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Contents

Federal Register

Vol. 69, No. 246

Thursday, December 23, 2004

Agricultural Marketing Service
RULES
Pistachio nuts in shell and shelled; grade standards; correction, 76835–76836
PROPOSED RULES
Potatoes (Irish) grown in—
Idaho and Oregon, 76884

Agricultural Research Service
NOTICES
Inventions, Government-owned; availability for licensing, 76900–76902
Patent licenses; non-exclusive, exclusive, or partially exclusive:
California Table Grape Commission, 76902
Monsanto Co., 76902

Agriculture Department
See Agricultural Marketing Service
See Agricultural Research Service
See Animal and Plant Health Inspection Service
See Farm Service Agency
See Food Safety and Inspection Service
See Forest Service
See Rural Telephone Bank
See Rural Utilities Service

Animal and Plant Health Inspection Service
NOTICES
Reports and guidance documents; availability, etc.:
Target animal safety; examination of live veterinary vaccines in target animals for absence of reversion to virulence, 76903–76904

Bonneville Power Administration
NOTICES
Environmental statements; record of decision:
Hopkins Ridge Wind Interconnection Project, WA, 76929

Centers for Medicare & Medicaid Services
NOTICES
Grants and cooperative agreements; availability, etc.:
Medicare—
Cancer Prevention and Treatment Demonstration Projects for Ethnic and Racial Minorities, 76947–76949

Children and Families Administration
NOTICES
Organization, functions, and authority delegations:
Assistant Secretary for Children and Families Office et al., 76949

Commerce Department
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Customs and Border Protection Bureau
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 76950–76955

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Elementary and secondary education—
Early Reading First Program, 76921–76926
Postsecondary education—
Federal Pell Grant Program et al., 76926–76927
Special education and rehabilitative services:
Individuals with Disabilities Education Act (IDEA)—
Correspondence; quarterly list, 76928–76929

Employment and Training Administration
NOTICES
Adjustment assistance:
Merrow Machine Co., 76959

Energy Department
See Bonneville Power Administration
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards:
Synthetic organic manufacturing industry and other processes subject to negotiated regulation for equipment leaks, 76859–76863
Air programs:
Stratospheric ozone protection—
Methyl Bromide phaseout; critical use exemption process, 76981–77009
Air quality implementation plans; approval and promulgation; various States:
District of Columbia, 76855–76859
Maryland; correction, 76854–76855
Michigan, 76848–76854
Solid wastes:
Land disposal restrictions—
Chemical Waste Management, Chemical Services, LLC; site-specific treatment standard variance for selenium waste; withdrawn, 76863–76864
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
Synthetic organic manufacturing industry and other processes subject to negotiated regulation for equipment leaks, 76894–76897
Air quality implementation plans; approval and promulgation; various States:
District of Columbia, 76888–76889
Maryland and Virginia, 76889–76893
Michigan, 76886–76888
Water supply:
National primary drinking water regulations—
Stage 2 disinfectants and disinfection byproducts rule; meeting, 76897–76899
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 76938–76941
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 76941–76942
Weekly receipts, 76942

Pesticide, food, and feed additive petitions:
Nichino America, Inc., 76942–76945

Executive Office of the President
See Presidential Documents

Export-Import Bank
NOTICES
China; U.S. semiconductor manufacturing equipment exports to dedicated founderies; finance application, 76945

Farm Service Agency
RULES
Special programs:
Ewe Lamb Replacement and Retention Payment Program, 76836–76839

Federal Aviation Administration
RULES
Air carrier certification and operations:
DoD commercial air carrier evaluators; credentials, 76841–76842
Airworthiness directives:
Boeing, 76839–76841
MD Helicopters, Inc.; correction, 76979

Federal Communications Commission
RULES
Radio services, special:
Maritime services—
Puget Sound and Straits of Juan de Fuca; 156.575 MHz frequency use for intership port operations communications, 76864–76865

Federal Energy Regulatory Commission
NOTICES
Complaints filed:
Kiowa Power Partners, LLC, et al., 76935
Tenaska Gateway Partners, Ltd., et al., 76935
Environmental statements; notice of intent:
Sempra Energy LNG, 76936–76938
Applications, hearings, determinations, etc.:
Brazos River Authority, 76929–76930
Colorado Interstate Gas Co., 76930
Dominion Transmission, Inc., 76930–76931
Enbridge Energy Co., Inc., 76931–76932
Entergy Arkansas, Inc., 76932
Gas Transmission Northwest Corp., 76932–76933
ISO New England, Inc., 76933
New York Independent System Operator, Inc., 76933
Northern Border Pipeline Co., 76933–76934
TransCanada Hydro Northeast, Inc., 76934
Williston Basin Interstate Pipeline Co., 76934–76935

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Placer County, CA, 76971

Federal Maritime Commission
NOTICES
Agreements filed, etc., 76945

Federal Reserve System
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 76945–76947
Banks and bank holding companies:
Change in bank control; correction, 76947
Formations, acquisitions, and mergers, 76947

Food and Drug Administration
RULES
Food for human consumption:
Irradiation in production, processing, and handling of food—
Ionizing radiation in treatment of food; x ray maximum permited energy level, 76844–76847

Food Safety and Inspection Service
PROPOSED RULES
Meat and poultry inspection:
Slaughterers of young calves; hazard analysis and critical control point (HACCP) system; reassessment, 76884–76886

Foreign Claims Settlement Commission
NOTICES
Meetings; Sunshine Act, 76959

Forest Service
NOTICES
Environmental statements; notice of intent:
Chequamegon-Nicolet National Forest, WI, 76904–76906

Government Accountability Office
PROPOSED RULES
Practice and procedure:
Bid protest regulations
Correction, 76979

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health

Homeland Security Department
See Customs and Border Protection Bureau

Housing and Urban Development Department
RULES
Mortgage and loan insurance programs:
Single family mortgage insurance—
Property flipping prohibition and sales time restriction exemptions, 77113–77116
PROPOSED RULES
Grants:
Housing Counseling Program, 77117–77125
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 76955–76956
Grants and cooperative agreements; availability, etc.:
Homeless assistance; excess and surplus Federal properties, 76956

Industry and Security Bureau
RULES
Export administration regulations:
Commerce Control List—
Dual-use chemical manufacturing facilities and equipment and related technology; Australia Group classification number conformation, 76842–76844
NOTICES
Meetings:
Materials Technical Advisory Committee, 76910

International Trade Administration
NOTICES
Antidumping:
Frozen and canned warmwater shrimp from—
Brazil, 76910–76913
Ecuador, 76913–76916
India, 76916–76918
Thailand, 76918–76920

International Trade Commission
NOTICES
Import investigations:
Ethyl alcohol for fuel use, 76956–76957

Justice Department
See Foreign Claims Settlement Commission
NOTICES
Pollution control; consent judgments:
Alcoa, Inc., 76957
MW Custom Papers, LLC, et al., 76958
Reading, PA, 76958
United States Ceramic Tile Co. et al., 76958–76959

Labor Department
See Employment and Training Administration
See Mine Safety and Health Administration
NOTICES
Organization, functions, and authority delegations:
Trade Agreement Implementation Office, 77127–77131

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
W.A. Mining, Inc., et al., 76959

National Archives and Records Administration
RULES
Records management:
Unscheduled records; transfer to storage facilities Correction, 76848

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
Platform lift systems for accessible vehicles and platform lift installations on vehicles, 76865–76870

National Institutes of Health
NOTICES
Inventions, Government-owned; availability for licensing, 76949–76950

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Ecconomic Zone—
Bering Sea and Aleutian Islands groundfish, 76870–76883
West Coast States and Western Pacific fisheries—
Pacific Coast groundfish, 77011–77112
NOTICES
Meetings:
Pacific Fishery Management Council, 76921

Nuclear Regulatory Commission
NOTICES
Reports and guidance documents; availability, etc.:
Periodic inspection of bus ducts; staff guidance for license renewal; comment request, 76960–76962

Pension Benefit Guaranty Corporation
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 76962

Personnel Management Office
NOTICES
Meetings:
Federal Prevailing Rate Advisory Committee, 76963

Presidential Documents
PROCLAMATIONS
Australia; free trade agreement (Proc. 7857), 77133–77137

Railroad Retirement Board
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 76963

Rural Telephone Bank
NOTICES
Loan policies:
Interest rates, 76906–76909

Rural Utilities Service
NOTICES
Telecommunications plant; depreciation rates; publication, 76909–76910

Small Business Administration
NOTICES
Disaster loan areas:
Alaska, 76963–76964
Privacy Act:
Systems of records, 76964–76965

State Department
NOTICES
Grants and cooperative agreements; availability, etc.:
American Music Abroad Program, 76965–76971

Surface Transportation Board
NOTICES
Rail carriers:
Annual inflation operating revenues of railroads; indexing, 76972
Railroad services abandonment:
Sierra Northern Railway, 76972

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board

Treasury Department
RULES
Currency and foreign transactions; financial reporting and recordkeeping requirements:
Suspicious activity and blocking reports; filing requirements, 76847–76848

Veterans Affairs Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 76972–76976
Inventions, Government-owned; availability for licensing, 76977–76978

Poverty threshold (2003); weighted average, 76978

Separate Parts In This Issue

Part II
Environmental Protection Agency, 76981–77009

Part III
Commerce Department, National Oceanic and Atmospheric Administration, 77011–77112

Part IV
Housing and Urban Development Department, 77113–77116

Part V
Housing and Urban Development Department, 77117–77125

Part VI
Labor Department, 77127–77131

Part VII
Executive Office of the President, Presidential Documents, 77133–77137

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
7857.....77135

4 CFR
Proposed Rules:
21.....76979

7 CFR
51.....76835
784.....76836
Proposed Rules:
945.....76884

9 CFR
Proposed Rules:
417.....76884

14 CFR
39 (2 documents) 76839, 76879
119.....76841
121.....76841
135.....76841

15 CFR
774.....76842

21 CFR
179.....76844

24 CFR
203.....77112
Proposed Rules:
214.....77118

31 CFR
103.....76847

36 CFR
1228.....76848

40 CFR
52 (3 documents) 76848, 76854, 76855
63.....76859
82.....76982
268.....76863
Proposed Rules:
52 (3 documents) 76886, 76888, 76889
63.....76894
141.....76897

47 CFR
80.....76864

49 CFR
571.....76865

50 CFR
660.....77012
679.....76870

Rules and Regulations

Federal Register
Vol. 69, No. 246
Thursday, December 23, 2004

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.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket Number FV–98–304 C]

Pistachio Nuts in the Shell, and Shelled Pistachio Nuts; Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations which were published August 22, 2003 (68 FR 50681). The regulations related to United States Standards for Grades of Pistachio Nuts in the Shell, and the United States Standards for Grades of Shelled Pistachio Nuts.

