subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not 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). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

IX. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: September 21, 2001.

Richard P. Keigwin, Jr.,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.412 is amended by alphabetically adding commodities to the table in paragraph (b) to read as follows:

§ 180.412 Sethoxydim; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
* * * * *		
Cattle, mbyp	1.0	12/31/03
Goats, mbyp	1.0	12/31/03
Hogs, mbyp	1.0	12/31/03
* * * * *		
Horses, mbyp	1.0	12/31/03
Milk	0.5	12/31/03
Safflower	15.0	12/31/03
Sheep, mbyp	0.5	12/31/03

* * * * *

[FR Doc. 01–25021 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[WT Docket No. 99–168; CS Docket No. 98–120; MM Docket No. 00–39; FCC 01–258]

Clearing of the 740–806 MHz Band; Conversion to Digital Television

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: In this document, the Commission resolves petitions for reconsideration and clarification of the Third Report and Order of this proceeding. The Commission generally affirms the decisions it reached in that proceeding, although it makes certain adjustment to the rules and policies adopted in this proceeding and the related digital television proceeding to broadcasters and new licensees in the 746–806 MHz band. The Commission also rejects arguments by a petitioner seeking to reverse its decisions on interference issues, and clarifies certain

aspects of the applicable interference standards.

DATES: Effective October 10, 2001.

FOR FURTHER INFORMATION CONTACT: William Huber of the Auctions and Industry Analysis Division at (202) 418–0660 (voice), (202) 418–7233 (TTY), e-mail: whuber@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of an Order on Reconsideration of the Third Report and Order (''*Order on Reconsideration*'') in WT Docket No. 99–168, adopted on September 7, 2001 and released on September 17, 2001. The full text of this document 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. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com.

Synopsis of the Order on Reconsideration of the Third Report and Order

1. By the *Order on Reconsideration,* the Commission resolves petitions for reconsideration and clarification of the Third Report and Order in this proceeding (''*Upper 700 MHz Third Report and Order*''), 66 FR 10204 (February 14, 2001). The Commission generally affirms the decisions it reached in the *Upper 700 MHz Third Report and Order,* although it makes certain adjustments to the rules and policies adopted in this proceeding and the related digital television (''DTV'') proceeding to accommodate the implementation of voluntary band-clearing agreements among incumbent broadcasters and new licensees in the 746–806 MHz (''Upper 700 MHz'') band, which is currently occupied by TV Channels 60–69. The Commission also rejects arguments by a petitioner seeking to reverse our decisions on interference issues, and clarifies certain aspects of the applicable interference standards.

2. The Commission has received three petitions for reconsideration of the *Upper 700 MHz Third Report and Order.* One petition was filed by Spectrum Clearing Alliance (''SCA''), which is led by Paxson Communications Corporation and joined by a number of other broadcasters having existing analog TV operations on Channels 60–69 as well as by other parties interested in band clearing. SCA stated in its petition that it is developing a comprehensive, private band-clearing plan that would be a ''definitive framework for clearing the 700 MHz band.'' SCA asserted that the adoption by the Commission of certain procedural and DTV policy changes would facilitate early clearing and provide certainty to prospective bidders that the Channel 59–69 spectrum will be cleared by a certain date. One signatory of the SCA Petition, Spectrum Exchange Group, LLC (''Spectrum Exchange''), which has expressed an interest in serving as an intermediary to facilitate SCA's clearing scheme, also filed a separate petition in support of the SCA plan.

3. The Association for Maximum Service Television, Inc. (''MSTV'') also filed a petition, primarily seeking reconsideration of our decision in the *Upper 700 MHz Third Report and Order* not to adopt a new ''no interference'' standard that would prohibit any new involuntary interference to existing licensees. MSTV also sought clarification of the appropriate interference standard to be used for protection of DTV allotments and facilities from modified analog operations. Finally, MSTV requested that the Commission rule out the possibility that other types of band-clearing policies might be adopted in the future and express ''an unqualified commitment to voluntary band clearing.''

