registration begins at 5:30 p.m.

Medford, OR

Public informational meeting: 1:30

p.m. until 3:30 p.m.

Public hearing: 6 p.m. until 8 p.m.; registration begins at 5:30 p.m.

Written comments on the proposed rule (67 FR 59884) must still be received by the date published in the proposed rule.

ADDRESSES: The public hearings and public informational meeting will be held at the following locations:

San Louis Obispo, CA: Embassy Suites, 333 Madonna Road.

Sacramento, CA: Radisson Hotel, 500 Leisure Lane.

Medford, OR: Red Lion Hotel, 200 N. Riverside Avenue.

Written comments and materials concerning the proposed critical habitat designation for 4 vernal pool crustaceans and 11 vernal pool plants in California and Southern Oregon (67 FR 59884) should be sent to Wayne S. White, Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way Room W–2605, Sacramento, CA 95825. Written comments may also be sent by facsimile to 916/414–6713 or through the internet to *fwl_vernalpool@fws.gov.* You may also hand-deliver written comments to our Sacramento Fish and Wildlife Office, at the above address, or at any of the public hearings mentioned above.

Comments and materials received, as well as supporting documentation used in the preparation of the proposed critical habitat designation rule, will be available for public inspection, by appointment, during normal business hours, at the above address. You may obtain copies of the proposed rule from the above address, by calling 916/414–6600, or from our Web site at *http://sacramento.fws.gov.*

FOR FURTHER INFORMATION CONTACT: Arnold Roessler or Susan Moore at the above address (telephone 916/414–6600, facsimile 916/414–6713 or visit our Web site at *http://sacramento.fws.gov/*). Information regarding this proposal is available in alternative formats upon request.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 2002, we published a proposed rule to designate critical habitat, pursuant to the Endangered Species Act of 1973, as amended (Act) for 4 vernal pool crustaceans and 11 vernal pool plants (67 FR 59884). The purpose of the public hearings announced here is to take oral comments on the proposed critical habitat designation.

Critical habitat consists of specific areas on which are found physical or biological characteristics essential to the conservation of a threatened or endangered species. The designation of critical habitat does not establish a preserve or regulate purely private uses of land. However, the Act does require Federal agencies to avoid taking actions that are likely to result in the destruction or adverse modification of critical habitat and to consult with us regarding how to best to avoid such destruction or adverse modification. Critical habitat designations also inform the public regarding areas of special importance for the conservation of the threatened or endangered species involved.

The four vernal pool crustaceans involved in this critical habitat designation are the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool fairy shrimp (*Branchinecta lynchi*) and vernal pool tadpole shrimp (*Lepidurus packardi*). The eleven vernal pool plant species are Butte County meadowfoam (*Limnanthes floccosa ssp. californica*), Contra Costa goldfields (*Lasthenia conjugens*), Hoover's spurge (*Chamaesyce hooveri*), succulent (or fleshy) owl's-clover (*Castilleja campestris ssp. succulenta*), Colusa grass (*Neostapfia colusana*), Greene's tuctoria (*Tuctoria greenei*), hairy Orcutt grass (*Orcuttia pilosa*), Sacramento Orcutt grass (*Orcuttia viscida*), San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*), slender Orcutt grass (*Orcuttia tenuis*), and Solano grass (*Tuctoria mucronata*). We are proposing a total of 128 units of critical habitat for these 15 species, totaling approximately 672,920 hectares (ha) (1,662,762 acres (ac)) in 36 counties in California and one county in Oregon.

All the species listed above live in vernal pools (shallow depressions that hold water seasonally), swales (shallow drainages that carry water seasonally), and ephemeral freshwater habitats. None are known to occur in riverine waters, marine waters, or other permanent bodies of water. The vernal pool habitats of these species have a discontinuous distribution west of the Sierra Nevada that extends from southern Oregon through California into northern Baja California, Mexico. The species have all adapted to the generally mild climate and seasonal periods of inundation and drying which help make the vernal pool ecosystems of California and southern Oregon unique.

Public Comments Solicited

We solicit additional information and comments that may assist us in making a final decision on the proposed rule to designate critical habitat for 4 vernal pool crustaceans and 11 vernal pool plants. We intend our final critical habitat designation to identify as accurately and effectively as possible those areas possessing characteristics essential to the conservation of the species. We will also take into account any economic or other impacts which this designation might cause. Therefore, we request comments and additional information from the general public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. Comments are particularly sought concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether areas under consideration require additional special management;

(2) Specific information on the amount and distribution of any of the vernal pool crustaceans or vernal pool plants and what habitat is essential to the conservation of these species and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat; in particular, in Oregon, we seek information related to potential of selected parcels to contribute to the species recovery, considering their zoning, adjacent land uses, watershed integrity, and potential for edge effects (related to shape of parcel);

(4) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families;

(5) Economic and other values associated with designating critical habitat for vernal pool crustaceans and vernal pool plants such as those derived from non-consumptive uses (*e.g.*, hiking, camping, bird-watching, enhanced watershed protection, improved air quality, increased soil retention, ''existence values,'' and reductions in administrative costs);

(6) Whether any areas should be excluded pursuant to section 4(b)(2); and

(7) Whether our approach to critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments.

Anyone wishing to make an oral comment or statement for the record at any of the hearings listed above is encouraged (but not required) to also provide a written copy of the statement and to present it to us at the hearing.

Oral comments will be transcribed. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed, faxed or emailed to us. Legal notices announcing the date, time, and location of the public hearings will be published in newspapers concurrently with this **Federal Register** notice. We will hold public informational meetings in various locations in California and will publicize the dates and locations in the local news media.

Persons needing reasonable accommodations in order to attend and participate in the public hearing should contact Patti Carroll at 503/231–2080 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing date.

Previously submitted written comments on this proposal need not be resubmitted. Please submit electronic mail comments as an ASCII file and avoid the use of special characters and any form of encryption. Please also include ''Attn: [RIN 1018–AI26]'' and your name and return address in your electronic message. If you do not receive a confirmation from our system that we have received your e-mail message, contact us directly by calling our Sacramento Fish and Wildlife Office at telephone number 916/414–6600.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Sacramento Fish and Wildlife Office, at the above address.

Author

The primary author of this notice is Glen Tarr (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: October 1, 2002.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–25720 Filed 10–9–02; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 67, No. 197

Thursday, October 10, 2002

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

Farm Service Agency

Notice of Funds Availability; 2002 Livestock Compensation Program

AGENCY: Farm Service Agency, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the availability of $752 million under section 32 of the Act of August 24, 1935 (section 32) to implement the 2002 Livestock Compensation Program (LCP). Livestock feed supplies and grazing availability have been significantly reduced due to the extreme drought that has occurred throughout much of the United States during 2001 and 2002. The LCP was created by the United States Department of Agriculture (USDA) to provide immediate financial assistance to the producers of eligible beef, dairy, buffalo, beefalo, sheep or goats, or cash lessees of eligible livestock, in certain States and counties to offset losses due to drought. Funds will be provided to eligible applicants in counties declared under a disaster designation made after January 1, 2001, or submitted to the Secretary of Agriculture, by the Governor of a State or a Tribal Leader of an Indian Reservation, no later than September 19, 2002. The county must be approved by the Secretary to be eligible for the LCP. Complete eligibility criteria and application procedures are provided in the notice below. The Farm Service Agency (FSA) will determine eligible producers and the amount of assistance that will be paid.

DATES: FSA began accepting applications on October 1, 2002. The application deadline will be determined by the Deputy Administrator for Farm Programs of FSA. Payments will be issued to applicants meeting all eligibility requirements beginning October 7, 2002.

FOR FURTHER INFORMATION CONTACT: Lynn Tjeerdsma, Chief, Emergency Preparedness and Programs Branch, USDA/FSA, 1400 Independence Ave. SW, STOP 0517, Washington, D.C. 20250–0522; telephone (202) 720–7641; facsimile (202) 690–3610; electronic mail: *Lynn_Tjeerdsma@wdc.usda.gov.* Persons with disabilities who require alternative means for communication of regulatory information (braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires consultation with State and local officials.

Environmental Compliance

Due to the drought-related emergency requiring the Agency to provide immediate relief, sufficient time was not available to complete an environmental review prior to implementing the proposed action. Therefore, an environmental assessment is being completed to consider the potential impacts of this proposed action on the human environment in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR Parts 1500–1508), and FSA's regulations for compliance with NEPA, 7 CFR part 799. A copy of the draft environmental assessment will be made available for public review and comment upon request.

Paperwork Reduction Act

A request for emergency clearance of the information collections associated with this notice has been approved by the Office of Management and Budget (OMB) under 5 CFR 1320.13(a)(2)(iii), and been assigned OMB control number 0560–0223.

I. Definitions

The following definitions are applicable to the 2002 Livestock Compensation Program:

Adult beef cows are female bovine livestock, of a breed used for the purpose of providing meat for human consumption, that have delivered one or more offspring, at any time before June 1, 2002.

Adult beef bulls are male bovine livestock, of a breed used for the purpose of providing meat for human consumption, to be used for breeding purposes, that were two years old on or before June 1, 2002.

Adult buffalo and beefalo cows are female livestock of those breeds, used for the purpose of providing meat for human consumption, that have delivered one or more offspring, at any time before June 1, 2002.

Adult buffalo and beefalo bulls are male livestock of those breeds, used for the purpose of providing meat for human consumption, to be used for breeding purposes that were two years old on or before June 1, 2002.

Adult dairy bulls are male bovine livestock that are two years old on or before June 1, 2002, of a breed used for producing milk for human consumption, for breeding dairy cows.

Adult dairy cows are female bovine livestock, used for the purpose of providing milk for human consumption, that have delivered one or more offspring, at any time before June 1, 2002.

Agency is the Farm Service Agency, its employees, and any successor agency.

Applicant is the individual or business entity applying for assistance.

Application means the Form FSA–553, Livestock Compensation Program (LCP) Application. The FSA–553 is available at FSA county service centers and on the Internet.

Beef bulls are male bovine livestock, used for the purpose of providing meat for human consumption, that as of June 1, 2002, weighed more than 500 pounds and were less than two years old.

Beef replacement heifers and non-breeding heifers are female bovine livestock, used for the purpose of providing meat for human consumption, that as of June 1, 2002, weighed more than 500 pounds and had never delivered any offspring.

Beef steers are neutered male bovine livestock, used for the purpose of providing meat for human consumption, that weighed more than 500 pounds on or before June 1, 2002.

Buffalo and beefalo bulls are male livestock of those breeds, used for the purpose of providing meat for human consumption, that as of June 1, 2002,

that weighed more than 500 pounds and were less than two years old.

Buffalo and beefalo replacement heifers and buffalo and beefalo non-breeding heifers are female livestock of those breeds, used for the purpose of providing meat for human consumption, that as of June 1, 2002, weighed more than 500 pounds and had never delivered any offspring.

Buffalo and beefalo steers are neutered male livestock of those breeds, used for the purpose of providing meat for human consumption, that weighed more than 500 pounds on or before June 1, 2002.

Business Entity is a corporation, partnership, joint operation, trust, limited liability company, or cooperative.

Dairy bulls are male bovine livestock, of a breed used for the purpose of providing milk for human consumption, that as of June 1, 2002, weighed more than 500 pounds and were less than two years old.

Dairy replacement heifers and dairy non-breeding heifers are female bovine livestock, of a breed used for the purpose of providing milk for human consumption, that as of June 1, 2002, weighed more than 500 pounds and had never delivered any offspring.

Dairy steers are neutered male bovine livestock, of a breed used for the purpose of providing milk for human consumption, that weighed more than 500 pounds on or before June 1, 2002.

Deputy Administrator or DAFP means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA), or a designee.

Eligible County is a county that was named as a primary county under a Secretarial disaster designation after January 1, 2001, for damages and losses due to drought; or for which a Governor of a State or a Tribal Leader of an Indian Reservation, requested a disaster designation no later than September 19, 2002, for damages and losses due to drought, and was subsequently approved by the Secretary as a primary county.

Eligible livestock are certain beef and dairy cattle, buffalo and beefalo, sheep, and goats that an eligible livestock producer owned, or cash-leased for 90 or more days, and that were owned or subject to a cash lease on June 1, 2002. Certain beef and dairy cattle, buffalo and beefalo, sheep, and goats, subject to a contract for purchase by the applicant, that was negotiated prior to June 1, 2002, are eligible livestock.

Eligible livestock producer is an owner or lessee of eligible livestock whose livestock operation headquarters is physically located in an eligible county.

Goats are domesticated, bearded, horned, ruminant mammals of the genus Capra, including Angora goats.

Ineligible livestock are any beef cattle, buffalo, beefalo, dairy cattle, sheep and goats that on June 1, 2002, were not owned or subject to a cash lease or under contract to be purchased by an applicant; and are any beef cattle, buffalo, and dairy cattle that, as of June 1, 2002, weighed less than 500 pounds; and also include livestock owned by an ineligible livestock producer.

Ineligible livestock producer is a livestock owner that slaughters, processes, and packs livestock meat into meat and meat products; and, as determined by the Deputy Administrator, is also a livestock owner that, for monetary reimbursement or other gain, provides feed and facilities for livestock owned by another person on a custom feeding basis; and is also a livestock owner whose livestock operation headquarters is not located in an eligible county.

Sheep are domesticated, horned, ruminant mammals of the genus Ovis, bred for their wool, edible flesh, or skin.

II. Appeals

An applicant may request an appeal or review of an adverse decision made by the Agency in accordance with 7 CFR parts 11 and 780, or its successor regulation.

III. Eligibility Requirements

Applicants must meet all of the following requirements to be eligible for the 2002 Livestock Compensation Program:

1. *Timely application.* The applicant must submit a signed form FSA–553 completed to the best of the applicant's ability to the Agency, no earlier than October 1, 2002, and no later than such date as announced by the Deputy Administrator.

2. *Livestock owner or lessee.* The applicant must own, be subject to a contract to purchase, or cash-lease, eligible livestock.

3. *Applicant's operation must be physically located in an eligible county.* The applicant's livestock operation headquarters must be physically located in an eligible county on June 1, 2002.

IV. Gross Revenue Limitation

A person, as defined in 7 CFR part 1400, who has annual gross revenue in excess of $2.5 million shall not be eligible to receive assistance under the 2002 Livestock Compensation Program. For the purpose of this determination, annual gross revenue means:

(a) With respect to a person who receives more than 50 percent of such person's gross income from farming and ranching, the total gross revenue received from such operations; and

(b) With respect to a person who receives 50 percent or less of such person's gross income from farming and ranching, the total gross revenue from all sources.

V. Payment Limitation

The total amount of benefits that a person, as determined in accordance with 7 CFR part 1400, shall be entitled to receive under the 2002 Livestock Compensation Program may not exceed $40,000.

VI. Determining the Amount of Assistance

(a) *Analysis of need.* The $752 million targeted for the 2002 Livestock Compensation Program is the amount of net income losses related to livestock production in 2001 and 2002 due to drought conditions. The analysis was conducted by USDA's Economic Research Service (ERS). The analysis utilized various models and survey data from several different sources, and followed procedures used to develop USDA's regular farm income forecasts.

The drought-affected areas were identified from the U.S. Drought Monitor (a comprehensive monitoring effort of USDA, National Oceanic and Atmospheric Administration, National Climate Control, and the National Drought Mitigation Center) that classifies climate regions by severity of drought conditions.

Impacts were examined for livestock producers in areas delineated by severity as moderate, severe, extreme and exceptional drought areas.

The ERS analysis considered the effect of drought both on revenue and on operating costs to obtain the net income effect related to livestock production in 2001 and 2002.

(b) *Revenue losses.* Livestock producers in the drought areas lost $103 million in gross receipts in 2001 and $583 million in 2002. Several factors help to explain the level of these revenue losses:

(1) The production impacts modeled in the analysis are associated with heat stress and water availability. In areas with exceptional drought, animal deaths due to heat and greater potential for disease contribute to lost production and revenue.

(2) The analysis does not measure the effect on receipts from early sale of cattle or herd liquidations. The significant decline in livestock prices since last year are not attributed to

drought, but do affect the amount of reduction in potential receipts.

(c) *Additional Expenses.* In many cases, the response to drought conditions by livestock producers involves changes in production practices that create additional and often unanticipated costs to their business. An example would be extra expenses for utilities such as electricity and for water. Such short-run increases in the cost of doing business were examined and their effect on total production expenses ranged from five percent in exceptional drought areas to less than one percent in moderate drought areas. Across all drought areas, total additional expenses were estimated to be $51 million in 2001 and $415 million in 2002.

(d) *Net Impacts.* The net impact on income was the combination of revenue losses plus additional costs incurred and deduction of government assistance that already has been provided in 2002 through the FSA Noninsured Assistance Program (NAP) and the 2002 Cattle Feed Program (See Notice of Funds Availability published September 3, 2002 (67 FR 56260).

Payments for NAP in 2002 are expected to total $250 million, and USDA made $150 million available for the 2002 Cattle Feed Program. The net impact of the drought for 2001 and 2002 was $154 million and $598 million, respectively, for a total two-year impact of just over $750 million.

(e) *Payment Rates.* Payment rates were calculated based on standard feed relationships among the eligible animal types and then indexed against beef cattle.For a beef cow, the feed requirement used for previous FSA-administered feed assistance programs, such as the Livestock Assistance Program at 7 CFR part 1439 and the 2002 Cattle Feed Program described in the September 3, 2002 Notice of Funds Availability, is converted to a corn equivalent of 15.7 pounds of corn per day. Using an Olympic five-year average (average of five years with the highest and lowest values excluded) of 1995–2000 corn prices, the national average price for corn is calculated at $2.07 per bushel or $0.037 per pound. The support feeding rate of 15.7 pounds of corn multiplied by $0.037 per pound of corn required per day to support a beef cow is equivalent to $0.58 per day to feed a beef cow. The subsistence level of $0.58 per day divided into the $18.00 payment for an eligible beef cow results in an approximate 30-day period that the 2002 Livestock Compensation Program will provide funds to purchase feed for a beef cow. A feed relationship factor of 2.6 was used for dairy because dairy cows typically consume 2.6 times the amount of feed consumed by a beef cow. This factor assumes enough feed for dairy cows to continue normal and even increasing levels of milk production.

The payment rate in this program is based on a 1.75 feed relationship factor for dairy. This lower factor was deemed appropriate because of the significant payments dairy producers will receive beginning in October, 2002 under the new Milk Income Loss Contract program. It also remains high enough to ensure continued milk production by eligible dairy cows.

VII. Applicant Certification of Eligible Livestock

Eligible livestock must be certified by owner or lessee on the FSA–553. The applicant will report to FSA and provide proof of the number of eligible livestock that died or were sold after June 1, 2002.

VIII. Payment Eligibility

To be eligible for payment under the 2002 Livestock Compensation Program, as determined by the Deputy Administrator, the applicant shall, as of June 1, 2002, be an owner, lessee, or under contract to purchase eligible livestock, whose livestock headquarters operation is physically located in an eligible county; who has submitted and subsequently received FSA County Committee approval on FSA–553, and who meets all other eligibility requirements.

IX. Payment Amounts

Adult beef cows and bulls, and adult buffalo and beefalo cows and bulls, as defined in Part I: $18.00 per head.

Adult dairy cows and bulls, as defined in Part I: $31.50 per head.

Beef, dairy, buffalo and beefalo replacement heifers, steers, non-breeding heifers, and bulls, as defined in Part I: $13.50 per head.

All sheep and goats, as defined in Part I, born prior to June 1, 2002: $4.50 per head.

X. Contract Liability

All producers receiving a share of the LCP payment are jointly and severally liable for program violations and resulting repayments, if applicable.

XI. How the 2002 LCP Will Work

Applications were accepted in FSA county offices beginning on October 1, 2002. On the LCP application, all owners of livestock in each livestock operation in an eligible county apply for payment on one application. Each applicant provides FSA with, and certifies to, the applicant's name and Tax Identification Number number, address, and number and type of eligible livestock. After FSA County Committee approval of the LCP application, payments will be issued beginning October 7, 2002, from the FSA county office to each approved livestock producer on the application.

XII. Misrepresentation, Scheme or Device

A person shall be ineligible to receive assistance under this part, and be subject to such other remedies as may be allowed by law, if, with respect to such program, it is determined by the FSA State or county committee, or an official of FSA, that such person has:

(a) Adopted any scheme or other device that tends to defeat the purpose of the program operated under this Notice;

(b) Made any fraudulent representation with respect to this program; or

(c) Misrepresented any fact affecting a program determination.

XIII. Liens and Claims of Creditors

Any benefit or portion thereof due any person under this program shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any person, except agencies of the U.S. Government.

XIV. Power of Attorney

In those instances in which, prior to the issuance of this Notice, a producer has signed a power of attorney on an approved FSA–211 for a person or entity indicating that such power shall extend to all programs listed on the form, without limitation, such power will be considered to extend to this program unless by October 1, 2002, the person granting the power notified the local FSA office for the control county that the grantee of the power is not authorized to handle transactions for this program for the grantor.

XV. Administration

Where circumstances preclude compliance due to circumstances beyond the applicant's control, the county or State committee may request that relief be granted by the Deputy Administrator under this Notice. In such cases, except for statutory deadlines and other statutory requirements, the Deputy Administrator may, in order to more equitably accomplish the goals of this Notice, waive or modify deadlines and other program requirements if the failure to meet such deadlines or other

requirements does not adversely affect operation of the program and are not prohibited by statute.

The Section 32 funds allocated to FSA to provide assistance under this program will be monitored by careful review of regular and daily reports of all payments issued under the program. Upon expenditure of 85 percent of the designated allocation, FSA will mandate a daily review of expenditures to ensure that payments do not exceed the allocation.

Signed at Washington, DC, on October 7, 2002.

James R Little,

Administrator, Farm Service Agency.

[FR Doc. 02–25841 Filed 10–7–02; 3:59 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ponderosa Pine Restoration Project, Coeur d'Alene River Ranger District, Idaho Panhandle National Forests, Kootenai and Shoshone Counties, ID

AGENCY: Forest Service, USDA.

ACTION: Cancellation notice.

SUMMARY: On March 12, 2002, a Notice of Intent (NOI) to prepare an environmental impact statement for the Ponderosa Pine Restoration Area Project was published in the **Federal Register** (Volume 67, Number 48, pages 11089–11090). The initial proposal encompassed two analysis areas; however, proposed activities in one of the areas have been deferred. Subsequent reviews have determined there will not likely be significant effects as a result of implementing proposed activities in the remaining analysis area, therefore preparation of an environmental impact statement is not warranted. Since an environmental assessment will be prepared instead of an environmental impact statement, the NOI is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Sarah Jerome, Project Team Leader, Coeur d'Alene River Ranger District, (208) 664–2318.

SUPPLEMENTARY INFORMATION: The public was first notified of this proposal and the intention to prepare an environmental impact statement in February 2002. On March 12, 2002, a Notice of Intent (NOI) to prepare an environmental impact statement for the Ponderosa Pine Restoration Area Project was published in the **Federal Register** (Volume 67, Number 48, pages 11089–11090). Initially, two areas were under consideration. The Coeur d'Alene River Ranger District of the Panhandle National Forest proposed vegetation rehabilitation in the Deerfoot Ridge and Two Mile watersheds, identified as the Ponderosa Pine Restoration Area. The Deerfoot Ridge watershed area is located east of Hayden Lake, Idaho in Kootenai County, and Two-Mile watershed area is located north of Silverton, Idaho in Shoshone County. Based on additional information gathered, it was determined that these areas are sufficiently different to warrant separate analyses. The Deerfoot Ridge area was selected as the first priority; opportunities to restore ponderosa pine stands in the Two-Mile area will be evaluated under a separate assessment later in the year. The original NOI was rescinded on April 5, 2002 (FR Volume 67, Number 66, page 16365), and on May 31, 2002, a new NOI was published in the **Federal Register** (Volume 67, Number 105, pages 38063–38064).

Further review of the Deerfoot Ridge area and the proposed activities has led the project team to the conclusion that there will not likely be significant effects associated with the proposal, and therefore preparation of an environmental impact statement is not warranted. An environmental assessment will be prepared to document the proposed action, alternatives to the proposed action, and environmental consequences of implementing each of the alternatives.

Since an environmental assessment will be prepared instead of an environmental impact statement, the NOI is hereby rescinded.

Dated: October 4, 2002.

Ranotta K. McNair,

Forest Supervisor.

[FR Doc. 02–25748 Filed 10–9–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Idaho Resource Advisory Committee; Caribou-Targhee National, Idaho Falls, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Caribou-Targhee National Forests' Eastern Idaho Resource Advisory Committee will meet Wednesday, November 13, 2002 in Idaho Falls for a business meeting. The meeting is open to the public.

DATES: The business meeting will be held on November 13, 2002 from 10 a.m. to 1 p.m.

ADDRESSES: The meeting location is the Caribou-Targhee National Forest Headquarters Office, 1405 Hollipark Drive, Idaho Falls, Idaho 83402.

FOR FURTHER INFORMATION CONTACT: Jerry Reese, Caribou-Targhee National Forest Supervisor and Designated Federal Officer, at (208) 524–7500.

SUPPLEMENTARY INFORMATION: The business meeting on November 13, 2002, begins at 10 a.m. at the Caribou-Targhee National Forest Headquarters Office, 1405 Hollipart Drive, Idaho Falls, Idaho. Agenda topics will include looking at funding for this upcoming year, revising project proposal form, briefed on project status from last year's approved projects, and welcoming new members.

Dated: October 5, 2002.

Jerry B. Reese,

Caribou-Targhee Forest Supervisor.

[FR Doc. 02–25751 Filed 10–9–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Coweta-Fayette Electric Membership Corporation; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact with respect to a request from Coweta-Fayette Electric Membership Corporation for financing assistance from RUS to finance the construction of a new headquarters facility in Coweta County, Georgia.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone (202) 720–0468, e-mail at *bquigel@rus.usda.gov.*

SUPPLEMENTARY INFORMATION: Coweta-Fayette Electric Membership Corporation proposes to construct a new headquarters facility southeast of Palmetto, Georgia, at the intersection of Collinsworth Road and Weldon Road. The headquarters facility will include an 50,000 square-foot administration

and operations office building, a 19,000 square-foot warehouse, a 9,000 square-foot mechanics garage, a 14,000 square-foot open sided covered truck shed, fueling area, 200 parking spaces for employees and visitors, and customer drive-thru. The facility will be located on a 73 acre site, but actual construction will utilize less than 25 acres of the site.

Copies of the Finding of No Significant Impact are available from RUS at the address provided herein or from Mr. Chris Stephens of Coweta-Fayette Electric Membership Corporation, P.O. Box 488, Newnan, Georgia 30264 telephone (770) 502–0226, extension 4243.

Dated: October 3, 2002.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 02–25866 Filed 10–9–02; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Wisdom Combustion Turbine Project, Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality regulations (40 CFR parts 1500–1508), and RUS Environmental Policies and Procedures (7 CFR part 1794), has made a finding of No Significant Impact (FONSI) with respect to a joint project proposed by Corn Belt Power Cooperative (Corn Belt) of Humboldt, Iowa, and Basin Electric Power Cooperative (Basin Electric) of Bismarck, North Dakota.

FOR FUTHER INFORMATION CONTACT: Nurul Islam, Environmental Protection Specialist, RUS, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250–1571, telephone: (202) 720–1414. His e-mail address is: *nislam@rus.usda.gov.* Information is also available from Mr. Donald E. Jensen, Corn Belt, WCT Project Manager, 1300 13th St. North, P.O. Box 508, Humboldt, Iowa, 50548–0508, telephone (515) 332–7984, or e-mail: *djensen@trvnet.net,* or Mr. James Miller, Basin Electric, Manager Environmental Affairs, 1717 East Interstate Avenue, Bismarck, North Dakota, 58501, telephone (701) 255–5144.

SUPPLEMENTARY INFORMATION: The joint project proposed by Corn Belt and Basin Electric will consist of one 80 megawatt (MW), simple cycle combustion turbine. The primary purpose of the Wisdom Combustion Turbine (WCT) project is to meet the increasing power consumption requirements in the northwestern Iowa region. The proposed combustion turbine will be constructed in rural Clay County located in northwest Iowa approximately 4 miles west of Spencer, Iowa. The proposed simple cycle combustion turbine will be located at the existing 231 acre Earl F. Wisdom Station site that currently includes one coal-fired boiler. The construction of the WCT project will require approximately 10 acres of the 231 acres available at the Earl F. Wisdom Station site. The WCT project will utilize the existing gas pipeline, transmission lines and substation, and water wells currently used for operating the existing coal-fired boiler and therefore will not require the construction of additional infrastructure outside of the Earl F. Wisdom Station site boundaries. The WCT project will be fired on natural gas, with #2 diesel fuel oil as backup fuel.

RUS, in accordance with its environmental policies and procedures, required that Corn Belt and Basin Electric prepare an environmental report reflecting the potential impacts of the proposed project. The environmental report, which includes input from federal, state, and local agencies, has been reviewed and accepted as RUS'' environmental assessment (EA) for the project in accordance with RUS'' Environmental Policies and Procedures, 7 CFR 1794.41. In accordance with the Council on Environmental Quality Regulations, RUS requested comments from all federal, state, and local agencies, which may be affected by, or may have jurisdiction over, the proposed project. Corn Belt published notices of the availability of the EA and solicited public comments per 7 CFR 1794.42. Federal and state agencies have responded but no objections were raised to the project. No comments were received from the public. Based on the EA, RUS has concluded that the proposed action will not have a significant effect to various resources, including important farmland, floodplains, wetlands, cultural resources, threatened and endangered species and their critical habitat, air and water quality, and noise. RUS has also determined that there would be no negative impacts of the proposed project on minority communities and low-income communities as a result of the construction of the project. RUS believes that there are no significant unresolved environmental conflicts related to this project.

RUS has concluded that the impacts from the proposed project would not be significant and that the proposed action is not a major federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

Copy of the FONSI can be reviewed at the headquarters of Corn Belt, Basin Electric, and RUS, at the addresses provided above in this notice.

Dated: October 7, 2002.

Blaine D. Stockton,

Assistant Administrator, Electric Program, Rural Utilities Service.

[FR Doc. 02–25867 Filed 10–9–02; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; All Ports Incorporated

In the Matter of: All Ports, Incorporated, last known address at: 3911 Killam Avenue, Norfolk, Virginia 23508–2632.

Order Denying Export Privileges

On December 18, 2000, a U.S. District Court in the Eastern District of Virginia convicted All Ports, Incorporated of violating section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2000)) (''AECA''). Specifically, the Court found that All Ports, Incorporated knowingly and willfully attempted to export defense articles on the United States Munitions List, from the United States to the People's Republic of China, without having first obtained from the Department of State a license or written authorization for such export.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C. app. 2401–2420 (1994 & Supp. V 1999)) (''Act'') [1] provides that, at the discretion

[1] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 CFR 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1994 & Supp. V 1999)) (''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the

of the Secretary of Commerce,[2] no person convicted of violating any of a number of federal criminal statutes including the AECA shall be eligible to apply for or use any export license issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2002)) (''Regulations''), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating the AECA, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person's export privileges for a period of up to 10 years from the date of conviction and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of All Ports, Incorporated's conviction for violating the AECA, and after providing notice and an opportunity for All Ports, Incorporated to make a written submission to the Bureau of Industry and Security before issuing an Order denying its export privileges, as provided in section 766.25 of the Regulations, I, following consultations with the Director, Office of Export Enforcement, have decided to deny All Ports, Incorporated's export privileges for a period of 10 years from the date of its conviction. The 10-year period ends on December 18, 2010. I have also decided to revoke all licenses issued pursuant to the Act in which All Ports, Incorporated had an interest at the time of its conviction.

Accordingly, it is hereby—

Ordered

I. Until December 18, 2010, All Ports, Incorporated, with a last known address of 3911 Killam Avenue, Norfolk, Virginia 23508–2632, (''the denied person'') and, when acting in behalf of it, all of its successors or assigns, officers, representatives, agent and employees, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to All Ports, Incorporated by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until December 18, 2010.

VI. In accordance with Part 756 of the Regulations, All Ports, Incorporated may file an appeal from this Order with the Under Secretary for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to All ports, Incorporated. This Order shall be published in the **Federal Register**.

Dated: October 4, 2002.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 02–25741 Filed 10–9–02; 8:45 am]

BILLING CODE 3510–DT–M

President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 14, 2002 (67 FR 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Bing Sun

In the Matter of: Bing Sun, currently incarcerated at Seymour Johnson Federal prison Camp, #51583–083, Goldsboro, North Carolina 27533, and with an address at 14026 Ticonderoga Court, Fontana, California 92336.

Order denying Export Privileges

On December 18, 2000, a U.S. District Count in the Eastern District of Virginia convicted Bing Sun of violating section 38 of the Arms Export Control Act (22 U.S.C. 2778 (1994 & Supp. V 1999)) (''AECA''). Specifically, the Court found that Bing Sun knowingly and willfully attempted to export defense articles on the United States Munitions List, from the United States to the People's Republic of China, without having first obtained from the Department of State a

license or written authorization for such export.

Section 11(h) of the Export Administration act of 1979, as amended (currently codified at 5 U.S.C. app. 2401–2420 (1994 & Supp. V 1999)) (''Act'')[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating any of a number of federal criminal statutes including the AECA shall be eligible to apply for or use any export license issued pursuant to, or provided by, the Act of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2002)) (''Regulations'') for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating the AECA, the Director, Office of Exporter Services in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person's export privileges for a period of up to 10 years from the dare of conviction and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Bing Sun's conviction for violating the AECA, and after providing notice and an opportunity for Bing Sun to make a written submission to the Bureau of Industry and Security before issuing an Order denying his export privileges, as provided in section 766.25 of the Regulations, I, following consultations with the Director, Office of Export Enforcement, have decided to deny Bing Sun's export privileges for a period of 10 years from the date of his conviction. The 10-year period ends on December 18, 2010. I have also decided to revoke all licenses issued pursuant to the Act in which Bing Sun had an interest at the time of his conviction.

Accordingly, it is hereby—

Ordered

I. Until December 18, 2010, Bing Sun, currently incarcerated at Seymour Johnson Federal Prison Camp, #51583–083, Goldsboro, North Carolina 27533, and with an address at 14026 Ticonderoga Court, Fontana, California 92336, (''the denied person'') and, when acting in behalf of it, all of its successors or assigns, officers, representatives, agent and employees, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Bing Sun by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until December 18, 2010.

VI. In accordance with Part 756 of the Regulations, Bing Sun may file an appeal from this Order with the Under Secretary for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to Bing Sun. This Order shall be published in the **Federal Register**.

Dated: October 4, 2002.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 02–25742 Filed 10–9–02; 8:45 am]

BILLING CODE 3510–DT–M

[1] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the president, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1994 & Supp. V 1999)) (''IEEPA''). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 14, 2002 (67 FR 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Patte Sun

In the Matter of: Patte Sun, currently incarcerated at Alderson Federal Prison Camp #16012–111, Alderson, West Virginia 24910, and with an address at 14026 Ticonderoga Court, Fontana, California 92336.

Order Denying Export Privileges

On December 18, 2000, a U.S. District Court in the Eastern District of Virginia convicted Patte Sun of violating section 38 of the Arms Export Control Act (22 U.S.C. 2778 (1994 & Supp. V 1999)) (''AECA''). Specifically, the Court found that Patte Sun knowingly and willfully attempted to export defense articles on the United States Munitions List, from the United States to the People's Republic of China, without having first obtained from the Department of State a license or written authorization for such export.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C. app. 2401–2420 (1994 & Supp. V 1999)) (''Act'')[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating any of a number of federal criminal statutes including the AECA shall be eligible to apply for or use any export license issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (2002)) (''Regulations''), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating the AECA, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person's export privileges for a period of up to 10 years from the date of conviction and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Patte Sun's conviction for violating the AECA, and after providing notice and an opportunity for Patte Sun to make a written submission to the Bureau of Industry and Security before issuing an Order denying her export privileges, as provided in section 766.25 of the Regulations, I, following consultations with the Director, Office of Export Enforcement, have decided to deny Patte Sun's export privileges for a period of eight years from the date of her conviction. The eight-year period ends on December 18, 2008. I have also decided to revoke all licenses issued pursuant to the Act in which Patte Sun had an interest at the time of her conviction.

Accordingly, it is hereby—

Ordered

I. Until December 18, 2008, Patte Sun, currently incarcerated at Alderson Federal Prison Camp, #16012–111, Alderson, West Virginia 24910, and with an address at 14026 Ticonderoga Court, Fontana, California 92336, (''the denied person'') and, when acting in behalf of it, all of its successors or assigns, officers, representatives, agent and employees, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been ow will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Patte Sun by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until December 18, 2008.

VI. In accordance with Part 756 of the Regulations, Patte Sun may file an appeal from this Order with the Under Secretary for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to Patte Sun. This Order shall be published in the **Federal Register**.

[1] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (1994 & Supp. V 1999)) (''IEEPA''). On November 13, 2000, the act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 14, 2002 (67 FR 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

Dated: October 4, 2002.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 02–25740 Filed 10–9–02; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100202A]

Fisheries of the Exclusive Economic Zone Off Alaska; Recordkeeping and Reporting Requirements; Public Workshops

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

ACTION: Notice of workshops.

SUMMARY: NMFS, Alaska Region, and the U.S. Coast Guard, North Pacific Regional Fisheries Training Center, will present workshops on the 2003 recordkeeping and reporting requirements for the Alaska groundfish fisheries and Individual Fishing Quota (IFQ) fisheries.

DATES: The workshops will be held November 12 and 14, 2002. See **SUPPLEMENTARY INFORMATION** for the times.

ADDRESSES: The workshops will be held in Seattle, WA. See **SUPPLEMENTARY INFORMATION** for the addresses.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7008.

SUPPLEMENTARY INFORMATION: The workshops will include discussion of 2003 recordkeeping and reporting requirements for IFQ fisheries and Alaska groundfish fisheries along with instructions for completion and submittal of the required forms and logsheets.

The workshops are scheduled as follows:

1. November 12, 2002, 1 p.m., Pacific standard time (P.s.t.), for vessels, 3:30 p.m., P.s.t., for shoreside processors at the NOAA Western Regional Center, Building 9, Room A/B, 7600 Sandpoint Way, N.E., Seattle, WA.

2. November 14, 2002, 1 p.m to 2:30 p.m., P.s.t., at FISH EXPO, Room 303, Washington State Trade and Convention Center, Seattle, WA.

Tentatively, additional workshops are being considered in Unalaska, AK, Kodiak, AK, and Sitka, AK. Suggestions and recommendations on scheduling these workshops or on holding workshops at other times and places are welcome.

Special Accommodations

These workshops will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Patsy Bearden, 907–586–7008, at least 7 working days prior to the meeting date.

Dated: October 3, 2002.

Virginia M. Fay,

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

[FR Doc. 02–25712 Filed 10–9–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 093002A]

Endangered Species; File No. 1361

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

ACTION: Return of application.

SUMMARY: Notice is hereby given that the application submitted by Robert K. Metzger, Metzger Wildlife Surveys, 1327 North Wheaton Drive, St. Charles, Missouri 63301, to take green, hawksbill, loggerhead, Kemp's ridley and leatherback sea turtles along the Atlantic seaboard and the Gulf of Mexico for purposes of scientific research and enhancement has been returned to the applicant.

ADDRESSES: The documents related to this action are available for review upon written request or by appointment in the following offices:

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

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9200; fax (978)281–9371; and

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320.

FOR FURTHER INFORMATION CONTACT: Lillian Becker or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: On February 13, 2002 a notice was published in the **Federal Register** (67 FR 6691) that an application had been filed by Robert K. Metzger. The applicant sought an application to perform survey and relocation trawls of sea turtles in conjunction with dredging projects of the Army Corps of Engineers. The applicant has withdrawn his application.

Dated: October 3, 2002.

Trevor R. Spradlin,

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

[FR Doc. 02–25714 Filed 10–9–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082802F]

Endangered Species; File No. 1360

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. David Secor, Chesapeake Biological Laboratory, University of Maryland Center for Environmental Science, P.O. Box 38, Solomons, Maryland 20619 has been issued a permit to take shortnose sturgeon (Acipenser brevirostrum) for purposes of scientific research.

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

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

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9200; fax (978)281–9371;Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727)570–5301; fax (727)570–5320.

FOR FURTHER INFORMATION CONTACT: Lillian Becker or Ruth Johnson, (301)713–2289.

SUPPLEMENTARY INFORMATION: On January 23, 2002, notice was published in the **Federal Register** (67 FR 3165) that a request for a scientific research permit to take shortnose sturgeon had been submitted by the above-named individual. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of

endangered and threatened species (50 CFR parts 222–226).

The permit holder hypothesizes that the recovery of shortnose sturgeon on the Hudson River occurred due to one or several strong year-classes following nursery system recovery to normoxia after 1977. The permit holder is going to test this hypothesis by determining the ages of shortnose sturgeon caught in the Hudson river by interpreting annulus of pectoral fin spines. The method will be tested on 10 captive shortnose sturgeon from seven age classes (70 total) from US Fish and Wildlife Service Warm Springs Fish Hatchery, Georgia. The applicant will clip a 1cm section from the primary spine of one pectoral fin near the point of articulation. After this has been tested in hatchery fish, the permit holder will capture shortnose sturgeon in the Hudson River with gillnets, handle, measure, check for tags, tag, passive integrated transponder tag, sex (by external or fiberoptic examination), and release. The applicant is authorized to take 670 shortnose sturgeon.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: October 3, 2002.

Trevor Spradlin,

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

[FR Doc. 02–25715 Filed 10–9–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100302B]

Marine Mammals; File No. 859–1680

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Jim Johnston, Chief Environmental Planner, United States Air Force, Environmental Management Office, Vandenberg Air Force Base, CA 93437, has applied in due form for a permit to take California sea lions (*Zalophus californianus*), northern elephant seals (*Mirounga angustirostris*), northern fur seals (*Callorhinus ursinus*), and Pacific harbor seals (*Phoca vitulina richardsi*) for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before November 12, 2002.

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

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

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

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

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant requests a 5 year permit to take up to 700 California sea lions, 700 northern elephant seals, 50 northern fur seals, and 550 harbor seals inhabiting Vandenberg Air Force Base and the northern Channel Islands annually by capture, sedation, blood sampling, skin biopsy, physiological measurements, hearing sensitivity tests, attachment of scientific instruments, temporary captive maintenance, recapture for retrieval of instruments, surveys of abundance and distribution, incidental harassment, and accidental mortality. The purpose of the proposed project is to study the effects of noise from rocket launches and the subsequent launch-generated sonic booms on pinnipeds. The movements and foraging behavior of seals exposed to launch noise and/or sonic booms will be compared with non-exposed control animals using remote VHF radio-telemetry, satellite transmitters, and electronic data loggers.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: October 3, 2002.

Trevor R. Spradlin,

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

[FR Doc. 02–25711 Filed 10–9–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100102C]

Marine Mammals; File Nos. 782–1694 and 782–1438

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

ACTION: Receipt of applications for permit and request to amend permit.

SUMMARY: Notice is hereby given that NMFS, National Marine Mammal Laboratory (NMML), 7600 Sand Point Way, NE, Seattle, WA 98102, has applied in due form for: (1) a permit to take an unspecified number of specimen materials from dead animals of the Orders Cetacea and Pinnipedia)(except walrus) for purposes of scientific research; and (2) an amendment to permit 782–1438.

DATES: Written or telefaxed comments must be received on or before November 12, 2002.

ADDRESSES: The application and related documents are available for review upon written request or by appointment (See **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Jennifer Skidmore, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit and amendment is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

782–1694 - The applicant proposes to take an unspecified number marine mammal specimen materials for scientific research. The objective of the research is to use the data and specimen materials collected from dead pinnipeds and cetaceans or receive samples from other permitted researchers to obtain information about the biology and life history of each of the species. Specimens from animals will be collected and curated, imported or exported only when the specimens are available from animals: 1) directly taken in countries and situations where such taking is legal [e.g. Alaska Native subsistence harvest]; 2) taken incidental to commercial fishing or other operations; 3) found dead at sea or stranded; 4) found dead of natural causes; and 5) taken legally under other research permits. Samples are requested to be taken anywhere in the United States and imported/exported worldwide.

Permit 782–1438 authorizes the Holder to take beluga whales (Delphinapterus leucas) by capture to satellite tag, flipper tag, suction cup tag, biopsy sample and incidentally harass the animals. The research is conducted in Alaskan waters, specifically the Gulf of Alaska, Bristol Bay, Norton Sound, Kotzebue Sound and the Beaufort Sea. The maximum number of unintentional mortalities currently authorized is one animal annually. During capture operations in May 2002, a beluga whale became entangled in the net and drowned.

The Holder now requests authority to increase the number of beluga whales that may be accidentally killed during capture operations to four (4) animals for the duration of the permit which expires September 2003. A beluga tagged in Cook Inlet in August 2002 was found dead a week later. While the cause of death of the Cook Inlet animal is unknown because a necropsy was not feasible, mortality could have been related to capture or tagging. As a result, the Holder requests an amendment to Permit 782–1438 to allow for additional unintentional mortalities in 2003.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Documents may be reviewed in the following locations:

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

Protected Resources Division, Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426;

Both Permit actions - Protected Resources Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7235; fax (907) 586–7012;

Protected Resources Division, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4020; fax (562) 980–4027;

Protected Species Coordinator, Pacific Area Office, NMFS, 1601 Kapiolani Blvd., Rm, 1110, Honolulu, HI 96814–4700; phone (808) 973–2935; fax (808) 973–2941;

Protected Resources Division, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978) 281–9346; fax (978) 281–9371;

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (813) 570–5312; fax (813) 570–5517.

Dated: October 3, 2002.

Trevor R. Spradlin,

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

[FR Doc. 02–25713 Filed 10–9–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Concerning Enzyme-Catalyzed Modifications of Macromolecules in Organic Solvents

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR part 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 6,455,285 B1 entitled ''Enzyme-Catalyzed Modification of Macromolecules in Organic Solvents'' issued September 24, 2002. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760, Phone; (508) 233–4928 or e-mail: *Robert.Rosenkrans@natick.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–25883 Filed 10–9–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Florida Bay Florida Keys Feasibility Study

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice; date correction.

SUMMARY: The public scoping meetings scheduled for October 8 and 9, 2002 from 7 p.m. to 9 p.m. as published in the **Federal Register** on Friday,

September 27, 2002 (67 FR 61080) has been rescheduled. The public scoping meetings will now be held from 7 p.m. to 9 p.m. on October 29, 2002, at the Marathon Government Center, 2798 Overseas Highway, Marathon, FL.

FOR FURTHER INFORMATION CONTACT: Mr. Brad Tarr, Project Biologist, U.S. Army Corps of Engineers, Planning Division, Environmental Branch, P.O. Box 4970, Jacksonville, FL 32232–0019, by e-mail *bradley.a.tarr@usace.army.mil,* or by telephone at 904–232–3582.

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–25877 Filed 10–9–02; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Chief of Engineers Environmental Advisory Board; Meeting

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

ACTION: Notice of open meeting.

SUMMARY: In accordance with 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the forthcoming meeting. The meeting is open to the public.

Name of Committee: Chief of Engineers Environmental Advisory Board (EAB).

Date: October 25, 2002.

Location: Hilton Palm Beach Airport Hotel, Salon B, 150 Australian Avenue, West Palm Beach, FL 33406, phone (561) 684–9400.

Time: 9 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Norman Edwards, Headquarters, U.S. Army Corps of Engineers, Washington, DC 20314–1000; Ph: 202–761–4559.

SUPPLEMENTARY INFORMATION: The Board advises the Chief of Engineers on environmental policy, identification and resolution of environmental issues and missions, and addressing challenges, problems and opportunities in an environmentally sustainable manner. The theme of this meeting is the Comprehensive Everglades Restoration Plan. While it is emphasized that this is not a public meeting on the implementation of the Comprehensive Everglades Restoration Plan, the meeting will focus on selected environmental aspects of the CERP and other restoration issues that may have national implications and/or application. The intent of this meeting is to present an opportunity for the Chief of Engineers to receive the views of his EAB. Time will be provided, however, for public comment. Each speaker will be limited to no more than three minutes in order to accommodate as many people as possible within the limited time available. If you wish to receive electronic notice of future meetings you may subscribe to a list server at: *http://www.usace.army.mil/inet/functions/cw/hot_topics/eab.htm.*

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–25878 Filed 10–9–02; 8:45 am]

BILLING CODE 3710–92–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 2002–2]

Weapons Laboratory Support of the Defense Nuclear Complex

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice, recommendation.

SUMMARY: The Defense Nuclear Facilities Safety Board has made a recommendation to the Secretary of Energy pursuant to 42 U.S.C. 2286a(a)(5) concerning weapons laboratory support of the defense nuclear complex.

DATES: Comments, data, views, or arguments concerning the recommendation are due on or before November 12, 2002.

ADDRESSES: Send comments, data, views, or arguments concerning this recommendation to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2901.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri or Andrew L. Thibadeau at the address above or telephone (202) 694–7000.

Dated: October 7, 2002.

John T. Conway,

Chairman.

Background

In the past, the Defense Nuclear Facilities Safety Board (Board) has issued recommendations addressing the need for weapons laboratories to support the safety of nuclear explosive operations at the Pantex Plant. Specifically, Recommendation 93–6, Maintaining Access to Nuclear Weapons Expertise in the Defense Nuclear Facilities Complex, addressed preserving expertise in the defense nuclear facilities complex. Both the Board and the Department of Energy (DOE) have devoted significant resources to implementing this recommendation and to maintaining access to the unique knowledge of individuals who were engaged for many years in critical defense nuclear activities, such as weapons design and testing. The continued support by such individuals is necessary to avoid future safety problems in these and related activities, and to maintain the safety of activities with existing weapons.

The Board is encouraged by the initiatives undertaken thus far to ensure access to the capabilities and experience of such individuals while they are still available. Activities such as those at the Theoretical Institute for Thermonuclear and Nuclear Studies at Los Alamos National Laboratory and the Intern Program at Sandia National Laboratories provide excellent opportunities to introduce new personnel to the weapons programs.

However, after visiting each of the weapons laboratories (Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Sandia National Laboratories) to discuss laboratory support for the safety of nuclear explosive operations at the Pantex Plant, the Board has become increasingly concerned that an additional problem regarding technical expertise must be addressed. The weapons laboratories have not taken adequate steps to ensure that experienced staff members who can employ their specialized knowledge are readily available to the defense nuclear complex, especially to operations at the Pantex Plant. While some new talent is being developed, it will be years before these new individuals can be shepherded adequately through the nuclear weapons complex, inculcated with the unique knowledge gained through years of dedicated weapons laboratory work, and mentored in those skills required to maintain the stockpile safely. In the meantime, highly experienced specialists responsible for individual weapon programs are leaving the complex and delays in addressing safety issues continue to occur.

Some of these delays were highlighted in a letter dated August 1, 2002, from the Board to the Acting Director of the National Nuclear Security Administration, which addressed a specific safety improvement at the Pantex Plant. In that letter, the Board emphasized the need to designate a single person who would serve as the point of contact for each weapon system at each appropriate weapons laboratory. That individual should be empowered to integrate and coordinate for his or her

laboratory all information needed to respond to questions concerning the system under his or her purview and to provide the technical support required by the defense nuclear complex with regard to that system. The significant responsibilities assigned to these individuals will require care in their selection. There should be an internal process in place that provides for training and mentoring to ensure that they fully understand their weapon system and can competently judge how and when to draw on appropriate laboratory resources for the support needed by the complex to ensure safety. DOE is not adequately addressing this issue.

The example highlighted in the Board's August 2002 letter also indicated the need for better coordination between points of contact. In the example, both internal laboratory and inter-site communications were necessary between personnel who had been developing a technical application for several weapon programs and those responsible for one of the weapon programs. Both lines of communication broke down. As part of its actions to establish adequate points of contact, DOE will need to address proper communications amongst groups working on cross-platform projects, and to ensure that the appropriate resources are prioritized to provide critical stockpile support.

In formulating its Recommendation 93–6, the Board recognized some of the difficulties DOE would face in its stockpile stewardship program. That recognition was implicit in the statement: ''Although it may be relatively straightforward to maintain these capabilities in the near term, ensuring their availability 5 to 20 years in the future may be very difficult.'' The Board is concerned that, without attention to the near-term problems associated with supporting the stockpile, the gains achieved in addressing Recommendation 93–6 are in danger of being lost.

Further, since the size and scope of the nuclear weapons stockpile have been reduced, and research and development leading to new weapons has been restricted, it appears that there has been an increase in ''work-for-others'' programs. The focus of the nuclear weapons laboratories on the nuclear weapons complex as their number one priority has waned. The Board was encouraged by the Secretary's statement at DOE's October 2001 Quarterly Leadership Meeting that DOE's ''overarching mission is national security.'' However, it appears that this message is still not being effectively implemented within DOE and its weapons laboratories.

Recommendation

To address the above issues, the Board makes the following recommendations to ensure safety in weapons programs:

1. That the Secretary of Energy update and reemphasize DOE policies and Orders (*e.g.*, DOE Order 5600.1, Management of the DOE Weapon Program and Weapon Complex) as needed to ensure that the nuclear weapons program is assigned the top priority among all activities at the weapons laboratories.

2. That a process be developed to ensure the assignment of a senior individual, as the point of contact for each weapon system under the purview of each weapons laboratory. This process should include:

(a) Adequate selection criteria;

(b) Appropriate training and mentoring programs (as necessary) to ensure that each individual selected is fully knowledgeable about the weapon system assigned to him or her, as well as internal weapons laboratory programs and procedures;

(c) Formal planning for succession of individuals when they retire or are replaced; and

(d) Periodic dissemination of updated listings of points of contact to the defense nuclear complex.

3. That the internal organizational structure, programs, and procedures of the weapons laboratories be aligned to ensure that these senior, technically competent individuals are empowered (*i.e.*, given the authority and the funding) to direct appropriate resources of their laboratories to provide the support needed to ensure the safety of operations in the nuclear complex related to the weapons under their purview.

4. That DOE establish a position at each DOE site office with responsibility for a nuclear weapons laboratory to ensure that requirements of the defense nuclear complex for support by that laboratory are tracked and met. These positions should be filled by personnel with the appropriate competence and experience who have the authority to resolve competing requirements for resources.

John T. Conway,
Chairman.

Appendix—Transmittal Letter to the Secretary of Energy

Defense Nuclear Facilities Safety Board

October 3, 2002.

The Honorable Spencer Abraham,

Secretary of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–1000.

Dear Secretary Abraham: The Defense Nuclear Facilities Safety Board (Board) has been following the Department of Energy's (DOE) efforts to provide appropriate technical support to its defense nuclear facilities, particularly the Pantex Plant. The complexity and uniqueness of the technical safety issues that arise in the nuclear weapons complex require the concerted effort of a cadre of highly competent individuals with expertise not generally available in industry or academia. Most of the personnel with this training and experience are employed at Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Sandia National Laboratories.

The Board is concerned that the number of nuclear weapons experts is declining and the focus of remaining experts is being diverted to other areas. Action is required to change this trend and to re-emphasize the primary role and obligation of the weapons laboratories to support DOE's nuclear weapon-related activities, including the formal training and development of new experts.

As a result, the Board on October 3, 2002, unanimously approved Recommendation 2002–2, Weapons Laboratory Support of the Defense Nuclear Complex, which is enclosed for your consideration. After your receipt of this recommendation and as required by 42 U.S.C. 2286d(a), the Board will promptly make it available to the public. The Board believes that the recommendation contains no information that is classified or otherwise restricted. To the extent this recommendation does not include information restricted by DOE under the Atomic Energy Act of 1954, 42 U.S.C. 2161–68, as amended, please see that it is promptly placed on file in your regional public reading rooms. The Board will also publish this recommendation in the **Federal Register**.

Sincerely,
John T. Conway,
Chairman.

[FR Doc. 02–25846 Filed 10–9–02; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice.

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

DATES: Interested persons are invited to submit comments on or before December 9, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of

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

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

Dated: October 4, 2002.

John D. Tressler,

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

Office of Special Education and Rehabilitative Services

Type of Review: Extension of a currently approved collection.

Title: Quarterly Cumulative Caseload Report (SC).

Frequency: Quarterly.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 320.

Burden Hours: 320.

Abstract: State VR agencies who administer vocational programs provide key caseload indicator data on this form, including numbers of persons who are applicants, determined eligible/ineligible, waiting for services, and also their program outcomes. This data is used for program, planning, management, budgeting and general statistical purposes.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the Browse Pending Collections link and by clicking on link number 2161. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address Vivian.Reese@ed.gov. Requests may also be electronically mailed to the e-mail address OCIO_RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

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

[FR Doc. 02–25729 Filed 10–9–02; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7389–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Eliciting Risk Tradeoffs for Valuing Fatal Cancer Risks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval:

Title: Eliciting Risk Tradeoffs for Valuing Fatal Cancer Risks, EPA ICR No. 2057.01. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 12, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 2057.01 to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 566–1672, by e-mail at *auby.susan@epamail.epa.gov* or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 2057.01. For technical questions about the ICR contact Dr. Melonie Williams at (202) 566–2279.

SUPPLEMENTARY INFORMATION:

Title: Eliciting Risk Tradeoffs for Valuing Cancer Risks, EPA ICR Number 2057.01. This is a request for a new collection.

Abstract: The purpose of the survey is to provide data that will improve valuation estimates of the benefits of fatal cancer risk reductions. The existing literature on mortality risk values has focused almost exclusively on accidental and immediate deaths; however, it is unclear how applicable these values are for assessing the benefits of fatal cancer risks, which can involve extended periods between exposure on disease onset (latency) and between onset and death (morbidity). The proposed survey will present respondents with choice scenarios involving tradeoffs between different levels and types of risks. It will specifically explore how individuals' tradeoffs between risks are affected by (1) the type of cancer involved and (2) differences in the length of the latency and morbidity periods from cancer. The results will provide empirically-based ratios, which can be used to adjust existing mortality risk value estimates according to these factors. We are requesting OMB permission to conduct a pretest (350 respondents) and full-scale survey (2000) respondents, using an established panel of respondents and a webTV mode of administration. Each survey will take approximately 25 minutes, and data will be collected and stored electronically.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control

numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on January 29, 2002 (67 FR 4253); one comment was received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 25 minutes per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Individuals or households.

Estimated Number of Respondents: 2350.

Frequency of Response: Once.

Estimated Total Annual Hour Burden: 979 hours.

Estimated Total Annualized Capital, O&M Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 2057.01 in any correspondence.

Dated: October 4, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–25859 Filed 10–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7393–5]

Investigator Initiated Grants: Request for Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of requests for applications.

SUMMARY: This notice provides information on the availability of fiscal year 2003 investigator initiated grants program announcements, in which the areas of research interest, eligibility and submission requirements, evaluation criteria, and implementation schedules are set forth. Grants will be competitively awarded following peer review.

DATES: Receipt dates vary depending on the specific research areas within the solicitations.

FOR FURTHER INFORMATION CONTACT: (1) Technology for a Sustainable Environment, *karn.barbara@epa.gov,* (2) Measurement, modeling and analysis methods for airborne fine particulate matter (PM2.5), *winner.darrel@epa.gov,* (3) ECOHAB (Ecology of Hazardous Algal Blooms), (4) Watershed Classification, *perovich.gina@epa.gov,* and (5) Computational Toxicology Approaches for Endocrine Disruptors Screening Program, *reese.david@epa.gov.* The complete program announcement can be accessed on the Internet at *http://www.epa.gov/ncer,* under ''announcements.'' The required forms for applications with instructions are accessible on the Internet at *http://es.epa.gov/ncer/rfa/forms/downlf.html.* Forms may be printed from this site.

SUPPLEMENTARY INFORMATION: In its Requests for Applications (RFA) the U.S. Environmental Protection Agency invites research applications in the following areas of special interest to its mission: (1) Technology for a Sustainable Environment, (2) Measurement, modeling and analysis methods for airborne fine particulate matter (PM2.5), (3) ECOHAB (Ecology of Hazardous Algal Blooms), (4) Watershed Classification, and (5) Computational Toxicology Approaches for Endocrine Disruptors Screening Program.

Dated: October 1, 2002.

John C. Puzak,

Acting Director, National Center for Environmental Research.

[FR Doc. 02–25863 Filed 10–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7393–4]

Investigator Initiated Grants: Requests for Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for applications (RFA).

SUMMARY: This notice provides information on the availability of a fiscal year 2003 program announcement in which areas of research interest, eligibility and submission requirements, evaluation criteria, and implementation schedules are set forth.

DATES: The RFA opened September 30, 2002 and closes January 7, 2003.

FOR FURTHER INFORMATION CONTACT: April Richards, (202) 564–2297. *Richards.April@epa.gov* or Bob Thurnau, (513) 569–7504 *Thurnau.Bob@epa.gov.* The complete program announcement can be accessed on the Internet at *http://www.epa.gov/ncer* under ''announcements.'' Unlike other EPA RFAs, all necessary forms are included in the RFA.

SUPPLEMENTARY INFORMATION: In its Requests for Applications the U.S. Environmental Protection Agency invites research applications in the following are of special interest to its mission: Treatment Technologies for Arsenic Removal for Small Drinking Water Systems: Request for Applications. The objective of this program is to pre-qualify treatment technologies for a subsequent demonstration program which will evaluate the efficiency and effectiveness of drinking water treatment technologies to meet the new arsenic maximum contaminant level (MCL) of 0.01 mg/l for varying source water quality conditions. Proposals selected under this competition will be pre-qualified for demonstration projects at selected utilities throughout the country.

Dated: September 30, 2002.

John C. Puzak,

Acting Director, National Center for Environmental Research.

[FR Doc. 02–25864 Filed 10–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0265; FRL–7276–4]

FIFRA Scientific Advisory Panel; Notice of Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a public pre-meeting teleconference and a 3–day face-to-face meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) to consider and review studies on water disinfection and softening as related to the Food Quality Protection

Act of 1996 (FQPA) drinking water exposure assessments.

DATES: *Pre-meeting teleconference*: November 21, 2002, from 1 p.m. to 3 p.m, eastern standard time.

Face-to-face meetings: December 3–5, 2002, from 8:30 a.m. to 5 p.m, eastern standard time.

Comments: For deadlines for submission of requests to present oral comments and submission of written comments, see Unit I.E. of the **SUPPLEMENTARY INFORMATION**.

Nominations: Requests for nominations to serve as an ad hoc member of the FIFRA SAP for the pre-meeting teleconference and face-to-face meetings should be provided on or before October 25, 2002.

Special seating: Requests for special seating arrangements should be made at least 5 business days prior to the meeting.

ADDRESSES: *Pre-meeting teleconference*: This meeting will be held at the Environmental Protection Agency, EPA East Bldg., 1201 Constitution Ave., NW., Conference Room 4225, Washington, DC. For additional information about the pre-meeting teleconference, including how to receive the teleconference telephone number, contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT**. To ensure proper receipt by EPA, your request must identify docket ID number OPP–2002–0265 in the subject line on the first page of your response.

Face-to-face meetings: These meetings will be held at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Hwy., Arlington, VA. The telephone number for the Sheraton Crystal City Hotel is (703) 486–1111.

Comments: Written comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

Nominations, Requests to present oral comments, and Special seating: To submit nominations to serve as an ad hoc member of the FIFRA SAP for the face-to-face meetings and pre-meeting teleconference, or requests for special seating arrangements, or requests to present oral comments, notify the DFO listed under **FOR FURTHER INFORMATION CONTACT**. To ensure proper receipt by EPA, your request must identify docket ID number OPP–2002–0265 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Paul Lewis, DFO, Office of Science Coordination and Policy (7202M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8450; fax number: (202) 564–8382; e-mail address: lewis.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and FQPA. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0265. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at http://www.epa.gov/fedrgstr/.

A meeting agenda relevant to these meetings is now available. EPA's position paper, questions to FIFRA SAP, and FIFRA SAP composition (i.e., members and consultants for this meeting) will be available as soon as possible, but no later than early November. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available electronically, from the FIFRA SAP Internet Home Page at http://www.epa.gov/scipoly/sap.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be

transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2002–0265. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID Number OPP–2002–0265. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2002–0265.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2002–0265. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. How May I Participate in These Meetings?

Requests to present oral comments, written comments, or requests for special seating arrangements may be submitted electronically, by mail, or through hand delivery/courier. (See Units I.C.-D.) Do not submit any information in your request that is considered CBI. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0265 in the subject line on the first page of your request.

1. *Oral comments*. Oral comments presented at the meetings should not be repetitive of previously submitted oral or written comments. Although requests to present oral comments are accepted until the date of the meeting (unless otherwise stated), to the extent that time permits, interested persons may be permitted by the Chair of FIFRA SAP to present oral comments at the meeting. Each individual or group wishing to make brief oral comments to FIFRA SAP is strongly advised to submit their request to the DFO listed under **FOR FURTHER INFORMATION CONTACT** no later than noon, eastern standard time, November 14, 2002, for the pre-meeting teleconference or no later than noon, eastern standard time, November 25, 2002, for the face-to-face meetings in order to be included on the meeting agenda. The request should identify the name of the individual making the presentation and the organization (if any) the individual will represent. In addition, any requirements for audiovisual equipment (e.g., overhead projector, 35 mm projector, chalkboard) at the face-to-face meetings should be requested at this time. Oral comments before the FIFRA SAP are limited to approximately 5 minutes unless prior arrangements have been made. In addition, each speaker should bring 30 copies of his or her comments and presentation slides to the face-to-face meeting.

2. *Written comments*. Although submission of written comments are accepted until the date of the meeting

(unless otherwise stated), the Agency encourages that written comments be submitted no later than noon, eastern standard time, November 14, 2002, for the pre-meeting teleconference or no later than noon, eastern standard time, November 25, 2002, for the face-to-face meetings, to provide the FIFRA SAP the time necessary to consider and review the written comments. There is no limit on the extent of written comments for consideration by FIFRA SAP. Persons wishing to submit written comments at the meeting should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** and submit 30 copies.

3. *Seating at the meetings.* Seating at both meetings will be on a first-come basis. Individuals requiring special accommodations at this meeting, including wheelchair access, should contact the DFO at least 5 business days prior to the meeting using the information under **FOR FURTHER INFORMATION CONTACT** so that appropriate arrangements can be made.

II. Background

A. Purpose of the FIFRA SAP

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of two meetings of the EPA FIFRA SAP. Amendments to FIFRA enacted November 28, 1975 (7 U.S.C. 136w(d)), include a requirement under section 25(d) of FIFRA that notices of intent to cancel or reclassify pesticide regulations pursuant to section 6(b)(2) of FIFRA, as well as proposed and final forms of rulemaking pursuant to section 25(a) of FIFRA, be submitted to a SAP prior to being made public or issued to a registrant. In accordance with section 25(d) of FIFRA, the FIFRA SAP is to have an opportunity to comment on the health and environmental impact of such actions. The FIFRA SAP also shall make comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of analyses made by Agency scientists. Members are scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments as to the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) of FIFRA. The Deputy Administrator appoints seven individuals to serve on the FIFRA SAP for staggered terms of 4 years, based on recommendations from the National Institutes of Health and the National Science Foundation.

Section 104 of FQPA (Public Law 104–170) established the FQPA Science Review Board (SRB). These scientists shall be available to the FIFRA SAP on an ad hoc basis to assist in reviews conducted by the FIFRA SAP.

B. Pre-meeting Teleconference

The FIFRA SAP will meet on November 21, 2002, via teleconference from 1 p.m. to 3 p.m., eastern standard time. This teleconference meeting will be hosted out of Conference Room 4225, Environmental Protection Protection, EPA East Bldg., 1201 Constitution Ave., NW., Washington, DC. The meeting is open to the public and seating will be on a first-come basis. The public may also attend via telephone. For further information concerning the meeting or how to obtain the telephone number, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The purpose of this public pre-meeting teleconference is to:

1. Discuss the charge and the adequacy of the review materials provided to the FIFRA SAP.
2. Clarify any questions and issues relating to the charge and the review materials.
3. Discuss specific charge assignments to the Panelists.
4. Clarify specific points of interest raised by the Panelists in preparation for the face-to-face meetings to be held on December 3, December 4, and December 5, 2002.

C. Face-to-Face Public Meetings

On December 3–5, 2002, the Agency will be continuing its consultation with the FIFRA SAP to review studies on water disinfection and softening as related to FQPA drinking water exposure assessments. On September 29, 2000, the Agency updated the FIFRA SAP on their progress in improving its drinking water assessment process. In addition, the Agency presented a review of the scientific literature on the impacts of drinking water treatment on the removal and transformation of pesticides. In their recommendations, the FIFRA SAP supported the Agency's efforts to better understand the effects of water treatment on pesticides and encouraged the Agency to return to the FIFRA SAP to report on its progress in developing approaches that factor treatment into drinking water exposure assessments.

Since the previous meeting, the Agency has reviewed additional pesticide laboratory and field monitoring studies plus new information on the effects of drinking water treatment processes on pesticide removal and transformation. In addition, the Agency has developed a proposed laboratory protocol to determine the effects of individual and combined drinking water treatment processes on pesticide removal and transformation. The purpose of this consultation is to update the Panel on the Agency's efforts to identify various U.S. drinking water treatment processes and to present laboratory studies and field monitoring studies that consider treatment effects on pesticides. The Agency will also present a proposed laboratory protocol for determining the effects of treatment on pesticide removal and transformation plus a plan for testing the protocol design and implementation. For this consultation, the Panel will review:

1. The Agency's progress report on effects of treatment processes on the levels and stability of pesticides in community water systems and;
2. The Agency's proposed laboratory protocol for assessing water treatment effects.

D. Request for Nominations to Serve as Ad Hoc Members of the FIFRA SAP for These Meetings

The FIFRA SAP staff routinely solicit the stakeholder community for nominations to serve as ad hoc members of the FIFRA SAP for each meeting. Any interested person or organization may nominate qualified individuals to serve on the FIFRA SAP for a specific meeting. No interested person shall be ineligible to serve by reason of their membership on any other advisory committee to a Federal Department or Agency or their employment by a Federal Department or Agency (except the EPA). Individuals nominated should have expertise in one or more of the following areas: Water treatment, chemical oxidation, water quality assessment, and drinking water risk assessment. Nominees should be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments on the issues for this meeting. Nominees should be identified by name, occupation, position, address, and telephone number. Nominations should be provided to the DFO listed under **FOR FURTHER INFORMATION CONTACT** by October 25, 2002.

The criteria for selecting scientists to serve on the FIFRA SAP are that these persons be recognized scientists—experts in their fields; that they be as impartial and objective as possible; that they represent an array of backgrounds and perspectives (within their disciplines); have no financial conflict of interest; have not previously been involved with the scientific peer review of the issue(s) presented; and that they

be available to participate fully in the review, which will be conducted over a relatively short-time frame. Nominees will be asked to attend the public meetings and to participate in the discussion of key issues and assumptions at these meetings. Finally, they will be asked to review and to help finalize the meeting minutes.

If a FIFRA SAP nominee is considered to assist in a review by the FIFRA SAP for a particular session, the nominee is subject to the provisions of 5 CFR part 2634, Executive Branch Financial Disclosure, as supplemented by the EPA in 5 CFR part 6401. As such, the FIFRA SAP nominee is required to submit a Confidential Financial Disclosure Report which shall fully disclose, among other financial interests, the nominee's employment, stocks and bonds, and where applicable, sources of research support. EPA will evaluate the nominee's financial disclosure form to assess that there are no formal conflict of interests before the nominee is considered to serve on the FIFRA SAP. Selected FIFRA SAP members will be hired as a Special Government Employee. The Agency will review all nominations; a decision on FIFRA SAP members for the meeting will be posted on the FIFRA SAP web site or may be obtained by contacting the PIRIB at the address or telephone number listed in Unit I.

E. FIFRA SAP Meeting Minutes

The FIFRA SAP will prepare meeting minutes summarizing its recommendations to the Agency in approximately 60 days. The meeting minutes will be posted on the FIFRA SAP web site or may be obtained by contacting the PIRIB at the address or telephone number listed in Unit I.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: October 3, 2002.

Joseph J. Merenda, Jr.,

Director, Office of Science Coordination and Policy.

[FR Doc. 02–25860 Filed 10–9–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0052; FRL–7276–3]

Forum on State and Tribal Toxics Action; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing the fall meeting of the Forum on State and Tribal Toxics Action (FOSTTA) to collaborate on environmental protection and chemical and prevention issues. The Chemical Information and Management, Pollution Prevention, Toxics Release Inventory, and Tribal Affairs Projects, components of FOSTTA, will hold meetings October 21–22, 2002. This notice announces the location and times for the meetings and sets forth some tentative agenda topics. EPA invites all interested parties to attend the public meetings.

DATES: The four projects will meet concurrently October 21, 2002, from 10 a.m. to 5 p.m., and October 22, 2002, from 8 a.m. to noon. A plenary session is being planned for the participants on Monday, October 21, 2002, from 8 a.m. to 9:30 a.m.

Requests to participate in the fall FOSTTA meeting, identified by docket ID number OPPT–2002–0052, must be received by EPA on or before October 11, 2002.

ADDRESSES: The meetings will be held at the Hall of States, 444 North Capitol Street, NW., Washington, DC. The building is located across from the Union Station metro stop on the red line.

Requests to participate in the meeting may be submitted to Christine Eppstein, listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Darlene Harrod, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8814; fax number: (202) 564–8813; e-mail address: *harrod.darlene@epa.gov*.

Christine Eppstein, Environmental Council of the States, 444 North Capitol Street, NW., Suite 445, Washington, DC 20001; telephone number: (202) 624–3661; fax number: (202) 624–3666; e-mail address: *ceppstein@sso.org*.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are interested in FOSTTA and hearing more about the perspectives of the states and tribes on EPA programs and information exchange regarding important issues related to human health and environmental exposure to toxics. Potentially affected entities may include, but are not limited to:

- States and federally recognized tribes.
- State, Federal, and local environmental and public health organizations.
- Chemical trade associations.

The listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical persons listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Copies of this Document and Other Related Documents?

1. *Docket.* EPA has established an official public docket for this action under docket ID number OPPT–2002–0052. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102–Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to

access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit II.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

III. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting to Christine Eppstein, the technical person listed under **FOR FURTHER INFORMATION CONTACT**. Do not submit any information in your request that is considered CBI. Requests to participate in the meeting, identified by docket ID number OPPT–2002–0052, must be received on or before October 11, 2002.

IV. Background

The Toxic Substances Control Act, 15 U.S.C. 2609 section 10(g), authorizes EPA and other federal agencies to establish and coordinate a system for exchange among federal, state, and local authorities of research and development results respecting toxic chemical substances and mixtures, including a system to facilitate and promote the development of standard data format and analysis and consistent testing procedures. Through FOSTTA, the Chemical Information and Management Project (CIMP) focuses on EPA's chemical program and works to develop a more coordinated effort involving federal, state, and tribal agencies. The Pollution Prevention Project (P2) promotes the prevention ethic across society, helping companies incorporate P2 approaches and techniques and integrating P2 into mainstream environmental activities at both the federal level and among the states. Under the Emergency Planning and Community Right-to-Know Act, EPA, the states, and the tribes share responsibility for handling toxic chemical release information and making it available to the public through the Toxics Release Inventory (TRI). The Tribal Affairs Project (TAP) concentrates on chemical and prevention issues that are most relevant to the tribes, including lead control and abatement, subsistence lifestyles, and hazard communications and outreach. FOSTTA's vision is to reinvigorate the projects, focus on major policy-level issues, recruit more senior state and tribal leaders, increase outreach to all 50 states and some 560 federally recognized tribes, and vigorously seek ways to engage the states and tribes in ongoing substantive discussions on complex and oftentimes controversial environmental issues that states and tribes resolve at their respective levels of government.

In January 2002, the Environmental Council of the states (ECOS), in cooperation with the National Tribal Environmental Council (NTEC), was awarded the new FOSTTA cooperative agreement. ECOS, NTEC, and EPA's Office of Pollution Prevention and Toxics (OPPT) are co-sponsoring the meetings. As part of a cooperative agreement, ECOS facilitates ongoing efforts of the state and tribal leaders and OPPT to increase understanding and improve collaboration on toxics and pollution prevention issues and to continue a dialogue on how federal environmental programs can best be implemented among the states, tribes, and EPA.

V. The Meeting

In the interest of time and efficiency, the meetings are structured to provide maximum opportunity for state, tribal, and EPA participants to discuss items on the predetermined agenda. At the discretion of the chair, an effort will be made to accommodate participation by observers attending the proceedings. The FOSTTA representatives and EPA will collaborate on environmental protection and chemical and prevention issues. The tentative agenda items identified by the states and the tribes follow:

1. Use of environmental indicators for integrating strategies among state, federal, and international agencies (CIMP).
2. State laboratory capacity study (CIMP).
3. Challenges of promoting pollution prevention (P2).
4. Supplemental environmental projects and environmental management systems (P2).
5. OPPTS Tribal strategy (TAP).
6. Tribal risk assessment (TAP).
7. Electronic facility data profile (TRI).
8. Demonstration of state bulletin board (TRI).

Stephen L. Johnson, Assistant Administrator, Prevention, Pesticides and Toxic Substances, and Carol Jorgensen, Director, American Indian Environmental Office, will be the speakers at the plenary session.

List of Subjects

Environmental protection, Chemicals, Pollution prevention.

Dated: October 1, 2002.

Barbara A. Cunningham,

Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics.

[FR Doc. 02–25862 Filed 10–9–02; 8:45 a.m.]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

October 1, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 9, 2002. 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 Judith Boley Herman or Leslie Smith, Federal Communications Commission, Room 1–C804 or Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *jboley@fcc.gov or lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith

Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0972.

Title: Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers.

Form No.: FCC Forms 508 and 509.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit; non-profit.

Number of Respondents: 1,300.

Estimated Time Per Response: .50–15 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 3,500 hours.

Total Annual Cost: N/A.

Needs and Uses: Pursuant to the Commission's *MAG Order,* the Universal Service Administrative Company (USAC) requires certain data necessary for the administration of the Interstate Common Line Support (ICLS) mechanism for rate-of-return carriers. This data will be used to calculate ICLS for incumbent rate-of-return carriers and competitive eligible telecommunications carriers pursuant to section 54.901 of the Commission's rules. Specifically, USAC requires from rate-of-return carriers projected cost and revenue data, which may be collected on proposed FCC Form 508, when developed. USAC also requires actual cost and revenue data, including demand data, which may be collected on proposed FCC Form 509, when developed. Proposed FCC Form 509 may also require additional supporting cost and revenue data. These forms may also request data related to the transferred ownership of lines for which carriers have received or may receive ICLS. Any carrier may elect to have an agent, including the National Exchange Carrier Association, Inc., perform these filings on its behalf, and the Commission anticipates that many carriers will do so. The carriers and their agents will be encouraged to file proposed FCC Forms 508 and 509 electronically. Additionally, USAC may request, in connection with the verification of data included in proposed FCC Form 509, that certain carriers provide to USAC additional documentation of cost and revenue data in the form of records currently maintained pursuant to existing Commission rules and OMB controls. This additional data is required consistent with USAC's obligation to prevent waste, fraud, and abuse of universal service support and section 54.707 of the Commission's rules. There are no fees associated with any of these information collections.

Federal Communications Commission.

William F. Caton,

Secretary.

[FR Doc. 02–25768 Filed 10–9–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 02–236; FCC 02–236]

Hilco Communications, Inc. and Cumulus Licensing Corp.

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the FCC designates the application to assign the license of radio station KAYD(FM), Silsbee, Texas, from Hilco Communications, Inc. (''Hilco'') to Cumulus Licensing Corp. (''Cumulus''). The Commission cannot find, based on the record, that grant of this application is consistent with the public interest, convenience, and necessity. Accordingly, pursuant to 47 U.S.C. 309(e), the Commission designates the application for hearing to determine whether the public interest, convenience, and necessity will be served by grant of the application.

DATES: See **SUPPLEMENTARY INFORMATION** section for document filing dates.

ADDRESSES: Please file documents with the Investigations and Hearing Division, Enforcement Bureau, Federal Communications Commission, Room 3–B431, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Charles W. Kelley, Chief, Investigations and Hearing Division, Enforcement Bureau, at (202) 418–1420.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Hearing Designation Order, MM Docket No. 02–236, adopted on August 15, 2002, and released on September 5, 2002. The full text is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The full text may also be purchased from the Commission's copy contractor, Qualex International, Room CY–B402, 445 12th Street, SW., Washington, DC 20554, telephone (202) 863–2983, facsimile (202) 863–2898, or via e-mail at *qualexint@aol.com,* or may be viewed via the internet at: *http://www.fcc.gov/Document_ Indexes/Media/2002_index_MB_Order.html.* Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418–0260 or TTY (202) 418–2555.

Synopsis of the Order

1. In March 1996, the Commission relaxed the numerical station limits in its local radio ownership rules in accordance with Congress's directive in section 202(b) of the Telecommunications Act of 1996. Since then, the Commission has received applications proposing transactions that would comply with the new limits, but that nevertheless could produce concentration levels that raised significant concerns about the potential impact on the public interest. In response to these concerns, the Commission concluded that it has an independent obligation to consider whether a proposed pattern of radio ownership that complies with the local radio ownership limits would otherwise have an adverse competitive effect in a particular local radio market and thus would be inconsistent with the public interest. In August 1998, the Commission also began flagging public notices of radio station transactions that would result in one entity controlling 50 percent or more of the advertising revenues in the relevant Arbitron radio market or two entities controlling 70 percent or more of the advertising revenues in that market. On November 8, 2001, we adopted the Notice of Proposed Rulemaking in MM Docket No. 01–317, 16 FCC Rcd 19861, 66 FR 63986, December 11, 2001 (''*Local Radio Ownership NPRM*''). We expressed concern that our current policies on local radio ownership did not adequately reflect current industry conditions and had led to unfortunate delays in the processing of assignment and transfer applications. Accordingly, we adopted the *Local Radio Ownership NPRM* to undertake a comprehensive examination of our rules and policies concerning local radio ownership and to develop a new framework that will be more responsive to current marketplace realities while continuing to address our core public interest concerns of promoting diversity and competition. In the *Local Radio Ownership NPRM,* we also set forth an interim policy to guide our actions on radio assignment and transfer of control applications pending a decision in that proceeding. Under our interim policy, we presume that an application that falls below the 50/70 screen will not raise competition concerns unless a petition to deny

raising competition issues is filed. For applications identified by the 50/70 screen, the interim policy directs the Commission's staff to conduct a public interest analysis, including an independent preliminary competition analysis, and sets forth generic areas of inquiry for this purpose. The interim policy also sets forth timetables for staff recommendations to the Commission for the disposition of cases that may raise competition concerns.

2. On July 31, 2001, Hilco and Cumulus filed an application proposing to assign the license of station KAYD–FM (formerly KLOI(FM)) from Hilco to Cumulus. The application was unopposed. Cumulus currently is the licensee of four stations in the Beaumont-Port Arthur, Texas Arbitron metro: KIKR(AM), Beaumont, Texas, KQHN(AM), Nederland, Texas; KQXY–FM, Beaumont, Texas; and KTCX(FM), Beaumont, Texas.

3. Section 310(d) of the Communications Act of 1934, as amended (the ''Communications Act''), 47 U.S.C. 310(d), requires the Commission to find that the public interest, convenience and necessity would be served by the assignment of Hilco's radio broadcast license to Cumulus before the assignment may occur. Under the interim policy set forth in our *Local Radio Ownership NPRM,* we conduct a public interest analysis, including but not limited to an independent preliminary competition analysis of the proposed transaction based on publicly available information and information in the Commission's records. Under the interim policy, to decide whether a proposed assignment serves the public interest, we first determine whether it complies with the specific provisions of the Communications Act, other applicable statutes, and the Commission's rules, including our local radio ownership rules. If it does, we then consider any potential public interest harms of the proposed transaction as well as any potential public interest benefits to determine whether, on balance, the assignment serves the public interest. The Commission's analysis of public interest benefits and harms includes an analysis of the potential competitive effects of the transaction, as informed by traditional antitrust principles. However, the Commission's public interest evaluation is not limited to competition concerns but necessarily encompasses the broad aims of the Communications Act. These broad aims include, among other things, ensuring the existence of an efficient, nationwide radio communications service available to everyone and promoting locally oriented service and diversity in media voices. Our public interest analysis therefore includes assessing whether the transfer will affect the quality of radio services or responsiveness to the local needs of the community, and whether it will result in the provision of new or additional services to listeners. Thus, under our interim policy, where a proposed transaction raises concerns about economic concentration, we will consider evidence that the particular circumstances of a case may mitigate any adverse impact that might otherwise result, as well as any evidence of benefits to radio listeners that might result from the proposed transaction. Ultimately, it is the potential impact of the transaction on listeners that will determine whether we can find that, on balance, grant of a particular radio station assignment or transfer of control application serves the public interest.

4. Having concluded that the proposed transaction is consistent with the numerical limits set forth in our ownership rules, we turn to our competition analysis. Here, we find that the proposed transaction would create a market in which the combined market share of the top two group owners in the market would be 94.5%. We find that Cumulus has failed to demonstrate particular circumstances in this market sufficient to overcome a concern that this level of economic concentration in this market will harm the public interest. To the extent Cumulus presents generic arguments challenging the parameters of our current competition analysis, we will address such concerns in the context of the *Local Radio Ownership NPRM* and need not consider them here. Rather, we look only to the record of this case to determine whether there are unique facts that persuade us that grant of this assignment application would serve the public interest despite the apparent economic concentration it will create. On the basis of the information before us, we are unable to make the required finding that the public interest, convenience and necessity will be served by granting the subject application. Accordingly, we will designate the assignment application for hearing to determine, pursuant to 47 U.S.C. 309(e), and based on the evidence to be adduced at hearing, whether the public interest, convenience and necessity will be served by the grant of the application.

5. We direct the Administrative Law Judge (''ALJ'') to examine in an evidentiary hearing the particular circumstances of the Beaumont-Port Arthur, Texas metro to determine whether the factual assumptions in Section III.C. of the Hearing Designation Order are correct. We further direct the ALJ to determine, in light of his or her conclusions, whether the transaction is likely to cause any anticompetitive harms, and to determine what, if any, public benefits would accrue from this transaction. Finally, we direct the ALJ to apply these findings to determine whether, on balance, grant of the application would serve the public interest.

6. Pursuant to 47 U.S.C. 309(e), the application to assign the license of station KAYD–FM, Silsbee, Texas, from Hilco to Cumulus is designated for hearing. Unless the parties timely file the joint election to defer as set forth below, the Hearing shall be at a time and place to be specified in a subsequent Order, to determine, in light of the evidence to be presented in the hearing, whether the public interest, convenience and necessity would be served by the grant of the above-captioned assignment application (File No. BALH–20010731ACB).

7. Pursuant to 47 U.S.C. 309(e), the burden of proof with respect to the introduction of evidence and the burden of proof with respect to the issue specified in this Order shall be upon Hilco and Cumulus, the applicant parties in this proceeding.

8. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send copies of this Order to all parties by Certified Mail—Return Receipt Requested.

9. To defer further consideration of the application to assign the license of station KAYD–FM, Silsbee, Texas, from Hilco to Cumulus in accordance with the interim policy, Hilco and Cumulus must file a joint election to defer consideration of the application. Such election must be filed within 20 days of the mailing of this Order pursuant to Paragraph 8 above.

10. A copy of each document filed in this proceeding subsequent to the date of adoption of this Order must be served on the counsel of record appearing on behalf of the Chief, Enforcement Bureau. Parties may inquire as to the identity of such counsel by calling the Investigations and Hearings Division of the Enforcement Bureau at (202) 418–1420. Such service must be addressed to the named counsel of record, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 3–B431, Washington, DC 20554.

11. No less than 15 days of the mailing of the Order pursuant to Paragraph 8 above, the parties may amend their application or file such

other information with the Media Bureau as they deem relevant to ameliorate the competition concerns identified in this Order.

12. To avail themselves of the opportunity to be heard, Hilco and Cumulus, pursuant to 47 CFR 1.221(c) and 1.221(e), in person or by their respective attorneys, must file, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order. Such written appearance shall be filed within 20 days of the mailing of this Order pursuant to Paragraph 8 above. Pursuant to 47 CFR 1.221(c) of the Commission's rules, if the parties fail to file an appearance within the specified time period, the assignment application will be dismissed with prejudice for failure to prosecute.

13. The applicants, pursuant to 47 U.S.C. 311(a)(2), and 47 CFR 73.3594 must give notice of the hearing within the time and in the manner prescribed, and must advise the Commission of the publication of such notice as required by 47 CFR 73.3594(g).

14. The application to assign the licenses of station KAYD–FM, Silsbee, Texas, from Hilco to Cumulus will be held in abeyance pending the outcome of this proceeding.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–25763 Filed 10–9–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 02–272; FCC 02–246]

Voice in the Wilderness Broadcasting, Inc., and Clear Channel Broadcasting License, Inc.

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the FCC designates the application to assign the license of radio station KCOL–FM, Groves, Texas, from Voice in the Wilderness Broadcasting, Inc. (''Voice in the Wilderness'') to Clear Channel Broadcasting Licenses, Inc. (''Clear Channel''). The Commission cannot find, based on the record, that grant of this application is consistent with the public interest, convenience, and necessity. Accordingly, pursuant to 47 U.S.C. 309(e), the Commission designates the application for hearing to determine whether the public interest, convenience, and necessity will be served by grant of the application.

DATES: See **SUPPLEMENTARY INFORMATION** section for document filing dates.

ADDRESSES: Please file documents with the Investigations and Hearing Division, Enforcement Bureau, Federal Communications Commission, Room 3–B431, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Charles W. Kelley, Chief, Investigations and Hearing Division, Enforcement Bureau, at (202) 418–1420.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Hearing Designation Order, MM Docket No. 02–272, adopted on September 4, 2002, and released on September 5, 2002. The full text is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The full text may also be purchased from the Commission's copy contractor, Qualex International, Room CY–B402, 445 12th Street, SW., Washington, DC 20554, telephone (202) 863–2983, facsimile (202) 863–2898, or via e-mail at *qualexint@aol.com,* or may be viewed via the Internet at: *http://www.fcc.gov/Document_ Indexes/Media/2002_index_MB_Order.html.* Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418–0260 or TTY (202) 418–2555.

Synopsis of the Order

1. In March 1996, the Commission relaxed the numerical station limits in its local radio ownership rules in accordance with Congress's directive in section 202(b) of the Telecommunications Act of 1996. Since then, the Commission has received applications proposing transactions that would comply with the new limits, but that nevertheless could produce concentration levels that raised significant concerns about the potential impact on the public interest. In response to these concerns, the Commission concluded that it has an independent obligation to consider whether a proposed pattern of radio ownership that complies with the local radio ownership limits would otherwise have an adverse competitive effect in a particular local radio market and thus would be inconsistent with the public interest. In August 1998, the Commission also began flagging public notices of radio station transactions that would result in one entity controlling 50 percent or more of the advertising revenues in the relevant Arbitron radio market or two entities controlling 70 percent or more of the advertising revenues in that market. On November 8, 2001, we adopted the Notice of Proposed Rulemaking in MM Docket No. 01–317, 16 FCC Rcd 19861, 66 FR 63986, December 11, 2001 (''*Local Radio Ownership NPRM*''). We expressed concern that our current policies on local radio ownership did not adequately reflect current industry conditions and had led to unfortunate delays in the processing of assignment and transfer applications. Accordingly, we adopted the *Local Radio Ownership NPRM* to undertake a comprehensive examination of our rules and policies concerning local radio ownership and to develop a new framework that will be more responsive to current marketplace realities while continuing to address our core public interest concerns of promoting diversity and competition. In the *Local Radio Ownership NPRM,* we also set forth an interim policy to guide our actions on radio assignment and transfer of control applications pending a decision in that proceeding. Under our interim policy, we presume that an application that falls below the 50/70 screen will not raise competition concerns unless a petition to deny raising competition issues is filed. For applications identified by the 50/70 screen, the interim policy directs the Commission's staff to conduct a public interest analysis, including an independent preliminary competition analysis, and sets forth generic areas of inquiry for this purpose. The interim policy also sets forth timetables for staff recommendations to the Commission for the disposition of cases that may raise competition concerns.

2. On August 14, 2001, Clear Channel and Voice in the Wilderness filed an application proposing to assign the license of station KCOL–FM (formerly KTFA(FM)) from Voice in the Wilderness to Clear Channel. The application was unopposed. Clear Channel currently is the licensee of four stations in the Beaumont-Port Arthur, Texas Arbitron metro: KIOC(FM), Orange, Texas; KKMY(FM), Orange, Texas; KLVI(AM), Beaumont, Texas; and KYKR(FM), Beaumont, Texas.

3. Section 310(d) of the Communications Act of 1934, as amended (the ''Communications Act''), 47 U.S.C. 310(d), requires the Commission to find that the public interest, convenience and necessity would be served by the assignment of Voice in the Wilderness's radio broadcast license to Clear Channel before the assignment may occur. Under the interim policy set forth in our *Local*

Radio Ownership NPRM, we conduct a public interest analysis, including but not limited to an independent preliminary competition analysis of the proposed transaction based on publicly available information and information in the Commission's records. Under the interim policy, to decide whether a proposed assignment serves the public interest, we first determine whether it complies with the specific provisions of the Communications Act, other applicable statutes, and the Commission's rules, including our local radio ownership rules. If it does, we then consider any potential public interest harms of the proposed transaction as well as any potential public interest benefits to determine whether, on balance, the assignment serves the public interest. The Commission's analysis of public interest benefits and harms includes an analysis of the potential competitive effects of the transaction, as informed by traditional antitrust principles. However, the Commission's public interest evaluation is not limited to competition concerns but necessarily encompasses the broad aims of the Communications Act. These broad aims include, among other things, ensuring the existence of an efficient, nationwide radio communications service available to everyone and promoting locally oriented service and diversity in media voices. Our public interest analysis therefore includes assessing whether the transfer will affect the quality of radio services or responsiveness to the local needs of the community, and whether it will result in the provision of new or additional services to listeners. Thus, under our interim policy, where a proposed transaction raises concerns about economic concentration, we will consider evidence that the particular circumstances of a case may mitigate any adverse impact that might otherwise result, as well as any evidence of benefits to radio listeners that might result from the proposed transaction. Ultimately, it is the potential impact of the transaction on listeners that will determine whether we can find that, on balance, grant of a particular radio station assignment or transfer of control application serves the public interest.

4. Having concluded that the proposed transaction is consistent with the numerical limits set forth in our ownership rules, we turn to our competition analysis. Here, we find that the proposed transaction would create a market in which the combined market share of the top two group owners in the market would be 92.7%. We find that Clear Channel has failed to demonstrate particular circumstances in this market sufficient to overcome a concern that this level of economic concentration in this market will harm the public interest. To the extent Clear Channel presents generic arguments challenging the parameters of our current competition analysis, we will address such concerns in the context of the *Local Radio Ownership NPRM* and need not consider them here. Rather, we look only to the record of this case to determine whether there are unique facts that persuade us that grant of this assignment application would serve the public interest despite the apparent economic concentration it will create. On the basis of the information before us, we are unable to make the required finding that the public interest, convenience and necessity will be served by granting the subject application. Accordingly, we will designate the assignment application for hearing to determine, pursuant to 47 U.S.C. 309(e), and based on the evidence to be adduced at hearing, whether the public interest, convenience and necessity will be served by the grant of the application.

5. We direct the Administrative Law Judge (''ALJ'') to examine in an evidentiary hearing the particular circumstances of the Beaumont-Port Arthur, Texas metro to determine whether the factual assumptions in Section III.C. of the Hearing Designation Order are correct. We further direct the ALJ to determine, in light of his or her conclusions, whether the transaction is likely to cause any anticompetitive harms, and to determine what, if any, public benefits would accrue from this transaction. Finally, we direct the ALJ to apply these findings to determine whether, on balance, grant of the application would serve the public interest.

6. Pursuant to 47 U.S.C. 309(e), the application to assign the license of station KCOL–FM, Groves, Texas, from Voice in the Wilderness to Clear Channel is designated for hearing. Unless the parties timely file a joint election to defer as set forth below, the Hearing shall be at a time and place to be specified in a subsequent Order, to determine, in light of the evidence to be presented in the hearing, whether the public interest, convenience and necessity would be served by the grant of the above-captioned assignment application (File No. BALH–20010814AAU).

7. Pursuant to 47 U.S.C. 309(e), the burden of proof with respect to both the introduction of evidence and the issue specified in this Order shall be upon Voice in the Wilderness and Clear Channel, the applicant parties in this proceeding.

8. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send copies of this Order to all parties by Certified Mail—Return Receipt Requested.

9. To defer further consideration of the application to assign the license of station KCOL–FM, Groves, Texas, from Voice in the Wilderness to Clear Channel in accordance with the interim policy, Voice in the Wilderness and Clear Channel must file a joint election to defer consideration of the application. Such election must be filed within 20 days of the mailing of this Order pursuant to Paragraph 8 above.

10. A copy of each document filed in this proceeding subsequent to the date of adoption of this Order must be served on the counsel of record appearing on behalf of the Chief, Enforcement Bureau. Parties may inquire as to the identity of such counsel by calling the Investigations and Hearings Division of the Enforcement Bureau at (202) 418–1420. Such service must be addressed to the named counsel of record, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 3–B431, Washington, DC 20554.

11. No less than 15 days of the mailing of the Order pursuant to Paragraph 8 above, the parties may amend their application or file such other information with the Media Bureau as they deem relevant to ameliorate the competition concerns identified in this Order.

12. To avail themselves of the opportunity to be heard, Voice in the Wilderness and Clear Channel, pursuant to 47 CFR 1.221(c) and 1.221(e), in person or by their respective attorneys, must file, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order. Such written appearance shall be filed within 20 days of the mailing of this Order pursuant to Paragraph 8 above. Pursuant to 47 CFR 1.221(c) of the Commission's rules, if the parties fail to file an appearance within the specified time period, the assignment application will be dismissed with prejudice for failure to prosecute.

13. The applicants, pursuant to 47 U.S.C. 311(a)(2), and 47 CFR 73.3594 must give notice of the hearing within the time and in the manner prescribed, and must advise the Commission of the publication of such notice as required by 47 CFR 73.3594(g).

14. The application to assign the licenses of station KCOL–FM, Groves, Texas, from Voice in the Wilderness to Clear Channel will be held in abeyance pending the outcome of this proceeding.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–25764 Filed 10–9–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 02–284; FCC 02–251]

Whitehall Enterprises, Inc. and Clear Channel Broadcasting Licenses, Inc.

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the FCC designates the application to assign the license of radio station WAAM(AM), Ann Arbor, Michigan, from Whitehall Enterprises, Inc. (''Whitehall'') to Clear Channel Broadcasting Licenses, Inc. (''Clear Channel''). The Commission cannot find, based on the record, that grant of this application is consistent with the public interest, convenience, and necessity. Accordingly, pursuant to 47 U.S.C. 309(e), the Commission designates the application for hearing to determine whether the public interest, convenience, and necessity will be served by grant of the application.

DATES: See **SUPPLEMENTARY INFORMATION** section for document filing dates.

ADDRESSES: Please file documents with the Investigations and Hearing Division, Enforcement Bureau, Federal Communications Commission, Room 3–B431, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Charles W. Kelley, Chief, Investigations and Hearing Division, Enforcement Bureau, at (202) 418–1420.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Hearing Designation Order, MB Docket No. 02–284, adopted on September 16, 2002, and released on September 18, 2002. The full text is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The full text may also be purchased from the Commission's copy contractor, Qualex International, Room CY–B402, 445 12th Street, SW., Washington, DC 20554, telephone (202) 863–2983, facsimile (202) 863–2898, or via e-mail at *qualexint@aol.com,* or may be viewed via the internet at: *http://www.fcc.gov/Document_Indexes/Media/2002_index_MB_Order.html.* Alternative formats are available to persons with disabilities by contacting Martha Contee at (202) 418–0260 or TTY (202) 418–2555.

Synopsis of the Order

1. In March 1996, the Commission relaxed the numerical station limits in its local radio ownership rules in accordance with Congress's directive in section 202(b) of the Telecommunications Act of 1996. Since then, the Commission has received applications proposing transactions that would comply with the new limits, but that nevertheless could produce concentration levels that raised significant concerns about the potential impact on the public interest. In response to these concerns, the Commission concluded that it has an independent obligation to consider whether a proposed pattern of radio ownership that complies with the local radio ownership limits would otherwise have an adverse competitive effect in a particular local radio market and thus would be inconsistent with the public interest. In August 1998, the Commission also began flagging public notices of radio station transactions that would result in one entity controlling 50 percent or more of the advertising revenues in the relevant Arbitron radio market or two entities controlling 70 percent or more of the advertising revenues in that market. On November 8, 2001, we adopted the Notice of Proposed Rulemaking in MM Docket No. 01–317, 66 FR 63986, December 11, 2001 (''*Local Radio Ownership NPRM*''). We expressed concern that our current policies on local radio ownership did not adequately reflect current industry conditions and had led to unfortunate delays in the processing of assignment and transfer applications. Accordingly, we adopted the *Local Radio Ownership NPRM* to undertake a comprehensive examination of our rules and policies concerning local radio ownership and to develop a new framework that will be more responsive to current marketplace realities while continuing to address our core public interest concerns of promoting diversity and competition. In the *Local Radio Ownership NPRM,* we also set forth an interim policy to guide our actions on radio assignment and transfer of control applications pending a decision in that proceeding. Under our interim policy, we presume that an application that falls below the 50/70 screen will not raise competition concerns unless a petition to deny raising competition issues is filed. For applications identified by the 50/70 screen, the interim policy directs the Commission's staff to conduct a public interest analysis, including an independent preliminary competition analysis, and sets forth generic areas of inquiry for this purpose. The interim policy also sets forth timetables for staff recommendations to the Commission for the disposition of cases that may raise competition concerns.

2. On August 17, 2001, Clear Channel and Whitehall filed an application proposing to assign the license of station WAAM(AM) from Whitehall to Clear Channel. The application was unopposed. Clear Channel currently is the licensee of four stations in the Ann Arbor, Michigan Arbitron metro: WCAS(AM), Saline, Michigan, and WQKL(FM), WTKA(AM), and WWWW(FM), Ann Arbor, Michigan.

3. Section 310(d) of the Communications Act of 1934, as amended (the ''Communications Act''), 47 U.S.C. 310(d), requires the Commission to find that the public interest, convenience and necessity would be served by the assignment of Whitehall's radio broadcast license to Clear Channel before the assignment may occur. Under the interim policy set forth in our *Local Radio Ownership NPRM,* we conduct a public interest analysis, including but not limited to an independent preliminary competition analysis of the proposed transaction based on publicly available information and information in the Commission's records. Under the interim policy, to decide whether a proposed assignment serves the public interest, we first determine whether it complies with the specific provisions of the Communications Act, other applicable statutes, and the Commission's rules, including our local radio ownership rules. If it does, we then consider any potential public interest harms of the proposed transaction as well as any potential public interest benefits to determine whether, on balance, the assignment serves the public interest. The Commission's analysis of public interest benefits and harms includes an analysis of the potential competitive effects of the transaction, as informed by traditional antitrust principles. However, the Commission's public interest evaluation is not limited to competition concerns but necessarily encompasses the broad aims of the Communications Act. These broad aims include, among other things, ensuring the existence of an efficient, nationwide radio communications service available to everyone and promoting locally

oriented service and diversity in media voices. Our public interest analysis therefore includes assessing whether the transaction will affect the quality of radio services or responsiveness to the local needs of the community, and whether it will result in the provision of new or additional services to listeners. Thus, under our interim policy, where a proposed transaction raises concerns about economic concentration, we will consider evidence that the particular circumstances of a case may mitigate any adverse impact that might otherwise result, as well as any evidence of benefits to radio listeners that might result from the proposed transaction. Ultimately, it is the potential impact of the transaction on listeners that will determine whether we can find that, on balance, grant of a particular radio station assignment or transfer of control application serves the public interest.

4. Having concluded that the proposed transaction is consistent with the numerical limits set forth in our ownership rules, we turn to our competition analysis. Here, we find that the proposed transaction would create a market in which Clear Channel's share of the local radio advertising market would be 94.9%, and the combined market share of the top two group owners in the market would be 99.0%. We find that Clear Channel has failed to demonstrate particular circumstances in this market sufficient to overcome a concern that this level of economic concentration in this market will harm the public interest. To the extent Clear Channel presents generic arguments challenging the parameters of our current competition analysis, we will address such concerns in the context of the *Local Radio Ownership NPRM* and need not consider them here. Rather, we look only to the record before us to determine whether there are unique facts that persuade us that grant of this assignment application would serve the public interest despite the apparent economic concentration it will create. On the basis of the information before us, we are unable to make the required finding that the public interest, convenience and necessity will be served by granting the subject application. Accordingly, we designate the assignment application for hearing to determine, pursuant to 47 U.S.C. 309(e), and based on the evidence to be adduced at hearing, whether the public interest, convenience and necessity will be served by the grant of the application.

5. We direct the Administrative Law Judge (''ALJ'') to examine in an evidentiary hearing the particular circumstances of the Ann Arbor, Michigan market to determine whether the factual assumptions in Section III.C. of the Hearing Designation Order are correct. We further direct the ALJ to determine, in light of his or her conclusions, whether the transaction is likely to cause any anticompetitive harms, and to determine what, if any, public benefits would accrue from this transaction. Finally, we direct the ALJ to apply these findings to determine whether, on balance, grant of the application would serve the public interest.

6. Pursuant to 47 U.S.C. 309(e), the burden of proof with respect to both the introduction of evidence and the issue specified in this Order shall be upon Whitehall and Clear Channel, the applicant parties in this proceeding.

7. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send copies of this Order to all parties by Certified Mail—Return Receipt Requested.

8. To defer further consideration of the application to assign the license of station WAAM(AM), Ann Arbor, Michigan, from Whitehall to Clear Channel in accordance with the interim policy, Whitehall and Clear Channel must file a joint election to defer consideration of the application. Such election must be filed within 20 days of the mailing of the Hearing Designation Order.

9. In the event the parties do not timely file the joint election set forth in the paragraph above, pursuant to 47 U.S.C. 309(e), the application to assign the license of station WAAM(AM), Ann Arbor, Michigan, from Whitehall to Clear Channel is designated for hearing at a time and place to be specified in a subsequent Order, to determine, in light of the evidence to be presented in the hearing, whether the public interest, convenience and necessity would be served by the grant of the above-captioned assignment application (File No. BAL–20010817AAH).

10. Within 15 days of the mailing of this Hearing Designation Order, the parties may amend their application or file such other information with the Media Bureau as they deem relevant to ameliorate the competition concerns identified in this Order.

11. To avail themselves of the opportunity to be heard, Whitehall and Clear Channel, pursuant to 47 CFR 1.221(c) and 1.221(e), in person or by their respective attorneys, must file, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order. Such written appearance shall be filed within 20 days of the mailing of this Hearing Designation Order. Pursuant to 47 CFR 1.221(c) of the Commission's rules, if the parties fail to file an appearance within the specified time period, the assignment application will be dismissed with prejudice for failure to prosecute.

12. The applicants, pursuant to 47 U.S.C. 311(a)(2), and 47 CFR 73.3594 must give notice of the hearing within the time and in the manner prescribed, and must advise the Commission of the publication of such notice as required by 47 CFR 73.3594(g).

13. A copy of each document filed in this proceeding subsequent to the date of adoption of this Order must be served on the counsel of record appearing on behalf of the Chief, Enforcement Bureau. Parties may inquire as to the identity of such counsel by calling the Investigations and Hearings Division of the Enforcement Bureau at (202) 418–1420. Such service must be addressed to the named counsel of record, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 3–B431, Washington, DC 20554.

14. The application to assign the licenses of station WAAM(AM), Ann Arbor, Michigan, from Whitehall to Clear Channel will be held in abeyance pending the outcome of this proceeding.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–25765 Filed 10–9–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–02–46–E (Auction No. 46); DA 02–2395]

1670–1675 MHz Band Auction (Auction No. 46) Postponed Until April 30, 2003

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces that the start of the upcoming auction of one nationwide 5 megahertz license in the 1670–1675 MHz band (''Auction No. 46''), scheduled for October 30, 2002, is postponed until April 30, 2003. This postponement is necessary to provide additional time for bidder preparation and planning.

DATES: Auction No. 46 is scheduled for April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Francis Gutierrez, Auction and Industry Analysis Division, Legal Branch at (202)

418–0660 or Lisa Stover, Auction and Industry Analysis Division at (717) 338–2888.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released by the Wireless Telecommunications Bureau on September 25, 2002. The complete text of the Public Notice is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The September 25, 2002 Public Notice may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC,, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

1. On September 13, 2002, ArrayComm, Inc. (''ArrayComm'') submitted a letter to the Wireless Telecommunications Bureau requesting a six-month postponement of Auction No. 46. Later that day, the Bureau released a *Public Notice,* 67 FR 61104 (September 27, 2002), seeking comment on ArrayComm's request. The Bureau received five comments in response to the *Public Notice.* Four commenters support or do not oppose a postponement of this auction, while one opposes any delay. Based on the record of comments received by the Bureau, and pursuant to authority delegated by sections 0.131 and 0.331 of the Commission's rules, 47 CFR 0.131, 0.331, the Bureau postpones Auction No. 46 to provide additional time for bidder preparation and planning.

2. Because the short-form application filing window has opened, any short-form applications to participate in Auction No. 46 that are in the system will be deemed ineffective and purged from the system. The new filing window for short-form applications to participate in Auction No. 46 will open on March 18, 2003. The new schedule for Auction No. 46 is as follows:

Short-Form Application (FCC Form 175)

Filing Window Opens—March 18, 2003
Short-Form Application (FCC Form 175) Deadline—March 25, 2003, at 6 p.m. ET
Upfront Payments Deadline—April 11, 2003, at 6 p.m. ET
Mock Auction—April 25, 2003
Auction Begins—April 30, 2003

Federal Communications Commission.

Margaret Wiener,

Chief, Auctions & Industry Analysis Division, WTB.

[FR Doc. 02–25766 Filed 10–9–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Determination of Insufficient Assets To Satisfy All Claims of Financial Institution in Receivership

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) has determined that the proceeds that can be realized from the liquidation of assets of the receivership listed in **SUPPLEMENTARY INFORMATION** are insufficient to wholly satisfy the priority claims of depositors against the receivership estate. Therefore, upon satisfaction of secured claims, depositor claims, and claims which have priority over depositors under applicable law, no amount will remain or will be recovered sufficient to allow a dividend, distribution, or payment to any creditor of lesser priority, including but not limited to claims of general creditors. Any such claims are hereby determined to be worthless.

FOR FURTHER INFORMATION CONTACT: Thomas Bolt, Counsel, Legal Division, FDIC, 550 17th Street, NW., Room H–11052, Washington, DC 20429. Telephone: (202) 736–0168.

SUPPLEMENTARY INFORMATION:

Financial Institution In Receivership Determined To Have Insufficient Assets To Satisfy All Claims

FIN 4637, First National Bank of Keystone, Keystone, West Virginia.

Dated: October 4, 2002.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 02–25738 Filed 10–9–02; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Appraisal Subcommittee; 60 Day Notice of Intent To Request Clearance for Extension of Collection of Information; Opportunity for Public Comment

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice of intent to request clearance for extension of a currently approved collection of information and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Recordkeeping Requirements, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (''ASC'') is soliciting comments on the need for the collection of information contained in 12 CFR part 1102, subpart B, Rules of Practice for Proceedings. The ASC also requests comments on the practical utility of the collection of information; the accuracy of the burden hour estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology.

DATES: Comments on this information collection must be received on or before December 9, 2002.

ADDRESSES: Send comments to Ben Henson, Executive Director, Appraisal Subcommittee, 2000 K Street, NW., Suite 310, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Marc L. Weinberg, General Counsel, Appraisal Subcommittee, at 2000 K Street, NW., Suite 310, Washington, DC 20006 or 202–872–7520.

SUPPLEMENTARY INFORMATION:

Title: 12 CFR part 1102, subpart B; Rules of Practice for Proceedings.

ASC Form Number: None.

OMB Number: 3139–0005.

Expiration Date: To be requested.

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

Description of Need: The information is used by the ASC in determining whether the ASC should initiate a non-recognition proceeding or ''take further action'' against a State appraisal regulatory agency (''State agency'') and other persons under § 1118 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3337). The collection of information also sets out detailed procedures for such actions.

Automated Data Collection: None.

Description of Respondents: State, local or tribal government.

Estimated Average Number of Respondents: 2 respondents.

Estimated Average Number of Responses: Each respondent will be required to respond throughout the single proceeding initiated under 12 CFR part 1102, subpart.

Estimated Average Burden Hours Per Response: 60 hours for each proceeding.

Estimated Annual Reporting Burden: 120 hours.

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Dated: October 4, 2002.

Marc L. Weinberg,

Acting Executive Director and General Counsel.

[FR Doc. 02–25737 Filed 10–9–02; 8:45 am]

BILLING CODE 6700–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Terminations—08/28/2002			
200208011	Symmetricom, Inc	Datum Inc	Datum Inc.
Transactions Granted Early Terminations—08/29/2002			
20021065	Akzo Nobel NV	Ferro Corporation	Ferro Corporation.
20021094	Homebase Acquisition, LLC	McLeodUSA Incorporated	Consolidated Market Response, Inc., Illinois Consolidated Telephone Company, McLeodUSA Integrated Business Systems, McLeodUSA Public Services, Inc., McLeodUSA Telecommunications Services, Inc.
20021096	The Bank of New York Company, Inc.	Lockwood Financial Group II, LLC	Electronic Managed Account Technologies, Inc., LFG, Inc.
20021097	Veridian Corporation	Roger Mody	Signal Corporation, Signal Services, L.L.C.
Transactions Granted Early Terminations—08/30/2002			
20021102	ARAMARK Corporation	Premier, Inc	Premier Technology Management, Inc.
20021103	Inverness Medical Innovations, Inc	MedPointe Inc	MedPointe Healthcare Inc.
20021104	Ascension Health	Carondelet Health System, Inc	Carondelet Health System, Inc
20021106	Leucadia National Corporation	Williams Communications Group, Inc. (Debtor-in-Possession).	Williams Communications Group, Inc. (Debtor-in-Possession).
Transactions Granted Early Terminations—09/03/2002			
20021058	Smurfit-Stone Container Corporation	MeadWestvaco Corporation	The Mead Corporation.
20021098	J.P. Morgan Chase & Co.	DLJ Brand Holdings, Inc	DLJ Brand Holdings, Inc.
20021099	Virginia L. Shaw	Halliburton Company	Bredero-Shaw, Inc.
20021107	Equilease Holding Corp	Vivendi Universal, S.A	National Energy Development Inc., Sithe Energies, Inc.
20021108	Fremont Partners III, L.P	Artal Group S.A	NC Holdings, Inc.
20021109	Equilease Holding Corp.	Exelon Corporation	National Energy Development Inc., Sithe Energies, Inc.
20021115	Hitachi, Ltd	Hitachi Koki Co., Ltd	Hitachi Printing Solutions, Ltd.
20021117	Intuit, Inc	Russell D. Hobbs, III	Blue Ocean Software, Inc.
20021118	Matlin Patterson Global Opportunities Partners L.P.	Polymer Group Inc	Polymer Group Inc.
20021121	Berkshire Hathaway Inc	CTB International Corp	CTB International Corp.
20021123	El Paso Energy Partners, L.P	El Paso Corporation	El Paso Corporation.
20021124	AMERIGROUP Corporation	Miguel B. Fernandez	PHP Holdings, Inc.
Transactions Granted Early Terminations—09/04/2002			
20021111	Fidelity National Financial, Inc	Factual Data Corporation	Factual Data Corporation.
20021113	Novellus Systems, Inc.	SpeedFam-IPEC, Inc	SpeedFam-IPEC, Inc.
20021116	Hitachi, Ltd	UNISIA JECS Corporation	UNISIA JECS Corporation.
Transactions Granted Early Terminations—09/05/2002			
20021120	Exel plc	Power Packaging, Inc	Power Packaging, Inc.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Terminations—09/06/2002			
20020644	Aggregate Industries, PLC	Wakefield Materials Corporation	Wakefield Materials Corporation.
20020851	Archer-Daniels-Midland Company	Minnesota Corn Processors, LLC	Minnesota Corn Processors, LLC.
Transactions Granted Early Terminations—09/09/2002			
20021101	William H. Gates, III	Six Flags, Inc	Six Flags, Inc.
20021128	Scottish Power plc	Aquila, Inc	Aquila Merchant Services, Inc., Aquila Storage and Transportation, L.P.
20021129	Edward W. Stack	Edward W. Stack	Dick's Sporting Goods, Inc.
20021130	Dex Holdings LLC	Qwest Communications International Inc.	GPP LLC, SGN LLC.
20021136	Code, Hennessy & Simmons IV, L.P	LLS Corp	LLS Corp.
20021143	Kaneb Pipe Line Partners, LP	Koch Industries, Inc	Koch Fertilizer Storage and Terminal Company, Koch Pipeline Company, L.P.
20021148	Regent Communications, Inc	Brill Media Company, LLC	Brill Media Company, LLC.
Transactions Granted Early Terminations—09/10/2002			
20021140	Washington Mutual, Inc.	National Australia Bank Limited	HomeSide Lending, Inc., SR Investment, Inc.
Transactions Granted Early Terminations—09/12/2002			
20021145	Green Equity Investors III, L.P	Phoenix Scientific, Inc	Phoenix Scientific, Inc.
Transactions Granted Early Terminations—09/13/2002			
20021131	U.S. Bancorp	State Street Corporation	State Street Bank and Trust Company.
20021150	David Smilow	Conseco, Inc	Conseco Variable Insurance Company.
20021156	Penn National Garning, Inc	Hollywood Casino Corporation	Hollywood Casino Corporation.
Transactions Granted Early Terminations—09/16/2002			
20021100	OSI Systems, Inc	L–3 Communications Holdings, Inc	PerkinElmer Detection System, Inc.
Transactions Granted Early Terminations—09/17/2002			
20021141	SPO Partners II, L.P	Advent Software, Inc	Advent Software, Inc.
20021146	Robert Bosch Industrietreuhand KG	Koninklijke Philips Electronics N.V	Professional Communication, Security and Imaging.
Transactions Granted Early Terminations—09/18/2002			
20021119	Paychex, Inc.	Willis Stein & Partners, L.P	Advantage Payroll Services, Inc.
Transactions Granted Early Terminations—09/19/2002			
20021151	Groupe Laperriere & Verreault Inc	Baker Hughes Incorporated	Baker Process, Inc.
20021157	Pentair, Inc.	Vivendi Environment, S.A	Ametek Filters, Ltd., Plymouth Products, Inc.
20021159	La Grange Energy, L.P.	Aquila, Inc. (f/k/a UtiliCorp United Inc.).	AQP Holdings, L.P., Aquila Gas Pipeline Corporation, Oasis Pipe Line Company.
Transactions Granted Early Terminations—09/20/2002			
20021169	MDU Resources Group, Inc	Limestone Electron Trust	BIV Generation Company LLC, Brush Generation Company LLC, Mesquite Investors, LLC, Morgan Generation Company LLC.
20021170	International Steel Group Inc	Acme Metals Incorporated	Acme Steel Company.
20021171	Kauai Island Utility Co-Op	Citizens Communications Company	Citizens Communications Company.
20021172	JetBlue Airways Corporation	LiveTV, LLC	LiveTV, LLC.
20021173	Hoosier Energy Rural Electric Cooperative, Inc.	The Williams Companies, Inc	Williams Energy Marketing & Trading Company.
20021177	Fremont Partners III, L.P	Don Tyson	SBI Holdings Inc., SBI Holdings, Inc.

Trans #	Acquiring	Acquired	Entities
20021178	Landry's Restaurants, Inc	Metro National Corporation	Kimberley Restaurants, Ltd., MNC Restaurant Properties, L.P., Well Seasoned, Inc.
Transactions Granted Early Terminations—09/23/2002			
20021122	Honeywell International Inc	Invesys plc	Invesys plc.
Transactions Granted Early Terminations—09/24/2002			
20021135	Cadence Design Systems, Inc	International Business Machines Corporation.	International Business Machines Corporation.
20021175	MAAX, Inc	Aker Plastics Company, Inc	Aker Plastics Company, Inc.
Transactions Granted Early Terminations—09/25/2002			
20021164	Yves Barrette	Ronald D. Erwin	Erwin Industries, LLC.
20021182	G&K Services, Inc	Russell Waggoner, Jr	Rental Uniform Company, Inc., Rental Uniform Service of Somset Kentucky, Inc.
Transactions Granted Early Terminations—09/26/2002			
20021133	Toshiba Corporation	Mitsubishi Electric Corporation	Mitsubishi Electric Corporation.
Transactions Granted Early Terminations—09/27/2002			
20021154	Gencorp Inc	General Dynamics Corporation	General Dynamics OTS (Aerospace), Inc.
20021167	Waste Connections, Inc	Allied Waste Industries, Inc	Allied Waste Industries, Inc.
20021168	RF Micro Devices, Inc.	Carlyle Partners III, L.P	Jazz Semiconductor, Inc.
20021174	General Electric Company	Advanced Ceramics Corporation	Advanced Ceramics Corporation.
20021179	Newco, a to-be-formed Luxembourg SARL.	Vivendi Universal, S.A	Houghton Mifflin Company, Vivendi Universal Publishing S.A.
20021186	Groupe Editions Holding I, SARL	Vivendi Universal, S.A	Houghton Mifflin Company.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Hallman, Contact Representative. Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–25758 Filed 10–9–02; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 022 3005]

The National Research Center for College and University Admissions, Inc., and Don M. Munce; and American Student List, LLC; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreements.

SUMMARY: The consent agreements in the two matters settle alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies both consent agreements and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

DATES: Comments must be received on or before October 31, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed below.

FOR FURTHER INFORMATION CONTACT: Jessica Rich or Laura Mazzarella, FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2148.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreements containing consent orders to cease and desist, having have been field with the accepted, subject to final approval, by the Commission, have been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreements, and the allegations in the complaint. An electronic copy of the full text of the consent agreements packages can be obtained from the FTC Home Page (for October 2, 2002), on the World Wide Web, at ''*http://www.ftc.gov/os/2002/10index.htm.*'' A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 158–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of our as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov.* Such

comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Orders To Aid Public Comment

The Federal Trade Commission has accepted agreements, subject to final approval, to (1) a proposed consent order from the National Research Center for College and University Admissions, Inc. (''NRCCUA'') and its officer Don M. Munce (''Munce''), and (2) a proposed consent order from American Student List, LLC (''ASL''). The proposed orders are substantively identical. NRCCUA is a student survey company that supplies student data to colleges and universities and other entities for recruitment and marketing purposes. ASL is a commercial list broker that supplies names for youth marketing campaigns.

The proposed consent orders have been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements and take other appropriate action or make final the agreements' proposed orders.

This matter concerns representations made about how detailed, personal information collected from high school students through a survey would be used, and how the survey is funded. The proposed respondents distribute a survey to high school teachers and guidance counselors with the request that they have their students complete the survey. The survey collects from students personal information including name, address, age, race, religious affiliation, and academic, career, and athletic interests. NRCCUA and Munce then Market personal information collected through the survey primarily to colleges and universities, which use the information to target high school students for recruitment purposes. NRCCUA also provides survey information to ASL. ASL uses survey information to create lists of college-bound students that it sells to commercial entities for use in marketing. Such entities include, but are not limited to, consumer products manufacturers, credit card companies, direct marketers, list brokers, database marketing companies, and advertising agencies.

The Commission's complaint charges that the proposed respondents falsely represented that information collection from high school students through the survey is shared only with colleges, universities, and other entities providing education-related services when, in fact, such information is also shared with commercial entities for marketing purposes. The complaint also alleges that the proposed respondents falsely represented that the survey is funded solely by educational institutions when, in fact, the survey also receives substantial funding from ASL, a commercial entity.

Part I of the consent orders prohibits the proposed respondents, in connection with the collection of personally identifiable information from an individual, from misrepresenting (1) how such information is collected or will be used or disclosed, or (2) how the collection of such information is funded. Part II of the orders prohibits the proposed respondents, in connection with the collection of personally identifiable information from students for any ''noneducational-related marketing purpose,'' from using or disclosing such information unless they disclose (1) the existence and nature of such noneducational-related marketing purpose, and (2) the types or categories of any entities to which the information will be disclosed.

The proposed orders define ''noneducational-related marketing purpose'' to mean for the purpose of marketing products or services, or selling personally identifiable information from or about an individual for use in marketing products or services to individuals. The definition specifically excludes the use of personal information in connection with certain activities determined to be ''educational products or services'' under the recently enacted No Child Left Behind Act, namely (a) college or postsecondary education recruitment, or military recruitment; (b) book clubs, magazines, and programs providing access to low-cost literary products; (c) curriculum and instructional materials used by elementary schools and secondary schools; (d) student recognition programs; or (e) any other activity expressly determined under the No Child Left Behind Act or its implementing regulations to be an ''educational product or service.'' In addition, the proposed orders provide that when determining whether any specific activity is an ''educational product or service,'' any official, written, publicly-disseminated interpretation by the Department of Education regarding such activity shall be controlling.

Part III of the orders prohibits the proposed respondents from using or disclosing for any noneducational-related marketing purpose any personally identifiable information that was collected through surveys distributed prior to the date of service of the orders. In addition to the educational purposes excepted from the definition of ''noneducational-related marketing purpose,'' Part III also permits the proposed respondents to use such information for the purpose of (a) job recruitment, (b) the provision of student loans, or (c) the provision of standardized test preparation services.

The remainder of the proposed orders contains standard requirements that the proposed respondents maintain copies of privacy statements and other documents relating to the collection, use or disclosure of personally identifiable information; distribute copies of the orders to certain company officials and employees; notify the Commission of any change in the corporation that may affect compliance obligations under the order, and file one or more reports detailing their compliance with the orders. Part VIII of the proposed orders is a provision whereby the orders, absent certain circumstances, terminate twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on the proposed orders, and is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

These proposed orders, if issued in final form, will resolve the claims alleged in the complaint against the named respondents. It is not the Commission's intent that acceptance of these consent agreements and issuance of final decisions and orders will release any claims against any unnamed persons or entities associated with the conduct described in the complaint.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–25757 Filed 10–9–02; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 021 0123]

Shell Oil Company and Pennzoil-Quaker State Company; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 28, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed below.

FOR FURTHER INFORMATION CONTACT: Dennis Johnson, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2712.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 27, 2002), on the World Wide Web, at *''http://www.ftc.gov/os/2002/09/index.htm.''* A copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled ''confidential.'' Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'' or ''FTC'') has issued a complaint (''Complaint'') alleging that the proposed merger of Shell Oil Company (''Shell'') and Pennzoil-Quaker State Company (''Pennzoil'') (collectively ''Respondents'') would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and has entered into an agreement containing consent orders (''Agreement Containing Consent Orders'') pursuant to which Respondents agree to be bound by a proposed consent order that requires divestiture of certain assets (''Proposed Consent Order'') and a hold separate order that requires Respondents to hold separate and maintain certain assets pending divestiture (''Hold Separate Order''). The Proposed Consent Order remedies the likely anticompetitive effects arising from Respondents' proposed merger, as alleged in the Complaint, and the Hold Separate Order preserves competition pending divestiture.

II. Description of the Parties and the Transaction

Shell Oil Company, headquartered in Houston, Texas, is the United States operating entity for the Royal Dutch/Shell Group of Companies (collectively referred to as ''Shell''). Shell is engaged in virtually all aspects of the energy business, including exploration, production, refining, transportation, distribution, and marketing. As part of the relief ordered by the Commission in Chevron/Texaco, Docket C–4923 (Jan. 2, 2002), Texaco divested its interest in Equilon Enterprises LLC to Shell and its interest in Motiva Enterprises LLC to Shell and Saudi Refining Company. Equilon and Motiva are engaged in the production, distribution and marketing of refined products, including base oil, gasoline, diesel fuel, and other products. During fiscal year 2001, Shell had worldwide revenues of approximately $135.2 billion and net income of approximately $10.9 billion.

Pennzoil, headquartered in Houston, Texas, is engaged in the business of manufacturing and marketing lubricants, car care products, base oils, branded and unbranded motor oils, transmission fluids, gear lubricants, greases, automotive polishes, automotive chemicals, other automotive products, and specialty industrial products. Pennzoil manufactures and markets conventional and synthetic motor oils primarily under the Pennzoil and Quaker State brands. Pennzoil is also engaged in the franchising, ownership and operation of quick lube oil change centers under the Jiffy Lube name. During fiscal year 2001, Pennzoil had worldwide revenues of approximately $2.3 billion.

Pennzoil has a 50/50 joint venture with Conoco Inc. called Excel Paralubes that operates a base oil refinery located in Westlake, Louisiana, adjacent to Conoco's petroleum products refinery at Lake Charles, Louisiana. Pennzoil obtains a substantial portion of its base oil requirements from its interest in Excel Paralubes. Pennzoil also has a 10-year base oil supply agreement with Exxon Mobil Corporation, which became effective August 1, 2000, as a result of the Commission's order in Exxon/Mobil, Docket C–3907 (Jan. 26, 2001). Pursuant to that agreement, Pennzoil is entitled to obtain up to 6,500 barrels per day of base oil from ExxonMobil, in grades and quantities that are proportionate to ExxonMobil's Gulf Coast base oil production. Part of this volume consists of Group II paraffinic base oil, which is the relevant market alleged in the Complaint.

Pursuant to an agreement and plan of merger dated March 25, 2002, Shell intends to acquire all of the outstanding voting securities of Pennzoil. The transaction is structured such that Shell ND, a wholly-owned subsidiary of Shell, will acquire the Pennzoil shares and then be merged into Pennzoil, with Pennzoil surviving as a wholly-owned subsidiary of Shell. Each outstanding common share of Pennzoil will be converted into the right to receive $22 in cash.

III. The Complaint

The Complaint alleges that the merger of Shell and Pennzoil would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C 45, by substantially lessening competition in the refining and marketing of Group II paraffinic base oil in the United States and Canada. To remedy the alleged anticompetitive effects of the merger, the Proposed Order requires

Respondents to divest Pennzoil's 50% interest in Excel Paralubes, which represents Pennzoil's only base oil ownership position. Respondents also have agreed to freeze at approximately current levels Pennzoil's right to obtain Group II base oil supply under the contract with Exxon Mobil that was obtained as part of the relief in the *Exxon/Mobil* merger proceeding.

Shell and Pennzoil are competitors in the refining and marketing of Group II paraffinic base oil in a geographic market that consists of the United States and Canada. The refining and marketing of Group II paraffinic base oil in this market would be highly concentrated as a result of the merger. Following the proposed merger, Shell would control at least 39% of Group II refining capacity in the United States and Canada. Overall market concentration, as measured by the Herfindahl-Hirschmann Index (HHI), would increase by more than 700 points to a level in excess of 2,300.

The refining and marketing of Group II paraffinic base oil is a relevant line of commerce (*i.e.,* product market). Paraffinic base oil is a refined petroleum product that is the principal component, or ''basestock,'' of finished lubricants used for a variety of applications, including passenger car motor oil, heavy duty engine oil, automatic transmission fluid, and other lubricant products. In the *Exxon/Mobil* investigation, the Commission concluded that paraffinic base oil constitutes a relevant market.

Developments in the industry since the *Exxon/Mobil* merger indicate that a market consisting of Group II paraffinic base oils has evolved. The American Petroleum Institute divides paraffinic base oil into three groups (Groups I, II and III) based on differences in sulfur content, saturates level, and viscosity index. Group II paraffinic base oil has less than 0.03% sulfur by weight, more than 90% saturates by weight, and a viscosity index ranging from 80 to 120. Group II base oil is needed in order to meet current performance standards for lighter-viscosity motor oil formulations (such as 5W–20 and 5W–30), as well as requirements for other lubricants. As new performance standards are adopted, there will be even greater demand for Group II base oil for the production of motor oil and other lubricants. If the price of Group II base oil were to increase by 5–10%, blenders of motor oil and other lubricants would not substitute to other bases stocks in sufficient quantities to prevent the increase.

The Complaint alleges that the proposed transaction would lessen competition in a geographic market consisting of the United States and Canada. There is little Group II production outside of the Untied States and Canada. Further, imports of Group II base oil would be subject to significant freight penalties and would not be competitive with production in the United States and Canada. If the price of Group II base oil in the United States and Canada were to increase by 5–10%, blenders of motor oil and other lubricants would not switch to sources of supply outside the Untied States and Canada in sufficient quantities to prevent the increase.

There are few significant producers of Group II base oil in the Untied States and Canada. The proposed merger would eliminate Pennzoil as a major competitor, and would combine Shell, the market leader, into a close partnership with Conoco, another leading producer. As a result of the proposed merger, Shell would control at least 39% of Group II refining capacity in the United States and Canada, and concentration in the relevant market as measured by the Herfindahl-Hirschmann Index would increase by more than 700 points to a level in excess of 2,300.

Entry into the relevant market is difficult and would not be timely, likely or sufficient to prevent the anticompetitive effects that are likely to result from the proposed merger. Constructing a new refinery or converting an existing Group I refinery to make Group II base oil would require substantial investment, would be subject to significant regulatory obstacles, and would take several years to accomplish. As a result, new entry would not be able to prevent a 5–10% increase in Group II base oil prices.

The Complaint charges that the proposed merger, absent relief, is likely to substantially lessen competition and lead to higher prices of Group II paraffinic base oil, by eliminating direct competition between Shell and Pennzoil, by increasing the likelihood that the combined Shell/Pennzoil will unilaterally exercise market power, and by increasing the likelihood of collusion or coordinated interaction among competitors in the refining and marketing of Group II paraffinic base oil.

To remedy the likely competitive harm, the Proposed Order requires Respondents to Divest Pennzoil's interest in Excel paralubes and to freeze Pennzoil's ability to obtain additional Group II supply under the agreement with ExxonMobil. This relief will effectively remedy any anticompetitive effects that would be expected to arise from this transaction.

IV. Resolution of the Competitive Concerns

The Commission has provisionally entered into an Agreement Containing Consent Orders with Shell and Pennzoil in the settlement of the Complaint. The Agreement Containing Consent Orders contemplates that the Commission would issue the Complaint and enter the Proposed Order and the Hold Separate Order for the divestiture of certain assets described below.

In order to remedy the anticompetitive effects that have been identified, Respondents have agreed to divest Pennzoil's 50% interest in Excel Paralubes, and to freeze Pennzoil's right to obtain additional Group II supply under the contract with ExxonMobil at approximately current levels. If the required divestiture has not been accomplished within the required time, then Respondents are required to transfer Pennzoil's interest in Excel paralubes to a trustee, who will have the responsibility of accomplishing the required divestiture.

Paragraph II.A. of the Proposed Order requires Respondents to divest Pennzoil's interest in Excel Paralubes, at no minimum price, within twelve months after executing the Order, to an acquirer that receives the prior approval of the Commission.

Paragraph II.B. requires Respondents to negotiate with the acquirer, at the acquirer's option, a supply agreement for Respondents to purchase Group II base oil. Such agreement may not exceed one year, may not contain renewal or evergreen rights, and is subject to prior approval by the Commission. Paragraph II.C. provides that, prior to the effective date of divestiture, Respondents may not enter into any agreement to purchase Group II base oil from the acquirer other than one made pursuant to Paragraph II.B.

Paragraph II.D. of the Proposed Order explicitly provides that Respondents may not divest the Pennzoil Excel Paralubes Interest to Conoco, and must enforce a letter agreement with Conoco relating to Excel Paralubes. Conoco already has a significant share of the Group II market, and the addition of Pennzoil's share of Excel Paralubes would result in a significant increase in concentration. In addition, under the Joint Venture Agreement forming the Excel Paralubes partnership, Conoco may, under certain circumstances, have a right of first refusal or a first option to purchase Pennzoil's interest in Excel Paralubes. Conoco has centered into an agreement with Respondents dealing with its waiver of such rights, and consenting to the assignment of a

supply agreement pursuant to which Pennzoil purchases base oil from Excel Paralubes.

Paragraph III limits Respondents' use of their rights to purchase Group II base oil from ExxonMobil under the ExxonMobil/Pennzoil Base Oil Agreement. That agreement allows Pennzoil to obtain base oil from ExxonMobil in the proportionate types and amounts corresponding to production at designated ExxonMobil refineries. Pennzoil currently is taking approximately 1,500 barrels per day of Group II under this contract. Any significant increase in that amount could unduly increase concentration. Accordingly, Paragraph III prevents Respondents from increasing their share of the market for Group II Base Oil through additional supply under this agreement.

If Respondents have not accomplished the divestiture within the required time period, Paragraph IV provides that the Commission may appoint a trustee to divest the Pennzoil Excel Paralubes Interest, at no minimum price, to a buyer approved by the Commission. The trustees will have the exclusive power and authority to accomplish the divestiture within twelve months, subject to any necessary extensions by the Commission. Paragraph IV.C.5 requires that the trustee will have access to information related to Atlas and Excel Paralubes as necessary to fulfill his or her obligations. (Atlas is the wholly-owned subsidiary of Pennzoil that holds Pennzoil's interest in the Excel Paralubes partnership.) The trustee shall use his or her best efforts to negotiate the most favorable price and terms for the divestiture, subject to the Respondents' absolute and unconditional obligation to divest expeditiously at no minimum price. If the trustee receives more than one bona fide offer from entities approved by the Commission, the trustee will divest to the party selected by the Respondents.

Other provisions of Paragraph IV.C. generally provide that Respondents are responsible for management expenses incurred by the trustee, that the trustee has authority to employ other persons necessary to carry out his or her duties and responsibilities, and that Respondents indemnify and hold the trustee harmless against any liabilities or expenses arising out of, or in connection with, performance of the trustee's duties. Respondents may require the trustee to sign a customary confidentiality agreement, provided that such agreement may not restrict the trustee from providing any information to the Commission.

Paragraphs V–VIII of the Proposed Order contain certain general provisions. Pursuant to Paragraph V, Respondents are required to provide the Commission with a report of compliance with the Proposed Order every thirty days until the divestiture is completed and annually for nine years after the first year the Order becomes final. Paragraph VI provides for notification to the Commission in the event of any corporate changes in the Respondents. Paragraph VII requires that Respondents provide the Commission with access to their facilities and employees for the purposes of determining or securing compliance with the Proposed Order. Finally, Paragraph VIII terminates the Order ten years from the date it becomes final.

V. Opportunity for Public Comment

The Proposed Order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. The Commission, pursuant to a change in its Rules of Practice, has also issued its Complaint in this matter, as well as the Hold Separate Order. Comments received during this thirty day comment period will become part of the public record. After thirty (30) days, the Commission will again review the Proposed Order and the comments received and will decide whether it should withdraw from the Proposed Order or make final the agreement's Proposed Order.

By accepting the Proposed Order subject to final approval, the Commission anticipates that the competitive problems alleged in the Complaint will be resolved. The purpose of this analysis is to invite public comment on the Proposed Order, including the proposed divestiture, and to aid the Commission in its determination of whether it should make final the Proposed Order contained in the agreement. This analysis is not intended to constitute an official interpretation of the Proposed Order, nor is it intended to modify the terms of the Proposed Order in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 02–25756 Filed 10–9–02; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. *Cash and Counseling Demonstration:* Additional Survey Instruments—0990–0232—Extension—The Office of the Assistant Secretary for Planning and Evaluation (ASPE) in partnership with the Robert Wood Johnson Foundation, is evaluating a demonstration project of the Cash and Counseling consumer directed care model. A controlled experimental design methodology is being used to test the effects of the experimental intervention; cash payments in lieu of arranged services for Medicaid covered beneficiaries. This portion of the evaluation consists of four non-client surveys.

Respondents: Individuals or households, For-profit, non-profit institutions.

BURDEN INFORMATION

Instrument	Number of respondents	Burden per response	Total burden hours
Informal Caregiver	741	.38	282
Paid Workers	391	.5	196
Consultant Survey (complete)	0	0	0
Ethnographic Study	25	1.0	25
Total	1,157		503

OMB Desk Officer: Allison Herron Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Written comments should be received within 30 days of this notice.

Dated: October 1, 2002.

Kerry Weems,

Deputy Assistant Secretary, Budget.

[FR Doc. 02–25840 Filed 10–9–02; 8:45 am]

BILLING CODE 4154–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–01–03]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

National Hospital Discharge Survey—(OMB No. 0920–0212)—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC) proposed to conduct a special study to evaluate expanding pharmaceutical data in the National Health Care Survey. This study is a preliminary investigation of methodological procedures to collect information on drugs for inpatients as part of the National Hospital Discharge Survey (NHDS). The National Health Care Survey currently collects data on drugs prescribed during patient visits to physicians' offices and to emergency and outpatient departments through the National Ambulatory Medical Care Survey and the National Hospital Ambulatory Medical Care Survey. The purpose of this special study is to conduct and evaluate a field test of preliminary data collection methods using medical records as the source for abstracting names of drugs administered to a sample of hospital inpatients. It is anticipated that the results of this special study will provide essential information regarding: the amount of time and medical sophistication required for staff to find and abstract drug data in the medical record; the cost of collecting these data as part of the NHDS; potential problems to be anticipated in conducting a national survey which potentially requires the participation of a large number of hospitals; and, what the next steps should be to evaluate the possibility of adding drug data to the NHDS. The field test for this special study will include a sample of approximately 50 hospitals which are not currently participating in the NHDS. Data collection will include 20 discharges sampled from one month from each participating hospital. The data items to be abstracted are all of the NHDS items in addition to listing the narrative description of all drugs administered during the sampled inpatient stay. It is anticipated that only half of the hospitals which participate in the special study will conduct their own abstracting (''Primary procedure'') and that contractor staff will perform the abstracting (''Alternate procedure'') in the other 25 hospitals. The total annual burden for this data collection is 367 hours.

Form	Number of respondents	Number of responses/respondent	Average burden/response (in hours)
Medical Record Abstract—Primary Procedure Hospital	25	20	30/60
Medical Record Abstract—Alternate Procedure Hospital	25	20	1/60
Induction Form	50	1	2
Transmittal Form	50	1	10/60

Dated: October 2, 2002.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 02–25716 Filed 10–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02219]

Cooperative Agreement for the Development and Support of Core Public Health Functions Related to Injury Prevention and Control; Notice of Award of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the award of fiscal year (FY) 2002 funds for a cooperative agreement program for the Development and Support of Core Public Health Functions Related to Injury Prevention and Control.

The purpose of the program is to assist the State and Territorial Injury Prevention Directors' Association (STIPDA) to determine and respond to the training, information, education, research, surveillance, program implementation, and evaluation needs required to build or expand injury prevention and control capacity at the State and territorial level. This program addresses the ''Healthy People 2010''

focus areas of Injury and Violence Prevention.

B. Eligible Applicant

Assistance is provided only to (STIPDA). No other applications were solicited.

Eligibility is limited to STIPDA because of its unique relationship with State public health injury programs and with State public health officers. STIPDA is the only national nonprofit organization comprised of public health injury directors representing all States and territories. Voting membership in STIPDA is restricted to one injury director for each State, with this director designated by the State health officer. Therefore, STIPDA, is the only organization officially representing the injury perspectives of each State's health officer.

STIPDA is the only organization whose primary mission is to promote, sustain, and enhance the ability of State and territorial public health departments to reduce death and disability associated with injuries. STIPDA has direct access to it's own membership of State and territorial injury prevention and control staff and, therefore, has the capacity to meet the objectives of this agreement.

STIPDA also provides consultation and technical assistance to numerous agencies and has liaison relationships with national organizations. In this way, STIPDA is deeply involved in injury prevention and control program development and evaluation efforts that are conducted nationally.

In collaboration with other national organizations, STIPDA accomplishes its mission in part by disseminating information on state-of-the-art injury prevention and control policies and strategies. The unique information exchange among STIPDA members and resident expert program knowledge provide it with special credibility with national, local, private, and voluntary agencies.

C. Funds

Approximately $493,898 is being awarded in FY 2002. The award will begin on or about September 30, 2002, and will be made for a 12-month budget period within a project period of one year.

D. Where To Obtain Additional Information

Business management technical assistance may be obtained from: Van A. King, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2751, e-mail address: *vbk5@cdc.gov.*

For program technical assistance, contact: James S. Belloni, MA, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway, Mailstop F–41, Atlanta, GA, 30341–3724, Phone Number: 770 488–4538, e-mail address: *jsb1@cdc.gov.*

Dated: October 4, 2002.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–25752 Filed 10–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice: Re-Authorization of Pro-Children Act of 1994 (''PCA'') Under the No Child Left Behind Act of 2001 (''NCLB'')

AGENCY: Department of Health and Human Services, Centers for Disease Control and Prevention.

ACTION: Notice; amendment.

SUMMARY: The Department of Health and Human Services announces the re-authorization of the Pro-Children Act of 1994. The Pro-Children Act prohibits smoking in facilities that are funded directly by the Federal Government or through State or local governments by Federal grant, loan, loan guarantee, or contract programs that offer education, library, day care, health care and early childhood development services (*e.g.*, Head Start) on a routine and regular basis to children under the age of eighteen (18). The Act is being re-authorized under the No Child Left Behind Act of 2001, Pub. L. 107–110 (2001), effective January 8, 2002.

Prohibitions: The below prohibitions shall be effective 90 days after this notice is published, or 270 days after January 8, 2002, whichever occurs first. ''Any failure to comply with a prohibition in this section shall be considered to be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Secretary.''

''(a) *Prohibition*—After the date of enactment of the No Child Left Behind Act of 2001, no person shall permit smoking within any indoor facility owned or leased or contracted for, and utilized, by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

(b) *Additional Prohibition*—(1) In General-After the date of enactment of the No Child Left Behind Act of 2001, no person shall permit smoking within any indoor facility (or portion of such a facility) owned or leased or contracted for, and utilized by, such person for the provision of regular or routine health care or day care or early childhood development (Head Start) services.

(2) *Exception*—Paragraph (1) shall not apply to—

(A) Any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(B) Any private residence.

(c) *Federal Agencies*—

(1) *Kindergarten, Elementary, or Secondary Education or Library Services*—After the date of enactment of the No Child Left Behind Act of 2001, no Federal agency shall permit smoking within any indoor facility in the United States operated by such agency, directly or by contract, to provide routine or regular kindergarten, elementary, or secondary education or library services to children.

(2) *Health or Day Care or Early Childhood Development Services*—

(A) *In General*—After the date of enactment of the No Child Left Behind Act of 2001, no Federal agency shall permit smoking within any indoor facility (or portion of such facility) operated by such agency, directly or by contract, to provide routine or regular health or day care or early childhood development (Head Start) services to children.

(B) *Exception*—Subparagraph (A) shall not apply to—

(i) Any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(ii) Any private residence.

(3) *Application of Provisions*—The provisions of paragraph (2) shall also apply to the provision of such routine or regular kindergarten, elementary or secondary education or library services in the facilities described in paragraph (2) not subject to paragraph (1).''

SUPPLEMENTARY INFORMATION: Several federal departments have authority to implement and enforce the Pro-Children Act; Department of Health and Human

Services, Department of Education, and the United States Department of Agriculture. The Act does not apply to any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol, or services provided in private residences. For additional information please view **Federal Register** Notice, 94 FRN 32136, or to see the statute in its entirety please view Public Law 107–110 (2001).

FOR FURTHER INFORMATION CONTACT: Pro-Children Act Liaison, Office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway, N.E., Mailstop K–50, Atlanta, GA 30341–3717, (770) 488–5705, then press option 3.

Dated: October 4, 2002.

Joseph R. Carter,

Associate Director for Management and Operations, Centers for Disease Control and Prevention.