EFFECTIVE DATE: December 23, 2004.

FOR FURTHER INFORMATION CONTACT: David Priester, Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1661 South Building, STOP 0240, Washington, DC 20250–0240, Fax (202) 720–8871 or call (202) 720–2185; e-mail *David.Priester@usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction revised §§ 51.2544, Tolerances, and 51.2557, Tolerances.

Need for Correction

As published, minor insect injury or vertebrate injury was inadvertently omitted from regulatory text § 51.2544, Table II paragraph (b) and § 51.2557, Table I paragraph (b). Additionally, mold, rancid, decay was incorrectly listed in § 51.2544, Table II paragraph (b)(1), and § 51.2557, Table I paragraph (b)(1). This document corrects those errors. The corrected tables conform to the definitions of serious damage in § 51.2547 and § 51.2560.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

■ Accordingly, 7 CFR is amended by making the following corrections:

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

■ 1. The authority citation for 7 CFR part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

■ 2. In § 51.2544, Table II is revised to read as follows:

§ 51.2544 Tolerances.

* * * * *

TABLE II.—TOLERANCES

Factor internal (kernel) defects (tolerances by weight)	U.S. fancy (percent)	U.S. extra No. 1 (percent)	U.S. No. 1 (percent)	U.S. select (percent)	U.S. artificially opened (percent)	U.S. non-split (percent)
(a) Damage	3	6	6	6	6	6
(b) Serious Damage (Minor Insect or Vertebrate Injury, Mold, Rancid, Decay)	3	4	4	4	4	4
(1) Insect Damage, included in (b)	1	2	2	2	2	2
(c) Total Internal Defects	4	8	9	9	9	9

* * * * *

■ 3. In § 51.2557, Table I is revised to read as follows:

§ 51.2557 Tolerances.

* * * * *

TABLE 1.—TOLERANCES

Factor (tolerances by weight)	U.S. fancy (percent)	U.S. extra No. 1 (percent)	U.S. No. 1 (percent)
(a) Damage	2.0	2.5	3.0
(b) Serious Damage (Minor Insect or Vertebrate Injury, Mold, Rancid, Decay)	1.5	2.0	2.5
(1) Insect Damage, included in (b)	.3	.4	.5
(c) Foreign Material	.03	.05	.1

Dated: December 17, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–28056 Filed 12–22–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 784

RIN 0560–AH15

2004 Ewe Lamb Replacement and Retention Payment Program

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the regulations for the 2004 Ewe Lamb Replacement and Retention Payment Program. This program will assist producers of sheep and promote the replacement and retention of ewe lamb breeding stock by providing payments to producers who have recently reduced production and flock size due to low prices, and other market conditions.

DATES: This rule is effective on December 23, 2004.

FOR FURTHER INFORMATION CONTACT: Danielle Cooke, Price Support Division, Farm Service Agency, United States Department of Agriculture, STOP 0512, 1400 Independence Avenue, SW., Washington, DC 20250–0512. Telephone (202) 720–1919; email: *Danielle.Cooke@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Discussion of Final Rule

The ELRRPP provides direct payments to sheep producers in order to help the U.S. sheep industry achieve sustained competitiveness. A reduction in sheep producer income has experienced reduced production of sheep and lambs and flock size. The domestic sheep industry has experienced reduced market prices, production, flock size, and investment in improving sheep flocks. In addition, persistent drought conditions in major U.S. sheep-producing areas have reduced available feed and forage capacity. The ELRRPP will help alleviate some of the financial stress that sheep producers are facing with an infusion of funds to improve their flocks or meet other obligations.

The Farm Service Agency published a proposed rule for ELRRPP regulations on September 7, 2004, with a 30-day comment period which ended on October 7, 2004. The proposed rule provided that ELRRPP be based on ewe lambs held in the period between August 1, 2003, through July 31, 2004, and then, on through the end of the lamb's own offspring lambing cycle, end at the conclusion of the application period and disbursement of allotted funds. The program will operate under regulations codified in 7 CFR part 784.

Comments and Changes to Final Rule

The Agency received 21 public comments during the 30-day comment period. One comment was received from a marketing cooperative, 8 comments were received from sheep and lamb producer associations, and 12 comments were received from individual members of sheep and lamb companies or ranch operations. All comments received were in support of the Ewe Lamb Replacement and Retention Payment Program and expressed the need for the program because of bad drought conditions that have severely impacted the sheep and lamb industry over the past few years. In addition, 19 out of 21 of the comments received requested the Agency implement an expeditious sign-up and conclusion so that payments can be issued to producers before the end of the calendar year. No substantive changes were made from the regulations contained in the proposed rule. However, clarifying changes were made to conform the new program with that previously administered and to promote efficiency. An unnecessary and inaccurate reference to a finality rule has been eliminated. Also, a clarifying provision has been added, among others, to specify that a purchase without possession during the base period would not constitute an acquisition in the base period. As clarified, a qualifying ewe lamb must at some point in the base period have been under 18 months old and not have, at that time, produced an offspring of its own. To receive payment, the applicant must certify that the lamb meets program conditions. The certification must show that, as of the time of certification, the lamb does not have parrot mouth, foot rot, or scrapie. Spot checks will be conducted and lambs found to have these conditions will be ineligible for payment. Other requirements apply, including holding the lamb for a specified period of time tied to the lambing cycle. Funding of the program is limited, and claims will accordingly be limited. A few comments indicated confusion with the information collection requirements of the program. These comments will be addressed in the Agency's submission of the information collection to the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Executive Order 12866

This rule is issued in conformance with Executive Order 12866. This rule has been determined to be ''Not Significant,'' and was not reviewed by OMB.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because FSA is not required by 5 U.S.C. 533 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule.

Environmental Review

It has been determined by an environmental assessment (EA) that the actions of the Ewe Lamb Replacement and Retention Payment Program (ELRRPP) will have no significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement is not necessary to address the potential impacts of this rule.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. This rule preempts State laws that are inconsistent with this rule. Before any legal action may be brought regarding determinations made under 7 CFR part 784, administrative appeal provisions set forth at 7 CFR parts 11 and 780 must be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372. See 48 FR 29115 (June 24, 1983) for the notice related to 7 CFR part 3014, subpart V.

Unfunded Mandates Reform Act

This rule contains no Federal mandates for State, local, and tribal governments or the private sector under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA). Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act of 1995

The information collection required to support ELRRPP has been approved by OMB and assigned OMB control number 0560–0246.

Executive Order 12612

This rule has no Federalism implications warranting a Federalism Assessment. This rule will not affect States, or their political subdivisions, or the distribution of power and

responsibilities among levels of government.

List of Subjects in 7 CFR Part 784

Agriculture, Livestock, Reporting and recordkeeping requirements.

■ Accordingly, 7 CFR part 784 is revised to read as follows:

PART 784—2004 EWE LAMB REPLACEMENT AND RETENTION PAYMENT PROGRAM

Sec.

784.1 Applicability.
784.2 Administration.
784.3 Definitions.
784.4 Time and method of application.
784.5 Payment eligibility.
784.6 Rate of payment and limitations on funding.
784.7 Availability of funds.
784.8 Appeals.
784.9 Misrepresentation and scheme or device.
784.10 Estates, trusts, and minors.
784.11 Death, incompetence, or disappearance.
784.12 Maintaining records.
784.13 Refunds; joint and several liability.
784.14 Offsets and withholdings.
784.15 Assignments.
784.16 Termination of program.

Authority: Clause (3) of section 32 of the Act of August 24, 1935, as amended; 7 U.S.C. 612c.

§ 784.1 Applicability.

(a) Subject to the availability of funds, this part establishes terms and conditions under which the 2004 Ewe Lamb Replacement and Retention Payment Program will be administered.

(b) Unless otherwise determined by the Farm Service Agency (FSA) in accordance with the provisions of this part, the amount that may be expended under this part for program payments shall not exceed $18 million. Claims that exceed that amount will be prorated in accordance with § 784.7.

(c) To be eligible for payments, producers must comply with all provisions of this part and with any other conditions imposed by FSA.

§ 784.2 Administration.

(a) This part shall be administered by FSA under the general direction and supervision of the Deputy Administrator for Farm Programs, FSA. The program shall be carried out in the field by FSA State and county committees (State and county committees) in accordance with their assigned duties and the regulations of this part.

(b) The Deputy Administrator for Farm Programs, FSA, or a designee, may reverse or modify a determination made by a State or county committee.

(c) The Deputy Administrator for Farm Programs, FSA, may waive or modify deadlines and other program requirements in cases where timeliness or failure to meet such other requirements does not adversely affect the operation of the program.

(d) The program described under this part is a one-time program to be administered with respect to eligibility and qualifying factors occurring during or related to the base period of August 1, 2003 through July 31, 2004, as specified in this part.

§ 784.3 Definitions.

The definitions in this section shall apply to the 2004 Ewe Lamb Replacement and Retention Payment Program and this part.

Agricultural Marketing Service or AMS means the Agricultural Marketing Service of the Department.

Application means the Ewe Lamb Replacement and Retention Payment Program Application.

Application period means the date established by the Deputy Administrator for producers to apply for program benefits. Unless otherwise announced, that period will end January 13, 2005.

Base period means the period from August 1, 2003, through July 31, 2004, during and after which ewe lambs must meet all qualifying eligibility criteria.

Ewe lamb means a female lamb no more than 18 months of age that has not produced an offspring.

Farm Service Agency or FSA means the Farm Service Agency of the Department.

Foot rot means an infectious, contagious disease of sheep that causes severe lameness and economic loss from decreased flock production.

Lambing cycle means the period of time from birth to weaning.

Parrot mouth means a genetic defect resulting in the failure of the incisor teeth to meet the dental pad correctly.

Person means any individual, group of individuals, partnership, corporation, estate, trust, association, cooperative, or other business enterprise or other legal entity who is, or whose members are, a citizen or citizens of, or legal resident alien or aliens in the United States.

Sheep and lamb operation means any self-contained, separate enterprise operated as an independent unit exclusively within the United States in which a person or group of persons raise sheep and/or lambs.

United States means the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 784.4 Time and method of application.

(a) A request for benefits under this part must be submitted on the Ewe Lamb Replacement and Retention Program Application. The application form may be obtained in person, by mail, by telephone, or by facsimile from any county FSA office. In addition, applicants may download a copy of the form at *http://www.usda.gov/dafp/psd/*.

(b) The form may be obtained from and must be submitted to the FSA county office serving the county where the sheep and lamb operation is located. The completed form must be received by the FSA county office by the date established by FSA. Applications not received by that date will be disapproved and returned as not having been timely filed and the sheep and lamb operation filing the application will not be eligible for benefits under this program.