4. *DTV Construction Deadlines For Single-Channel Broadcasters.* The Commission initially adopted a DTV construction schedule that requires rapid build-out of digital broadcast facilities, among other reasons, to ''ensure that recovery of broadcast spectrum occurs as quickly as possible.'' The DTV construction deadlines are set forth in § 73.624(d) of the Commission's rules. According to the remaining deadlines, those commercial television broadcasters that have not yet constructed their authorized digital facilities must do so by May 1, 2002, and noncommercial broadcasters must complete their DTV facilities by May 1, 2003. Consistent with this plan, the *Upper 700 MHz Third Report and Order* stated that, if a broadcaster is left with only a single analog allotment as a result of a voluntary band-clearing agreement, it must convert to DTV by the deadline set forth in § 73.624(d).

5. SCA sought reconsideration of the Commission's decision in the *Upper 700 MHz Third Report and Order* to require broadcasters that are left with a single channel as a result of a band-clearing arrangement to comply with the current DTV construction deadlines. In its petition, SCA requested that the Commission permit an incumbent broadcaster participating in an arrangement that clears an allotment in the Channels 59–69 band and leaves that broadcaster with only a single channel to remain in analog operation beyond the DTV construction deadline and to convert to digital at any time during the DTV transition. In a subsequent *ex parte* submission, SCA proposed that such single-channel broadcasters be permitted to continue to operate in analog ''until December 31, 2005 or when 70% of the television households in their markets are capable of receiving digital broadcast signals over-the-air.''

6. Upon review of the arguments presented, the Commission agrees that a broadcaster that gives up one of its channels to accommodate band clearing should have the flexibility to convert to DTV at a later stage in the transition period.

7. The Commission finds that the DTV conversion process as a whole will not be significantly retarded by affording this limited group of broadcasters the flexibility to complete their digital conversion at a later date. Under the policy the Commission adopts today, if a broadcaster gives up one of its channels to accommodate band clearing (pursuant to Commission authorization), that single-channel broadcaster may continue to operate in analog until December 31, 2005. Moreover, if such single-channel broadcaster seeks an extension of this deadline and is able to demonstrate that less than 70% of the television households in its market are capable of receiving digital broadcast signals, the Commission will presume that such request is in the public interest. Because the number of Channel 59–69 stations is small and because stations with low viewership may be more likely to give up their second allotment, extending the DTV construction deadline for these single-channel broadcasters should not have a significant effect on the broadcast industry's ability to meet the 85% consumer penetration target set forth in section 309(j)(14)(B) of the Act. Thus, the Commission finds that the benefits of relief from the upcoming DTV construction deadline for this group of broadcasters outweigh the potential risk that such limited relief may delay the DTV transition.

8. *Interference Protection Standards.* The *Upper 700 MHz Third Report and Order* confirms our intention to review license modification applications associated with band-clearing arrangements under established DTV protection criteria. Among those criteria are provisions that specifically allow

certain levels of *de minimis* interference from proposed DTV stations to nearby full-service TV and DTV facilities. Under our *de minimis* interference allowance, non-conforming DTV applications may be permitted where interference will affect less than two percent of the population served by another analog or DTV station (provided that no new interference may be caused to a station already predicted to receive interference from all other broadcasters to ten percent or more of its population). The *Upper 700 MHz Third Report and Order* rejected a proposal by MSTV and other broadcast interests seeking the adoption of a new ''no interference'' standard that would prohibit any new involuntary interference to existing licensees.

9. MSTV sought reconsideration of this decision. The Commission disagrees with the premise of MSTV's argument, and affirms the policies announced in the *Upper 700 MHz Third Report and Order.* MSTV's argument is premised on its belief that issues associated with clearing of the Upper 700 MHz band are ''completely different'' from those of the DTV transition. MSTV fails to recognize that the process of clearing the Upper 700 MHz band has long been an integral part of the DTV transition process. For example, in the *DTV Sixth Further Notice of Proposed Rule Making,* 61 FR 43209 (August 21, 1996), the Commission stated that ''the recovery of spectrum continue[s] to be a key component of our implementation of DTV service.'' Contrary to MSTV's assertion, the policies outlined in the *Upper 700 MHz Third Report and Order* do not extend the *de minimis* interference protection criteria to a new or different problem. Rather, the *Upper 700 MHz Third Report and Order* simply clarified that DTV broadcasters participating in band-clearing arrangements could continue to benefit from the flexibility allowed under the DTV technical rules.