[FR Doc. 02–25754 Filed 10–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Proposed Measles, Mumps, Rubella (MMR) Vaccine Information Materials

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Notice with comment period.

SUMMARY: Under the National Childhood Vaccine Injury Act (42 U.S.C. 300aa–26), the CDC must develop vaccine information materials that all health care providers are required to give to patients/parents prior to administration of specific vaccines. Since the recommended interval between receiving rubella-containing vaccine and becoming pregnant has been revised from 3 months to 4 weeks, the vaccine information materials covering measles, mumps and rubella vaccine must be revised. CDC seeks written comment on proposed revised vaccine information materials for MMR vaccine.

DATES: Written comments are invited and must be received on or before December 9, 2002.

ADDRESSES: Written comments should be addressed to Walter A. Orenstein, M.D., Director, National Immunization Program, Centers for Disease Control and Prevention, Mailstop E–05, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

FOR FURTHER INFORMATION CONTACT: Walter A. Orenstein, M.D., Director, National Immunization Program, Centers for Disease Control and Prevention, Mailstop E–05, 1600 Clifton Road, NE., Atlanta, Georgia 30333, (404) 639–8200.

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act of 1986 (Public Law 99–660), as amended by section 708 of Public Law 103–183, added section 2126 to the Public Health Service Act. Section 2126, codified at 42 U.S.C. 300aa–26, requires the Secretary of Health and Human Services to develop and disseminate vaccine information materials for distribution by all health care providers, whether public or private, to any patient (or to the parent or legal representative in the case of a child) receiving vaccines covered under the National Vaccine Injury Compensation Program.

Development and revision of the vaccine information materials have been delegated by the Secretary to the Centers for Disease Control and Prevention (CDC). Section 2126 requires that the materials be developed, or revised, after notice to the public with a 60-day comment period, and in consultation with the Advisory Commission on Childhood Vaccines, appropriate health care provider and parent organizations, and the Food and Drug Administration. The law also requires that the information contained in the materials be based on available data and information, be presented in understandable terms, and include:

(1) A concise description of the benefits of the vaccine,

(2) A concise description of the risks associated with the vaccine,

(3) A statement of the availability of the National Vaccine Injury Compensation Program, and

(4) Such other relevant information as may be determined by the Secretary.

The vaccines covered by this statutory requirement are diphtheria, tetanus, pertussis, measles, mumps, rubella, polio, hepatitis B, Haemophilus influenzae type b (Hib), varicella (chickenpox), and pneumococcal conjugate vaccine. Copies of the current vaccine information statements (VIS) for these vaccines, and instructions for their use, can be found on the CDC Web site at: *http://www.cdc.gov/nip/publications/vis/.*

Measles, Mumps & Rubella Vaccine

The Advisory Committee on Immunization Practices revised its recommendations for administration of rubella-containing vaccines to change the recommended interval between receiving MMR vaccine and becoming pregnant from 3 months to 4 weeks (''Revised ACIP Recommendations for Avoiding Pregnancy After Receiving a Rubella-Containing Vaccine'' MMWR 50/49, Dec 14, 2001). Interim vaccine information materials reflecting this change were posted on the CDC website on June 13, 2002. Following comments received during the consultation process mandated by the statute, we are proposing slightly different language to further clarify this recommendation through publication of this notice announcing proposed revised MMR vaccine information materials.

We invite written comment on the proposed revisions to the vaccine information materials, entitled ''Measles, Mumps & Rubella Vaccines: What You Need to Know.'' Comments submitted will be considered in finalizing these materials. When the final materials are published in the **Federal Register**, the notice will include an effective date for their use. In the meantime, the interim MMR materials, dated June 13, 2002, which reflect the revised recommendation, can be used in lieu of the 12/16/98 version of the MMR materials.

* * * * *

Proposed Measles, Mumps & Rubella Vaccine Information Materials

The vaccine information materials, entitled ''Measles, Mumps & Rubella Vaccines: What You Need to Know,'' and dated 12/16/98 and 6/13/02 (interim), are proposed to be revised as follows:

Section 3, ''Some people should not get MMR vaccine or should wait.'' Delete the third bullet and replace it with the following:

''Pregnant women should wait to get MMR vaccine until after they have given birth. Women should avoid getting pregnant for 4 weeks after getting MMR vaccine.''

Section 5, ''What if there is a moderate or severe reaction?'' At the end of the last bullet, add the website address for the Vaccine Adverse Event Reporting System.

* * * * *

Dated: October 4, 2002.

Joseph R. Carter,

Associate Director for Management and Operations, Centers for Disease Control and Prevention.

[FR Doc. 02–25753 Filed 10–9–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0430]

Lilly Research Labs et al.; Withdrawal of Approval of 16 New Drug Applications and 30 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 16 new drug applications (NDAs) and 30 abbreviated new drug applications (ANDAs). The holders of the applications notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: Effective November 12, 2002.

FOR FURTHER INFORMATION CONTACT: Florine P. Purdie, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The holders of the applications listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their requests, waived their opportunity for a hearing.

Application No.	Drug	Applicant
NDA 3–188	Eprolin (vitamin E) Capsules.	Lilly Research Laboratories, Lilly Corporate Center, Indianapolis, IN 46285.
NDA 8–317	ACTH Injection (corticotropin for injection USP).	King Pharmaceuticals, Inc., 501 Fifth St., Bristol, TN 37620.
NDA 8–682	Thytropar (thyrotropin for injection).	Aventis Pharmaceuticals, Inc., 399 Interpace Pkwy., P.O. Box 663, Parsippany, NJ 07054.
NDA 9–766	Meticorten (prednisone) Tablets.	Schering Corp., 2000 Galloping Hill Rd., Kenilworth, NJ 07033.
NDA 12–034	Permitil (fluphenazine hydrochloride (HCl)) Tablets.	Do.
NDA 14–394[1]	Xylocaine (lidocaine), 10% Oral Spray.	AstraZeneca, L.P., 725 Chesterbrook Blvd., Wayne, PA 19087–5677.
NDA 15–874	Alupent (metaproterenol sulfate USP) Tablets, 10 milligrams (mg) and 20 mg.	Boehringer Ingelheim Pharmaceuticals, Inc., 900 Ridgebury Rd., P.O. Box 368, Ridgefield, CT 06877.
NDA 17–056	Follutein (chorionic gonadotropin for injection USP) Injection.	Bristol-Myers Squibb Pharmaceutical Research Institute, P.O. Box 4000, Princeton, NJ 08543–4000.
NDA 17–316	Sodium Iodide I–131 Capsules.	CIS Bioindustries, c/o CIS–US, Inc., 101 De Angelo Dr., Bedford, MA 01730.
NDA 17–571	Alupent (metaproterenol sulfate) Syrup, 10 mg/5 milliliters (mL).	Boehringer Ingelheim Pharmaceuticals, Inc.
NDA 17–695	Antuitrin-S (chorionic gonadotropin), 5,000 units.	Parke-Davis, 201 Tabor Rd., Morris Plains, NJ 07950.
NDA 17–726	Asellacrin (somatropin) Injection.	Serono, Inc., 100 Longwater Circle, Norwell, MA 02061.
NDA 18–821	Reglan (metoclopramide) Syrup.	A.H. Robbins, c/o Wyeth-Ayerst Research, P.O. Box 8299, Philadelphia, PA 19101–8299.
NDA 19–368	Moctanin (monoctanoin).	Ethitek Pharmaceuticals Co., 3 Court of Overlook Bluff, Northbrook, IL 60062.
NDA 20–200	Nalbuphine HCl Injection, 1.5 mg/mL.	Abbott Laboratories, 200 Abbott Park Rd., Abbott Park, IL 60064–3537.
NDA 20–417	FemPatch (estradiol) Transdermal System.	Parke-Davis, 2800 Plymouth Rd., Ann Arbor, MI 48105.
ANDA 60–004	V-Cillin K (penicillin V potassium USP) Powder for Oral Solution, 125 mg/5 mL and 250 mg/5 mL.	Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285.
ANDA 60–463	Garamycin (gentamicin sulfate ointment USP) Ointment, 0.1%.	Schering Corp.
ANDA 60–781	Penicillin G Potassium Tablets USP.	Mylan Pharmaceuticals, Inc., 781 Chestnut Ridge Rd., P.O. Box 4310, Morgantown, WV 26504–4310.
ANDA 61–624	Penicillin V Potassium for Oral Solution USP, 125 mg/5 mL and 250 mg/5 mL.	Do.
ANDA 63–017	Cefadroxil Capsules USP, 500 mg.	Purpac Pharmaceutical Co., 200 Elmora Ave., Elizabeth, NJ 07207.
ANDA 63–119	Tombramycin Sulfate Injection USP, 10 mg/mL.	AstraZeneca, L.P., 1800 Concord Pike, Wilmington, DE 19803–8355.
ANDA 63–265	Amikacin Sulfate Injection USP.	Abbott Laboratories.
ANDA 63–266	Amikacin Sulfate Injection USP.	Do.
ANDA 63–295	Monocid (cefonicid for injection USP), 1 gram (g) vials.	GlaxoSmithKline, One Franklin Plaza, P.O. Box 7929, Philadelphia, PA 19101–7929.
ANDA 70–125	Propranolol HCl Tablets USP, 10 mg.	Lederle Laboratories, c/o ESI Lederle, P.O. Box 41502, Philadelphia, PA 19101–7929.
ANDA 70–127	Propranolol HCl Tablets USP, 40 mg.	Do.
ANDA 70–629	Ibuprofen Tablets USP, 400 mg.	Do.
ANDA 70–630	Ibuprofen Tablets USP, 600 mg.	Do.
ANDA 70–636	Fentanyl Citrate Injection USP, 0.05 mg/mL.	Abbott Laboratories.
ANDA 70–637	Fentanyl Citrate Injection USP, 0.05 mg/mL.	Do.

Application No.	Drug	Applicant
ANDA 71–065	Ibuprofen Tablets USP, 200 mg.	Lederle Laboratories.
ANDA 72–045	Haloperidol Intensol Oral Concentrate (haloperidol oral solution USP), 2 mg/mL.	Roxane Laboratories, Inc., P.O. Box 16532, Columbus, OH 43216.
ANDA 72–768	Sulfamethoxazole and Trimethoprim Tablets USP, 400 mg/80 mg.	Do.
ANDA 73–528	Loperamide HCl Tablets USP, 2 mg.	Able Laboratories, Inc., l6 Hollywood Court, South Plainfield, NJ 07080–4295.
ANDA 73–590	Lactulose Solution USP, 10 g/15 mL.	Roxane Laboratories.
ANDA 74–638	Iopamidol Injection USP, 61%.	Abbott Laboratories.
ANDA 74–662	Ranitidine Tablets USP, 150 mg and 300 mg.	Boehring Ingelheim Corp., c/o Roxane Laboratories, Inc., P.O. Box 16532, Columbus, OH 43216–6532.
ANDA 75–230	Ketorolac Tromethamine Injection USP, 15 mg/mL and 30 mg/mL.	Bedford Labs, 300 Northfield Rd., Bedford, OH 44146.
ANDA 75–249	Midazolam HCl Injection, 5 mg (base)/mL.	Do.
ANDA 75–455	Midazolam HCl Injection 5 mg (base)/mL.	Ben Venue Laboratories, Inc., 300 Northfield Rd., Bedford, OH 44146.
ANDA 80–256	Methyltestosterone Tablets USP, 10 mg and 25 mg.	Eli Lilly and Co.
ANDA 83–799	Imipramine HCl Tablets USP, 25 mg and 50 mg.	Roxane Laboratories.
ANDA 87–743	Roxiprin Tablets (oxycodone and aspirin tablets USP).	Do.
ANDA 89–239	Mannitol Injection USP, 25%.	AstraZeneca, L.P.
ANDA 89–240	Mannitol Injection USP, 25%.	Do.

[1] While NDA 14–394 was named in the FEDERAL REGISTER withdrawal notice of April 30, 1984 (49 FR 18357), this NDA was never withdrawn and remained active until 1999.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the applications listed in the table in this document, and all amendments and supplements thereto, is hereby withdrawn, effective November 12, 2002.

Dated: September 27, 2002.

Janet Woodcock,

Center for Drug Evaluation and Research.

[FR Doc. 02–25882 Filed 10–9–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0407]

Diagnostic X-Ray Field Size; Revocation of Compliance Policy Guide 7133.17

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking the Compliance Policy Guide (CPG) entitled ''Sec. 398.475 Minimum X-Ray Field Size for Spot-Film Operation of Fluoroscopic Systems with Fixed SID and Without Stepless Adjustment of the Field Size (CPG 7133.17).'' This CPG is no longer necessary because the agency amended the Diagnostic X-Ray Systems Federal Performance Standard to include the minimum x-ray field size.

DATES: The revocation is effective November 12, 2002.

ADDRESSES: Submit written requests for single copies of the CPG to the Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0411, or FAX your request to 301–827–0482.

A copy of the CPG 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.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Governale, Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0411.

SUPPLEMENTARY INFORMATION:

I. Background

FDA issued the CPG entitled ''Sec. 398.475 Minimum X-Ray Field Size for Spot-Film Operation of Fluoroscopic Systems with Fixed SID and Without Stepless Adjustment of the Field Size (CPG 7133.17)'' on October 1, 1980. This CPG addresses the different requirements for minimum field size for spot-film and fluoroscopic modes of operation for fixed source-image receptor distance (SID) fluoroscopic x-ray systems. This CPG includes a statement that such systems that do not have stepless adjustment would be required to provide a minimum field size of 125 square centimeters or less during fluoroscopy and spot-film radiography.

In the **Federal Register** of May 3, 1993 (58 FR 26401), FDA amended the diagnostic X-ray systems Federal performance standard to incorporate a provision for spot-film devices used on fixed SID fluoroscopic systems. Specifically, 21 CFR 1020.31(h)(4)(i) requires that for spot-film devices used on fixed SID fluoroscopic systems which are not required to, and do not provide stepless adjustment of the x-ray field, the minimum field size, at the greatest SID, does not exceed 125 square centimeters.

Given the current diagnostic X-ray systems Federal performance standard, FDA is revoking CPG 7133.17, in its entirety, to eliminate unnecessary compliance policy.

II. Electronic Access

Before November 12, 2002, a copy of the CPG may be obtained from the Internet at http://www.fda.gov/ora/compliance_ref/cpg/cpgdev/cpg398–475.html.

Dated: October 1, 2022.

John Marzilli,

Deputy Associate Commissioner for Regulatory Affairs.

[FR Doc. 02–25881 Filed 10–9–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Data System for Organ Procurement and Transplantation Network and Associated Forms (OMB No. 0915–0157)—Revision

Section 372 of the Public Health Service (PHS) Act requires that the Secretary, by contract, provide for the establishment and operation of an Organ Procurement and Transplantation Network (OPTN). The OPTN, among other responsibilities, operates and maintains a national waiting list of individuals requiring organ transplants, maintains a computerized system for matching donor organs with transplant candidates on the waiting list, and operates a 24-hour telephone service to facilitate matching organs with individuals included in the list.

Data for the OPTN data system are collected from transplant hospitals, organ procurement organizations, and tissue-typing laboratories. The information is used to match donor organs with recipients, to monitor compliance of member organizations with OPTN rules and requirements, and to report periodically on the clinical and scientific status of organ donation and transplantation in this country. Data are used in the development and revision of OPTN rules and requirements, operating procedures, and standards of quality for organ acquisition and preservation, some of which have provided the foundation for development of Federal regulations. The practical utility of the data collection is further enhanced by requirements that the OPTN data must be made available without restriction for use by OPTN members, the Scientific Registry of Transplant Recipients, the Department of Health and Human Services, and others for evaluation, research, patient information, and other important purposes.

Revisions in the 28 data collection forms are intended to clarify existing questions, to provide additional detail and categories to avoid confusion and be more inclusive, to remove obsolete data, and to comply with requests for more complete and precise data.

ESTIMATES OF ANNUALIZED HOUR BURDEN

Form	Number of respondents	Responses per respondents	Total responses	Hours per response	Total burden hours
Cadaver Donor Registration	59	170	10,030	0.3	3,009.00
Death referral data	59	12	708	10	7,080.00
Living Donor Registration	668	11	7,348	0.2	1,469.60
Living Donor Follow-up	668	16	10,688	0.1	1,068.80
Donor Histocompatibility	156	86	13,416	0.1	1,341.60
Recipient Histocompatibility	156	161	25,116	0.1	2,511.60
Heart Candidate Registration	140	26	3,640	0.3	1,092.00
Lung Candidate Registration	75	29	2,175	0.3	652.50
Heart/Lung Candidate Registration	81	2	162	0.3	48.60
Thoracic Registration	140	29	4,060	0.3	1,218.00
Thoracic Follow-up	140	168	23,520	0.2	4,704.00
Kidney Candidate Registration	242	108	26,136	0.2	5,227.20
Kidney Registration	242	62	15,004	0.3	4,501.20
Kidney Follow-up*	242	444	107,448	0.2	21,489.60
Liver Candidate Registration	120	97	11,640	0.2	2,328.00
Liver Registration	120	44	5,280	0.4	2,112.00
Liver Follow-up	120	276	33,120	0.3	9,936.00
Kidney/Pancreas Candidate Registration	138	14	1,932	0.2	386.40
Kidney/Pancreas Registration (new form)	138	7	966	0.4	386.40
Kidney/Pancreas Follow-up (new form)	138	51	7,038	0.3	2,111.40
Pancreas Candidate Registration	138	7	966	0.2	193.20
Pancreas Registration	138	4	552	0.3	165.60
Pancreas Follow-up	138	12	1,656	0.2	331.20
Intestine Candidate Registration	38	6	228	0.2	45.60
Intestine Registration	38	3	114	0.2	22.80
Intestine Follow-up	38	9	342	0.2	68.40
Immunosuppression Treatment	668	39	26,052	0.025	651.30
Immunosuppression Treatment Follow-up	668	259	173,012	0.025	4,325.30
Post Transplant Malignancy	668	8	5,344	0.05	267.20
Total	883	.....	517,693	.....	78,744.50

*Includes an estimated 10,000 kidney transplant patients transplanted prior to the initiation of the data system.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrill, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC.

Dated: October 3, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–25725 Filed 10–9–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Director's Council of Public Representatives.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Director's Council of Public Representatives.

Date: October 22, 2002.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: Among the topics proposed for discussion are: (1) Current Issues; (2) Identified Priorities of the NIH Director and COPR; and (3) A Summary of Future Action Items and Follow Up Issues.

Place: 31 Center Drive, Bldg. 31, Conf. Rm. 6, Bethesda, MD 20892.

Contact Person: Jennifer E. Gorman Vetter, NIH Public Liaison/COPR Coordinator, Office of Communications and Public Liaison, Office of the Director, National Institutes of Health, 9000 Rockville Pike, Building 1, Room 344, Bethesda, MD 20892, (301) 435–4448, *gormanj@od.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Information is also available on the Instutute's/Center's home page: *www.nih.gov/about/publicliaison/index.html,* where as agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally, 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: October 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25904 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Small Grants Program For Behavioral Research.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Joyce C. Pegues, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7149, Bethesda, MD 20892, 301–594–1286.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392. Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399 Cancer Control, National Institutes of health, HHS)

Dated: October 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25891 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Board of Scientific Advisors.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: November 14–15, 2002.

Time: November 14, 2002, 8:30 a.m. to 6 p.m.

Agenda: Director's Report; Ongoing and New Business; Reports of Program Review Group(s); and Budget Presentation; Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Time: November 15, 2002, 8:30 a.m.to 1 p.m.

Agenda: Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Paulette S. Gray, PhD, Executive Secretary, Deputy Director, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Rm. 8141, Bethesda, MD 20892, 301–496–4218.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *deainfo.nci.nih.gov/advisory/bsa.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25906 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Molecular and Clinical Approaches to Colon Cancer Precursors.

Date: November 18–20, 2002.

Time: 7 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: University Park Marriott, 480 Wakara Way Street, Salt Lake City, UT 84108.

Contact Person: Peter J. Wirth, PhD, Scientific Review Administrator, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8131, Bethesda, MD 20892–8328, 301–496–7565, *pw2q@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control National Institutes of Health, HHS)

Dated: October 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25907 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 person privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Community Clinical Oncology Programs.

Date: November 14, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 6130 Executive Boulevard, EPN, Conference Room J, Rockville, MD 20852.

Contact Person: Timothy C. Meeker, MD, Scientific Review Administrator, Special Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8088, Rockville, MD 20852, 301/594–1279.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93,399, Cancer Control, National Institute of Health, HHS)

Dated: October 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25908 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The Grant applications and/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 Human Genome Research Institute Special Emphasis Panel, CEGS's and Sequencing Center Review.

Date: November 7–8, 2002.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ken D. Nakamura, PhD, Scientific review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, (301) 402–0838

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: October 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25912 Filed 10–09–02; 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 Sexual Relationships, Sexual Concurrence and HIV.

Date: November 14–15, 2002.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Carla T. Walls, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development 9000 Rockville Pike, MSC 7510, 6100 Building, Room 5e03, Bethesda, MD 20892, (301) 496–1485.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 4, 2002.

Laverne Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25884 Filed 10–9–02; 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 Letters of Invitation: Maternal Lifestyles.

Date: October 25, 2002.

Time: 9:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Marita R. Hopmann, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Building, Room 5E01, Bethesda, MD 20892, (301) 435–6911, *hopmannm@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25885 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of 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, NIDDK.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Diabetes and Digestive and Kidney Diseases, 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, NIDDK.

Date: November 6–8, 2002.

Open: November 6, 2002, 6 p.m. to 6:30 p.m.

Agenda: Introductions and Overview.

Place: National Institutes of Health, Building 5, Room 127, Bethesda, MD 20892.

Closed: November 6, 2002, 6:30 p.m. to adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 5, Room 127, Bethesda, MD 20892.

Closed: November 7, 2002, 8 a.m. to adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 5, Room 127, Bethesda, MD 20892.

Closed: November 8, 2002, 8 a.m. to adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 5, Room 127, Bethesda, MD 20892.

Contact Person: Marvin C. Gershengorn, MD, Scientific Director, Division of Intramural Research, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, 9000 Rockville Pike, Bldg. 10, Rm. 9N222, Bethesda, MD 20892, (301) 496–4129.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: October 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25886 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. Training in Gastroenterology.

Date: October 18, 2002.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 2 Democracy Plaza, 6707 Democracy Blvd, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Maxine Lesniak, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 756, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7792, *lesniakm@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: October 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25887 Filed 10–9–02; 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. NICHD Institutional Training For Pediatricians.

Date: November 6–7, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Rita Anand, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike, MSC 7510, 6100 Building, Room 5B01, Bethesda, MD 20892. (301) 496–1487. *anandr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25888 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel. New Animal Models for: Part A Tuberculosis (TB).

Date: November 1, 2002.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: 6700–B Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Vassil St. Georgiev, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC, 7610, Bethesda, MD 20892–7610. (301) 496–2550.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, New Animal Models for: Part B Aspergillosis.

Date: November 4, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.

Contact Person: Vassil St. Georgiev, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC, 7610, Bethesda, MD 20892–7610. (301) 496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25890 Filed 10–9–02; 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, Pelvic Floor Dysfunction.

Date: November 21, 2002.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: 6000 Executive Blvd, Suite 409, Willco Bldg., Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, HIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.867, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for

Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25892 Filed 10–9–02; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel Revised Toxicology Proposal.

Date: October 17, 2002.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, 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: October 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25893 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Centers for AIDS Research (CFAR).

Date: October 20–22, 2002.

Time: October 20, 2002, 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Time: October 21, 2002, 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Time: October 22, 2002, 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Eleazar Cohen, PhD, Scientific Review Administrator, NIAID/DEA, Scientific Review Program, Room 2220, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892, 301–496–2550, *ec17w@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25894 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; 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 Dental and Craniofacial Research Special Emphasis Panel 03–21, Review of R44 Grants.

Date: October 31, 2002.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Ashko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–93, Review of R13 Grants.

Date: November 1, 2002.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 03–09, Review of R01 Grants.

Date: November 7, 2002.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Four Points Sheraton, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 03–10, Review of R01 Grants.

Date: November 8, 2002.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: DoubleTree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 03–02, Review of Clinical Trials.

Date: November 11–12, 2002.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 03–07, Review of R01 Grants.

Date: November 14, 2002.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 03–08, Review of R01 Grants.

Date: November 16, 2002.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Clarion Barcelo Hotel O'Hare International Airport, 5615 North Cumberland Avenue, Chicago, IL 60631.

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 03–13, Review of R44 Grants.

Date: November 20, 2002.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 03–11, Review of R44 Grants.

Date: December 4, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Peter Zelazowski, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, National Inst of Dental & Craniofacial Research, National Institutes of Health, 45 Center Dr. Rm., Bethesda, MD 20892–6402.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: October 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25895 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and 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 Institue on Deafness and Other Communications Disorders Special Emphasis Panel, Human Embryonic Stern Cell Resources.

Date: October 22, 2002.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 6129 Executive Blvd., Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Craig A. Jordan, PhD, Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8683.

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. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: October 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25896 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–09–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Impact of Microbial Interactions on Infectious Diseases.

Date: November 6–8, 2002.

Time: 8:30 a.m. to 6 p.m..

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Gregory P. Jarosik, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892, 301–496–2550, *gjarosik@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: October 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25901 Filed 10–9–02; 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 invasions of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel ''Augmentative and Alternative Communication Strategies for Treatment of Acquired Cognitive Linguistic Disorders.''

Date: November 11, 2002.

Time: 8:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, National Institutes of Health, 6100 Executive Blvd., Rm. 5E03, Bethesda, MD 20892, 301–435–6908.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25902 Filed 10–9–02; 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, Mechanisms of Adverse Drug Reactions in Children.

Date: November 12, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Rita Anand, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, NIH, 9000 Rockville Pike, MSC 7510, 6100 Building, Room 5B01, Bethesda, MD 20892, (301) 496–1487, *anandr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 4, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25903 Filed 10–9–02; 8:45 am]

BILLING CODE 41410–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel ''Small Grants: voice/speech''.

Date: October 29, 2002.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., Suite 400C, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Craig A. Jordan, PhD, Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel. Chemical Senses Feasibility Grants.

Date: November 19, 2002.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., Suite 400C, Bethesda, MD 20852.

Contact Person: Melissa Stick, PhD, MPh, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Researech, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683,

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institues of Health, HHS)

Dated: October 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25905 Filed 10–9–02; 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 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 Mental Health Special Emphasis Panel AIDS Center.

Date: November 19, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–1225, *rweise@mail.nih.gov.*

(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: October 2, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25909 Filed 10–09–02; 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 Environmental Health Sciences Special Emphasis Panel, Review of Training Grants.

Date: November 14, 2002.

Time: 10 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, 79 T. W. Alexander Drive, Building 4401, Conference Room 122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Ethel B. Jackson, DDS, Chief, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–7826.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Review of Training Grants.

Date: November 15, 2002.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS, 79 T. W. Alexander Drive, Building 4401, Conference Room 122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Ethel B. Jackson, DDS, Chief, Scientific Review Branch, Office of Program Operations, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 919/541–7826.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: October 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25910 Filed 10–9–02; 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 Clinical & Basic Studies in Polycystic Ovarian Syndrome.

Date: November 19–20, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25913 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Molecular Pathobiology Study Section.

Date: October 6–8, 2002.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel, 3000 M Street NW., Washington, DC 20007–3701.

Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7804, Bethesda, MD 20892. 301–435–1779. *riverse@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Musculoskeletal and Dental Sciences Integrated Review Group, General Medicine B. Study Section.

Date: October 7–8, 2002.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Shirley Hilden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892. (301) 435–1198.

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: Immunological Sciences Integrated Review Group. Experimental Immunology Study Section.

Date: October 10–11, 2002.

Time: 8:30 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892. (301) 435–3566. *cooperc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Immunological Sciences Integrated Review Group, Immunological Sciences Study Section.

Date: October 10–11, 2002.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grant Hotel, 2350 M Street, NW., Washington, DC 20037–1417.

Contact Person: Samuel C. Edwards, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892. (301) 435–1152. *edwardss@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Behavioral Medicine: Animal Studies.

Date: October 11, 2002.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Radisson—Old Town, 901 North Fairfax Street, Alexandria, VA 22314.

Contact Person: Lee S. Mann, PhD, JD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892. (301) 435–0677.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Editorial Note: This document was received at the Office of the Federal Register on October 7, 2002.

Dated: October 3, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25889 Filed 10–09–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Advisory Committee on Research on Women's Health.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee on Research on Women's Health.

Date: October 28, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To provide advice on appropriate research activities with respect to women's health and related studies to be undertaken by the national research institutes; to provide recommendations regarding ORWH activities; and to assist in monitoring compliance regarding the inclusion of women in clinical trials.

Place: 31 Center Drive, Bldg. 31, Conf. Rm. 6, Bethesda, MD 20892.

Contact Person: Joyce Rudick, Director, Programs & Management, Office of Research on Women's Health, Office of the Director, National Institutes of Health, Building 1, Room 201, Bethesda, MD 20892, 301/402–1770.

Information is also available on the Institute's/Center's home page: *http://www4.od.nih.gov/orwh/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 30, 2002.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25911 Filed 10–9–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4736–N–16]

Notice of Proposed Information Collection for Public Comment—Modernization of Public Housing Under the Comprehensive Grant Program (CGP) Reporting Requirements

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date:* December 9, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW.,

Room 4249, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–0614, extension 4128. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected 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: Modernization of Public Housing under the Comprehensive Grant Program (CGP) Reporting Requirements.

OMB Control Number: 2577–0157.

Description of the need for the information and proposed use: Public Housing Agencies (PHAs) with 250 units or more of public housing will submit information to HUD to approve the PHAs annual Comprehensive Plan submission, to reserve its formula share of the nation allocation for the CGP, certify resident consultation by the local government, to certify PHA's compliance with statutory and regulatory requirements by the governing body of the PHA, and to monitor performance of the projected activities of the CGP funds. PHAs submit this information to obtain a benefit from the Federal Government. The Public Housing Capital Fund Program will replace the CGP once final regulations are implemented.

Agency form numbers, if applicable: HUD–52832, HUD–52833, HUD–52834, HUD–52835, HUD–52836, HUD–52837, HUD–52840.

Members of affected public: State or Local Government.

Estimation of the total number of hours needed to pare the information collection including number of respondents, frequency of response, and hours of response: 832 respondents, annually, 68 average hours for seven forms, total reporting burden 54,320 hours.

Status of the proposed information collection: Reinstatement, without change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 3, 2002.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Executive Summary of Preliminary Estimated Costs

Physical and Management/ Operations Needs

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577--0157 (Exp. 7/31/95)

Public Reporting Burden for this collection of information is estimated to average 10.0 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 estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name	Federal Fiscal Year

Development Number/ Name	Total Current Units	Total Preliminary Estimated Hard Cost	Per Unit Hard Cost	Exceeds Reasonable Cost	Percentage of Vacant Units

Total Preliminary Estimated Hard Cost for Physical Needs	$
Total Preliminary Estimated Cost for PHA -Wide Management/Operations Needs	$
Total Preliminary Estimated Cost for PHA-Wide Nondwelling Structures and Equipment	$
Total Preliminary Estimated Cost for PHA-Wide Administration	$
Total Preliminary Estimated Cost for PHA-Wide Other	$
Grand Total of PHA Needs	$
Signature of Executive Director X	Date

form **HUD-52831** (2/92)
ref Handbook 7485.3

Instructions for Preparation of Form HUD-52831,
Executive Summary of Preliminary Estimated Costs for Physical and Management/Operations Needs

Report Submission: Prepare one form HUD-52831 for the entire PHA/IHA and submit to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the CGP and every sixth year when a complete revision of the Comprehensive Plan is required. Use as many pages of this form as necessary to cover all developments within the PHA's/IHA's inventory.

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/ Indian Housing Authority (IHA) name.

Federal Fiscal Year—Enter the FFY in which the Comprehensive Plan is being submitted.

Column Instructions:

Development Number/Name—Enter the State abbreviation, the PHA number and the development number, which may be abbreviated as VA 36-1. Also enter the development name, if any.

Total Current Units—For each development, enter the total number of current units as identified in the ACC.

Total Preliminary Estimated Hard Cost—For each development, enter the Total Preliminary Estimated Hard Cost for Needed Physical Improvements from form HUD-52832, Physical Needs Assessment.

Per Unit Hard Cost—For each development, enter the Per Unit Hard Cost from form HUD-52832, Physical Needs Assessment.

Exceeds Reasonable Cost—For each development, enter Yes or No as to whether the hard cost exceeds 90% of TDC from form HUD-52832, Physical Needs Assessment.

Percentage of Vacant Units—For each development, enter the percentage of vacant units from form HUD-52832, Physical Needs Assessment.

Total Preliminary Estimated Hard Cost for Physical Needs—Enter the total for all amounts entered in the column, Total Preminary Estimated Hard Cost.

Total Preliminary Estimated Cost for PHA-Wide Management/Operations Needs—Enter the Total Preliminary Estimated PHA-Wide Cost from form HUD-52833, Management Needs Assessment.

Total Preliminary Estimated Cost for PHA-Wide Nondwelling Structures and Equipment—Enter the total preliminary estimated cost for PHA-wide nondwelling structures and equipment that are currently needed and will be needed within the next five years.

Total Preminary Estimated Cost for PHA-Wide Administration—Enter the total preminary estimated cost for PHA-wide administration (Development Account 1410) that are currently needed and will be needed within the next five years.

Total Preminary Estimated Cost for PHA-Wide Other -- Enter the total preliminary estimated cost for PHA-wide other costs (Development Accounts1411, 1415, 1430, 1440, 1490, 1495) that are currently needed and will be needed within the next five years.

Grand Total of PHA Needs—Enter the sum of preliminary estimated costs for Physical Needs, PHA-wide Management/ Operations Needs, PHA-wide Nondwelling Structures and Equipment, PHA-Wide Administration and PHA-Wide Other.

Physical Needs Assessment
Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577--0157 (Exp. 7/31/95)

Public Reporting Burden for this collection of information is estimated to average 252 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 estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name		☐ Original ☐ Revision Number _____
Development Number	Development Name	DOFA Date

Development Type:	Occupancy Type:	Structure Type:	Number of Buildings	Vacant Units
Rental ☐	Family ☐	Detached/ Semi-Detached ☐	Current Bedroom Distribution	Number _____
Turnkey III ☐	Elderly ☐	Row ☐	0 _____ 1 _____ 2 _____	%
Mutual Help ☐	Mixed ☐	Walk-Up ☐	3 _____ 4 _____ 5 _____	Total Current Units
Section 23, Bond Financed ☐		Elevator ☐	5+_____	

General Description of Needed Physical Improvements	Urgency of Need (1-5)

Total Preliminary Estimated Hard Cost for Needed Physical Improvements:	$	
Per Unit Hard Cost:	$	
Hard Cost Exceed 90% of TDC (If Yes, attach viability analysis.)	Yes ☐	No ☐
Development Has Long-Term Physical and Social Viability	Yes ☐	No ☐
Date Assessment Prepared:		

Source(s) of Information:

Page ___ of ___

form **HUD-52832** (2/92)
ref Handbook 7485.3

Instructions for Preparation of Form HUD-52832—Physical Needs Assessment

Report Submission: Prepare a separate form HUD-52832 for each development in the PHA's/IHA's inventory, which is eligible for Comprehensive Grant Program (CGP) funding. Submit these forms to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the CGP and every sixth year when a complete revision of the physical needs assessment is required. On an as-needed basis, submit a revised form for any development whose physical needs have significantly changed since the last needs assessment and the PHA/IHA wishes to include these needs in the Action Plan. Use only one page per development or development group. Developments which are contiguous and treated as one development for management purposes may be grouped together.

Heading Instructions:

Development Number—Enter an 11-digit alpha numeric code as follows: two-digit State code (alpha); two-digit Field Office code (numeric); P for public housing or B for Indian Housing; three-digit PHA/IHA number (numeric); and three-digit development number (numeric). For example, VA05PC36001.

DOFA Date—Enter the Date of Full Availability (DOFA).

General Characteristics—Check the appropriate box that describes the type of development, the type of occupancy, and the type of structure. Also enter the number of buildings.

If Turnkey III is checked, indicate the number of vacant or non-homebuyer-occupied units planned for substantial rehabilitation next to the box. By so doing, the PHA/IHA indicates that: (1) the proposed modernization will result in bringing the identified units into full compliance with the homeownership objectives under the Turnkey III Program; and (2) the PHA/IHA has homebuyers who both are eligible for homeownership, in accordance with the requirements of 24 CFR Part 904 for PHA's or 24 CFR Part 905, Subpart G, for IHA's, and have demonstrated their intent to be placed into the Turnkey III units proposed to be substantially rehabilitated.

If the development is a Mutual Help and will be at least 10 years old during the next five years, indicate the number of units that are planned for one-time substantial rehabilitation next to the box. By so doing, the IHA indicates that the proposed modernization will result in bringing the identified units into full compliance with the homeownership objectives under the Mutual Help Program.

Current Bedroom Distribution—Enter the current number of units for each bedroom size and the total number of current units in the development as identified in the ACC.

Vacant Units—Enter the number of vacant units as of the date this form is prepared and the percentage of vacant units to the total number of units in the development. In determining the number of vacant units, refer to the definition of vacant units as prescribed in PHMAP Indicator 1.

Column Instructions:

General Description of Needed Physical Improvements: Enter a general description of all unfunded physical improvements that must be undertaken to bring the development (dwelling and nondwelling structures, dwelling and nondwelling equipment, and site) up to a level at least equal to the modernization and energy conservation standards and to comply with other program requirements. Include any replacements of equipment, systems and structural elements that will be needed, assuming routine and timely maintenance, within the next five years. Exclude any physical improvement needs for PHA-wide non-dwelling structures and equipment. Enter only physical improvements that are eligible for CGP funding. Do not enter any physical improvements already funded by CIAP or other sources which the PHA/IHA plans to complete. However, enter physical improvements currently funded under CIAP where the PHA/IHA plans to reprogram CIAP funds for other work under the CGP.

Describe the proposed improvements in broad categories, such as kitchens, bathrooms, roofs, electrical systems, heating systems, landscaping, non-dwelling structures, lead-based paint testing, lead-based paint abatement, physical accessibility, etc. Include all broad categories of needed work without regard to the availability and/or source of funds.

If there are no current needs and the PHA/IHA does not anticipate any replacement needs within the next five years, enter a statement to that effect in this section. Such a statement does not preclude the PHA/IHA from amending the needs assessment at any time within the five-year period if unforeseen needs arise or from identifying new needs which have occurred when the needs assessment is revised every sixth year.

Urgency of Need: For each broad category of work identified under the General Description of Needed Physical Improvements, enter a number that corresponds to the urgency of the need on a PHA-wide basis at that development , with "1" reflecting the most urgent need and "5" reflecting the least urgent need. In determining the urgency of need, assign a "1" to activities required to correct emergency conditions and to meet statutory or other legally mandated requirements, such as lead-based paint testing.

Total Preliminary Estimated Hard Cost for Needed Physical Improvements: Enter the total preliminary estimated hard cost for the broad work categories listed in the General Description of Needed Physical Improvements, excluding any management improvements, administration, architectural/engineering fees, relocation or other soft costs, and any hard costs for PHA/IHA-wide nondwelling structures and equipment.

Per Unit Hard Cost: Divide the Total Preliminary Estimated Hard Cost for Needed Physical Improvements by the total number of current units in the development and enter the per unit hard cost.

Hard Cost Exceed 90% of TDC: Check Yes or No as to whether the Total Preliminary Estimated Hard Cost for Needed Physical Improvements exceeds 90% of computed Total Development Cost (TDC) for the development. **Note:** If Yes is checked, the PHA/IHA may not include work categories/items, except for emergency work, in its Action Plan or Annual Statement unless it submits, and HUD approves, a request to exceed 90% of TDC. **Note:** If Yes is checked, attach the viability analysis.

Development Has Long-Term Physical and Social Viability: Check Yes or No as to whether the PHA/IHA has determined that the development has long-term physical and social viability. **Note:** If No is checked, attach the viability analysis and an explanation of what actions are proposed regarding the nonviable development.

Source(s) of Information: Identify the source(s) of information used to develop the General Description of Needed Physical Improvements. Retain such information in PHA/IHA files (1) as supporting documentation for the needs assessment, (2) for post-review by HUD, or (3) for submission to HUD upon request.

Management Needs Assessment

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577--0157 (Exp. 7/31/95)

Public Reporting Burden for this collection of information is estimated to average 110.0 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 estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name:

☐ Original

☐ Revision Number :

General Description of Management/Operations Needs	Urgency of Need (1- 5)	Preliminary Estimated PHA-Wide Cost
Total Preliminary Estimated PHA-Wide Cost:		$
Date Assessment Prepared:		

Source(s) of Information:

form **HUD-52833** (2/92)
ref Handbook 7485.3

Instructions for Preparation of Form HUD-52833, Management Needs Assessment

Report Submission: Prepare one form HUD-52833 for the entire PHA/IHA and submit to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the Comprehensive Grant Program (CGP) and every sixth year when a complete revision of the management needs assessment is required. On an as-needed basis, submit a revised form whenever management needs have significantly changed since the last needs assessment and the PHA/IHA wishes to include those needs in the Action Plan.

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/ Indian Housing Authority (IHA) Name.

Original or Revision Number -- Self-explanatory. Every sixth year a new original is prepared.

Column Instructions:

General Description of Management/Operations Needs:

Enter a general description of all unfunded and no cost improvements needed to upgrade the management and operation of the PHA/IHA and of each viable development so that decent, safe and sanitary living conditions will be provided. Enter only management improvements that are eligible for CGP funding.

Do not enter any management improvements already funded by CIAP or other sources which the PHA/IHA plans to complete. However, enter management improvements currently funded under CIAP where the PHA/IHA plans to reprogram CIAP funds for other work under the CGP.

Identify all current needs related to the mandatory areas set forth in the CGP Handbook 7485.3. To the extent that any of these needs are addressed in an existing document, cross-reference that document. For PHAs, an existing document includes a HUD-approved action plan based on a HUD monitoring review conducted before implementation of the Public Housing Management Assessment Program (PHMAP), a Memorandum of Agreement (MOA) or an Improvement Plan (IP). For IHAs, an existing document includes a HUD-approved Management Improvement Plan (MIP) based on the Administrative Capability Assessment (ACA) or Field Office monitoring. For example, improve rent collection—see MOA. If a particular work category is targeted to a specific development, denote by an asterisk and enter the development number in parenthesis.

In addition, at the PHA's/IHA's option, include other management and operations needs identified through a self-assessment or identified under the PHMAP for PHAs, but not set forth in an MOA or IP.

Describe the needs in broad categories, such as rent collection, preventive maintenance, security, etc. Enter all broad categories of needs without regard to the availability and/or source of funds.

If there are no current needs and the PHA/IHA does not anticipate any management needs within the next five years, enter a statement to that effect in this section. Such a statement does not preclude the PHA/IHA from amending the needs assessment at any time within the five-year period if unforeseen needs arise or from identifying new needs which have occurred when the needs assessment is revised every sixth year.

Urgency of Need:

For each broad category of need identified under the General Description of Management/Operations Needs, enter a number that corresponds to the relative urgency of the need, with "1" reflecting the most urgent need and "5" reflecting the least urgent need.

Preliminary Estimated PHA-Wide Cost:

Enter the preliminary estimated PHA-wide cost for each broad category of need described in the General Description of Management/Operations Needs and the total.

Source(s) of Information:

Identify the source(s) of information used to develop the General Description of Management/Operations Needs. Retain such information in PHA/IHA files (1) as supporting documentation for the needs assessment, (2) for post-review by HUD, or (3) for submission to HUD upon request.

Five-Year Action Plan
Part I: Summary
Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577--0157 (Exp. 7/31/95)

Public Reporting Burden for this collection of information is estimated to average 40.0 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 estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name: | Locality: (City/County & State) | ☐ Original ☐ Revision No:

A. Development Number/Name/ Physical Improvements	Year 1 FFY:	Year 2 FFY:	Year 3 FFY:	Year 4 FFY:	Year 5 FFY:	FFY Development Meets Standards
	See Annual Statement					
B. Physical Improvements Subtotal						
C. Management Improvements						
D. PHA-Wide Nondwelling Structures & Equipment						
E. Administration						
F. Other						
G. Replacement Reserve						
H. Total CGP Funds						
I. Total Non-CGP Funds						
J. Grand Total						

Signature of Executive Director: X | Date: | Signature of Field Office Manager: (Regional Administrator in co-located office) X | Date:

Page ___ of ___

form **HUD-52834** (2/92)
ref Handbook 7485.3

Five-Year Action Plan

Part I: Summary (Continuation)
Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

A. Development Number/Name/ Physical Improvements	Year 1 FFY:	Year 2 FFY:	Year 3 FFY:	Year 4 FFY:	Year 5 FFY:	FFY Development Meets Standards
	See Annual Statement					

Page ___ of ___

form **HUD-52834**

Five-Year Action Plan

Part II: Supporting Pages
Physical Needs
Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Year 1 FFY:	Year 2 FFY:		Year 3 FFY:		Year 4 FFY:		Year 5 FFY:	
	Development Number / Name / Major Work Category	Estimated Costs	Development Number / Name / Major Work Category	Estimated Costs	Development Number / Name / Major Work Category	Estimated Costs	Development Number / Name / Major Work Category	Estimated Costs
See Annual Statement								
	Subtotal of Estimated Cost							

Page ___ of ___

form **HUD-52834**

Five-Year Action Plan

Part III: Supporting Pages
Management Needs
Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Year 1 FFY:	Year 2 FFY:		Year 3 FFY:		Year 4 FFY:		Year 5 FFY:	
	Major Work Category*	Estimated Costs	Major Work Category*	Estimated Costs	Major Work Category*	Estimated Costs	Major Work Category*	Estimated Costs
See Annual Statement								
	Subtotal of Estimated Cost							

*Asterisk any work planned that is development specific and show the development no. in parenthesis.

Page ___ of ___

form **HUD-52834**

Instructions for Preparation of Form HUD-52834, Five-Year Action Plan

Report Submission: Prepare one form HUD-52834 for the entire PHA/IHA and submit to HUD as part of the submission of the original Comprehensive Plan in the first year of participation in the Comprehensive Grant Program (CGP). Thereafter, submit annually an updated form to eliminate the previous year and to add a new fifth year so that the form always covers the present five-year period beginning with the current year. Use as many pages of this form as necessasry to cover all proposed work.

Part I: Summary

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/ Indian Housing Authority (IHA) name.

Locality (City/County & State)—Enter the City/County and State where the PHA/IHA Central Office is located.

Original/Revision No.—Check the appropriate box. If a revision, enter the revision number, e.g., #1, #2, etc.

Year 1—Enter the current FFY.

Years 2 through 5—Enter each successive FFY.

A. Development Number/Name/Phys. Improvements:

\Enter the abbreviated number (e.g. VA 36-1) and name, if any, of each development that will be allocated funding for physical improvements during the five-year period covered by this Action Plan.

Years 2 through 5

For each development entered in A., enter the estimated amount of CGP funds to be allocated for physical improvements (development accounts 1450 through 1475) during each year of years 2 through 5. If the PHA is submitting an Annual Statement covering all or a portion of year 2, the PHA should so indicate in the column for year 2.

FFY Development Meets Standards:

For each development in A, estimate the FFY in which it is anticipated that the development will meet the Modernization and Energy Conservation Standards.

B. Physical Improvements Subtotal:

Enter the estimated subtotal amount of CGP funds to be allocated for physical improvements during each year of years 2 through 5.

C. Management Improvements:

Enter the estimated amount of CGP funds to be allocated for management improvements, including those that are PHA-wide and/or development-specific, (development account 1408) during each year of years 2 through 5. **Note:** The estimated amount may not exceed 10% of the annual grant.

D. PHA-Wide Nondwelling Structures and Equipment:

Enter the estimated amount of CGP funds to be allocated for PHA-wide nondwelling structures and equipment during each year of years 2 through 5.

E. Administration:

Enter the estimated amount of CGP funds to be allocated for administrative expenses (development account 1410) during each year of years 2 through 5. **Note**: The estimated amount may not exceed 7% of the annual grant; up to 9% with prior HUD approval.

F. Other:

Enter the estimated amount of CGP funds to be allocated for other expenses (development accounts 1411, 1415, 1430, 1440, 1495,) during each year of years 2 through 5.

G. Replacement Reserve:

Enter the estimated amount of CGP funds to be allocated to the replacement reserve (development account 1490) in accordance with the requirements of Handbook 7485.3, during each year of years 2 through 5.

H. Total CGP Funds:

Enter the total amount of CGP funds that is estimated to be made available for each year of years 2 through 5. This is the sum of A through G.

I. Total Non-CGP Funds:

Enter the estimated amount of non-CGP funds (e.g., Community Development Block Grant funds, CIAP funds being reprogrammed for use under the CGP, etc.) to be allocated in support of the CGP during each year of years 2 through 5.

J. Grand Total:

Enter the total of H and I. **Note:** Enter all estimates as current cost; not trended for inflation.

Part II: Supporting Pages—Physical Needs

FFY:

Year 1—Enter the current FFY.

Years 2 through 5—Enter each successive FFY.

Development Number/Name—Major Work Category:

Enter the abbreviated development number (e.g., VA 36-1) and name, if any, of each development which will be funded in each year of years 2 through 5.

For each development entered, list the major work categories for which CGP funding, including non-CGP funds, will be allocated in each year of years 2 through 5. The work categories should be described in broad terms, such as kitchens, bathrooms, electrical, site, etc. A work category may encompass various components, e.g., the major work category of kitchens may include ranges, refrigerators, cabinets, floors, range hoods, etc.

Enter "PHA-Wide" in each of years 2 through 5 and list PHA-wide non-dwelling structures and equipment that will be funded.

Estimated Cost:

For each major work category or PHA-wide nondwelling structures and equipment listed, enter the estimated hard cost that will be allocated in each year of years 2 through 5. Mark with an asterisk the estimated cost of each work item that will be funded with non-CGP funds, including reprogrammed CIAP funds.

Enter the subtotal of estimated costs for each year of years 2 through 5 that will be funded with CGP funds excluding asterisked items.

Part III: Supporting Pages—Management Needs

FFY:

Year 1—Enter the current FFY.

Years 2 through 5—Enter each successive FFY.

Major Work Category:

In each year of years 2 through 5, enter the major work categories for which CGP funding, including non-CGP funds, will be allocated as well as those work categories that are no cost items. This includes work identified through the Public Housing Management Assessment Program (PHMAP) for PHAs or the Administrative Capability Assessment (ACA) for IHAs, or through audits, HUD monitoring reviews or PHA self-assessments. The work categories should be described in broad terms, such as improve rent collection. A work category may encompass various components, e.g., staff training, hiring a consultant to develop a rent collection policy, automation, etc. If a particular work category is targeted to a specific development, e.g., conduct study to determine the feasibility of resident management, enter the development number in parenthesis.

Estimated Cost:

For each major work category entered, enter the estimated cost that will be allocated in each year of years 2 through 5 Mark with an asterisk the estimated cost of each work item that will be funded with non-CGP funds, including reprogrammed CIAP funds. Enter the subtotal for each year of years 2 through 5, excluding asterisked items. This subtotal should not exceed the total of C on the Part I: Summary for each year of Years 2 through 5.

Two-Year or Partial Two-Year Annual Statement:

If the PHA chooses to complete a two-year Annual Statement, the PHA shall enter a cross-reference to the Annual Statement on the Action Plan for year two.

If the PHA chooses to complete an Annual Statement for the second year covering a portion of the funds, the PHA shall cross-reference the funds covered by the partial Annual Statement and enter the information for the balance of the funds, as required on the Action Plan for year two.

form **HUD-52834**

Local Government Statement

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577--0157 (Exp. 7/31/95)

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As Chief Executive Officer of the unit of general local government/Indian tribe

known as _____ ,

in which the (name of Public Housing Agency (PHA) or Indian Housing Authority (IHA)) _____

_____ operates,

I certify to the following:

1. The PHA/IHA developed the Comprehensive Plan/Annual Statement in consultation with local government officials/Indian tribal officials and with residents of the developments covered by the Comprehensive Plan/Annual Statement, in accordance with the requirements of the Comprehensive Grant Program;

2a. For PHAs, the Comprehensive Plan/Annual Statement is consistent with the unit of general local government's assessment of its low-income housing needs (as evidenced by its Comprehensive Housing Affordability Strategy (CHAS) under 24 CFR Part 91, if applicable), and that the unit of general local government will cooperate in providing resident programs and services; or

2b. For IHAs, the Comprehensive Plan/Annual Statement is consistent with the appropriate governing body's assessment of its low-income housing needs and that the appropriate governing body will cooperate in providing resident programs and services; and

3. The PHA's/IHA's proposed drug elimination activities are coordinated with and supportive of local drug elimination strategies and neighborhood improvement programs, if applicable. Under the Cooperation Agreement, the local/tribal government is providing public services and facilities of the same character and to the same extent to Public and Indian housing as are furnished to other dwellings and residents of the locality. Where additional on-duty police are being funded under the Comprehensive Grant Program, such police will only provide additional security and protective services over and above those for which the local/tribal government is contractually obligated to provide under the Cooperation Agreement.

Note: The Comprehensive Plan includes the Action Plan.

Name of Chief Executive Officer:	Signature of Chief Executive Officer and Date:
	X

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

form **HUD-52835** (2/92)
ref Handbook 7485.3

PHA/IHA Board Resolution Approving Comprehensive Plan or Annual Statement

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577--0157 (Exp. 7/31/95)

Public Reporting Burden for this collection of information is estimated to average 0.1 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 estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

Acting on behalf of the Board of Commissioners of the below-named Public Housing Agency (PHA)/Indian Housing Authority (IHA), as its Chairman, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the Board's approval of (check one or more as applicable):

☐ Comprehensive Plan Submitted on _____

☐ Amendments to Comprehensive Plan Submitted on _____

☐ Action Plan / Annual Statement Submitted on _____

☐ Amendments to Action Plan / Annual Statement Submitted on _____

I certify on behalf of the: (PHA/IHA Name) _____ that:

1. The PHA/IHA will comply with all policies, procedures, and requirements prescribed by HUD for modernization, including implementation of the modernization in a timely, efficient, and economical manner;
2. The PHA/IHA has established controls to ensure that any activity funded by the CGP is not also funded by any other HUD program, thereby preventing duplicate funding of any activity;
3. The PHA/IHA will not provide to any development more assistance under the CGP than is necessary to provide affordable housing, after taking into account other government assistance provided;
4. The proposed physical work will meet the modernization and energy conservation standards under 24 CFR 968.115 or 24 CFR 905.603;
5. The proposed activities, obligations and expenditures in the Annual Statement are consistent with the proposed or approved Comprehensive Plan of the PHA/IHA;
6. The PHA/IHA will comply with applicable civil rights requirements under 24 CFR 968.110(a) or 24 CFR 905.115, and, where applicable, will carry out the Comprehensive Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Section 504 of the Rehabilitation Act of 1973;
7. The PHA has adopted the goal of awarding a specified percentage of the dollar value of the total of the modernization contracts, to be awarded during subsequent FFYs, to minority business enterprises and will take appropriate affirmative action to assist resident-controlled and women's business enterprises under 24 CFR 968.110(b); or the IHA will, to the greatest extent feasible, give preference to the award of modernization contracts to Indian organizations and Indian-owned economic enterprises under 24 CFR 905.165;
8. The PHA/IHA has provided HUD with any documentation that the Department needs to carry out its review under the National Environmental Policy Act (NEPA) and other related authorities in accordance with 24 CFR 968.110(c), (d) and (m) or 24 CFR 905.120(a), (b), and (j), and will not obligate, in any manner, the expenditure of CGP funds, or otherwise undertake the activities identified in its Comprehensive Plan/Annual Statement, until the PHA/IHA receives written notification from HUD indicating that the Department has complied with its responsibilities under NEPA and other related authorities;
9. The PHA/IHA will comply with the wage rate requirements under 24 CFR 968.110(e) and (f) or 24 CFR 905.120(c) and (d);
10. The PHA/IHA will comply with the relocation assistance and real property acquisition requirements under 24 CFR 968.110(g) or 24 CFR 905.120(e);
11. The PHA/IHA will comply with the requirements for physical accessibility under 24 CFR 968.110(h) or 24 CFR 905.120(f);
12. The PHA/IHA will comply with the requirements for access to records and audits under 24 CFR 968.110(i) or 24 CFR 905.120(g);
13. The PHA/IHA will comply with the uniform administrative requirements under 24 CFR 968.110(j) or 24 CFR 905.120(h);
14. The PHA/IHA will comply with lead-based paint testing and abatement requirements under 24 CFR 968.110(k) or 24 CFR 905.120(i);
15. The PHA/IHA has complied with the requirements governing local/tribal government and resident participation in accordance with 24 CFR 968.320(b) and (c), 968.330(d) and 968.340 or 24 CFR 905.672(b) and (c), 905.678(d) and 905.684, and has given full consideration to the priorities and concerns of local/tribal government and residents, including any comments which were ultimately not adopted, in preparing the Comprehensive Plan/Annual Statement and any amendments thereto;
16. The PHA/IHA will comply with the special requirements of 24 CFR 968.310(d) or 24 CFR 905.666(d) with respect to a homeownership development; and
17. The PHA will comply with the special requirements of 24 CFR 968.235 with respect to a Section 23 leased housing bond-financed development.

Attested By: Board Chairman's Name:	(Seal)
Board Chairman's Signature & Date: X	

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

form **HUD-52836** (2/92)
ref Handbook 7485.3

Annual Statement / Performance and Evaluation Report
Part I: Summary
Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0157 (Exp. 7/31/95)

Public Reporting Burden for this collection of information is estimated to average 75.0 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 estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name	Comprehensive Grant Number	FFY of Grant Approval

☐ Original Annual Statement ☐ Reserve for Disasters/Emergencies ☐ Revised Annual Statement/Revision Number _____ ☐ Performance and Evaluation Report for Program Year Ending _____

Line No.	Summary by Development Account	Total Estimated Cost 3/ Original	Total Estimated Cost 3/ Revised	Actual Cost 3/ Obligated	Actual Cost 3/ Expended
1	Total Non-CGP Funds				
2	1408 Management Improvements 1/				
3	1410 Administration 2/				
4	1411 Audit				
5	1415 Liquidated Damages				
6	1430 Fees and Costs				
7	1440 Site Acquisition				
8	1450 Site Improvement				
9	1460 Dwelling Structures				
10	1465.1 Dwelling Equipment—Nonexpendable				
11	1470 Nondwelling Structures				
12	1475 Nondwelling Equipment				
13	1495.1 Relocation Costs				
14	1490 Replacement Reserve				
15	**Amount of Annual Grant (Sum of lines 2-14)**				
16	Amount of line 15 Related to LBP Testing				
17	Amount of line 15 Related to LBP Abatement				
18	Amount of line 15 Related to Section 504 Compliance				

1/ Management Improvement cost may not exceed 10% of line 15.
2/ Administrative cost may not exceed 7% of line 15 (or 9% of line 15 for PHAs/IHAs having an unusually large geographic area). 3/ to be completed at the end of the year.

Signature of Executive Director and Date	Signature of Field Office Manager (or Regional Administrator in co-located office) and Date
X	X

Page ___ of ___

form **HUD-52837** (2/92)
ref Handbook 7485.3

Annual Statement / Performance and Evaluation Report

Part II: Supporting Pages

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Development Number / Name	General Description of Proposed Work Items	Development Account Number	Estimated Cost			Funds Obligated 3/	Funds Expended 3/	Status of Proposed Work 3/
			Original	Revised 3/	Difference 3/			

3/ To be completed at the end of the program year.

Page ___ of ___

form **HUD-52837**

Annual Statement / Performance and Evaluation Report

Part III: Implementation Schedule

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Development Number / Name	Funds Obligated End of Quarter			Funds Expended End of Quarter			Reasons for Revised Target Dates 3/
	Original	Revised 3/	Actual 3/	Original	Revised 3/	Actual 3/	

3/ To be completed at the end of the program year.

Page ___ of ___

form **HUD-52837**

Instructions for Preparation of Form HUD-52837, Annual Statement/Performance and Evaluation Report

Report Submission:

For the Annual Statement:

Prepare a separate Form HUD-52837 (Parts I, II and III) for each annual formula grant, describing the activities which are planned to be undertaken with the Comprehensive Grant Program (CGP) funds. Submit this form to HUD as part of the submission of the original Comprehensive Plan and annually thereafter. On an as-needed basis, submit a revised form when major changes require prior HUD approval to amend the Annual Statement.

Prepare a separate Form HUD-52837 (Parts I, II and III) for emergency funding under the annual formula grant where there is no approved Comprehensive Plan.

Prepare a separate Form HUD-52837 (Parts I, II and III) for each funding request from the $75 million reserve for natural and other disasters and emergencies.

Where the PHA elects to submit an Annual Statement covering up to a two-year period, prepare a separate Form HUD-52837 (Part II only) for year two. A separate Part I and Part III covering year two are not required.

For the Performance and Evaluation Report:

At the end of each program year, complete the sections of Parts I, II and III as noted in footnote 3 on a copy of the original or revised Annual Statement and mark the box Performance and Evaluation Report for Program Year Ending _____. Submit the form(s) to HUD, together with the narrative report on resident and local/tribal government participation and other required items. Continue reporting at the end of each program year, until all funds are expended.

Part I: Summary

Heading Instructions:

PHA/IHA Name - Enter the Public Housing Agency (PHA)/Indian Housing Authority (IHA) name.

Comprehensive Grant Number - Enter the unique Comprehensive Grant number designated for the annual grant. This number is an 11-digit alpha numeric code as follows: two-digit State code (alpha); two-digit Field Office code (numeric); P for Public Housing or B for Indian Housing; three-digit PHA/IHA number (numeric); and three-digit Grant number. The first Comprehensive Grant approved under the CGP shall be 701; e.g., VA05P036701. The second Comprehensive Grant approved under the CGP shall be 702; e.g., VA05P036702. Any funding from the $75 million reserve for natural and other disasters and emergencies shall be given a separate Comprehensive Grant number from the PHA's/IHA's annual formula funding.

FFY of Grant Approval - Enter the FFY in which the grant is being approved/was approved.

Type of Submission - Check the appropriate box and indicate whether the submission is the Original Annual Statement for the annual formula grant or for the $75 million reserve for natural and other disasters and emergencies, the Revised Annual Statement (and revision number), or the Performance and Evaluation Report for Program Year Ending (enter date, e.g., 6/30/93).

Total Estimated Cost:

Line 1 - Enter the Original Total Estimated Cost, rounded to the nearest thousand dollars, for all work that will be undertaken from non-CGP funds, including CIAP funds being reprogrammed for CGP purposes. Enter zero if no work will be undertaken from non-CGP funds. After initial approval by HUD, enter any cost decrease or increase in the Revised Total Estimated Cost column whenever a revised Annual Statement is submitted to HUD for review and approval.

Lines 2 through 14 - For each line, enter the Original Total Estimated Cost, rounded to the nearest thousand dollars, for all work that will be undertaken from the annual formula grant or the $75 million reserve. Enter zero if no work will be undertaken in a particular development account. After initial approval by HUD, enter any cost decrease or increase in the Revised Total Estimated Cost column whenever a revised Annual Statement is submitted to HUD for review and approval.

Line 15 - Amount of Annual Grant - Enter the sum of lines 2 through 14 in the Original Total Estimated Cost column. After initial approval by HUD, the sum of lines 2 through 14 in the Revised Total Estimated Cost column may not exceed line 15 in the Original Total Estimated Cost column.

Line 16 - Amount of line 15 Related to Lead-Based Paint (LBP) Testing - Enter the amount of line 15 related to LBP testing in the Original Total Estimated Cost column and, as appropriate, in the Revised Total Estimated Cost column.

Line 17 - Amount of line 15 Related to LBP Abatement - Enter the amount of line 15 related to LBP abatement in the Original Total Estimated Cost column and, as appropriate, in the Revised Total Estimated Cost column. For example, if windows are being replaced, estimate the portion of the funding which is directly related to LBP abatement.

Line 18 - Amount of line 15 Related to Section 504 Compliance - Enter the amount of line 15 related to Section 504 compliance in the Original Total Estimated Cost column and, as appropriate, in the Revised Total Estimated Cost column.

Actual Cost:

At the end of the CGP program year, i.e., 6/30, for each annual grant with a separate Comprehensive Grant Number for which funds are still being expended, complete the section on Actual Cost.

Lines 1 through 18 - For each line, enter the Actual Cost of funds Obligated and Expended at the end of the CGP program year.

Line 15 - Enter the sum of lines 2 through 14 for obligated and expended.

Part II: Supporting Pages

Development Number/Name - Enter the abbreviated number (e.g., VA-36-1) and the name, if any, of the development where the work items will be undertaken. Enter "PHA-wide" for work items that relate to a PHA-wide activity (e.g., management improvements, administration, non- dwelling equipment).

General Description of Proposed Work Items - For each development listed, enter a general description of all work items (physical or management, as applicable) that will be undertaken at that development, including work that will be funded with non-CGP funds and no cost items, before listing work items to be undertaken at other developments. Identify work items that will be accomplished by Force Account labor by entering (FA) in parenthesis next to the work item. After listing all work items for all developments being funded, enter a general description of PHA-wide activities, such as management improvements, administrative costs, equipment, etc. When work items are subsequently deleted, draw a line through the General Description, Development Account Number, and Estimated Cost. When work items are subsequently added, enter the new work item under the appropriate development number. Enter the quantity of the work as a percentage or whole number. Do not specify the per unit cost or the quality of materials. **Note:** Describe administrative costs in sufficient detail to clearly identify items excluded from the 7% limitation.

Development Account Number - For work items that will be funded from CGP funds, enter the appropriate development account which corresponds to the work item described under the General Description of Proposed Work Items column. For appropriate development accounts, refer to Handbook 7485.3. Where funding will be provided from non-CGP sources, or the work is a no cost item, enter "NA".

Estimated Cost:

Original-For each work item and PHA-wide activity described, enter the Original Estimated Cost. Asterisk the estimated cost of each work item that will be funded with non-CGP funds, including reprogrammed CIAP funds. After listing the estimated cost for all work items at a particular development, enter a subtotal of the estimated cost of only the work items that will be funded from the current year's CGP grant. (**Note**: Do not count costs that have been asterisked in this subtotal). Enter a grand total for Part II of only the work items and PHA-wide activities that will be funded with the current year's CGP grant.

Revised-Where the estimated cost is revised, enter a Revised Estimated Cost as appropriate.

Difference-Enter the difference between the Original and Revised Estimated Costs. If the cost increases, put a plus (+) in front of the dollar amount. If the cost decreases, put a minus (-) in front of the dollar amount. When a new work item is subsequently added, show the estimated cost in the revised column and in the column marked difference. Put a plus (+) in front of the dollar amount unless that item is in an approved two-year or partial two-year Annual Statement. When a work item is subsequently deleted, show the original estimated cost in the column marked difference and put a minus (-) in front of the dollar amount. Each time there is an increase or decrease in the dollar amount for a particular work item, it must be offset by a corresponding increase or decrease in another work item so that the total revised estimated cost is equal to the amount of the annual grant. When the cumulative total of additions equals or exceeds 10%, obtain prior HUD approval before awarding a contract for work that results in the major change. When this occurs, asterisk the work item and complete this form with the appropriate modifications and mark the box Revised Annual Statement/ Revision Number _____.

Funds Obligated-Funds Expended - At the end of each CGP program year for each annual grant with a separate Comprehensive Grant Number for which funds are still being expended, complete the section on Funds Obligated and Funds Expended.

Funds Obligated - In this column, for each development listed, enter the cumulative dollar amount of all funds obligated for that development (round to the nearest thousand) opposite the Original Estimated Cost subtotal. This includes funds obligated by the PHA/IHA for work to be performed by contract labor (i.e., contract award) and force account labor (i.e., work actually started). Funds that are recorded as being obligated shall remain obligated so that total funds obligated are always greater than or equal to total funds expended. Total funds obligated shall not exceed the amount of the annual grant. For each PHA-wide activity listed, enter the total amount of all funds obligated for that activity (round to the nearest thousand) opposite the Original Estimated Cost subtotal.

Funds Expended - In this column, for each development listed, enter the cumulative dollar amount of all funds expended for that development (round to the nearest thousand) opposite the Original Estimated Cost subtotal. For each PHA-wide activity listed, enter the dollar amount of funds expended for that activity (round to the nearest thousand) opposite the Original Estimated Cost subtotal.

Status of Proposed Work - At the end of each program year, complete this section and submit to HUD for the Performance and Evaluation Report. For each work item listed, prepare a brief description of the status of the item, e.g., work completed, contract awarded on 5/2/93, etc. Explain the addition, deletion or modification of any work items, such as the addition of any emergency work, and deviations within the 10% cap for major changes to the Annual Statement, any shifting of work from year two to year one of the approved Annual Statement.

Part III: Implementation Schedule:

Development Number/Name - Enter the abbreviated number(e.g., VA 36-1) and the name, if any, of each development listed on Part II. Enter "PHA-wide" for work items that relate to PHA-wide management improvements.

Implementation Schedule - Funds Obligated - Opposite each development and for each PHA-wide management improvement, enter the estimated quarter ending date for obligation of all funds under the Original column. (Note: - Provide an implementation schedule only for PHA-wide management improvements not for other PHA-wide activities, (e.g, administration, non-dwelling equipment). After initial approval by HUD, enter any revised quarter ending date for obligation of all funds under the Revised column. When all funds are obligated, enter the quarter ending date under the Actual column.

Implementation Schedule - Funds Expended - Opposite each development and for each PHA-wide management improvement, enter the estimated quarter ending date for expenditure of all funds under the Original column. (Note: - Provide an implementation schedule only for PHA-wide management improvements not for other PHA-wide activities (e.g., administration, non-dwelling equipment). After initial approval by HUD, enter any revised quarter ending date for expenditure of all funds under the Revised column. When all funds are expended, enter the quarter ending date under the Actual column.

Reasons for Revised Target Date - Explain any revisions to the target dates for fund obligation or expenditure by specifying the valid delay outside of the PHA's control.

Actual Comprehensive Grant Cost Certificate

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0157 (Exp. 7/31/95)

Public Reporting Burden for this collection of information is estimated to average 5.0 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 estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

PHA/IHA Name	Comprehensive Grant Number
	FFY of Grant Approval

The PHA/IHA hereby certifies to the Department of Housing and Urban Development as follows:

1. That the total amount of Modernization Cost (herein called the "Actual Modernization Cost") of the Comprehensive Grant, is as shown below:

A. Original Funds Approved	$
B. Revised Funds Approved	$
C: Funds Advanced	$
D. Funds Expended (Actual Modernization Cost)	$
E. Amount to be Recaptured (A–D)	$
F. Excess of Funds Advanced (C–D)	$

2. That all modernization work in connection with the Comprehensive Grant has been completed;
3. That the entire Actual Modernization Cost or liabilities therefor incurred by the PHA/IHA have been fully paid;
4. That there are no undischarged mechanics', laborers', contractors', or material-men's liens against such modernization work on file in any public office where the same should be filed in order to be valid against such modernization work; and
5. That the time in which such liens could be filed has expired.

Signature of Executive Director	Date
X	

For HUD Use Only

The Cost Certificate is approved for audit.

Approved for Audit (Director, Public Housing Division)	Date
X	

The audited costs agree with the costs shown above.

Verified (Director, Public Housing Division)	Date
X	
Approved (Field Office Manager or, in co-located office, Regional Administrator)	Date
X	

form **HUD-52839** (2/92)
ref Handbook 7485.3

Instructions for Preparation of Form HUD-52839—Actual Comprehensive Grant Cost Certificate

General Instructions:

Prepare and submit to the HUD Field Office an original and one copy of Form HUD-52839 for each terminated or completed annual grant under the Comprehensive Grant Program (CGP).

Heading Instructions:

PHA/IHA Name—Enter the Public Housing Agency (PHA)/ Indian Housing Authority (IHA) name.

Comprehensive Grant Number—Enter the unique Comprehensive Grant Number for the grant for which this form is being submitted. This number is the same number as on Form HUD-52837, Annual Statement, for the same grant.

Federal Fiscal Year of Grant Approval—Enter the FFY in which the annual grant was originally approved.

Line Instructions:

Line 1A, Original Funds Approved—For the identified grant, enter the total CGP funds originally approved by HUD through a CGP Amendment to the Consolidated Annual Contributions Contract(s).

Line 1B, Revised Funds Approved—For the identified grant, enter the total revised CGP funds approved by HUD. This amount will generally be the same as the amount on Line 1A. This amount will be less than the amount on Line 1A where HUD is terminating the grant or otherwise recapturing grant funds.

Line 1C, Funds Advanced—For the identified grant, enter the total funds advanced by HUD. This amount may never exceed the amount on Line 1A and should be the same amount as on Line 1B.

Line 1D, Funds Expended—For the identified grant, enter the total funds expended (total cash disbursed) by the PHA/ IHA. This amount may never exceed the amount on Line 1A and should be the same amount as on Line 1B.

Line 1E, Amount To Be Recaptured (A minus D)—For the identified grant, enter the amount to be recaptured by subtracting Line 1D from Line 1A.

Line 1F, Excess of Funds Advanced (C minus D)—For the identified grant, enter the excess of funds advanced by subtracting Line 1D from Line 1C; this is the amount to be remitted by the PHA/IHA to HUD. If Line 1D is greater than Line 1C, enter the figure in brackets; this is the amount of funds owed by HUD to the PHA/IHA.