(c) The sheep and lamb operation requesting benefits under this part must certify to the accuracy of the information provided in their application for benefits. All information provided is subject to verification and spot checks by FSA. Refusal to allow FSA or any other agency of the Department of Agriculture to verify any information provided will result in a determination of ineligibility. Data furnished by the applicant will be used to determine eligibility for program benefits. Providing a false certification will lead to ineligibility for payments and may be subject to additional civil and criminal sanctions.

(d) The sheep and lamb operation requesting benefits under this part must maintain accurate records that document that they meet all eligibility requirements specified herein, as may be requested by FSA. Acceptable forms of supporting documentation include, but are not limited to: Sales receipts, farm management records, veterinarian certifications, scrapie program forms and identification numbers, as well as, other types of documents that prove the eligibility of the qualifying ewe lambs and the sheep and lamb operation. The supporting documentation provided must, at a minimum, include: date of lamb purchase or date of birth, date of lamb death (if applicable), lamb identification and control information, number of ewe lambs purchased or retained, and scrapie program identification numbers.

§ 784.5 Payment eligibility.

(a) Payments can be made, as agreed to by FSA and subject to the availability of funds, for eligible ewe lambs considered by FSA, as determined by FSA only, to have been acquired or held during the base period by eligible sheep and lamb operations for breeding purposes. Payments may be made for

eligible ewe lambs held continuously by the operation, through the end of the compliance period, from the time of the first possession of the ewe lamb in the base period. The payment rate cannot exceed the rate provided for in § 784.6 and may be prorated pursuant to § 784.7. For purposes of this section, the ''base period'' is the period from August 1, 2003, through July 31, 2004. A purchase in the base period without possession in the base period will not be considered an acquisition in the base period for purposes of this section unless otherwise allowed by FSA.

(b) For the ewe lamb to be eligible, a sheep and lamb operation must certify that the ewe lamb:

(1) During at least part of the base period was a ewe lamb which was both, at the same time, not older than 18 months of age and had not produced an offspring; and

(2) At the time of certification, does not possess any of the following characteristics:

(i) Parrot mouth; or

(ii) Foot rot.

(c) The sheep and lamb operation must certify and agree to:

(1) Maintain the qualifying ewe lambs in the herd for at least one complete, normal offspring lambing cycle, the end of which shall constitute the end of the compliance period for the purposes of paragraph (a) of this section, and actually maintain the lambs for that period in accord with that certification. The ''offspring'' lambing cycle refers to the time in which the qualifying ewe lamb's own offspring would be weaned, in a normal course, from that qualifying ewe if the ewe were to have offspring, irrespective of whether the ewe actually produces offspring.

(2) Upon request by an AMS agent or FSA representative, allow the AMS agent or FSA Representative to verify that the ewe lambs meet qualifying characteristics. Spot checks will be conducted by FSA within 30 days of the end of the sign-up period. Any animal showing evidence of parrot mouth, foot rot, or scrapie in such spot checks will be considered to have had those conditions at the time of certification. Other spot checks may be conducted as needed.

(3) Maintain documentation of any death loss of qualifying ewe lambs.

(4) Agree to refund any payments made with respect to any ewe lamb or offspring that has died before completing the full program requirements where said deaths for the operation exceed 10 percent.

(5) Be in compliance with all requirements relating to scrapie, as described in 9 CFR parts 54 and 79.

(d) To be eligible for any payments addressed under this section, a sheep and lamb operation must be engaged in the business of producing and marketing agricultural products at the time of filing the application.

(e) In addition, to be eligible for payment, a sheep and lamb operation must submit a timely application during the application period for benefits and comply with all other terms and conditions of this part or that are contained in the application for such benefits, and such other conditions as may be imposed by FSA.

(f) Proof that each lamb was held during and through the end of the base period as required by paragraph (a) of this section, as must be determined individually for each lamb, shall be provided in such manner, and with such access to the operation and the documents and information related to the operation, as FSA may request.

§ 784.6 Rate of payment and limitations on funding.

(a) Subject to the availability of funds and to the proration provisions of § 784.7, payments for qualifying operations shall be $18 for each qualifying ewe lamb retained or purchased for breeding purposes.

§ 784.7 Availability of funds.

Total payments under this part, unless otherwise determined by the FSA, cannot exceed $18 million. In the event that approval of all eligible applications would result in expenditures in excess of the amount available, FSA shall prorate the available funds by a national factor to reduce the expected payments to be made to the amount available. The payment shall be made based on the national factored rate as determined by FSA. FSA shall prorate the payments in such manner as it, in its sole discretion, finds appropriate and reasonable.

§ 784.8 Appeals.

The appeal regulations set forth at parts 11 and 780 of this title apply to determinations made pursuant to this part.

§ 784.9 Misrepresentation and scheme or device.

(a) A sheep and lamb operation shall be ineligible to receive assistance under this program if it is determined by the State committee or the county committee to have:

(1) Adopted any scheme or device that tends to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this part to any person or operation engaged in a misrepresentation, scheme, or device, shall be refunded with interest together with such other sums as may become due. Any sheep and lamb operation or person engaged in acts prohibited by this section and any sheep and lamb operation or person receiving payment under this part shall be jointly and severally liable with other persons or operations involved in such claim for benefits for any refund due under this section and for related charges. The remedies provided in this part shall be in addition to other civil, criminal, or administrative remedies that may apply.

§ 784.10 Estates, trusts, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is otherwise eligible for assistance under this part must, also:

(1) Establish that the right of majority has been conferred on the minor by court proceedings or by statute;

(2) Show a guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) Furnish a bond under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 784.11 Death, incompetence, or disappearance.

In the case of death, incompetence, disappearance or dissolution of a person that is eligible to receive benefits in accordance with this part, such person or persons specified in 7 CFR part 707 may receive such benefits, as determined appropriate by FSA.

§ 784.12 Maintaining records.

Persons making application for benefits under this program must maintain accurate records and accounts that will document that they meet all eligibility requirements specified herein. Such records and accounts must be retained for 3 years after the date of payment to the sheep and lamb operations under this program. Destruction of the records after such date shall be at the risk of the party undertaking the destruction.

§ 784.13 Refunds; joint and several liability.

(a) In the event there is an inaccurate certification or a failure to comply with

any term, requirement, or condition for payment arising under the application, or this part, and if any refund of a payment to FSA shall otherwise become due in connection with the application, or this part, all related payments made under this part to any sheep and lamb operation shall be refunded to FSA together with interest as determined in accordance with paragraph (c) of this section and late payment charges as provided in part 1403 of this title.

(b) All persons signing a sheep and lamb operation's application for payment as having an interest in the operation shall be jointly and severally liable for any refund, including related charges, that is determined to be due for any reason under the terms and conditions of the application or this part with respect to such operation.

(c) Interest shall be charged on refunds required of any person under this part if FSA determines that payments or other assistance was provided to a person who was not eligible for such assistance. Such interest shall be charged at the rate of interest that the United States Treasury charges the Commodity Credit Corporation for funds, from the date FSA made such benefits available to the date of repayment or the date interest increases as determined in accordance with applicable regulations. FSA may waive the accrual of interest if FSA determines that the cause of the erroneous determination was not due to any action of the person.

(d) Interest determined in accordance with paragraph (c) of this section may be waived at the discretion of FSA alone for refunds resulting from those violations determined by FSA to have been beyond the control of the person committing the violation.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in 7 CFR part 792.

(f) Any excess payments made by FSA with respect to any application under this part must be refunded.

(g) In the event that a benefit under this subpart was provided as the result of erroneous information provided by any person, the benefit must be repaid with any applicable interest.

§ 784.14 Offsets and withholdings.

FSA may offset or withhold any amounts due FSA under this subpart in accordance with the provisions of 7 CFR part 792, or successor regulations, as designated by the Department.

§ 784.15 Assignments.

Any person who may be entitled to a payment may assign his rights to such payment in accordance with 7 CFR part 1404, or successor regulations, as designated by the Department.

§ 784.16 Termination of program.

This program will be terminated after payment has been made to those applications certified as eligible pursuant to the application period established in § 784.4.

Signed at Washington, on DC on December 17, 2004.

Michael W. Yost,

Acting Administrator, Farm Service Agency.

[FR Doc. 04–28061 Filed 12–22–04; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–179–AD; Amendment 39–13911; AD 2004–25–23]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 747 series airplanes, that requires repetitive inspections for cracking of the top and side panel webs and panel stiffeners of the nose wheel well (NWW), and corrective actions if necessary. This action is necessary to detect and correct fatigue cracks in the top and side panel webs and stiffeners of the NWW, which could compromise the structural integrity of the NWW and could lead to the rapid depressurization of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective January 27, 2005.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 27, 2005.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Nick Kusz, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6432; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 747 series airplanes was published in the **Federal Register** on May 7, 2004 (69 FR 25519). That notice of proposed rulemaking (NPRM) proposed to require repetitive inspections for cracking of the top and side panel webs and panel stiffeners of the nose wheel well (NWW), and corrective actions if necessary.

Explanation of New Service Information

Since the issuance of the NPRM, Boeing has issued and we have reviewed Revision 2 of Boeing Alert Service Bulletin 747–53A2465, dated November 11, 2004 (the NPRM referred to Revision 1 of the service bulletin as the appropriate source of service information for accomplishing the proposed actions). Revision 2 of the service bulletin describes procedures for performing repetitive external detailed inspections for cracking of the top and side panel webs of the NWW (specified as Area 1 and Area 2 in the service bulletin), as applicable; performing repetitive internal detailed and surface high frequency eddy current (HFEC) inspections for cracking of the top and side panel stiffeners of the NWW (specified as Area 3 in the service bulletin); replacing cracked stiffeners with new stiffeners; and repairing any cracked panel web.

We have revised the final rule by adding new paragraph (a)(2) as an option to accomplishing the repetitive inspections required by paragraph (a)(1) (specified as paragraph (a) of the NPRM). The option allows operators to do the repetitive inspections specified in Revision 2 of the service bulletin. The compliance time intervals for the new, optional repetitive inspections are: (1) 1,000 flight cycles for the external detailed inspection, and (2) 6,000 flight cycles for the internal detailed and suface HFEC inspections, which is less stringent than the 1,000 flight-cycle interval for the repetitive inspections

required by paragraph (a)(1) of this final rule.

We have also added Revision 2 of the service bulletin to paragraph (b) of the final rule to allow repairs to be done according to either Revision 1 or Revision 2 of the service bulletin, as applicable.

Accomplishing the actions specified in either Revision 1 or Revision 2 of the service bulletin at the times specified in the final rule is intended to adequately address the identified unsafe condition.