10. In urging the Commission to clarify that the DTV two percent *de minimis* interference allowance does not extend to analog license modification applications, MSTV contended that the *Upper 700 MHz Third Report and Order* has created an ambiguity about the circumstances in which the DTV two percent *de minimis* interference limit applies. The *Upper 700 MHz Third Report and Order* did not change the interference standards for analog proposals to protect DTV service. Applicants seeking modifications of full-service analog TV stations may not cause any additional interference to DTV service, other than a 0.5% reduction in service population to account for rounding and calculation tolerances.

11. *DTV Replication Policy.* One of the Commission's goals in designing the initial DTV Table of Allotments was to design DTV service areas that would, to the greatest extent possible, allow each broadcaster to provide DTV service to a geographic area that is comparable to its existing NTSC service area. This replication goal meant that each DTV channel allotment was chosen to best allow its DTV service to match the Grade B service contour of the NTSC station with which it was paired. Implicit in the replication goal is the Commission's expectation that DTV stations will eventually be constructed with ''full-replication'' facilities. In the initial stages of the DTV transition, each DTV facility will be entitled to interference protection to its existing and authorized DTV contour, as well as to its April 1997 NTSC Grade B service area. Although the Commission considered whether broadcasters should be required to replicate fully their analog service areas with DTV coverage, the Commission decided in its recent *DTV Biennial Review Order,* 66 FR 9973 (February 13, 2001), not to require full replication of analog facilities with DTV. Instead, the Commission decided that it would ''cease to give interference protection to [broadcasters'] unreplicated service area as of December 31, 2004.'' Thus, by December 31, 2004, commercial DTV licensees must either be on-the-air replicating their April 1997 NTSC Grade B service area or lose interference protection to the unreplicated portion of this service area outside the noise-limited signal contour.

12. In its petition, SCA asserted that, where a broadcaster does not fully replicate for purposes of implementing a band-clearing arrangement, the Commission should not eliminate interference protection from unreplicated service areas at the end of 2004.

13. The Commission decides to create a limited exception to the DTV replication use-or-lose policy for single-channel broadcasters that do not fully replicate (operate with their full allotted facilities) after implementing a band-clearing arrangement. As with its decision on DTV construction deadlines for single-channel broadcasters, the Commission believes that this approach is supported by the congressional plan for the transition of this spectrum to new public safety and commercial uses.

14. In the *DTV Biennial Review Order*, the Commission chose not to require such replication so as ''to give broadcasters a measure of flexibility as they build their DTV facilities to collocate their antennas at common sites, thus minimizing potential local difficulties locating towers and eliminating the cost of building new towers.'' The Commission finds that it is consistent with the underlying intent of that policy to afford certain broadcasters relief from the DTV replication protection deadline. For instance, in connection with a band-clearing arrangement as discussed, it would be inconsistent with the intent of the replication policy to remove DTV replication protection at the end of 2004 from a single-channel broadcaster that has been permitted to continue its analog operations on a digital allotment until the end of 2005 (or perhaps later). Instead, in such a case, the Commission believes that a broadcaster that is left with a DTV single-channel allotment as a result of a band-clearing arrangement should retain the interference protection associated with that DTV allotment for a period of 31 months after beginning to transmit in digital. This period is equal to the period of interference protection for unreplicated areas that the Commission provided to all broadcasters in the *DTV Biennial Review Order*.

15. *Spectrum Clearing Alliance's Comprehensive Band-Clearing Plan*. In the *Upper 700 MHz Third Report and Order*, the Commission found that ''secondary auctions'' or other such comprehensive market-oriented band-clearing mechanisms could be used to facilitate efficient band clearing.

16. SCA asserted that, with Spectrum Exchange and other broadcasters, it is currently in the process of developing a ''comprehensive'' band-clearing plan that is intended to serve as a framework for clearing the Channel 59–69 band. In its petition, SCA asked for a certain level of Commission involvement in executing its plan, and outlined certain actions to be taken by the Commission to assist in publicizing SCA's band-clearing plan.

