

that is followed by the statement "Intake of *trans* fat should be as low as possible." In the absence of a % DV for *trans* fat, the footnote statement will provide guidance to consumers when using the quantitative information to help maintain healthy dietary practices. This statement is taken from the IOM/NAS macronutrient report and is consistent with the dietary guidance in the other recent scientific reports referenced in this document.

For interested parties who would like to submit comments on the proposed use of the footnote statement "Intake of *trans* fat should be as low as possible," we are reopening the comment period of the November 1999 proposal for a period of 30 days. Comments submitted during this period are to be limited to those that directly address the proposed use of the footnote. We are not requesting comments on any other issue, and we do not intend to consider such comments if submitted.

Following receipt of comments on this document, FDA intends to publish in early 2003 a final rule requiring mandatory declaration of *trans* fat content within the Nutrition Facts panel under the declaration for saturated fat, similar to the declarations of mono- and polyunsaturated fats. In response to interest expressed by manufacturers and trade associations to begin labeling the *trans* fat content of food products prior to publication of the final rule, we will consider the exercise of our enforcement discretion for such labeling as long as the footnote statement is also included in the Nutrition Facts panel. The agency cautions manufacturers that a final rule on this issue may differ from this proposal and that manufacturers would then be required to change their labels to conform to the final rule.

## II. How to Submit Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic comments. Two copies of any mailed comments are to be submitted, except that individuals may submit one copy. Submit electronic comments to <http://www.fda.gov/dockets/ecomments>. Identify all comments with the docket number found in brackets in the heading of this document. You may review received comments in the Dockets Management Branch office between 9 a.m. and 4 p.m., Monday through Friday.

## III. References

The following references have been placed on display in the Dockets Management Branch (see **ADDRESSES**) and may be seen by interested persons

between 9 a.m. and 4 p.m., Monday through Friday. FDA has verified the following three Web site addresses, but is not responsible for subsequent changes to the Web sites after this document publishes in the **Federal Register**.

1. IOM/NAS, "Dietary Reference Intakes for Energy, Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein and Amino Acids," chapter 8, National Academy Press, Washington, DC, pp. 335-432, 2002 (Internet address: <http://www.nap.edu/books/0309085373/html/>).

2. U.S. Department of Agriculture and U.S. Department of Health and Human Services, *Nutrition and Your Health: Dietary Guidelines for Americans*, 5th ed. Washington, DC; Home and Garden Bulletin No. 232, pp. 27-31, 2000 (Internet address: <http://www.usda.gov/cnpp/Pubs/DG2000/Index.htm>).

3. Expert Panel on Detection, Evaluation, and Treatment of High Blood Cholesterol in Adults, Third Report of the National Cholesterol Education Program (NCEP) Expert Panel on Detection, Evaluation, and Treatment of High Blood Cholesterol in Adults (Adult Treatment Panel III), Chapter II. "Rationale for Intervention" and Chapter V "Adopting Healthful Lifestyle Habits to Lower LDL Cholesterol and Reduce CHD Risk," 2001 (Internet address: <http://www.nhlbi.nih.gov/guidelines/cholesterol/index.htm>).

Dated: November 8, 2002.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 02-29096 Filed 11-12-02; 3:33 pm]

**BILLING CODE 4160-01-S**

## AMERICAN BATTLE MONUMENTS COMMISSION

### 36 CFR Part 404

#### Revision of the Freedom of Information Act Regulations and Implementation of the Electronic Freedom of Information Act Amendments of 1996

**AGENCY:** American Battle Monuments Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The American Battle Monuments Commission proposes to revise its regulations for responding to public requests for access to records or information under the Freedom of Information Act (FOIA). These regulations update and amplify the Commission's current regulations.

**DATES:** We will accept comments from all interested parties until January 14, 2003.

**ADDRESSES:** Submit your comments to Mr. Thomas R. Sole, FOIA Officer, Courthouse Plaza II, Suite 500, 2300 Clarendon Boulevard, Arlington, VA

22201-3367; fax (703) 696-6666. All comments received will be available for public inspection at that address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas R. Sole, Freedom of Information Officer, American Battle Monuments Commission or Ms. Martha Sell, Freedom of Information Act Representative, Courthouse Plaza II, Suite 500, 2300 Clarendon Blvd., Arlington, VA 22202 or by telephone at 703-696-6897.