Comments

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

Request To Revise or Cancel the NPRM

Two commenters request that the NPRM be revised or cancelled due to the upcoming release of Revision 2 of Boeing Alert Service Bulletin 747–53A2465. One commenter, the airplane manufacturer, notes that Revision 2 of the service bulletin will have different inspections and compliance times than what is specified in paragraph (a) of the NPRM. The commenter states that the procedures for ultrasonic inspection will be removed from the service bulletin and that the repetitive interval recommended for the detailed inspection of the NWW sidewall and top webs will be changed. The commenter notes that the detailed inspection will be performed every 1,000 flight cycles, starting at 16,000 total flight cycles, and then, after accumulating 25,000 flight cycles, the detailed inspection will be performed every 100 flight cycles for the web common to the fore-aft stiffeners at water lines (WL) 150, 160 and 170 (left and right sides). The commenter suggests that paragraph (a) of the NPRM be revised to reflect these changes.

The other commenter suggests that the NPRM be revised or cancelled because of the differences between the NPRM and Revision 2 of the service bulletin. The commenter also asks that a new proposal be issued that cites the changes specified in Revision 2 of the service bulletin.

We do not agree with the commenters' requests to revise or cancel the NPRM. Revision 2 of the service bulletin does not contain a 25,000 flight-cycle inspection threshold to reduce the repetitive inspection interval. In addition, as stated earlier, we have revised the final rule by adding the actions specified in Revision 2 of the service bulletin as an option to doing the actions specified in Revision 1 of the service bulletin.

Request To Extend Inspection Threshold

One commenter requests that the second inspection threshold be extended from 25,000 flight cycles to 28,000 flight cycles for Model 747–400D series airplanes. The commenter states that the fatigue cracks are caused by cabin pressurization and Model 747–400D series airplanes operate with lower cabin differential pressure.

We do not agree with the commenter. We infer that the commenter is referring to Revision 2 of Boeing Alert Service Bulletin 747–53A2465, but as stated earlier, Revision 2 does not contain a second inspection threshold. No change is made to the final rule in this regard.

Conclusion

After careful review of the available data, including the comments noted above, we have determined that air safety and the public interest require adopting the AD with the changes previously described. These changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,127 airplanes of the affected design in the worldwide fleet. We estimate that 255 airplanes of U.S. registry will be affected by this AD.

It will take approximately 42 work hours per airplane to accomplish the required inspections specified in Boeing Service Bulletin 747–53A2465, Revision 1, dated October 16, 2003, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the required inspections on U.S. operators is estimated to be $2,730 per airplane, per inspection cycle.

In lieu of the inspections specified in Revision 1 of Boeing Service Bulletin 747–53A2465, it will take approximately 87 or 97 work hours per airplane (depending on the airplane configuration) to accomplish the required inspections specified in Boeing Alert Service Bulletin 747–53A2465, Revision 2, dated November 11, 2004, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the required inspections on U.S. operators is estimated to be $5,655 or $6,305 per airplane, per inspection cycle (depending on the airplane configuration).

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this AD.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2004–25–23 Boeing: Amendment 39–13911. Docket 2001–NM–179–AD.

Applicability: All Model 747 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracks in the top and side panel webs and stiffeners of the nose wheel well (NWW), which could compromise the structural integrity of the NWW and could lead to the rapid depressurization of the airplane, accomplish the following:

Initial and Repetitive Inspections

(a) Prior to the accumulation of 16,000 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever is later, do the inspections specified in either paragraph (a)(1) or (a)(2) of this AD.

(1) Do the inspections specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2465, Revision 1, dated October 16, 2003. Repeat the inspections thereafter at intervals not to exceed 1,000 flight cycles.

(i) Do detailed and ultrasonic inspections of the top and side panel webs of the NWW for cracks.

(ii) Do detailed and surface high frequency eddy current (HFEC) inspections of the top and side panel stiffeners of the NWW for cracks.

(2) Do the inspections specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2465, Revision 2, dated November 11, 2004. Repeat the inspections thereafter at the intervals specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Do external detailed inspections of the top and side panel webs of the NWW (specified as Area 1 and Area 2 in the service bulletin), as applicable, for cracks. Repeat the inspections thereafter at intervals not to exceed 1,000 flight cycles.

(ii) Do internal detailed and surface HFEC inspections of the top and side panel stiffeners of the NWW (specified as Area 3 in the service bulletin) for cracks. Repeat the inspections thereafter at intervals not to exceed 6,000 flight cycles.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirrors, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Corrective Actions

(b) If any crack is found during any inspection required by paragraph (a) of this AD: Prior to further flight, do the applicable corrective actions specified in paragraphs (b)(1) and (b)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2465, Revision 1, dated October 16, 2003; or Boeing Alert Service Bulletin 747–53A2465, Revision 2, dated November 11, 2004; as applicable. Thereafter, repeat the inspections required by paragraph (a) of this AD at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) Repair web cracks.

(2) Replace cracked stiffeners with new stiffeners.

Inspections Accomplished per Previous Issue of Service Bulletin

(c) Inspections accomplished before the effective date of this AD in accordance with Boeing Alert Service Bulletin 747–53A2465, dated April 5, 2001, are considered acceptable for compliance with the corresponding inspections specified in paragraph (a) of this AD.

Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, Seattle Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Service Bulletin 747–53A2465, Revision 1, dated October 16, 2003; or Boeing Alert Service Bulletin 747–53A2465, Revision 2, dated November 11, 2004. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Effective Date

(f) This amendment becomes effective on January 27, 2005.

Issued in Renton, Washington, on December 7, 2004.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–27508 Filed 12–22–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 119, 121 and 135

[Docket No. FAA–2003–15571; Amendment Nos. 119–8, 121–286 and 135–83]

RIN 2120–AI00

DOD Commercial Air Carrier Evaluators

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Disposition of comments on final rule.

SUMMARY: This document discusses comments FAA received on the final rule, published on July 10, 2003 (68 FR 41214), which became effective on July 11, 2003, and which clarified existing regulations as they apply to Department of Defense (DOD) commercial air carrier evaluators. These amendments clarified DOD's congressionally mandated cockpit evaluation mission and authority for the aviation security community. Also, DOD's Air Mobility Command (AMC) issued a new credential to allow DOD commercial air carrier evaluators uninterrupted access to the cockpit for evaluations.

ADDRESSESS: The complete docket for the final rule ''DOD Commercial Air Carrier Evaluators'' may be examined in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the Nassif Building at the Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. Also, you may review the public docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Lt. Col. Gregory Clawson, Department of Defense Air Mobility Command Liaison Officer to FAA Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7088.

SUPPLEMENTARY INFORMATION:

Background

The DOD contracts for passenger and air cargo movements from air carriers certificated by the FAA. The DOD is congressionally mandated to conduct capability evaluations of contracted carriers. These evaluations ensure each carrier is able to satisfy the unique requirements of military contracts and to adhere to the DOD Commercial Air Carrier Quality and Safety Requirements. These evaluations apply only to carriers under contract with the DOD or carriers wanting to enter into contracts with the DOD.

DOD commercial air carrier evaluators require uninterrupted access to the flight deck to perform their reviews. For many years, DOD commercial air carrier evaluators relied on the FAA, the air carrier, and the pilot in command authorizing their access to conduct the air carrier evaluation mission. Language contained in 14 CFR parts 121 and 135 did not include DOD commercial air carrier evaluators among those individuals authorized access to the flight deck.

The absence of direct authority in the regulation listing and the lack of a well-known DOD evaluator credential significantly hindered the congressionally mandated DOD air carrier evaluations.

The amendments in the final rule make clear the authority of DOD commercial air carrier evaluators to conduct cockpit evaluations by including them in the regulation text. These changes, with the creation of the S&A Form 110B evaluator credential, have alleviated the problems DOD commercial air carrier evaluators have faced in the field.

Discussion of Comments

The FAA received comments from a private citizen and a commercial air carrier. The content of the two letters was identical. These comments are addressed below.

The commenters stated that allowing cockpit access to the DOD evaluators was not ''prudent or necessary'' and the potential existed for DOD evaluators to abuse the process by wanting ''free rides.''

FAA response: The FAA does not agree with the commenters. The DOD is required by law to conduct carrier evaluations including cockpit observations. The DOD coordinates these observations in advance with the air carrier. Flight crews are made aware of the presence of the DOD evaluator before the flight. Surprise evaluations are not part of this program and DOD evaluators must show proper documentation, including their S&A Form 110B credential and military orders, to gain access to the aircraft. Additionally, these evaluations only occur on air carriers participating, or applying to participate, in the DOD program. The process currently in place safeguards the security of the aircraft and does not allow for ''free ride'' abuse by the evaluators.

The FAA received comments regarding the possible falsification of the new credential being issued to DOD evaluators and the potential for increased costs to the air carrier by having to verify the evaluator's documentation.

FAA response: The FAA does not agree that the credential is easily falsified. The new credential issued to DOD air carrier evaluators has the same security features as the credentials carried by FAA inspectors and are difficult to falsify. In addition, DOD evaluators must present military orders with their S&A Form 110B credential. Verifying the credential and military order should not take any more time than in the past, and we expect the costs to be minimal. Again, these evaluations only occur on air carriers participating, or applying to participate, in the DOD program.

Conclusion

After consideration of the comments submitted in response to the final rule, the FAA has determined that no further rulemaking action is necessary. The final rule, ''DOD Commercial Air Carrier Evaluators'' remains in effect as adopted.

Issued in Washington, DC, on December 15, 2004.

Marion C. Blakey,

Administrator.

[FR Doc. 04–27896 Filed 12–22–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 041123328–4328–01]

RIN 0694–AD16

Revision of Export Control Classification Number (ECCN) 2B351 To Conform With the Australia Group (AG) ''Control List of Dual-Use Chemical Manufacturing Facilities and Equipment and Related Technology''

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is publishing this final rule to amend the Export Administration Regulations (EAR) by revising the Commerce Control List (CCL) entry that describes controls on certain toxic gas monitoring systems to conform with the Australia Group (AG) ''Control List of Dual-Use Chemical Manufacturing Facilities and Equipment and Related Technology.'' Specifically, this final rule removes a technical note that contained an overly broad description of the types of toxic gas monitoring systems and detectors subject to chemical/biological (CB) controls under the EAR. The note covered a number of toxic gas monitoring systems and detectors not included on the AG control list. By removing the technical note, this final rule eliminates the CB license requirement for these toxic gas monitoring systems and detectors. Toxic gas monitoring systems and detectors that are included on the AG control list continue to require a license, for CB reasons, to certain destinations.

DATES: This rule is effective December 23, 2004.

ADDRESSES: You may submit comments, identified by RIN 0694–AD16, by any of the following methods:

- E-mail: *wfisher@bis.doc.gov.* Include ''RIN 0694–AD16'' in the subject line of the message.
- Fax: (202) 482–3355. Please alert the Regulatory Policy Division, by calling (202) 482–2440, if you are faxing comments.
- Mail or Hand Delivery/Courier: Willard Fisher, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, ATTN: RIN 0694–AD16.