17. The Commission acknowledges that there are strong public interest benefits favoring comprehensive band clearing. However, the Commission finds that additional involvement beyond its existing processes is not necessary to facilitate SCA's proposed private clearing arrangement (or any other comprehensive clearing plans). Under a voluntary, comprehensive band-clearing scheme established prior to the auction, bidders in the Commission's auction will be able to bid with some certainty that the spectrum will be cleared and avoid the

delay and expense of complex post-auction bargaining.

18. The Commission finds that the *Order on Reconsideration*, in addition to the existing public processes for considering modification applications and associated regulatory requests to implement band-clearing agreements, should be sufficient to maximize the likelihood that all potential participants would have actual notice of an opportunity to participate in voluntary, comprehensive band-clearing arrangements, such as that being developed by SCA.

19. *Expedited Processing of Regulatory Requests*. In the *Upper 700 MHz Third Report and Order*, the Commission found it unnecessary to adopt a 60-day application processing deadline. SCA requested reconsideration of the decision not to adopt an explicit timeline. In light of the substantial public interest benefits associated with voluntary band-clearing agreements, the Commission delegates to the Mass Media Bureau authority to establish a 90-day processing period for band-clearing requests. The Commission concludes that an explicit time period would promote certainty in the clearing process.

20. License modification applications necessary to implement band-clearing arrangements would be granted at the end of the 90-day time period, unless the application is found to be defective, is opposed, or an integral request for waiver or other regulatory request cannot be granted. Upon notice to the applicant, the Mass Media Bureau could toll the 90-day deadline during the period in which an applicant is responding to a staff request for additional information. The Mass Media Bureau could also, upon notice to the applicant, extend the processing period if the caseload of regulatory requests associated with band-clearing arrangements makes it administratively impractical to complete processing within a 90-day period. The 90-day processing period would not apply to those applications that do not make a *prima facie* case of meeting the presumptions previously established in this proceeding for voluntary requests associated with band-clearing arrangements or that are not otherwise entitled to streamlined processing. Staff will regularly issue notice of modifications granted pursuant to this process.

21. *Proposal to Relax Waiver Policies*. Our previous decisions in this proceeding have provided guidance on a number of aspects of the Commission's treatment of regulatory requests associated with band-clearing arrangements. In regard to such regulatory requests, SCA proposed that the Commission adopt a ''relaxed waiver standard'' with respect to interference to Class A stations or where other requirements (e.g., city grade coverage) are not met.

22. In light of the balance that the Commission has achieved among the various objectives in this proceeding, it declines to adopt a general ''relaxed waiver'' policy.

23. *Treatment of Pending Channel 59–69 Applicants*. The Commission confirms that broadcasters with pending DTV applications will be permitted to benefit from band-clearing policies announced in this proceeding. The Commission finds no principled reason to distinguish between those broadcasters that have already been granted authority to operate in this band and those that have not yet received an authorization. Clearing of both pending applications and authorized facilities would serve the objectives of this proceeding.

24. The Commission continues to believe that voluntary agreements between broadcasters and new wireless licensees should result in the effective clearing of the 700 MHz band, and find no basis for disturbing our announced policy.

Procedural Matters

A. Regulatory Flexibility Act and Paperwork Reduction Act

25. Section 213 of the Consolidated Appropriations Act, 2000 states that the Regulatory Flexibility Act (as well as certain provisions of the Contract With America Advancement Act of 1996 and the Paperwork Reduction Act) shall not apply to the rules and competitive bidding procedures governing the frequencies in the 746–806 MHz band (currently used for television broadcasts on Channels 60–69). Because the policies and rules adopted in the Order on Reconsideration of the Third Report and Order relate only to assignments of those frequencies, no Final Regulatory Flexibility Analysis or Paperwork Reduction Analysis is necessary.