**SUPPLEMENTARY INFORMATION:** This proposed rule replaces 36 CFR Parts 404 and 405. It updates Commission addresses, organizational information, and fee schedule and explicitly incorporates electronic format information as within the scope of covered information consistent with the Electronic Freedom of Information Act of 1996 (Pub. L. 104-231).

#### List of Subjects in 36 CFR Parts 404 and 405

Freedom of information.

For the reasons stated in the preamble, the American Battle Monuments Commission amends 36 CFR chapter IV as follows:

1. Revise part 404 to read as follows:

#### PART 404—PROCEDURES AND GUIDELINES FOR COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT

Sec.

- 404.1 General.
- 404.2 Authority and functions.
- 404.3 Organization.
- 404.4 Access to information.
- 404.5 Inspection and copying.
- 404.6 Definitions.
- 404.7 Fees to be charged—general.
- 404.8 Fees to be charged—categories of requesters.
- 404.9 Miscellaneous fee provisions.
- 404.10 Waiver or reduction of charges.

Authority: 5 U.S.C. 552.

#### § 404.1 General.

This information is furnished for the guidance of the public and in compliance with the requirements of section 552 of Title 5, United States Code, as amended.

#### § 404.2 Authority and functions.

The general functions of the American Battle Monuments Commission, as provided by statute, 36 U.S.C. 2101, *et seq.*, are to build and maintain suitable memorials commemorating the service of American Armed Forces and to maintain permanent American military cemeteries in foreign countries.

#### § 404.3 Organization.

(a) The brief description of the central organization of the American Battle Monuments Commission follows:

(1) The Commission is composed of not more than eleven members appointed by the President.

(2) The day to day operation of the Commission is under the direction of a secretary appointed by the President.

(3) Principal Officials include the Executive Director, Director of Finance, Director of Procurement and Contracting, Director of Engineering, Maintenance, and Operations and Director of Personnel and Administration.

(4) The Commission also creates temporary offices when tasked with major additional responsibilities not of a permanent nature.

(b) *Locations.* (1) The principal offices of the American Battle Monuments Commission are located at Courthouse Plaza II, Suite 500, 2300 Clarendon Boulevard, Arlington, VA 22201. Persons desiring to visit offices or employees of the American Battle Monuments Commission should write or telephone ahead (703-696-6897 or 703-696-6895) to make an appointment.

(2) Field offices are located in Paris, France; Rome, Italy; Manila, Republic of the Philippines; the Republic of Panama; and Mexico City, Mexico.

#### **§ 404.4 Access to information.**

(a) The American Battle Monuments Commission makes available information pertaining to Commission matters within the scope of 5 U.S.C. 552(a)(2) by publishing them electronically at the ABMC home page at [www.abmc.gov](http://www.abmc.gov).

(b) The ABMC FOIA Officer is responsible for acting on all initial requests. Individuals wishing to file a request under the Freedom of Information Act (FOIA) should address their request in writing to the FOIA Officer, American Battle Monuments Commission, Courthouse Plaza II, Suite 500, 2300 Clarendon Boulevard, Arlington, VA 22201 (telephone 703-696-6897 or 703-696-6895). Requests for information shall be as specific as possible.

(c) Upon receipt of any request for information or records, the FOIA Officer will determine within 20 days (excepting Saturdays, Sundays and legal public holidays) after the receipt of such request whether it is appropriate to grant the request and will immediately provide written notification to the person making the request. If the request is denied, the written notification to the person making the request shall include the names of the individuals who participated in the determination, the reasons for the denial, and a notice that an appeal may be lodged within the

American Battle Monuments Commission. (Receipt of a request as used herein means the date the request is received in the office of the FOIA Officer.)