FOR FURTHER INFORMATION CONTACT: Mark Sagrans, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, Telephone: (202) 482–7900.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by revising Export Control Classification Number (ECCN) 2B351 on the Commerce Control List (CCL) (Supplement No. 1 to Part 774 of the EAR) to conform with the Australia Group (AG) ''Control List of Dual-Use Chemical Manufacturing Facilities and Equipment and Related Technology.''

The AG is a multilateral forum, consisting of 38 participating countries, that maintains export controls on a list of chemicals, biological agents, and related equipment and technology that could be used in a chemical or biological weapons program. The AG periodically reviews items on its control list to enhance the effectiveness of participating governments' national controls and to achieve greater harmonization among these controls.

Specifically, this rule revises ECCN 2B351 by removing the Technical Note at the end of the entry. BIS is removing this Technical Note because it is not included in the AG ''Control List of Dual-Use Chemical Manufacturing Facilities and Equipment and Related Technology'' and its inclusion in ECCN 2B351 resulted in controls on certain toxic gas monitoring systems and devices not designed for the detection of chemical warfare agents or precursors. The wording of the Technical Note indicated that the toxic gas monitoring systems controlled under ECCN 2B351.a included systems (such as environmental air pollution detectors, anesthetic gas monitors for patients, and sulfur hexafluoride detectors) that have a detection capability for chemicals, which contain phosphorus, sulfur, fluorine or chlorine, but are not controlled under ECCN 1C350.

As a result of the removal of the Technical Note by this final rule, ECCN 2B351.a no longer controls toxic gas monitoring systems that have a detection capability for chemicals (other than chemical warfare agents), which contain phosphorus, sulfur, fluorine or chlorine, but are not controlled under ECCN 1C350. A license no longer is required, for chemical/biological (CB) reasons, to export or reexport such systems; however, such systems may require a license for reasons specified elsewhere in the EAR (*e.g.,* the end-user/end-use restrictions described in Part 744 of the EAR or the restrictions described in Part 746 of the EAR that apply to embargoed countries). Systems designed for continuous operation that are capable of detecting chemical warfare agents or any of the chemicals controlled under ECCN 1C350 (including those containing phosphorus, sulfur, fluorine or chlorine), at concentrations of less than 0.3 mg/m^3, continue to be controlled under ECCN 2B351.a and continue to require a license, for CB reasons, to destinations listed in Country Group D:3 (as specified in Supplement No. 1 to Part 740 of the EAR).

Although the Export Administration Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as extended by the Notice of August 6, 2004 (69 FR 48763, August 10, 2004), continues the Regulations in effect under the International Emergency Economic Powers Act .

Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of 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 of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule contains a collection of information subject to the requirements of the PRA. This collection has been approved by OMB under Control Number 0694–0088 (Multi-Purpose Application), which carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), by e-mail to *David_Rostker@omb.eop.gov,* or by fax to (202) 395–7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 774

Exports, Foreign trade, Reporting and recordkeeping requirements.

■ Accordingly, Part 774 of the Export Administration Regulations (15 CFR Parts 730–799) is amended as follows:

PART 774—[AMENDED]

■ 1. The authority citation for 15 CFR Part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 6, 2004, 68 FR 47833 (August 10, 2004).

Supplement No. 1 to Part 774 [Amended]

■ 2. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 2—Materials Processing, ECCN 2B351 is revised to read as follows:

2B351 Toxic gas monitoring systems that operate on-line and dedicated detectors therefor.

License Requirements

Reason for Control: CB, AT.

Control(s)	Country chart
CB applies to entire entry	CB Column 3.
AT applies to entire entry	AT Column 1.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: Equipment in number.

Related Controls: See ECCNs 1A004 and 1A995 for detection equipment that is not covered by this entry.

Related Definitions: For the purposes of this entry, the term ''continuous operation'' describes the capability of the equipment to operate on line without human intervention. The intent of this entry is to control toxic gas monitoring systems capable of collection and detection of samples in environments such as chemical plants, rather than those used for batch-mode operation in laboratories.

Items:

a. Designed for continuous operation and usable for the detection of chemical warfare agents or chemicals controlled by 1C350 at concentrations of less than 0.3 mg/m^3; or

b. Designed for the detection of cholinesterase-inhibiting activity.

Dated: December 16, 2004.

Peter Lichtenbaum,

Assistant Secretary for Export Administration.

[FR Doc. 04–28104 Filed 12–22–04; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. 2003F–0088]

Irradiation in the Production, Processing and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations by establishing a new maximum permitted energy level of x rays for treating food of 7.5 million electron volts (MeV) provided that the x rays are generated from machine sources that use tantalum or gold as the target material, with no change in the maximum permitted dose levels or uses currently permitted by FDA's food additive regulations. This action is in response to a petition filed by Ion Beam Applications.

DATES: This rule is effective December 23, 2004. Submit written objections and request for a hearing by January 24, 2005. See Section VII of this document for information on the filing of objections.

ADDRESSES: You may submit written objections and requests for a hearing, identified by Docket No. 2003F–0088, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.
- E-mail: *fdadockets@oc.fda.gov*. Include Docket No. 2003F–0088 in the subject line of your e-mail message.
- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD-ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All objections received will be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For detailed instructions on submitting objections, see the ''Objections'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Celeste Johnston, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1282.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of March 13, 2003 (68 FR 12087), FDA announced that a food additive petition (FAP 3M4745) had been filed by Ion Beam Applications (IBA), 6000 Poplar Ave., suite 426, Memphis, TN. Since the publication of this notice, IBA has been sold to PPM Ventures, which subsequently changed its name to Sterigenics International, Inc., 2015 Spring Rd., suite 650, Oak Brook, IL 60523. As a result, the rights to FAP 3M4745 have been transferred from IBA to Sterigenics International, Inc. The petition proposed that the food additive regulations in § 179.26 *Ionizing radiation for the treatment of food* (21 CFR 179.26) be amended by increasing the maximum permitted energy level of x rays for treating food to 7.5 MeV from the currently permitted maximum level of 5 MeV. Higher x ray energy will result in an increased concentration of x rays in the forward direction and increased penetration of these x rays in materials. This increased emission efficiency (i.e., concentration of x rays produced in the forward direction) will result in reduced treatment time for food, and therefore, higher production rates and lower treatment costs. The increased penetration of 7.5 MeV versus 5 MeV x rays will allow for the irradiation of larger packages.

II. Evaluation of Safety

A source of radiation used to treat food meets the definition of a food additive under section 201(s) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(s)). Under section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A)), a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. FDA's food additive regulations in 21 CFR 170.3(i) define safe as ''a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use.''

III. Evaluation of the Safety of the Petitioned Use of 7.5 MeV X Rays

A. Safety Concerns of Higher Energy X rays

The maximum energy limit of an x-ray machine is the maximum energy of the individual x-ray photons produced by that machine. When individual photons of x rays are absorbed by food, the absorbed energy causes atoms to be ionized until all the energy is converted into heat or chemical change. The amount of change in the food will depend on the total energy absorbed (i.e., dose). Because this petition seeks only to raise the maximum energy limit for x rays used for treating food, with no change in the maximum doses currently permitted by § 179.26, FDA concludes that the petition presents no new chemical issue, and that the only safety issue to be addressed is the potential for inducing radioactivity in the food.

Food, as well as other natural materials, displays low levels of naturally occurring radioactivity, such as that due to the presence of potassium-40 or carbon-14. To assess the safety of increasing the maximum energy of x rays to 7.5 MeV, the petitioner evaluated the potential for 7.5 MeV x rays to induce additional radioactivity in food. X rays with energies above an atom's threshold energy are capable of ejecting neutrons or protons from the nuclei of some atoms that have absorbed the x-ray energy. The threshold energy needed to cause the emission of a proton is higher than 7.5 MeV; therefore, the primary mechanism for inducing radioactivity in food by 7.5 MeV x rays will be from the loss of a neutron. This may in some cases result in the formation of radioactive nuclei. Radioactive nuclei are unstable and decay to a more stable form, spontaneously emitting particles and electromagnetic radiation in the form of gamma rays (i.e., high-energy photons). Often, this transition can occur very rapidly, such that an isotope produced in food from x rays will decay to a stable, nonradioactive state before leaving the irradiation facility. However, some radioactive isotopes could be sufficiently stable to be present in food

when ingested. Radioactive atoms decay at a rate specific to their identity and, if taken into the body, could emit ionizing energy that would be absorbed in tissues in the body. Whether any emitted energy would increase the risk of harm to health depends on the amount and type of radiation absorbed by the body and the site of absorption.

Two reports in the petition provide the petitioner's primary basis that the petitioned use of 7.5 MeV x-ray radiation is safe. One report, from the International Atomic Energy Agency (IAEA), addresses natural and induced radioactivity in food treated with radiation, including high energy x rays (Ref. 1). The second report, by Gregoire et al., assesses the induced activities in fresh meat and in meat ash irradiated with high-energy x rays using evidence provided by theoretical calculations and experimental measurement (Ref. 2). As part of its review, FDA contracted with the Department of Energy, Oak Ridge National Laboratory (ORNL), for an independent evaluation of data in the petition (Ref. 3).

B. Neutron-Induced Radioactivity in Food

The IAEA report provides a compilation of available data on natural and induced radioactivity in food and investigates to what extent increases in absorbed dose in food or increased energy levels of radiation sources used to irradiate food could induce radioactivity in the food. One of the scenarios considered in the report was the potential for inducing radioactivity in food after being irradiated with 7.5 MeV x rays (using an x-ray target of tantalum or gold) to a dose of 30 kiloGray (kGy).[1] The report compared possible radiation exposure in humans from induced radioactivity in food to that from natural radioactivity in food. A reference food model was used for this analysis with an elemental composition similar to that of meat.[2] The report concluded that consuming 40 kilograms (kg) (88 pounds) per year of reference food with an absorbed dose of 30 kGy (a dose more than six times the maximum permitted dose level of 4.5 kGy permitted by FDA for refrigerated meat and meat products), would result in an estimated human radiation exposure of 1.3×10^{-3} millisieverts/year (yr) (mSv/yr) (a dose 300 times less than the yearly dose due to natural radioactivity from food) (Ref. 1). The calculation assumed that the food would be eaten immediately after being irradiated. However, the radioisotopes with the greatest probability of being produced decay quite rapidly. Therefore, because of radioactive decay, any radioactivity in the treated food, which would normally be consumed more than 24 hours after treatment, would actually be significantly less at the time of consumption.