B. Alternative Formats

26. Alternative formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 (voice), TTY (202) 418–7365, or at bmillin@fcc.gov. The Order on Reconsideration of the Third Report and Order can also be downloaded at *http://www.fcc.gov/Bureaus/Wireless/Orders/2001/index.html*.

27. For further information concerning the Order on Reconsideration of the Third Report and Order, contact William Huber of the Auctions and Industry Analysis Division at (202) 418–0660 (voice), (202) 418–7233 (TTY), e-mail: whuber@fcc.gov, Wireless Telecommunications Bureau, Washington, DC 20554.

Ordering Clauses

28. Pursuant to sections 1, 2, 4(i), 5(c), 7(a), 301, 302, 303, 307, 308, 309(j), 309(k), 311, 316, 319, 324, 331, 332, 333, 336, 337, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157(a), 301, 302, 303, 307, 308, 309(j), 309(k), 311, 316, 319, 324, 331, 332, 333, 336, 337, 614, and 615, the Consolidated Appropriations Act, 2000, Public Law Number 106–113, 113 Stat. 2502, and § 1.425 of the Commission's rules, 47 CFR 1.425, it is ordered that the Order on Reconsideration of the Third Report and Order is hereby adopted.

29. It is further ordered that, pursuant to sections 1, 2, 4(i), and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) and 303, and § 1.429 of the Commission's rules, 47 CFR 1.429, the Petition for Reconsideration filed by MSTV on March 16, 2001 is denied, and the Petitions for Reconsideration filed by Spectrum Clearing Alliance and Spectrum Exchange Group, LLC on March 16, 2001 are granted to the extent discussed herein.

30. It is further ordered that authority is hereby delegated to the Mass Media Bureau to implement the policies for the introduction of new wireless services and to promote the early transition of incumbent analog television licensees to DTV service to the extent discussed herein.

List of Subjects in 47 CFR Part 27

Communications common carriers, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–25305 Filed 10–9–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF79

Endangered and Threatened Wildlife and Plants; Final Rule To List *Silene spaldingii* (Spalding's Catchfly) as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened status pursuant to the Endangered Species Act of 1973, as amended (Act), for *Silene spaldingii* (Spalding's catchfly). *Silene spaldingii* is currently known from a total of 52 populations. Seven populations occur in west-central Idaho, 7 in northeastern Oregon, 9 in western Montana, 28 in eastern Washington, and 1 in adjacent British Columbia, Canada. This plant is threatened by a variety of factors including habitat destruction and fragmentation resulting from agricultural and urban development, grazing and trampling by domestic livestock and native herbivores, herbicide treatment, and competition from nonnative plant species. This rule implements the Federal protection and recovery provisions afforded by the Act.

DATES: Effective November 9, 2001.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Snake River Basin Office, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709.

FOR FURTHER INFORMATION CONTACT: Robert Ruesink, Supervisor, at the above address (telephone 208/378–5243; facsimile 208/378–5262).

SUPPLEMENTARY INFORMATION:

Background

A member of the pink or carnation family (Caryophyllaceae), *Silene spaldingii* (Watson) is a long-lived perennial herb with four to seven pairs of lance-shaped leaves and a spirally arranged inflorescence (group of flowers) consisting of small greenish-white flowers. The foliage is lightly to densely covered with sticky hairs. Reproduction is by seed only; *Silene spaldingii* does not possess rhizomes or other means of vegetative reproduction (Lesica 1992). Plants range from approximately 20 to 60 centimeters (8 to 24 inches (in.)) in height (Lichthardt 1997).

First collected in the vicinity of the Clearwater River, Idaho, between 1836 and 1847, *Silene spaldingii* was originally described by Watson (Watson 1875). Hitchcock and Cronquist (1973) retained this taxon as a full species in a comprehensive regional flora. *Silene spaldingii,* by having petal blades 2 millimeters (mm) (0.08 in.) in length, differs from the related, common species *Silene scouleri,* which has deeply lobed petal blades that are 6 to 7 mm (0.24 to 0.28 in.) long. *Silene douglasii* also occurs with *S. spaldingii* in some areas, but *S. douglasii* typically has multiple, slender stems, narrower leaves, and is rarely covered by sticky hairs (Lichthardt 1997).