Comprehensive Grant Program (CGP) Amendment

To Consolidated Annual Contributions Contract or
To Mutual Help Consolidated Annual Contributions Contract

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577--0157 (Exp. 7/31/95)

Public Reporting Burden for this collection of information is estimated to average 0.1 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 estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

Whereas, (Public Housing Agency / Indian Housing Authority) _____

_____ (herein called the "PHA/IHA") and the United States of America, Secretary of Housing and Urban Development (herein called "HUD") entered into Consolidated Annual Contributions Contract(s) (ACC) Number(s) _____

_____,

dated _____ ; and/or Mutual Help Consolidated ACC(s) Number(s) _____

_____,

dated _____ (herein called the "ACCs");

Whereas, HUD has agreed to provide comprehensive grant assistance, upon execution of this Amendment, to the PHA/IHA in the amount to be specified below for the purpose of assisting the PHA/IHA in financing improvements to the physical condition of existing public/Indian housing developments and upgrades to the management and operation of such developments in order to ensure that such developments continue to be available to serve low-income families:

$ _____ for Fiscal Year 19 _____
(the amount of comprehensive grant funds previously approved);

$ _____ for Fiscal Year 19 _____ for a combined
(the amount of comprehensive grant funds now being approved);

total of $ _____ ; to be referred to under Comprehensive Grant Number _____ ,

Whereas, HUD and the PHA/IHA are entering into this Comprehensive Grant Program Amendment Number _____ .

Now Therefore, the ACCs are amended as follows:

1. The ACCs are amended to provide comprehensive grant assistance in the amounts specified above for modernization of PHA/IHA developments (including section 23 leased-housing bond financed, Mutual Help and Turnkey III). This amendment is a part of the ACCs.
2. The modernization work shall be carried out in accordance with all HUD regulations and other requirements applicable to the Comprehensive Grant Program.
3. In accordance with the HUD regulations, the Comprehensive Plan has been adopted by the PHA/IHA and approved by HUD, and may be amended from time to time. The modernization work shall be carried out as described in the Comprehensive Plan, including the Action Plan.
4. Subject to the provisions of Part II of the ACCs, and to assist in the modernization, HUD agrees to disburse to the PHA/IHA from time to time as needed, up to the amount of funding assistance specified above.
5. The PHA/IHA shall continue to operate each development (for section 23 leased-housing bond financed, after the expiration of the respective lease terms, the PHA shall continue to operate each development) as low-income housing in compliance with the ACCs, as amended, the United States Housing Act of 1937 (the "Act") and all HUD regulations and requirements for a period of twenty years after the last disbursement of comprehensive grant assistance. However, the provisions of Section 308(B) and (C) of the ACC (Article 14.2 of the Mutual Help Consolidated ACC) shall remain in effect for so long as HUD determines there is any outstanding indebtedness of the PHA/IHA to HUD which arose in connection with any development(s) under the ACCs and which is not eligible for forgiveness, and provided further that, for a period of ten years following the last payment of operating subsidy to the PHA/IHA, no disposition of any development covered by this amendment shall occur unless approved by HUD.
6. Section 404 of Part II of the ACC (Article 4.2 of the Mutual Help Consolidated ACC) shall not be applicable to the Comprehensive Grant.

form **HUD-52840** (2/92)
ref Handbook 7485.3

7. If the PHA/IHA does not comply with any of its obligations under this Amendment, HUD may direct the PHA/IHA to terminate all work described in the Annual Statement. In such case, the PHA/IHA shall only incur additional costs with HUD approval.
8. Implementation or use of funding assistance provided under this Amendment is subject to attached corrective action order(s) (mark one): ☐ Yes ☐ No
9. The Grantee acknowledges its responsibility for adherence to this Amendment by subgrantees to which it makes funding assistance hereunder available.

The parties have caused this Amendment to be effective as of the date of execution on behalf of the United States, as stated below.

U.S. Department of Housing and Urban Development	By:	Date:
	Title:	
PHA/IHA Executive Director	By:	Date:
	Title:	

Annual Statement/Performance and Evaluation Report on Replacement Reserve

Comprehensive Grant Program (CGP)

U. S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0157 (exp.7/31/95)

Public reporting burden for this collection of information is estimated to average 5.0 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 estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157) Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Part I: Summary

PHA/IHA Name:

Submission: (mark one)
☐ Original Annual Statement ☐ Revised Ann. Statement/Revision No.
☐ Performance & Evaluation for Program Year ending:

Section 1: Replacement Reserve Status Must be completed each year there is balance in the replacement reserve.	Estimated	Actual
1. Current Year Replacement Reserve Interest Earned (account 6200/1420.7)		
2. Current Year Replacement Reserve Withdrawal (equals line 13 of section 2, below)		
3. Net Impact on Replacement Reserve (line 1 minus line 2; equals line 15 of section 2, below)		
4. Current Year Funding for Replacement Reserve (line 14 of form HUD-52837)		
5. Replacement Reserve Balance at End of Previous Program Year (account 2830)		
6. Replacement Reserve Balance at End of Current Program Year (line 4 + line 5 + (or -) line 3) (account 2830)		

Section 2: Replacement Reserve Withdrawal Report Complete this section if there is Withdrawal/Expenditure activity.	Current Program Year Estimated Cost		Current Program Year Actual Cost
Summary by Account (6200 subaccount)	Column 1 Original	Column 2 Revised	Column 3 Expended
1. Reserved			
2. 1408 Management Improvements			
3. 1410 Administration			
4. 1415 Liquidated Damages			
5. 1430 Fees & Costs			
6. 1440 Site Acquisition			
7. 1450 Sites Improvements			
8. 1460 Dwelling Structures			
9. 1465 Dwelling Structures/Equipment			
10. 1470 Nondwelling Structures			
11. 1475 Nondwelling Equipment			
12. 1495 Relocation Costs			
13. Replacement Reserve Withdrawal (sum of lines 2 -12)			
14. 1420.7 Replacement Reserve Interest Income	( )	( )	( )
15. Net Withdrawal from Replacement Reserve (lines 13 - 14)			
16. Amount of line 13 related to LBP Testing			
17. Amount of line 13 related to LBP Abatement			
18. Amount of line 13 related to Section 504 Compliance			
19. Amount of line 13 related to Emergencies			

Signature of the Executive Director & Date:	Signature of the Field Office Manager & Date: (or, in co-located offices, the Regional Administrator)
X	X

form **HUD-52842** (2/92)
ref. Handbook 7485.3

Annual Statement / Performance and Evaluation Report on Replacement Reserve

Part II: Supporting Pages

Comprehensive Grant Program (CGP)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Development Number / Name	General Description of Proposed Work Items	Development Number / Name	Estimated Cost			Funds Obligated 3/	Funds Expended 3/	Status of Proposed Work 3/
			Original	Revised 3/	Difference 3/			

3/ To be completed at the end of the program year.

Page ___ of ___

form **HUD-52842** (2/92)

Instructions
Annual Statement/Performance and Evaluation Report on Replacement Reserve

For the Annual Statement:

Prepare form HUD-52842 once the CGP replacement reserve has been established by the PHA / IHA and funded by HUD. Submit one form HUD-52842 annually with form HUD-52837, Annual Statement/ Performance and Evaluation Report, as long as the PHA/IHA maintains a balance in the replacement reserve or has withdrawal/expenditure activity from the replacement reserve.

Form HUD-52482 is divided into two parts. Section 1 of Part I (Replacement Reserve Status) provides a report of the current year interest earned, current year withdrawals, current year funding of the replacement reserve, and ending balance of the replacement reserve. Section 2 of Part I (Replacement Reserve Withdrawal Report) is only completed if the PHA has withdrawn from the replacement reserve or has expenditure activity. Part II is the same format as Part II of form HUD-52837 and provides a current year report by development account of the use of the replacement reserve withdrawal(s).

For the Performance and Evaluation Report:

At the end of each program year, complete the actual columns for Part I and Part II, where there has been expenditure activity.

Part I: Summary

PHA/IHA Name - Enter the Public Housing Agency (PHA)/Indian Housing Authority (IHA) name.

Type of Submission - Check the appropriate box to indicate whether the submission is the Original Annual Statement, the Revised Annual Statement (and revision number), or the Performance and Evaluation Report for Program Year Ending (enter date; e.g., 6/30/93).

Section 1 - Replacement Reserve Status:

Line 1 - Current Year Replacement Reserve Interest Earned (Account 6200/1420.7) - Enter the estimated amount of interest to be earned on the replacement reserve during the current program year in the "Estimated" column. If Section 2 is completed, this amount must equal Line 14, Column 1 (or 2, if applicable) of Section 2. At the end of the program year, enter the actual interest earned in the "Actual" column. This amount must equal Line 14, Column 3 of Section 2.

Line 2 - Current Year Replacement Reserve Withdrawal - Enter the estimated amount to be withdrawn from the replacement reserve during the current program year in the "Estimated" column. If Section 2 is completed, this amount must equal Line 13, Column 1 (or 2, if applicable) of Section II. At the end of the program year, enter the actual withdrawal amount in the "Actual" column. This amount must equal Line 13, Column 3 of Section 2.

Line 3 - Net Impact on Replacement Reserve - Enter the difference between Line 1 & Line 2. Amount must equal Line15, Section 2.

Line 4 - Current Year Funding for Replacement Reserve - Enter the amount of the increase to the replacement reserve in the appropriate column. This amount must equal Line 14 of Part I of form HUD-52837.

Line 5 - Replacement Reserve Balance at End of Previous Program Year - Enter the replacement reserve balance from the previous program year (Account 2830). This amount will be the same for the "Estimated" and "Actual" columns.

Line 6 - Replacement Reserve Balance at End of Current Program Year - Enter the sum of Lines 4 and 5,plus or minus Line 3. For the "Actual" column, the number entered must agree with the year end closing balance of the replacement reserve.

Section 2 - Replacement Reserve Withdrawal Report

Must be completed if replacement reserve funds have been withdrawn in current year.

Line 1 - Reserved - Do not use at this time.

Lines 2 - 12 - Summary by Account

Column 1 - Original Current Program Year Estimated Cost -

For each line, enter the original current program year estimated cost for all work to be undertaken in a particular development account as a result of the current year withdrawal of funds from the replacement reserve.

Column 2 - Revised Current Program Year Estimated Cost -

For each line, enter any current program year cost decrease or increase after initial approval by HUD.

Column 3 - Expended Current Program Year Actual Cost -

For each Line, enter the actual amount of funds expended as of the end of the current program year. **Note**: If the amount expended in Column 3 is less than the budgeted amount in Column 1 (or 2, if applicable), then the PHA shall include the unexpended amount in the subsequent years estimate or provide an explanation of the change from the estimate.

Line 13 - Replacement Reserve Withdrawal - Enter the sum of lines 2 through 12. The amount in Column 1 (or 2, if applicable) must equal the estimated amount entered on Line 2 of Section 1. The amount entered in Column 3 must equal the actual amount entered on Line 2 of Section 1.

Line 14 - Replacement Reserve Interest Income - Enter the interest income earned on replacement reserve (bracketed). The amount entered in Column 1 (or 2, if applicable) must equal the estimated amount entered on Line 1 of Section 1. The amount entered in Column 3 must equal the actual amount entered on Line 1 of Section 1.

Line 15 - Net Withdrawal from Replacement Reserve - Subtract from Line 13, the amount inside the brackets on Line 14 and enter on Line 15. The amount in Column 1 (or 2, if applicable) must equal the estimated amount of Line 3 of Section 1. The amount entered in Column 3 must equal the actual amount entered on Line 3 of Section 1.

Sample:

Line 13 - Replacement Reserve Withdrawal. $10,000
Line 14 - Replacement Reserve Interest Income ..... (500)
Line 15 - Net Withdrawal from Replacement Reserve. $ 9,500

Line 16 - Amount of Line 13 Related to Lead-Based Paint (LBP) Testing - Enter the amount of line 13 related to LBP testing in Column 1 (or 2, if applicable). At the end of the program year, enter the actual amount in Column 3.

Line 17 - Amount of Line 13 Related to LBP Abatement - Enter the amount of line 13 related to LBP abatement in Column 1 (or 2, if applicable). For example, if windows are being replaced, estimate the portion of the funding which is directly related to LBP abatement. At the end of the program year, enter the actual amount in column 3.

Line 18 - Amount of line 13 Related to Section 504 Compliance - Enter the amount of line 13 related to Section 504 compliance in the Original Total Estimated Cost column and, as appropriate, in the Revised Total Estimated Cost column.

Line 19 - The PHA/IHA shall exhaust its replacement reserve before being eligible to apply for funding for emergencies from the $75 million set-aside. Where applicable, enter the amount of the replacement reserve to be used for emergencies in Column 1 (or 2, if applicable. At the end of the program year, enter the actual amount in Column 3.

Part II: Supporting Pages

Development Number/Name - Enter the abbreviated code (e.g., VA-36-1) and the name, if any, of the development where the work items will be undertaken. Enter "PHA-wide" for work items that relate to a PHA-Wide activity (e.g., management improvements, administration, nondwelling equipment).

Geeral Description of Proposed Work Items - For each development listed, enter a general description of all work items (physical or management, as applicable) that will be undertaken at that development, with replacement reserve funds, before listing work items to be undertaken at other developments. After listing all work items for all developments being funded from the replacement reserve, enter a general description of PHA-wide activities, such as management improvements, administrative costs, equipment, etc. When work items are subsequently deleted, draw a line through the General Description, Development Account Number, and Estimated Cost. When work items are subsequently added, enter the new work item under the appropriate development number. Enter the quantity of the work as a percentage or whole number. Do not specify the per unit cost or the quality of materials.

Development Account Number - For work items that will be funded from replacement reserve funds, enter the appropriate development account which corresponds to the work item described under the General Description of Proposed Work Items column. For appropriate development accounts, refer to Handbook 7485.3.

Estimated Cost - For each work item and PHA-wide activity described, enter the Original Estimated Cost. Then enter a subtotal for each development and a grand total for Part II.

Where the estimated cost is revised, enter a Revised Estimated Cost as appropriate.

Enter the difference between the Original and Revised Estimated Costs. If the cost increases, put a plus (+) in front of the dollar amount. If the cost decreases, put a minus (-) in front the dollar amount.

Status of Proposed Work - At the end of each program year, complete this section and submit to HUD for the Performance and Evaluation Report. For each work item listed, prepare a brief description of the status of the item, e.g., work completed, contract awarded on 5/2/93, etc. Explain the addition, deletion or modification of any work items, such as the addition of any emergency work.

[FR Doc. 02–25731 Filed 10–9–02; 8:45 am]

BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4739–N–43]

Notice of Proposed Information Collection: Comment Request; Multifamily Project Applications and Review of Applications—Lender Processing

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* December 9, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–1142 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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 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 whoa re to respond; including 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: Multifamily Project Applications and Review of applications—Lender Processing.

OMB Control Number, if applicable: 2502–0331.

Description of the need for the information and proposed use: The Multifamily Accelerated Processing (MAP) lender completes and submits these information collections to HUD for multifamily properties needing FHA insurance. These information collections include data that supports the Fair Market and budget Construction Cost.

Agency Form numbers, if applicable: HUD–92264, HUD–92264A, HUD–92264T, HUD–92273, HUD–92274, HUD–92236, HUD–92331, HUD–92485, and HUD–92329.

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 total number of hours needed to prepare this information collection is 60,605; the number of respondents is 230 generating approximately 2,415 annual responses; the frequency of response is on occasion; and the estimated time needed to prepare the response varies from one hour to 114 hours.

Status of the proposed information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 2, 2002.

John C. Weicher,

Assistant Secretary for Housing–Federal Housing Commissioner.

[FR Doc. 02–25732 Filed 10–9–02; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Environmental Assessment and Application for an Incidental Take Permit for the Multiple Species Conservation Program, Chula Vista, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; notice of receipt.

SUMMARY: The City of Chula Vista, California, has applied to the Fish and Wildlife Service for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The proposed 50 year permit would authorize incidental take of 13 threatened or endangered animal species, one animal species proposed to be listed as threatened, and 26 currently unlisted animal species of concern in the event that these species become listed during the term of the permit. The permit would also ''cover'' 14 listed plant species, the take of which is not prohibited under federal law, in recognition of the conservation benefits provided to these species under the Subarea Plan. The permit application includes the Multiple Species Conservation Program (MSCP) Subarea Plan for the City of Chula Vista, an Implementing Agreement that serves as a legal agreement, Draft Implementing Ordinances, and additional supporting documents.

Pursuant to the National Environmental Policy Act, a draft Environmental Assessment for our proposed action of issuing a permit to the City of Chula Vista is also available for public review. This assessment was combined in one document with a draft Supplemental Environmental Impact Report to satisfy requirements of the California Environmental Quality Act. We request comments on this document and the permit application documents.

DATES: We must receive your written comments on or before December 9, 2002.

ADDRESSES: Send comments to Mr. Jim Bartel, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2730 Loker Avenue West, Carlsbad, California 92008. You may also submit comments by facsimile to (760) 431–9624.

FOR FURTHER INFORMATION CONTACT: Mr. Gjon Hazard, Fish and Wildlife Biologist, at the above address; telephone (760) 431–9440, extension 287.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may request copies of the documents by contacting the Carlsbad Fish and Wildlife Office (see **ADDRESSES**). You also may view the documents, by appointment, during normal business hours (8 a.m. to 5 p.m.), Monday through Friday at this same address. Alternatively, you may view the documents at the following

locations within the City of Chula Vista: Chula Vista Planning Department, 276 Fourth Avenue; Chula Vista Main Library, 365 F Street; Eastlake Branch Library, 1120 Eastlake Parkway; and South Chula Vista Library, 389 Orange Avenue.

Background

Section 9 of the Act and Federal regulation prohibit the ''take'' of animal species listed as endangered or threatened. That is, no one may harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). ''Harm'' is defined by regulation to include significant habitat modification or degradation that actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). Under certain circumstances, we may issue permits to authorize ''incidental'' take of listed animal species (defined by the Act as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). Regulations governing permits for threatened and endangered species are at 50 CFR 17.32 and 50 CFR 17.22, respectively.

The City of Chula Vista is seeking a 50-year incidental take permit from us for 86 species on approximately 3,754 acres of habitat within the 33,045-acre Chula Vista Subarea (24,601 acres of which are already developed or non-habitat lands). The proposed permit would authorize incidental take of nine endangered and three threatened animal species: Riverside fairy shrimp (*Streptocephalus woottoni*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Quino checkerspot butterfly (*Euphydryas editha quino*), arroyo toad (*Bufo californicus*), California brown pelican (*Pelecanus occidentalis californicus*), light-footed clapper rail (*Rallus longirostrus levipes*), bald eagle (*Haliaeetus leucocephalus*), California least tern (*Sterna antillarum browni*), western snowy plover (*Charadrius alexandrinus nivosus*), southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus*), coastal California gnatcatcher (*Polioptila californica californica*), and California red-legged frog (*Rana aurora draytoni*). The California red-legged frog is not anticipated to occur in the Chula Vista Planning Area and take of the frog is not anticipated under the Chula Vista Subarea Plan, it has the potential to occur in other MSCP participating jurisdictions. While the red-legged frog is primarily addressed through those jurisdictions' approved Subarea Plans, it may also benefit from the Chula Vista Subarea Plan's contribution to the system of complementary and interlinked preserves created under the MSCP.

The take prohibitions of the Act do not apply to listed plants, although Section 9 of the Act does prohibit certain acts, including the removal or destruction of listed plants in violation of State law. Although take of listed plants is not prohibited under the Act, we propose to name five endangered and three threatened plant species on the permit in recognition of the conservation measures and benefits that would be provided to them under the proposed Subarea Plan exclusively or under the proposed Subarea Plan in conjunction with the approved Subarea plans for other jurisdictions participating in the MSCP. These species are: salt marsh bird's-beak (*Cordylanthus maritimus* ssp. *maritimus*), San Diego button-celery (*Eryngium aristulatum* var. *parishii*), San Diego ambrosia (*Ambrosia pumila*), Otay Mesa mint (*Pogogyne nudiuscula*), California orcutt grass (*Orcuttia californica*), Otay tarplant (*Deinandra conjugens*), San Diego thornmint (*Acanthomintha ilicifolia*), and spreading navaretia (*Navarretia fossalis*). An additional four endangered plants and two threatened plants are not anticipated to be found in the Chula Vista Planning Area, but are included in the Subarea Plan and are named on the permits. These species are primarily conserved through other jurisdictions' MSCP Subarea Plans. The preserve created under the Chula Vista Subarea Plan, which is interlinked and designed to complement the reserve lands created through other approved subarea plans, will indirectly benefit these plant species. These species are: San Diego mesa mint (*Pogogyne abramsii*), Nevin's barberry (*Berberis nevinii*), coastal dune milk vetch (*Astragalus tener* var. *titi*), Del Mar manzanita (*Arctostaphylos glandulosa* ssp. *crassifolia*), thread-leaved brodiaea (*Brodiaea filifolia*), and Encinitas baccharis (*Baccharis vanessae*). Additionally there are 59 unlisted species of concern that are included in the City's MSCP Subarea Plan, including 27 animal species (including one species already proposed to be listed as threatened) for which take authorization under the permit would become effective in the event that these animal species become listed during the term of the permit. Plant species covered by the City of Chula Vista's Plan would be identified on the permit in recognition of the conservation benefits provided for these species under the plan.

The permit application from the City of Chula Vista includes a Subarea Plan that qualifies as both a Habitat Conservation Plan pursuant to Federal law and a Natural Community Conservation Plan pursuant to State law. On December 10, 1993, we issued a final special rule for the coastal California gnatcatcher pursuant to section 4(d) of the Act (58 FR 65088). The rule allows incidental take of the gnatcatcher if such take results from activities conducted under a plan prepared pursuant to the state of California's Natural Community Conservation Planning Act of 1991, its associated Process Guidelines, and the Southern California Coastal Sage Scrub Conservation Guidelines. Consistent with the Conservation Guidelines, while planning for natural communities is underway, the special rule allows interim loss of no more than five percent of the coastal sage scrub habitat in specified areas (subregions).

To mitigate the impact of urban development over a 50-year period, the City of Chula Vista would require project-level impact avoidance and minimization measures, and would assemble a preserve of approximately 4,993 acres. The majority of the preserve (4,860 acres) consists of ''hard-lined'' areas designated for 100 percent conservation. Up to 133 acres would be conserved on lands designated as 75 to 100 percent conservation areas. An additional 4,250 acres would be conserved outside of the City of Chula Vista's Subarea for impacts that would occur within the City's Subarea. Total conservation within the MSCP Subregional Preserve as a result of the City of Chula Vista's Subarea Plan is estimated to be 9,243 acres. The preserve within the City's Subarea would contain, at a minimum, the following habitats: Coastal sage scrub (2,418 acres), maritime succulent scrub (190 acres), chaparral (28 acres), grassland (896 acres), oak woodland (2 acres), eucalyptus woodland (18 acres), southern coastal salt marsh (202 acres), freshwater/alkali marsh (14 acres), riparian forest (10 acres), riparian/tamarisk scrub (594 acres), open water/freshwater (24 acres), disturbed wetlands (15 acres), natural flood channel (146 acres), and other non-habitat lands (436 acres).

Should we approve the City of Chula Vista's Subarea Plan and issue an incidental take permit to the City of Chula Vista, the five percent limit on interim loss of coastal sage scrub, imposed as part of the Natural Community Conservation Planning

Program and the special rule for the gnatcatcher, would be replaced by the conditions of the permit and the Implementation Agreement. Chula Vista would then exercise its land-use review and approval powers in accordance with the Permit, Subarea Plan, and Implementation Agreement to implement the City of Chula Vista's Subarea Plan and assemble its preserve. The City would amend its General Plan to include the MSCP Subarea Plan as a new element of the General Plan and would create overlay zones to implement the General Plan land use designations.

Additionally, the City of Chula Vista would use its local regulatory authority to create or modify ordinances to implement the City's MSCP Subarea Plan. A new Habitat Loss and Incidental Take (HLIT) ordinance would be created to establish conservation and development standards for those development areas outside of Covered Projects (*i.e.,* specific projects identified in the Subarea Plan that would be covered for incidental take pursuant to the proposed incidental take permit). The HLIT ordinance would also provide local regulations for narrow endemic species and wetlands. A new Grazing ordinance would codify the management goals of the Otay Ranch Range Management Plan. The City would also amend its existing Grading ordinance to provide regulations for clearing and grubbing of sensitive habitats and require compliance with the City's MSCP Subarea Plan prior to grading of sensitive habitat.

Our Environmental Assessment considers the City of Chula Vista's MSCP Subarea Plan, as revised since the preparation of the Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS), certified in 1997 for the MSCP Subregional Plan and associated implementing Subarea Plans, which included the City of Chula Vista's Subarea Plan. The Final EIR/EIS evaluated a range of alternatives based on the preserve contributions of the City of Chula Vista's Subarea Plan as well as the subarea plans of other participating jurisdictions. The Multiple Habitat Planning Area (MHPA) Alternative was ultimately adopted with the approval of the MSCP Subregional Plan. Because both the City of San Diego and County of San Diego have been implementing the MHPA Alternative through their respective Subarea Plans since 1997 and 1998, respectively, we did not evaluate additional alternatives in the Environmental Assessment. Instead, the Environmental Assessment focuses on the substantive changes that have occurred to the City of Chula Vista's MSCP Subarea Plan. These include: (1) The addition of Quino checkerspot butterfly to the list of covered species as a result of the Subarea Plan's Quino checkerspot butterfly Recovery Component, (2) the expansion of the preserve as a result of adding lands not previously identified for conservation, and (3) implementation assurances resulting from the Subarea Plan's associated Implementing Agreement and implementing ordinances.

The Environmental Assessment compares these changes to the No Action Alternative. Under the No Action Alternative, the Service would not approve the Chula Vista Subarea Plan and would not issue a permit to Chula Vista. Project proponents would either avoid take of listed animal species within the Chula Vista Subarea Plan boundary or would need to address take of listed animal species on a project-by-project basis. The latter could occur either through an individual incidental take permit, or if there is Federal involvement with the project (for example, a permit or funding), through the formal consultation process. Existing land use and environmental regulations would apply to all projects within the Chula Vista Subarea.

This notice is provided pursuant to section 10(a) of the Endangered Species Act and regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6). All comments received, including names and addresses, will become part of the administrative record and may be made available to the public. We will evaluate the permit application, Environmental Assessment, associated documents, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Endangered Species Act. If we determine that the requirements are met, we will issue an incidental take permit to the City of Chula Vista. We will make a decision on permit issuance no sooner than 60 days from the date of this notice.

Dated: October 3, 2002.

Richard L. Hadley,

Acting Deputy Manager, Region 1, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 02–25727 Filed 10–9–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability, Natural Resource Damage Assessment Plan

AGENCY: U.S. Fish and Wildlife Service, U.S. Department of the Interior.

ACTION: Notice of availability.

SUMMARY: The U.S. Fish and Wildlife Service, on behalf of the U.S. Department of the Interior, as a natural resource trustee, announces the release of the Natural Resource Damage Assessment Plan (Plan) for the Hudson River Superfund Site. The Plan describes the activities that constitute the Trustees' currently proposed approach to conducting the assessment of natural resources exposed to PCBs.

ADDRESSES: Requests for copies of the Natural Resource Damage Assessment Plan, or for any additional information, should be directed to Dr. Fred Caslick, U.S. Fish and Wildlife Service, New York Field Office, 3817 Luker Road, Cortland, New York 13045, telephone 607–753–9334.

SUPPLEMENTARY INFORMATION: The Hudson River is a Federal Superfund Site, and the U.S. Environmental Protection Agency has issued a Record of Decision calling for removal of an estimated 150,000 lbs. of PCBs from selected areas along a 40-mile stretch of the river between Hudson Falls and the Federal Dam at Troy, New York.

The Plan is being released in accordance with the Natural Resource Damage Assessment Regulations found at title 43 of the Code of Federal Regulations part 11. The Plan is the third step in the damage assessment, the goal of which is to restore natural resources injured by PCB contamination. The first step, a pre-assessment screen of the PCB-contamination, was completed in 1997. The second step, a solicitation for ideas on potential restoration projects, began in 2000 and is ongoing, with the Trustees continuing to accept plan proposals.

Author: The primary author of this notice is Dr. Fred Caslick, New York Field Office, U.S. Fish and Wildlife Service, 3817 Luker Road, Cortland, New York 13045.

Authority: The authority for this action is the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C.

Dated: September 25, 2002.

Dr. Richard O. Bennett,

Acting Regional Director, Region 5, U.S. Fish & Wildlife Service.

[FR Doc. 02–25750 Filed 10–9–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–014–01–1610–PG; GP 3–0003]

Klamath Provincial Advisory Committee

AGENCY: Bureau of Land Management, Klamath Falls Resource Area.

ACTION: Meeting notice for the Klamath Provincial Advisory Committee.

SUMMARY: The Klamath Provincial Advisory Committee will meet at the Campus Center Stage, Shasta Community College, 11555 Old Oregon Trail, Redding, CA 96001, beginning on Wednesday, November 20, 2002 at 1 p.m. Proposed topics include:

- Report from the Regional Ecosystem Office Representative
- Socio-Economic Monitoring, and
- Update on Federal Energy Regulatory Commission.

The meeting will continue on Thursday, November 21, beginning at 8 a.m. Proposed topics include:

- Restoration Activities—Klamath Fisheries Task Force
- Biscuit Fire Update
- Klamath River Management Plan Update
- Upper basin Working Group Restoration Plan

Information to be distributed to the committee members is requested ten (10) days prior to the start of the meeting.

The entire meeting is open to the public. Opportunities for public comment are scheduled for 2:30 to 3 p.m. on November 20, and 9:30 to 10 a.m. on November 21.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the Klamath Provincial Advisory Committee may be obtained from Teresa Raml, Field Manager, Klamath Falls Resource Area, 2795 Anderson Ave., Building 25, Klamath Falls, OR 97603, Phone Number 541–883–6919, FAX 541–884–2097, or e-mail *traml@or.blm.gov.*

Dated: October 4, 2002.

Teresa A. Raml,

Field Manager, Klamath Falls Resource Area.

[FR Doc. 02–25749 Filed 10–9–02; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[82% to CO–956–1420–BJ–0000–241A]
[6% to CO–956–9820–BJ–CO01–241A]
[6% to CO–956–9820–BJ–CO02–241A]
[6% to CO–956–9820–BJ–CO03–241A]

Colorado: Filing of Plats of Survey

September 30, 2002.

The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., September 30, 2002. All inquiries should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

The plat representing the dependent resurvey and survey in Township 5 North, Range 81 West, Sixth Principal Meridian, Group 1260, Colorado, was accepted July 25, 2002.

The plat representing the entire record of the remonumentation of certain original corners in Township 5 North, Range 97 West, Sixth Principal Meridian, Group 750, Colorado, was accepted August 1, 2002.

The plat representing the entire record of the dependent resurvey and survey in Township 35 North, Range 10 East, New Mexico Principal Meridian, Group 1345, Colorado, was accepted August 1, 2002.

The plat representing the dependent resurvey and survey in Township 35 North, Range 11 East, New Mexico Principal Meridian, Group 1345, Colorado, was accepted August 1, 2002.

The plat representing the dependent resurvey and survey Township 48 North, Range 4 West, New Mexico Principal, Group 1243, Colorado, was accepted August 6, 2002.

The plat representing the entire record of the dependent resurvey of Mineral Survey Number 1334, Pueblo Placer, in Township 43 North, Range 4 West, New Mexico Principal Meridian, Group 1332, Colorado, was accepted August 8, 2002.

The plat representing the dependent resurvey and survey in Township 7 North, Range 96 West, Sixth Principal Meridian, Group 1317, Colorado, was accepted August 8, 2002.

The plat representing the dependent resurvey of Mineral Survey Number 18801, Big Dick Load, in section 33, Township 1 South, Range 82 West, Sixth principal Meridian, Group 1288, was accepted August 8, 2002.

The plat representing the dependent resurvey and survey in Township 1 North, Range 79 West, Sixth Principal Meridian, Group 1358, Colorado, was accepted September 18, 2002.

The plat representing the dependent resurvey and survey in Township 3 North, Range 81 West, Sixth Principal Meridian, Group 1358, was accepted September 18, 2002.

The plat representing the dependent resurvey and survey in Township 3 South, Range 2 East, Ute Meridian, Group 1271, was accepted September 26, 2002.

The plat representing the dependent resurvey and survey in Township 4 North, Range 91 West, Sixth Principal Meridian, Group 1318, Colorado, was accepted September 26, 2002.

The supplement plat creating new lots 65 and 66, from original lot 49, is based upon the Dependent Resurvey and Survey Plats approved August 20, 1998, and the supplement plat approved January 30, 2002, was accepted August 15, 2002.

The supplemental plat amending the lot numbers 119 to 121, and 120 to 122, is based upon the Dependent Resurvey and Survey Plats approved March 1, 1996, the Supplemental Plat approved January 29, 2002, and the Dependent Resurvey and Survey Plat approved June 10, 2002, was accepted August 30, 2002.

These surveys were requested by the Bureau of Land Management for administrative and management purposes.

The plat representing the dependent resurvey and survey in Township 5 North, Range 79 West, Sixth Principal Meridian, Group 1220, Colorado, was accepted July 25, 2002.

The plat representing the entire record of the dependent resurvey and survey in Township 11 South, Range 72 West, Sixth Principal Meridian, Group 1372, was accepted August 13, 2002.

The plat representing the dependent resurvey and survey in Township 49 North, Range 16 West, New Mexico Principal Meridian, Group 1296, Colorado, was accepted September 26, 2002.

These surveys were requested by the Forest Service for administrative and management purposes.

Darryl A. Wilson,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 02–25733 Filed 10–9–02; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

National Park Service

Fire Management Plan, Environmental Impact Statement, Guadalupe Mountains National Park, Texas

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the Fire Management Plan for Guadalupe Mountains National Park.

SUMMARY: Under the provisions of the National Environmental Policy Act of 1969, the National Park Service is preparing an environmental impact statement for the Fire Management Plan for Guadalupe Mountains National Park. This effort will result in a new wildland fire management plan that meets current policies, provides a framework for making fire-related decisions, and serves as an operational manual. Development of a new fire plan is compatible with the broader goals and objectives derived from the park purpose that governs resources management. In cooperation with the USDA Forest Service, Bureau of Land Management, State of Texas, and neighboring private land owners, attention will also be given to resources outside the boundaries that affect the integrity of Guadalupe Mountains National Park. Alternatives are based on internal scoping done by National Park Service staff on March 12 and 13, 2002. Besides the No-action alternative, preliminary alternatives include the proposed Two-Fire Management Unit alternative and Cooperative Watershed Plan alternative. The No-action alternative maintains the current 1996 Fire Management Plan strategy of suppression, prescribed natural fire, and prescribed burning. The proposed alternative Two-Fire Management Unit (FMU) defines a relatively small FMU surrounding the visitor center area and the facilities and residences south of U.S. Highway 62/180. This FMU applies full suppression and prescribed burning. The rest of the park comprises the second FMU, with protection and suppression emphasis for special features, such as historic properties, McKittrick Canyon, and habitats of threatened and endangered species. In the second FMU, wildland fire use, prescribed fire, and suppression are management options. The Cooperative Watershed Plan is a variation on the two-unit plan that extends the backcountry FMU along the north boundary to include portions of the McKittrick Canyon watershed that lie on the USDA Forest Service land. Ideally, the park would cooperate on prescribed fire, wildland fire use, monitoring fire effects, as well as suppression. This cooperative plan would be a step toward interagency management of the entire Guadalupe Mountains landscape sometime in the future.

Major issues will consider environmental effects of the FMP that are potential problems and include reduction of plant and wildlife populations, disturbance of unique sites and sensitive species, large-scale changes to landscapes, damage to geological resources and increased geohazards, increased air pollution, hazards to life and property, visitor inconvenience, enhanced conditions for non-indigenous species, and damage to cultural resources.

A scoping brochure has been prepared describing the issues identified to date. Copies of the brochures may be obtained from Superintendent, Guadalupe Mountains National Park, HC 60, Box 400, Salt Flat, Texas 79847–9400, (915) 828–3251.

DATES: The Park Service will accept comments from the public for 30 days from the date this notice is published in the **Federal Register**.

ADDRESSES: Information will be available for public review and comment in the office of the Superintendent, Guadalupe Mountains National Park, HC 60, Box 400, Salt Flat, Texas 79847–9400, (915) 828–3251.

FOR FURTHER INFORMATION CONTACT: Superintendent, Guadalupe Mountains National Park, (915) 828–3251.

SUPPLEMENTARY INFORMATION: If you wish to comment on the scoping brochure, you may submit your comments by any one of several methods. You may mail comments to Superintendent, Guadalupe Mountains National Park, HC 60, Box 400, Salt Flat, Texas 79847–9400. You may also comment via the Internet to *GUMO_superintendent@nps.gov.* Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: Guadalupe Mountains NP Fire Management Plan'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at Resources Management 915–828–3251 x251. Finally, you may hand-deliver comments to the above address or at the three public meetings that will be held in Dell City and El Paso, Texas, and Carlsbad, New Mexico. Notification of the public meetings will be given in the scoping brochure that will be mailed to the addresses generated for the park's current General Management Plan process. The brochure will be mailed once we are notified of the date that this Notice of Intent is published in the **Federal Register**. If you are not on the park's mailing list and would like a copy of the brochure, please contact the Superintendent.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Superintendent, Guadalupe Mountains National Park, 915–828–3251 x104.

Michael D. Snyder,

Acting Director, Intermountain Region, National Park Service.

[FR Doc. 02–25868 Filed 10–9–02; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Human Remains in the Possession of the Bernice Pauahi Bishop Museum, Honolulu, HI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native Graves Protection and Repatriation Act, 43 CFR 10.9, of the completion of an inventory of human remains from Lāna'i, HI in the possession of the Bernice Pauahi Bishop Museum, Honolulu, HI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible

for the determinations within this notice.

A detailed assessment of these human remains has been made by Bishop Museum's professional staff in consultation with representatives from the Maui/Lānaʻi Island Burial Council.

In 2002, human remains representing one individual were found in collections from Maunalei Cave, Lānaʻi, HI. The remains consist of a human phalange. No known individuals were identified. No associated funerary objects are present.

In 2002, human remains representing one individual were found in collections from Lānaʻi, HI. The remains consist of a human tooth. No associated funerary objects are present. The collections were gifted to the Bishop Museum by George F. Arnemann in 1956.

Based on the above-mentioned information, officials of the Bishop Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the Bishop Museum also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Maui/Lānaʻi Island Burial Council, Hui Malama I Na Kupuna O Hawaiʻi Nei and Office of Hawaiian Affairs.

This notice has been sent to officials of the Maui/Lānaʻi Island Burial Council, Hui Malama I Na Kupuna O Hawaiʻi Nei, and the Office of Hawaiian Affairs. Representatives of any other Native Hawaiian organization that believes itself to be culturally affiliated with these human remains should contact Dr. Guy Kaulukukui, Vice President of Cultural Studies, Bishop Museum, 1525 Bernice Street, Honolulu, Hawaii, 96718-2704, telephone (808) 848-4126 before November 12, 2002. Repatriation of these human remains to the Maui/Lānaʻi Island Burial Council, Hui Malama I Na Kupuna O Hawaiʻi Nei and Office of Hawaiian Affairs may begin after that date if no additional claimants come forward.

Dated: August 28, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–25871 Filed 10–9–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the Bernice Pauahi Bishop Museum, Honolulu, HI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items from Lānaʻi, HI in the possession of the Bernice Pauahi Bishop Museum, Honolulu, HI, that meet the definition of ''unassociated funerary object'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

In 1926, G.C. Munro gifted 97 glass and ivory beads to the Bishop Museum. Accession records indicate that the beads were ''found some years ago with the bones of a child.'' The burial site was located on the island of Lānaʻi, HI. Excavation records indicate that the human remains with whom these funerary objects were associated were not collected, or were collected but are no longer within the Bishop Museum's collection.

A detailed assessment of these unassociated funerary objects was made by Bishop Museum's professional staff in consultation with representatives from the Maui/Lānaʻi Island Burial Council.

Based on the above-mentioned information, officials of the Bishop Museum have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these 97 cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Bishop Museum also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these 97 unassociated funerary objects and the Maui/Lānaʻi Island Burial Council, Hui Malama I Na Kupuna O Hawaiʻi Nei, and the Office of Hawaiian Affairs.

This notice has been sent to officials of the Maui/Lānaʻi Island Burial Council, Hui Malama I Na Kupuna O Hawaiʻi Nei, and Office of Hawaiian Affairs. Representatives of any other Native Hawaiian organization that believes itself to be culturally affiliated with these unassociated funerary objects should contact Dr. Guy Kaulukukui, Vice President of Cultural Studies, Bishop Museum, 1525 Bernice Street, Honolulu, Hawaii, 96718-2704, telephone (808) 848-4126 before November 12, 2002. Repatriation of these unassociated funerary objects to the Maui/Lānaʻi Island Burial Council, Hui Malama I Na Kupuna O Hawaiʻi Nei and Office of Hawaiian Affairs may begin after that date if no additional claimants come forward.

Dated: August 28, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–25874 Filed 10–9–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of California State University, Bakersfield, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains in the possession of California State University, Bakersfield, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by California State University, Bakersfield, professional staff in consultation with representatives of the Tule River Indian Tribe of the Tule River Reservation, California.

In 1976, the Kern County Archaeological Society conducted salvage excavations at the Crest Drive-In

site (CA-KER-480H) in Bakersfield, CA. The Crest Drive-In site consisted of a shallow, mass grave containing the skeletal remains of approximately 100 individuals, all but eight of which were subsequently reburied. The remains of these eight individuals were subsequently accessioned by California State University, Bakersfield. No known individuals were identified. No associated funerary objects are present.

Osteological examination of the remains of the eight individuals in the possession of California State University, Bakersfield revealed significantly worn teeth and shovel-shaped incisors, which may be indicative of prehistoric or protohistoric Native American populations. Midden material found associated with some of the human remains in the 1976 excavations is consistent with a prehistoric or protohistoric date for some of the burials. The Crest Drive-In site was long recognized by local residents as an old Indian burial ground.

However, historic period artifacts recovered during the 1976 excavations indicate that the latest burials date to the latter part of the 19th century, after the local Yokut Indians that had traditionally used the area had been relocation to the first Tule River Indian Reservation (called the Alta Vista Reservation) in 1857. The stratigraphic context encountered during the 1976 excavations was highly disturbed. According to local residents, around 1947 or 1948 the land-owner at the time attempted to level the burial ground area. When human remains were discovered, he reportedly scooped out a shallow pit, placed the remains in the hole, and covered the bones and associated funerary objects with a thin layer of dirt. None of the funerary objects recovered in 1976 are in the possession or control of California State University, Bakersfield.

While there is a possibility that some of the eight human remains in the possession of California State University, Bakersfield are of other than Native American ancestry, the preponderance of the evidence supports a determination that they are Native American.

Based on the above-mentioned information, officials of California State University, Bakersfield have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of eight individuals of Native American ancestry. Officials of California State University, Bakersfield also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Tule River Indian Tribe of the Tule River Reservation, California.

This notice has been sent to officials of the Tule River Indian Tribe of the Tule River Reservation, California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Dr. Robert M. Yohe II, Department of Sociology and Anthropology, California State University, Bakersfield, CA 93311-1099, telephone (661) 664-3457, before November 12, 2002. Repatriation of the human remains to the Tule River Indian Tribe of the Tule River Reservation, California may begin after that date if no additional claimants come forward.

Dated: August 28, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–25872 Filed 10–9–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item in the Possession of the Sam Noble Oklahoma Museum of Natural History, Norman, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with the provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.10 (a)(3), of the intent to repatriate a cultural item in the possession of the Sam Noble Oklahoma Museum of Natural History, Norman, OK, that meets the definition of ''sacred object'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The cultural item is a cedar pole 12 feet long, from which all bark has been removed. The pole is painted lengthwise, black on one side and green on the other side. Accession and catalog records of the Sam Noble Oklahoma Museum of Natural History (formerly known as the Stovall Museum of Science and History) indicate that the pole was donated to the museum in 1946 by Mrs. Joe Weller of Gracemont, OK.

According to museum records and consultation with representatives of the Caddo Tribe of Oklahoma, the pole was originally made about 1895 by Caddo Chief White Bread. The pole was used regularly in Caddo Ghost Dances from 1895 until 1946. About 1922, Chief White Bread died and the pole passed to Mr. Squirrel, another community Ghost Dance leader. Mr. Joe Weller was the third custodian of the pole and held Ghost Dances annually until his death in 1945. On July 14, 1946, Mrs. Weller sponsored a final Ghost Dance, after which she intended to ''retire'' the pole. University of Oklahoma anthropologist K.G. Orr was among those attending the July 14, 1946, Ghost Dance and, according to museum accession records, he ''persuaded Mrs. Weller and the Caddo tribe to donate the pole to the museum rather than destroy it at the completion of the dance.'' The pole was accessioned into the collections of the museum's Division of Ethnology in 1946. Since that time, representatives of the Caddo Tribe of Oklahoma and Caddo traditional religious leaders have regularly visited the museum and consulted with the museum staff concerning the pole.

Consultations with representatives of the Caddo Tribe of Oklahoma confirm that this pole was made to be used in the Caddo Ghost Dance. Representatives of the Caddo Tribe of Oklahoma have provided evidence that the pole is needed by traditional religious leaders for the practice of the Ghost Dance by present-day adherents. Representatives of the Caddo Tribe of Oklahoma have provided evidence that the pole is of ongoing historical, traditional, and cultural importance to the Caddo Tribe of Oklahoma as a whole.

Based on the above-mentioned information, officials of the Sam Noble Oklahoma Museum of Natural History have determined that, pursuant to 43 CFR 10.2(d)(3), this item is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Sam Noble Oklahoma Museum of Natural History have determined that, pursuant to 43 CFR 10.2(e), there is a relationship of shared group identity that can be traced between this sacred object and the Caddo Tribe of Oklahoma.

This notice has been sent to officials of the Caddo Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact Julie Droke, Registrar/Repatriation

Specialist, Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, 2401 Chautauqua Ave., Norman, OK 73072, telephone (405) 325-1035, before November 12, 2002. Repatriation of this sacred object to the Caddo Tribe of Oklahoma may begin after that date if no additional claimants come forward.

Dated: August 28, 2002.

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–25870 Filed 10–9–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the UCLA Fowler Museum of Cultural History, University of California, Los Angeles, Los Angeles, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the UCLA Fowler Museum of Cultural History, University of California, Los Angeles, Los Angeles, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the UCLA Fowler Museum of Cultural History professional staff in consultation with representatives of the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California.

At an unknown date, human remains representing one individual were recovered by Eugene Nickens under unknown circumstances from the Perris site (CA-RIV-126), Riverside County, CA. These human remains were donated by Mr. Nickens to the University of California, Los Angeles in 1951. No known individual was identified. The 18 associated funerary objects are 16 pottery sherds, 1 deer scapula, and 1 bird bone. The age of the site has not been determined, however, the presence of ceramics suggests a protocontact or postcontact date. The site is located within the traditional territory of the Luiseno Mission Indians. The artifacts are consistent with others documented as associated with the indigenous inhabitants of the area. Raymond Basquez, Chairperson of the tribal Cultural Resources Department, Elder, and traditional religious leader, identified the deer scapula as a ceremonial sweat scraper and the pottery sherds as possibly part of a ceremonial urn. He also identified the site as being within the ancestral territory of the Pechanga Band of the Luiseno Mission Indians of the Pechanga Reservation, California.

In 1965, human remains representing one individual were removed from the Rancho site (CA-RIV-364), Riverside County, CA, by Dr. Joseph L. Chartkoff. Dr. Chartkoff donated these human remains to the University of California, Los Angeles the same year. No known individual was identified. No associated funerary objects are present.

The Rancho site (CA-RIV-364) is close to the present-day Pechanga Reservation, in the valley of Temecula Creek. Geographical location and archeological and oral traditional evidence support the association of this site with precontact and historic village sites within the territory of the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California. The site is well known, by both oral tradition and archeological documentation, to be a precontact and postcontact cremation and burial site. Some artifacts collected from the surface, such as a plate fragment, broken glass, lathe-turned inkbottle, and metal button, appear to date to the Spanish or Mexican period in California. According to Mr. Basquez, when traditional cremation practices gave way after contact to inhumation, Luiseno peoples' personal possessions often were collected, burned, and placed at traditional cremation/cemetery areas even though the person may have been buried elsewhere. The Rancho site was visited by members of the Pechanga Band of Luiseno Indians Cultural Committee, who identified the human remains and artifacts collected there as part of the traditional Luiseno cremation and memorial offering rites. Tizon Brown pottery sherds found at the site are consistent with a Late Prehistoric and historic age.

Officials of the UCLA Fowler Museum of Cultural History have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the UCLA Fowler Museum of Cultural History have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 18 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, it has been determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Pechanga Band of Luiseno Mission Indians, Pechanga Reservation, California.

This notice has been sent to officials of the Pechanga Band of Luiseno Mission Indians, Pechanga Reservation, California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Diana Wilson, UCLA NAGPRA Coordinator, Office of the Vice Chancellor, Research, University of California, Los Angeles, Box 951405, Los Angeles, California 90095-1405, telephone (310) 825-1864, before November 12, 2002. Repatriation of the human remains and associated funerary objects to the Pechanga Band of Luiseno Mission Indians, Pechanga Reservation, California may begin after that date if no additional claimants come forward.

Dated: August 28, 2002

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–25873 Filed 10–9–02; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the University of Nebraska State Museum, University of Nebraska-Lincoln, Lincoln, NE, and in the Control of the U.S. Department of Defense, U.S. Army Corps of Engineers, Omaha District, Omaha, NE

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects

in the possession of the University of Nebraska State Museum, University of Nebraska-Lincoln, Lincoln, NE, and in the control of the U.S. Department of Defense, U.S. Army Corps of Engineers, Omaha District, Omaha, NE.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains and associated funerary objects was made by the U.S. Army Corps of Engineers, Omaha District professional staff and University of Nebraska-Lincoln professional staff in consultation with representatives of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

In 1956, human remains representing seven individuals were excavated by David Baerreis of the University of Wisconsin for the Smithsonian River Basin Surveys during legally authorized excavations at the Bamble site (39CA6), Campbell County, SD. The repository for these materials is the University of Nebraska State Museum, University of Nebraska-Lincoln. No known individuals were identified. No associated funerary objects are present.

Based on archeological and ethnohistorical evidence, the Bamble site has been identified as an earthlodge village site belonging to the postcontact Coalescent period (circa A.D. 1675-1780). Archeological investigations and ethnohistorical data have shown that sites dating to the Coalescent cultural period are ancestral to the Arikara (south) and Mandan (north) tribes, today represented by the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

At an unknown date, human remains representing one individual were found by Paul Cooper of the Smithsonian River Basin Surveys during legally authorized excavations at the White Swan Mound site (39CH9), Charles Mix County, SD, during construction of the Fort Randall dam by the U.S. Army Corps of Engineers, Omaha District. The repository for these materials is the University of Nebraska State Museum, University of Nebraska-Lincoln. No known individual was identified. No associated funerary objects are present.

Based on archeological evidence, the White Swan site has occupation components dating to the Woodland period (500 B.C.-A.D. 900) and the Coalescent period (A.D. 1400-1780). Archeological investigations and ethnohistorical data have shown that sites that are variants of the Plains Woodland, Middle Missouri, and Coalescent cultural phases in the Middle Missouri subarea of the Great Plains are ancestral to the Arikara (south) and Mandan (north) tribes, today represented by the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

In 1962, human remains representing two individuals were excavated by P. Holder of the University of Nebraska during legally authorized excavations at the Leavenworth site (39CO9), Corson County, SD. No known individuals were identified. No associated funerary objects are present.

Based on archeological and ethnohistorical evidence, the Leavenworth site is an earthlodge village site attributed to the Extended Coalescent period (A.D. 1550-1675). Archeological investigations and ethnohistorical data have shown that sites that are variants of the Plains Woodland, Middle Missouri, and Coalescent cultural phases in the Middle Missouri subarea of the Great Plains are ancestral to the Arikara (south) and Mandan (north) tribes, today represented by the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

In 1969, human remains representing one individual were removed by A. Osborn of the University of Nebraska during legally authorized excavations at the Norvald site (39CO32), Corson County, SD. No known individual was identified. No associated funerary objects are present.

Based on archeological and ethnohistorical evidence, the Norvald site is identified as an earthlodge village and cemetery belonging to the Extended Coalescent period (A.D. 1550-1675). On the basis of physical anthropological data, the human remains were identified as Arikara. Archeological and ethnohistorical data also have shown that sites that are variants of the Plains Woodland, Middle Missouri, and Coalescent cultural phases in the Middle Missouri subarea of the Great Plains are ancestral to the Arikara (south) and Mandan (north) tribes, today represented by the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

At an unknown date, human remains representing one individual were found by an unknown individual on the surface of site 39GR5, near Old Fort Randall, on the U.S. Army Corps of Engineers Fort Randall project land in Gregory County, SD. No known individual was identified. No associated funerary objects are present.

The human remains consist of a poorly preserved foot phalange collected from the surface of site 39GR5. On the basis of ceramic evidence, the site has a component belonging to the Plains Woodland period (500 B.C.-A.D. 900). Archeological investigations and ethnohistorical data have shown that sites that are variants of the Plains Woodland, Middle Missouri, and Coalescent cultural phases in the Middle Missouri subarea of the Great Plains are ancestral to the Arikara (south) and Mandan (north) tribes, today represented by the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

In 1962, human remains representing one individual were found by Warren Caldwell of the Smithsonian River Basin Surveys during legally authorized operations at the Medicine Creek Village site (39LM2), Lyman County, SD. The repository for these materials is the University of Nebraska State Museum, University of Nebraska-Lincoln. No known individual was identified. No associated funerary objects are present.

Based on archeological and ethnohistorical evidence, the Medicine Creek Village site has both Initial period (A.D. 900-1400) and Extended Coalescent period (A.D. 1550-1675) components. Archeological investigations and ethnohistorical data have shown that sites that are variants of the Plains Woodland, Middle Missouri, and Coalescent cultural phases in the Middle Missouri subarea of the Great Plains are ancestral to the Arikara (south) and Mandan (north) tribes, today represented by the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

In 1967, human remains representing one individual were excavated by Donald J. Lehmer of the Smithsonian River Basin Surveys during legally authorized excavations at site 39LM222, Lyman County, SD. The repository for these materials is the University of Nebraska State Museum, University of Nebraska-Lincoln. No known individual was identified. No associated funerary objects are present.

Based on archeological evidence, site 39LM222 is identified as an Extended Coalescent period (A.D. 1550-1675) site. Archeological investigations and ethnohistorical data have shown that sites that are variants of the Plains Woodland, Middle Missouri, and Coalescent cultural phases in the Middle Missouri subarea of the Great Plains are ancestral to the Arikara (south) and Mandan (north) tribes, today

represented by the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Between 1956 and 1962, human remains representing one individual were excavated by Robert Stephenson and William Bass of the Smithsonian River Basin Surveys during legally authorized excavations at the Sully site (39SL4), Sully County, SD. The repository for these materials is the University of Nebraska State Museum, University of Nebraska-Lincoln. No known individual was identified. No associated funerary objects are present.

Based on archeological evidence, the Sully site is an earthlodge village of the Extended Coalescent period (A.D. 1550-1675). The human remains consist of a fragmentary second metatarsal. Archeological investigations and ethnohistorical data have shown that sites that are variants of the Plains Woodland, Middle Missouri, and Coalescent cultural phases in the Middle Missouri subarea of the Great Plains are ancestral to the Arikara (south) and Mandan (north) tribes, today represented by the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

In 1963, human remains representing one individual were excavated by J.J. Hoffman of the Smithsonian River Basin Surveys during legally authorized excavations at the La Roche site (also known as Over's) (39ST9), Stanley County, SD. The repository for these materials is the University of Nebraska State Museum, University of Nebraska-Lincoln. No known individual was identified. No associated funerary objects are present.

Based on archeological evidence, the La Roche site contains Plains Woodland (500 B.C.-A.D. 900), Initial Middle Missouri (A.D. 900-1400), and Extended Coalescent (A.D. 1550-1675) components. Archeological investigations and ethnohistorical data have shown that sites that are variants of the Plains Woodland, Middle Missouri, and Coalescent cultural phases in the Middle Missouri subarea of the Great Plains are ancestral to the Arikara (south) and Mandan (north) tribes, today represented by the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Between 1964 to 1966, human remains representing a minimum of four individuals were excavated by David T. Jones of the Smithsonian River Basin Surveys during legally authorized excavations at the Ketchen site (39ST223), Stanley County, SD. The repository for these materials is the University of Nebraska State Museum, University of Nebraska-Lincoln. No known individuals were identified. No associated funerary objects are present.

Based on archeological evidence, the Ketchen site was occupied during the Extended Coalescent period (A.D. 1550-1675). Archeological investigations and ethnohistorical data have shown that sites that are variants of the Plains Woodland, Middle Missouri, and Coalescent cultural phases in the Middle Missouri subarea of the Great Plains are ancestral to the Arikara (south) and Mandan (north) tribes, today represented by the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

In 1956, human remains representing one individual were excavated by David Baerreis of the University of Wisconsin for the Smithsonian River Basin Surveys during legally authorized excavations at the Spiry-Eklo site (39WW3), Walworth County, SD. The repository for these materials is the University of Nebraska State Museum, University of Nebraska-Lincoln. No known individual was identified. No associated funerary objects are present.

Based on archeological and ethnohistorical evidence, the Spiry-Eklo site is identified as a postcontact Coalescent period (A.D. 1675-1780) village. Archeological investigations and ethnohistorical data have shown that sites that are variants of the Plains Woodland, Middle Missouri, and Coalescent cultural phases in the Middle Missouri subarea of the Great Plains are ancestral to the Arikara (south) and Mandan (north) tribes, today represented by the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Based on the above-mentioned information, officials of the U.S. Department of Defense, U.S. Army Corps of Engineers, Omaha District have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 21 individuals of Native American ancestry. Officials of the U.S. Department of Defense, U.S. Army Corps of Engineers, Omaha District also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

This notice has been sent to officials of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Sandra Barnum, Cultural Resources, U.S. Army Corps of Engineers, Omaha District, 215 North 17th Street, Omaha, NE 68102, telephone (402) 221-4895, before November 12, 2002. Repatriation of the human remains to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota may begin after that date if no additional claimants come forward.

Dated: August 28, 2002

Robert Stearns,

Manager, National NAGPRA Program.

[FR Doc. 02–25869 Filed 10–9–02; 8:45 am]

BILLING CODE 4310–70–S

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–422 (Final)]

Certain Cold-Rolled Steel Products From Argentina

AGENCY: United States International Trade Commission.

ACTION: Termination of investigation.

SUMMARY: On October 3, 2002, the Department of Commerce published notice in the **Federal Register** of a negative final determination of subsidies in connection with the subject investigation (67 FR 62106). Accordingly, pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the countervailing duty investigation concerning certain cold-rolled steel products from Argentina (investigation No. 701–TA–422 (Final)) is terminated.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179 or *ffischer@usitc.gov*), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. 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 also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

Authority: This investigation is being terminated under authority of title VII of the

Tariff Act of 1930; this notice is published pursuant to section 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.

Issued: October 4, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–25795 Filed 10–9–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: extension of a current approved collection; Public Safety Officer Medal of Valor Application.

The Department of Justice (DOJ), Office of Office of Justice Programs (OJP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 67, Number 83, page 21276 on April 30, 2002, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 12, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially 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 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–7285.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

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

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

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

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

Overview of This Information Collection

(1) *Type of information collection:* Extension of a Current Approved Collection.

(2) *The title of the form/collection:* Public Safety Officer Medal of Valor Application.

(3) *The agency form number, if any, and the applicable components of the department sponsoring the collection: Form Number:* OJP Form Number 1121. National Medal of Valor Office, Office of Justice Programs, 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: Federal Government. The information collected on this application will provide the nomination of public safety officers who demonstrate courage and bravery above and beyond the call of duty without regard for their personal safety. A Medal of Valor Board will be appointed by the Congress and the President. The Board shall select candidates as recipients of the Medal of Valor from among those applications received by the National Medal of Valor Office. Annually, the Board shall present, to the Attorney General, the name or names of those recommended as medal of valor recipients.

(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 500 respondents will complete the application in approximately 60 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this application is 500 minutes.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: October 4, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–25719 Filed 10–9–02; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of September, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,318 & A, B; Specialty Minerals, Inc., Oswego, NY, Lockhaven, PA and Erie, PA

TA–W–41,523; BRA–VOR Tool and Die, Inc., Meadville, PA

TA–W–41,656; Hancock Manufacturing Co., a Subsidiary of Renaissance Industries, Inc., Toronto, OH

TA–W–41,688; Stork H and E Blading, Inc., Auburn, NY
TA–W–41,839; Ergo Systems, Inc., Green Lane, PA
TA–W–41,952; FCI USA, Inc., Mil/Aero Industrial Div., York, PA
TA–W–40,173; Benson Corp., Weyauwega, WI
TA–W–41,633; Specialty Machine Co., Gastonia, NC
TA–W–41,905 & A; Penn Compression Moulding, Inc., Irwin, PA and Liberty, SC

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,462; Astec Semiconductor, Inc., Astec Power, Milpitas, CA
TA–W–41,789; General Electric Motors Operations, Murfreesboro, TN
TA–W–41,795; Edward Vogt Valve Co., Jeffersonville, IN

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–41,896; McManus Wyatt Produce Co., Weslaco, TX
TA–W–41,549; Philips Consumer Electronics, Knoxville, TN
TA–W–42,026; Timex Corp., a Subsidiary of Timex Group B.V., Middlebury, CT

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

TA–W–40,567; Ivaco Steel Processing LLC, Tonawanda, NY
TA–W–41,621; Gorham/Lenox, Inc., Smithfield, RI

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–41,911; Sappi Fine Paper Mill, North America, Muskegon, MI: March 26, 2001.
TA–W–41,908; PSM Fastener Corp., a Subsidiary of McKechnie Investments, Inc, Ferguson, MO
TA–W–41,891; American Uniform Co., Blue Ridge, GA: July 11, 2001.
TA–W–41,862; Gino and Jack Manufacturing, Inc., Bath, PA: June 28, 2001.
TA–W–41,324; Spring Ford Industries, Tucson, AZ: April 1, 2001.
TA–W–41,050; Quality Components, Inc., Ridgway, PA: February 11, 2001.
TA–W–42,001; Wain Manufacturing, a Subsidiary of California Optical Corp., Lynn, MA: August 9, 2001.
TA–W–41,994; Lucedale Industries, Lucedale, MS: August 5, 2001.
TA–W–41,985; DeRoyal Patient Care, a Div. Of DeRoyal Industries, Inc., Maynardville, TN: July 31, 2001.
TA–W–41,960; Hartford Ball/Hartford Bearings, a Subsidiary of Virginia Industries, Inc., Rocky Hill, CT: July 24, 2001.
TA–W–41,959; Amory Garment Co.,a Div. Of Block Corp., Amory, MS: July 18, 2001.
TA–W–41,930; Lapcor Plastics, Div. Of Mirro/Wearever Co., Manitowoc, WI: July 25, 2001.
TA–W–41,927; David Stevens Manufacturing, Inc., Blackwood, NJ: July 25, 2001.
TA–W–41,913; Barrick Gold Corp., Ruby Hill Mine, Eureka, NV: July 18, 2001.
TA–W–41,758; Parker Hosiery Co., Inc., Old Fort, NC: June 13, 2001.
TA–W–41,708; Rosemount Analytical, Inc., Process Analytical Div., Orrville, OH: May 27, 2001.
TA–W–41,425; Tzipi, Inc., Brooklyn, NY: April 8, 2001.
TA–W–41,303; McKechnie Tooling and Engineering, Staples, MN: April 4, 2001.
TA–W–41,120; American Xtal Technology,Inc. (AXT), High Performance Compound Semiconductor Substrates Div., Fremont, CA: March 25, 2001.
TA–W–41,583; Ceco Door Products, Harlingen, TX: April 24, 2001.
TA–W–40,939; P.S.W. Industries, Inc., Chicago, IL: January 11, 2001.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchaper D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the months of September, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–06235; Mechanical Products Co., LLC, Aerospace Div., Jackson, MI
NAFTA–TAA–06244; Specialty Machine Co., Gastonia, NC
NAFTA–TAA–6167; Weatherford—Fabrication Div., Grand Junction, CO
NAFTA–TAA–06199; Hahn Equipment Company, Evansville, IN
NAFTA–TAA–06351; FCI USA, Inc. Mil/Aero Industrial Div., York, PA
NAFTA–TAA–06418; Lapcor Plastics, Div. Of Mirro/Wearever Co., Manitowoc, WI
NAFTA–TAA–04664; Sterling Fibers, Inc., Pace, FL

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–06390; McManus Wyatt Produce Co., Weslaco, TX
NAFTA–TAA–06164; Philips Consumer Electronics, Knoxville, TN

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–06398; American Uniform Co., Blue Ridge, GA: July 11, 2001.

NAFTA–TAA–06420; Seton Co., Leather Div., Saxton, PA: July 12, 2002.
NAFTA–TAA–06431; Celestica Corp., Mt. Pleasant, IA: August 1, 2001.
NAFTA–TAA–06462; American Marketing Industries, Inc., d/b/a/ Dunbrooke Industries, Inc., cut and Sew Facility, El Dorado Springs, MO: August 1, 2001.
NAFTA–TAA–05942; BBI Enterprises, LP, Alpena, MI: March 6, 2001.
NAFTA–TAA–06048; McKechnie Tooling and Engineering, Staples, MN: April 4, 2001.
NAFTA–TAA–06279; Lexstar Technologies, Alexander Technologies, Mason City, IA: May 16, 2001.
NAFTA–TAA–06303; Parker Hosiery Co., Inc., Old Fort, NC: June 25, 2001.
NAFTA–TAA–06367; Harvard Industries, Inc., Albion Div., Albion, MI: July 8, 2001.
NAFTA–TAA–06393; Ergo Systems, Inc., Green Lane, PA: July 1, 2001.
NAFTA–TAA–06473; Lucedale Industries, Lucedale, MS: August 9, 2001.
NAFTA–TAA–06479; Kraft Foods, Lifesavers Co., Holland, MI: May 15, 2001.
NAFTA–TAA–06494; Doncasters, Inc., Turbo Products Div., a Subsidiary of Doncasters, LLC, Ivoryton, CT: August 8, 2001.
NAFTA–TAA–06500; Marconi, Outside Plant and Power Products Div., Toccoa, GA: August 20, 2001.

I hereby certify that the aforementioned determinations were issued during the months of September, 2002. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 20, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–25787 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of September, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,477; Volex, Inc., Dartmouth, MA
TA–W–41,571; FCI USA, Inc., Communications, Data and Consumer Div (CDC), Fiber Optics Group, A Member of The Areva Group, Etters, PA
TA–W–41,763; Pabst Meat Supply, Inc., Invergrove Heights, MN
TA–W–42,031; Celestica Corp. a Div. Of EMS, Formerly Lucent Technologies, Oklahoma City, OK
TA–W–41,864; Rock-Tenn Co., Laminated Paperboard Products Plant, Vineland, NJ
TA–W–41,181; Motorola, Integrated Electronics Systems Sector, Automotive Communication Electronic Systems, Elma, NY

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–41,841; E and A Technology, Inc., El Paso, TX
TA–W–41,855; Fibermark, Inc., Decorative Specialty Int'l, West Springfield, MA
TA–W–42,030; Becton Dickinson, Hancock, NY
TA–W–41,944; John Deere Vehicle Group, Inc., Worldwide Commercial and Consumer Equipment Div., Williamsburg, VA
TA–W–41,872; Breed Technologies, Inc., Knoxville, TN
TA–W–41,439; Shiloh Industries—Canton Die Div., Canton, MI

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–41,639; Sony Electronics, Procurement Div., San Diego, CA
TA–W–42,010; The Montgomery Co., Inc., Opelika, AL
TA–W–42,011; London Fog Industries, Eldersburg, MD
TA–W–41,676; Tool and Die Dept., Thomson Multimedia, Inc., Lancaster, PA
TA–W–39,685; Karin Stevens, Inc., Grading and Marking Department, New York, NY
TA–W–41,347, A, B; Imation Corp., Staffing/Human Resources Department, Oakdale, MN, Information Management Systems Department, Oakdale, MN and Color Systems Research and Development Lab, Oakdale, MN

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

TA–W–41,193; Progressive Technologies, Inc., Pilot Mountain, NC

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–42,008; Kraft Foods, Lifesavers Co., Holland, MI: August 14, 2001.
TA–W–41,942; Encompass Group, LLC, Eastman, GA: July 30, 2001.
TA–W–41,885; Custom Sewing, Inc., Rib Lake, WI: July 12, 2001.
TA–W–41,818; Robinson Manufacturing Co., Oxford, ME: July 2, 2001.
TA–W–41,410; Wellman, Inc., Marion, SC: April 22, 2001.
TA–W–41,409; Wellman, Inc., Fayetteville, NC: April 22, 2001.
TA–W–41,101; Black and Decker Tools, Nashville, TN: February 9, 2001.
TA–W–42,084; Laurel Mould, Inc., Greensburg, PA: August 22, 2001.
TA–W–42,003; Olson Technologies, Inc., Allentown, PA: August 19, 2001.
TA–W–41,984; Emerson Appliance Controls, Sparta, TN: July 29, 2001.

TA–W–41,980; Young American Clothing Co., Inc., Newark, NJ: July 29, 2001.
TA–W–41,958; Scranton Lace Co., Scranton, PA: July 19, 2001.
TA–W–41,925 & A; Flowserve, Provo, UT and Springville, UT: July 18, 2001.
TA–W–41,902; O.S. Walker, Worcester, MA: July 11, 2001.
TA–W–41,823; Austin Farms, Indianola, MS: June 18, 2001.
TA–W–41,810; Mid-Western Machinery Co., Inc., Joplin, MO: June 6, 2001.
TA–W–41,791; Neuroscan, Inc., Formerly Neurosoft, Inc., El Paso, TX: June 18, 2001.
TA–W–41,787; Strattec Security Corp., Key Finishing Department (Dept—90), Milwaukee, WI: June 19, 2001.
TA–W–41,785; Cairn Studio, Ltd, Mooresville, NC: June 13, 2001.
TA–W–41,538; Tyson Bearing Company, Inc., a Wholly Owned Subsidiary of Roller Bearing Co of America, Glasgow, KY: April 17, 2001.
TA–W–41,423; DDG, Inc., d/b/a Windsurfing Hawaii, Hood River, OR: March 15, 2001.
TA–W–41,267; Limited Edition Shirt Co., Inc., Ranshaw, PA: March 5, 2001.
TA–W–41,166; Goetz Dolls, Inc., Baldwinsville, NY: January 15, 2001.
TA–W–41,106; Hunter Fan Co., Memphis, TN: February 15, 2001.
TA–W–40,900; Holland Binkley Co., Axle Products Div., Delphos, OH: November 3, 2000.
TA–W–40,815; Bernhardt Furniture Co., Plants 1, 2, 3, 5, 6, 7, 10 and 11, Plant 9, Shelby, NC, Plant 14, Cherryville, NC: January 17, 2001.
TA–W–39,911; ABC Pressing and Finishing, Inc., Los Angeles, CA: August 13, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchaper D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the months of September, 2002.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increased imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–06043; Contract Embroidery, El Paso, TX
NAFTA–TAA–06114; Wellman, Inc., Fayette Ville, NC
NAFTA–TAA–6278; Sony Electronics, Inc., Procurement Div., San Diego, CA
NAFTA–TAA–06335; Fibermark, Inc., Decorative Specialty International, West Springfield, MA
NAFTA–TAA–06446; Pabst Meat Supply, Inc., Invergrove Heights, MN
NAFTA–TAA–06025 &A, B; Imation Corp., Staffing/Human Resources Dept, Oakdale, MN, Information Management Systems Dept., Oakdale, MN and Color Systems Research and Development Lab, Oakdale, MN
NAFTA–TAA–06076; Shiloh Industries, Canton Die Div., Canton, MI
NAFTA–TAA–06043; Contract Embroidery, El Paso, TX
NAFTA–TAA–06114; Wellman, Inc., Fayetteville, NC
NAFTA–TAA–6249; Jarvis East, A Subdivision of Standex International Corp., Palmer, MA
NAFTA–TAA–06272; Trinity Rail Group, (Formerly Trinity Industries, Inc.), Beaumont, TX
NAFTA–TAA–06324; Neuroscan, Inc., Formerly Neurosoft, Inc., El Paso, TX
NAFTA–TAA–06430; Scranton Lace Co., Scranton, PA
NAFTA–TAA–06460; Damas, Inc., Sample Room and Shipping Dept., Long Island City, NY
NAFTA–TAA–05107; Michigan Rag Co., Inc., Grand Haven, MI

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–06472; Ericsson, Inc., Brea, CA

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–06300; Strattec Security Corp., Key Finishing Dept. (Dept 90), Milwaukee, WI: April 19, 2001.
NAFTA–TAA–05727; Burlington Industries, Inc., Performance Wear Div., Richmond Plant, Cordova, NC, A; Raeford Plant, B; Hurt Plant, Hurt, VA, C; Halifax Plant, Halifax, VA, D; BM Combing, Clarksville, VA, E; Clarksville Finishing, Clarksville, VA, F; Mt. Holly Plant, Mt. Holly, NC, G; Casual Wear Div., Stonewall Plant, Stonewall, MS, and H; Corporate Headquarters, Greensboro, NC: January 8, 2001
NAFTA–TAA–06356; Breed Technologies, Inc., Molding Unit, Knoxville, TN: July 3, 2001.
NAFTA–TAA–06414; Harris Welco, Div. Of J.W. Harris Co., Inc., Flux Department, Kings Mountain, NC and Personnel Services Unlimited, Kings Mountain, NC (Employed in the Flux Department, Harris Welco, Kings Mountain, NC): July 26, 2001.
NAFTA–TAA–06419; GL&V USA, Inc., Manufacturing Section, Nashua, NH: July 22, 2001
NAFTA–TAA–06442; Flextronics Enclosure Systems, Including Contract Workers of Accurate Personnel, Elk Grove Village, IL: July 22, 2001.
NAFTA–TAA–06496; Wyman Gordon Forgings, LP, Precision Castparts Corp., Houston, TX: August 19, 2001.
NAFTA–TAA–06506; Motorola, Inc., Semiconductor Products Sector, Bipolar Manufacturing Center, Mesa, AZ: August 26, 2001.
NAFTA–TAA–06515; Laurel Mould, Inc., Greensburg, PA: August 22, 2001.
NAFTA–TAA–06080; Wellman, Inc., Marion, SC: April 2, 2001.