The report by Gregoire et al. provided theoretical estimates and experimental results of the radiological implications of irradiating meat with higher energy x rays. Induced activities in meat irradiated at 15 kGy with 7.5 MeV x rays and a resultant human exposure to radiation were calculated. Based on the most abundant isotopes produced in meat by neutron capture reactions at thresholds below 7.5 MeV, and assuming a person consumes 40 kg of meat per year and a 24-hour delay between irradiation and consumption, the corresponding dose to humans was calculated to be 0.2×10^{-3} mSv/yr.

Theoretical estimates of induced activity can be more reliable than direct measurements, especially for low levels of activity. However, to check the validity of the theoretical estimates, Gregoire et al. compared their predictions with experimental data. Experimental results from a 1991 study by Wakeford and Blackburn were discussed. This study investigated the irradiation of codfish, rice, and a macerated meat product with x rays produced by an electron linear accelerator that generated electrons at energies up to 12 MeV and predominately at 8 MeV (Ref. 4). These foods received radiation doses ranging from 8.8 to 14 kGy. Induced activities in the foods were reported to be approximately the same as natural background levels, and dropped quickly. The report also summarized the results from another study in which induced activities in fresh meat and in meat ash were measured after being irradiated with x rays generated at 7.3 MeV and 8.1 MeV at doses of 15 kGy and 8.6 kGy, respectively. Based on the measured activity from the two experiments and assuming a consumption of 40 kg/y of irradiated meat and a 24-hour delay time between irradiation and consumption, the total annual dose from meat due to treatment with higher energy x rays was determined to be 0.24 to 0.29×10^{-3} mSv/yr, a dose about 1,500 times lower than the 0.39 mSv received per year from consumption of food due to naturally occurring radionuclides (Ref. 3). Because most meat would be consumed more than 24 hours after treatment, the annual dose from the irradiated meat would be far less than the dose indicated from these experiments.

ORNL evaluated the information in the IAEA report. ORNL estimated induced activities in beef irradiated to 15 kGy with 7.5 MeV x rays and the resultant dose from consumption of the treated food (Ref. 3). ORNL used the elemental composition of beef for their analysis because its composition is similar both to that of the reference food used in the IAEA report and to food in general. From this information, ORNL determined induced radioactivity in beef and used this to estimate a potential radiation dose to humans from consumption of the food. The annual effective dose based on consumption of 40 kg/yr of beef was calculated to be 0.4×10^{-3} mSv, which is approximately 1,000 times less than the annual effective dose from consumption of foods due to naturally occurring radioactivity, and is consistent with the results from both the IAEA report and the Gregoire et al. report. In addition to beef, ORNL also calculated the effective annual dose from consumption of pork, poultry, and eggs treated with 7.5 MeV x rays and an absorbed dose of 15 kGy, ORNL determined that based on the average quantity of beef, pork, poultry, and eggs consumed in a year, the total effective annual human exposure from consumption of these irradiated foods would be 1.0×10^{-3} mSv/yr, which is about 400 times less than the 0.39 mSv/yr that people receive due to natural radioactivity in food. It is also important to note that this estimated exposure is highly conservative because it assumes the following: (1) That all of the beef, pork, poultry, and eggs that a person consumes in a year has been irradiated, (2) that these foods are consumed within 24 hours after irradiation, and, (3) that such foods would be treated with an average dose of 15 kGy, which is significantly higher than both the currently maximum permitted dose for these foods as well as doses that would be practical to apply to foods in commerce.

The results discussed previously considered potential radiation exposure for humans from consumption of various foods irradiated with high energy x rays. Although foods other than those that were studied may be irradiated with 7.5 MeV x rays, the

[1] Thirty kGy is close to a sterilizing dose. Foods, generally, would not be irradiated at such a high dose.

[2] The concentrations of elements in the reference food were chosen to be reasonably close to those of meat because, compared to other foods, meat is likely to be the food that receives the highest doses and that is consumed in the largest quantities. Although the concentrations of trace elements in foods can vary significantly, the difference in the radiation exposure to humans from consumption of one irradiated food and another food due to these variances would be insignificant.

compositions of the foods that were considered are representative of foods in general. Even at absorbed doses that are higher than those normally used in practice, the results clearly show that any radioactivity that may be induced in any food treated with 7.5 MeV x rays will be trivially low and that any potential human exposure due to consumption of irradiated food will be inconsequential compared to that from radionuclides that are present naturally in food.

C. The Need to Limit the X-Ray Target Material

Neutrons emitted from the x-ray target in the x-ray generator can also enter food and induce radioactivity. Therefore, FDA considered whether there is a need to specify or limit the x-ray target material to minimize neutron production from this source. Materials with photoneutron threshold energies below 7.5 MeV can produce photoneutrons, which could also be captured in the foods being irradiated. The petitioner has proposed the use of tantalum and gold as x-ray target materials. The x-ray energy levels needed to eject a neutron from the two common isotopes of tantalum (Ta-180 and Ta-181) are 6.6 and 7.6 MeV, respectively, but the neutron production from 7.5 MeV x rays is insignificant, and considerably less than from tungsten, a common x-ray target material (Refs. 1 and 3). Gold also does not produce significant numbers of neutrons when impinged with 7.5 MeV x rays (Ref. 1). Therefore, FDA concludes that tantalum and gold are acceptable x-ray target materials for the proposed use and is specifying these two x-ray target materials as a condition of safe use for machine sources of 7.5 MeV x rays.

IV. Conclusion of Safety

FDA has evaluated the data submitted in the petition and other relevant material and concludes that any added radioactivity in food from the use of 7.5 MeV x rays will be trivial compared to that from radionuclides that are present naturally in food. Therefore, the agency concludes that the proposed use of 7.5 MeV x rays for treating food is safe and that the conditions listed in § 179.26 should be amended as set forth in this document.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching the agency's decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

V. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 3M4745 (68 FR 12087). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

VI. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VII. Objections

Any person who will be adversely affected by this regulation may file with the Division of Dockets Management (see **ADDRESSES**) written or electronic objections by (see **DATES**). Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

VIII. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. International Atomic Energy Agency, ''Natural and Induced Radioactivity in Food,'' IAEA–TECDOC–1287, Food and Environmental Protection Section, IAEA, Vienna, 2002.

2. Gregoire, O., Cleland, M. L., Wakeford, Mittendorfer, et al., ''Radiological Safety of Food Irradiation With High Energy X-Rays: Theoretical Expectations and Experimental Evidence,'' 2002.

3. Easterly, C. E., Eckerman, K. F., Ross, R. H., et al., ''Assessment of Petition to Increase the Maximum X-Ray Energy to 7.5 MeV from the Value of 5.0 MeV for the Treatment of Food by Ionizing Radiation,'' ORNL–2003–1, Oak Ridge National Laboratory, Life Sciences Division, 2003.

4. Wakeford, C. A., Blackburn R., and Swallow, A. J., ''Induction and Detection of Radioactivity in Foodstuffs Irradiated With 10 MeV Electrons and X-Rays,'' Radiation Physics and Chemistry, vol. 38, No. 1, pp. 29–38, 1991.

List of Subjects in 21 CFR Part 179

Food additives, Food labeling, Food packaging, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 179 is amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

■ 1. The authority citation for 21 CFR part 179 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 348, 373, 374.

■ 2. Section 179.26 is amended by revising paragraph (a)(3) and by adding paragraph (a)(4) to read as follows:

§ 179.26 Ionizing radiation for the treatment of food.

* * * * *

(a) * * *

(3) X rays generated from machine sources at energies not to exceed 5 million electron volts (MeV), except as permitted by paragraph (a)(4) of this section.

(4) X rays generated from machine sources using tantalum or gold as the target material and using energies not to exceed 7.5 (MeV).

* * * * *

Dated: December 14, 2004.

Leslye M. Fraser,

Director, Office of Regulations and Policy, Center for Food Safety and Applied Nutrition.

[FR Doc. 04–28043 Filed 12–22–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 103

Interpretive Release No. 2004–02—Unitary Filing of Suspicious Activity and Blocking Reports

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Department of the Treasury.

ACTION: Final rule; interpretive release.

SUMMARY: This FinCEN interpretive guidance clarifies that reports filed with the Department of the Treasury's Office of Foreign Assets Control (''OFAC'') of blocked transactions with Specially Designated Global Terrorists, Specially Designated Terrorists, Foreign Terrorist Organizations, Specially Designated Narcotics Trafficker Kingpins, and Specially Designated Narcotics Traffickers will be deemed by FinCEN to fulfill the requirement to file suspicious activity reports on such transactions for purposes of FinCEN's suspicious activity reporting rules. However, the filing of a blocking report with OFAC will not be deemed to satisfy a financial institution's obligation to file a suspicious activity report if the transactions would be reportable under FinCEN's suspicious activity reporting rules even if there were no OFAC match. Moreover, to the extent that the financial institution is in possession of information not included on the blocking report filed with OFAC, a separate suspicious activity report should be filed with FinCEN including that information.

DATES: This final rule is effective December 23, 2004. The **DATES** section of the rule published on December 14, 2004, at 69 FR 74439 is corrected to read as follows:

DATES: Appendix C is added to part 103 effective December 14, 2004; however, Release 2004–01 is not effective until June 13, 2005.

FOR FURTHER INFORMATION CONTACT: Regulatory Policy and Programs Division, 1–800–949–2732, Financial Crimes Enforcement Network.

SUPPLEMENTARY INFORMATION: FinCEN is publishing this interpretation to clarify that the filing of required blocking reports with OFAC on transactions involving an individual or entity designated as a Specially Designated Global Terrorist, Specially Designated Terrorist, Foreign Terrorist Organization, Specially Designated Narcotics Trafficker Kingpin, or Specially Designated Narcotics Trafficker shall be deemed to satisfy the requirement, under existing and any forthcoming suspicious activity reporting regulations, that financial institutions file suspicious activity reports based on the fact of such a match.

List of Subjects in 31 CFR Part 103

Authority delegations (government agencies), Banks, Banking, Currency, Investigations, Reporting and recordkeeping requirements.

Department of the Treasury

1 CFR Chapter I

Authority and Issuance

■ For the reasons set forth in the preamble, part 103 of title 31 of the Code of Federal Regulations is amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

■ 1. The authority citation for part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 312, 313, 314, 319, 326, 352. Pub. L. 107–56, 115 Stat. 307, 21 U.S.C. 1786(q).