(d) *Expedited processing.* (1) Requests and appeals will be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which effect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within the category described in paragraph (d)(1)(ii) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within the category (d)(1)(ii) of this section also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within ten days of its receipt of a request for expedited processing, ABMC will decide whether to grant it and will notify the requester of the decision. If a request for expedited treatment is granted, the request will be given priority and will be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

(e) Appeals shall be set forth in writing within 30 days of receipt of a denial and addressed to the FOIA Officer at the address specified in paragraph (b) of this section. The appeal shall include a statement explaining the

basis for the appeal. Determinations of appeals will be set forth in writing and signed by the Executive Director, or his designee, within 20 days (excepting Saturdays, Sundays, and legal public holidays). If, on appeal, the denial is in whole or in part upheld, the written determination will also contain a notification of the provisions for judicial review and the names of the persons who participated in the determination.

(f) In unusual circumstances, the time limits prescribed in paragraphs (c) and (e) of this section may be extended for not more than 10 days (excepting Saturdays, Sundays, or legal public holidays). Extensions may be granted by the FOIA Officer. The extension period may be split between the initial request and the appeal but in no instance may the total period exceed 10 working days. Extensions will be by written notice to the persons making the request and will set forth the reasons for the extension and the date the determination is expected.

(g) With respect to a request for which a written notice under paragraph (f) of this section extends the time limits prescribed under paragraph (c) of this section, the agency shall notify the person making the request if the request cannot be processed within the time limit specified in paragraph (f) of this section and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request. Refusal by the person to reasonably modify the request or arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist for purposes of 5 U.S.C. 552(a)(6)(C). When ABMC reasonably believes that a requester, or a group of requestors acting in concert, has submitted requests that constitute a single request, involving clearly related matters, ABMC may aggregate those requests for purposes of this paragraph. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred.

(h) As used herein, but only to the extent reasonably necessary to the proper processing of the particular request, the term unusual circumstances means:

(1) The need to search for and collect the requested records from establishments that are separated from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records

which are demanded in a single request; or

The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency which have a substantial subject matter interest therein.

#### § 404.5 Inspection and copying.

When a request for information has been approved pursuant to § 404.4, the person making the request may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the FOIA Officer at the address or telephone number listed in § 404.4(b). Such materials may be copied and reasonable facilities will be made available for that purpose. Copies of individual pages of such materials will be made available at the price per page specified in § 404.7(d); however, the right is reserved to limit to a reasonable quantity the copies of such materials which may be made available in this manner when copies also are offered for sale by the Superintendent of Documents.

#### § 404.6 Definitions.

For the purpose of the regulations in this part:

- (a) All the terms defined in the Freedom of Information Act apply.
- (b) A statute specifically providing for setting the level of fees for particular types of records (5 U.S.C. 552(a)(4)(A)(vi)) means any statute that specifically requires a government agency, such as the Government Printing Office (GPO) or the National Technical Information Service (NTIS), to set the level of fees for particular types of records, in order to:
- (1) Serve both the general public and private sector organizations by conveniently making available government information;
  - (2) Ensure that groups and individuals pay the cost of publications and other services that are for their special use so that these costs are not borne by the general taxpaying public;
  - (3) Operate an information dissemination activity on a self-sustaining basis to the maximum extent possible; or
  - (4) Return revenue to the Treasury for defraying, wholly or in part, appropriated funds used to pay the cost of disseminating government information. Statutes, such as the User Fee Statute, which only provide a general discussion of fees without explicitly requiring that an agency set

and collect fees for particular documents do not supersede the Freedom of Information Act under section (a)(4)(A)(vi) of that statute.

(c) The term direct costs means those expenditures that ABMC actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(d) The term search means the process of looking for and retrieving records or information responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. ABMC employees should ensure that searching for material is done in the most efficient and least expensive manner so as to minimize costs for both the agency and the requester. For example, employees should not engage in line-by-line search when merely duplicating an entire document would prove the less expensive and quicker method of complying with a request. Search should be distinguished, moreover, from review of material in order to determine whether the material is exempt from disclosure (see paragraph (f) of this section).

(e) The term duplication means the making of a copy of a document, or of the information contained in it, necessary to respond to a FOIA request. Such copies can take the form of paper, microform, audio-visual materials, or electronic records (e.g., magnetic tape or disk), among others. The requester's specified preference of form or format of disclosure will be honored if the record is readily reproducible in that format.