NAFTA–TAA–06354; E and A Technology, Inc., El Paso, TX: July 3, 2001.

NAFTA–TAA–06383; New York Air Brake Components, TCJ Hose Products, Akron, OH: July 19, 2001.

NAFTA–TAA–06439; Encompass Group, LLC, Eastman, GA: July 30, 2001.

NAFTA–TAA–06451; Celestica Corp., Midwest Campus, Rochester, MN: August 8, 2001.

NAFTA–TAA–6514; Emglo Products LLC, Div. Of Black and Decker (USA), Inc., Johnstown, PA: August 16, 2001.

I hereby certify that the aforementioned determinations were issued during the months of September, 2002. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 27, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–25770 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,983]

ADC Telecommunications, Minnetonka, MN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 19, 2002 in response to a worker petition, which was filed on behalf of workers at ADC Telecommunications, Minnetonka, Minnesota.

An active certification covering the petitioning group of workers remains in effect (TA–W–40,300). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 17th day of September, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25773 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,068]

Ansewn Footwear, Bangor, ME; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 27, 2002, applicable to workers of Ansewn Footwear, Bangor, Maine. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce footwear and leather belts.

New findings show that there was a previous certification, TA–W–36,066, issued on June 17, 1999, for workers of Ansewn Footwear, Bangor, Maine who were engaged in employment related to the production of footwear and leather belts. That certification expired June 17, 2001. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from February 4, 2001 to June 18, 2001, for workers of the subject firm.

The amended notice applicable to TA–W–41,068 is hereby issued as follows:

All workers of Ansewn Footwear, Bangor, Maine, who became totally or partially separated from employment on or after June 18, 2001, through August 27, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 10th day of September, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25784 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,525E]

The Boeing Company; Boeing Defense and Space Group; Commercial Airplane Group, Corinth, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on July 18, 2002, applicable to workers of The Boeing Company, Commercial Airplane Group, Corinth, Texas. The notice was published in the **Federal Register** on July 29, 2002 (67 FR 49039–49040).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of large commercial aircraft and the components thereof.

New information shows that workers of the Corinth, Texas location of the Commercial Airplane Group of The Boeing Company, are part of the Boeing Defense and Space Group of The Boeing Company. Information also shows that workers at the Corinth, Texas location that were separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for The Boeing Company, Boeing Defense and Space Group, Commercial Airplane Group.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of The Boeing Company, Boeing Defense and Space Group, Commercial Airplane Group who were adversely affected by increased imports.

The amended notice applicable to TA–W–40,525 is hereby issued as follows:

All workers of The Boeing Company, Boeing Defense and Space Group, Commercial Airplane Group, Corinth, Texas (TA–W–40,525E) who became totally or partially separated from employment on or after December 18, 2000, through March 18, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 25th day of September, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25781 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,711, et al.]

Carolina Glove Co., Wilkes Plant, Conover, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 18, 2002, applicable to workers of Carolina Glove Co., Wilkes Plant, Conover, North Carolina. The notice was published in the **Federal Register** on July 9, 2002 (67 FR 45544).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred at the Marshall Plant, Marshall, North Carolina facility of Carolina Glove Co. The workers were engaged in the production of work gloves until all production ceased in June 2002.

Accordingly, the Department is amending the certification to cover workers at Carolina Glove Co., Marshall Plant, Marshall, North Carolina.

The intent of the Department's certification is to include all workers of Carolina Glove Co. who were adversely affected by increased imports.

The amended notice applicable to TA–W–40,711 is hereby issued as follows:

All workers of Carolina Glove Co., Wilkes Plant, Conover, North Carolina (TA–-W–40,711) and Carolina Glove Co., Marshall Plant, Marshall, North Carolina (TA–W–40,711A) who became totally or partially separated from employment on or after January 9, 2001, through June 18, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 11th day of September, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25783 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,583]

Ceco Door Products; Harlingen, TX; Notice of Termination of Certification

Pursuant to section 223 of the Trade Act of 1974, on August 26, 2002, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to workers of the subject firm. The notice will be published soon in the **Federal Register**.

The State agency requested that the Department review the certification for workers of the subject firm engaged in the production of steel doors and frames. Information shows that a previous certification, TA–W–41,539, was issued on July 16, 2002, for workers of Ceco Door Products, Harlingen, Texas who were engaged in employment related to the production of steel doors and frames.

Consequently, continuance of this certification would serve no purpose and the certification is terminated.

Signed in Washington, DC, this 27th day of September, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25771 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,112]

Elsevier Science Illustration Specialists, Philadelphia, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 16, 2002 in response to a petition filed on behalf of workers who are illustration specialists at Elsevier Science, Philadelphia, Pennsylvania.

An active certification covering the workforce, in its entirety, at Elsevier Science, Philadelphia, Pennsylvania was issued on June 21, 2002 and remains in effect (TA–W–41,058). Thus, separated workers who are illustration specialists are included as eligible under that certification. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 30th day of September 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25774 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,091, et al.]

Halliburton Energy Services; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 15, 2002, applicable to workers of Halliburton Energy Services, Tucson, Arizona. The notice was published in the **Federal Register** on July 29, 2002 (67 FR 49038).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations have occurred at Halliburton Energy Services, Houston, Texas, Evansville, Wyoming, Rock Springs, Wyoming, Williston, North Carolina, Denver, Colorado, Grand Junction, Colorado, Vernal, Utah and Farmington, New Mexico. The workers provide oil and gas drilling services and field operations, office and management support services to unaffiliated firms in the oil and gas industry.

The intent of the Department's certification is to include all workers of Halliburton Energy Services adversely affected by increased imports.

Accordingly, the Department is amending the certification to cover workers of Halliburton Energy Services, Houston, Texas, Evansville, Wyoming, Rock Springs, Wyoming, Williston, North Dakota, Denver, Colorado, Grand Junction, Colorado, Vernal, Utah, and Farmington, New Mexico.

The amended notice applicable to TA–W–41,091 is hereby issued as follows:

All workers of Halliburton Energy Services in Tucson, Arizona, (TA–W–41,091), Houston, Texas (TA–W–41,091E), Evansville, Wyoming (TA–W–41,091F), Rock Springs, Wyoming (TA–W–41,091G), Williston, North Dakota (TA–W–41,091H), Denver, Colorado (TA–W–41,091I), Grand Junction, Colorado (TA–W–41,091J), Vernal, Utah (TA–W–41,091K) and Farmington, New Mexico (TA–

W–41,091L) who became totally or partially separated from employment on or after February 21, 2001, through July 15, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 10th day of September, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25785 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,225]

Jideco of Bardstown, Bardstown, KY; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 1, 2002 in response to a petition, which was filed by a company official on behalf of workers at Jideco of Bardstown, Bardstown, Kentucky.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 1st day of October, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25769 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,092, Canonsburg, PA, et al.]

MICTEC, Inc., Including Employees of MICTEC, Inc. Operating at Various Locations; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 26, 2001, applicable to workers of MICTEC, Inc., Canonsburg, Pennsylvania. The notice was published in the **Federal Register** on December 18, 2001 (66 FR 65220).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred involving employees of the Canonsburg, Pennsylvania facility of MICTEC, Inc. operating at various locations in the following states: Illinois, Pennsylvania, Indiana, Michigan, Ohio and Georgia. These employees provide support function services for the production of refractory materials and related machinery at the Canonsburg, Pennsylvania location of the subject firm.

Based on these findings, the Department is amending this certification to include employees of the Canonsburg, Pennsylvania location of MICTEC, Inc. operating at various locations in the following states: Illinois, Pennsylvania, Indiana, Michigan, Ohio and Georgia.

The intent of the Department's certification is to include all workers of MICTEC, Inc. who were adversely affected by increased imports.

The amended notice applicable to TA–W–40,092 is hereby issued as follows:

All workers of MICTEC, Canonsburg, Pennsylvania (TA–W–40,092), including employees of MICTEC, Canonsburg, Pennsylvania operating at various locations in the following states: Illinois (TA–W–40,092A), Pennsylvania, Excluding Canonsburg, (TA–W–40,092B), Indiana (TA–W–40,092C), Michigan (TA–W–40,092D), Ohio (TA–W–40,092E) and Georgia (TA–W–40,092F), who became totally or partially separated from employment on or after September 7, 2000, through November 26, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 3rd day of September, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25780 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,302]

Motorola, Inc., Arlington Heights, IL; Notice of Negative Determination Regarding Application for Reconsideration

By application dated June 25, 2002, a petitioner requested that the Department of Labor amend a Trade Adjustment Assistance certification issued on May 2, 2002 for workers of Motorola, Inc., Global Telecom Solutions (GTSS) and Commercial, Government, Industrial Solutions Sector (CGISS), Schaumburg, Illinois (TA–W–40,501 & TA–W–40,501A, respectively) to include workers of Motorola, Inc., Arlington Heights, Illinois (TA–W–41,302). Based on the information supplied in the petitioner's letter, it appears the petitioner is actually requesting administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm (TA–W–41,302). The denial notice was signed on June 27, 2002, and published in the **Federal Register** on July 9, 2002 (67 FR 45550).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Motorola, Inc., Arlington Heights, Illinois was denied because the ''contributed importantly'' group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. The investigation revealed that the predominate cause of worker separations at the subject facility was related to a domestic shift of production to another facility located in Illinois.

The petitioner believes that the workers at the subject plant were in direct support of a facility under an existing Trade Adjustment Assistance (TAA) Certification (TA–W–40,501) Motorola, Inc., Global Telecom Solutions Sector (GTSS), formerly Network Solutions Sector (NSS), Schaumburg, Illinois and therefore believes they should be considered for TAA certification. The petitioner further believes that the workers do the same work as the Schaumburg plant.

A review of the data supplied by the company during the initial investigation shows that subject plant workers were primarily engaged in activities related to the production of cable modems and cable hardware. The workers at the TAA certified facility located in Schaumburg were engaged in the production of IDEN and CGISS radio system units.

The company supplied further information concerning any potential

Arlington Heights support activities directed towards the Schaumburg facility. The data provided by the company indicates that the portion of Arlington Heights work directed towards the Schaumburg plant was negligible during the relevant period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 1st day of October, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–25786 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,733]

Oremet, Wah Chang, Division of Allegheny Technologies, Inc., Albany, OR; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 2, 2001, applicable to workers of Oremet, a Division of Allegheny Technologies, Inc., Albany, Oregon. The notice was published in the **Federal Register** on May 2, 2001 (66 FR 22006).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of titanium ingot, sponge and forged products.

New information shows that Oremet and Wah Chang are divisions of Allegheny Technologies, Inc.

Information also shows that some workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Oremet, Wah Chang, a Division of Allegheny Technologies, Inc.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Oremet, a Division of Allegheny Technologies, Inc., Albany, Oregon who were adversely affected by increased imports.

The amended notice applicable to TA–W–38,733 is hereby issued as follows:

All workers of Oremet, Wah Chang, a Division of Allegheny Technologies, Inc., Albany, Oregon, who became totally or partially separated from employment on or after February 10, 2000, through April 2, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 3rd day of September, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25779 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,475]

Ruger Equipment, Inc., Urichsville, OH; Notice of Revised Determination on Reconsideration

On August 12, 2002, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on August 20, 2002 (67 FR 53973).

The Department initially denied TAA to workers of Ruger Equipment, Inc., Urichsville, Ohio engaged in the production of load lifting and material handling equipment because the ''contributed importantly'' group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met.

On reconsideration, the Department conducted a survey of the major customers of the subject firm regarding their purchases of load lifting and material handling equipment during the relevant period. The survey revealed that a major customer increased their imports, while decreasing their purchases from the subject firm during the relevant period.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with load lifting and material handling equipment, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Ruger Equipment, Inc., Urichsville, Ohio. In accordance with the provisions of the Act, I make the following certification:

All workers of Ruger Equipment, Inc., Urichsville, Ohio who became totally or partially separated from employment on or after April 1, 2001 through two years from date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 30th day of September, 2002.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 02–25788 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,596]

Tyco International, Ltd., a Division of Tyco Electronic Power Systems, Formerly Lucent Technologies; Including Leased Workers of Adecco Employment, Mesquite, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the U.S. Department Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 19, 2002, applicable to workers of Tyco International, LTD, a Division of Tyco Electronic Power Systems, Formerly Lucent Technologies, Mesquite, Texas. The notice was published in the **Federal Register** on February 28, 2002 (67 FR 9325).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information provided by the State shows that leased workers of Adecco Employment, Garland, Texas were employed at Tyco International, LTD, a Division of Tyco Electronic Power Systems to produce power supplies at the Mesquite, Texas location of the subject firm.

Based on these findings, the Department is amending the certification to include leased workers of Adecco Employment, Garland Texas employed at Tyco International, LTD, a Division of Tyco Electronic Power Systems, Mesquite, Texas.

The intent of the Department's certification is to include all workers of Tyco International, LTD, a Division of Tyco Electronic Power Systems who were adversely affected by increased imports of power supplies.

The amended notice applicable to TA–W–40,596 is hereby issued as follows:

All workers of Tyco International LTD, a Division of Tyco Electronics Power Systems, Mesquite, Texas including leased workers of Adecco Employment, Garland, Texas engaged in employment related to the production of power supplies at Tyco International, LTD, a Division of Tyco Electronic Power Systems, Mesquite, Texas, who became totally or partially separated from employment on or after October 22, 2000, through February 19, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington DC this 3rd day of September, 2002.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25782 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,938]

Valeo Switches and Detection Systems, Ft. Worth, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 12, 2002 in response to a petition filed by a company official on behalf of workers at Valeo Switches and Detection Systems, Ft. Worth, Texas.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 30th day of September, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25772 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—6364]

Computer Sciences Corporation, Credit Services Division, Houston, TX; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on July 11, 2002, in response to a petition filed on behalf of workers at Computer Sciences Corporation, Credit Services Division, Houston, Texas. Workers were engaged in activities related to mailroom functions at the subject firm.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 20th day of September, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25776 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6350]

Medtronic, Vascular-World Medical Division, Sunnse, FL; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on June 18, 2002, in response to a petition filed by a company official on behalf of workers at Medtronic, Vascular-World Medical Division, Sunnse, Florida.

The petitioners have requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 13th day of September, 2002.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25775 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6486]

Midwest Electric Products, Inc., Mankato, MN; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 19, 2002, in response to a worker petition filed by a company official on behalf of workers at Midwest Electric Products, Inc., Mankato, Minnesota.

An active certification covering the petitioning group of workers remains in effect until October 12, 2002 (NAFTA–4090). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 24th day of September, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25778 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—6429]

Valeo Switches and Detection Systems, Ft. Worth, TX; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on August 2, 2002, in response to a petition filed by a company official on behalf of workers at Valeo Switches and Detection Systems, Ft. Worth, Texas.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would

serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 30th day of September, 2002.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 02–25777 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Monterey Coal Company

[Docket No. M–2002–074–C]

Monterey Coal Company, 14300 Brushy Mound Road, Carlinville, Illinois 62626 has filed a petition to modify the application of 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.35(a) (Portable trailing cables and cords) to its No. 1 Mine (I.D. No. 11–00726) located in Macoupin County, Illinois. The petitioner proposes to install a Hubbel/Ensign Electric Division Class 1401 Permissible Distribution Box certified by the MSHA Approval and Certification Center under X/P–1733–3, so that two Fletcher Model CDR–15 slim line roof bolters could be used near the end of the longwall panel for additional support of the face when transferring equipment to the next panel. The distribution box would have a maximum of 750 feet of No. 4/0 AWG G–GC trailing cable extending from the power center located outby. The roof bolters would be equipped with No. 2 AWG G–GC portable cables with 1000 feet of the cable extended across the face from the distribution box. The petitioner was granted a petition in December 1994, docket number M–94–131–C, to extend the trailing cables to the Fletcher roof bolters to 1200 feet with short circuit protection set at 800 Amps Maximum and a longwall panel width of 750 feet Maximum. The petitioner states that since the granting of its previous petition, the longwall panel has been increased to 1100 feet Maximum, and is approved and accepted by the MSHA Approval and Certification Center under 2G–3955A–0. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Knott County Mining Company

[Docket No. M–2002–075–C]

Knott County Mining Company, P.O. Box 2805, Pikeville, Kentucky 41502 has filed a petition to modify the application of 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (Plug and receptacle-type connectors) to its Mallet Branch Mine (I.D. No. 15–18393), Mine 582 (I.D. No. 15–18522), and Hollybush Mine (I.D. No. 15–15289) located in Knott County, Kentucky. The petitioner proposes to use permanently installed, spring-loaded locking devices on battery plug connectors on battery-powered equipment to prevent the plug connectors from unintentionally loosening from battery receptacles and to eliminate the hazards associated with difficult removal of padlocks during emergency situations. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Coemont Construction, Inc.

[Docket No. M–2002–076–C]

Coemont Construction, Inc., P.O. Box 297, Glen Daniel, West Virginia 25844 has filed a petition to modify the application of 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (Plug and receptacle-type connectors) to its Coemont No. 1 Mine (I.D. No. 46–08945) located in Boone County, West Virginia. The petitioner proposes to use a threaded ring and a spring-loaded device instead of a padlock on battery plug connectors on mobile battery-powered machines to prevent the plug connector from accidentally disengaging while under load. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

4. Lone Mountain Processing, Inc.

[Docket No. M–2002–077–C]

Lone Mountain Processing, Inc., Drawer C, St. Charles, Virginia 24282 has filed a petition to modify the application of 30 CFR 75.1002 (Location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Huff Creek Mine No. 1 (I.D. No. 15–17234) located in Harlan County, Kentucky. The petitioner proposes to use a 2400-volt power center to power a continuous miner with high-voltage trailing cable inby the last open crosscut and within 150 feet of pillar workings. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

5. Lone Mountain Processing, Inc.

[Docket No. M–2002–078–C]

Lone Mountain Processing, Inc., Drawer C, St. Charles, Virginia 24282 has filed a petition to modify the application of 30 CFR 75.1002 (Location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Darby Fork Mine No. 1 (I.D. No. 15–02265) located in Harlan County, Kentucky. The petitioner proposes to use a 2400-volt power center to power a continuous miner with high-voltage trailing cable inby the last open crosscut and within 150 feet of pillar workings. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

6. White County Coal, LLC

[Docket No. M–2002–079–C]

White County Coal, LLC, 1525 County Road 1300 N, P.O. Box 457, Carmi, Illinois 62821 has filed a petition to modify the application of 30 CFR 75.503 (Permissible electric face equipment; maintenance) to its Pattiki I Mine (I.D. No. 11–02662) located in White County, Illinois. The petitioner proposes to operate a 13 horse power ''Flygt'' pump outby the last open crosscut 6700 feet from the power source, using AWG2 cable rated at 600-volt, minimum temperature rating 75 degrees C, and the overall jacket heavy duty and flame resistant. The petitioner states that the circuit breaker at the power source would be set at 80 amps. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

7. Kentucky May Mining

[Docket No. M–2002–080–C]

Kentucky May Mining, P.O. Box 249, Stanville, Kentucky 41659 has filed a petition to modify the application of 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (Plug and receptacle-type connectors) to its Lakeview Mine (I.D. No. 15–18507) located in Pike County, Kentucky. The petitioner proposes to use permanently installed spring-loaded locking devices to prevent unintentional loosening of battery plugs from battery receptacles to eliminate the hazards associated with difficult removal of padlocks during emergency situations. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners. The

petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

8. Remington Coal Company, Inc.

[Docket No. M–2002–081–C]

New River Engineering, Inc., 2971C East DuPont Avenue, Shrewsbury, West Virginia 25015, has filed a petition for the Remington Coal Company, Inc., 430 Harper Park Drive, Beckley, West Virginia 25801, to modify the application of 30 CFR 75.1700 (Oil and gas wells) to its Stockburg No. 1 Mine (I.D. No. 46–08634) located in Kanawha County, West Virginia. The petitioner proposes to plug and mine through oil and gas wells. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

9. Debra Lynn Coals, Inc.

[Docket No. M–2002–083–C]

Debra Lynn Coals, Inc., P.O. Box 297, Grays Knob, Kentucky 40829 has filed a petition to modify the application of 30 CFR 77.214 (Refuse piles; general) to its Liggett Preparation Plant (I.D. No. 15–12428) located in Harlan County, Kentucky. The petitioner requests a modification of the standards to allow placement of refuse material over abandoned mine portals and associated mine workings. The petitioner proposes to construct a refuse pile over abandoned underground mine works in the Harlan coal bed, and de-water rock drains from two existing mine adits within the abandoned mine works. The petitioner states that the massive sandstone unit immediately above the Harlan coal bed would prevent any adverse effects of mine subsidence on the refuse pile. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to *comments@msha.gov,* or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2352, Arlington, Virginia 22209. All comments must be postmarked or received in that office on or before November 12, 2002. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 4th day of October 2002.

Marvin W. Nichols, Jr.,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 02–25762 Filed 10–9–02; 8:45 am]

BILLING CODE 4510–43–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos: (Redacted), License Nos: (Redacted), EA–XX–XXX (Redacted)]

In the Matter of All Power Reactor Licensees, Research and Test Reactor Licensees, and Special Nuclear Material Licensees Who Possess and Ship Spent Nuclear Fuel; Order Modifying License (Effective Immediately)

The licensees identified in Attachment 1 to this Order have been issued a specific license by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing the possession of spent nuclear fuel and a general license authorizing the shipment of spent nuclear fuel [in a transportation package approved by the Commission] in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR parts 50, 70 and 71. This Order is being issued to all such licensees who ship spent nuclear fuel. Commission regulations for shipment of spent nuclear fuel at 10 CFR 73.37(a) require these licensees to maintain a physical protection system that meets the requirements contained in 10 CFR 73.37(b), (c), (d), and (e).

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility or regulated activity. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are required to be implemented by licensees as prudent, interim measures, to address the current threat environment in a consistent manner. Therefore, the Commission is imposing requirements, as set forth in Attachment 2 of this Order, on all licensees identified in Attachment 1 of this Order.[1] These interim requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect pending notification from the Commission that a significant change in the threat environment has occurred, or the Commission determines that other changes are needed.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 2 to this Order in response to previously issued Safeguards and Threat Advisories or on their own. It is also recognized that some measures may not be possible or necessary for all shipments of spent nuclear fuel, or may need to be tailored to accommodate the licensees' specific circumstances to achieve the intended objectives and avoid any unforeseen effect on the safe transport of spent nuclear fuel.

Although the additional security measures implemented by licensees in response to the Safeguards and Threat Advisories have been adequate to provide reasonable assurance of adequate protection of common defense and security, in light of the current threat environment, the Commission concludes that the security measures must be embodied in an Order consistent with the established regulatory framework. In order to provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, all licenses identified in Attachment 1 to this Order shall be modified to include the requirements identified in Attachment 2 to this Order. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above which warrant the issuance of this Order, the public health, safety, and interest require that this Order be immediately effective.

[1] Attachments 1 and 2 contain SAFEGUARDS Information and will not be released to the public.

Accordingly, pursuant to Sections 53, 103, 104, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 50, 70 and 71, *It is hereby ordered, effective immediately, that all licenses identified in Attachment 1 to this Order are modified as follows:*

A. All Licensees shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 2 to this Order except to the extent that a more stringent requirement is set forth in the Licensee's security plan. The Licensees shall immediately start implementation of the requirements in Attachment 2 to the Order and shall complete implementation by November 2, 2002, unless otherwise specified in Attachment 2, or before the licensee's next shipment, whichever is later.

B. 1. All Licensees shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if they are unable to comply with any of the requirements described in Attachment 2, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

2. Any Licensee that considers that implementation of any of the requirements described in Attachment 2 to this Order would adversely impact the safe transport of spent nuclear fuel must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 2 requirement in question, or a schedule for modifying the activity to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B1.

C. 1. All Licensees shall, within twenty (20) days of the date of this Order, submit to the Commission a schedule for achieving compliance with each requirement described in Attachment 2.

2. All Licensees shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 2.

D. Notwithstanding any provisions of the Commission's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained pending notification from the Commission that a significant change in the threat environment has occurred, or the Commission determines that other changes are needed.

Licensee responses to Conditions B1, B2, C1, and C2 above, shall be submitted to the NRC to the attention of the Director, Office of Nuclear Reactor Regulation or the Director, Office of Nuclear Material Safety and Safeguards, as applicable, under either 10 CFR 50.4, 70.5. In addition, Licensee submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 CFR 73.21.

The Director, Office of Nuclear Reactor Regulation, or the Director, Office of Nuclear Material Safety and Safeguards, as applicable, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555–0001. Copies also shall be sent to the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as applicable, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; to the Regional Administrator for NRC Region I, II, III, or IV, as appropriate for the specific facility; and to the Licensee if the answer or hearing request is by a person other than the Licensee. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov,* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).[2]

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

[2] The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714 (d) and paragraphs (d)(1) and (d)(2) regarding petitions to intervene and contentions. For the complete, corrected text of 10 CFR 2.714 (d), please see 67 FR 20884; April 29, 2002.

Dated at Rockville, Maryland, this 3rd day of October 2002.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

Margaret Federline,

Duputy Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–25842 Filed 10–9–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[EA–02–124; Dockets Nos. 50–456; 50–457, 50–454; 50–455, 50–461, 50–10; 50–237; 50–249, 50–373; 50–374, 50–352; 50–353, 50–219, 50–171: 50–277; 50–278, 50–254; 50–265, 50–289, 50–295; 50–304; Licenses Nos. NPF–72; NPF–77, NPF–37; NPF–66, NPF–62, DPR–2; DPR–19; DPR–25, NPF–11; NPF–18, NPF–39; NPF–85, DPR–16, DPR–12; DPR–44; DPR–56, DPR–29; DPR–30, DPR–50, DPR–39; DPR–48]

Exelon Generation Company, LLC and AmerGen Energy Company, LLC; Braidwood Station, Units 1 & 2, Byron Station, Units 1 & 2, Clinton Power Station, Dresden Nuclear Power Station, Units 1, 2 & 3, LaSalle County Station, Units 1 & 2, Limerick Generating Station, Units 1 & 2, Oyster Creek Nuclear Generating Station, Peach Bottom Atomic Power Station, Units 1, 2 & 3, Quad Cities Nuclear Power Station, Units 1 & 2, Three Mile Island Nuclear Station, Unit 1, Zion Nuclear Power Station, Units 1 & 2; Confirmatory Order Modifying Licenses (Effective Immediately)

Exelon Generation Company, LLC (Exelon) and AmerGen Energy Company, LLC (AmerGen) (Licensees) are the holders of twenty-one NRC Facility Operating Licenses issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 50, which authorizes the operation of the specifically named facilities in accordance with the conditions specified in each license. Licenses No. NPF–72 and NPF–77 were issued on July 2, 1987, and May 20, 1988, to operate the Braidwood Station, Units 1 and 2. Licenses No. NPF–37 and NPF–66 were issued on February 14, 1985, and January 30, 1987, to operate Byron Station, Units 1 and 2. License No. NPF–62 was issued on April 17, 1987 to operate the Clinton Power Station. Licenses No. DPR–2 and DPR–25 were issued on September 28, 1959, and January 12, 1971, to operate Dresden Nuclear Power Station, Units 1 and 3 (Dresden Station Unit 1 is currently in decommissioning). License No. DPR–19 was extended on February 20, 1991, for Dresden Nuclear Power Station, Unit 2. Licenses No. NPF–11 and NPF–18 were issued on April 17, 1982, and February 16, 1983, to operate LaSalle County Station, Units 1 and 2. Licenses No. NPF–39 and NPF–85 were issued on August 8, 1985, and August 25, 1989, to operate the Limerick Generating Station, Units 1 and 2. License No. DPR–16 was extended on July 2, 1991, for the Oyster Creek Nuclear Generating Station. License No. DPR–12 was issued on January 24, 1966, to operate Peach Bottom Atomic Power Station, Unit 1, which was shut down on October 31, 1974, and is in safe storage. Licenses No. DPR–44 and DPR–56 were issued on October 25, 1973, and July 2, 1974, to operate Peach Bottom Atomic Power Station, Units 2 & 3. Licenses No. DPR–29 and DPR–30 were issued on December 14, 1972, for the operation of both units at the Quad Cities Nuclear Power Station, Units 1 and 2. License No. DPR–50 was issued on April 19, 1974, to operate the Three Mile Island Nuclear Power Station, Unit 1. Licenses No. DPR–39 and DPR–48 were issued on October 19, 1973, and November 14, 1973, for operation of the Zion Nuclear Power Station, Units 1 and 2 (the Zion Station is currently in decommissioning).

On January 29, 2001, the NRC Office of Investigations (OI) initiated an investigation to determine if a former Exelon employee performing work at the Byron Station had been discriminated against for raising safety concerns. In its Report No. 3–2001–005, issued March 26, 2002, OI concluded that an Exelon corporate manager deliberately discriminated against the former employee on August 25, 2000, in violation of the NRC regulations prohibiting employment discrimination, 10 CFR 50.7, ''Employee Protection,'' by not selecting the employee for a new position. On June 17, 2002, the NRC staff contacted Exelon management to schedule a predecisional enforcement conference. To expedite resolution of this matter, Exelon requested the opportunity to present a settlement proposal to the NRC prior to a predecisional enforcement conference. The NRC staff agreed to this request.

Representatives of Exelon met with the NRC staff on July 2, July 18, July 30, September 9 and September 11, 2002, to discuss the terms of the Exelon settlement proposal. In an August 5, 2002 letter, Exelon described the proposed settlement and on September 27, 2002, the Licensees committed to a number of corrective actions with respect to employee protection, agreed to have the corrective actions confirmed by Order, and admitted that a violation of 10 CFR 50.7 had occurred. The corrective actions include, but are not limited to, counseling management personnel involved in the violation of 10 CFR 50.7, and training all vice-presidents and plant managers throughout the Licensees' organization (at every nuclear station and at corporate headquarters) on the provisions of the employee protection regulation. These individuals, in turn, will train their subordinate managers. The Licensees will also modify management training programs as appropriate regarding the provisions of 10 CFR 50.7.

On September 27, 2002, the Licensees consented to issuance of this Order with the commitments described in Section V below, waived any right to a hearing on this Order, and agreed to all terms of this Order, including that it shall be effective immediately.

I find that the Licensees' commitments as set forth in Section V, below, are acceptable and necessary, and conclude that since Exelon admitted the violation of 10 CFR 50.7 and since the Licensees committed to taking comprehensive corrective actions by implementing this Confirmatory Order, the NRC staff's concern regarding employee protection can be resolved through confirmation of the Licensees' commitments by this Order. I further find that the Licensees' approach to resolving this matter is salutary and efficient, and that this resolution is in the public interest. Accordingly, the NRC staff exercises its enforcement discretion pursuant to Section VII.B.6 of the NRC Enforcement Policy and will not issue Notices of Violation or a civil penalty in this case.

Accordingly, pursuant to sections 103, 104b, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *it is hereby ordered, effective immediately, that license Nos. NPF–72, NPF–77, NPF–37, NPF–66, NPF–62, DPR–2, DPR–19, DPR–25, NPF–11, NPF–18, NPF–39, NPF–85, DPR–16, DPR–12, DPR–44, DPR–56, DPR–29, DPR–30, DPR–50, DPR–39, and DPR–48 are modified as follows:*

1. Exelon will counsel and coach personnel involved in the violation of 10 CFR 50.7, which occurred on August 25, 2000, to emphasize the importance of a safety conscious work environment and provisions of 10 CFR 50.7. The counseling will be conducted by a corporate Exelon executive not involved in the violation described herein and who shall be senior to those counseled.

2. An Exelon corporate executive will train and coach every executive-level employee (defined to include plant managers and all vice-president level personnel) throughout the licensed organizations, including every nuclear station and headquarters, on the employee protection provisions of 10 CFR 50.7. The sessions will be conducted by an Exelon executive knowledgeable about the issues involved in the August 25, 2000, violation and will be held in small groups to assure focus and interactive involvement of every executive. The sessions will include a case study of the selection decision that caused this enforcement action and a discussion of the lessons learned.

3. Each executive trained pursuant to Paragraph 2 above will be provided a communications package for use in training the managers in that executive's chain-of-command regarding these issues and the Licensees' expectations for handling employee interactions.

4. The Licensees will enhance training on the prevention of employment discrimination beyond that in its existing management training programs. Lesson plans and other materials used in management training programs on the prevention of employment discrimination will be reviewed and revised as appropriate to address maintaining a safety conscious work environment and the employee protection provisions of 10 CFR 50.7. The on-going training will be conducted at a frequency consistent with the Licensees' existing policies, practices and procedures.

5. The Licensees will review the internal candidate selection process to ensure that the process incorporates the principles of employee protection under 10 CFR 50.7.

6. A communication will be distributed to all employees of the Licensees' organizations that strongly reaffirms management's commitment to fostering a safety-conscious work environment in all organizations at all sites and in its headquarters organization. The Licensees will also reaffirm to all employees the Licensees' commitments to a strong and viable Employee Concerns Program and will reiterate the various means that all employees may employ to raise issues that may be of concern to them.

7. Exelon will review all work environment surveys conducted since September 2000 at the Byron Station (where the former employee previously worked) to assure that management responses to any findings were implemented to assure that no residual effect exists in the safety-conscious work environment at the station as a result of the selection decision. Exelon will provide to the Regional Administrator, NRC Region III, Lisle, Illinois, a written description of the results of this review and any actions taken or planned to be taken to assure that a safety conscious work environment exists at the Byron Station.

8. The Licensees will accomplish these actions within six months of the date of this Order and will furnish a written report of the results achieved to the Director, Office of Enforcement, within 30 days following completion.

The Director, Office of Enforcement may relax or rescind, in writing, any of the above conditions upon a showing by the Licensees of good cause.

Any person adversely affected by this Confirmatory Order, other than the Licensees, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit a request for a hearing must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemaking and Adjudications Staff, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, IL 60532–4351; to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406–1415; and to the Licensees. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR § 2.714(d).[1]

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. A request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 3rd Day of October 2002.

For the U.S. Nuclear Regulatory Commission.

Frank J. Congel,

Director, Office of Enforcement.

[FR Doc. 02–25844 Filed 10–9–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–33887; License No. 49–26808–02; EA–01–302]

In the Matter of High Mountain Inspection Service, Inc., Mills, WY; Order Imposing Civil Monetary Penalty

I

High Mountain Inspection Service, Inc., (Licensee) is the holder of Materials License No. 49–26808–02 issued by the Nuclear Regulatory Commission (NRC or Commission) on

[1] The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows: ''In all other circumstances, such ruling body or officer shall, in ruling on—(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things: (i) The nature of the petitioner's right under the Act to be made a party to the proceeding. (ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding. (iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest. (2) The admissibility of a contention, refuse to admit a contention if: (i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or (ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.

October 3, 1995. The license authorizes the Licensee to conduct radiography activities in accordance with the conditions specified therein.

II

An inspection of the Licensee's activities was completed on January 24, 2002. The results of that inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated May 7, 2002. The Notice states the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the Notice in a letter dated June 18, 2002. In its response, the Licensee admitted to the violations associated with the civil penalty but asserted mitigating extenuating circumstances. Further, the Licensee stated that the NRC did not fully and properly consider the facts presented in the February 27, 2002, predecisional enforcement conference and in the licensee's letter dated April 4, 2002. The licensee requested remission or at least significant mitigation of the civil penalty.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendices to this Order, that the violations occurred as stated and that the penalty proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

The Licensee pay a civil penalty in the amount of $6,000 within 30 days of the date of this Order, in accordance with NUREG/BR–0254. In addition, at the time of making the payment, the licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

In accordance with 10 CFR 2.202, the licensee, and any other person adversely affected by this Order, may request a hearing on this Order within thirty (30) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a ''Request for an Enforcement Hearing''. Any request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011; and to the licensee if the hearing request is by a person other than the licensee. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.*

If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).[1]

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issue to be considered at such hearing shall be whether on the basis of the violations admitted by the Licensee, this Order should be sustained.

Dated this 30th day of September, 2002.

For The Nuclear Regulatory Commission.

Frank J. Congel,

Director, Office of Enforcement.

[FR Doc. 02–25845 Filed 10–9–02; 8:45 am]

BILLING CODE 7590–01–P

[1] The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows: ''In all other circumstances, such ruling body or officer shall, in ruling on—(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things: (i) The nature of the petitioner's right under the Act to be made a party to the proceeding. (ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding. (iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest. (2) The admissibility of a contention, refuse to admit a contention if: (i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or (ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–244]

Rochester Gas and Electric Corporation R.E. Ginna Nuclear Power Plant; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Process

Rochester Gas and Electric Corporation (RG&E) has submitted an application for renewal of Facility Operating License DPR–18 for an additional 20 years of operation at the R.E. Ginna Nuclear Power Plant (Ginna). Ginna is located in Wayne County, New York, approximately 20 miles east of Rochester, New York. The application for renewal was submitted by letter dated July 30, 2002, pursuant to 10 CFR part 54. A notice of receipt of application, including the environmental report (ER), was published in the **Federal Register** on August 26, 2002 (67 FR 54825). A notice of acceptance for docketing of the application for renewal of the facility operating license was published in the **Federal Register** on September 30, 2002 (67 FR 61354). The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement (EIS) in support of the review of the license renewal application and to provide the

public an opportunity to participate in the environmental scoping process, as defined in 10 CFR 51.29.

In accordance with 10 CFR 54.23 and 10 CFR 51.53(c), RG&E submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR part 51 and is available for public inspection at the NRC Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible at *http://www.nrc.gov/reading-rm/adams.html,* which provides access through the NRC's Public Electronic Reading Room (PERR) link. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to *pdr@nrc.gov.* The application may also be viewed on the Internet at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications/ginna.html.* In addition, the Ontario Public Library, located at 1850 Ridge Road, Ontario, New York 14519, and the Rochester Public Library, located at 115 South Avenue, Rochester, New York 14604, have agreed to make the ER available for public inspection.

This notice advises the public that the NRC intends to gather the information necessary to prepare a plant-specific supplement to the Commission's ''Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants,'' (NUREG–1437) in support of the review of the application for renewal of the Ginna operating license for an additional 20 years. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. Section 51.95 of 10 CFR requires that the NRC prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with the National Environmental Policy Act (NEPA) and the NRC's regulations found in 10 CFR part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in the scoping process by members of the public and local, State, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action which is to be the subject of the supplement to the GEIS.

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth.

c. Identify and eliminate, from detailed study, those issues that are peripheral or that are not significant.

d. Identify any environmental assessments and other EISs that are being or will be prepared that are related to, but are not part of the scope of the supplement to the GEIS being considered.

e. Identify other environmental review and consultation requirements related to the proposed action.

f. Indicate the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decision-making schedule.

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies.

h. Describe how the supplement to the GEIS will be prepared, and include any contractor assistance to be used.

The NRC invites the following entities to participate in the scoping process:

a. The applicant, Rochester Gas and Electric Corporation.

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.

d. Any affected Indian tribe.

e. Any person who requests or has requested an opportunity to participate in the scoping process.

f. Any person who intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold public meetings for the Ginna license renewal supplement to the GEIS. The scoping meetings will be held in the Betty Rissberger Community Room of the Webster Public Library in Webster, New York, on Wednesday, November 6, 2002. There will be two sessions to accommodate interested parties. The first session will convene at 1:30 p.m. and will continue until 4:30 p.m., as necessary. The second session will convene at 7 p.m. with a repeat of the overview portions of the meeting and will continue until 10 p.m., as necessary. Both meetings will be transcribed and will include (1) An overview by the NRC staff of the NEPA environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; and (2) the opportunity for interested government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions one hour before the start of each session in the Webster Public Library. No comments on the proposed scope of the supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed below. Persons may register to attend or present oral comments at the meetings on the scope of the NEPA review by contacting Mr. Robert G. Schaaf, by telephone at 1–800–368–5642, extension 1312, or by Internet to the NRC at *GinnaEIS@nrc.gov* no later than October 30, 2002. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. Mr. Schaaf will need to be contacted no later than October 30, 2002, if special equipment or accommodations are needed to attend or present information at the public meeting, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scope of the Ginna license renewal review to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop T–6 D 59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. 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.

during Federal workdays. To be considered in the scoping process, written comments should be postmarked by December 11, 2002. Electronic comments may be sent by the Internet to the NRC at *GinnaEIS@nrc.gov.* Electronic submissions should be sent no later than December 11, 2002, to be considered in the scoping process. Comments will be available electronically and accessible through the NRC's PERR link at *http://www.nrc.gov/reading-rm/adams.html.*

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Notice of opportunity for a hearing regarding the renewal application was the subject of the aforementioned **Federal Register** notice of acceptance for docketing. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The summary will also be available for inspection through the PERR link. The staff will then prepare and issue, for comment, the draft supplement to the GEIS, which will be the subject of separate notices and separate public meetings. Copies will be available for public inspection at the above-mentioned addresses, and one copy per request will be provided free of charge. After receipt and consideration of the comments, the NRC will prepare a final supplement to the GEIS, which will also be available for public inspection.

Information about the proposed action, the supplement to the GEIS, and the scoping process may be obtained from Mr. Schaaf at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 7th day of October, 2002.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 02–25983 Filed 10–9–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Second Pre-PIRT Meeting on Triso Coated Fuel Particles

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

PURPOSE: The Nuclear Regulatory Commission will hold the second pre-PIRT (Phenomena Identification and Ranking Table) meeting to identify phenomena and issues related to TRISO coated fuel particles in order to develop research program. PIRTs have been used at NRC since 1988, and they provide a structured way to obtain a technical understanding that is needed to address certain issues.

DATES: Oct. 31-Nov. 1, 2002 (9 a.m.–5 p.m. and 9 a.m.–4:15 p.m. respectively).

ADDRESSES: Room O–13B4 of the Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, MD.

Participants

This is a technical workshop to be conducted as roundtable discussions and presentation of handouts between the NRC staff and NRC contractors. The agenda is attached. All handouts will be published as part of a NUREG/CR report. The list of invited contractors are as follows:

Brent Boyack, Contractor,
Syd Ball, Oak Ridge National Laboratory,
Robert Morris, Oak Ridge National Laboratory,
David Petti, Idaho National Engineering Laboratory,
Dana Powers, Sandia National Laboratory.

Public Attendance

The meeting will be conducted as roundtable discussions between the invited participants and NRC staff. Although the focus of discussions will be among invited participants and NRC staff, the meeting is open to public. Members of the audience will be given opportunity to comment at the end of the meetings each day. They may also submit written comments after the meeting. All written comments should be received within 15 days of the conclusion of the meeting. All written comments which are received within this period, will be published as part of the NUREG/CR report.

SUPPLEMENTARY INFORMATION: The meeting agenda will be posted on the NRC Web site at *http://www.nrc.gov/RES/meetings.html* by Oct 15, 2002. Attendees will need to obtain a visitor badge at the OWFN building lobby and an escort is required.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Odar, SMSAB, Division of Systems Analysis and Regulatory Effectiveness, Office of Nuclear Regulatory Research, Washington, DC 20555–0001, telephone (301) 415–6500.

Dated at Rockville, Maryland, this 3rd day of October 2002.

For the Nuclear Regulatory Commission.

Farouk Eltawila,

Director, Division of Systems Analysis and Regulatory Effectiveness, Office of Nuclear Regulatory Research.

Agenda—The Second TRISO Fuel Particle Pre-PIRT Meeting, Oct. 31–Nov. 1, 2002, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, MD 20852

Participants

Brent Boyack, Contractor, Chairman,
Dana Powers, Sandia National Laboratory,
David Petti, Idaho National Engineering Laboratory,
Robert Morris, Oak Ridge National Laboratory,
Syd Ball, Oak Ridge National Laboratory,
NRC Staff.

Objectives

- Identify essential points, phenomena and processes associated with TRISO fuel during transient and accident conditions.
- Select importance ranking criteria and scale.
- Perform testing of importance ranking process for a postulated accident scenario.

Thursday, Oct. 31, 2002, Room O–13B4 (North Building, 13th Floor, Room B4)

8:45 a.m. Check-in at front desk.
9:00 Convene meeting, review results of the first meeting (B. Boyack/all).
10:30 Break.
10:45 ORNL presentation/discussion on TRISO particles during accidents/transients.
11:00 INEEL presentation/discussions on TRISO particles during accidents/transients.
12:00 Lunch.
1:00 p.m. Identify essential phenomena/issues associated with TRISO particles during accidents and transients.
3:00 Break.
3:15 Identify essential phenomena/issues associated with TRISO particles during accidents and transients (cont.).
4:45 Public Comment Period.
5:00 Adjourn.

Friday, Nov. 1, 2002, Room O–13B4 (North Building, 13th Floor, Room B4)

8:45 a.m. Check-in front desk.
9:00 Convene meeting, identify essential phenomena/issues associated with TRISO particles during accidents and transients (cont.).
10:30 Break.
10:45 Confirm importance ranking criteria and scale, start performing testing of the PIRT process for a postulated accident.
12:00 Lunch.
1:00 p.m. Perform testing of the PIRT process for a postulated accident.
3:15 Break.
3:30 Confirmation of post-meeting action items (format and content) and due dates.
4:00 Public comment period.
4:15 Adjourn.

[FR Doc. 02–25843 Filed 10–9–02; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee Open Committee Meetings

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, October 24, 2002
Thursday, November 7, 2002
Thursday, November 21, 2002
Thursday, December 5, 2002
Thursday, December 19, 2002

The meetings will start at 10 a.m. and will be held in Room 5A–06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal blue-collar employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

This scheduled meeting will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of a meeting.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on this meeting may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5538, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: September 30, 2002.

Mary M. Rose,

Chairperson, Federal Prevailing Rate Advisory Committee.

[FR Doc. 02–25847 Filed 10–9–02; 8:45 am]

BILLING CODE 6325–49–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25763; File No. 812–12834]

Acacia National Life Insurance Company, et al.; Notice of application

October 4, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of Application for an order pursuant to Sections 17(b) and 11(a) of the Investment Company Act of 1940 (''1940 Act'' or ''Act''), and Rule 17d–1 thereunder.

APPLICANTS: Acacia National Life Insurance Company (''Acacia National''), Acacia National Variable Annuity Separate Account II (''Acacia VA Account''), Acacia National Variable Life Insurance Separate Account I (''Acacia VUL Account,'' collectively with the Acacia VA Account, the ''Acacia Accounts''), Ameritas Variable Life Insurance Company (''AVLIC''), Ameritas Variable Separate Account VA (''AVLIC VA Account''), Ameritas Variable Separate Account VL (''AVLIC VUL Account,'' collectively with the AVLIC VA Account, the ''AVLIC Accounts'') and The Advisors Group, Inc. (''TAG'') (collectively, ''Applicants'').

SUMMARY OF APPLICATION: Applicants seek an order of the Commission (1) permitting the transfer of assets from the Acacia Accounts to the AVLIC Accounts in connection with the assumption reinsurance by AVLIC from Acacia National of the individual variable annuity contracts (the ''Acacia Contracts'') and individual variable life insurance policies (the ''Acacia Policies'') to which those assets relate; (2) permitting any joint arrangement that could be deemed to be associated with those reinsurance transactions; and (3) approving the terms of any offers of exchange that may be deemed to be involved in those reinsurance transactions.

FILING DATES: The application was filed on May 31, 2002 and amended and restated on September 26, 2002, and October 2, 2002.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this Application by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on October 29, 2002, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants: c/o Jorden Burt LLP, 1025 Thomas Jefferson Street, NW, Suite 400 East, Washington, DC 20007–5208, Attention: W. Randolph Thompson, Esq.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Senior Counsel, or Zandra Y. Bailes, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the

application. The complete application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. Acacia National is a stock life insurance company organized under the laws of the Commonwealth of Virginia and a wholly owned subsidiary of Acacia Life Insurance Company (''Acacia Life''). Acacia Life is wholly owned by Ameritas Holding Company, a subsidiary of Ameritas Acacia Mutual Holding Company (''Ameritas Acacia''). On March 29, 2001, Acacia National was re-domesticated in the District of Columbia. Acacia National is engaged in the business of issuing life insurance and annuities throughout the United States, except Alaska, Maine, New Hampshire and New York.

2. The Acacia VA Account is a separate account established by Acacia National on November 30, 1995, for the purpose of funding certain individual variable annuity contracts (''Acacia Contracts''). The Acacia VA Account is registered as a unit investment trust under the 1940 Act (File No. 811–07627), and registration statements filed pursuant to the Securities Act of 1933 (''1933 Act'') are in effect with respect to two Acacia Contracts (File Nos. 333–53732 and 333–03963).

3. The Acacia VUL Account is a separate account established by Acacia National on January 31, 1995, under Virginia law for the purpose of funding certain individual variable life insurance policies (''Acacia Policies''). The Acacia VUL Account is registered as a unit investment trust under the 1940 Act (File No. 811–8998), and registration statements filed pursuant to the 1933 Act are in effect with respect to three Acacia Policies (File Nos. 33–90208, 333–95593 and 333–81057).

4. All assets of the Acacia Accounts are invested in shares of portfolios of various investment companies (''Underlying Portfolios'') each of which is registered under the 1940 Act, and the shares of each of which are registered pursuant to the 1933 Act.

5. AVLIC is a stock life insurance company organized under the laws of the State of Nebraska. AVLIC is engaged in the business of issuing life insurance and annuities throughout the United States, except New York. AVLIC is an indirect majority-owned subsidiary of Ameritas Acacia, the ultimate parent of Ameritas Life Insurance Corp. (''Ameritas Life''). In 1996, Ameritas Life entered into a joint venture with AmerUs Life Insurance Company (''AmerUs'') forming AMAL Corporation (''AMAL''), a holding company that initially owned the common stock of AVLIC and Ameritas Investment Corporation. As of April 1, 2002, shares of AMAL were also transferred to Acacia Life, Acacia National and Acacia Financial Corp. (''AFCO'').

AmerUs is a life insurance company with its principal place of business in Des Moines, Iowa. It is a wholly-owned subsidiary of AmerUs Group Co. and is not affiliated with Ameritas Life other than through the joint ownership of AMAL. Both Ameritas Life and AmerUs now guarantee the obligations of AVLIC through their agreement forming AMAL Corporation (''AMAL''), a holding company that owns the common stock of AVLIC, and is in turn a majority-owned subsidiary of Ameritas Life.

6. The AVLIC VA Account is a separate account newly established by AVLIC under Nebraska law for the purpose of funding certain individual variable annuity contracts (''AVLIC Contracts'' collectively with the Acacia Contracts, ''Variable Contracts''). The AVLIC VA Account is registered as a unit investment trust under the 1940 Act, and registration statements filed under the 1933 Act are in effect with respect to the AVLIC Contracts.

7. The AVLIC VUL Account is a separate account newly established by AVLIC under Nebraska law for the purpose of funding certain individual variable life insurance policies (''AVLIC Policies'' collectively with the Acacia Policies, ''Variable Policies''). The AVLIC VUL Account is registered as a unit investment trust under the 1940 Act, and registration statements filed pursuant to the 1933 Act are in effect with respect to the AVLIC Policies.

8. All assets of the AVLIC Accounts, like those of the Acacia Accounts, will be invested in shares of the Underlying Portfolios. There will be no change in the investment advisers, or sub-advisers to, assets of, or charges imposed by, the Underlying Portfolios in connection with, or by virtue of, any of the transactions described below. The AVLIC Contracts are identical to the Acacia Contracts, and the AVLIC Policies are identical to the Acacia Policies in all material respects, including current and maximum permitted charges. The AVLIC Contracts will be issued in exchange for the variable portion of the Acacia Contracts, and the AVLIC Policies will be issued in exchange for the variable portion of the Acacia Policies as part of the assumption reinsurance transactions described below.

9. TAG is an affiliate of Acacia National and wholly owned by AFCO, a subsidiary of Acacia Life, and serves as the distributor of the Acacia Contracts and Policies. TAG is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 (the ''1934 Act'') and is a member of the National Association of Securities Dealers, Inc. (the ''NASD''). TAG enters into selling group agreements with affiliated and unaffiliated broker-dealers. The Acacia Contracts and Policies are sold by licensed insurance agents who are registered representatives of TAG or other broker-dealers that are registered under the 1934 Act and are members of the NASD.

10. Applicants propose to implement, as part of a larger reorganization plan to consolidate their product lines and corporate organization, a restructuring that would permit AVLIC, through the AVLIC Accounts, to serve as the issuer of the Variable Contracts and Policies. The restructuring would be accomplished through an asset transfer agreement, modified coinsurance agreement and assumption reinsurance agreement.

11. On April 1, 2002, Acacia National entered into a modified coinsurance agreement (the ''Coinsurance Agreement'') with AVLIC relating to the Acacia Contracts and Policies. Under that agreement, AVLIC agreed to accept, and to reinsure and indemnify, and Acacia National agreed to ''cede'' (*i.e.*, transfer to) and reinsure with AVLIC, all of Acacia's National's obligations with respect to the variable portion of the Acacia Contracts and the variable portion of the Acacia Policies, including any and all riders and any supplementary contracts associated therewith, and any Acacia Contracts or Policies in the process of 1035 exchanges. AVLIC agreed that the reinsurance under the Coinsurance Agreement would (a) be coinsurance on all of the rights, obligations and liabilities of Acacia National under the Acacia Contracts and Policies, (b) follow the forms of Acacia National, and (c) be in the amount of the benefit provided by the Acacia Contracts and Policies. Coinsurance involves reinsurance of the obligations of an issuer of insurance contracts where both the issuer of the contracts and the reinsurer remain fully obligated under the contracts, and the owner of the contract may look to either or both for performance of the issuer's obligations under those contracts. If Acacia Contracts or Policies are surrendered or terminated before the effective date of the Coinsurance Agreement but are reinstated before the effective date, those Contracts and Policies will be covered under the Coinsurance Agreement. For all other

incidents occurring at any time, AVLIC is responsible for any and all rights, obligations or liabilities under the Acacia Contracts and Policies, to the extent not paid for prior to the effective date of the Coinsurance Agreement, and for the maintenance of any assets or reserves in connection therewith. Concurrently with the execution of the Coinsurance Agreement, Acacia National and AVLIC also entered into and executed an assumption reinsurance agreement (the ''Assumption Agreement''). The Assumption Agreement is a true novation or substitution of one insurer (AVLIC) for the other (Acacia National) after which owners of Acacia Contracts or Policies which have been ''assumption reinsured'' could look only to AVLIC (and no longer to Acacia National) for performance of the obligations under the AVLIC Contracts and Policies.

12. In accordance with the Agreement of Merger and Plan of Reorganization (''TAG Merger Agreement'') with an effective date of April 1, 2002, AMAL will transfer 2.97% of the outstanding stock of AMAL to AFCO. In return, AFCO agrees to transfer all outstanding stock of TAG to AMAL. Following the closing of the TAG Merger Agreement, AMAL will continue to be a directly majority-owned subsidiary of Ameritas Life.

13. In accordance with the Asset Transfer Agreement with an effective date of April 1, 2002, AVLIC will transfer 7.43% of the outstanding stock of AMAL to Acacia National. Following the closing of the Asset Transfer Agreement, AMAL will continue to be a directly majority-owned subsidiary of Ameritas Life.

14. In accordance with the Distribution Commitment Agreement for Variable Business (''Distribution Agreement'') with an effective date of April 1, 2002, AVLIC will transfer 3.48% of the outstanding stock of AMAL to Acacia Life. Following the closing of the Distribution Agreement, AMAL will continue to be a directly majority-owned subsidiary of Ameritas Life.

Prior to all stock transfers, 61% of AMAL's stock was owned by Ameritas Life and 39% was owned by AmerUs. When all of these transactions have been completed, AMAL's stock ownership will be: Ameritas Life, 52.53%; AmerUs, 33.59%; Acacia Life, 3.48%; Acacia National, 7.43%; and AFCO, 2.97%.

15. Acacia National and AVLIC entered into the Assumption Agreement with an effective date of April 1, 2002. Assumption reinsurance is reinsurance where only the company reinsuring the issuing company assumes all of the obligations under the contracts or policies reinsured; the company that issued the contracts or policies would no longer be obligated in any way on those contracts and policies covered by the assumption reinsurance. In the Assumption Agreement, Acacia National agreed to transfer to AVLIC (by way of assumption reinsurance) all of its obligations and liabilities under the Acacia Contracts and Policies and all of its rights thereunder (*e.g.*, the rights to receive contract or policy charges), and AVLIC agreed to assume all of those obligations (*e.g.*, the obligation to pay surrender values and death benefits), liabilities and rights. AVLIC will issue an ''assumption certificate'' approved for use by the appropriate state insurance regulatory authorities, to each owner of an Acacia Contract or Policy (an ''Owner'') to be reinsured by it. The assumption certificate will inform the Owner of AVLIC's assumption of Acacia National's obligations, liabilities and rights under the Acacia Contracts and Policies, that the Owner will become a contract or policy owner of AVLIC and that there will be no impact on his or her contract or policy Value as a result of the Assumption Agreement. No fee or commission is payable by or to Acacia National or by or to any other party to the Assumption Agreement.

16. The Assumption Agreement is also subject to the satisfaction of various conditions, including the making of all required filings with and obtaining all necessary approvals of applicable state insurance authorities. All of the conditions precedent to the obligations of AVLIC and Acacia National pursuant to the Assumption Agreement are to be fulfilled or satisfied by the closing date of the Assumption Agreement, including the assignment or novation of the Coinsurance Agreement for the benefit of AVLIC. However, it is anticipated that the transfer and assumption will take place in a series of transactions, because all required clearances from state insurance authorities to the assumption reinsurance of the Acacia Contracts and Policies may not have been obtained at the time of the closing date. Until any Acacia Contracts or Policies that cannot be assumption reinsured on the closing date of the Assumption Agreement can be assumption reinsured, they will continue to be governed by the Coinsurance Agreement, under which AVLIC will perform all functions necessary for the proper administration of the Acacia Contracts and Policies, but Acacia National will remain obligated under those Contracts and Policies.

17. The assumption reinsurance of the Acacia Contracts and Policies is subject to, among other things, the parties having obtained from the Commission any order necessary to permit the transactions; and having effective registration statements under the 1933 Act relating to the AVLIC Contracts and Policies that are to be issued in exchange for the Acacia Contracts and Policies. Consequently, Applicants expect the assumption reinsurance of the Acacia Contracts and Policies to take place at dates subsequent to the closing date of the Assumption Agreement. When all conditions to the closing of the agreement as it relates to the Acacia Contracts and Policies have been satisfied, assets of the Acacia Accounts equal to the contract liabilities attributable to the fixed and variable portions of the Acacia Contracts and Policies being assumption reinsured will be transferred to AVLIC. Because many states require that Owners be given the opportunity to voice their opinion on the assumption of their contracts or policies (''opt in'' and ''opt out'' rights), Applicants expect AVLIC to initially assumption reinsure Acacia Contracts and Policies in approximately four states, and thereafter to reinsure Acacia Contracts and Policies in the remaining jurisdictions upon obtaining the necessary state authority or approvals. Subsequent assumption reinsurance with respect to the Acacia Contracts and Policies will take place in a series of transactions as state authority or approvals are obtained and required notifications have been made to Owners.

18. Upon the assumption reinsurance of an Acacia Contract or Policy, AVLIC will issue an assumption certificate to the Owner. The assumption certificate will inform the Owner of the assumption by AVLIC of all of Acacia National's liabilities under the Acacia Contracts and Policies. In addition, because the charges against assets of the AVLIC Accounts (sometimes referred to herein as the ''Reinsuring Accounts'') under AVLIC Contracts and Policies are identical to the charges against assets of the Acacia Accounts under the corresponding Acacia Contracts and Policies, the assumption certificate will also inform the Owner that there will be no impact on the Owner's contract or policy value because of the assumption reinsurance transactions contemplated in the Assumption Agreement. After receipt of an assumption certificate, an Owner will deal directly with AVLIC, and any further premiums the Owner wishes to apply to an Acacia Contract or

Policy will be forwarded directly to AVLIC for allocation to the appropriate AVLIC Account.

19. The terms of the AVLIC Contracts or Policies are the same as those of the Acacia Contracts and Policies, but for the issuer of the respective Contracts or Policies. The assumption reinsurance of the Acacia Contracts and Policies will not change the number of accumulation or annuity units credited under the Variable Contracts or Policies or the value of such units, which will continue to be affected only by the investment performance of the Underlying Portfolios. Further, because shares of the Underlying Portfolios held by the Acacia Accounts will be transferred to the Reinsuring Accounts on the date a reinsurance transaction is effected, and because both the Acacia Accounts and the Reinsuring Accounts are administered at the same location using the processing system, there will be no interruption of investment performance. No charges or expenses will be incurred by the Acacia Accounts, the Reinsuring Accounts or the Underlying Portfolios in connection with the transfer of shares of the Underlying Portfolios because the transfer will be made by book entry on the shareholder records of the Underlying Portfolios. There will be no change in the values of any amounts allocated to fixed account funding options under the Acacia Contracts or Policies, and no charges to those accounts will be made as a result of the assumption reinsurance transactions. Any costs of the transactions will be born by ALVIC. Accordingly, contract values under AVLIC Contracts and Policies will be the same as they would have been under the Acacia Contracts and Policies had the assumption reinsurance transaction not occurred. The AVLIC Contracts and Policies will be sold through the same principal underwriter (TAG) after the assumption reinsurance transactions. There will be no tax consequences, adverse or otherwise, to Owners as a result of the assumption reinsurance of their Acacia Contracts or Policies. Finally, the fixed guarantee obligations that are not allocated to the AVLIC Accounts (*e.g.*, minimum death benefit and fixed account accumulations) will be supported by the general account assets of AVLIC and by guarantees of AVLIC's obligations by two of its parents, Ameritas Life and AmerUs. These fixed obligations are thus supported by far greater assets than those of Acacia National.

20. Applicants anticipate that one or more jurisdictions may require that Owners of Acacia Contracts or Policies assumption reinsured by AVLIC be afforded the right to ''opt out'' of or ''opt in'' to the assumption reinsurance of their Contracts or Policies. Thus, a state may require that an Owner be permitted to object to the assumption reinsurance of his or her Acacia Contract or Policy within a specified number of days after the Owner receives notice by means of a negative consent (''opt out'') or affirmative consent (''opt in'') to the assumption reinsurance transaction. If, under such an opt out provision, timely objection from the Owner were received by the reinsuring company, the Acacia Contract or Policy would be not be assumption reinsured, and the Owner would continue to deal directly with Acacia National as to all aspects of his or her Acacia Contract or Policy. However, the Acacia Contract or Policy would continue to be coinsured by AVLIC and AVLIC would perform all administrative services with respect to the Acacia Contract or Policy pursuant to the Coinsurance Agreement. The assumption reinsurance transaction and related requests to Owners for consents in connection with opt in or opt our rights will comply in all respects with applicable state insurance laws.

21. Acceptance of an opt out right after the assumption reinsurance transaction has occurred will result in the Owner being restored to the same position he or she would have had if the transaction had not taken place. The number of accumulation units or annuity units credited under a Variable Contract or Policy will remain unchanged, and the value of such units will be identical to what it would have been had the reinsurance transaction not occurred. In addition, there will be no tax consequences to the Owner resulting from the election of the opt out right.

22. AVLIC may continue to afford Owners who have previously opted out of (or have not opted in to) the assumption reinsurance of their Acacia Contracts or Policies a second opportunity to have their contract or policy assumed by AVLIC by issuing to them a second assumption certificate which would include any state-mandated opt out (or opt in) provision. Owners opting out (or opting in to) the reinsurance of their Acacia Contracts or Policies at this time would thereafter remain with Acacia National and have their contract or policy values based on the applicable Acacia Account. Because Applicants anticipate that only a few Owners will remain with Acacia National, Acacia National may seek at a future date to deregister the Acacia Accounts pursuant to Section 8(f) of the 1940 Act or to take such other steps as it deems appropriate to reduce the number of Acacia Contracts and Policies outstanding or the administrative burdens presented by such contracts and policies.

23. On or about September 25, 2002, AVLIC sent assumption certificates to Owners in those states where the assumption has received state insurance regulatory approval. Concurrent with this mailing, ALVIC sent, under separate cover letter, the applicable ALVIC prospectus to each Owner. The majority of these states allow for the assumption reinsurance to be become effective either: (a) Immediately upon mailing of this notice; or (b) upon the passage of time (anywhere from 10 to 30 days) after the mailing of the certificate, assuming the Owners fail to send an ''opt out'' notice during this time period. The ''opt out'' rights were explained in the written materials sent to each Owner with the AVLIC prospectuses. For Owners in such states, the assumption certificate and cover letter stated that Acacia National and AVLIC will assumption reinsure this portion of the Acacia Policies effective November 1, subject to receiving an order from the Commission granting the application. (Any mention of receiving an order in this or other communications stated or will state that there can be no assurance of the order being issued.)

Another category of Owners receiving the mailings made on or about September 25th, including the current prospectus, were those in states that require affirmative election from Owners to ''opt in'' to the assumption reinsurance transaction. Materials provided to those individuals explained that the reinsurance will become effective only: (a) After receiving an order from the Commission granting the application; (b) after receiving an affirmative ballot from the Owner electing to participate in the assumption transaction; and (c) in any case, not before November 1, 2002.

Finally, Owners in states that had not approved the assumption reinsurance transaction by September 25 will be mailed assumption certificates, current prospectuses, and other appropriate materials as their states approve the transaction. Owners in such states will in all instances receive these materials at least 30 days (assuming reasonable mail delivery) prior to the assumption becoming effective, and always subject to the state opt-in or opt-out requirements and Applicants having received the order requested in their application with the Commission.

Applicants' Legal Analysis

1. Section 17(a)(1) of the 1940 Act, in pertinent part, prohibits any affiliated

person or promoter of or principal underwriter for a registered investment company, or any affiliated person of such an affiliated person, promoter or principal underwriter, acting as principal from knowingly selling to or purchasing from such registered company any security or other property with exceptions not relevant to the transactions described in the application.

2. Section 2(a)(3) of the Act defines ''affiliated person'' of another person in pertinent part as (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; (b) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with, such other person; or (d) if such other person is an investment company, any investment adviser thereof or any member of an advisory board thereof.

3. Applicants state that the prohibitions of section 17(a) would apply to the Acacia Accounts' sale of shares of the Underlying Portfolios to AVLIC in connection with the assumption reinsurance of the Acacia Contracts and Policies if the Acacia Accounts were deemed to have been at that time under common control with the Reinsuring Accounts and, therefore, an affiliated person of registered investment companies. Similarly, section 17(a) would prohibit the Reinsuring Accounts' purchase of shares of the Underlying Portfolios from the Acacia Accounts if the Reinsuring Accounts were deemed to have been affiliated persons of the Acacia Accounts, also registered investment companies. Moreover, section 17(a) applies to the Reinsuring Accounts' purchases of shares of the Underlying Portfolios because of AVLIC's affiliation with TAG, which will continue to act as principal underwriter for the Acacia Accounts.

4. Section 17(b) of the 1940 Act provides that, notwithstanding section 17(a), a person may file with the Commission an application for an order exempting a proposed transaction of the applicant from one or more of the prohibitions of section 17(a). The Commission shall grant such application if evidence establishes that: (a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and in reports filed under the Act; and (c) the proposed transaction is consistent with the general purposes of the Act.

5. Applicants seek an order of the Commission under section 17(b) of the 1940 Act granting an exemption from the prohibitions of section 17(a) to the extent necessary to permit the transfer of shares of the Underlying Portfolios from the Acacia Accounts to the Reinsuring Accounts in connection with the assumption reinsurance of the Acacia Contracts and Policies. Applicants submit that the proposed transfer of shares meets the standards for relief imposed by section 17(b) of the Act.

6. Applicants submit that the terms of the proposed arrangement are fair and reasonable and do not involve overreaching. The proposed arrangement is not susceptible to the kinds of serious harms that could result from a violation of section 17(a). Applicants state that there is no possibility of any overreaching or disadvantageous pricing because the only consideration to be received by the Acacia Accounts and to be paid by the Reinsuring Accounts is the Reinsuring Accounts' assumption of the obligations and liabilities held in the Acacia Accounts with respect to the Acacia Contracts and Policies being assumption reinsured. The value of the shares of the Underlying Portfolios to be transferred will equal the amount of the liabilities assumed, and that value will be computed in accordance with provisions of the 1940 Act and the rules thereunder.

7. Applicants also submit that the terms of the transactions will be consistent with the investment objectives and policies of the Acacia Accounts and Reinsuring Accounts because the objectives and policies of the Acacia Accounts and Reinsuring Accounts are to invest exclusively in shares of the Underlying Portfolios.

8. Finally, Applicants submit that the proposed transactions are consistent with the general purposes of the 1940 Act because the interests of the Owners are not adversely affected by the assumption reinsurance of their Acacia Contracts or Policies. As noted, the terms of the Variable Contracts and Policies remain unchanged, and the value of the Variable Contracts and Policies are unaffected by the transactions. AVLIC has been providing administrative services for the Acacia Contracts and Policies, so services provided will remain the same. Further, the proposed assumption reinsurance of the Acacia Contracts and Policies affords Owners the opportunity to have their contracts and policies remain with a company that is part of the Ameritas Acacia group and that is committed to the issuance of variable annuities and other variable products.

9. Section 17(d) of the 1940 Act, in pertinent part, prohibits any affiliated person of or principal underwriter for a registered investment company, or any affiliated person of such an affiliated person or principal underwriter, acting as principal from effecting any transaction in which such registered company is a joint or joint and several participant with such person, principal underwriter or affiliated person in contravention of rules and regulations adopted by the Commission if the participation of the registered company is on a basis different from or less advantageous than that of other participants.

10. Rule 17d–1 under the Act provides, in pertinent part, that no affiliated person of or principal underwriter for any registered investment company and no affiliated person of such a person or principal underwriter, acting as principal, shall participate in, or effect any transaction in connection with, any ''joint enterprise or other joint arrangement or profit-sharing plan'' in which such registered company is a participant unless an application with regard thereto has been granted by order of the Commission. Rule 17d–1(c) defines ''joint enterprise or other joint arrangement or profit-sharing plan'' as any arrangement or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of or a principal underwriter for such registered investment company, or any affiliated person of such a person or principal underwriter, have a joint or a joint and several participation, or a share in the profits of such enterprise or undertaking.

11. Applicants state that it is possible that the assumption reinsurance arrangements could be deemed to be subject to Rule 17d–1. Accordingly, Applicants request an order pursuant to Rule 17d–1 to permit, to the extent necessary, the proposed assumption reinsurance arrangements. Rule 17d–1 provides that in passing upon an application filed pursuant to the rule, the Commission will consider ''whether the participation of such registered or controlled company in such joint enterprise, joint arrangement or profit-sharing plan on the basis proposed is

consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.''

12. Applicants assert that if the relief from the provisions of Sections 17(a) and 11 requested herein is granted, the proposed assumption reinsurance agreement will not otherwise be inconsistent with any provision, policy or purpose of the 1940 Act. As noted, the principal effect of the reinsurance transactions will be to substitute a new insurance company responsible for the performance of the obligations of the Acacia Contracts and Policies. Applicants state that although the participation of each registered investment company in the reinsurance arrangement is different from that of the other participants, such difference is attributable to the separate and distinct interests of each party to the transaction. Applicants maintain that because the assumption reinsurance agreement is fair to Owners and will not affect the underlying investments on which the performance of their Variable Contracts or Policies depends, the requested relief should be granted.

13. Section 11(a) of the 1940 Act makes it unlawful for a registered open-end investment company, or its principal underwriter, to offer securities of an open-end investment company in exchange for other securities of the same or another open-end investment company unless the exchange either is based on the respective net asset values of the securities or the terms of the offer have received prior approval of the Commission. Section 11(c) of the Act provides that in the case of a unit investment trust the prohibition of Section 11(a) is applicable regardless of the basis of exchange.

14. Rule 11a–2 under the 1940 Act permits an offer by a registered variable annuity separate account or any principal underwriter for such an account to the holder of a security of any other registered variable annuity separate account having an insurance company depositor or sponsor that is an affiliate of the offering account's depositor or sponsor to exchange his or her security for a security of the offering account when both contracts are subject to a deferred sales load if: (a) The exchange is made at the relative net asset values of the securities to be exchanged, with exceptions not here applicable; (b) the deferred sales load imposed on the acquired security is calculated as if the holder of such security had been the holder thereof from the date on which he or she became the holder of the exchanged security and purchase payments made for the exchanged security had been made for the acquired security on the dates on which they were made for the exchanged security; and (c) the deferred sales load imposed on the acquired security does not exceed nine percent of the sum of the purchase payments made for the acquired security and the exchanged security.

15. The assumption reinsurance of the Acacia Contracts and Policies by AVLIC will involve the issuance of AVLIC Contracts and Policies in exchange for the Acacia Contracts and Policies. Applicants believe that in most states this may be done without the consent of Owners. However, certain states may require that Owners resident in that state be given the right to object to the exchange by requiring that they be afforded the right to opt out of (or not opt in to) the reinsurance of their Acacia Contracts or Policies. Where such right is provided, an offer of exchange may be deemed to exist to which the provisions of Sections 11(a) and (c) may apply.

16. Applicants assert that any offers of exchange involved in the assumption reinsurance of the Acacia Contracts will satisfy all of the conditions of Rule 11a–2 and will be permitted by that rule. Accordingly, no Section 11 relief is requested in connection with that aspect of the reinsurance transactions. However, Applicants state that there is uncertainty that the relief in Rule 11a–2(b)(2) would extend to an offer of exchange of variable life insurance contracts. Accordingly, Applicants request approval, to the extent necessary, of any exchange offers that may be deemed to be entailed in the assumption reinsurance of the Acacia Policies.