■ 2. Part 103 is amended by adding a new Intrepretive Release at the end of Appendix C to read as follows:

APPENDIX C TO PART 103—INTERPRETIVE RULES

* * * * *

Release No. 2004–02

This FinCEN interpretive guidance clarifies that reports filed with the Department of the Treasury's Office of Foreign Assets Control (''OFAC'') of blocked transactions with Specially Designated Global Terrorists, Specially Designated Terrorists, Foreign Terrorist Organizations, Specially Designated Narcotics Trafficker Kingpins, and Specially Designated Narcotics Traffickers will be deemed by FinCEN to fulfill the requirement to file suspicious activity reports on such transactions for purposes of FinCEN's suspicious activity reporting rules. However, the filing of a blocking report with OFAC will not be deemed to satisfy a financial institution's obligation to file a suspicious activity report if the transactions would be reportable under FinCEN's suspicious activity reporting rules even if there were no OFAC match. Moreover, to the extent that the financial institution is in possession of information not included on the blocking report filed with OFAC, a separate suspicious activity report should be filed with FinCEN including that information.

Background

The Bank Secrecy Act authorizes the Secretary of the Treasury to require financial institutions to report ''any suspicious transaction relevant to a possible violation of law or regulation.'' [1] Under this authority, FinCEN has issued regulations requiring banks, securities broker-dealers, introducing brokers, casinos, futures commission merchants, and money services businesses, to report suspicious activity that meets a particular dollar threshold.[2] Each rule includes filing procedures requiring that a suspicious transaction shall be reported by completing a suspicious activity report and filing it with FinCEN in a central location to be determined by FinCEN. Generally, the rules provide a financial institution with thirty days from the date of the initial detection of suspicious activity to file a report, with an additional thirty days if the financial institution is unable to identify a suspect. Reports are filed on forms developed for each industry subject to the reporting requirement.[3]

OFAC administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction. OFAC's Reporting, Procedures and Penalties Regulations at 31 CFR part 501 require U.S. financial institutions to block and file reports on accounts, payments, or transfers in which an OFAC-designated country, entity, or individual has any interest.[4] These reports must be filed with OFAC within ten business days of the blocking of the property.[5]

Prior Guidance

Transactions involving an individual or entity designated on OFAC's list of Specially Designated Nationals and Blocked Persons as a global terrorist, terrorist, terrorist organization, narcotics trafficker, or narcotics kingpin [6] may be in furtherance of a criminal act, and therefore relevant to a possible violation of law. Thus, blocking reports related to such persons also describe

[1] *See* 31 U.S.C. 5318(g)(1).

[2] See 31 CFR 103.17–21. The threshold for most financial institutions is $5,000; transactions conducted at points of sale for money services businesses have a reporting threshold of $2,000. See 31 CFR 103.20.

[3] See TD F 90–22.47 (depository institutions); TD F 22.56 (money services businesses); FinCEN Form 101 (securities and futures industries); FinCEN Form 102 (casinos and card clubs).

[4] 31 CFR 501.603.

[5] 31 CFR 501.603(b)(1)(i).

[6] The specific designations are as follows: Specially designated terrorist; foreign terrorist organization; specially designated global terrorist; specially designated narcotics trafficker; specially designated narcotics trafficker kingpin. *See* 31 CFR parts 595, 597, 598 and the Foreign Narcotics Kingpin Act, 21 U.S.C. 1901–08, 8 U.S.C. 1182. These categories of designations are subject solely to blocking requirements.

potentially suspicious activity. In the November 2003 edition of its ''SAR Activity Review,'' [7] FinCEN instructed financial institutions to file suspicious activity reports on verified matches of persons designated by OFAC. While this guidance ensured that the relevant information would be available to law enforcement, it also resulted in financial institutions being required to make two separate filings with the Department of the Treasury—one with OFAC pursuant to its Reporting, Procedures and Penalties Regulations, and one with FinCEN pursuant to its suspicious activity reporting rules.

Revised Guidance

FinCEN is hereby revising its prior guidance to eliminate the need for duplicative reporting in cases where a financial institution identifies a verified match with individuals or entities designated by OFAC. As of the date of publication of this interpretation, FinCEN will deem its rules requiring the filing of suspicious activity reports to be satisfied by the filing of a blocking report with OFAC in accordance with OFAC's Reporting, Penalties and Procedures Regulations. OFAC will then provide the information to FinCEN for inclusion in the suspicious activity reporting database where it will be made available to law enforcement. This construction of the suspicious activity reporting rules will serve the public interest by enabling FinCEN to obtain and provide potentially important information about terrorists and major drug traffickers to law enforcement on an expedited basis without imposing duplicative reporting burdens on the regulated industry.

Accordingly, a financial institution that files a blocking report with OFAC due to the involvement in a transaction or account of a person designated as a Specially Designated Global Terrorist, a Specially Designated Terrorist, a Foreign Terrorist Organization, a Specially Designated Narcotics Trafficker Kingpin, or a Specially Designated Narcotics Trafficker, shall be deemed to have simultaneously filed a suspicious activity report on the fact of the match with FinCEN, in satisfaction of the requirements of the applicable suspicious activity reporting rule. This interpretation does not affect a financial institution's obligation to identify and report suspicious activity beyond the fact of the OFAC match. To the extent that the financial institution is in possession of information not included on the blocking report filed with OFAC, a separate suspicious activity report should be filed with FinCEN including that information. This interpretation also does not affect a financial institution's obligation to file a suspicious activity report even if it has filed a blocking report with OFAC, to the extent that the facts and circumstances surrounding the OFAC match are independently suspicious—and are otherwise required to be reported under existing FinCEN regulations. In those cases, the OFAC blocking report would not satisfy a financial institution's suspicious activity report filing obligation.

Further, nothing in this interpretation is intended to preclude a financial institution from filing a suspicious activity report to disclose additional information concerning the OFAC match,[8] nor does it preclude a financial institution from filing a suspicious activity report if the financial institution has reason to believe that terrorism or drug trafficking is taking place, even though there is no OFAC match. Finally, this interpretation does not apply to blocking reports filed to report transactions and accounts involving persons owned by, or who are nationals of, countries subject to OFAC-administered sanctions programs. Such transactions should be reported on suspicious activity reports under the suspicious activity reporting rules if, and only, if, the activity itself appears to be suspicious under the criteria established by the suspicious activity reporting rules.

William J. Fox,

Director.

[FR Doc. 04–27739 Filed 12–22–04; 8:45 am]

BILLING CODE 4810–02–P

[7] Issue 6 (Nov. 2003).

[8] Such a report would be a voluntary report under the statute and regulations. *See* 31 U.S.C. 5318(g)(3) (extending safe harbor protection from civil liability to voluntary filings).

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

RIN 3095–AB41

Records Management; Unscheduled Records; Correction

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule; correction.

SUMMARY: NARA published in the **Federal Register** of December 15, 2004, a final rule allowing the transfer of unscheduled records to records storage facilities. Inadvertently, a word was deleted from the preamble, changing the meaning of a sentence. This document corrects that deletion.

DATES: This rule is effective January 14, 2005.

FOR FURTHER INFORMATION CONTACT: Cheryl Stadel-Bevans at telephone number (301) 837–3021 or fax number (301) 837–0319.

SUPPLEMENTARY INFORMATION: NARA published a final rule on December 15, 2004, at 69 FR 74976. The second sentence in the **SUPPLEMENTARY INFORMATION** contains an error. This correction inserts the missing word.

In the final rule published at 69 FR 74976, make the following correction. On page 74977, in the first column, insert the word ''not'' in line 6 so that the line reads ''* * * Executive Order 12866 and has not been * * *''.

Dated: December 17, 2004.

Nancy Y. Allard,

Federal Register Liaison Officer.

[FR Doc. 04–28048 Filed 12–22–04; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R05–OAR–2004–MI–0002; FRL–7849–1]

Approval and Promulgation of Implementation Plans: Michigan: Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a revision to the plan prepared by Michigan that will limit the emissions of oxides of nitrogen (NO_X) from large stationary sources (*i.e.* power plants, industrial boilers and cement kilns). This plan meets all of the requirements contained in an EPA rule that was published in the **Federal Register** on April 16, 2004. This rule, otherwise known as the NO_X SIP Call Phase I provides for NO_X reductions from sources in 20 States in the eastern half of the country. The effect of this approval is to ensure federal enforceability of the state air program plan and to maintain consistency between the state-adopted plan and the approved State Implementation Plan (SIP).

DATES: This ''direct final'' rule is effective February 22, 2005, unless EPA receives written adverse comment by January 24, 2005. If written adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit comments, identified by Regional Material in EDocket (RME) ID No. R05–OAR–2004–MI–0002, by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the on-line instructions for submitting comments.

Agency Web site: http://docket.epa.gov/rmepub/. Regional Material in EDocket (RME), EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-

line instructions for submitting comments.

E-mail: bortzer.jay@epa.gov.

Fax: (312)886–5824.

Mail: You may send written comments to: J. Elmer Bortzer, Chief, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: J. Elmer Bortzer, Chief, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 AM to 4:30 PM excluding Federal holidays.

Instructions: Direct your comments to Regional Material in EDocket (RME) ID No. R05–OAR–2004–MI–0002. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through Regional Material in EDocket (RME), regulations.gov, or e-mail. The EPA RME website and the federal regulations.gov website are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

Docket: All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at *http://docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically in RME or in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Douglas Aburano, Environmental Engineer, at (312) 353–6960 before visiting the Region 5 office.) This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Douglas Aburano, Environmental Engineer, Criteria Pollutant Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6960, *aburano.douglas@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

I. General Information
A. Does this action apply to me?
B. What Should I Consider as I Prepare My Comments for EPA?
II. What is a SIP?
III. What is the Federal Approval Process for a SIP?
IV. Background
V. Michigan's Control of NO_X Emissions
VI. EPA Action
VII. What are the Statutory and Executive Order Review Requirements?

I. General Information.

A. Does This Action Apply to Me?

This action applies to large stationary sources of NO_X (such as electric generating units that produce electricity for sale, other large boilers that produce steam and/or electricity but do not sell electricity, and cement kilns) in the southern counties (Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Genesee, Gratiot, Hillsdale, Ingham, Ionia, Isabella, Jackson, Kalamazoo, Kent, Lapeer, Lenawee, Livingston, Macomb, Mecosta, Midland, Monroe, Montcalm, Muskegon, Newaygo, Oakland, Oceana, Ottawa, Saginaw, Saint Clair, Saint Joseph, Sanilac, Shiawassee, Tuscola, Van Buren, Washtenaw, Wayne) of Michigan. This action also applies to the unit at DTE Energy's Harbor Beach facility in Huron County.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, 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 claimed as CBI. In addition to one complete version of the comment that includes 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. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

(a) Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

(b) Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

(c) Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

(d) Describe any assumptions and provide any technical information and/or data that you used.

(e) If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

(f) Provide specific examples to illustrate your concerns, and suggest alternatives.

II. What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each state must submit these regulations and control strategies to us for approval

and incorporation into the federally-enforceable SIP. Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive and contain state regulations or other enforceable documents, as well as supporting elements such as emission inventories, monitoring networks, and modeling demonstrations.