The distribution and habitat of *Silene spaldingii* are limited. The total number of sites discussed in the 90-day finding for *S. spaldingii* (63 FR 63661) was 94, which is larger than the number of populations identified in this final rule. We based the number of sites stated in the petition finding primarily on location records (*i.e.*, element occurrence records) available in State natural heritage data bases. In the proposed rule, and during the preparation of this final rule, we felt it was more appropriate to group certain element occurrence records for *S. spaldingii* together when approximately 1.6 kilometers (km) (1 mile (mi)) or less separate the sites. Thus, the difference in the number of *S. spaldingii* locations described in this final rule and the 90-day finding does not reflect the actual loss or extirpation of sites.

This species is currently known from a total of 52 populations in the United States and British Columbia, Canada. Of the 51 *Silene spaldingii* populations in the United States, 7 occur in Idaho (Idaho, Lewis, and Nez Perce counties), 7 in Oregon (Wallowa County), 9 in Montana (Flathead, Lake, Lincoln, and Sanders counties), and 28 in Washington (Asotin, Lincoln, Spokane, and Whitman counties). A population consists of one to several sites that are generally located less than 1.6 km (1 mi) apart. The number of *S. spaldingii* individuals within each population ranges from one to several thousand. Eighteen populations contain more than 50 individuals; only 6 of these populations are moderately large (*i.e.*, contain more than 500 plants). Of the 6 largest populations, 2 are found in Oregon (Wallowa County), 1 in Idaho (Nez Perce County), 1 in Montana (Lincoln County), and 2 in Washington (Asotin and Lincoln Counties). The 6 moderately large populations contain approximately 84 percent (*i.e.*, about 13,800 individuals) of the total number of *Silene spaldingii*. In addition, approximately 100 plants were located in British Columbia (Geraldine Allen, University of Victoria, *in litt.* 1996). The total number of *S. spaldingii* individuals for all 52 populations is about 16,500 (Edna Rey-Vizgirdas, Service, *in litt.* 1999).

Much of the remaining habitat occupied by *Silene spaldingii* is fragmented. For example, *S. spaldingii* populations in Oregon are located at least 64 km (40 mi) from the nearest known populations in eastern Washington. *Silene spaldingii* sites in Montana are approximately 190 km (120 mi) from occupied habitats in Idaho and Washington. Approximately 52 percent of extant *S. spaldingii* populations occur on private land, 10 percent on State land, 33 percent on Federal land, and 5 percent on Tribal land (E. Rey-Vizgirdas, *in litt.* 1999).

This species is primarily restricted to mesic (not extremely wet nor extremely dry) grasslands (prairie or steppe vegetation) that make up the Palouse region in southeastern Washington, northwestern Montana, adjacent portions of Idaho and Oregon, and in British Columbia. Palouse prairie is considered a subset of the Pacific Northwest bunchgrass habitat type (Tisdale 1986). In Idaho, Palouse prairie is confined to a narrow band along the western edge of central and north-central Idaho, centering on Latah County (Tisdale 1986; Ertter and Moseley 1992). Large-scale ecological changes in the Palouse region over the past century including agricultural conversion, changes in fire frequency, and alterations of hydrology, have resulted in the decline of many sensitive plant species including *Silene spaldingii* (Tisdale 1961). More than 98 percent of the original Palouse prairie habitat has been lost or modified by agricultural conversion, grazing, invasions of nonnative plant species, altered fire regimes, and urbanization (Noss *et al.* 1995). Some suitable habitat for *S. spaldingii* remains on the fringes of the Palouse region and in the forested portion of the channeled scablands in central Washington (John Gamon, Washington Natural Heritage Program (WNHP), *in litt.* 2000). Low-density subdivisions and developments, and increased use of lands in and around the forested portion of the channeled scablands in central Washington, likely pose significant threats to *S. spaldingii* populations remaining in this area (J. Gamon, *in litt.* 2000).

Silene spaldingii is also found in canyon grassland habitat, another division of the Pacific Northwest bunchgrass habitat type (Tisdale 1986). Canyon grasslands are dominated by the