17. Applicants assert that any offers of exchange involved in the assumption reinsurance of the Acacia Policies would satisfy all of the conditions of Rule 11a–2 because they will be made at the relative net asset values of the securities to be exchanged; any deferred sales load imposed on the AVLIC Policies will be calculated as if the Owner had been the holder thereof from the date on which he or she became the holder of the Acacia Policy, and purchase payments applied to the Acacia Policy had been made for the AVLIC Policy on the dates on which they were applied to the Acacia Policy; and the deferred sales load imposed under the AVLIC Policy will not exceed nine percent of the sum of the purchase payments made for the Acacia and AVLIC Policies.

18. Applicants request an order pursuant to Section 11(a) under the 1940 Act to the extent necessary to permit the offers of exchange that may be deemed to be involved in the assumption reinsurance of the Acacia Policies. Applicants assert that, because no new sales or other charges will be assessed in connection with the assumption reinsurance of the Acacia Policies by AVLIC, the principal abuse at which Section 11(a) is directed will not be present. Section 11(c) of the 1940 Act requires Commission approval, irrespective of the basis of exchange, where a unit investment trust security is exchanged for another investment company security. The requirement of approval of such exchanges appears to have been designed to avoid possible unfairness latent in such exchanges, even if they are made at net asset value.

19. Applicants submit that the terms of any offers of exchange involved in the proposed assumption reinsurance of the Acacia Policies by AVLIC are fair and should be approved by the Commission. As previously stated, no new sales or other charges will be assessed at the time of, or as a result of, the assumption reinsurance of the Acacia Policies, and no provisions of the Variable Policies will be changed at the time of, or as a result of, assumption reinsurance of the Policies. Owners will have the same opportunity as they currently have to invest in the same Underlying Portfolios, and the number and value of the accumulation and annuity units credited under an AVLIC Policy at the time an Acacia Policy is assumption reinsured will be the same as they would have been if the assumption reinsurance transaction had not taken place. If an Owner should elect to opt out of the assumption reinsurance of his or her Acacia Policy after the transaction has occurred, the number and value of the accumulation units and annuity units credited under his or her Acacia Policy upon its reissue will be the same as if the reinsurance had not taken place. As noted, neither the reinsurance of the Acacia Policies nor the election to opt out of (or not opt in to) the reinsurance transaction will have any adverse tax consequences to Owners. Finally, any exchange of variable life policies will be made at the relative net asset values of the securities to be exchanged and any deferred sales loads imposed under the AVLIC Policies will comply with the provisions of Rule 11a–2(d) under the 1940 Act.

20. Applicants state that, in effect, the only material change resulting from the reinsurance of the Acacia Policies is a change in the insurance company directly responsible to Owners for the performance of Variable Policy obligations, for under the Coinsurance Agreement described above, AVLIC will

not only perform all administrative services with respect to the Acacia Policies not assumption reinsured but it will bear any gain or loss that Acacia National would otherwise incur with respect to such Acacia Policies. Applicants state that AVLIC has substantial assets, and capital and surplus to assure the performance of its respective obligations under the Variable Policies. Further, Owners will receive current prospectuses for the AVLIC Policies and will have sufficient information on which to base any opt-in or opt-out decision.

Conclusion

For the reasons stated herein, Applicants submit that the terms of the proposed transaction meet all of the requirements of Sections 17(b) and 11(a) of the 1940 Act, and of Rule 17d–1 thereunder and that an order should, therefore, be granted.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–25743 Filed 10–9–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46587; File No. SR–CHX–2002–32]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated To Reinstate and Extend a Pilot Rule Interpretation Relating to Trading of Nasdaq/NM Securities in Subpenny Increments

October 2, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 1, 2002, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6)[4] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reinstate and extend through January 31, 2003, the pilot rule interpretation relating to the trading of Nasdaq/NM securities in subpenny increments. The pilot expired on September 30, 2002. The CHX does not propose to make any substantive or typographical changes to the pilot; the only change is a reinstatement and extension of the pilot's expiration date through January 31, 2003. The text of the proposal is available at the Commission and at the CHX.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CHX included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 6, 2001, the Commission approved, on a pilot basis through July 9, 2001, a pilot rule interpretation (CHX Article XXX, Rule 2, Interpretation and Policy .06 ''Trading in Nasdaq/NM Securities in Subpenny Increments'')[5] that requires a CHX specialist (including a market maker who holds customer limit orders) to better the price of a customer limit order in his book which is priced at the national best bid or offer (''NBBO'') by at least one penny if the specialist determines to trade with an incoming market or marketable limit order. The pilot was extended on three occasions and expired on September 30, 2002.[6] The CHX now proposes to reinstate and extend the pilot through January 31, 2003. The CHX proposes no other changes to the pilot, other than reinstating and extending it through January 31, 2003.

2. Statutory Basis

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[7] In particular, the CHX believes the proposal is consistent with Section 6(b)(5) of the Act[8] in that it is designed to promote just and equitable principles of trade, to remove impediments to, and to perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate 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 were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6). The Commission waived the 5-day pre-filing notice requirement.

[5] *See* Securities Exchange Act Release No. 44164 (April 6, 2001), 66 FR 19263 (April 13, 2001)(SR-CHX–2001–07).

[6] *See* Securities Exchange Act Release No. 44535 (July 10, 2001), 66 FR 37251 (July 17, 2001) (SR–CHX–2001–15); Securities Exchange Act Release No. 45062 (November 15, 2001), 66 FR 58768 (November 23, 2001) (SR–CHX–2001–21); Securities Exchange Act Release No. 45386 (February 1, 2002), 67 FR 6062 (February 8, 2002) (SR–CHX–2002–02); Securities Exchange Act Release No. 45755 (April 15, 2002) 67 FR 19607 (April 22, 2002) (SR–CHX–2002–10).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

or otherwise in furtherance of the purposes of the Act.

Nasdaq has requested that the Commission waive both the 5-day notice and the 30-day operative delay. The Commission believes waiving the 5-day notice and 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the pilot to be reinstated and to continue uninterrupted through January 31, 2003, and allow the Commission to further study the trading of Nasdaq/NM securities in subpenny increments. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to file number SR–CHX–2002–32 and should be submitted by October 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

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[11] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46586; File No. SR–NASD–2002–132]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., To Extend the Pilot for Limit Order Protection of Securities Priced in Decimals

October 2, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 26, 2002, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6)[4] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to extend through January 31, 2003, the current pilot price-improvement standards for decimalized securities contained in NASD Interpretative Material 2110–2—Trading Ahead of Customer Limit Order (''Manning Interpretation'' or ''Interpretation''). Without such an extension these standards would terminate on September 30, 2002. Nasdaq does not propose to make any substantive changes to the pilot; the only change is an extension of the pilot's expiration date through January 31, 2003. Nasdaq requests that the Commission waive both the 5-day notice and 30-day operative requirements contained in Rule 19b–4(f)(6)(iii)[5] of the Act. If such waivers are granted by the Commission, Nasdaq will implement this rule change immediately.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] 17 CFR 240.19b–4(f)(6)(iii).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD's Manning Interpretation requires NASD member firms to provide a minimum level of price improvement to incoming orders in NMS and SmallCap securities if the firm chooses to trade as principal with those incoming orders at prices superior to customer limit orders they currently hold. If a firm fails to provide the minimum level of price improvement to the incoming order, the firm must execute its held customer limit orders. Generally, if a firm fails to provide the requisite amount of price improvement and also fails to execute its held customer limit orders, it is in violation of the Manning Interpretation.

On April 6, 2001,[6] the Commission approved, on a pilot basis, Nasdaq's proposal to establish the following price improvement standards whenever a market maker wished to trade proprietarily in front of its held customer limit orders without triggering an obligation to also execute those orders:

(1) For customer limit orders priced at or inside the best inside market displayed in Nasdaq, the minimum amount of price improvement required is $0.01; and

(2) For customer limit orders priced outside the best inside market displayed in Nasdaq, the market maker must price improve the incoming order by executing the incoming order at a price at least equal to the next superior minimum quotation increment in Nasdaq (currently $0.01).[7]

[6] *See* Securities Exchange Act Release No. 44165 (April 6, 2001), 66 FR 19268 (April 13, 2001) (order approving proposed rule change modifying NASD's Interpretative Material 2110–2—Trading Ahead of Customer Limit Order).

[7] Pursuant to the terms of the Decimals Implementation Plan for the Equities and Options

Continued

Since approval, these standards have operated on a pilot basis and are currently scheduled to terminate on September 30, 2002. After consultation with Commission staff, Nasdaq seeks an extension of its current Manning pilot until January 31, 2003. Nasdaq believes that such an extension provides for an appropriate continuation of the current Manning price-improvement standard while the Commission analyzes the issues related to customer limit order protection for decimalized securities, and reviews Nasdaq's separately filed rule proposal to make this pilot permanent.[8]

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[9] in that it is designed to: (1) Promote just and equitable principles of trade; (2) foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities; (3) perfect the mechanism of a free and open market and a national market system; and (4) protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Nasdaq has requested that the Commission waive both the 5-day notice and the 30-day operative delay. The Commission believes waiving the 5-day notice and 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the pilot to continue uninterrupted through January 31, 2003, and will allow Nasdaq and the Commission to analyze the issues related to customer limit order protection in a decimals environment. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of Nasdaq. All submissions should refer to file number SR–NASD–2002–132 and should be submitted by October 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–25745 Filed 10–9–02; 8:45 am]

BILLING CODE 8010–01–P

Markets, the minimum quotation increment for Nasdaq securities (both National Market and SmallCap) at the outset of decimal pricing is $0.01. As such, Nasdaq displays priced quotations to two places beyond the decimal point (to the penny). Quotations submitted to Nasdaq that do not meet this standard are rejected by Nasdaq systems. *See* Securities Exchange Act Release No. 43876 (January 23, 2001), 66 FR 8251 (January 30, 2001).

[8] *See* SR–NASD 2002–10.

[9] 15 U.S.C. 78o–3 (b)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46585; File No. SR–NASD–2002–131]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., To Extend the Pilot for the Operation of the Short Sale Rule in a Decimals Environment

October 2, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 26, 2002, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6)[4] thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to extend through January 31, 2003, the penny ($0.01) legal short sale standard contained in NASD Interpretative Material 3350 (''IM–3350''). Without such an extension this standard would terminate on September 30, 2002. Nasdaq does not propose to make any substantive changes to the pilot; the only change is an extension of the pilot's expiration date through January 31, 2003. Nasdaq requests that the Commission waive both the 5-day notice and 30-day operative requirements contained in Rule 19b–4(f)(6)(iii)[5] of the Act. If such

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] 17 CFR 240.19b–4(f)(6)(iii).

waivers are granted by the Commission, Nasdaq will implement this rule change immediately.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On March 2, 2001, the Commission approved, on a one-year pilot basis ending March 1, 2002,[6] Nasdaq's proposal to establish a $0.01 above the bid standard for legal short sales in Nasdaq National Market securities as part of the Decimals Implementation Plan for the Equities and Options Markets. The pilot program has been continuously extended since that date and is currently set to expire on September 30, 2002.[7] Nasdaq now proposes to extend, through January 31, 2003, that pilot program. Extension until January 31st, will allow Nasdaq and the Commission to continue to evaluate the impact of the penny short sale pilot and thereafter take action on Nasdaq's separate pending proposal to make the penny short sale standard permanent.[8] If approved, Nasdaq would continue during the pilot period to require NASD members seeking to effect ''legal'' short sales when the current best (inside) bid displayed by Nasdaq is lower than the previous bid, to execute those short sales at a price that is at least $0.01 above the current inside bid in that security. Nasdaq believes that continuation of this pilot standard appropriately takes into account the important investor protections provided by the short sale rule and the ongoing relationship of the valid short sale price amount to the minimum quotation increment of the Nasdaq market (currently also $0.01).

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act[9] in that it is designed to: (1) Promote just and equitable principles of trade; (2) foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities; (3) perfect the mechanism of a free and open market and a national market system; and (4) protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Nasdaq has requested that the Commission waive both the 5-day notice and the 30-day operative delay. The Commission believes waiving the 5-day notice and 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the pilot to continue uninterrupted through January 31, 2003, and will provide Nasdaq and the Commission with an opportunity to evaluate the impact of the penny short sale pilot. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of Nasdaq. All submissions should refer to file number SR–NASD–2002–131 and should be submitted by October 31, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–25746 Filed 10–9–02; 8:45 am]

BILLING CODE 8010–01–P

[6] Securities Exchange Act Release No. 44030 (March 2, 2001), 66 FR 14235 (March 9, 2001).

[7] Securities Exchange Act Release No. 45761 (April 16, 2002), 67 FR 19788 (April 23, 2002).

[8] *See* SR–NASD 2002–09.

[9] 15 U.S.C. 78o–3(b)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46595; File No. SR–OCC–2002–06]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Adjustment Procedures for Stock Futures

October 3, 2002.

I. Introduction

On April 12, 2002, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange

Commission (''Commission'') proposed rule change File No. SR–OCC–2002–06 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on August 9, 2002.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

The proposed rule change amends OCC's adjustment procedures for stock futures to provide for adjusting stock futures contracts to compensate for special cash dividends and for rights distributions that expire in the money during the life of the futures contract. Security futures markets and certain firms interested in trading stock futures have expressed to OCC their belief that in order for stock futures to be successful they must replicate a position in the underlying stock as closely as possible. This means that, among other things, if an unanticipated corporate event (*i.e.*, an event that cannot be discounted in futures prices) materially affects the value of an underlying stock, the terms of futures contracts on that stock should be adjusted to compensate for the event. There are two types of corporate events that cause particular concern from this perspective: (1) Special (*i.e.*, non-recurrent) cash dividends and (2) rights distributions.

OCC does not, as a general rule, adjust options for cash dividends unless the amount of the dividend exceeds 10 per cent of the value of the underlying stock. If the holder of a call option wants to capture a dividend below that threshold, he can do so by exercising his option. Because stock futures, like other futures products, are not exercisable, the holder of a long stock future would not have that ability. Recurrent cash dividends are not regarded as a problem because they can be anticipated and discounted in futures settlement prices. But there is no economical way for holders of long stock futures positions to ensure themselves the benefit of unscheduled dividends.

Similarly, if the issuer of an underlying stock declares a rights distribution and the rights will expire before the options do, the holder of a call option can capture the value of the rights by exercising the option before the rights expire. In contrast, the holder of a long stock future would have no way of obtaining the benefit of a rights distribution if the rights expire before the future does.

OCC's by-laws currently specify adjustment procedures for stock futures that generally parallel the adjustment rules for options. These procedures do not take into account the economic differences between options and futures discussed above. The security futures markets and firms interested in trading stock futures strongly believe that OCC's adjustment provisions should accommodate these differences.[3]

This rule change addresses that concern. OCC's by-laws presently provide that, as a general rule, outstanding stock futures contracts will not be adjusted to compensate for ''ordinary'' cash dividends. A cash dividend is deemed ''ordinary'' if the amount does not exceed 10 per cent of the value of the underlying stock on the declaration date. This rule change amends Article XII, Section 3, of the by-laws to provide that in the case of stock futures, a cash dividend would be deemed ''ordinary'' if OCC determined that it was declared pursuant to a policy or practice of paying such dividends on a quarterly or other regular basis regardless of the size of the cash dividend.[4] This change recognizes that market pricing mechanisms can compensate for anticipated cash dividends, but because the market cannot anticipate and cannot price for special dividends, the rule change provides for adjustments to outstanding stock futures when a company pays a special (*i.e.*, non-recurring) cash dividend without regard to size. This will be done through a one-time adjustment in the futures settlement price that has the effect of causing the short holder to pass the value of the dividend to the long holder.

Article XII, Section 3, of OCC's By-Laws currently provides that outstanding stock futures will not be adjusted to compensate for rights distributions where the rights expire before the maturity date of the future. Under the rule change, if rights will expire before they are to be delivered under a stock futures contract, the futures contract will be adjusted through a one-time adjustment in the futures settlement price in an amount equal to the value of the rights as determined by OCC. OCC's good-faith determination of value will be conclusive and binding on investors.

Because Interpretation and Policy .11 to Article XIII applies only to certain types of adjustments, it is being deleted because OCC has concluded that it is likely to be more confusing than useful.

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the protect investors and the public interest.[5] Because OCC's current procedures do not allow for price adjustments to stock futures, which include securities futures, in the event of special cash dividends and rights distributions, there can be a disconnect between the value of stock futures and the value of the underlying stock. This proposed rule change, which allows OCC to make adjustments to stock futures contracts in these circumstances, will address this possible disconnect and will allow the price of stock futures to more accurately reflect the price of the underlying stock.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder applicable.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2002–06) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–25747 Filed 10–9–02; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 46312 (August 5, 2002), 67 FR 51919.

[3] Although this would cause the adjustment procedures for stock futures to diverge from those applicable to equity options, the consensus among prospective markets and market participants appears to be that it is more important to avoid discontinuity between stock futures and the underlying stocks than between futures and options.

[4] Quarterly stock dividends will be deemed ''ordinary'' regardless of size. Stock futures contracts will ordinarily be adjusted for other stock distributions, even if recurrent (*e.g.*, annual), to avoid creating an unnecessary discontinuity with equity options.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Emergency Request and Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management

and Budget (OMB) in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection packages that may be included in this notice are for new information collections, revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10235, 725 17th St., NW., Washington, DC 20503, Fax: 202–395–6974.

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1338 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400.

I. SSA has submitted the information collection listed below for emergency consideration by OMB. SSA has requested OMB approval has within 30 days from the date of this notice. Therefore, your comments will be most useful if received before the 30 days concludes. You can obtain copies of the OMB clearance package by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

Voice Print Proof of Concept—0960–NEW. SSA provides Internet-based electronic services to the business community in order to conduct business with the Agency. As part of the registration process for these services, SSA uses a negative verification option to allow a business' management to stop SSA from sending a password to a registrant to act on behalf of the business. SSA plans to test the use of voice technology, saving a biometric voice-print, as a positive verification by the business that a registrant is allowed to act on their behalf. This technology is expected to be more secure, less burdensome, faster and provide better customer service than other available options. SSA will initiate a 2-month Proof of Concept project to test the business community's acceptance of this technology. This is strictly voluntary. SSA will collect the name, phone number and e-mail address of the registrant's supervisor. In addition, SSA may survey both the registrant and the supervisor to gauge their reactions to this new process.

Type of Request: New information collection.

Number of Respondents: 1,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 83 hours.

II. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. *Statement of Marital Relationship (by One of the Parties)—20 CFR 404.726—0960–0038.* SSA uses the information collected on Form SSA–754 to determine whether the conditions for establishing a common-law marriage under state law are met. The respondents are applicants for spouse's benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 15,000 hours.

2. *Marital Relationship Questionnaire—20 CFR 416.1826—0960–0460.* The information collected on Form SSA–4178 is needed by SSA to determine whether unrelated individuals of the opposite sex who are living together, and present themselves to the public as husband and wife, should be paid as a couple or two eligible individuals. The information is used to determine whether correct payment is being made to Supplemental Security Income (SSI) couples and individuals. The respondents are applicants for and recipients of SSI who are living together in a questionable relationship.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 5,100.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 425 hours.

3. *Statement of Living Arrangements, In-Kind Support and Maintenance—20 CFR, 416.1130–.1148—0960–0174.* Form SSA–8006 provides a national uniform vehicle for collecting information from SSI applicants and recipients about whether they receive income from in-kind support and maintenance. Responses are used to determine eligibility for SSI benefits. The respondents are individuals applying for SSI or whose eligibility is being reevaluated.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 173,380.

Frequency of Response: 1.

Average Burden Per Response: 7 minutes.

Estimated Annual Burden: 20,228 hours.

4. *Application for Widow's or Widower's Insurance Benefits—20 CFR 404.335–.338—0960–0004.* SSA uses the information collected on the Form SSA–10–BK to determine if the applicant meets the statutory and regulatory conditions for entitlement to widow(er)'s benefits. The respondents are applicants for Widow(er)'s benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 288,580.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 72,145 hours.

5. *Student Reporting Form—20 CFR 404.352(b), 422.135, .415, .434, .367–.368—0960–0088. Form SSA–1383 is used by Social Security student beneficiaries to report events or changes that may affect continuing entitlement to these benefits. The respondents are Social Security Student Beneficiaries.*

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 75,000.

Frequency of Response: 1.

Average Burden Per Response: 6 minutes.

Estimated Annual Burden: 7,500 hours.

Dated: October 4, 2002.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 02–25724 Filed 10–9–02; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Statement of Organization Functions, and Delegations of Authority

This statement amends part S of the Statement of Organization, Functions, and Delegations of Authority which covers the Social Security

Administration (SSA). Chapter S9 covers the Office of the General Counsel. Notice is given that there are organizational and functional changes within OGC. The changes are as follows:

Section S9.00 The Office of the General Counsel—(Mission)

Replace in its entirety:

The Office of the General Counsel advises the Commissioner on legal matters, is responsible for providing all legal advice to the Commissioner, Deputy Commissioner, and all subordinate organizational components (except OIG) of SSA in connection with the operation and administration of SSA. Responsible for the policy formulation and decision making related to the collection, access, and disclosure of such information in the records of the Social Security Administration; and processing of Freedom of Information requests and appeals (under the Freedom of Information and Privacy Acts).

Section S9.10 The Office of the General Counsel—Organization

Retitle:

B. The Principal Deputy General Counsel (S9) to The Deputy General Counsel (S9).

C. The Immediate Office of the General Counsel (S9A) which includes:

Delete:

1. The Deputy General Counsel (S9A–1).

Renumber:

2. The Executive Operations Staff (S9A–3) to 1. The Executive Operations Staff (S9A–3).

Establish:

G. The Office of Public Disclosure (S9).

Reletter:

H. The Offices of the Regional Chief Counsels (S9G–F1—S9G–FX).

Section S9.20 The Office of the General Counsel—(Functions)

Replace in its entirety:

B. The Deputy General Counsel (S9) assists the General Counsel in carrying out his/her responsibilities and performs other duties as the General Counsel may prescribe. In the event of the General Counsel's absence or disability, or in the event of a vacancy in the position of General Counsel, the Deputy General Counsel acts for him/her unless the Commissioner directs otherwise. The Deputy General Counsel also serves as the Designated Agency Ethics Official with responsibility for coordinating and managing the Social Security Administration's (SSA) ethics program.

Replace in its entirety:

C. The Immediate Office of the General Counsel (S9A) includes the Executive Operations Staff (S9A–3).

Replace in its entirety:

1. The Executive Operations Staff (S9A–3) provides internal organizational planning, management analysis and review, staff support and assistance to the General Counsel, Deputy General Counsel, OGC Executive Staff, OGC Executive Officer, and other OGC managers. Plans, develops, and coordinates OGC's financial, personnel, and administrative management regional offices. Plans, directs and provides day-to-day operational support services on all areas of administrative, budget, space and facilities, communications, and systems management. Identifies, coordinates, and implements OGC's training program. Formulates, justifies, and presents annual and multi-year budget submissions. Controls the collection, recording, and reporting of all financial, personnel, and administrative data in connection with budget and staffing formulation and executive functions.

Replace in its entirety:

D. The Office of General Law (S9B).

1. Provides legal services on business management activities and administrative operations throughout SSA, including procurement, contracting, patents, copyrights, budget, appropriations, personnel, ethics, adverse employment actions, employment discrimination, compensation, travel, personnel and tort claims by and against SSA, electronic service delivery, labor-management relations and Touhy requests.

2. Provides legal services and advice regarding SSA's civil defense, civil rights and security programs as well as for SSA's administration of the Freedom of Information and Privacy Acts and Computer Matching Agreements. Provides liaison with the Department of Justice on administering the Freedom of Information and Privacy Acts. Serves as liaison with the Comptroller General.

3. Working under the direction of the Designated Agency Ethics Official, provides liaison with the Office of Government Ethics, as appropriate.

4. Furnishes litigation support and litigation related advice to the Commissioner and all components of SSA in both administrative and court litigation in connection with each of the areas mentioned above. Represents SSA in all such litigation when such direct representation is authorized by law. In other cases, makes and supervises contacts with attorneys responsible for the conduct of such litigation.

Establish:

G. The Office of Public Disclosure (S9).

1. Develops and interprets SSA policy governing the collection, use, maintenance and disclosure of personally identifiable information under the Privacy Act and requests for information made under the provisions of the Freedom of Information Act (FOIA).

2. Develops national standards relating to the release and exchange of personal data in SSA databases to federal, state, and local agencies.

3. Assures Agency-wide sensitivity to the importance of privacy considerations in all situations involving disclosure of SSA data about individuals. Ensures necessary privacy protections are built into new systems and processes developed to deliver more efficient service to Agency customers.

4. Reviews Agency projects and initiatives to ensure compliance with the Privacy Act and related laws and regulations.

5. Examines public service issues related to handling various information requests from the public.

6. Acts on Privacy Act and FOIA appeals.

7. Directs FOIA activities in SSA, develops SSA's FOIA policies and procedures and prepares the Annual Report to Congress on these activities.

8. Reviews requests and determines whether records are required to be disclosed to members of the public.

9. Serves as the Agency focal point for all data sharing activities with outside organizations.

Reletter:

H. The Offices of Regional Chief Counsels (S9G–F1—S9G–FX).

Dated: October 1, 2002.

Jo Anne B. Barnhart,

Commissioner.

[FR Doc. 02–25723 Filed 10–9–02; 8:45 am]

BILLING CODE 4191–02–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Identification of Countries Under Section 182 of the Trade Act of 1974: Request for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written submissions from the public.

SUMMARY: Section 182 of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2242), requires the United States Trade Representative (USTR) to identify

countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. (Section 182 is commonly referred to as the ''Special 301'' provisions in the Trade Act.) On April 30, 2002 USTR announced the results of the 2002 Special 301 review. As part of that announcement it was stated that several Out-of-Cycle Reviews (OCRs) would be conducted this fall.

USTR requests written comments from the public concerning the acts, policies, and practices of those trading partners that are relevant to the decision as to whether particular trading partners should be identified under Section 182 of the Trade Act. In addition, USTR is seeking comment on the United States Government's 1998 Memorandum of Understanding with Paraguay on intellectual property matters, including enforcement.

DATES: Submissions must be received on or before 12:00 noon on Wednesday, October 30, 2002.

ADDRESSES: All comments should be sent to Sybia Harrison, Special Assistant to the Section 301 Committee, at the following e-mail address: *FR0037@USTR.GOV,* with ''Special 301 Out-of-Cycle Review'' in the subject line. Please note, only electronic submissions will be accepted.

FOR FURTHER INFORMATION CONTACT: Kira Alvarez, Director for Intellectual Property, (202) 395–6864; or Victoria Espinel or Daniel Mullaney, Associate General Counsels, (202) 395–7305 or (202) 395–3581, Office of the United States Trade Representative.

SUPPLEMENTARY INFORMATION: Pursuant to Section 182 of the Trade Act, the USTR must identify those countries that deny adequate and effective protection for intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. Those countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are to be identified as Priority Foreign Countries. Acts, policies or practices that are the basis of a country's designation as a Priority Foreign Country are normally the subject of an investigation under the Section 301 provisions of the Trade Act.

On April 30, 2002 USTR announced the results of the 2002 Special 301 review, including an announcement that several Out-of-Cycle Reviews (OCRs) would be conducted this fall. USTR is presently conducting OCRs on: Croatia, Indonesia, Israel, Mexico, the Phillipines, Poland, Qatar and Thailand. Additional countries may also be reviewed as a result of the comments received pursuant to this notice, or as warranted by events.

In addition, this fall, USTR is also reviewing its policy with regard to Paraguay, which is is currently subject to monitoring. In 1998, Paraguay was designated as a Priority Foreign Country, which resulted in a nine-month Section 301 investigation. The investigation was terminated upon the negotiation of a Memorandum of Understanding (''MOU'') between the United States and Paraguay on the enforcement and protection of intellectual property rights, and consequently Paraguay has been monitored annually under the provisions of Section 306 of the Trade Act. This MOU is subject to review by January 2003.

Requirements for Comments

USTR requests written comments on relevant countries concerning the acts, policies, and practices of those countries that are relevant to the decision as to whether particular trading partners should be identified under Section 182 of the Trade Act.

Comments should include a description of the problems experienced and the effect of the acts, policies and practices on U.S. industry. Comments should be as detailed as possible and should provide all necessary information for assessing the effect of the acts, policies and practices. Any comments that include quantitative loss claims should be accompanied by the methodology used in calculating such estimated losses.

With respect to Paraguay, USTR requests comments on whether the MOU has been effective in furthering the protection and enforcement of intellectual property rights in Paraguay consistent with Paraguay's international obligations, and on options for proceeding with respect to the upcoming review of the U.S.-Paraguay MOU.

Comments must be in English and sent electronically. No submissions will be accepted via postal service mail. A submitter requesting that information contained in a comment be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly marked ''business confidential'' in a contrasting color ink at the top of each page of each copy. A non-confidential version of the comment must also be provided.

All comments should be sent to Sybia Harrison, Special Assistant to the Section 301 Committee, at the following e-mail address: *FR0037@USTR.GOV,* with ''Special 301 Out-of-Cycle Review'' in the subject line. Please note, only electronic submissions will be accepted.

Public Inspection of Submissions

Within one business day of receipt, non-confidential submissions will be placed in a public file, open for inspection at the USTR reading room, Office of the United States Trade Representative, Annex Building, 1724 F Street, NW, Room 1, Washington, DC. An appointment to review the file may be made by calling Sybia Harrison at (202) 395–3419. The USTR reading room is open to the public from 10 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday.

Kira M. Alvarez,

Director for Intellectual Property.

[FR Doc. 02–25875 Filed 10–9–02; 8:45 am]

BILLING CODE 3190–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments and Notice of Public Hearing Concerning Proposed United States-Morocco Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of intent to initiate negotiations on a free trade agreement between the United States and Morocco, request for comments, and notice of public hearing.

SUMMARY: The United States intends to initiate negotiations with Morocco on a free trade agreement. The interagency Trade Policy Staff Committee (TPSC) will convene a public hearing and seek public comment to assist the United States Trade Representative (USTR) in amplifying and clarifying negotiating objectives for the proposed agreement and to provide advice on how specific goods and services and other matters should be treated under the proposed agreement.

DATES: Persons wishing to testify orally at the hearing must provide written notification of their intention, as well as their testimony, by November 1, 2002. A hearing will be held in Washington, DC, beginning on November 21, 2002, and will continue as necessary on subsequent days. Written comments are due by noon, November 25, 2002.

ADDRESSES: Submissions by electronic mail:

FR0039@ustr.gov (notice of intent to testify and written testimony);

FR0040@ustr.gov (written comments).

Submissions by facsimile: Gloria Blue, Executive Secretary, Trade Policy Staff Committee, at (202) 395–6143.

The public is strongly encouraged to submit documents electronically rather than by facsimile. (See requirements for submissions below.)

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments or participation in the public hearing, contact Gloria Blue, Executive Secretary, Trade Policy Staff Committee, at (202) 395–3475. All other questions should be directed to Douglas Bell, Director North Africa, at (202) 395–4620.

SUPPLEMENTARY INFORMATION:

1. Background

Under section 2104 of the Bipartisan Trade Promotion Authority Act of 2002 (TPA Act) (19 U.S.C. 3804), for agreements that will be approved and implemented through TPA procedures, the President must provide the Congress with at least 90 days written notice of his intent to enter into negotiations and must identify the specific objectives for the negotiations. Before and after the submission of this notice, the President must consult with appropriate Congressional committees and the Congressional Oversight Group regarding the negotiations. Under the Trade Act of 1974, as amended, the President must (i) afford interested persons an opportunity to present their views regarding any matter relevant to any proposed agreement, (ii) designate an agency or inter-agency committee to hold a public hearing regarding any proposed agreement, and (iii) seek the advice of the U.S. International Trade Commission (ITC) regarding the probable economic effects on U.S. industries and consumers of the removal of tariffs and non-tariff barriers on imports pursuant to any proposed agreement.

On October 1, 2002, after consulting with relevant Congressional committees and the Congressional Oversight Group, the USTR notified the Congress that the President intends to initiate free trade agreement negotiations with Morocco and identified specific objectives for the negotiations. In addition, the USTR has requested the ITC's probable economic effects advice. The ITC intends to provide this advice on November 28, 2002. This notice solicits views from the public on these negotiations and provides information on a hearing which will be conducted pursuant to the requirements of the Trade Act of 1974.

2. Public Comments and Testimony

To assist the Administration as it continues to develop its negotiating objectives for the proposed agreement, the Chairman of the TPSC invites written comments and/or oral testimony of interested persons at a public hearing. Comments and testimony may address the reduction or elimination of tariffs or non-tariff barriers on any articles provided for in the Harmonized Tariff Schedule of the United States (HTSUS) that are products of Morocco, any concession which should be sought by the United States, or any other matter relevant to the proposed agreement. The TPSC invites comments and testimony on all of these matters and, in particular, seeks comments and testimony addressed to:

(a) General and commodity-specific negotiating objectives for the proposed agreement.

(b) Economic costs and benefits to U.S. producers and consumers of removal of tariffs and non-tariff barriers to U.S.-Moroccan trade.

(c) Treatment of specific goods (described by Harmonized System tariff numbers) under the proposed agreement, including comments on (1) Product-specific import or export interests or barriers, (2) experience with particular measures that should be addressed in the negotiations, and (3) in the case of articles for which immediate elimination of tariffs is not appropriate, a recommended staging schedule for such elimination.

(d) Adequacy of existing customs measures to ensure Moroccan origin of imported goods, and appropriate rules of origin for goods entering the United States under the proposed agreement.

(e) Existing Moroccan sanitary and phytosanitary measures and technical barriers to trade.

(f) Existing barriers to trade in services between the United States and Morocco that should be addressed in the negotiations.

(g) Relevant trade-related intellectual property rights issues that should be addressed in the negotiations.

(h) Relevant investment issues that should be addressed in the negotiations.

(i) Relevant government procurement issues that should be addressed in the negotiations.

(j) Relevant environmental and labor issues that should be addressed in the negotiations.

Comments identifying as present or potential trade barriers laws or regulations that are not primarily trade-related should address the economic, political and social objectives of such regulations and the degree to which they discriminate against producers of the other country.

At a later date, the USTR, through the TPSC, will publish notice of reviews regarding (a) the possible environmental effects of the proposed agreement and the scope of the U.S. environmental review of the proposed agreement, and (b) the impact of the proposed agreement on U.S. employment and labor markets.

A hearing will be held on November 21, 2002, in Rooms 1 and 2, 1724 F Street, NW., Washington, DC. If necessary, the hearing will continue on subsequent days. Persons wishing to testify at the hearing must provide written notification of their intention by November 1, 2002. The notification should include: (1) The name, address, and telephone number of the person presenting the testimony; and (2) a short (one or two paragraph) summary of the presentation, including the subject matter and, as applicable, the product(s) (with HTSUS numbers), service sector(s), or other subjects (such as investment, intellectual property and/or government procurement) to be discussed. A copy of the testimony must accompany the notification. Remarks at the hearing should be limited to no more than five minutes to allow for possible questions from the TPSC. Persons with mobility impairments who will need special assistance in gaining access to the hearing should contact the TPSC Executive Secretary.

Interested persons, including persons who participate in the hearing, may submit written comments by noon, November 25, 2002. Written comments may include rebuttal points demonstrating errors of fact or analysis not pointed out in the hearing. All written comments must state clearly the position taken, describe with particularity the supporting rationale, and be in English. The first page of written comments must specify the subject matter, including, as applicable, the product(s) (with HTSUS numbers), service sector(s), or other subjects (such as investment, intellectual property and/or government procurement).

3. Requirements for Submissions

In order to facilitate prompt processing of submissions, the Office of the United States Trade Representative strongly urges and prefers electronic (e-mail) submissions in response to this notice. In the event that an e-mail submission is impossible, submissions should be made by facsimile.

Persons making submissions by e-mail should use the following subject line: ''United States—Morocco Free Trade Agreement'' followed by (as appropriate) ''Notice of Intent to Testify,'' ''Testimony,'' or ''Written Comments.'' Documents should be submitted as either WordPerfect, MSWord, or text (.TXT) files. Supporting documentation submitted as spreadsheets are acceptable as Quattro Pro or Excel. For any document containing business confidential information submitted electronically, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the characters ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the submitter. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. To the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Written comments, notice of testimony, and testimony will be placed in a file open to public inspection pursuant to 15 CFR 2003.5, except business confidential information exempt from public inspection in accordance with 15 CFR 2003.6. Business confidential information submitted in accordance with 15 CFR 2003.6 must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top of each page, including any cover letter or cover page, and must be accompanied by a nonconfidential summary of the confidential information. All public documents and nonconfidential summaries shall be available for public inspection in the USTR Reading Room. The USTR Reading Room is open to the public, by appointment only, from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday. An appointment to review the file must be scheduled at least 48 hours in advance and may be made by calling (202) 395–6186.

General information concerning the Office of the United States Trade Representative may be obtained by accessing its Internet Web site (*http://www.ustr.gov*).

Carmen Suro-Bredie,

Chairman, Trade Policy Staff Committee.

[FR Doc. 02–25876 Filed 10–9–02; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2002–13482]

Response Boat Replacement Project; Programmatic Environmental Assessment

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice of intent and request for public comments.

SUMMARY: The U.S. Coast Guard announces its intent to prepare a draft Programmatic Environmental Assessment (PEA) for the replacement of response boats. The PEA will assess the decision to acquire, homeport, and operate approximately 880 new response boats (approximately 180 Response Boat—Medium (RB–M) and approximately 700 Response Boat—Small (RB–S) to add to or replace existing Coast Guard boat capability at 43 Groups/Activities, 187 multi-mission stations, and 26 Marine Safety Offices that operate Coast Guard boats. The Coast Guard seeks public and agency input on the scope of the PEA. Specifically, the Coast Guard requests input on any environmental concerns that the public may have related to existing response boats, the proposal to replace these assets, sources of relevant data or information, and any suggested analysis methods for inclusion in the PEA.

DATES: Comments and related material must reach the Docket on or before November 25, 2002.

ADDRESSES: Comments may be submitted in several ways. To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2002–13482), U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(2) By delivery to Room PL–401 on the Plaza Level of the Nassif Building, 400 Seventh Street, SW., Washington DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

(3) By fax to the Docket Management Facility at (202) 493–2251.

(4) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov.*

In choosing from these means, please give due regard to the continuing difficulties and delays associated with delivery of mail through the U.S. Postal Service to federal facilities.

The Docket Management Facility maintains the public docket for this notice. Comments will become part of this docket and will be available for inspection or copying in Room PL–401, located on the Plaza Level of the Nassif Building at the above address between 9 a.m. and 5 p.m., Monday through Friday, except for federal holidays. You may also view this docket, including this notice and comments, on the Internet at *http://dms.dog.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions about the project, you may contact CAPT James Maes, Commandant (G-OCS–2) at (202) 267–1085 or *jmaes@comdt.uscg.mil.* For questions on viewing, or submitting materials to the docket, contact Dorothy Beard, Chief, Dockets, DOT, at (202) 366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to submit comments and related materials on this notice. Persons submitting comments should include their names and addresses, this notice reference number (USCG–2002–13482), and the reasons for each comment. You may submit your comments and materials by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address given under **ADDRESSES.** If you choose to submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, and suitable for copying and electronic filing. If you submit them by mail and would like to know if they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and materials received during the comment period. (For additional information about this notice or the PEA, contact Ms. Kebby Kelley at (202) 267–6034 or *Kkelley@comdt.uscg.mil.*)

Background Information

Domestic port safety and security has long been a core Coast Guard mission. However, in the wake of the terrorist attacks committed on September 11, 2001, emerging threats to the U.S. homeland have prompted an increased Coast Guard focus on protecting domestic ports and the U.S. Maritime Transportation System from terrorist threats.

As part of the U.S. response to these threats, the Coast Guard is undertaking a PEA for the decision to acquire, homeport and operate approximately 880 new response boats (approximately 180 Response Boat—Medium (RB–M)

and 700 Response Boat—Small (RB–S) to add to or replace existing USCG boat capability at 43 Groups/Activities, 187 multi-mission stations, and 26 Marine Safety Offices that operate Coast Guard boats. They will be located in multiple locations along the east and west coasts, the Gulf of Mexico, the Great Lakes, Puerto Rico, U.S. Virgin Islands, Alaska, Hawaii and Guam. The PEA will discuss in general that additional personnel as well as additional boat allowances may be needed at currently unknown locations sometime in the future. However, because the numbers of personnel and boats and the time frame for these site-specific actions is currently unknown, they will not be discussed in detail in this PEA. Any unforeseen new boat allowances and additional personnel needed at specific locations will be addressed in site-specific follow on National Environmental Protection Act (NEPA) documentation as necessary. Furthermore, changes to infrastructure are frequently a response to homeporting decisions. The PEA will discuss, in general, the possibility of infrastructure changes resulting from this acquisition. However, detailed analysis of any necessary site-specific infrastructure changes will be discussed in follow on NEPA documentation as necessary.

The Coast Guard's current fleet of 41-foot utility boats is aging and technologically obsolete. In addition, the current fleet of small utility boats is an assorted mix of various makes and models that have been acquired with more attention to the immediate mission requirement rather than the long-term supportability of the vessel or training considerations. Few of the existing fleet of boats meet emerging requirements for homeland security, such as higher intercept speeds and endurance. As a result, the current fleet of Coast Guard boat assets lacks the technology, full mission capability, and standardized training and maintenance necessary for efficient and effective mission performance.

Proposed Action

In accordance with the National Environmental Policy Act (NEPA) of 1969 (Section 102(2)(c), as implemented by the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508), Department of Transportation (DOT) Order 5610.1C (Procedures for Considering Environmental Impacts), and USCG Policy (NEPA: Implementing Procedures and Policy for Considering Environmental Impacts, (COMDTINST (Commandant's Instruction) M16475.1D), the Coast Guard intends to prepare a PEA on the Response Boat Replacement Project. The purpose of this PEA is to develop a high-level approach and direction for implementing this program.

NEPA requires federal agencies to consider all significant aspects of environmental impacts that may result from a proposed action, to inform the public of potential impacts and alternatives, and to facilitate public involvement in the assessment process. The core of our impact assessment process is our Environmental Assessment, or EA. The EA must include, among other topics, discussions of the purpose and need for the proposed action, a description of alternatives, a description of the affected environment, and an evaluation of the environmental impacts of the proposed action and alternatives. Once an EA is completed, and there are no significant impacts found, the lead agency prepares either a finding of no significant impact (FONSI) or a mitigated FONSI. A mitigated FONSI is one in which, although the preferred alternative will have some significant impacts to the environment, the FONSI and EA analysis include mitigation, into the preferred alternative, to reduce such impacts to the point where they are no longer significant.

When preparing a PEA, the agency may evaluate the program based on common geographic locations, similarities of impacts, or states of development. Because no site-specific homeporting decisions—allocated assets to Coast Guard facilities—will be made during this stage of the project, the PEA is expected to facilitate and expedite the preparation of subsequent project-specific NEPA documents.

The PEA will address the general environmental impacts of the Proposed Action and the No Action Alternative, while subsequent analyses will address specific implementing actions, such as homeporting of specific response boats at specific locations. Hence, as the first tier EA, the PEA will cover general issues in a broader-program analysis. Subsequent NEPA documentation will concentrate on the issues specific to the action being considered.

The environment potentially affected by the Proposed Action may be the entire marine and terrestrial coastal region of the continental U.S., Alaska, Hawaii, the Caribbean, Guam, and the Great Lakes where the Coast Guard has facilities, as well as the areas where the response boats currently conduct operations.

Because personnel levels are expected to remain 'status quo,' and only minor infrastructure changes, if any, are expected, the PEA will not evaluate socioeconomic or environmental justice or land use changes in detail in this programmatic document. Since any major infrastructure changes would be addressed in future site-specific NEPA documents, the PEA will not evaluate land use, cultural resources, or geological resources in detail. The PEA will focus its discussion on the general aspects of the affected environment, such as air quality; water quality, terrestrial and marine vegetation and wildlife, endangered species and their habitat, wetlands, and public safety. The PEA will compare the potential environmental impacts and benefits that would result from the proposed action and the no action alternative. For the purposes of this programmatic document, the location of these assets throughout the country will be designated on a regional level.

As required by NEPA, the Coast Guard also will analyze the No Action Alternative as a baseline for comparing the impacts of the proposed project. For the purposes of this document, the No Action Alternative is defined as the Coast Guard keeping the current fleet of 41-foot utility boats and small utility non-standard boats and replacing them on a one-for-one basis as they deteriorate or become obsolete. The 41-foot utility boats are aging and technologically obsolete and as they age, will increasingly not be able to meet homeland security requirements (high speed intercept and endurance). Also, as these boats continue to age, they will require more 'down-time' for maintenance and repairs. The current fleet of small utility non-standard boats is an assorted mix of makes and models that were required for immediate mission requirements. Since they are 'non-standard' boats, maintenance, repairs, and personnel training vary from one type of model to another. This situation results in higher maintenance and repair costs, and additional training for personnel for each make and model. As any boat becomes too outdated to fulfill its mission, it would be replaced on a one-for-one basis. This would further complicate maintenance and repair costs and personnel training and result in continuing inefficiencies.The Coast Guard encourages public participation in the PEA process. The scoping period will start with publication of this notice in the **Federal Register**. Multiple methods for providing comments will be available, including mail, Internet and fax.

Public meetings will only be held if there is sufficient interest shown. Because this is a programmatic

document, meetings, if held, will be at a district or national level. If public hearings are held, the time and place of the hearings will be announced in the **Federal Register**. You may request a public hearing by writing to the address under **ADDRESSES.**

Following the scoping process, the Coast Guard will prepare a draft PEA. A Notice of Availability will be published in the **Federal Register** when the draft PEA is available. Public notices will be mailed or emailed to those who have requested a copy of the Draft PEA. This period will provide the public with an opportunity to review the document and to offer appropriate comments.

Comments received during the draft PEA review period will be available in the public docket and made available in the Final PEA. A Notice of Availability of the Final PEA and FONSI will be published in the **Federal Register**.

Dated: October 3, 2002.

C.D. Wurster,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Acquisition.

[FR Doc. 02–25792 Filed 10–9–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2002–12528; Notice 2]

Uniroyal Goodrich Tire Manufacturing, Grant of Application for Decision That Noncompliance is Inconsequential to Motor Vehicle Safety

Uniroyal Goodrich Tire Manufacturing (Uniroyal) has determined that approximately 3,023 P235/70R16 BFGoodrich Radial Long Trail tires do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, ''New Pneumatic Tires.''

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Uniroyal has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.''

Notice of receipt of the application was published, with a 30-day comment period, on June 25, 2002, in the **Federal Register** (67 FR 42846). NHTSA received no comment on this application.

During the period of the 8th through the 10th and the 12th through the 14th weeks of 2002, the Ardmore, Oklahoma plant of Uniroyal Goodrich Tire Manufacturing produced and cured a number of tires with erroneous marking.

FMVSS No. 109 (S4.3(d)) requires that each tire shall have permanently molded the generic name of each cord material used in the plies (both sidewall and tread area) of the tire. Also, S4.3(e) requires that each tire shall have permanently molded into or onto both sidewalls the actual number of plies in the sidewall, and the actual number of plies in the tread area if different.

The noncompliance with S4.3(d) and (e) relates to the mold. The tires were marked ''Tread Plies: 2 Polyester + 2 Steel + 1 Nylon,'' instead of the correct marking ''Tread Plies: 2 Polyester + 2 Steel.''

Uniroyal states that of the total 3,023 tires produced, 1,460 have been isolated and will be brought into compliance or scrapped. Uniroyal does not believe that this marking error will impact motor vehicle safety because the tires meet all applicable Federal Motor Vehicle Safety performance standards, conform to the original specifications, and the noncompliance is one solely of labeling.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act (Public Law 106–414) required, among other things, that the agency initiate rulemaking to improve tire label information. In response, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000 (65 FR 75222). The agency received more than 20 comments on the tire labeling information required by 49 CFR Sections 571.109 and 119, Part 567, Part 574, and Part 575. With regard to the tire construction labeling requirements of FMVSS 109, S4.3(d) and (e), most commenters indicated that the information was of little or no safety value to consumers. However, according to the comments, when tires are processed for retreading or repairing, it is important for the retreader or repair technician to understand the make-up of the tires and the types of plies. This enables them to select the proper repair materials or procedures for retreading or repairing the tires. A steel cord radial tire can experience a circumferential or ''zipper'' rupture in the upper sidewall when it is operated underinflated or overloaded. If information regarding the number of plies and cord material is removed from the sidewall, technicians cannot determine if the tire has a steel cord sidewall ply. As a result, many light truck tires will be inflated outside a restraining device or safety cage where they represent a substantial threat to the technician. This information is critical when determining if the tire is a candidate for a zipper rupture. In this case, since the steel cord construction is properly identified on the sidewall, the technician will have sufficient notice.

In addition, the agency conducted a series of focus groups, as required by the TREAD Act, to examine consumer perceptions and understanding of tire labeling. Few of the focus group participants had knowledge of tire labeling beyond the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we have concluded that it is likely that few consumers have been influenced by the tire construction information (number of plies and cord material in the sidewall and tread plies) provided on the tire label when deciding to buy a motor vehicle or tire.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. This labeling noncompliance has no effect on the performance of tires of 2 Polyester and 2 Steel Ply construction.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance is inconsequential to motor vehicle safety. Accordingly, its application is granted and the applicant is exempted from providing the notification of the noncompliance as required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: October 4, 2002.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 02–25791 Filed 10–9–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA 2002–11270, Notice No. 02–8]

Safety Advisory: Unauthorized Stamping of DOT specification Compressed Gas Cylinders

AGENCY: Research and Special Programs Administration.

ACTION: Safety advisory notice.

SUMMARY: This is to notify the public that RSPA has documented the unauthorized stamping of indentations in the side walls of high-pressure

compressed gas cylinders by Blue Water Divers (Blue Water), Ltd., Road Town, Tortola, British Virgin Islands. The cylinders are being used in the SCUBA industry. An undetermined number of the SCUBA cylinders or ''dive tanks'' owned by Blue Water Divers were stamped with month and year markings in the side walls of the cylinders. RSPA has determined that some of the cylinders may have been sold to individuals or U.S. companies and possibly are being used for transportation of hazardous materials in commerce in the U.S. All cylinders observed were DOT 3AL aluminum cylinders, but other cylinder types may be involved.

The Hazardous Materials Regulations (HMR) specifically prohibit stamping in the side wall of compressed gas cylinders, except DOT 3E cylinders, because doing so could compromise the structural integrity of the cylinder. The HMR prohibit the charging or filling of DOT specification or exemption cylinders with compressed gas or other hazardous materials and the offering for transportation of cylinders with markings stamped in the side walls. Furthermore, the HMR prohibit hydrostatic retesting and the return to service of cylinders that have been stamped on the side wall of the cylinder. Any cylinders that are marked on the side wall should be condemned in accordance with the HMR. Serious personal injury, death, or property damage could result from rupture of a cylinder.

FOR FURTHER INFORMATION CONTACT: Robert Bunn, Hazardous Materials Enforcement Specialist, Southern Region, Office of Hazardous Materials Enforcement, Research and Special Programs, U.S. Department of Transportation, 1701 Columbia Avenue, Suite 520, College Park, GA 30337. Telephone: (404) 305–6120. Fax: (404) 305–6125.

SUPPLEMENTARY INFORMATION: RSPA has documented the unauthorized marking of high-pressure compressed gas cylinders on the side wall of the cylinder by Blue Water Divers (Blue Water), Ltd., Road Town, Tortola, British Virgin Islands. The tanks are being used in the SCUBA industry. An undetermined number of the SCUBA cylinders or ''dive tanks'' owned by Blue Water Divers were stamped with month and year markings in the side walls of the cylinders. RSPA has determined that some of the cylinders may have been sold to individuals or U.S. companies and possibly are being used for transportation of hazardous materials in commerce in the U.S. Some of the cylinders have been requalified in DOT-certified hydrostatic retest facilities in the U.S. Virgin Islands. The cylinders in question may have stickers on the side walls that may cover the side-wall stamps. All cylinders observed were DOT 3AL aluminum cylinders, but other cylinder types may be involved.

The HMR specifically prohibit the stamping of markings in the side walls of compressed gas cylinders because doing so could compromise the structural integrity of the cylinder. The HMR prohibit the charging or filling of cylinders with compressed gas or other hazardous materials when the cylinders have been stamped on their side walls. Furthermore, the HMR prohibit hydrostatic retesting and return to service of cylinders with markings stamped in the side walls. Any cylinder found to have been stamped with markings on the side wall of the cylinder should be condemned in accordance with the HMR. Serious personal injury, death, or property damage could result from rupture of a cylinder.

Based on its preliminary investigation, RSPA learned that Blue Water has submitted some of these cylinders for requalification in the U.S. Virgin Islands or has sold some of these cylinders that are now being used in the U.S. Virgin Islands. Some of these cylinders may have a sticker on the side of the cylinder with the name ''Blue Water Divers'' on the sticker. Others may simply be stamped on the side of the cylinder. Any cylinder that has a sticker as described above should be closely inspected. You should remove the sticker and inspect for any unauthorized markings or stamping on the side of the cylinder.

The cylinders observed are stamped on the side wall with a marking of a month and a year. For example:

2 00

Some cylinders have multiple months and years stamped on the sides of the cylinders. All labels, stickers and bands should always be removed from cylinders prior to requalification. Cylinders described in this safety advisory, or any cylinder with side-wall stamping or unauthorized markings, should not be filled, refilled, retested or requalified for use in underwater breathing or for any hazardous material purpose. These cylinders should be condemned in accordance with the HMR. RSPA requests that any person possessing a cylinder described in this safety advisory telephone, or provide a facsimile to, Robert Bunn with the following information for each cylinder: (1) The cylinder manufacturer's name, (2) the serial number of the cylinder, (3) the DOT specification or exemption information for the cylinder, and (4) details concerning the acquisition and subsequent disposition of the cylinders.

Issued in Washington, DC on October 4, 2002.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 02–25790 Filed 10–9–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 2, § 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, DC, on October 29, 2002, of the following debt management advisory committee.

The Bond Market Association Treasury Borrowing Advisory Committee

The agenda for the meeting provides for a technical background briefing by Treasury staff, followed by a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues, and a working session. Following the working session, the Committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 9 a.m. Eastern time and will be open to the public. The remaining sessions and the committee's reporting session will be closed to the public, pursuant to 5 U.S.C. App. 2, § 10(d) and Public Law 103–202, § 202(c)(1)(B) (31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads by departments by 5 U.S.C. App. 2, § 10(d) and vested in me by the Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with discussions of the issues presented to the Committee by the Secretary and recommendations of the Committee to the Secretary, pursuant to Public Law 103–202, § 202(c)(1)(B). Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its

final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized,such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, § 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

The Office of Financial Markets is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C.. 552b. The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Paul Malvey, Director, Office of Market Finance at 202–622–2630.

Dated: October 4, 2002.

Brian C. Roseboro,

Assistant Secretary, Financial Markets.

[FR Doc. 02–25761 Filed 10–9–02; 8:45 am]

BILLING CODE 4810–25–M

Corrections

Federal Register

Vol. 67, No. 197

Thursday, October 10, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 36, and 91

[Docket No. FAA–2000–7587 Amdt No. 21–81, 36–24 & 91–275]

RIN 2120–AH03

Noise Certification Standards for Subsonic Jet Airplanes and Subsonic Transport Category Large Airplanes

Correction

In rule document 02–15385 beginning on page 45194 in the issue of Monday, July 8, 2002, make the following corrections:

1. On page 45194, in the first column, under the heading ''**ACTION:**'', in the first line, ''requests'' should read ''request''.

2. On page 45194, in the second column, under the heading ''**Availability of Rulemaking Documents**'', in the 20th line, ''Office of Bulemaking's'' should read ''Office of Rulemaking's''.

3. On page 45194, in the second column, under the same heading, in the 31st line, '' of '' should read ''or''.

4. On page 45194, in the third column, under the heading ''*Current Regulations*'' in the 3rd line, ''directed to prescribed'' should read ''directed to prescribe''.

5. On the same page, in the same column, under the same heading, in the 12th line, ''Subpart'' should read ''Subparts''.

6. On the same page, in the same column, under the same heading, in the 14th line, ''standards and'' should read ''standards that''.

7. On the same page, in the same column, under the heading ''*Government and Industry Cooperation*'', in the 4th line, ''Administrators'' should read ''Administrator''.

8. On the same page, in the same column, in the third full paragraph, in the eighth line from the bottom, ''part 36'' should read ''of part 36''.

9. On page 45196, in the third column, in the second full paragraph, in the first line, ''The final rule'' should read ''This final rule''.

10. On page 45198, in the first column, in the third full paragraph, correct ''***'' to read ''...'' in the four places it appears.

11. On page 45198, in the first column, in the seventh full paragraph, in the fourth line, ''A36.4.9.11'' should read ''A36.3.9.11''.

12. On page 45198, in the third column, in the 10th line, ''align part and JAR 36'' should read ''align part 36 and JAR 36''.

13. On the same page, in the same column, under the heading ''*Section 36.1*'', in the second line, ''Amendments'' should read ''Amendment''.

14. On page 45199, in the first column, in the first full paragraph, in the last line, ''past'' should read ''part''.

15. On the same page, in the same column, under the theading *Section 36.2*, in the first paragraph, in the first line, ''context'' should read ''content''.

16. On the same page, in the same column, under the same heading, in the same paragraph, in the 12th line, ''date of certification)'' should read ''date of certification application)''.

17. On the same page, in the same column, under the heading, ''*Section 36.6*'', in the second line, ''the reference form'' should read ''the reference for''.

18. On the same page, in the third column, under the heading ''*A 36.2 Noise Certification Test and Measurement Conditions*'', in the second full paragraph, in the 12th line, ''not'' should read ''now ''.

19. On the same page, in the same column, under the same heading, in the second full paragraph, in the 18th line ''circuit'' should read ''circular''.

20. On the same page, in the same column, under the same heading, in the fourth full paragraph, in the second line, ''A26.2.2.2(b)'' should read ''A36.2.2.2(b)''.

21. On page 45200, in the first column, in the second full paragraph, in the first line, ''requirements'' should read ''requirement''.

22. On the same page, in the third column, in the eighth full paragraph, in the third line, ''lease'' should read ''least''.

23. On page 45201, in the first column, in the fifth full paragraph, in the second and fifth lines, ''lease'' should read ''least''.

24. On the same page, in the same column, in the seventh full paragraph, in the fourth line, ''allow'' should read ''allows''.

25. On the same page, in the second column, in the third full paragraph, in the ninth line, ''can be calculated for the equations contain'' should read ''can be calculated from the equations contained''.

26. On the same page, in the third column, under the heading ''*Section A36.5 Data Reporting*'' in the second full paragraph, in the seventh line, ''measure'' should read ''measured''.

27. On page 45202, in the first column, under the heading ''*Section A 36.7 Sound Attenuation in Air*'', in the second line, ''must use be'' should read ''must be''.

28. On the same page, in the second column, in the third full paragraph, in the second line, ''described'' should read ''describe''.

29. On the same page, in the second column, in the fifth full paragraph, in the seventh line, ''APNL'' should read ''EPNL''.

30. On page 45203, in the first column,in the first full paragraph, in the seventh and eighth lines, ''will harmonize'' should read ''will further harmonize''.

31. On the same page, in the same column, under the heading *Section B36.4 Test Noise Measurement* in the second full paragraph, in the second line, ''sidelines'' should read ''sideline'' and in the 13th line ''measurement'' should read ''measurements''.

32. On the same page, in the second column, under the heading *Section B36.5 Maximum Noise Levels*, in the first full paragraph, in the seventh line, ''FR 26360'' should read ''FR 16360'' and in the eighth line, ''references'' should read ''reference''.

33. On the same page, in the same column, under the heading *Section B36.6*, in the third full paragraph, in the third line, ''367(d)(3)(i)(B)'' should read ''36.7(d)(3)(i)(B)''.

34. On the same page, in the same column, under the heading *Section B36.7 Noise Certification Reference Procedures*, in the second line, ''limitation'' should read ''limitations''.

35. On the same page, in the third column,of the third full paragraph, in

the 10th line, ''speed'' should read ''speeds''.

36. On the same page, in the same column, of the fourth full paragraph, in the first line, ''FA'' should read ''FAA''.

37. On page 45204, in the second column,of the first full paragraph, in the 12th line, ''determined'' should read ''determining''.

38. On page 45204, in the third column, the heading ''**Appendix H—Noise Requirements for Helicopters Under Subpart H Section H36.101 Noise Certification Test and Measurement Conditions.**'' should read ''**Appendix H—Noise Requirements for Helicopters Under Subpart H** *Section H36.101 Noise Certification Test and Measurement Conditions.*''

39. On page 45204, in the third column, in the Table, under the column ''New section'', in the fifth entry, ''A36.7(b)(3)'' should read ''B36.7(b)(3)''.

40. On page 45205, in the third column, in the table ''CROSS REFERENCE TABLE'', and under the second column ''Old section'', in the third entry from the bottom, ''A36.1(b)(5), A36.1(d)'' should read ''A36.1(b)(5), A36.9(b)(1)''.

41. On page 45206, in the second and third columns column, in the tables ''REDESIGNATION TABLE FOR APPENDICES A AND B—Continued'', the headings of the first column ''Old section'' should read ''New section'' and the headings of the second column ''New section'' should read ''Old section''.

42. On page 45206, in the second column, in the table ''REDESIGNATION TABLE FOR APPENDICES A AND B—Continued'', under the corrected second column ''Old section'', in the 22nd entry, ''A36.11(c)'' should read ''B36.11(c)''.

43. On the same page, in the same column, in the same table, and under the corrected second column ''Old section'', at the sixth entry, ''C36.5(c)(2), C36.9(c)'' should read ''A36.5(c)(2), C36.9(c)''.

44. On the same page, in the third column, in the same table, and under the corrected second column ''Old section'', in the 10th entry, ''C36.5(c)(2)'' should read ''A36.5(c)(2)''.

45. On page 45207, in the first column, in the ninth line, ''Section A36.2.2.2(e)'' should read ''Section 2.2.2(e)''.

46. On the same page, in the first column,in the second full paragraph, in the first line, ''*requires*'' should read ''*require*''.

47. On the same page, in the second column, in the second full paragraph, in the fifth line, ''AFM/REM'' should read ''AFM/RFM''.

48. On page 45209, in the first column, under the heading ''*Cost Savings*'', in the second full paragraph, in the sixth line, ''if'' should read ''is''.

49. On the same page, in the second column, in the 15th line, a period should appear after the word ''period''.

50. On the same page, in the same column, in the same paragraph, in the same line, ''nit'' should read ''not''.

51. On the same page, in the same column, in the first full paragraph, in the 11th line, ''however.'' should read ''however, ''.

52. On the same page, in the same column, in the second full paragraph, in the 14th line, ''sideline array.'' should read ''sideline array.)''.

53. On the same page, in the third column, in the first full paragraph, in the ninth and 10th lines, ''no more than 10 tests and that the derived estimated cost savings'' should read ''no more than 10 tests will be conducted over the next 10 years and that the derived estimated cost savings''.

54. On page 45210, in the second column, in the third full paragraph, in the ninth line, ''$95,250'' should read ''$95,240''.

55. On the same page, in the third column, in the fourth line, ''years '' should read ''year''.

56. On the same page, in the same column, in the 10th line, ''$770'' should read ''$780''.

57. On the same page, in the same column, in the 13th line, ''annualize'' should read ''annualized''.

58. On the same page, in the same column, in the second full paragraph, in the third and fourth lines, ''economic impact to the Regulatory Flexibility Act,'' should read ''economic impact on a substantial number of small entities. Accordingly, pursuant to the Regulatory Flexibility Act,''.

59. On page 45211, in the first column, in the fourth full paragraph, in the third line, ''Title Ii'' should read ''Title II''.

PART 36—CORRECTED

60. On the same page, in the second column, under the heading ''**Authority:**'', in the fourth line, ''E.O. 11513'' should read ''E.O. 11514''.

§ 36.1 [Corrected]

61. On the same page, in the same column, in § 36.1, under amendatory instruction 5b., in the first line, ''(b)'' should read ''(d)'' and in the second line, ''turboject'' should read ''turbojet''.

62. On the same page, in the same column, in § 36.1, under amendatory instruction 5e., in the third line, ''ins'' should read ''its''.

63. On the same page, in the third column, in the same section, under amendatory instruction 5i., in the third line, ''remove'' should read '' and remove''.

64. On the same page, in the same column, in the same section, under amendatory instruction 5j., in the fourth line, remove the repeated text ''and add 'appendix B' in its place''.

§ 36.2 [Corrected]

65. On the same page, in the same column, in § 36.2, in paragraph (b), in the fourth line, ''§ 21.95(b)'' should read ''§ 21.93(b)''.

§ 36.6 [Corrected]

66. On page 45212, in the first column, in § 36.6, above the section heading add the words

''The additions and revisions read as follows:''.

67. On the same page, in the same column, in § 36.6, under paragraph (c)(1)(iv), ''(iv)'' should read ''(vi)''.

Appendix A to Part 36—[Corrected]

68. On page 45214, in the first column, at paragraph A36.3.1.5, in the sixth line, ''means'' should read ''mean''.

69. On the same page, in the second column, at paragraph A36.3.1.16, in the fourth line, ''angel'' should read ''angle''.

70. On the same page, in the third column, at paragraph A36.3.4.1, in the third line, ''insertion loss'' should read ''the insertion loss''.

71. On the same page, in the same column, at paragraph A36.3.5.1, in the fourth line, ''basic'' should read ''basis''.

72. On page 45215, in the first column, at paragraph A36.3.6.1, in the seventh line, ''away'' should read ''a way''.

73. On page 45216, in the first column, at paragraph A36.3.6.6, in the first line, before ''calibration'', insert ''reference level range, the level corresonding to the''.

74. On the same page, in the same column, at paragraph A36.3.6.7, ''Analysis systems.'' should read ''*A36.3.7 Analysis systems.*''.

75. On the same page, in the second column, at paragraph A36.3.7.4, in the eighth line, ''is'' should read ''1s'' and in the 12th line, ''failing'' should read ''falling'' and in the 18th line, ''failing'' should read ''falling''.

76. On the same page, in the same column, at paragraph A36.3.7.5, in the 15th line, ''press'' should read ''pressure''.

77. On the same page, in the third column, in the sixth line, ''A36.3.76'' should read ''A36.3.7.6''.

78. On the same page, in the same column, at paragraph A36.3.9.3, in the third line, ''razing'' should read ''grazing''.

79. On page 45217, in the first column, at paragraph A36.3.9.8'', in the fourth line, ''know'' should read ''known'' and in the seventh line, ''differences'' should read ''difference''.

80. On the same page, in the second column, at paragraph A36.3.9.10'', in the 21st line, ''note'' should read ''not ''.

81. On page 45218, in the first column, at paragraph A36.4.3.1(b) Step 2, ''$|\Delta(i,k)|=$'' should read ''$|\Delta s(i,k)|=$''.

82. On page 45219, in the first column, at paragraph A36.4.3.1(j) Step 10, in the seventh line, ''value'' should read ''values''.

83. On page 45223, in the table, under the column Meaning, in the 11th line from the bottom, ''The perceived noisiness at the k–th instant of time that occurs in the i–th one–third octave band.'' should read ''The perceived noisiness at any instant of time that occurs in a specified frequency.''.

84. On the same page, in the same table, under the column titled Symbol, and under the column titled Unit, and under the column titled Meaning, after ''n'', as the fifth entry from the the bottom, add the following:

SECTION A36.6 NOMENCLATURE: SYMBOLS AND UNITS

Symbol	Unit	Meaning
n(i,k)	noy	The percieved noisiness at the k–th instant of time that occurs in the i–th one–third octave band.

85. On page 45224, in the table, under the column titled Meaning, in the 10th line, after ''PNLT(k)'', add the phrase ''is obtained by adjusting the value of PNL(k)'' and on the same page, in the table, under the column titled Meaning, in the 10th line, ''PNLT(k) for the spectral'' should read ''PNLT(k) is obtained by adjusting the value of PNL(k) for the spectral''.

86. On the same page, in the same Table, and under the same column, in the 20th line from the bottom, '' *Reference atmospheric absorption.*'' should read ''*Test atmospheric absorption.*''.

87. On the same page, in the same Table, and under the same column, in the 16th line from the bottom, after ''sound'' insert the words ''that occurs in the i–th one–third octave band at a reference air temperature and relative humidity.''.

88. On page 45226, in the third column, in the seventh line, ''qualify'' should read ''quantify''.

89. On page 45228, in the third column, at paragraph A36.9.3.2(a), in the first line, ''portion'' should read ''portions''.

90. On page 45229, in the first column, in the 9th line, ''the same angle with'' should read ''the same angle θ with''.

91. On the same page, in the second column in the eighth line, ''AQ36–7(b)'' should read ''A36–7(b)''.

92. On the same page, in the third column, in the eighth line, ''assumption'' should read ''assumptions''.

93. On page 45230, in the first column, at paragraph A36.9.3.2.1(a), in the fourth line, ''+0.0001 $\alpha(i)_0$'' should read ''+0.001 $\alpha(i)_0$''.

94. On the same page, in the same column, at paragraph A36.9.3.2.1(a)(1), in the fifth line, ''atmosphere'' should read ''atmospheric''.

95. On the same page, in the second column, at paragraph A36.9.3.2.1.1(b), in the third line, ''PNT_r'' should read ''$PNLT_r$''.

96. On page 45231, in the third column, at paragraph A36.9.3.5.1(b), in the fifth line, ''sides,'' should read ''sides;''.

97. On page 45232, in the first column, at paragraph A36.9.4.2(a)(2), in the sixth line, ''at a time'' should read ''at time''.

98. On the same page, in the third column, at paragraph A36.9.4.2(b)(2), in the 12th line, ''reference noise propagation paths Q_{r0}'' should read ''reference noise propagation paths. Q_{r0}''.

99. On page 45233, in the first column, at paragraph A36.9.4.2(b)(2), in the second line, ''computed as'' should read ''(computed as''.

100. On page 45234, in the first column, at paragraph A36.9.4.2.1, in the third line, before the words ''separate amounts'' add ''''than t_1 by two''.

101. On the same page, in the third column, at paragraph A36.9.4.2.2, in the second line, ''section A36.4.2'' should read ''section A36.4.2.''.

102. On the same page, in the same column, at paragraph A36.9.4.3.1, in the fourth line, ''($PNLT_{r1}$ at time t_{r1}. The'' should read ''($PNLT_{r1}$ at time t_{r1}). The''.

103. On the same page, in the table heading ''A37.9.5 FLIGHT PATH IDENTIFICATION'', ''A37.9.5'' should read ''A36.9.5''.

104. On the same page, in table A37.9.5, under the column ''Description'', in the fourth entry, ''thurst'' should read ''thrust''.

Appendix B to Part 36—[Corrected]

105. On page 45235, in the first column, in ''section B36.3(a)(1)'', in the second line, ''an'' should read ''and'', and in the 18th line, ''State'' should read ''Stage''.

106. On the same page, in the third column, in section B36.5(c)(1)(iii), in the second line, ''engines;'' should read ''engines:'', and in the fifth line, after the ;, remove the replicated text ''reduce the limit by 4 EPNdB;''.

107. On page 45236, in the first column, section B36.7(b)(1), in the second line, ''state'' should read ''start''.

108. On the same page, in the same column, section B36.7(b)(4), in the ninth line, ''Concord'' should read ''Concorde''.

109. On the same page, in the second column, section B36.7(b)(5), in the 11th line, ''engines'' should read ''engine''.

110. On the same page, in the same column, section B36.7(c)(2), in the fifth line, ''points'' should read ''point'', and in the seventh line, ''airplanes'' should read ''airplane''.

111. On the same page, in the third column, section B36.7(c)(5), in the fourth line, ''devices.'' should read ''devices,''.

[FR Doc. C2–15835 Filed 10–9–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
October 10, 2002

Part II

Department of Housing and Urban Development

24 CFR Part 200
FHA Inspector Roster; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 200

[Docket No. FR–4720–P–01]

RIN 2502–AH76

FHA Inspector Roster

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to establish the Federal Housing Administration (FHA) Inspector Roster, and to provide placement, recertification and removal procedures for Roster applicants. The rule also identifies when a mortgagee must use an inspector listed on the Roster.

DATES: *Comment Due Date:* December 9, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Vance Morris, Director, Office of Single Family Program Development, Room 9266, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone (202) 708–2121 (this is not a toll-free number). Persons with hearing or speech disabilities may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

FHA-approved mortgagees rely upon FHA compliance inspectors to determine if the construction quality of a property is acceptable as security for an insured loan. Before 1996, FHA's 81 field offices maintained a panel of fee inspectors and they were assigned on a rotating basis to perform inspections. Since 1996, mortgagees have selected inspectors from a panel of inspectors listed on the Internet at: *https://entp.hud.gov/idapp/html/insplook.cfm?in_fha=No.* Although there is still a panel of inspectors, it is a compilation of the local panels established by the FHA's field offices.

This rule would establish the FHA Inspector Roster (also referred to as the Roster) and provide eligibility requirements and procedures and requirements for applicants to follow to be placed on the Roster. In addition to demonstrating professional experience and familiarity with HUD requirements, an applicant for the Roster would be required to provide verification of passing HUD's comprehensive examination for inspectors, after such an examination becomes available.

All inspectors currently listed on the Internet by HUD must be recertified according to the new procedures and requirements to continue to be eligible to inspect properties for FHA insurance. Current inspectors will be permitted to conduct inspections for six months after this rule becomes effective, but during that six-month period they must apply and be approved for placement on the FHA Roster to qualify as inspectors after that six-month period.

The rule also identifies when mortgagees must use Roster inspectors. The FHA requires three inspections for new construction when the local jurisdiction in which the property is located does not perform inspections and has not issued both a building permit prior to construction and a certificate of occupancy or equivalent document. If an appraiser who is on FHA's Roster appraises the newly constructed property after the two inspections are performed and the construction is 100% completed, the final inspection by an inspector on the Roster is not necessary. In the case of existing construction, Roster inspectors must be used where structural repairs have been made requiring an inspection and this inspection is not performed by a licensed, bonded, registered engineer, a licensed home inspector, or other person specifically registered or licensed to conduct such inspections.