(f) The term review refers to the process of examining documents located in response to a request that is for a commercial use (see paragraph (g) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(g) The term commercial use request refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, ABMC must determine the use to which a requester will put the documents requested. Moreover, where an ABMC employee has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the employee should seek additional clarification before assigning the request to a specific category.

(h) The term educational institution refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education, that operates a program or programs of scholarly research.

(i) The term non-commercial scientific institution refers to an institution that is not operated on a commercial basis (as that term is referenced in paragraph (g) of this section), and that is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

The term representative of the news media refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term news means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of news) who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. Moreover, as traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative media would be included in this category. In the case of freelance journalists, they may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but ABMC may also look to the past publication

record of a requester in making this determination.

#### § 404.7 Fees to be charged—general.

ABMC shall charge fees that recoup the full allowable direct costs it incurs. Moreover, it shall use the most efficient and least costly methods to comply with requests for documents made under the FOIA. When documents that would be responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs (see definition in § 404.5(b)), such as the NTIS, ABMC should inform requesters of the steps necessary to obtain records from those sources.

(a) *Manual searches for records.* ABMC will charge at the salary rate(s) (i.e., basic pay plus 16 percent) of the employee(s) making the search.

(b) *Computer searches for records.* ABMC will charge at the actual direct cost of providing the service. This will include the cost of operating the central processing unit (CPU) for that portion of operating time that is directly attributable to searching for records responsive to a FOIA request and operator/programmer salary apportionable to the search.

(c) *Review of records.* Only requesters who are seeking documents for commercial use may be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges may be assessed only for the initial review; i.e., the review undertaken the first time ABMC analyzes the applicability of a specific exemption to a particular record or portion of a record. Records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review is assessable.

(d) *Duplication of records.* Records will be duplicated at a rate of \$.15 per page. For copies prepared by computer, such as tapes or printouts, ABMC shall charge the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction or duplication, ABMC will charge the actual direct costs of producing the document(s). If ABMC estimates that duplication charges are likely to exceed \$25, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer a requester the opportunity to confer with agency personnel with the object of

reformulating the request to meet his or her needs at a lower cost.

(e) *Other charges.* ABMC will recover the full costs of providing services such as those enumerated below when it elects to provide them:

(1) Certifying that records are true copies;

(2) Sending records by special methods such as express mail.

(3) Eight by ten inch black and white photographs—\$3.75

(4) Eight by ten inch color photographs—\$5.00

(5) \$1.50 per publication

(6) Video Purchase: The Price of Freedom—\$13.00

(f) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Treasury of the United States and mailed to the FOIA Officer, American Battle Monuments Commission, Courthouse Plaza II, Suite 500, 2300 Clarendon Blvd., Arlington, Virginia 22201.

(g) A receipt for fees paid will be given upon request. Refund of fees paid for services actually rendered will not be made.

(h) *Restrictions on assessing fees.* With the exception of requesters seeking documents for a commercial use, ABMC will provide the first 100 pages of duplication and the first two hours of search time without charge. Moreover, ABMC will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself.

(1) The elements to be considered in determining the cost of collecting a fee are the administrative costs of receiving and recording a requester's remittance, and processing the fee for deposit in the Treasury Department's special account.

(2) For purposes of these restrictions on assessment of fees, the word pages refers to paper copies of 8½ x 11 or 11 x 14. Thus, requesters are not entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or 100 pages of computer printout, does meet the terms of the restriction.

(3) Similarly, the term search time in this context has as its basis, manual search. To apply this term to searches made by computer, ABMC will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent. When the cost of search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of

two hours of the salary of the person performing the search, i.e., the operator, ABMC will begin assessing charges for computer search.

#### § 404.8 Fees to be charged—categories of requesters.

There are four categories of FOIA requesters: commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters. The specific levels of fees for each of these categories:

(a) *Commercial use requesters.* When ABMC receives a request for documents for commercial use, it will assess charges that recover the full direct costs of searching for, reviewing for release, and duplicating the record sought. Requesters must reasonably describe the records sought. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduction of documents. ABMC may recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records (see § 404.8(b)).