Finally, the rule also includes a procedure for removing an inspector from the Roster for cause, generally for actions detrimental to the FHA's interests.

II. Findings and Certifications

Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), and assigned OMB control number 2502–0548. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538)(UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of the UMRA.

Environmental Impact

This proposed rule does not direct, provide for assistance or loan or mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule and in so doing certifies that this rule would not have a significant economic impact on a substantial number of small entities. The proposed rule would establish uniform requirements and procedures for being placed on or removed from HUD's new FHA Inspector Roster. In doing so, it does not affect the amount of HUD-related business that will continue to be available for inspectors. This rule would, however, replace the existing system under which local HUD offices periodically select inspectors competitively according to standards that vary from office to office with nation-wide, uniform requirements that open the doors of participation with HUD to all inspectors who qualify. The rule also clearly defines the terms for continued participation with HUD, and provides a uniform, expeditious and equitable procedure for removal from the Roster. As such, the rule would result in an industry-wide and governmental benefit in that it clarifies the terms of the relationship between HUD and its fee inspectors. Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number

of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Federalism Impact

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this proposed rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the proposed rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410–0500.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social Security, Unemployment compensation, Wages.

Accordingly, for the reasons discussed in this preamble, HUD proposes to amend 24 CFR part 200 as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d).

2. Add a subpart F, consisting of §§ 200.170 through 200.172, under a new undesignated center heading reading ''FHA Inspector Roster'' to read as follows:

Subpart F—Placement and Removal Procedures for Participation in FHA Programs

FHA Inspector Roster

Sec.
200.170 Purpose of FHA Inspector Roster.
200.171 Placement on the Inspector Roster.
200.172 Removal from the Inspector Roster.

§ 200.170 Purpose of FHA Inspector Roster.

(a) *General.* HUD maintains the FHA Inspector Roster (Roster), a list of the inspectors eligible to determine if the construction quality of a property is acceptable as security for an FHA insured loan.

(b) *Mortgagee requirement.* Only an inspector included on the Roster may be selected by a lender to determine if the construction quality of a property is acceptable as security for an FHA insured loan, as follows:

(1) For new construction, the FHA requires three inspections by Roster inspectors; and

(2) For existing construction, the FHA requires an inspection by a Roster inspector where structural repairs have been made requiring an inspection and this inspection is not performed by a licensed, bonded, registered engineer, or a licensed home inspector, or other person specifically registered or licensed to conduct such inspections.

(3) The requirements of paragraph (b)(1) of this section do not apply if:

(i) The local jurisdiction where the newly constructed one- to four-family property is located performs the inspection(s) and issues a building permit prior to construction and a certificate of occupancy or equivalent document; or

(ii) When the new construction is 100% complete, an appraiser who is on FHA's Appraiser Roster appraises the property and two inspections have already been performed by an FHA Roster inspector.

(c) *Inspector requirement.* To be eligible to conduct inspections as required by paragraph (b) of this section, an inspector must be listed on the Roster, except that any inspector already otherwise listed by HUD as eligible to conduct inspections as of [effective date of final rule for this section] may conduct inspections until [date that is six months after effective date of final rule for this section] without being listed on the Roster.

(d) *Effect of placement on the Roster.* Placement of an inspector on the Roster only qualifies an inspector to be selected by a mortgagee to determine if the construction quality of a property is acceptable as security for an FHA insured loan. Placement on the Roster does not guarantee that an inspector will be selected by any mortgagee. Use of an inspector placed on the Roster also does not create or imply any warranties or endorsements concerning the inspected property by HUD to a prospective homebuyer or any other party.

§ 200.171 Placement on the Inspector Roster.

(a) *Application.* To be considered for placement on the Roster, an inspector must apply to HUD using an application (or materials) in a form prescribed by HUD.

(b) *Eligibility.* To be eligible for placement on the Roster, an inspector must demonstrate the following to HUD:

(1) A minimum of three years experience in construction-related fields;

(2) Possession of an inspector's State or local license or certification if licensing or certification is required by the State or local jurisdiction where the inspector will operate;

(3) That the applicant inspector certifies that he/she has read and fully understands the inspection requirements, and any updates to those requirements, of:

(i) HUD Handbook 4905.1 REV–1 (Requirements for Existing Housing, One to Four Family Units);

(ii) HUD Handbook 4910.1 (Minimum Property Standards for Housing);

(iii) HUD Handbook 4145.1 REV–2 (Architectural Processing and Inspections for Home Mortgage Insurance);

(iv) HUD Handbooks 4150.1 and 4150.2 (Valuation Analysis for Home Mortgage Insurance);

(v) HUD Handbook 4930.3 (Permanent Foundations Guide for Manufactured Housing);

(vi) The applicable local, State or Council of American Building Officials (CABO) code; and

(viii) The HUD requirements at 24 CFR 200.926;

(4) Verification that the inspector has taken and passed HUD's comprehensive examination for inspectors, after such

an examination becomes available. Inspectors who are included on the Roster on [the effective date of the final rule] have until [6 months following the effective date] to pass the comprehensive exam. Failure to pass the examination by the deadline date constitutes cause for removal under § 200.172.

§ 200.172 Removal from the Inspector Roster.

(a) *Cause for removal.* HUD may remove an inspector from the Roster for any cause that HUD determines to be detrimental to HUD or its programs. Cause for removal includes, but is not limited to:

(1) Poor performance on a HUD quality control field review;

(2) Failure to comply with applicable regulations or other written instructions or standards issued by HUD;

(3) Failure to comply with applicable civil rights requirements;

(4) Being debarred or suspended, or subject to a limited denial of participation;

(5) Misrepresentation or fraudulent statements;

(6) Failure to retain standing as a State or local government licensed or certified inspector, where such a license or certificate is required;

(7) Failure to respond within a reasonable time to HUD inquiries or requests for documentation; or

(8) Being listed on HUD's Credit Alert Interactive Voice Response System (CAIVRS).

(b) *Procedure for removal.* An inspector that is debarred or suspended, or subject to a limited denial of participation will be *automatically* removed from the Roster. In all other cases, the following procedure for removal will be followed:

(1) HUD will give the inspector written notice of the proposed removal. The notice will state the reasons for, and the duration of, the proposed removal.

(2) The inspector will have 20 days from the date of the notice (or longer, if provided in the notice) to submit a written response appealing the proposed removal and to request a conference. A request for a conference must be in writing and must be submitted along with the written response.

(3) A HUD official will review the appeal and send a response either affirming, modifying, or canceling the removal. The HUD official will not be someone who was involved in HUD's initial removal decision. HUD will respond with a decision within 30 days of receiving the appeal or, if the inspector has requested a conference, within 30 days after the completion of the conference. HUD may extend the 30-day period by providing written notice to the inspector.

(4) If the inspector does not submit a timely written response, the removal will be effective 20 days after the date of HUD's initial removal notice (or after a longer period provided in the notice). If a written response is submitted, and the removal decision is affirmed or modified, the removal will be effective on the date of HUD's notice affirming or modifying the initial removal decision.

(c) *Placement on the list after removal.* An inspector that has been removed from the Roster may apply for placement on the Roster (in accordance with § 200.171) after the period of the inspector's removal from the Roster has expired. An application will be rejected if the period for the consultant's removal from the list has not expired.

(d) *Other action.* Nothing in this section prohibits HUD from taking such other action against an inspector, as provided in 24 CFR part 24, or from seeking any other remedy against an inspector available to HUD by statute or otherwise.

Dated: August 6, 2002.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 02–25730 Filed 10–9–02; 8:45 am]

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Federal Register

Thursday,
October 10, 2002

Part III

Department of Housing and Urban Development

Notice of Regulatory Waiver Requests Granted for the Second Quarter of Calendar Year 2002; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4767–N–02]

Notice of Regulatory Waiver Requests Granted for the Second Quarter of Calendar Year 2002

AGENCY: Office of the Secretary, HUD.

ACTION: Public notice of the granting of regulatory waivers from April 1, 2002, through June 30, 2002.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice must cover the quarterly period since the most recent **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the quarter beginning on April 1, 2002, and ending on June 30, 2002.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500; telephone (202) 708–3055 (this is not a toll-free number). Hearing- or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the HUD Reform Act, the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by HUD. Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (2 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver-grant action may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). This notice covers HUD's waiver-grant activity from April 1, 2002, through June 30, 2002. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Housing, the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the section of title 24 being waived. For example, a waiver-grant action involving the waiver of a provision in 24 CFR part 58 would come before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in title 24 of the Code of Federal Regulations and that is being waived as part of the waiver-grant action. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver-grant action.

Should HUD receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occurred during July 1, 2002, through September 30, 2002.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: September 27, 2002.

Alphonso Jackson,

Deputy Secretary.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development April 1, 2002, Through June 30, 2002

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.
II. Regulatory waivers granted by the Office of Housing.
III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The State of Wisconsin requested a waiver of the Consolidated Annual Performance and Evaluation Report (CAPER) Deadline.

Nature of Requirement: Section 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year. The State of Wisconsin's program year ended on March 31, 2002; thus, its CAPER was due on June 30, 2002. The state requested an extension of its submission deadline until September 30, 2002.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: June 6, 2002.

Reasons Waived: While HUD desires timely reports, it is also interested in ensuring that the performance reports prepared by grantees are complete and accurate. Therefore, under the authority of 24 CFR 91.600, the requirements of 24 CFR 91.520(a) were waived and the State of Wisconsin was given an extension to September 30, 2002, to submit its 2001 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 92.212(b).

Project/Activity: Washington County Consortium in Texas requested a waiver of the pre-award costs requirements set forth at 24 CFR 92.212(b) of the HOME regulations.

Nature of Requirements: Section 92.212(b) provides that administrative and planning costs may be incurred at the beginning of the participating jurisdiction's consolidated program year, or the date the Consolidated Plan is received by HUD, whichever is later. Such costs may be charged to the HOME allocation after its award, provided the costs meet the statutory and regulatory requirements of the HOME program.

Granted by: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: April 29, 2002.

Reasons Waived: The Department found that the need of the Washington County Consortium to develop and execute various documents to complete the process of becoming a participating jurisdiction constitutes good cause for a waiver to permit the county to incur pre-award costs for eligible HOME planning and administrative activities. The waiver granted covers those costs incurred in forming the consortium and developing the Consolidated Plan that are incurred after the date the consortium notifies HUD of its intention to participate in the HOME program. The waiver is consistent with the provisions of 24 CFR 570.200(h)(1)(i) of the Community Development Block Grant regulations which authorize new grantees to incur pre-award costs for the development of the first Consolidated Plan.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 92.252(a).

Project Activity: The Commonwealth of Massachusetts, on behalf of Boston Aging Concerns Young and Old United, Inc. (BAC–YOU) and its ''GrandFamilies House'' in Dorchester, Massachusetts, requested a waiver of the HOME rent requirements.

Nature of Requirement: Section 92.252(a) provides for the use of Section 8 fair market rents in HOME units if the units are occupied by a head-of-household caring for grandchildren if three conditions are met. First, a qualified family receiving Section 8 tenant-based rental assistance must occupy the unit. Second, the rent for the unit must not exceed the fair market rent for comparable units in the area. Third, additional revenue from the higher rent must be expended for improved affordable housing for the grandfamilies.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: May 22, 2002.

Reasons Waived: The Department determined that 18 high HOME rent units in the BAC–YOU– GrandFamilies House satisfy the three conditions required by Section 215 of National Affordable Housing Act. Good cause for waiver exists because the revenue generated by the waiver enables BAC–YOU– to enhance the services provided by the GrandFamilies House to its residents. The waiver was granted to permit BAC–YOU– to charge the Section 8 rent in the 18 high HOME rent units in the GrandFamilies House. The Commonwealth of Massachusetts requested that the waiver be granted retroactively to the date of the statutory amendment. The Department does not grant retroactive waivers. The waiver was granted prospectively only.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 92.254(a)(2)(iii).

Project/Activity: DeKalb County, Georgia, requested a waiver for the City of Decatur of the HOME regulation requiring participating jurisdictions to use the Single Family Mortgage Limits.

Nature of Requirement: Section 92.254(a)(2)(iii) of the HOME regulation requires participating jurisdictions to use the Single Family Mortgage Limits established under Section 203(b) of the National Housing Act to determine maximum after rehabilitation value of the single family homeownership units assisted with HOME funds. As an alternative to the Section 203(b) limits, HOME regulations at 24 CFR 92.254 (a)(2)(iii) allow participating jurisdictions to perform a local market survey to determine 95 percent of the median area purchase price for single-family housing; this figure then serves as the maximum value limit for single family homeownership units.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: May 10, 2002.

Reasons Waived: Dekalb County requested a waiver to permit it to use the survey data of the City of Decatur to establish 95 percent of median area purchase price for the single-family housing located in the city instead of using county-wide survey data. The remainder of the county will continue to use the Section 203(b) Single Family Mortgage Limit. There is good cause to grant the waiver because DeKalb County has documented a significant disparity in the value of housing between the City of Decatur and the rest of the county. The waiver applies to the City of Decatur's owner occupied rehabilitation program. The county must resubmit a survey of sales prices within the city to HUD annually.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 92.258(a) and 92.258(d)(1).

Project Activity: The State of Kansas requested a waiver to allow two HOME-assisted Elder Cottage Housing Opportunity (ECHO) units to be relocated to the site of a multifamily housing project for the developmentally disabled.

Nature of Requirement: Section 92.258(a) states that ECHO units are to be designed to be installed adjacent to existing single-family dwellings. The regulations at 24 CFR 92.258(d)(1) also state that, ''only one ECHO unit may be provided per host property.''

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Dated Granted: May 10, 2002.

Reasons Waived: The Department found that there was good cause to grant this waiver because doing so will preserve the availability of affordable housing in Kansas. The Department considers this arrangement between the Northeast Kansas Community Action Program and Achievement Services to be acceptable given that eligible persons will occupy the units and the units will maintain their affordability.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 92.503(b).

Project/Activity: The State of Iowa requested waiver of the repayment requirement of the HOME Investment Partnerships Program final rule.

Nature of Requirement: Section 92.503(b) requires that a participating jurisdiction must repay HOME funds invested in housing that does not meet the affordability requirements for the period specified. While the period of affordability for the original house will not be met, the participating jurisdiction is proposing to substitute a larger unit that better suits the needs of the occupants and that satisfies all HOME requirements for the remaining period of affordability.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: April 9, 2002.

Reasons Waived: The Department determined that there was good cause for the waiver because the interest of the low-income residents will be protected and the objective of the HOME program will continue to be met.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

• *Regulations:* 24CFR 570.206(g).

Project/Activity: The City of Moorhead, Minnesota, requested a waiver so that the city could pay eligible administrative costs to facilitate the development of 34 units of affordable rental housing.

Nature of Requirement: Section 570.206(g) provides that assistance under this part of the regulation is limited to units that are identified in the grantee's HUD approved housing assistance plan (HAP). In as much as the Consolidated Plan includes non-housing activities and is not exclusively limited to low- and moderate-income persons, the Department determined that 24 CFR 570.206(g) cannot be read as only allowing a substitution costs related to the Consolidated Plan for costs formerly eligible in connection with the HAP. However, if a specific activity is construed to include a HAP-type of implementing activity for costs statutorily permitted, the Department is willing to consider a waiver of 24 CFR 570.206(g) to permit the expenditure of Community

Development Block Grant (CDBG) funds for administrative expenses designed to facilitate the development of housing.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: April 12, 2002.

Reasons Waived: The use of CDBG funds in this instance, to pay for pre-development costs related to the development of 34 units of affordable rental housing, is a HAP type of implementing activity for costs statutorily permitted. If a waiver is not approved and the city is unable to raise the funds to provide the required local funding for this project, these affordable rental housing units would be lost. This would create an undue hardship and adversely affect the purposes of the program because there is a need for these housing units for low-and-moderate income households, therefore a waiver was granted.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 882.408(b).

Project/Activity: Miami Dade Housing Agency (MDHA) and Carrfour Corporation of Miami, Florida, requested a waiver of the current Moderate Rehabilitation Single Room Occupancy (SRO) Fair Market Rent (FMR) for the Little Haiti Gateway SRO project.

Nature of Requirement: Section 882.408(b) provides that, with Field Office approval, a public housing agency (PHA) may approve initial gross rents which exceed the applicable FMR by up to 10 percent for all units of a given size in specified areas.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: April 18, 2002.

Reasons Waived: The provision of 24 CFR 882.408(b) which allows pre-agreement exception rents to be approved only on an area-wide basis has been waived. The reasons are: MDHA has been working since 1993, when the project was conditionally approved, to bring this project to completion. The ACC was effective on June 1, l995. During the last six years there have been many obstacles that have caused project delays. The delays included change in owner, change in sites, obtaining financial resources, and change in developer. When the original owner was unable to develop the project, MDHA initiated a request for proposals process for a new owner and Carrfour was selected in March 1997, to develop the Little Haiti project. Carrfour identified a site but the site fell through since the owner of the property, which was occupied, failed to obtain consent of the beneficiaries within the prescribed time frame. Therefore, another site had to be located and this took approximately six months. The change in sites affected the use of acquisition funds allocated by the State for the project. The funds originally set aside for the other proposed site had to be reprogrammed for the new site, which took over two years.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–2565, extension 4556.

II. Regulatory Waivers Granted by the Office of Housing

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 200.54(a).

Project/Activity: W.H. Block Building, Indianapolis, IN; Project Number: 073–35552.

Nature of Requirement: Section 200.54(a) establishes the procedures for a pro-rata disbursement of the mortgagor's front money escrow funds and Federal Housing Administration (FHA) insured mortgage proceeds for the subject property.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 9, 2002.

Reason Waived: Since the front money escrow is so large, the insured proceeds would not be disbursed for 6 to 8 months after initial endorsement, resulting in payment of extension fees to the investors who purchased the Government National Mortgage Association (GNMA) mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) will permit the Indianapolis Multifamily Hub to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

Contact: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–7000; telephone: (202) 708–1142.

• *Regulation:* 24 CFR 200.54(a).

Project/Activity: Clyburn Apartments, Denver, CO; Project Number: 101–35555.

Nature of Requirement: Section 200.54(a) establishes the procedures for a pro-rata disbursement of the mortgagor's front money escrow funds and FHA insured mortgage proceeds for the subject project.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 20, 2002.

Reason Waived: Since the front money escrow is so large, the insured proceeds would not be disbursed for several months, resulting in the payment of extension fees to the investors who purchased the GNMA mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) will permit the Denver Hub to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

Contact: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–7000; telephone: (202) 708–1142.

• *Regulation:* 24 CFR 200.54(a).

Project/Activity: The Villas at Metro Center Apartments, Nashville, TN; Project Number: 086–35273.

Nature of Requirement: Section 200.54(a) establishes the procedures for a Pro-rata Disbursement of the Mortgagor's Front Money Escrow Funds and FHA insured mortgage proceeds for the subject property.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 21, 2002.

Reason Waived: Since the front money escrow is so large, the insured proceeds would not be disbursed for several months, resulting in payment of extension fees to the investors who purchased the GNMA mortgage-backed securities. Providing a waiver of 24 CFR 200.54(a) will permit the Nashville Multifamily Program Center to approve a pro-rata disbursement of front money and mortgage proceeds, thereby allowing the mortgagee not to pay GNMA extension fees.

Contact: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–7000; telephone: (202) 708–1142.

• *Regulation:* 24 CFR 203.42(a).

Project/Activity: Housing Authority of the City of Spokane (SHA), Spokane, WA.

Nature of Requirement: Section 203.42(a) prohibits the placing of FHA mortgage insurance on any rental property if the property is part of a project, subdivision, or group of rental properties in which the mortgagor has a financial interest in eight or more dwelling units.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 20, 2002.

Reason Waived: The waiver allowed the Housing Authority of the City of Spokane, Washington, to acquire and sell, using FHA mortgage insurance, sixty newly constructed homes to low- and moderate-income homebuyers under a lease purchase option program called ''The Welcome Home Program.''

Contact: Vance T. Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–2121.

• *Regulation:* 24 CFR 203.49(c).

Project/Activity: Mortgagee, First Mortgage Corporation of Diamond Bar, California.

Nature of Requirement: Section 203.49(c) provides that lenders may extend the initial interest rate adjustment dates on ARM loans to any time within a 12 to 18 month window thus rendering the loans eligible for placement in GNMA pools. Ineligibility of the loans for delivery to GNMA would result in financial hardship to the mortgagee and will not have an adverse impact on any mortgagors.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 29, 2002.

Reason Waived: The Corporation requested extensions of the initial change date for four ARM loans beyond the 12–18 month window period as required by 24 CFR 203.49(c).

Approving the waiver enabled the lender to scrutinize the loans and rendered them no harm to the borrowers or the Department.

Contact: Vance T. Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone (202) 708–2121.

• *Regulation:* 24 CFR 203.674(b)(1), 24 CFR 203.675, 24 CFR 203.676, 24 CFR 203.677, 24 CFR 203.678.

Project/Activity: Predatory Lending Assistance/St. Ambrose Housing Aid, Baltimore, MD.

Nature of Requirement: Section 203.674(b)(1) specifies that occupants must make timely request for occupied conveyance. Section 203.675 sets out the requirements for adequate notice to occupants of pending acquisition. Section 203.676 identifies the required time frames for occupants to request occupied conveyance. Section 203.677 pertains to time frames for HUD's written decision to allow occupied conveyance. Section 203.678 references time frames for borrowers to request occupied conveyance.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 16, 2002.

Reason Waived: These regulations were waived in order to allow the Department to accept occupied conveyance of up to 20 properties in Baltimore that were determined to be impacted by predatory lending schemes. Occupied conveyance will facilitate and expedite a direct sale of the properties to St. Ambrose Housing Aid Center which will supervise rehabilitation and resell or lease the properties back to borrowers who were victims of predatory lending.

Contact: Joe McCloskey, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–7000; telephone: (202) 708–1672.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Church Manor, Smithfield, VA; Project Number: 051–35012.

Nature of Requirement: Section 219.220(b) governs the repayment of assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996, requiring that assistance paid to project owners must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage or at sale of the project.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 10, 2002.

Reason Waived: The Richmond Multifamily Program Center requested waiver of this regulation in order to subordinate the Flexible Subsidy financing following the refinancing/rehabilitation of the subject property through Low Income Housing Tax Credits and non-FHA insured loans. The owner requested permission to make a payment toward the Flexible Subsidy loan and the subordinate the remainder following the refinancing/rehabilitation of the property. If the waiver was not granted, the owner would not have funds to repay the Flexible Subsidy loan and would not be able to close on the new financing package, thereby losing the opportunity to improve this much needed affordable rural housing for the low-income citizens of Smithfield.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6160, Washington, DC 20410–7000; telephone: (202) 708–3730.

• *Regulations:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
10135289	Mountain View Place	CO
10135284	Normandy Gardens	CO
01755027	Bristol Court Apartments	CT
00035194	Hunter Pines West Apartments	DC
14035022	Hilo Val Hala	HI
07335337	Woodland East II Apartments	IN
08335333	Pegasus 80	KY
02335169	Bel-Air Homes	MA
08435238	Gotham Apartments	MO
09335087	El Dorita Apartments	MT
03135175	Livingston Homes	NJ
03135174	Somerset Homes	NJ
03135212	Willow Court Apartments	NJ
01257157	Parkway Plaza	NY
04235276	Clinton Circle Apartments	OH
04235185	Regency Square Apartments	OH
04335228	Marion Green Apartments	OH
05635040	San Fernando Apartments	PR
01657007	New City Apartments	RI
07535271	Timber Ridge Apartments	WI
04535119	Wildwood House	WV

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their Federal Housing Administration (FHA) insured mortgages during the restructuring process.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 3, 2002.

Reasons Waived: The projects listed above were not assigned to the participating administrative entities (PAEs) in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• *Regulations:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
06535336	Berwood Apartments	MS
01257153	East 21st Street Apartments	NY
04235330	Shaker Park Garden Apartments II	OH

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reasons Waived: The projects listed above were not assigned to the PAEs in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• *Regulations:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
800002463	South Bay Villa	CA
800002539	Sunnyview Villa	CA
800001364	Dakota Woods II	CA
800001364	Dakota Woods II	CA
800003075	Lincoln Square	CO
800003611	Twin Towers	CT
800030044	Prestwyck Apts	DE
800005011	The Pines Apartments	GA
800007311	Mission Woods Apartments	KS
800007137	Bonita Terrace	KS
800007702	Irvin Cobb Apartments	KY
800007738	Lincoln Village	KY
800000061	Pegasus 80	KY
800008152	Rayville West	LA
800008501	Garand Court	MA
800009380	Orchard Mews Apartments	MD
800011601	Hamilton Apartments	MO
800011936	Tiffany Rehab	MO
800013100	Old Farm Apartments	NC
800013100	Old Farm Apartments	NC
800015008	Crestview Gardens	NY
800015201	Green Acres Apartments	NY
800016070	Schoolhouse Apartments	NY
800015693	Prospect Arms Apartments	NY
800016158	South Fulton Rehabilitation	NY
800017340	Courtyard	OH
800016243	Ashland Manor	OH
800016911	McArthur Park	OH
800017336	Sunset Square	OH
800017388	Uptown Village Apartments	OH
800017407	Victorian Heritage	OH
800018190	Anthracite Apartments	PA
800018697	Mulberry Tower	PA
800019795	Swift Creek Apartments	SC
800046298	Pebble Creek Apartments	TX
800022757	The Sundowner Apartments	WA
800023231	Orchard Court Apartments	WI
800023733	Williamson Towers	WV

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 30, 2002.

Reasons Waived: The projects listed above were not assigned to the PAEs in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• *Regulations:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
06235331	Oak Ridge Apartments	AL
06235332	Town Creek Apts	AL
06235328	Westgate Apts	AL
07135408	Deerfield Woods Phase II	IL
07335378	Swiss Meadows	IN
07335349	Willow Glen Apartments	IN
08335314	Dupont Manual Apartments	KY
08335267	Lakeland Wesley Village I	KY

FHA No.	Project name	State
05235338	Sharp Leadenhall II	MD
05335287	R.M. Wilson Apartments	NC
01257016	Mohegan Apartments	NY

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 27, 2002.

Reasons Waived: The projects listed above were not assigned to the PAEs in a timely manner or for which the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Reggie's Place, Suffolk, VA; Project Number: 051–HD096/VA36–Q001–011.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 3, 2002.

Reason Waived: The project is economically designed, comparable to other similar projects developed in the area, and the sponsor has obtained additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Westlake Apartments, Pittsburgh, PA; Project Number: 033–EE101/PA28–S991–005.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 3, 2002.

Reason Waived: The project is economically designed, comparable to other similar projects developed in the area, and the sponsor/owner has exhausted all efforts to secure additional funds from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Meadow Brook Apartments, San Antonio, TX; Project Number: 115–HD033/TX59–Q001–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 16, 2002.

Reason Waived: The project was economically designed, comparable in cost to similar projects, and the sponsor could not contribute any additional funds.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Employment Options, Incorporated, Marlboro, MA; Project Number: 023–HD131/MA06–Q971–012.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reason Waived: The project is economically designed, is comparable to other similar projects developed in the area, and the sponsor has exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Lakeside Place, Orlando, FL; Project Number: 067–HD068/FL29–Q991–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reason Waived: The project is economically designed, is comparable to other similar projects developed in the area, and the sponsor has exhausted all efforts to find additional funds from outside sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Checed Warwick, Newport News, VA; Project Number: 051–EE070/VA36–S991–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 30, 2002.

Reason Waived: The project was economically designed, comparable to other projects in the area, and the sponsor exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Faye Street Group Home, Chesapeake, VA; Project Number: 051–HD078/VA36–Q991–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 30, 2002.

Reason Waived: The project is economically designed, comparable to other similar projects in the area, and the sponsor has exhausted all efforts to obtain additional funding.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Together With Friends, Saginaw, MI; Project Number: 048–HD009/MI28–Q001–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 30, 2002.

Reason Waived: The project is economically designed, is comparable to other similar projects in the area, and the owner has exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant

Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Barrett House, Suffolk, VA; Project Number: 051–HD097/VA36–Q001–012.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: April 30, 2002.
Reason Waived: The project is economically designed, is comparable in cost to similar projects, and the sponsor cannot contribute any additional funds.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: St. Andrews of Jennings Phase II, St. Louis, MO; Project Number: 085–EE049/MO36–S001–002.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: May 16, 2002.
Reason Waived: The project is economically designed, is comparable in cost to similar projects, and the sponsor cannot contribute any additional funds.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Guide Texler Homes, Incorporated, Lanham, MD; Project Number: 000–HD048/MD39–Q001–003.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: May 17, 2002.
Reason Waived: The sponsor exhausted all efforts to obtain additional funding from other sources; the project is economically designed and is comparable to other similar projects developed in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Kane Cook Homes, Elgin, IL; Project Number: 071–HD113/IL06–Q991–003.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: May 17, 2002.
Reason Waived: The project is economically designed, is comparable to other similar projects developed in that area, and the sponsor has exhausted all efforts to obtain additional funding from other sources.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: The McDowell County Housing Action Network, Gary, WV; Project Number: 045–EE014/WV15–S001–001.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: May 21, 2002.
Reason Waived: The sponsor exhausted all efforts to obtain additional funding from other sources; the project is economically designed and comparable to other similar projects developed in the area.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Piney Ridge Apartments, Danville, VA; Project Number: 051–HD077/VA36–Q981–008.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: May 22, 2002.
Reason Waived: The project is economically designed, is similar in construction to other projects developed in the area, and the sponsor has no other resources to contribute additional funds.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: National Church Residences of Manhattan II, Manhattan, KS; Project Number: 102–EE024/KS16–S001–002.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: May 22, 2002.
Reason Waived: The project is economically designed and comparable to other similar projects developed in the area, and the sponsor has exhausted all efforts to obtain additional funding from other sources.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Concerned Care, Kansas City, MO; Project Number: 084–HD033/MO16–Q001–001.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: June 16, 2002.
Reason Waived: The project is economically designed, comparable to other similar projects developed in the area, and the sponsor cannot contribute any additional funds.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Meadow Park, Sarasota, FL; Project Number: 067–EE106/FL29–S001–001.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: June 20, 2002.
Reason Waived: The project is economically designed, comparable in cost to similar projects, and the sponsor cannot contribute any additional funds.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).
Project/Activity: Elm Street Home, Webster, IA; Project Number: 074–HD022/IA05–Q001–001.
Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.
Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.
Date Granted: June 26, 2002.
Reason Waived: The project is economically designed, comparable to other similar projects developed in the area, and the sponsor cannot contribute any additional funds.
Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant

Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Mental Health Care, Inc., Brandon, FL; Project Number: 067–HD066/FL29–Q991–011.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 26, 2002.

Reason Waived: The project is economically designed, comparable to other similar projects developed in the area, and the sponsor has contributed to the project.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Village Apartments, Rantoul, IL; Project Number: 072–HD111/IL06–Q001–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 26, 2002.

Reason Waived: The project is economically designed, comparable to other similar projects developed in the jurisdiction, and the sponsor has exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Thomaston VOA Elderly Housing, Bath, ME; Project Number: 024–EE038/ME36–S971–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 16, 2002.

Reason Waived: The project is economically designed and comparable to other similar projects developed in your jurisdiction. Further $71,388 in additional funding is being provided through the Maine State Housing Authority. The sponsor has exhausted all means to find the funds through other sources. The project has also incurred significant delays associated with the need to change sites several times.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Manor House, Austin, TX; Project Number: 115–HD030/TX59–Q991–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 16, 2002.

Reason Waived: The project is economically designed, is comparable to other similar projects developed in the jurisdiction, and the sponsor has exhausted all efforts to obtain additional funding from other sources. Also, delays were caused while the owner located additional funds for construction and resolved legal issues involving the site.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: The Pavilion at Immaculate Conception, Bronx, NY; Project Number: 012–EE247/NY36–S981–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 23, 2002.

Reason Waived: Additional time was needed to find another general contractor, and determine a feasible construction budget. The project is economically designed, is comparable to other projects developed in the area, and the sponsor has exhausted all efforts to find additional funds from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Agua Azul, Albuquerque, NM; Project Number: 116–HD013/NM16–Q991–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reason Waived: The project is economically designed, is comparable to other projects developed in the area, and the sponsor has exhausted all efforts to obtain additional funding from other sources other than the $250,000 it is receiving from the City of Albuquerque in HOME funds. Additional time is necessary to issue the firm commitment and arrange for the initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Gene Gilbert Manor, Albuquerque, NM; Project Number: 116–HD011/NM16–Q981–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 30, 2002.

Reason Waived: The sponsor had to change contractors because the original contractor was unable to obtain a bond. The project is economically designed, is comparable to other similar projects developed in the area, and the Sponsor has exhausted all efforts to obtain additional funding from outside sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Santa Fe Homeward Bound Apartments, Santa Fe, NM; Project Number: 116–HD014/NM16–Q991–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24

months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 30, 2002.

Reason Waived: Additional time is needed for the firm commitment application to be processed and the initial closing to take place. The project is economically designed, is comparable to other projects developed in the area, and the sponsor has exhausted all efforts to find additional funds from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: St. Boniface Gardens, Inc., Pembroke Pines, FL; Project Number: 066–EE074/FL29–S991–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 2, 2002.

Reason Waived: There was an unexpected delay in getting a plat recorded.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Hale O Man'o Lana Hou II, Maui, HI; Project Number: 140–HD015/HI10–Q961–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 3, 2002.

Reason Waived: The project experienced delays in securing approval for a partial release of the Section 202/8 mortgage on the existing site and the lengthy process for the County of Maui to approve the subdivision of the site, and an amendment of the ground lease.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: AHEPA 156 Apartments, Canonsburg, Washington County, PA; Project Number: 033–EE098/PA28–S991–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 3, 2002.

Reason Waived: The project has incurred delays due to the local municipality's preference for relocating the storm detention area from what was originally proposed on the architectural drawings.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Abraham Lincoln Center, Chicago, IL; Project Number: 071–HD095/IL06–Q961–010.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 8, 2002.

Reason Waived: The owner needed additional time to obtain building permits, solidify secondary financing, and resolve site and design issues.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: NC Orange Senior Housing Corporation, Orange, Essex County, NJ; Project Number: 031–EE048/NJ39–S981–005.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 16, 2002.

Reason Waived: The project has incurred delays due to a change in the project architect, revisions to the project's design and plans, and time needed by the Federal Home Loan Bank to reissue documentation (destroyed in the attack on the World Trade Center) of the $250,000 in subordinate financing being provided to the project.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Lalo Guerrero Barrio Viejo, Tucson, AZ; Project Number: 123–EE073/AZ20–S991–005.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 16, 2002.

Reason Waived: The sponsor/owner has experienced lengthy delays due to lawsuits and protests from third parties regarding the development of the project, and unexpected changes involving the architect and project design.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Presbyterian Home at Franklin Township, Franklin Township, NJ; Project Number: 031–EE045/NJ39–S971–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 16, 2002.

Reason Waived: The sponsor needed additional time to satisfy the needs of the zoning board and community prior to obtaining approval of the design and site.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Union Seniors, Los Angeles, CA; Project Number: 122–EE133/CA16–S981–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 16, 2002.

Reason Waived: The project has experienced inordinate delays due to complications arising from the plan check process of the City of Los Angeles with regard to legal unit count, and the subsequent permission of the planned rehabilitated units.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Stanton Accessible Apartments, Stanton, CA; Project Number: 143–HD008/CA43–Q981–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 17, 2002.

Reason Waived: The project has incurred delays due to neighborhood opposition, and to the amount of time it took to get a zoning variance request approved to reduce the parking requirements.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: AHEPA National Housing Corporation, Cheektowaga Town, NY; Project Number: 014–EE078/NY06–S941–017.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 17, 2002.

Reason Waived: The development of the project incurred inordinate delays due to lengthy litigation.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Jefferson Elderly Housing, Jefferson, WI; Project Number: 075–EE081/WI39–S991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 19, 2002.

Reason Waived: The project has incurred delays attributable to site problems and additional time is needed for the project architect to cure deficiencies in the firm commitment application.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Cottonwood Manor VI, Cottonwood, AZ; Project Number: 123–EE069/AZ20–S991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 19, 2002.

Reason Waived: The project has experienced delays resulting from obtaining local approval of the design, and the need to redesign the roadway when the adjacent property owner declined to grant a required right-of-way.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Cinnaminson Consumer Home, Cinnaminson, NJ; Project Number: 035–HD044/NJ39-Q991–008.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 22, 2002.

Reason Waived: Additional time is needed for HUD to process the firm commitment application in order for the project to reach initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Berlin Housing, Berlin, WI; Project Number: 075–HD055/WI39–Q981–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 23, 2002.

Reason Waived: Additional time is needed for the closing documents to be submitted and processed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Judson Terrace Lodge, San Luis Obispo, CA; Project Number: 122–EE163/CA16–S991–014.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 23, 2002.

Reason Waived: The sponsor/owner is negotiating with the city to resolve their responsibility for the city's ''water-offset'' rule and ongoing negotiations with adjacent property owners concerning the project design.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: St. Timothy Manor, Cleveland, OH; Project Number: 042–EE111/OH12–S991–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 23, 2002.

Reason Waived: The sponsor was forced to seek a site change due to local neighborhood opposition.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: St. Jude Manor, Norton, OH, Project Number: 042–EE112/OH12–S991–005.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 23, 2002.

Reason Waived: Sponsor was forced to seek two site changes due to local neighborhood opposition.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Mt. Gilead Estates, Mt. Gilead, OH; Project Number: 043–HD028/OH16–Q991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reason Waived: The project was delayed while the owner/sponsor addressed budget overruns and site issues.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: PROCAP Housing, Providence, RI; Project Number: 016–HD030/RI–43–Q991–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reason Waived: Significant time was expended in locating an alternate site, the Sponsor/Owner is currently awaiting approval of a zoning variance, and the architect needs additional time to finalize the plans.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Lytle Trace, Williamsburg, OH; Project Number: 046–EE050/OH10–S991–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reason Waived: Project has been delayed while the owner/sponsor sought additional funding.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Morrow Woods, Mt. Gilead, OH; Project Number: 043–EE068/OH16–S991–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reason Waived: The project was delayed while the owner/sponsor sought additional funding.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Luther Ridge, Middletown, CT; Project Number: 017–EE053/CT26–S991–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reason Waived: The project was delayed because the design had to be changed and the civil engineering firm had to be replaced.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Inglis Gardens at Evesham, Evesham Township, NJ; Project Number: 035–HD040/NJ39–Q981–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reason Waived: Additional time is needed for the Township of Evesham to issue the building permits.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Howard Street Senior Apartments, San Francisco, CA; Project Number: 121–EE121/CA39–S981–014.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reason Waived: The project has experienced lengthy delays due to the complexity of negotiating agreements between diverse stakeholders concerning some predevelopment financing, coordinating inter-agency approvals, and addressing complex community acceptance issues.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Accessible Space, Inc., Florence, AL; Project Number: 062–HD043/AL09–Q991–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reason Waived: The sponsor is currently addressing the screening deficiencies found in the application, and additional time is needed to review the application and issue the Firm Commitment.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Mental Health Care, Inc., Brandon, Hillsborough County, FL; Project Number: 067–HD066/FL29–Q991–011.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reason Waived: The project has incurred delays while the sponsor resolved site control and cost overrun issues.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Orlando VOA Elderly Housing, Inc. Orlando, Orange County, FL; Project Number: 067–EE104/FL29–S991–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 25, 2002.

Reason Waived: The sponsor encountered difficulty in obtaining local approval for a revised plot of the property, and additional time is needed for HUD's review of the closing documents.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Rhinelander Disable Housing, Rhinelander, WI, OH; Project Number: 075–HD063/WI39–Q991–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 29, 2002.

Reason Waived: The Sponsor has incurred delays in securing an acceptable site, and additional time is needed for the site to be properly zoned.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Lakeside Place, Orlando, Orange County, FL; Project Number: 067–HD068/FL29–Q991–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 30, 2002.

Reason Waived: The project has incurred delays while the sponsor resolved site control and local issues.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Valentino Square Apartments, West Allis, WI; Project Number: 075–EE077/WI39–S981–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 30, 2002.

Reason Waived: The project has incurred delays while the owner resolved a funding problem, and while HUD reviewed their request to combine this project with another Section 202 project.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Dr. Charles H. Moore—Westminster Arms, Los Angles, CA; Project Number: 122–EE143/CA16–S981–012.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 30, 2002.

Reason Waived: The project has incurred inordinate delays due to site and zoning issues, and the city's lengthy process for reviewing and approving the project design.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Honoka'a Knolls Senior Apartments, Honoka'a, HI; Project Number: 140–EE020/HI10–S991–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 3, 2002.

Reason Waived: The sponsor is requesting approval to combine two Section 202 projects; and additional time is needed to finalize the drawings, complete the processing of the Firm Commitment Application, close the project, and start construction.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Honoka'a Knolls Senior Apartments II, Honoka'a, HI; Project Number: 140–EE023/HI10–S001–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 3, 2002.

Reason Waived: The sponsor is requesting approval to combine two Section 202 projects; and additional time is needed to finalize the drawings, complete the processing of the firm commitment application, close the project, and start construction.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: The Lambs Farm of Green Oaks, Green Oaks, IL; Project Number: 071–HD115/IL06–Q991–005.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 8, 2002.

Reason Waived: The project was delayed while the sponsor obtained final approval of the project, and funding for the services from the Illinois Department of Human Services.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Ft. Washington Adventist Apartments, Oxon Hill, MD; Project Number: 000–EE045/MD39–S971–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 10, 2002.

Reason Waived: The project was delayed due to the local governmental approval of the water/sewer allocation, untimely issuance of building permits, and unresolved zoning issues.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: YMCA of Metropolitan Chicago, Chicago, IL; Project Number: 071–EE141/IL06–S981–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 10, 2002.

Reason Waived: The sponsor had to change sites and additional time was needed for approval requirements of the new site.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: La Playa Apartments, San Francisco, CA; Project Number: 121–HD065/CA39–Q981–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 16, 2002.

Reason Waived: The project incurred delays in getting design documents through the City of San Francisco's plan review process and the owner was attempting to secure additional funds for construction.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Nanaikeola Senior Apartments, Waianae, HI; Project Number: 140–EE019/HI10–S991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 16, 2002.

Reason Waived: The Sponsor needs additional time to finalize their drawings, complete the Firm Commitment application, and close the project.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Accessible Space, Inc., Birmingham, IL; Project Number: 062–HD041/AL09–Q981–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 7, 2002.

Reason Waived: The owner/sponsor needs additional time to resolve environmental problems and zoning issues relative to the new site. Additional time is also needed for the owner/sponsor to prepare and HUD to review the firm commitment application.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Stanton Accessible Apartments, Stanton, CA; Project Number: 143–HD008/CA43–Q981–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 13, 2002.

Reason Waived: The project was delayed due to neighborhood opposition to the project and additional time for the Sponsor to secure community involvement and revise the design.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Hayworth Housing, Los Angeles, CA; Project Number: 122–HD118/CA16–Q991–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 13, 2002.

Reason Waived: The project was delayed due to the need for a full seismic retrofit, consultation with a structural engineer on the new design, and the additional time taken for the cost to be agreed upon.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Evergreen Village Senior Apartments, Everett, WA; Project Number: 127–EE024/WA19–S991–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 16, 2002.

Reason Waived: The project has incurred delays as a result of changes in the county building codes during the past year, conflicting zoning and building requirements, and the local requirement for completion of certain work prior to construction of the Section 202 project.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: HFL Ashtabula Homes, Pasadena, CA; Project Number: 122–HD117/CA16–Q991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 16, 2002.

Reason Waived: Local opposition caused multiple delays in securing the necessary city planning approval for the project.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Accessible Space, Inc., Florence, AL; Project Number: 062–HD043/AL09–Q991–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 16, 2002.

Reason Waived: The sponsor recently addressed the deficiencies within the firm commitment application and additional time is needed to process and issue the firm commitment and to reach initial closing on the development.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Palms Manor, Los Angeles, CA; Project Number: 122–HD113/CA16–Q981–005.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 18, 2002.

Reason Waived: The sponsor had to obtain a swing loan to purchase the site and it took several months for the newly formed owner organization to receive their tax exemption status.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Cantebria Senior Homes, Encinitas, CA; Project Number: 129–EE021/CA33–S991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 18, 2002.

Reason Waived: The project was delayed due to an extended community design and outreach process that was necessary for obtaining neighborhood support, and the additional 60-day review process taken by the city to approve entitlement for the site.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Helms Manor, Los Angeles, CA; Project Number: 122–HD115/CA16–Q981–007.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: June 18, 2002.

Reason Waived: The sponsor had to obtain a swing loan to purchase the site, and it took several months for the newly formed owner organization to receive their tax exemption status.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: West Street, Needham, MA; Project Number: 023–HD138/MA06–Q981–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 20, 2002.

Reason Waived: Additional time is needed to proceed to initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Valentine Court III, Santa Maria, CA; Project Number: 122–HD129/CA16–Q991–013.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 26, 2002.

Reason Waived: The project was delayed while the sponsor was finalizing the initial design development plans, obtaining a conditional use permit from the City of Santa Maria, and securing additional funding sources from the California State Department of Housing and Community Development.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: G.R. Vale Home, Huntington, WV; Project Number: 045–HD030/WV15–Q991–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 26, 2002.

Reason Waived: An alternate site had to be obtained, the size of the structure to be rehabilitated on the new site became an issue that was recently resolved after numerous meetings, the owner is currently revising the firm commitment application, and additional time is needed for submission and review of closing documents.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: VHH–JG Commons Senior Apartments, Vashon, WA; Project Number: 127–EE026/WA19–S991–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 26, 2002.

Reason Waived: Additional time was needed for the sponsor to meet all the secondary funding requirements imposed by the state and local agencies providing the secondary financing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Lakeside Place, Orlando, Orange County, FL; Project Number: 067–HD068/FL29–Q991–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 26, 2002.

Reason Waived: The project experienced delays due to site control problems, and issues beyond the sponsor's control.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: St. Isaac Jogues, Wheatfield, NY; Project Number: 014–EE191/NY06–S991–009.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 27, 2002.

Reason Waived: The original contractor unexpectedly withdrew from the project, forcing the owner to obtain another contractor and re-negotiate the costs.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: St. Peter Claver Courts, Country Club Hills, IL; Project Number: 071–EE152/IL06–S991–011.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: June 28, 2002.

Reason Waived: The sponsor was forced to change sites several times and the new site still had some unresolved environmental issues.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.205.

Project/Activity: Southbury Senior Housing, Southbury, CT; Project Number: 017–EE068/CT26–S011–004.

Nature of Requirement: Single-Purpose Corporation. Section 891.205 requires that Section 202 project owners be single-purpose corporations.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 8, 2002.

Reason Waived: The project will be built adjacent to the sponsor's existing Section 202 project and one owner-entity would promote greater service provision as well as coordinated administrative maintenance.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.310(b)(1) and (b)(2).

Project/Activity: TWB Residential Opportunities II, Port Jefferson Station, NY; Project Number: 012–HD093/NY36–Q991–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.310(b)(1) and (b)(2) requires that all entrances, common areas, units to be occupied by resident staff, and amenities must be readily accessible to and usable by persons with disabilities.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 30, 2002.

Reason Waived: The project consists of four group homes for the independent living of the chronically mentally ill, each serving three residents. The sites will be designed to allow one bedroom and all common spaces in one home to be fully accessible. To make all 12 units fully accessible for persons with mobility impairments would make the project financially infeasible. The sponsor has indicated that less than 5 percent of the individuals that are served under their programs require accessible housing. Therefore, accessibility of the one site is more than adequate for potential residents.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–3000.

• *Regulation:* 24 CFR 891.410(c) and 24 CFR 5.110.

Project/Activity: Hampton Woods Retirement and Hampton Woods II, Jackson, NC; Project Numbers: 053–EH469 and 053–EE009.

Nature of Requirement: Section 891.410(c) limits occupancy to very low income elderly persons, *i.e.*, households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy. Section 5.110 relates to admission of families to projects for elderly or handicapped families that received reservations under Section 202 of the Housing Act of 1959 and housing assistance under Section 8 of the U.S. Housing Act of 1937.

Granted by: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: April 8, 2002.

Reason Waived: The Greensboro Multifamily Hub requested an age waiver for the subject project because the current occupancy level of eligible persons and families does not support successful operation of the projects. This waiver would allow the project owner/management agent to rent units to persons between the ages of 55 and 62 years of age with or without disabilities, thus, allowing the owner flexibility in renting up these vacant units. This waiver is in effect for one year from date of approval.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–7000; telephone: (202) 708–3730.

• *Regulation:* 24 CFR 891.410(c) and 24 CFR 5.110.

Project/Activity: Friendship Community Care, Clarksville, AR; Project Number: 082–HD048.

Nature of Requirement: Section 891.410(c) limits occupancy to very low income elderly persons, *i.e.*, households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy. Section 5.110 relates to admission of families to projects for elderly or handicapped families that received reservations under Section 202 of the Housing Act of 1959 and housing assistance under Section 8 of the U.S. Housing Act of 1937.

Granted by: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 14, 2002.

Reason Waived: The Little Rock Multifamily Program Center requested waiver of the income requirements for the subject property because the property has only maintained an 88 percent occupancy rate since receiving permission to occupy in December 2000. The project has no waiting list and only 16 of the 18 units are occupied. Granting this waiver would allow flexibility to market to low-income families and enable property management to lease the vacant units and start a waiting list. This waiver is effective for one year from date of approval.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–7000; telephone: (202) 708–3730.

• *Regulation:* 24 CFR 891.410(c) and 24 CFR 5.110.

Project/Activity: Echo Valley Village, Pittsburgh, NH; Project Number: 024–EE040.

Nature of Requirement: Section 891.410(c) limits occupancy to very low-income elderly persons, *i.e.*, households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy. Section 5.110 relates to admission of families to projects for elderly or handicapped families that received reservations under Section 202 of the Housing Act of 1959 and housing assistance under Section 8 of the U.S. Housing Act of 1937.

Granted by: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: May 22, 2002.

Reason Waived: The Manchester Multifamily Program Center requested waiver of the age and income requirements for the subject property. The owner/management agent of the subject project has requested permission to waive the elderly and low-income requirements to alleviate the current occupancy and financial problems the property is experiencing. The property will be allowed to rent to the non-elderly, disabled, and handicapped between the ages of 55 and 62 years and allow the applicants to meet the low-income eligibility requirements. This waiver will attempt to rent up vacant units and allow the property to operate successfully. This waiver is effective for one year from date of approval.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–7000; telephone: (202) 708–3730.

• *Regulation:* 24 CFR 891.410(c) and 24 CFR 5.110.

Project/Activity: Sugarloaf Village, Diamond City, AR; Project Number: 082-EE091.

Nature of Requirement: Section 891.401(c) limits occupancy to very low income elderly persons, *i.e.*, households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy. Section 5.110 relates to admission of families to projects for elderly or handicapped families that received reservations under Section 202 of the Housing Act of 1959 and housing assistance under Section 8 of the U.S. Housing Act of 1937.

Granted by: John C. Weicher, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 23, 2002.

Reason Waived: The Fort Worth Multifamily Hub requested an age waiver for the subject project because the current occupancy level will not support the project. Vacant units will be marketed to people between the ages of 55 and 62 with or without disabilities. Providing for a waiver of the elderly and handicapped requirements will allow the owner additional flexibility to rent up units. This waiver is in effect for one year from the date of approval.

Contact: Beverly J. Miller, Director, Office of Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–7000; telephone: (202) 708–3730.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR Part 761.

Project/Activity: Houma Housing Authority, Houma, LA; LA48DEP0900199/ Public Housing Drug Elimination Program.

Nature of Requirement: Request for waiver of 24 CFR 761.30(b) to allow an extension of time to implement the subject grant activities.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: May 13, 2002.

Reason Waived: The Houma Housing Authority (HHA) was designated a troubled performer on December 21, 2001. HHA was transferred to the jurisdiction of the Memphis Troubled Agency Recovery Center (TARC) effective January 25, 2002. Upon being transferred, it was noted that the 1999 Public Housing Drug Elimination Program (PHDEP) Grant funds had not been obligated due to the ongoing investigation by the Local District Attorney and HUD's investigation by the Office of Inspector General hindered the draw down of funds. Medical absences of an Executive Director delayed implementation of selected PHDEP projects. The Executive Director was eventually terminated by the Board of Directors on November 18, 2001.

Contact: Sonia L. Burgos, Director, Community Safety and Conservation Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4206 Washington, DC 20410; telephone: (202) 708–1197, extension 4227.

• *Regulation:* 24 CFR 761.30(b).

Project/Activity: Roanoke Housing Authority, Roanoke, VA; VA36DEP0110197/ Public Housing Drug Elimination Program.

Nature of Requirement: Request for waiver of 24 CFR 761.30(b) to allow an extension of time to implement the subject grant activities.

Granted By: Michael Liu, Assistant Secretary, Office of Public and Indian Housing.

Date Granted: May 1, 2002.

Reason Waived: The waiver was granted to allow the housing authority to use the balance of the grant for reimbursement for services rendered and to cover grant related administrative expenses. There was a misunderstanding of the grant expenditure deadline and requests for draw down of funds from the Line of Credit Control System (LOCCS) were put on HUD Field Office review.

Contact: Sonia L. Burgos, Director, Community Safety and Conservation Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4206, Washington, DC 20410; telephone: (202) 708–1197, extension 4227.

• *Regulation:* 24 CFR 982.306(d).

Project/Activity: Becker County Economic and Redevelopment Authority, Detroit Lakes, Minnesota; Housing Choice Voucher Program.

Nature of Requirement: Section 982.306(d) limits the circumstances under which a public housing agency (PHA) may approve the leasing of a unit if the owner of the unit is a close relative of the family.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: May 2, 2002.

Reason Waived: Approval of the waiver permitted a large family to lease a unit from a relative because of the unavailability of suitable vacant rental housing in the PHA's jurisdiction.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Boston Housing Authority, Boston, Massachusetts; Housing Choice Voucher Program.

Nature of Requirement: Section 982.505(d) allows a PHA to approve a higher payment within the basic range for a family that includes a person with disabilities as a reasonable accommodation.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: April 16, 2002

Reason Waived: Approval of the waiver was granted to allow a housing choice voucher participant with disabilities to lease her current unit, which rents for an amount that exceeds 120 percent of the fair market rent. Due to the participant's age and health, it would be an undue hardship for the program participant to seek a unit to lease within the established payment standard amount and relocate.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Riverside County Housing Authority (RCHA), Riverside, CA; Housing Choice Voucher Program. RCHA requested an exception payment standard on behalf of a voucher holder that exceeds 120 percent of the fair market rent as a reasonable accommodation.

Nature of Requirement: Section 982.505(d) allows a PHA to approve a higher payment within the basic range for a family that includes a person with disabilities as a reasonable accommodation.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: May 20, 2002.

Reason Waived: Approval of the waiver permitted a voucher holder to lease a unit large enough for the family with ample space for dialysis equipment.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: The City of Tucson Community Services Department, Tucson, Arizona; Housing Choice Voucher Program.

Nature of Requirement: Section 982.505(d) allows a PHA to approve a higher payment within the basic range for a family that includes a person with disabilities as a reasonable accommodation.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: May 28, 2002.

Reason Waived: Approval of the waiver was granted to allow a housing choice voucher participant with disabilities to locate a suitable unit that will accommodate her disabilities.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: The New York City Housing Authority (NYCHA), New York, New York; Housing Choice Voucher Program.

Nature of Requirement: Section 982.505(d) allows a PHA to approve a higher payment within the basic range for a family that includes a person with disabilities as a reasonable accommodation.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: June 20, 2002.

Reason Waived: Approval of the waiver was granted to allow the NYCHA to approve an exception payment standard in excess of 120 percent of the published fair market rent to make it possible for a family that includes a person with disabilities to locate a suitable unit.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 983.7(c)(4) and Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-based Assistance Program; Initial Guidance.

Project/Activity: Akron Metropolitan Housing Authority (AMHA), Akron, Ohio; Project-based Assistance (PBA) Program. The AMHA requested a waiver of the regulation and an exception to the initial guidance to permit the AMHA to attach PBA to 97 units in Callis Tower, a 277-unit elderly building in a 551-unit Section 236 project, Channelwood. The project is located in a census tract with a poverty rate of 32 percent.

Nature of Requirement: Section 983.7(c)(4) prohibits the use of PBA in a Section 236 project. Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, projects must be in census tracts with poverty rates of less than 20 percent.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: April 26, 2002.

Reason Waived: Approval of the waiver was granted to ensure that the affected elderly families would not be rent burdened. Approval of the exception was granted because the project was in the HUD-designated City of Akron's Enterprise

Community whose goals of creating jobs; housing, and new educational and healthcare opportunities are consistent with the goal of deconcentration and expanding housing and economic opportunities.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 983.51(a) and (b).

Project/Activity: New Hampshire Housing Finance Authority (NHHFA), Bedford, New Hampshire; Project-based Assistance Program. The NHHFA requested a waiver of the aforementioned program regulation to allow for the selection of units for project-based assistance that were competitively selected for tax credits and units selected under the NHHFA's Multifamily Housing Production Initiative Program without requiring HUD review and approval of a written selection policy and without advertising for a competitive selection of units under the project-based program.

Nature of Requirement: Section 983.51(a) and (b) require HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: April 1, 2002.

Reason Waived: The waiver was granted based on the urgent need for affordable rental housing in New Hampshire and the NHHFA's desire to use project-based assistance for high-ranking proposals under its Multifamily Housing Initiative Program and for projects that were competitively selected for low-income housing tax credits.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart F of the January 16, 2001, **Federal Register** *Notice,* Revisions to PHA Project-based Assistance Program; Initial Guidance.

Project/Activity: Columbus Metropolitan Housing Authority (CMHA), Columbus, Ohio; Project-based Assistance (PBA) Program. The CMHA requested an exception to the initial guidance to attach PBA to a greater number of family units than the 25 percent limit to which project-based assistance can be attached to any one building.

Nature of Requirement: Section II subpart F of the initial guidance requires that unless waived, no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments (HAP) contract for PBA except for dwelling units that are specifically made available for elderly families, disabled families and families receiving supportive services.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: April 19, 2002.

Reason Waived: The exception was approved to allow for the attachment of project-based assistance to 100 percent of the units. The exception was approved based on the self-sufficiency nature of the services to be provided at the project. Specifically, the supportive services included assistance with finding and retaining employment, financial responsibility (building income and savings), and encouraging neighborhood and community involvement.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart E and subpart F of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-based Assistance Program; Initial Guidance.

Project/Activity: Boston Housing Authority (BHA), Boston, Massachusetts; Project-based Assistance (PBA) Program. The BHA requested an exception to Section II subpart E of the initial guidance for three projects to permit attachment of project-based assistance to units in census tracts with poverty rates of greater than 20 percent. Additionally, the BHA requested an exception to Section II subpart F of the initial guidance for one project to attach project-based assistance to a greater number of family units than the 25 percent limit to which project-based assistance can be attached to any one building.

Nature of Requirement: Section II subpart E requires that all new project-based assistance agreements or HAP contracts be for units in census tracts with poverty rates of less than 20 percent. Section II subpart F of the initial guidance requires that unless waived, no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments (HAP) contract for PBA except for dwelling units that are specifically made available for elderly families, disabled families and families receiving supportive services.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: April 19, 2002.

Reason Waived: Approval of the requests for an exception to subpart E include the planned neighborhood revitalization, creation of mixed-income housing and job opportunities, and the significant State investment in each area. The approval of the exception to subpart F was based on the self-sufficiency nature of the services to be offered to families residing at the development. The services include child care; parenting education, job re-entry guidance, support and adult basic education instruction.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-based Assistance Program; Initial Guidance.

Project/Activity: St. Paul Public Housing Agency (SPPHA), St. Paul, Minnesota; Project-Based Assistance (PBA) Program. The SPPHA requested an exception to the initial guidance to permit the SPPHA to attach PBA to Rivertown Apartments which is in a census tract with a poverty rate of 39 percent.

Nature of Requirement: Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, projects must be in census tracts with poverty rates of less than 20 percent.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: April 26, 2002.

Reason Waived: Approval of the exception was granted since the project was in the HUD-designated St. Paul Enterprise Community whose goals of creating jobs, housing, and new educational and healthcare opportunities are consistent with the goal of deconcentration and expanding housing and economic opportunities.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-based Assistance Program; Initial Guidance.

Project/Activity: Dayton Metropolitan Housing Authority (DMHA), Dayton, Ohio; Project-based Assistance (PBA) Program. The DMHA requested an exception to the initial guidance to permit the DMHA to attach PBA to Ecumenical Homes that are in census tracts 0036 and 0037 with poverty rates of 43 and 41 percent, respectively.

Nature of Requirement: Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, projects must be in census tracts with poverty rates of less than 20 percent.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: May 28, 2002.

Reason Waived: Approval of the exception was granted since the project was in four specific neighborhoods, MacFarland, Wright-Dunbar, Paul Laurence Dunbar and Wolf Creek that make up part of a development plan known as Dayton's Inner Ring Strategy. This strategy is a comprehensive economic, housing development and infrastructure improvement initiative directly impacting 14 center city neighborhoods that form a ring around the downtown area. The goals of Dayton's Inner Ring Strategy and the revitalization activities within the neighborhoods in which Ecumenical Homes will be located are consistent with the goal of deconcentration and expanding housing and economic opportunities.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-based Assistance Program; Initial Guidance.

Project/Activity: Housing Authority of the City of Atlanta (HACA), Atlanta, Georgia; Project-based Assistance (PBA) Program. The HACA requested an exception to the requirement to permit attachment of project-based assistance to 100 units at Park Place South Senior Apartments located in a census tract with a poverty rate of more than 20 percent.

Nature of Requirement: Section II subpart E requires that all new project-based assistance agreements or HAP contracts be for units in census tracts with poverty rates of less than 20 percent.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: May 28, 2002.

Reason Waived: Approval of the waiver was granted because the significant public investment, mixed-income nature of the area in which the project is located, and the expansion of housing and economic opportunities, are consistent with the goal of the deconcentration requirement under the project-based voucher program.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart F of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-based Assistance Program; Initial Guidance.

Project/Activity: Isothermal Planning and Development Commission (IPDC), Rutherfordton, North Carolina; Project-based Assistance (PBA) Program. The IPDC requested an exception to the initial guidance to permit the IPDC to attach PBA to units in Cameron Farms and Ashley Meadows that exceed the 25 percent cap on the number of units in a building to which PBA can be attached for families receiving supportive services.

Nature of Requirement: Section II subpart F of the initial guidance requires that unless waived, no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments contract for PBA except for dwelling units that are specifically made available for elderly families, disabled families and families receiving supportive services.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: June 3, 2002.

Reason Waived: Approval of the exception was granted because the families living in Cameron Farms and Ashley Meadows will receive educational classes, health seminars, legal workshops, life skills workshops, parenting classes, crime prevention programs, financial workshops and homeownership sessions. All families will be given the opportunity to participate in the IPDC's Family-Self Sufficiency Program. These supportive services are consistent with the statute.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart E and subpart F of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-based Assistance Program; Initial Guidance.

Project/Activity: Minneapolis Public Housing Authority (MPHA), Minneapolis, Minnesota; Project-based Assistance (PBA) Program. The MPHA requested an exception to the initial guidance to permit the MPHA to attach PBA to Armadillo Flats, Franklin Portland Gateway, Park Plaza, Collaborative and Families Moving Forward that are in census tracts with poverty rates that exceed 20 percent. The MPHA also requested an exception to waive the requirement that no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments (HAP) contract for PBA except for dwelling units that are specifically made available for elderly families, disabled families and families receiving supportive services for Collaborative Village and Families Moving Forward.

Nature of Requirement: Section II subpart E of the initial guidance requires that in order to meet the Department's goal of deconcentration and expanding housing and economic opportunities, the projects must be in census tracts with poverty rates of less than 20 percent. Section II subpart F requires that no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments (HAP) contract for PBA except for dwelling units that are specifically made available for elderly families, disabled families and families receiving supportive services.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: June 7, 2002.

Reason Waived: Approval of the exception for deconcentration was granted since four of the projects are in the Minneapolis Empowerment Zone and one was within blocks of it. The goals of establishing empowerment zones (to open new businesses, create jobs, housing, and new educational and healthcare opportunities) are consistent with the goal of deconcentration and expanding housing and economic opportunities. Approval of the exception for the number of units in a building that may be project-based was granted because the families living in Collaborative Village will receive supportive services for chemical dependence support, job training, and educational counseling. Families living in Families Moving Forward will receive supportive services for child advocacy and care, a father's program, parenting support, and an aftercare program, all of which will focus on self-sufficiency. These supportive services are consistent with the statute.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart E of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-based Assistance Program; Initial Guidance.

Project/Activity: Burlington Housing Authority (BHA), Burlington, Vermont; Project-based Assistance (PBA) Program. The BHA requested an exception to the aforementioned requirement to permit attachment of project-based assistance to units in a census tract with a poverty rate of greater than 20 percent.

Nature of Requirement: Section II subpart E requires that all new PBA agreements or housing assistance payments contracts be for units in census tracts with poverty rates of less than 20 percent.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: June 12, 2002.

Reason Waived: The poverty rate in the census tract at issue is 22 percent. The development is located in the same census tract as the University of Vermont. College students have an over-riding impact on the income characteristics of the census tract. If the college age individuals are excluded from the calculation, the census tract poverty rate drops to approximately 8 percent. In light of the unusual skew in the poverty rate data as a result of the University population living in the census tract, the commitment of public funds, the expansion of housing opportunities, and the education opportunities, the request for an exception was granted.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart F of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-based Assistance Program; Initial Guidance.

Project/Activity: Metropolitan Council Housing and Redevelopment Authority (Metro HRA), Fridley, Minnesota; Project-based Assistance (PBA) Program. The Metro HRA requested an exception to the initial guidance to permit the Metro HRA to attach PBA to units at Brandes Place that exceed the 25 percent cap on the number of units in a building to which PBA can be attached for families receiving supportive services.

Nature of Requirement: Section II subpart F of the initial guidance requires that unless waived, no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments contract for PBA except for dwelling units

that are specifically made available for elderly families, disabled families and families receiving supportive services.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: June 20, 2002.

Reason Waived: Approval of the exception was granted because the families living in Brandes Place will participate in the Metro HRA's Family Self-Sufficiency program and there will be a close collaboration between the developer and Catholic Charities who will provide a network to the local work force. These supportive services are consistent with the statute.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* Section II subpart F of the January 16, 2001, **Federal Register** Notice, Revisions to PHA Project-based Assistance Program; Initial Guidance.

Project/Activity: Winston-Salem Housing Authority (WSHA), Winston-Salem, North Carolina; Project-based Assistance (PBA) Program. The WSHA requested an exception to the initial guidance to permit the WSHA to attach PBA to 88 units in Kimberly Park Terrace that exceeds the 25 percent cap on the number of units in a building to which PBA can be attached for families receiving supportive services.

Nature of Requirement: Section II subpart F of the initial guidance requires that unless waived, no more than 25 percent of the dwelling units in any building may be assisted under a housing assistance payments contract for PBA except for dwelling units that are specifically made available for elderly families, disabled families, and families receiving supportive services.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: June 20, 2002.

Reason Waived: Approval of the exception was granted because the families living in Kimberly Park Terrace, a HOPE VI project, will receive supportive services provided by the Community Affordable Housing Equity Corporation that will include an adult scholarship program, a community grants program to fund such items as furniture for community space and books for the on-site library, a first-time homebuyers program, a technology learning center, and a youth recognition program. These supportive services are consistent with the statute.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410; telephone: (202) 708–0477.

• *Regulation:* 24 CFR 990.107(f) and 990.109.

Project/Activity: Augusta, GA, Housing Authority. A request was made to permit the authority to benefit from energy performance contracting for developments that have resident-paid utilities. The housing authority estimates that it could increase energy savings substantially if it were able to undertake energy performance contracting for both its PHA-paid and resident-paid utilities.

Nature of Requirement: Under 24 CFR Part 990, Operating Fund Formula energy conservation incentive that relates to energy performance contracting currently applies to only PHA-paid utilities. The Augusta Housing Authority has both PHA-paid and resident-paid utilities.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: May 3, 2002.

Reason Waived: In September 1996, the Oakland Housing Authority was granted a waiver to permit the housing authority to benefit from energy performance contracting for developments with resident-paid utilities. The waiver was granted on the basis that the Authority presented a sound and reasonable methodology for doing so. The Augusta Housing Authority requested a waiver based on the same approved methodology. The waiver permits the housing authority to exclude from its Performance Funding System calculation of rental income the increased rental income due to the difference between updated baseline utility allowances (before implementation of the energy conservation measures) and revised allowances (after implementation of the measures) for the project(s) involved for the duration of the contract period, which cannot exceed 12 years.

Contact: Regina McGill, Director, Attn: Peggy Mangum, extension 4039, Funding and Financial Management Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, 451 Seventh Street, SW., Washington, DC 20410; Room 4216; (202) 708–1872.

• *Regulation:* 24 CFR 990.107(f) and 990.109.

Project/Activity: Opelika, AL, Housing Authority. A request was made to permit the authority to benefit from energy performance contracting for developments that have resident-paid utilities. The housing authority estimates that it could increase energy savings substantially if it were able to undertake energy performance contracting for resident-paid utilities.

Nature of Requirement: Under 24 CFR Part 990, Operating Fund Formula energy conservation incentive that relates to energy performance contracting currently applies to only PHA-paid utilities. The Opelika Housing Authority has resident-paid utilities.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: May 3, 2002.

Reason Waived: In September 1996, the Oakland Housing Authority was granted a waiver to permit the authority to benefit from energy performance contracting for developments with resident-paid utilities. The waiver was granted on the basis that the authority presented a sound and reasonable methodology for doing so. The Opelika Housing Authority requested a waiver based on the same approved methodology. The waiver permits the HA to exclude from its PFS calculation of rental income the increased rental income due to the difference between updated baseline utility allowances (before implementation of the energy conservation measures) and revised allowances (after implementation of the measures) for the project(s) involved for the duration of the contract period, which cannot exceed 12 years.

Contact: Regina McGill, Director, Attn: Peggy Mangum, extension 4039, Funding and Financial Management Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, 451 Seventh Street, SW., Washington, DC 20410; Room 4216; (202) 708–1872.

• *Regulation:* 24 CFR 1000.327(b).

Project/Activity: Nondalton Tribal Council's submission of an Indian Housing Plan (IHP) for FY 2002 funding made available under the Native American Housing Assistance and Self-Determination Act of 1996.

Nature of Requirement: The regulation notifies Indian tribes not located on a reservation, including each Alaska Native village, regional Indian tribe, regional corporation, or its tribally designated housing entity (TDHE) that they must notify HUD in writing by September 15 each year whether it or its TDHE intends to submit an IHP. If an Alaska Native village notifies HUD that it does not intend either to submit an IHP or to designate a TDHE to do so, or if HUD receives no response from the Alaska Native village or its TDHE, the formula data which would have been credited to the Alaska Native village will be credited to the regional Indian tribe, or if there is no regional Indian tribe, to the regional corporation.

Granted By: Mr. Michael Liu, Assistant Secretary, Office of Public and Indian Housing.

Date Granted: June 7, 2002.

Reason Waived: The Alaska Office of Native American Programs may not have received the Tribe's notification of intent to submit an IHP by the deadline due to the state of affairs surrounding September 11, 2001, and the Tribal Administrator's medical condition.

Contact: Deborah Lalancette, Director, Grants Management, Denver Program ONAP, Department of Housing and Urban Development, 1999 Broadway, Suite 3390, Denver, CO 80202; telephone: (303) 675–1600, extension 3325.

[FR Doc. 02–25499 Filed 10–9–02; 8:45 am]

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Federal Register

Thursday,
October 10, 2002

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 648

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery; Atlantic Deep-Sea Red Crab Fishery Management Plan; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 648

[Docket No. 020531136–2224–02; I.D. 041802C]

RIN 0648–AP76

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery; Atlantic Deep-Sea Red Crab Fishery Management Plan

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement approved measures contained in the Atlantic Deep-Sea Red Crab Fishery Management Plan (FMP). These regulations implement the following measures: A limited access program for the directed fishery; a target total allowable catch (TAC) level; a Days-at-Sea (DAS) allocation effort control program; permitting and reporting requirements, including an Interactive Voice Response (IVR) system for limited access vessels; trip limits and incidental harvest allowances; trap/pot limits; processing-at-sea restrictions; and a framework adjustment process among other measures. The intended effect of this final rule is to implement permanent management measures for the Atlantic deep-sea red crab (red crab) (*Chaceon quinquedens*) fishery pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the FMP and to prevent overfishing of the red crab resource. Also, NMFS informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this final rule and publishes the OMB control numbers for these collections.

DATES: This final rule is effective on October 21, 2002.

ADDRESSES: Copies of the FMP, its Regulatory Impact Review (RIR), the Final Regulatory Flexibility Analysis (FRFA), and the Final Environmental Impact Statement (FEIS), as prepared by the New England Fishery Management Council (Council), are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, The Tannery—Mill 2, Newburyport, MA 01950.

Comments regarding the collection-of-information requirements contained in this final rule should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, 978–281–9272.

SUPPLEMENTARY INFORMATION: This final rule implements approved measures contained in the FMP, which was approved by NMFS on behalf of the Secretary of Commerce (Secretary) on July 31, 2002.

Details concerning the justification for and development of the FMP and the implementing regulations were provided in the preamble to the proposed rule (67 FR 41936, June 20, 2002) and are not repeated here.