(b) *Educational and non-commercial scientific institution requesters.* ABMC shall provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research. Requesters must reasonably describe the records sought.

(c) *Requesters who are representatives of the news media.* ABMC shall provide documents to requesters in this category when serving the news dissemination function for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requester must meet the criteria in § 404.4(j), and his or her request must not be made for a commercial use. In reference to this class of requester, a request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use. Requesters must reasonably describe the records sought.

(d) *All other requesters.* ABMC shall charge requesters who do not fit into any of the categories above fees that recover the full reasonable direct cost of searching for and reproducing records

that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge. Moreover, requests for records about the requesters filed in ABMC's systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction. Requesters must reasonably describe the records sought.

#### **§ 404.9 Miscellaneous fee provisions.**

(a) *Charging interest—notice and rate.* ABMC may begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the billing was sent. The fact that the fee has been received by ABMC within the thirty day grace period, even if not processed, will suffice to stay the accrual of interest. Interest will be at the rate prescribed in section 3717 of Title 31 of the United States Code and will accrue from the date of the billing.

(b) *Charges for unsuccessful search.* ABMC may assess charges for time spent searching, even if it fails to locate the records or if records located are determined to be exempt from disclosure. If ABMC estimates that search charges are likely to exceed \$25, it shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such a notice shall offer the requester the opportunity to confer with agency personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(c) *Aggregating requests.* A requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When ABMC reasonably believes that a requester, or a group of requestors acting in concert, has submitted requests that constitute a single request, involving clearly related matters, ABMC may aggregate those requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred.

(d) *Advance payments.* ABMC may not require a requester to make an advance payment, *i.e.*, payment before work is commenced or continued on a request, unless:

(1) ABMC estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250. Then, ABMC will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees,

or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee charged in a timely fashion (*i.e.*, within 30 days of the date of the billing). Then, ABMC may require the requester to pay the full amount owed plus any applicable interest as provided above or demonstrate that he or she has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requester.

(3) When ABMC acts under paragraph (d)(1) or (2) of this section, the administrative time limits prescribed in the FOIA, 5 U.S.C. 552(a)(6) (*i.e.*, 20 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits), will begin only after ABMC has received fee payments described in paragraphs (d)(1) and (2) of this section.

(e) *Effect of the Debt Collection Act of 1982 (Pub. L. 97-365).* ABMC should comply with provisions of the Debt Collection Act, including disclosure to consumer reporting agencies and use of collection agencies, where appropriate, to encourage repayment.

#### **§ 404.10 Waiver or reduction of charges.**

Fees otherwise chargeable in connection with a request for disclosure of a record shall be waived or reduced where it is determined that disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and is not primarily in the commercial interest of the requester.

#### **PART 405—[REMOVED]**

2. Remove part 405.

Dated: November 5, 2002.

**Theodore Gloukhoff,**

*Director, Personnel and Administration.*

[FR Doc. 02-28900 Filed 11-14-02; 8:45 am]

**BILLING CODE 6120-01-P**

## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

#### **50 CFR Part 17**

#### **RIN 1018-AH10**

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

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service) announce the reopening of the public comment period for the proposed rule to designate critical habitat for 32 plants from the island of Lanai, Hawaii. We have received new information since the close of the comment period and the comment period is reopened to allow additional time for all interested parties to consider the information and submit written comments on the proposal. Comments already submitted on the proposed rule need not be resubmitted as they already have been incorporated into the public record and will be fully considered in the final determination.

**DATES:** The comment period for this proposal now closes on November 25, 2002. Any comments received by the closing date will be considered in the final decision on this proposal.

**ADDRESSES:** Written comments and information should be submitted 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 March 4, 2002, we published a revised proposed critical habitat rule for 32 of the 37 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 Lanai (67 FR 9806). The original comment period closed on May 3, 2002. The comment period was reopened on July 15, 2002 and closed on August 30, 2002. The current comment period closes on November 25, 2002.

A total of 37 species historically found on Lanai were listed as