Maximum Sustainable Yield (MSY)

MSY is estimated at 6.24 million lb (2,830.4 mt) for the male-only red crab fishery. It was calculated based on a 1974 NMFS survey of the red crab resource and the resulting stock assessment (Serchuk, 1977). Several assumptions underlie the calculation of MSY: (1) That the fishery continues to retain and land only male crabs larger than 4 inches (10.2 cm); that the natural mortality rate for red crabs is 0.15; and (3) that the management unit extends to Cape Hatteras, NC. The status of the red crab fishery will be updated if and when new scientific data are obtained.

Overfishing Definition

The overfishing definition considers both the rate of exploitation and the condition of the stock. Overfishing is defined as any rate of exploitation that causes the ratio of current exploitation to an idealized exploitation under MSY conditions to exceed 1.0. Several methods may be used to define idealized exploitation, depending on the type of data available.

The red crab stock is considered to be in an overfished condition if any one of the following three conditions is met:

Condition 1—The current biomass of red crab in the red crab management unit is below ½ Bmsy.

Condition 2—The annual fleet average catch per unit effort (CPUE), measured as marketable crabs landed per trap haul, continues to decline below a baseline level for 3 or more consecutive years.

Condition 3—The annual fleet average CPUE, measured as marketable crabs landed per trap haul, falls below a minimum threshold level in any single year.

Optimum Yield (OY)

OY is specified at 95 percent of MSY, or 5.928 million lb (2,689 mt). This approach is intended to incorporate future changes in MSY into the estimate of OY, to account for any uncertainty about the status or vulnerability of the resource or the current levels of fishing effort.

Approved Measures

Management Unit

The boundaries of the management unit are limited to the waters north of 35°15.3′ N. lat., bounded by the coastline of the continental United States in the west and north, and the Hague Line and seaward extent of the U.S. Exclusive Economic Zone (EEZ) in the east. The proposed boundaries reflect the traditional extent of the red crab fishery in the Northeast United States, are consistent with prior action taken by the Secretary (the emergency regulations) (66 FR 23183, May 8, 2001 and 66 FR 56781, November 13, 2001), incorporate a well-known bio-geographic boundary (Cape Hatteras, NC), and are consistent with other New England Council FMPs.

Fishing Year

The fishing year begins on March 1 of each year, which reflects traditional fishing practices prior to times of relatively higher effort and landings. The timing of the fishing year is anticipated to reduce the margin of error associated with projections of landings made about future fishing years. It also reflects the time after which the cumulative landings for the first 6 months of the fishery are expected to be the highest, which will reduce the margin of error associated with projected landings during the second half of the year.

Permitting Requirements

The owner of any commercial vessel who wants to fish for, catch, possess, transport, land, sell, trade, or barter red crab or red crab parts in or from the red crab management unit is required to obtain a Federal red crab permit. One of two types of Federal permits is required: (1) A limited access red crab permit is required for vessels to participate in the directed fishery (this permit is issued only to vessels that meet specified eligibility criteria); and (2) a red crab incidental catch permit is required in order for any vessel to land an

incidental catch of red crabs up to 500 lb (226.8 kg) per fishing trip. All vessels are eligible for this permit. Vessels issued the limited access permit are also allowed to fish under the red crab incidental catch rules if they do not declare their intent to use a red crab DAS.

Owners of vessels issued a limited access red crab permit may, upon permit renewal beginning with the second fishing year, declare out of the red crab fishery for the following fishing year by submitting a binding declaration to the Administrator, Northeast Region, NMFS (Regional Administrator) at least 180 days prior to the following fishing year. NMFS will presume that a vessel owner intends to fish the following fishing year unless such a declaration is received. The requirement for owners of vessels to declare if their intent is not to fish prior to each fishing year is necessary in order to facilitate any needed adjustment of the annual allocation of DAS per vessel, which is based on the expected number of vessels that would actually participate in the fishery. A vessel owner who declares out of the fishery for the following year must wait until the next year's permit renewal application process to declare back into the fishery for the next full fishing year.

Vessel owners have 180 days from the effective date of this final rule to apply for their initial limited access permits. Therefore, a vessel owner must apply for an initial limited access red crab permit before April 8, 2003. No vessel owner may apply for an initial limited access red crab permit after this date. Pursuant to § 648.4(a)(1)(i)(B), any owner who fails to renew his/her limited access permit for any fishing year will be ineligible to renew it in subsequent years.

As part of the application for a limited access red crab permit, vessel owners must declare the maximum number of traps/pots they use per string and the maximum number of strings they intend to employ annually, such that the product of the maximum number of traps/pots per string and the maximum number of strings declared is no more than 600 traps/pots.

Dealers who purchase red crab product from any vessel are required to obtain a Federal dealer permit. Red crabs harvested from the red crab management unit may only be sold by a federally permitted vessel to federally permitted dealers.

Operators of vessels issued a Federal red crab vessel permit must obtain a Federal operator permit. An individual who already holds an operator permit for another federally managed fishery need not reapply, since there is no qualification or test for this permit.

Qualification Criteria for Limited Access

Subject to the restrictions defined in this rule, a vessel may qualify for a limited access red crab permit if the vessel demonstrates that its average landings of red crabs per year during the 3-year period prior to the March 1, 2000, control date were greater than 250,000 lb (113,398 kg).

Reporting Requirements

This rule extends the existing Northeast Region Vessel Trip Report (VTR) system to vessels with red crab permits. The owner or operator of vessels issued either a limited access or incidental catch permit must submit monthly reports on fishing effort, landings, and discards within 15 days of the end of the reporting month. Both limited access and incidental catch vessels must complete and submit accurate VTRs for all fishing trips, regardless of whether they fish for or land any red crab.

Owners or operators of vessels participating in the limited access fishery must also report their total red crab landings through an IVR system within 24 hours of the termination of any trip that lands red crab.

Dealers issued a red crab dealer permit must submit a weekly dealer report on forms provided by or approved by the Regional Administrator. If authorized in writing by the Regional Administrator, the form(s) may be submitted electronically or through other media. The report must be provided weekly, and must be postmarked and received within 16 days after the end of each reporting week. A negative report is required if there are no purchases of any species during the reporting week.

Target TAC

An annual specifications process provides the mechanism to make adjustments to the amount of target TAC available to the fishery and the number of DAS to be allocated to each vessel authorized to participate in the limited access fishery. Specifications also include the specification of OY and/or adjustments to trip/possession limits. The Council's Plan Development Team (PDT) will review the most recent landings and effort data on an annual basis in order to provide the information necessary for the Council to recommend the specifications for the following fishing year. Each fishing year, the landings in the red crab fishery will be counted against a target TAC. The target TAC will be set annually through the annual specification process at a level equal to the most current estimate of OY for the fishery. The target TAC will be adjusted based on any projected overage or underage expected for the current fishing year. For example, when the Council is setting the annual specifications for the following fishing year, if OY is 5.928 million lb (2,689 mt) and the Council projects that 6.75 million lb (3,062 mt) will be harvested in the current fishing year (i.e., a 822,000 lb (372,853 kg) overage), then the target TAC for the following year may be set no higher than 5.106 million lb (2,316 mt) (5.928 million lb - 822,000 lb = 5.106 million lb). If, on the other hand, the Council projects that only 5.25 million lb (2,381 mt) will be harvested in the current fishing year (a 678,000 lb (307,536 kg) underage), then the target TAC may be set at 6.606 million lb (2,996 mt). The target TAC for the first full fishing year, March 1, 2003 through February 29, 2004, is 5.928 million lb (2,689 mt) of whole red crab or its equivalent. The target TAC for the initial fishing year is discussed under ''DAS allocation for Initial Implementation Year'', below.

Allocations of Red Crab DAS

Along with the annual target TAC, the annual specification process involves calculation of the total DAS that may be utilized by the directed fishery, based on the average catch per DAS from the previous year. Total DAS are allocated equally to all vessels issued a limited access red crab permit, divided by the number of vessels that intend to participate in the fishery for the fishing year. Any unused DAS allocated to a vessel in one fishing year may be carried over to the next fishing year, up to a maximum of 10 DAS or 10 percent of the total allocated DAS, whichever is less. The partial end of the year DAS carry-over is intended to ensure that at least some unused fishing effort will not be wasted, while providing no incentive to hoard DAS. In addition, a carry-over provision enhances safety at sea by creating a disincentive for a vessel to use up remaining DAS at the end of a fishing year, notwithstanding bad weather conditions. This measure also limits the potential annual fishing capacity to roughly 10 percent above the baseline. An initial baseline of 130 DAS is established for each limited access vessel for the fishing year that ends February 28, 2003, because this rule first implements the red crab management measures well after the start of the initial fishing year (March 1, 2002). Therefore, the management measures

will not be in effect for a full fishing year.

From March 1, 2003, through February 29, 2004, each participating vessel will be allocated 156 DAS, unless this allocation were changed because of one or more vessel owners declaring out of the fishery or under the FMP specification process. The allocation of 156 DAS per participating vessel will remain the baseline unless modified through the specification process in the FMP.

A DAS is counted as a whole day (24 hours). Any portion of a day on which a vessel is out of port counts as a full DAS. For example, if a vessel embarks on a fishing trip at 11:00 p.m. on June 1, that day of departure counts as one DAS. If it returns from the trip at 1:00 a.m. on June 10, that day of return also counts as one DAS. The vessel will have used 10 DAS during the fishing trip, rather than the 8.0833 DAS that would be counted as used if DAS were counted on an hourly basis, as is the case in the Northeast multispecies and Atlantic sea scallop fisheries.

DAS Allocation for Initial Implementation Year

During the initial year of implementation of the FMP, to account for red crab removed from the resource during the regulatory hiatus period between the expiration of the red crab emergency regulations on May 14, 2002, and implementation of the FMP, the Regional Administrator will calculate the amount of red crab landed during that period. This landings total will be deducted from the target TAC (5.928 million lb) (2,689 mt) and the remainder is the amount of target TAC available for the initial fishing year under the DAS program. The percentage of the target TAC remaining will be calculated and vessels participating in the DAS program will be allocated the calculated percentage of the initial baseline of DAS (for example, if landings during the hiatus period equal 20 percent of the target TAC, the allocation of 130 DAS will be reduced by 20 percent, with the result rounded down to the nearest whole number). The calculated DAS allocation will be provided to permit holders by letter.

Trip Limits During a Red Crab DAS

All vessels issued a limited access red crab permit will be subject to a baseline trip limit of at least 75,000 lb (34,019 kg) of whole red crab or its equivalent. If a vessel can document at least one trip with higher landings during the limited access qualification period, then that vessel will qualify for a trip limit equal to the larger trip, rounded to the nearest 5,000 lb (2,268 kg). A vessel that landed crab in other than whole form must apply the more appropriate of two recovery rate formulas, or a formula approved by the Regional Administrator, in accordance with § 648.263(a)(2) to determine its highest landings on a trip during the qualification period. Documentation of the highest landings on a trip must be received by NMFS within 30 days after receipt of a vessel owner's application for an initial limited access red crab vessel permit. A vessel owner must fish consistent with the 75,000 lb (34,019 kg) trip limit until authorized for a trip higher than 75,000 lb (34,019 kg) by NMFS through issuance of an updated vessel permit.

Incidental Catch Limit

An incidental catch limit of 500 lb (226.8 kg) per trip, in whole weight equivalent, will be implemented for all vessels issued a red crab incidental catch permit. This incidental catch limit will also apply to vessels issued a limited access red crab permit when they are not fishing under a red crab DAS.

Female Red Crab Possession Restrictions

The retention and landing of female red crabs in the limited access red crab fishery is prohibited, except for an incidental catch allowance equal to the amount that will fill one standard U.S. fish tote (approximately 100 lb (45.4 kg)) per vessel per trip. This measure does not apply to vessels fishing under the provisions of the red crab incidental catch permit, because the Council did not want to provide any incentive to seek any more than the first 500 lb (227 kg) of red crab harvested.

Processing-At-Sea Restrictions

This rule prohibits the full processing of red crabs at sea, but allows landing of crabs in less than whole form, provided crabs are landed as described below. ''Full processing'' is defined as any activity that removes meat from any part of a red crab.

Crabs must be landed whole or split in half along the length of the carapace, with legs and claws still attached to the carapace parts. To determine the equivalent whole crab weight for crabs landed in half sections, this rule provides two different calculations, depending on whether the gills and other detritus are removed. For crab halves where gills and other detritus have not been removed (typically referred to as ''butchering''), the equivalent whole weight is equal to the weight of the halves multiplied by 1.56 (a 64-percent recovery rate). For crab halves where all of the gills and other detritus have been removed (typically referred to as ''partial processing''), the equivalent whole weight is equal to the weight of the halves multiplied by 1.72 (a 58-percent recovery rate).

This requirement is intended to remove the incentive for and prevent the harvesting of red crabs for their claws and/or legs alone. This measure will also facilitate the administration and enforcement of the male-only restriction in the directed fishery, because the sex could be discerned either by the shape of the tail flap on whole crabs, or by the outline of the tail flap on partially processed or butchered crabs.

Vessels issued a limited access red crab permit and fishing under a red crab DAS may possess red crab claws and legs separate from crab bodies equal to the amount that will fill one standard U.S. fish tote (approximately 100 lb (45.4 kg)) per vessel per trip. This mutilation allowance is intended to account for incidental and unintended loss of claws and/or legs during normal fishing operations. Vessels fishing under the provisions of the red crab incidental catch permit may possess no more than two claws and eight legs per crab on board the vessel.

Gear Requirements and Restrictions

Vessels issued a limited access red crab permit and fishing under a red crab DAS are subject to a maximum limit of 600 red crab traps/pots. If the total number of traps/pots declared by the owner of a vessel on the annual vessel permit application is less than 600, the vessel is subject to that declared limit on traps/pots.

Vessels issued a limited access red crab permit and fishing under a red crab DAS are prohibited from deploying, hauling, or removing fish from any fishing gear other than red crab gear. Red crab gear is identifiable through required markings on the buoys used at the end of each set of traps/pots.

The maximum allowable size of all traps/pots used in the limited access red crab fishery when under a red crab DAS is 18 ft^3 (0.51 m^3) in volume. In addition, all red crab traps/pots must be rectangular, trapezoidal or conical, unless other designs whose volume does not exceed 18 ft^3 (0.51 m^3) are authorized by the Regional Administrator. In conjunction with the trap/pot limit described above, this will prevent a potential increase in the per-day efficiency of vessels fishing under a red crab DAS.

Only red crab traps/pots may be used by a vessel fishing in the limited access

red crab fishery when fishing under a red crab DAS, in order to enhance conservation of red crabs and reduce the possibility of ghost fishing (i.e., fishing that continues when traps/pots or buoys are lost). Because red crab traps/pots, unlike parlor traps/pots, do not prevent the eventual escape of crabs from the trap, many of the crabs that might enter the traps during the period between trips will be gone before the vessel returns to haul the traps on a subsequent trip. Therefore, by prohibiting the use of compartments in red crab traps/pots there is no longer the possibility of red crabs dying in a trap/pot before the trap/pot is hauled. Also, lost red crab traps do not present a ghost fishing problem, because the crabs can escape from the traps. Vessels fishing under the red crab incidental catch provisions, including vessels in the red crab fishery when not fishing under a red crab DAS, are not prohibited from deploying, hauling, or removing fish from parlor traps/pots or using non-trap/pot gear.

Annual Monitoring and Framework Adjustment Measures

The Council must prepare a biennial Stock Assessment and Fishery Evaluation (SAFE) Report for the red crab fishery and its resource. The Red Crab PDT must meet at least annually to review the status of the stock and the fishery. The PDT must report any necessary adjustments to the measures and recommendations for the specifications and TACs to the Council's Red Crab Committee, which in turn must recommend appropriate changes to the Council. Specifications must be recommended to NMFS, and changes to management measures may be adopted through a framework adjustment or FMP amendment.

The framework adjustment process, on an annual basis or at any other time during the fishing year, is similar to that used in other Northeast Region fisheries. This process allows changes to be made to the regulations in a timely manner without going through the FMP amendment process.

During the framework adjustment process, the Council must meet to develop new management measures to the FMP. Either during or at the conclusion of the framework process, the public will be provided an opportunity to offer comments on the Council's framework adjustment process and the newly-developed management measures.

The management measures and/or changes to them may be implemented and adjusted through the framework process and specifically include the following: (1) OY; (2) management unit; (3) technical parameters for MSY; (4) description and identification of essential fish habitat (EFH); (5) description and identification of habitats of particular concern (HAPCs); (6) incidental catch limits; (7) minimum size of landed crabs; (8) restricting directed fishing to male crabs only; (9) butchering/processing restrictions; (10) trap/pot limits; (11) gear requirements/restrictions; (12) TAC; (13) trip limits; (14) controlled access; (15) DAS; and (16) any other measure currently included in the FMP.

Pursuant to section 304(b) of the Magnuson-Stevens Act, the Secretary has made minor modifications to the framework process as described in the FMP. These modifications help to clarify the Secretary's authority and discretion to publish framework measures as a final rule without prior notice and comment. Although the Council, after consideration of numerous criteria, may recommend that regulations be published directly as a final rule, this recommendation does not affect the Secretary's authority or discretion in deciding whether it is appropriate to publish the rule without prior notice and comment. However, in order to publish a final rule without prior notice and comment, the Secretary must make a finding under the Administrative Procedure Act that good cause exists to waive prior notice and comment.

Essential Fish Habitat

Depth zone affinities are used to describe EFH for red crab. EFH for red crab includes those areas of the offshore waters (out to the offshore U.S. boundary of the EEZ), in depths of 200–1,800 m, as identified and described in section 3.7.4 of the FMP. The activity managed by the FMP occurs in a limited area and a narrow depth band along the continental slope of the United States, from the southern flank of Georges Bank south to Cape Hatteras, NC. The range of this activity occurs across the designated EFH of 11 species managed by the New England, Mid-Atlantic and South Atlantic Fishery Management Councils. As discussed in Section 3.7.6 of the FMP, no adverse impacts are expected on the EFH of these species and no further mitigation is practicable or necessary. Potential impacts to EFH associated with this fishery are expected to decrease as a result of this action, based on the overall controls on the fishery, the trap/pot limit, the non-trap/pot gear prohibition, and the controlled access program, which will limit the number of participants.

This rule also revises the definitions of ''Council,'' ''Day(s)-at-Sea,'' ''Fishing year,'' ''Processor,'' ''Processing, or to process, in the Atlantic herring fishery,'' and ''Sorting machine,'' to clarify the meaning of each and to provide consistency with text used in like definitions from other species regulations.

Comments and Responses

Three sets of written comments on the FMP were received during the comment period on the FMP, which ended July 1, 2002. The comments were considered by NMFS before it approved the FMP on July 31, 2002, and are included below.

NMFS also received four sets of written comments on the proposed rule, some of which included comments on the FMP, during the comment period specified in the proposed rule, which ended on July 23, 2002. Because the comment period for the proposed rule was distinct from, and followed, the comment period for the FMP, comments received during the proposed rule comment period were not considered in NMFS' determination to approve the FMP. However, the comments addressing the proposed rule were considered in approval and implementation of this final rule effecting the FMP and its management measures and are responded to here.

Comment 1: The United States Coast Guard (USCG) expressed concern with the enforceability of the proposed trap/pot limits. While it said that gear marking and declaration requirements will help mitigate its enforcement concerns, it would be problematic to confirm the actual number of traps per set and number of sets deployed on the fishing grounds. It further stated that it would also be difficult to confirm the use and ownership of any unmarked gear on the fishing grounds. Because USCG cutters are not equipped to haul fixed fishing gear, especially in deep water, inspections, it stated, would have to be limited to random opportunities when cutters detect fishing vessels actively retrieving gear.

Response: The problem raised by USCG about enforcing trap/pot and set limits is an unavoidable one for trap/pot fisheries. However, because this fishery is so small, NMFS believes that the potential for at-sea intervention by the USCG will serve as a sufficient deterrent.

Comment 2: The United States Environmental Protection Agency (EPA) commented that its previous concerns with the draft EIS had been resolved with one exception—ghost fishing (as it relates to entrapment of marine life). EPA stated that it would like to see a

ghost panel required, preferably on two adjacent trap/pot surfaces, in the traps/pots used by the directed fishery, because trap materials of wood and wire mesh can last a long time in the marine environment, especially in a deep-sea cold water environment. As stated in the draft EIS, an average of 10.5 red crab traps/pots are lost/damaged per fishing trip. EPA calculated that approximately 2,000 traps/pots are potentially lost or broken annually. It said that over a 10-year period, this would put a substantial amount of gear on the sea floor.

Response: Ghost fishing by red crab traps/pots is not an issue of concern. Red crab traps/pots, unlike the parlor traps/pots used in the lobster fishery, do not prevent the escapement of crabs or other fish that enter the trap.

Comment 3: Three commenters were concerned with the method of counting DAS. Under the proposed rule, any portion of a day on which a vessel is out of port would count as a full DAS. They stated that this method of counting DAS has no bearing on the conservation of the red crab resource but has serious implications for the safety and operational economics of red crab vessels and crew, which one commenter believes to be contrary to National Standards 5, 8 and 10. In illustration, the commenter pointed out that, in order to conserve a DAS, a vessel would wait until midnight to sail; that sailing during darkness will increase the risk of collision; and that the captains and crews would be hampered by darkness and operating when their biological clocks tell them they are expected to be asleep. The commenter further stated that disruptions to existing operating practices will reduce efficiency, create an unnecessary burden on fishing communities, and create incentives that compromise safe operations. The commenters urge NMFS to modify this method of counting DAS by counting on an hourly basis.

Response: The commenters' arguments are based on their contention that leaving at midnight is contrary to current practice. In fact, NMFS believes that leaving at midnight, or even a few hours after midnight, is not unusual. NMFS also believes that crews often work in the dark, sometimes during long shifts. Vessels are free to sail at any time, and sailing at a time perceived to be safe is totally within the discretion of the vessel owner or captain.

As for operational economics, NMFS disagrees that the FMP's method of counting DAS reduces efficiency or creates an unnecessary burden on fishing communities. The method of counting DAS applies equally to all vessels in the fishery, which is controlled by a target Total Allowable Catch. Under the FMP, the allocation of DAS to vessels each year will take overages and underages into consideration. If more DAS are required due to underages, even if they are perceived to have occurred as a result of the method of counting DAS, more DAS would be allocated.

Comment 4: The SAFMC expressed concern regarding the southern boundary. The proposed southern border of the Red Crab Management Area includes the area between the VA/NC border and Cape Hatteras, NC. The northernmost border for the SAFMC's Golden Crab FMP is the VA/NC border. Red crab and Jonah crab are included in the golden crab fishery but are not managed under the Golden Crab FMP. The SAFMC commented that, because of this proposed area overlap, significant negative impacts to the SAFMC's golden crab fishery would result from approval of this measure in the FMP. The SAFMC stated that, under the FMP, vessels could fish within the area of overlap but would have to discard all golden crabs, which would be wasteful and result in conflict with South Atlantic fishermen deploying golden crab traps. It also stated that the potential for having red crab vessels fishing in the area of overlap may deter Southern Zone vessels that had planned to transfer to the Northern Zone from doing so, thereby exacerbating conflicts within the Southern Zone. The SAFMC requested that NMFS disapprove the proposed management unit and approve the alternative with the boundary at the VA/NC border.

Response: During the public review phase of the FMP development process, the NEFMC received reports that the Atlantic deep-sea red crab fishery extended south to Cape Hatteras, NC (although most activity was reported to be constrained to the area north of Norfolk Canyon). The reason reported for not fishing south of Cape Hatteras, NC was that there is a significant diminishment in the abundance of market-sized crabs south of Cape Hatteras. Although there are no known boundaries of different red crab stocks, Cape Hatteras, NC is a well-known bio-geographic boundary that may keep separate red crab larvae from north and south of this line. The Northeast Fisheries Science Center is exploring genetic differences between red crabs found north of Cape Hatteras, south of Cape Hatteras, and in the Gulf of Mexico. The establishment of Cape Hatteras, NC, as the southernmost boundary of the Atlantic deep-sea red crab fishery not only comports with the aforementioned rationale, but is consistent with the management areas specified in the previous red crab emergency rule and in most other NEFMC FMPs.

Red crabs are not included in the management unit of the Golden Crab FMP, and golden crabs are not included in the management unit of the Red Crab FMP; therefore, there is no direct conflict in management jurisdiction. Extending the red crab management unit to Cape Hatteras is intended to prevent overfishing of the red crab resource by controlling fishing effort in this area. If the southern boundary of the management unit were established at the VA/NC border, any vessel would be able to fish for red crab between the border and Cape Hatteras with no restrictions on effort, landings, or gear. In fact, this could result in localized overfishing of the red crab resource and an increase in potential gear conflicts if vessels moved into this area to avoid the regulations that exist north of the management unit boundary.

NMFS believes the SAFMC's concern that red crab vessels fishing in the area between the VA/NC border and Cape Hatteras would deter Southern Zone vessels from transferring to the Northern Zone because of gear conflict possibilities is likely unwarranted. First, due to the establishment of a limited access program in the red crab fishery, NMFS anticipates that no more than four or five red crab vessels will be authorized to fish at more than incidental catch levels (most Northeast red crab vessels fish north of Hudson Canyon). Second, the area of overlap is small relative to SAFMC's entire Northern Zone, which runs from the VA/NC border to a point just south of Daytona Beach, FL. Given the very broad range of the two fisheries (Daytona Beach, FL, to the VA/NC border and Georges Bank to Cape Hatteras, NC for golden crab and red crab, respectively), and the limited number of vessels allowed to operate in these areas, it seems unlikely that there would be significant gear conflicts in the relatively small area of overlap.

Finally, regulating the harvest of red crabs north of Cape Hatteras, NC would not negatively impact or retard development of the golden crab fishery north of Daytona Beach, FL. Vessels permitted to fish for red crab will not be allowed to retain any golden crabs, unless they also possess a golden crab permit issued by the Southeast Region, NMFS.

Changes from the Proposed Rule

In § 648.264, paragraph (a)(6) is added. Paragraph (a)(6) corrects an inadvertent omission in the proposed

rule to reflect that the red crab fishery falls under the Marine Mammal Protection Act Category I Lobster Trap/Pot fishery. The effect is that vessels in this fishery are required to comply with the applicable gear restrictions for that fishery, including a required weak link at the buoy that breaks away knotless at 3,780 lb (1,714.6 kg) and a requirement for marking of gear as specified at § 229.32. Also, red crab fishing gear, fished in 200 fathoms (365.8 m) or less by a vessel issued a limited access lobster permit under § 697.4(a), must comply with the trap tagging requirements specified at § 697.19.

NOAA codifies its OMB control numbers for information collection 15 CFR part 902. Part 902 collects and displays the control numbers assigned to information collection requirements of NOAA by OMB pursuant to the Paperwork Reduction Act (PRA). This final rule codifies OMB control number for 0648–0202 for § 648.262 and 0648–0351 for § 648.264. Under NOAA Administrative Order 205–11, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere, NOAA, has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

The Administrator, Northeast Region, NMFS, determined that the FMP implemented by this rule is necessary for the conservation and management of the Atlantic deep-sea red crab fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(d)(3) to waive all but 10 days of the 30-day delayed effectiveness period of the implementing regulations contained in this final rule. It is contrary to the public interest to delay for more than 10 days the effective date of regulatory provisions establishing the specification process and management measures because, there exist currently, no measures to protect the red crab resource or to limit catching and landing red crabs from the 2002 TAC.

Vessels are currently fishing on the red crab resource and the threat of overfishing the resource is the primary problem needing management action. In order to address this threat, NMFS implemented emergency regulations on May 8, 2001, through November 14, 2001, to prevent overfishing of the resource. The emergency regulations were extended from November 15, 2001, through May 14, 2002. The fishery has been unregulated since the expiration of the emergency rule.

Overfishing is of particular concern due to the nature of the species because red crabs are typically slow-growing and major recruitment events are believed to rarely occur. The best scientific information available indicates that when the fishable stock of this resource was under virgin conditions, the maximum sustainable yield of red crab was 5.5 million pounds. Since this estimation was derived, commercial landings have exceeded this amount several times. All the current information available on the red crab and its fishery indicates that there is a limited MSY that can be harvested by only four to six vessels fishing at existing levels of capacity. Without regulations in place to limit the effort and total catch of the resource, overfishing is likely to occur. Therefore, there is also an immediate conservation benefit that would arise by waiving all but 10 days of the delayed effectiveness period, as there would be measures in place to protect the resource. This 10-day delay period is the minimum necessary to allow fishers and dealers to obtain newly required permits. Therefore, the Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(d)(3) to waive all but 10 days of the 30-day delayed effectiveness period of the implementing regulations.

A final environmental impact statement was prepared for this FMP; a notice of availability was published on May 31, 2002 (67 FR 38100). NMFS determined, upon review of the FMP/FEIS and public comments, that approval and implementation of the FMP is environmentally preferable to the status quo. The FEIS demonstrates that it contains management measures able to mitigate, to the extent possible, all possible social and economic adverse effects while minimizing risks to the resource and its environment; and will have significant positive effects on the red crab resource relative to the no action alternative.

An FRFA was completed for this action that contains the items specified in 5 U.S.C. 604(a). The FRFA consists of the IRFA, the comments and responses to the proposed rule, and a summary of the analyses completed in support of this action. A copy of the analyses is available from the Council (see **ADDRESSES**). The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated in its entirety here. A description of the action, a discussion of why it is being considered, and its legal basis are also contained in the preamble to the proposed rule and are not repeated here. The summary of the analyses of the potential impacts of the management alternatives considered in the FMP are provided in the Classification section of the proposed rule and are not repeated here. The items specified in 5 U.S.C. 604(a) are summarized as follows:

Public Comments

Four comments were received on the measures contained in the proposed rule. Comments did not address the economic impact of the rule. No changes were made to the measures outlined in the proposed rule as a result of the comments received.

Number of Small Entities

The IRFA identified 86 individual vessels that reported some landings of red crab during 1991–2001, all of which appear to be small entities.

Permits and Reporting Requirements

Vessels landing red crab would be required to have permits, as would dealers purchasing red crab from permitted vessels. Operators of vessels with red crab permits would be required to obtain operator permits. Vessels landing red crab would need to submit logbook reports, and dealers purchasing this species would need to submit dealer reports. Some vessels and dealers are currently issued the required permits as a result of their participation in other managed fisheries. For those entities, the red crab fishery would be added to an existing permit and there would be no new impacts.

Some vessel owners and dealers may have to obtain Federal permits for the first time. In these instances, the costs associated with completing the necessary applications would be: Vessel permit, $7.50/applicant; dealer permit, $7.50/applicant; and operator permit, $15.00. Annual costs associated with completing vessel trip reports are estimated at $20.00. Annual costs associated with dealer reporting are estimated at $30.00. No professional skills are necessary to comply with any of the reporting requirements associated with this action.

Minimizing Significant Economic Impacts on Small Entities

Alternatives considered by the Council to lessen impacts on small entities are summarized below. The Council considered establishing less restrictive eligibility criteria, and

expected a minimum of eight vessels to meet the least restrictive criteria considered, which would have required a vessel to have landed 40,000 lb (18,143.7 kg) or more during the eligibility period of March 1, 1997–February 29, 2000. This implies that three entities may be negatively impacted by this final rule compared to that alternative because the limited access program will exclude them from the directed fishery. These three vessels landed at least 10,000 lb (4,535.9 kg) of red crab for 3 years prior to the control date, for an average of 3,333 lb (1,511.8 kg) per year. The IRFA estimated the maximum revenue loss to be $2,833 per year for each of these vessels. The Council selected the more restrictive criteria because all of the information available indicated that four to six vessels fishing at existing levels of capacity represented the maximum amount of harvesting that could be sustained by the resource.

The IRFA also evaluated the impact of the limited access program by comparing the qualifying vessels with the vessels that fished multiple times under LOAs issued under the emergency regulations. This comparison indicated that one entity might be excluded from the directed fishery under the approved qualification criteria, because the vessel entered the fishery after the control date of March 1, 2000. This vessel does not currently participate in the fishery and has left the New England area. The impacts on this vessel would have been severe if it had intended to fish for red crabs, but cannot be detailed in the IRFA because of data confidentiality restrictions.

The revenue effects on these impacted entities will be moderated if they can adapt their fishing activities and redirect their fishing activity onto other species. It appears that most will have this option. Of the 17 vessels noted above that were issued LOAs under the emergency action, 14 had the vessel permits necessary to fish in other fisheries, including other limited access fisheries such as American lobster, summer flounder, scup and black sea bass.

In addition to the management program implemented by this final rule, the Council considered and rejected eight other management alternatives and a ''no action'' alternative, which are incorporated by reference in the FRFA. When compared with the ''no action'' alternative, all of the alternatives would have a positive economic effect on the level of harvest. An analysis indicated that the management program implemented by this final rule would best minimize significant economic impacts while achieving the conservation goals and objectives of the FMP. The preferred alternative will reverse recent overcapacity in the fishery (which could have severely impacted the full-time small entities), and provides operational flexibility to the full-time small entities participating in the fishery (which minimizes the economic impacts of necessary constraints on fishing effort). For a description of the alternatives considered but rejected, see the IRFA discussion in the Classification section of the proposed rule (67 FR 41936).

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide will be sent to all holders of permits issued for the Atlantic deep-sea red crab fishery. In addition, copies of this final rule and guide (i.e., permit holder letter) are available from NMFS (see **ADDRESSES**) and at the following web site: *http://www.nmfs.gov/ro/doc/nero.html.*

Need for and Objectives of the Final Rule

This final rule is necessary to implement approved measures contained in the Atlantic Deep-Sea Red Crab FMP. The intent of this final rule is to manage the red crab fishery pursuant to the Magnuson-Stevens Act and the FMP in order to prevent overfishing of the red crab resource.

This rule contains eight collection-of-information requirements subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget. The public's reporting burden for the collection-of-information requirements includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information requirements.

The new reporting requirements and the estimated time for a response are as follows:

Vessel trip reports, OMB control number 0648–0212 (5 minutes/response).

Dealer purchase reports, OMB control number 0648–0229 (10 minutes/response).

Limited access vessel permits, OMB control number 0648–0202 (5 minutes/response).

Incidental catch vessel permits, OMB control number 0648–0202 (5 minutes/response).

Dealer permits, OMB control number 0648–0202 (5 minutes/response).

Operator permits, OMB control number 0648–0202 (60 minutes/response).

Observer deployments, OMB control number 0648–0202 (2 minutes/response).

Gear marking requirements, OMB control number 0648–0351 (36 minute/response).

No professional skills are necessary for preparation of reports or records specified above.

Public comment is sought regarding: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS (see **ADDRESSES**) and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503 (Attn: NOAA Desk Officer).

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

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 648

Fishing, Fisheries, Reporting and recordkeeping requirements.

Dated: October 1, 2002.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR chapter IX, part 902 and 50 CFR chapter VI, part 648 are amended as follows:

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 350 *et seq.*

2. In § 902.1, the table in paragraph (b) under 50 CFR is amended by adding entries for § 648.262 and § 648.264 to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number(all numbers begin with 0648–)
* * * * *	
50 CFR	
* * * * *	
648.262	–0202
648.264	–0351
* * * * *	

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.1, the first sentence of paragraph (a) is revised to read as follows:

§ 648.1 Purpose and scope.

(a) This part implements the fishery management plans (FMPs) for the Atlantic mackerel, squid, and butterfish fisheries (Atlantic Mackerel, Squid, and Butterfish FMP); Atlantic salmon (Atlantic Salmon FMP); the Atlantic sea scallop fishery (Scallop FMP); the Atlantic surf clam and ocean quahog fisheries (Atlantic Surf Clam and Ocean Quahog FMP); the NE multispecies and monkfish fisheries ((NE Multispecies FMP) and (Monkfish FMP)); the summer flounder, scup, and black sea bass fisheries (Summer Flounder, Scup, and Black Sea Bass FMP); the Atlantic bluefish fishery (Atlantic Bluefish FMP); the Atlantic herring fishery (Atlantic Herring FMP); the spiny dogfish fishery (Spiny Dogfish FMP); the Atlantic deep-sea red crab fishery (Deep-Sea Red Crab FMP); and the tilefish fishery (Tilefish FMP). * * *

3. In § 648.2, the definitions of ''Processing, or to process, in the Atlantic Herring fishery'' and ''Processor'' are removed; the definitions of ''Council'', ''Day(s)-at-Sea'', and ''Fishing year'' are revised; the definition of ''Sorting machine'' is removed and a definition of ''Sorting machine, with respect to the Atlantic sea scallop fishery'' is added in its place; and new definitions for ''Atlantic deep-sea red crab (red crab)'', ''Full-processing (fully process or fully processed), with respect to the Atlantic deep-sea red crab fishery'', ''Parlor trap/pot'', ''Processing, or to process with respect to the Atlantic herring fishery'', ''Processor, with respect to the Atlantic surf clam and ocean quahog fisheries'', ''Red Crab Management Unit'', and ''Red crab trap/pot'' are added in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Atlantic deep-sea red crab (red crab) means *Chaceon quinquedens*.

* * * * *

Council means the New England Fishery Management Council (NEFMC) for the Atlantic herring, Atlantic sea scallop, Atlantic deep-sea red crab, and NE multispecies and monkfish fisheries; or the Mid-Atlantic Fishery Management Council (MAFMC) for the Atlantic mackerel, squid, and butterfish; Atlantic surf clam and ocean quahog; summer flounder, scup, and black sea bass; spiny dogfish; Atlantic bluefish; and tilefish fisheries.

* * * * *

Day(s)-at-Sea (DAS), with respect to the NE multispecies and monkfish fisheries (except as described in § 648.82(k)(1)(iv)), Atlantic sea scallop fishery, and Atlantic deep-sea red crab fishery, means the 24-hour period of time or any part thereof during which a fishing vessel is absent from port to fish for, possess, or land, or fishes for, possesses or lands, regulated species, monkfish, scallops, or red crabs. With respect to the red crab fishery, any portion of a calendar day in which a vessel is declared into the red crab DAS fishery, shall count as a full DAS.

* * * * *

Fishing year means:

(1) For the Atlantic sea scallop and Atlantic deep-sea red crab fisheries, from March 1 through the last day of February of the following year.

(2) For the NE multispecies and monkfish fisheries, from May 1 through April 30 of the following year.

(3) For all other fisheries in this part, from January 1 through December 31.

* * * * *

Full-processing (fully process or fully processed), with respect to the Atlantic deep-sea red crab fishery, means any activity that removes meat from any part of a red crab.

Parlor trap/pot means any structure or other device, other than a net, with more than one compartment inside designed to impede escape of lobsters or crabs from the device or structure, which is placed, or designed to be placed, on the ocean bottom and is designed for, or is capable of, catching lobsters and/or red crabs.

Processing, or to process, with respect to the Atlantic herring fishery, means the preparation of Atlantic herring to render it suitable for human consumption, bait, commercial uses, industrial uses, or long-term storage, including but not limited to cooking, canning, roe extraction, smoking, salting, drying, freezing, or rendering into meat or oil.

Processor, with respect to the Atlantic surf clam and ocean quahog fisheries, means a person who receives surf clams or ocean quahogs for a commercial purpose and removes them from a cage.

* * * * *

Red Crab Management Unit means an area of the Atlantic Ocean from 35° 15.3′ N. Lat., the approximate latitude of Cape Hatteras Light, NC, northward to the U.S.-Canada border, extending eastward from the shore to the outer boundary of the exclusive economic zone and northward to the U.S.-Canada border in which the United States exercises exclusive jurisdiction over all Atlantic deep-sea red crab fished for, possessed, caught, or retained in or from such area.

Red crab trap/pot means any structure or other device, other than a net or parlor trap/pot, that is placed, or designed to be placed, on the ocean bottom and is designed for, or is capable of, catching red crabs.

* * * * *

Sorting machine, with respect to the Atlantic sea scallop fishery, means any mechanical device that automatically sorts whole scallops by shell height, size, or other physical characteristics.

* * * * *

4. In § 648.4, paragraph (a)(13) is added to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(13) Red Crab vessels. Any vessel of the United States must have been issued and have on board a valid red crab vessel permit to fish for, catch, possess, transport, land, sell, trade, or barter, any red crab or red crab part in or from the EEZ portion of the Red Crab Management Unit.

(i) *Limited access red crab permit*—(A) *Eligibility.* A vessel, or its replacement, may be issued a limited access red crab permit if the vessel's total landings averaged greater than 250,000 lb (113,400 kg) of red crab per year for the 3 years beginning March 1, 1997, through February 29, 2000. To calculate the average value per year, the total landings of whole red crab, or its equivalent by weight, between March 1, 1997, and February 29, 2000, inclusive, shall be divided by 3. If the quotient is greater than 250,000 lb (113,400 kg), the vessel meets the landings criteria. For example, if a vessel caught greater than 750,000 lb (340,200 kg) in the 3-year qualifying time span—even if it fished just 2 of those 3 years—the average per year would be greater than 250,000 lb (113,400 kg).

(B) *Application/renewal restriction*—*(1) Initial application for 2002.* A vessel owner must apply for an initial limited access red crab permit before April 8, 2003. No vessel owner may apply for an initial limited access red crab permit after this date.

(2) Fishing years 2003 and beyond. (*i*) For fishing years beyond the initial year, the provisions of paragraph (a)(1)(i)(B) of this section apply.

(*ii*) A limited-access permit holder may choose to declare out of the red crab fishery for the next fishing year by submitting a binding declaration on a form supplied by the Regional Administrator, which must be received by NMFS at least 180 days before the last day of the current fishing year. NMFS will presume that a vessel intends to fish during the next fishing year unless such binding declaration is received at least 180 days before the last day of the current fishing year. Any limited-access permit holder who has submitted a binding declaration must submit either a new binding declaration or a renewal application for the year after which they were declared out of the fishery.

(C) *Qualification restrictions.* The provisions of paragraph (a)(1)(i)(C) of this section apply.

(D) *Change in ownership.* The provisions of paragraph (a)(1)(i)(D) of this section apply.

(E) *Replacement vessels.* (*1*) To be eligible for a limited access permit under this section, the replacement vessel's length, GRT, and NT may not exceed by greater than 10 percent the length, GRT, and NT of the vessel's baseline specifications. The replacement vessel must also meet any other applicable criteria under paragraph (a)(13)(i)(F) of this section.

(*2*) A vessel that lawfully replaced a vessel that meets the qualification criteria set forth in paragraph (a)(13)(i)(A) of this section may qualify for and fish under the permit category for which the replaced vessel qualified.

(*3*) A vessel that replaced a vessel that fished for and landed red crab between March 1, 1997, and February 29, 2000, may use the replaced vessel's history in lieu of or in addition to such vessel's fishing history to meet the qualification criteria set forth in paragraph (a)(13)(i)(A) of this section, unless the owner of the replaced vessel retained the vessel's permit or fishing history, or such vessel no longer exists and was replaced by another vessel according to the provisions in paragraph (a)(1)(i)(D) of this section.

(F) *Upgraded vessel.* A vessel may be upgraded, whether through refitting or replacement, and be eligible to retain or renew a limited access permit, provided that the vessel's length, GRT, and NT is increased no more than once. Any increase in any of the aforementioned specifications of vessel size may not exceed 10 percent of the vessel's baseline specifications, as applicable. If any increase in any of the aforementioned specifications of vessel size occurs, any increase in the other specifications must be performed at the same time.

(G) *Consolidation restriction.* The provisions of paragraph (a)(1)(i)(G) of this section apply.

(H) *Vessel baseline specifications.* The vessel baseline specifications in this section are the respective specifications (length, GRT, and NT) of the vessel indicated on the vessel's initial limited access permit as of the date the initial vessel applies for such permit.

(I) *Limited access permit restrictions.* A vessel issued a limited access red crab permit may not be issued a red crab incidental catch permit during the same fishing year.

(J) *Confirmation of permit history (CPH).* Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person and has not been replaced, must apply for and receive a CPH that confirms the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a CPH, the applicant must show that the qualifying vessel met the eligibility requirements, as applicable, in this part. Issuance of a valid CPH preserves the eligibility of the applicant to apply for a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time, subject to the replacement provisions specified in this section. If fishing privileges have been assigned or allocated previously under this part, based on the qualifying vessel's fishing and permit history, the CPH preserves such fishing privileges. A CPH must be applied for in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. An application for a CPH must be received by the Regional Administrator no later than 30 days prior to the end of the first full fishing year in which a vessel permit cannot be issued. Failure to do so is considered abandonment of the permit as described in paragraph (a)(1)(i)(K) of this section. A CPH issued under this part will remain valid until the fishing and permit history preserved by the CPH is used to qualify a replacement vessel for a limited access permit. Any decision regarding the issuance of a CPH for a qualifying vessel that has applied for or been issued previously a limited access permit is a final agency action subject to judicial review under 5 U.S.C. 704. Information requirements for the CPH application are the same as those for a limited access permit. Any request for information about the vessel on the CPH application form refers to the qualifying vessel that has been sunk, destroyed, or transferred. Vessel permit applicants who have been issued a CPH and who wish to obtain a vessel permit for a replacement vessel based upon the previous vessel history may do so pursuant to paragraph (a)(13)(i)(E) of this section.

(K) *Abandonment or voluntary relinquishment of permits.* The provisions of paragraph (a)(1)(i)(K) of this section apply.

(L) *Restriction on permit splitting.* The provisions of paragraph (a)(1)(i)(L) of this section apply.

(M) *Notification of eligibility for 2002.* (*1*) NMFS will attempt to notify all owners of vessels for which NMFS has credible evidence that they meet the qualification criteria described in paragraph (a)(13)(i)(A) of this section and that they qualify for a limited access red crab permit. Vessel owners must still apply by April 8, 2003 to complete the qualification requirements.

(*2*) If the vessel owner has not been notified that the vessel is eligible to be

issued a limited access red crab permit, and the vessel owner believes that there is credible evidence that the vessel does qualify under the pertinent criteria, the vessel owner may apply for a limited access red crab permit by April 8, 2003 by submitting evidence that the vessel meets the requirements described in paragraph (a)(13)(i)(A) of this section.

(N) *Appeal of denial of a permit. (1)* Any applicant denied a limited access red crab permit may appeal to the Regional Administrator within 30 days of the notice of denial. Any such appeal shall be in writing. The only ground for appeal is that the Regional Administrator erred in concluding that the vessel did not meet the criteria in paragraph (a)(13)(i)(A) of this section. The appeal must set forth in writing the basis for the applicant's belief that the decision of the Regional Administrator was made in error.

(*2*) The appeal may be presented, at the option of the applicant, at a hearing before an officer appointed by the Regional Administrator. The hearing officer shall make a recommendation to the Regional Administrator. The decision on the appeal by the Regional Administrator is the final decision of the Department of Commerce.

(*3*) *Status of vessels pending appeal.* A vessel denied a limited access red crab permit may fish for and land red crab as if a limited access permit had been issued, provided that the denial has been appealed, the appeal is pending, the vessel owner has presented prima facie evidence that the decision was made in error, and the vessel has on board a letter from the Regional Administrator authorizing the vessel to fish. During the appeal, the vessel may only land up to 75,000 lb (34,019 kg) of red crab per trip. The Regional Administrator will issue such a letter for the pendency of any appeal. The decision on the appeal is the final administrative action of the Department of Commerce. The letter of authorization must be carried on board the vessel. If the appeal is finally denied, the Regional Administrator shall send a notice of final denial to the vessel owner; the authorizing letter shall become invalid 5 days after receipt of the notice of denial.

(ii) *Red crab incidental catch permit.* A vessel of the United States that is subject to these regulations and that has not been issued a red crab limited access permit is eligible for and may be issued a red crab incidental catch permit to catch, possess, transport, land, sell, trade, barter, up to 500 lb (226.8 kg) of red crab, or its equivalent as specified at § 648.263(a)(2)(i) and (ii), per fishing trip in or from the Red Crab Management Unit. Such vessel is subject to the restrictions in § 648.263(b).

* * * * *

5. In § 648.5, the first sentence in paragraph (a) is revised to read as follows:

§ 648.5 Operator permits.

(a) *General.* Any operator of a vessel fishing for or possessing Atlantic sea scallops in excess of 40 lb (18.1 kg), NE multispecies, spiny dogfish, monkfish, Atlantic herring, Atlantic surf clam, ocean quahog, Atlantic mackerel, squid, butterfish, scup, black sea bass, or bluefish, harvested in or from the EEZ, or tilefish harvested in or from the EEZ portion of the Tilefish Management Unit, or Atlantic deep-sea red crab harvested in or from the EEZ portion of the Red Crab Management Unit, issued a permit, including carrier and processing permits, for these species under this part, must have been issued under this section, and carry on board, a valid operator permit. * * *

* * * * *

6. In § 648.6, paragraph (a)(1) is revised to read as follows:

§ 648.6 Dealer/processor permits.

(a) * * *

(1) All dealers of NE multispecies, monkfish, Atlantic herring, Atlantic sea scallop, Atlantic deep-sea red crab, spiny dogfish, summer flounder, Atlantic surf clam, ocean quahog, Atlantic mackerel, squid, butterfish, scup, bluefish, tilefish, and black sea bass; Atlantic surf clam and ocean quahog processors; and Atlantic herring processors or dealers, as described in § 648.2; must have been issued under this section, and have in their possession, a valid permit or permits for these species. A person who meets the requirements of both the dealer and processor definitions of any of the aforementioned species' fishery regulations may need to obtain both a dealer and a processor permit, consistent with the requirements of that particular species' fishery regulations. Persons aboard vessels receiving small-mesh multispecies and/or Atlantic herring at sea for their own use exclusively as bait are deemed not to be dealers, and are not required to possess a valid dealer permit under this section, for purposes of receiving such small-mesh multispecies and/or Atlantic herring, provided the vessel complies with the provisions of § 648.13.

* * * * *

7. In 648.7, paragraphs (b)(1)(iii) and (b)(1)(iv) are removed and paragraph (b)(2) is added to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(2) *IVR system reports*—(i) *Atlantic herring owners or operators.* The owner or operator of a vessel described here must report catches (retained and discarded) of herring each week to an IVR system. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification, reporting week in which species are caught, pounds retained, pounds discarded, management area fished, and pounds of herring caught in each management area for the previous week. Weekly Atlantic herring catch reports must be submitted via the IVR system by midnight, Eastern Time, each Tuesday for the previous week. Reports are required even if herring caught during the week has not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of § 648.7.

(A) The owner or operator of any vessel issued a permit for Atlantic herring subject to the requirements specified by § 648.4(c)(2)(vi)(C) that is required by § 648.205 to have a VMS unit on board must submit an Atlantic herring catch report via the IVR system each week (including weeks when no herring is caught), unless exempted from this requirement by the Regional Administrator.

(B) An owner or operator of any vessel issued a permit for Atlantic herring that is not required by § 648.205 to have a VMS unit on board and that catches ≥ 2,000 lb (907.2 kg) of Atlantic herring on any trip in a week must submit an Atlantic herring catch report via the IVR system for that week as required by the Regional Administrator.

(C) An owner or operator of any vessel that catches ≥ 2,000 lb (907.2 kg) of Atlantic herring, some or all of which is caught in or from the EEZ, on any trip in a week, must submit an Atlantic herring catch report via the IVR system for that week as required by the Regional Administrator.

(D) Atlantic herring IVR reports are not required from Atlantic herring carrier vessels.

(ii) *Tilefish vessel owners or operators.* The owner or operator of any vessel issued a limited access permit for tilefish must submit a tilefish catch report via the IVR system within 24 hours after returning to port and offloading as required by the Regional Administrator. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel

identification, trip during which species are caught, and pounds landed. IVR reporting does not exempt the owner or operator from other applicable reporting requirements of this section.

(iii) *Red crab vessel owners and operators.* The owner or operator of any vessel issued a limited access permit for red crab must submit a red crab catch report via the IVR system within 24 hours after returning to port and offloading as required by the Regional Administrator. The report shall include at least the following information, and any other information required by the Regional Administrator: Vessel identification, DAS confirmation number, trip during which species are caught, date landed, condition (whole, half sections with gills, half sections without gills), and pounds landed. IVR reporting does not exempt the owner or operator from other applicable reporting requirements of this section.

* * * * *

8. In § 648.10, paragraph (c) introductory text, and paragraphs (c)(2) and (c)(5) are revised to read as follows:

§ 648.10 DAS notification requirements.

* * * * *

(c) *Call-in notification.* Owners of vessels issued limited access multispecies, monkfish or red crab permits who are participating in a DAS program and who are not required to provide notification using a VMS, scallop vessels qualifying for a DAS allocation under the occasional category and who have not elected to fish under the VMS notification requirements of paragraph (b) of this section, and vessels fishing pending an appeal as specified in § 648.4(a)(1)(i)(M)(*3*), (a)(9)(i)(N)(*3*) and (a)(13)(i)(N)(*3*) are subject to the following requirements:

* * * * *

(2) The vessel's confirmation numbers for the current and immediately prior multispecies, monkfish or red crab fishing trip must be maintained on board the vessel and provided to an authorized officer upon request.

* * * * *

(5) Any vessel that possesses or lands per trip greater than 400 lb (181 kg) of scallops, and any vessel issued a limited access multispecies permit subject to the multispecies DAS program and call-in requirement that possesses or lands regulated species, except as provided in §§ 648.17 and 648.89, any vessel issued a limited access monkfish permit subject to the monkfish DAS program and call-in requirement that possesses or lands monkfish above the incidental catch trip limits specified in § 648.94(c), and any vessel issued a limited access red crab permit subject to the red crab DAS program and call-in requirement that possesses or lands red crab above the incidental catch trip limits specified in § 648.263(b)(1), shall be deemed in its respective DAS program for purposes of counting DAS, regardless of whether the vessel's owner or authorized representative provided adequate notification as required by paragraph (c) of this section.

* * * * *

9. In § 648.11, the first sentence of paragraph (a) and paragraph (e) are revised to read as follows:

§ 648.11 At-sea sampler/observer coverage.

(a) The Regional Administrator may request any vessel holding a permit for Atlantic sea scallops, NE multispecies, monkfish, Atlantic mackerel, squid, butterfish, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, tilefish, or Atlantic deep-sea red crab, or a moratorium permit for summer flounder, to carry a NMFS-approved sea sampler/observer. * * *

* * * * *

(e) The owner or operator of a vessel issued a summer flounder moratorium permit, a scup moratorium permit, a black sea bass moratorium permit, a bluefish permit, a spiny dogfish permit, an Atlantic herring permit, an Atlantic deep-sea red crab permit, or a tilefish permit, if requested by the sea sampler/observer, also must:

(1) Notify the sea sampler/observer of any sea turtles, marine mammals, summer flounder, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, Atlantic deep-sea red crab, tilefish, or other specimens taken by the vessel.

(2) Provide the sea sampler/observer with sea turtles, marine mammals, summer flounder, scup, black sea bass, bluefish, spiny dogfish, Atlantic herring, Atlantic deep-sea red crab, tilefish, or other specimens taken by the vessel.

* * * * *

10. In § 648.12, the introductory text to this section is revised to read as follows:

§ 648.12 Experimental fishing.

The Regional Administrator may exempt any person or vessel from the requirements of subparts A (General provisions), B (Atlantic mackerel, squid, and butterfish), D (Atlantic sea scallop), E (Atlantic surf clam and ocean quahog), F (NE multispecies and monkfish), G (summer flounder), H (scup), I (black sea bass), J (Atlantic bluefish), K (Atlantic herring), L (spiny dogfish), M (Atlantic deep-sea red crab), and N (tilefish) of this part for the conduct of experimental fishing beneficial to the management of the resources or fishery managed under that subpart. The Regional Administrator shall consult with the Executive Director of the MAFMC regarding such exemptions for the Atlantic mackerel, squid, butterfish, summer flounder, scup, black sea bass, spiny dogfish, bluefish, and tilefish fisheries.

* * * * *

11. In § 648.13, paragraph (g) is added to read as follows:

§ 648.13 Transfers at sea.

* * * * *

(g) All persons are prohibited from transferring at sea, either directly or indirectly, or attempting to transfer at sea to any vessel, any red crab or red crab parts, taken in or from the EEZ portion of the Red Crab Management Unit.

12. In § 648.14, paragraphs (x)(12) and (dd) are added to read as follows:

§ 648.14 Prohibitions.

* * * * *

(x) * * *

(12) *Red crab.* All red crab retained or possessed on a vessel issued any permit under § 648.4 are deemed to have been harvested in or from the Red Crab Management Unit, unless the preponderance of all submitted evidence demonstrates that such red crab were harvested by a vessel fishing exclusively outside of the Red Crab Management Unit or in state waters.

* * * * *

(dd) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, it is unlawful for any person to do any of the following:

(1) Catch, possess, transport, land, sell, trade, or barter, any red crab or red crab parts in or from the EEZ portion of the Red Crab Management Unit, unless in possession of a valid limited access red crab vessel permit or red crab incidental catch permit issued by the Regional Administrator under this subpart.

(2) Land, or possess on board a vessel, greater than the possession or landing limits specified in § 648.263.

(3) Fail to comply with the recordkeeping and reporting requirements of § 648.7.

(4) Transfer at sea, either directly or indirectly, or attempt to transfer at sea to any vessel, any red crab or red crab parts, taken in or from the EEZ portion of the Red Crab Management Unit.

(5) Purchase, possess, or receive greater than 500 lb (226.8 kg) of whole red crab, or its equivalent in weight as

specified at § 648.263(a)(2)(i) and (ii), caught in the EEZ portion of the Red Crab Management Unit by a vessel that has not been issued a valid limited access red crab permit under this subpart.

(6) Purchase, possess, or receive up to 500 lb (226.8 kg) of whole red crab, or its equivalent in weight as specified at § 648.263(a)(2)(i) and (ii), caught in the EEZ portion of the Red Crab Management Unit by a vessel that has not been issued a valid limited access red crab permit or red crab incidental catch permit under this subpart.

(7) Fish for, catch, possess, transport, land, sell, trade, or barter, greater than 500 lb (226.8 kg) of whole red crab, or its equivalent in weight as specified at § 648.263(a)(2)(i) and (ii), per fishing trip, in or from the Red Crab Management Unit, unless in possession of a valid limited access red crab vessel permit issued by the Regional Administrator under this subpart and fishing under a red crab DAS.

(8) Fail to comply with the provisions of the DAS notification program specified in §§ 648.262(b)(5) and 648.10, if the vessel has been issued a valid limited access red crab permit.

(9) Fish for, catch, possess, transport, land, sell, trade, or barter, in the Red Crab Management Unit under a red crab DAS if the vessel has declared out of the fishery prior to the start of the fishing year.

(10) Fish for, catch, possess, transport, land, sell, trade, or barter, red crab in excess of landing limits specified in § 648.263.

(11) Possess, deploy, fish with, haul, harvest red crab from, or carry on board a vessel in excess of the trap/pot and/or string limit specified at § 648.264(a)(2) when fishing under a red crab DAS.

(12) Retain, possess, or land female red crabs in excess of one standard U.S. fish tote if the vessel has been issued a valid limited access red crab permit and is fishing under a red crab DAS.

(13) Retain, possess, or land red crab claws and legs separate from crab bodies in excess of one standard U.S. fish tote if the vessel has been issued a valid limited access red crab permit and is fishing under a red crab DAS.

(14) Retain, possess, or land any red crab claws and legs separate from crab bodies if the vessel has not been issued a valid limited access red crab permit or has been issued a valid limited access red crab permit and is not fishing under a red crab DAS.

(15) Retain, possess, or land in excess of two claws and eight legs per crab if the vessel has been issued a valid red crab incidental catch permit or has been issued a valid limited access red crab permit and is not fishing under a red crab DAS.

(16) Fully process red crabs at sea, i.e., any activity that removes meat from any part of a red crab, unless a preponderance of the evidence shows that the vessel fished exclusively in state waters and has not been issued a valid federal permit.

(17) Fail to comply with any gear marking requirement specified at § 648.264(a)(5).

(18) Possess, fish, or deploy parlor traps/pots if the vessel has been issued a valid limited access red crab permit and is fishing under a red crab DAS.

(19) Possess, fish, or deploy red crab traps/pots larger than the maximum size specified at § 648.263(a)(4), if the vessel has been issued a valid limited access red crab permit and is fishing under a red crab DAS.

13. Subpart M is added to read as follows:

Subpart M—Management Measures for the Atlantic Deep-Sea Red Crab Fishery

Sec.
648.260 Annual specifications.
648.261 Framework adjustment process.
648.262 Effort-control program for red crab limited access vessels.
648.263 Red crab possession and landing restrictions.
648.264 Gear requirements/restrictions.

Subpart M—Management Measures for the Atlantic Deep-Sea Red Crab Fishery

§ 648.260 Annual specifications.

(a) *Process for setting annual specifications.* The Council's Red Crab Plan Development Team (PDT) will meet at least annually to review the status of the stock and the fishery. Based on this review, the PDT will report to the Council's Red Crab Committee, no later than October 1, any necessary adjustments to the management measures and recommendations for the specifications. Specifications include the specification of OY, the setting of any target TACs, allocation of DAS, and/or adjustments to trip/possession limits. The PDT will specifically recommend target TACs for the following year and an estimated target TAC for the year after.

(1) *Target total allowable catch.* The target TAC for each fishing year will be 5.928 million lb (2,688.9 mt), unless modified pursuant to this paragraph.

(2) *Adjustments to DAS allocation based on target TAC.* For purposes of determining the appropriate DAS allocation, any overage of the target TAC that occurs in a given fishing year will be subtracted from the target TAC in the following fishing year and, conversely, any underage of the target TAC that occurs in a given fishing year will be added to the target TAC in the following fishing year.

(3) *In-season adjustments.* The specifications established pursuant to this section may be adjusted by NMFS, after consulting with the Council, during the fishing year by publishing notification in the **Federal Register** stating the reasons for such action and providing an opportunity for prior public comment. Any adjustments must be consistent with the Atlantic Deep-Sea Red Crab FMP objectives and other FMP provisions.

(b) *Development of annual specifications.* In developing the management measures and recommendations for the annual specifications, the PDT will review the following data, if available: Commercial catch data; current estimates of fishing mortality and catch-per-unit-effort (CPUE); stock status; recent estimates of recruitment; virtual population analysis results and other estimates of stock size; sea sampling, port sampling, and survey data or, if sea sampling data are unavailable, length frequency information from port sampling and/or surveys; impact of other fisheries on the mortality of red crabs; and any other relevant information.

(1) Based on recommendations from the Council's Red Crab PDT after its review of the available information on the status of the stock and the fishery, the Red Crab Committee may recommend to the Council changes to the appropriate specifications, as well as any measures necessary to assure that the specifications will not be exceeded.

(2) The Council shall review these recommendations and any public comment received and shall submit its recommendation to the Regional Administrator after at least one Council meeting. If the Council submits a recommendation to the Regional Administrator after one Council meeting and the Regional Administrator concurs with the recommendation, the Regional Administrator shall publish the Council's recommendation in the **Federal Register** as a proposed rule unless there is adequate justification to waive prior notice and comment . The Council may instead choose to follow the framework adjustment process specified at § 648.261 and request that the Regional Administrator publish the recommendation as a proposed or final rule. If the Regional Administrator concurs that the Council's recommendation meets the Red Crab

FMP objectives and is consistent with other applicable law, and determines that the recommended management measures should be published as a final rule, the action will be published as a final rule in the **Federal Register.** If the Regional Administrator concurs that the recommendation meets the FMP objectives and is consistent with other applicable law, and determines that a proposed rule is warranted, and, as a result, the effective date of a final rule falls after the start of the fishing year on March 1, fishing may continue under the specifications for the previous year. However, DAS used by a vessel on or after March 1 will be counted against any DAS allocation the vessel ultimately receives for that year.

§ 648.261 Framework adjustment process.

(a) To implement a framework adjustment for the Red Crab FMP, the Council shall develop and analyze proposed actions over the span of at least two Council meetings and provide advance public notice of the availability of both the proposals and the analyses. Opportunity to provide written and oral comments shall be provided throughout the process before the Council submits its recommendations to the Regional Administrator.

(1) In response to an annual review of the status of the fishery or the resource by the Red Crab PDT, or at any other time, the Council may recommend adjustments to any of the measures proposed by the Red Crab FMP. The Red Crab Oversight Committee may request that the Council initiate a framework adjustment. Framework adjustments shall require one initial meeting (the agenda must include notification of the impending proposal for a framework adjustment) and one final Council meeting. After a management action has been initiated, the Council shall develop and analyze appropriate management actions within the scope identified below. The Council may refer the proposed adjustments to the Red Crab Committee for further deliberation and review. Upon receiving the recommendations of the Oversight Committee, the Council shall publish notice of its intent to take action and provide the public with any relevant analyses and opportunity to comment on any possible actions. After receiving public comment, the Council must take action (to approve, modify, disapprove, or table) on the recommendation at the Council meeting following the meeting at which it first received the recommendations. Documentation and analyses for the framework adjustment shall be available at least 2 weeks before the final meeting.

(2) After developing management actions and receiving public testimony, the Council may make a recommendation to the Regional Administrator. The Council's recommendation shall include supporting rationale, an analysis of impacts required under paragraph (a)(1) of this section and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Council recommends that the management measures should be issued directly as a final rule, the Council shall consider at least the following factors and provide support and analysis for each factor considered:

(i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season;

(ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Council's recommended management measures;

(iii) Whether there is an immediate need to protect the resource or to impose management measures to resolve gear conflicts;

(iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(3) If the Regional Administrator concurs with the Council's recommended management measures, they shall be published in the **Federal Register**. If the Council's recommendation is first published as a proposed rule and the Regional Administrator concurs with the Council's recommendation after receiving additional public comment, the measures shall then be published as a final rule in the **Federal Register**.

(4) If the Regional Administrator approves the Council's recommendations, the Secretary may, for good cause found under the standard of the Administrative Procedure Act, waive the requirement for a proposed rule and opportunity for public comment in the **Federal Register**. The Secretary, in so doing, shall publish only the final rule. Submission of recommendations does not preclude the Secretary from deciding to provide additional opportunity for prior notice and comment in the **Federal Register**.

(5) The Regional Administrator may approve, disapprove, or partially disapprove the Council's recommendation. If the Regional Administrator does not approve the Council's specific recommendation, the Regional Administrator must notify the Council in writing of the reasons for the action prior to the first Council meeting following publication of such decision.

(b) [Reserved]

§ 648.262 Effort-control program for red crab limited access vessels.

(a) *General.* A vessel issued a limited access red crab permit may not fish for, catch, possess, transport, land, sell, trade, or barter, greater than 500 lb (226.8 kg) of red crab, or its equivalent in weight as specified at § 648.263(a)(2)(i) and (ii), per fishing trip in or from the Red Crab Management Unit, except during a DAS as allocated under and in accordance with the applicable DAS program described in this section, unless otherwise provided in this part.

(1) *End-of-year carry-over.* With the exception of vessels that held a Confirmation of Permit History as described in § 648.4(a)(13)(i)(J) for the entire fishing year preceding the carry-over year, limited access vessels that have unused DAS on the last day of February of any year may carry over a maximum of 10 unused DAS, or 10 percent of the total allocated DAS, whichever is less, into the next fishing year. Any DAS that have been forfeited due to an enforcement proceeding will be deducted from all other unused DAS in determining how many DAS may be carried over.

(2) [Reserved]

(b) *DAS program*—(1) *For fishing year 2002.* For the fishing year beginning March 1, 2002, each limited access permit holder's allocation of DAS shall be based on a baseline of 130 DAS per vessel and, if necessary, adjusted as specified in this paragraph (b). Based upon the best available information, the Regional Administrator shall estimate the landings from May 15, 2002, which is the first day following the expiration of the red crab Secretarial interim rule, up to the implementation date of the red crab limited access program. These estimated total landings shall be deducted from the target TAC and the percentage of the TAC that remains available shall be used to reduce the initial baseline of DAS (i.e., a percentage of 130 DAS to an equivalent percentage). For example, if estimated landings equal 20 percent of the target TAC, thereby leaving 80 percent of the target TAC, the DAS allocation shall be reduced by 20 percent to 104 DAS. Each vessel shall be allocated the adjusted DAS for the remainder of the fishing year. The Regional Administrator shall notify permit holders by letter of the newly calculated DAS allocation.

(2) *For fishing years 2003 and thereafter.* Each limited access permit holder shall be allocated 156 DAS unless one or more vessels declares out of the fishery consistent with § 648.4(a)(13)(B)(*2*) or the TAC is adjusted consistent with § 648.260(c).

(3) *Accrual of DAS.* Any portion of a day in which a vessel is out of port, after having declared into the DAS fishery, shall count as a full DAS. For example, if a vessel calls into the fishery at 11 p.m. on Thursday and calls out of the fishery at 10 p.m. on Friday, the next day, that vessel shall be assessed 2 full DAS (48 hours) for the fishing trip, even though the trip lasted only 23 hours.

(4) *Good Samaritan credit.* Same as § 648.53(f).

(5) *Declaring red crab DAS.* A vessel's owner or authorized representative shall notify the Regional Administrator of a vessel's participation in the red crab DAS program using the notification requirements specified in § 648.10.

(6) *Adjustments in annual red crab DAS allocations.* Adjustments to the annual red crab DAS allocation, if required to meet fishing mortality goals, may be implemented pursuant to § 648.260(c).

§ 648.263 Red crab possession and landing restrictions.

(a) *Vessels issued limited access red crab permits*—(1) *Possession and landing restrictions.* (i) A vessel or operator of a vessel that has been issued a valid limited access red crab permit under this subpart may fish for, catch, possess, transport, land, sell, trade, or barter, up to 75,000 lb (34,019.4 kg) per trip, unless adjusted consistent with paragraph (a)(1)(ii) of this section, of whole red crab, or its equivalent in weight as specified at paragraphs (a)(2)(i) and (ii) of this section, when fishing under a red crab DAS.

(ii) A vessel owner or operator who shows credible proof of landings on at least one trip higher than 75,000 lb (34,019.4 kg) during the limited access qualification period shall qualify for a larger trip limit, rounded to the nearest 5,000 lb (2,268 kg) of the higher trip landed. Such proof must be in writing and received by NMFS within 30 days after receipt of a vessel owner's application for an initial limited access red crab vessel permit. A vessel owner shall fish consistent with the provisions and trip limit specified at paragraph (a)(1)(i) of this section until credible proof of a trip higher than 75,000 lb (34,019.4 kg) is approved by NMFS.

(2) *Conversion to whole crab weight.* (i) For red crab that is landed in half sections, with all gills and other detritus still intact, the recovery rate is 64 percent of a whole red crab, which is equal to the weight of red crab half sections multiplied by 1.56.

(ii) For red crab that is landed in half sections, with all gills and other detritus removed, the recovery rate is 58 percent of a whole red crab, which is equal to the weight of red crab half sections multiplied by 1.72.

(3) *Female red crab restriction.* A vessel may not fish for, catch, possess, transport, land, sell, trade, or barter, female red crabs in excess of one standard U.S. fish tote of incidentally caught female red crabs per trip when fishing under a red crab DAS.

(4) *Full-processing prohibition.* No person may fully process at sea, possess, or land, fully-processed red crab.

(5) *Mutilation restriction.* A vessel may not retain, possess, or land red crab claws and legs separate from crab bodies in excess of one standard U.S. fish tote per trip when fishing under a red crab DAS.

(b) *Vessels issued red crab incidental catch permits.* (1) *Possession and landing restrictions.* A vessel or operator of a vessel that has been issued a red crab incidental catch permit may catch, possess, transport, land, sell, trade, or barter, up to 500 lb (226.8 kg) of red crab, or its equivalent in weight as specified at paragraphs (a)(1)(i) and (ii) of this section, per fishing trip in or from the Red Crab Management Unit.

(2) *Full-processing prohibition.* No person may fully process at sea, possess, or land, fully-processed red crab.

(3) *Mutilation restriction.* A vessel may not retain, possess, or land red crab claws and legs separate from crab bodies.

§ 648.264 Gear requirements/restrictions.

(a) *Limited access red crab permitted vessels.* (1) No vessel may haul or harvest red crab from any fishing gear other than red crab traps/pots, marked as specified by paragraph (a)(5) of this section, when on a red crab DAS.

(2) A vessel owner or operator of a vessel that holds a valid limited access red crab permit may fish with, deploy, possess, haul, harvest red crab from, or carry on board a vessel, up to a total of 600 traps/pots when fishing for, catching, or landing red crab. A vessel owner is required to declare, on the annual permit application, the maximum number of traps/pots used per string and the maximum number of strings employed, such that the product of the maximum number of traps/pots per string and the maximum number of strings declared is no more than 600 traps/pots. The vessel is restricted to the product of the maximum number of traps/pots per string multiplied by the maximum number of strings declared on the annual vessel permit application.

(3) *Parlor traps/pots.* No person may haul or remove lobster, red crab or fish from parlor traps/pots when fishing under a red crab DAS.

(4) *Maximum trap/pot size.* The maximum allowable red crab trap/pot size of red crab traps/pots used or deployed on a red crab DAS is 18 cubic feet (0.51 cubic meters) in volume. Red crab traps/pots may be rectangular, trapezoidal or conical only, unless other red crab trap/pot designs whose volume does not exceed 18 cubic feet (0.51 cubic meters) are authorized by the Regional Administrator.

(5) *Gear markings.* The following is required on all buoys used at the end of each red crab trawl:

(i) The letters ''RC'' in letters at least 3 inches (7.62 cm) in height must be painted on top of each buoy.

(ii) The vessel's permit number in numerals at least 3 inches (7.62 cm) in height must be painted on the side of each buoy to clearly identify the vessel.

(iii) The number of each trap trawl relative to the total number of trawls used by the vessel (i.e., ''3 of 6'') must be painted in numerals at least 3 inches (7.62 cm) in height on the side of each buoy.

(iv) High flyers and radar reflectors are required on each trap trawl.

(6) *Additional gear requirements.* (i) In addition to complying with the gear regulations found at § 229.32, vessels must include a weak link at the buoy that breaks away knotless at 3,780 lb (1,714.6 kg).

(ii) Red crab traps/pots, fished in 200 fathoms (365.8 m) or less by a vessel issued a limited access lobster permit under § 697.4(a), must comply with the trap tagging requirements specified at § 697.19.

(b) [Reserved]

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