III. What Is the Federal Approval Process For a SIP?

For state regulations to be incorporated into the federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body. Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the federal action on the state submission. If adverse comments are received, they must be addressed prior to any final federal action. All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the federally-approved SIP. EPA has codified its actions on state SIP submittals in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR, but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

IV. Background

A. What Are the Phase I NO_X SIP Call Requirements?

On October 27, 1998, EPA published a final rule entitled, ''Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,'' otherwise known as the ''NO_X SIP Call.'' See 63 FR 57356 (October 27, 1998). The NO_X SIP Call requires 22 states and the District of Columbia to meet NO_X emission budgets during the five month period from May 1 through September 30 in order to reduce the amount of ground level ozone that is transported across the eastern United States. EPA discussed the history of the SIP Call extensively as part of the conditional approval of Michigan's NO_X trading program (see 69 FR 8905).

B. Conditional Approval of Michigan's Phase I NO_X SIP

On April 3, 2003, MDEQ submitted to EPA for approval a SIP to address the Phase I NO_X SIP Call requirements. While the rules submitted by MDEQ generally met the requirements for approval, we identified a number of deficiencies preventing full approval of the NO_X SIP at that time. EPA published a proposed conditional approval of Michigan's submittal on February 26, 2004 (69 FR 8905), and finalized the conditional approval on April 16, 2004 (69 FR 20548). EPA required that MDEQ address these deficiencies and submit revised approvable regulations by May 31, 2004, or the conditional approval would automatically convert to a disapproval.

C. What Deficiencies Were Identified and How Did MDEQ Address Them?

In the review of Michigan's April 3, 2003 NO_X SIP submittal, EPA identified six deficiencies that MDEQ had to correct before EPA could fully approve Michigan's submittal. EPA communicated these deficiencies to MDEQ, and, in most cases, EPA suggested language that Michigan could adopt to address each concern. On May 27, 2004, MDEQ submitted revised regulations to address the deficiencies.

Following is a list of the identified deficiencies and a description of how MDEQ addressed them:

1. *Deficiency:* Rule 802(5) states, ''An oxides of nitrogen budget unit that is subject to a rule promulgated under section 126 of the Clean Air Act shall not be subject to this rule until the section 126 requirements no longer apply.'' Under this language, those oxides of nitrogen budget units that are subject to the Section 126 Rule and that would be subject to controls under the Michigan SIP are not covered by the SIP. The Section 126 Rule remains in place and will remain effective until EPA approves the Michigan SIP. The EPA cannot approve the Michigan SIP, and move forward to remove the Section 126 requirements, unless the SIP has in place regulations to achieve the necessary emissions reductions to meet the Phase I budget. In evaluating the SIP, EPA cannot take into consideration the emissions reductions required by the Section 126 Rule. Because the Section 126 Rule would still be in place at the time EPA takes action on the Michigan SIP, oxides of nitrogen budget units that would otherwise be subject to controls under the Michigan SIP would not be covered at that time. Therefore, the SIP would not be providing sufficient emissions reductions to meet the Phase I budget and would not be approvable. This language must be removed from the State's rules. EPA will then take action to ensure that no unit is subject to both trading programs.

Correction: MDEQ has removed this language.

2. *Deficiency:* The applicability of these rules is based on named counties in the southern portion of Michigan. While this applicability is sufficient to meet the requirements found in the SIP Call, it is not enough to remove all of the Section 126 requirements from the State. This is because there is one source, DTE's Harbor Beach unit, that is affected by Section 126 requirements, but is not in one of the counties affected by Michigan's NO_X SIP call rule. Michigan has indicated a desire to include the Harbor Beach unit in the trading program in order to satisfy the Section 126 requirements for this source. To address this situation and enable EPA to remove all of the Section 126 requirements from Michigan after the Michigan NO_X SIP has been approved, MDEQ must extend the applicability of the Michigan NO_X SIP to that one source.

Correction: The applicability section of this rule now includes the unit at DTE's Harbor Beach facility in Huron County.

3. *Deficiency:* Twenty-five ton exemption—States may develop alternative 25-ton NO_X exemptions to the one included in the model rule provided they are based on permit restrictions that limit a unit's potential to emit during an ozone season to 25 tons or less and are not inconsistent with 40 CFR part 75 monitoring requirements. Michigan's regulation, Part 8. Emissions Limitations and Prohibitions—Oxides of Nitrogen, includes in Rule 802(2) the 25-ton exemption. The rule language is based on the model rule but provides additional options for qualifying for the exemption that involve emission monitoring or testing that is inconsistent with Part 75.

In addition, when a unit receives a 25-ton exemption, the unit's potential emissions (reflected as an equivalent number of allowances) must be removed from the trading budget to avoid double counting. An exempt unit's emissions are included in the state's large Electric Generating Unit (EGU) or large non-EGU emissions budget and therefore as allowances in the state's trading budget. EPA is concerned that Michigan's rule does not account for potential emissions from the exempt units. Neither the rule

nor the SIP submittal specifies a procedure for removing from the trading budget the allowances reflecting the exempt unit's potential emissions. To address the deficiencies related to the 25 ton exemption provisions including the related budget adjustments, Michigan must modify its regulations to ensure an exempt source's emissions are less than 25 tons in each ozone season and provide a process for adjusting the trading budget accordingly. EPA provided MDEQ suggested language modifying the regulations.

Correction: Language has been added to require monitoring in accordance with 40 CFR part 75, subpart H. Also, MDEQ has adopted the language suggested by EPA to address EPA's other concerns.

4. *Deficiency:* New source set-aside—The new source set-aside provisions of section 811(1)(a) specify the set-aside pool allocation. The rule contains a typographical error regarding the number of allowances to be set-aside after 2006. A footnote in the Michigan SIP submittal highlights this error and indicates the correct number. This error should be corrected since the official regulations are the basis for all allocations.

Also, section 811(2) appears to address the issue of adjusting a new source's allowances to account for reduced utilization, but is incomplete and, for example, lacks the adjustment formula. This section also appears to specify how remaining set-aside allowances are determined, but that matter is also addressed in section 811(3). Michigan must clarify these provisions. EPA provided MDEQ suggested language to clarify these provisions.

Correction: The typographical error has been corrected and MDEQ has adopted the language suggested by EPA to address EPA's other concerns.

5. *Deficiency:* Language in section 802(1)(a) appears to allow the State to exempt an EGU for which applicability has not been determined. EPA cannot approve any exemption that is solely at the discretion of the State and does not include EPA approval as well. The language relating to exemptions based solely on the State's discretion must be removed as a condition of final approval.

Correction: This language has been removed in the version submitted by MDEQ for approval.

6. *Deficiency:* Language in section 804 relating to retired unit exemptions must be modified to include the requirement that a unit that qualifies for this exemption, is not required to have a permit, and subsequently resumes operation will lose the exemption at the time of resumption of operation. EPA provided MDEQ suggested language modifying this section of the regulations.

Correction: The ''loss of exemption'' language suggested by EPA has been adopted and submitted by MDEQ.

V. Michigan's Control of NO_X Emissions

A. When Did Michigan Submit the SIP Revision to EPA in Response to the NO_X SIP Call?

On April 3, 2003, MDEQ submitted a final revision to its SIP to meet the requirements of the Phase I NO_X SIP Call. EPA found that the initial submittal generally complied with section 110 of the Act and the Phase I NO_X SIP Call but that it had several minor deficiencies. Therefore, EPA conditionally approved the submittal. On May 27, 2004, MDEQ submitted another SIP revision that addressed all of the issues raised in EPA's April 16, 2004 conditional approval.

B. When Did Michigan Hold Public Hearings and What Were the Results?

Public hearings were held on December 3, 2001 and January 22, 2003 for the April 3, 2003 submittal. A public hearing was held on March 11, 2004 for the May 27, 2004 submittal. MDEQ holds public hearings on rules at the end of a 30-day public comment period. MDEQ either modified its rules to accommodate the comments received or explained why the rules were not changed in light of the comments.

C. What Is Included in Michigan's NO_X SIP Call Revision?

Michigan allows, as in the model rule, EGUs and non-EGUs to participate in the multi-state cap and trade program. Cement kilns are not included in the trading program, but will be required to install low NO_X burners, mid-kiln firing system or technology that achieves the same emission decreases (a 30% reduction). Michigan's SIP revision to meet the requirements of the NO_X SIP Call consists of the revision of Michigan Rules 802 through 817. The regulations 802 through 816 affect EGUs and non-EGUs. Rule 817 applies requirements to cement manufacturing facilities.

Michigan's SIP revision to meet the requirements of the NO_X SIP Call consists of the following Michigan Rules:

- 802 Applicability under oxides of nitrogen budget trading program
- 803 Definitions for oxides of nitrogen budget trading program
- 804 Retired unit exemption from oxides of nitrogen budget trading program
- 805 Standard requirements of oxides of nitrogen budget trading program
- 806 Computation of time under oxides of nitrogen budget trading program
- 807 Authorized account representative under oxides of nitrogen budget trading program
- 808 Permit requirements under oxides of nitrogen budget trading program
- 809 Compliance certification under oxides of nitrogen budget trading program
- 810 Allowance allocations under oxides of nitrogen budget trading program
- 811 New source set-aside under oxides of nitrogen budget trading program
- 812 Allowance tracking system and transfers under oxides of nitrogen budget trading program
- 813 Monitoring and reporting requirements under oxides of nitrogen budget trading program
- 814 Individual opt-ins under oxides of nitrogen budget trading program
- 815 Allowance banking under oxides of nitrogen budget trading program
- 816 Compliance supplement pool under oxides of nitrogen budget trading program
- 817 Emission limitations and restrictions for Portland cement kilns

Michigan's Oxides of Nitrogen Budget Trading Program (Rules 802 through 816) establishes and requires participation in a NO_X allowance trading program for large EGUs and non-EGUs. These rules establish a NO_X cap and allowance trading program for the ozone control seasons beginning May 31, 2004. Michigan Rule 817, not part of the trading program, applies to cement kilns and also requires control during the ozone season starting on May 31, 2004. Beginning in 2005, the ozone control period is May 1 through September 30.

The State of Michigan chose to follow EPA's model NO_X budget and allowance trading rule, 40 CFR part 96, that sets forth a NO_X emissions trading program for EGUs and non-EGUs. Michigan's Oxides of Nitrogen Budget Trading Program is based upon EPA's model rule, therefore, Michigan sources are allowed to participate in the interstate NO_X allowance trading program that EPA is administering for the participating states. Under Rule 810, Michigan allocates NO_X allowances to the EGU and non-EGU units that are affected by these requirements. The NO_X trading program applies to EGUs (fossil fuel fired boilers and turbines

serving a generator with a nameplate capacity greater than 25 MW that sell any amount of electricity) as well as non-EGUs (fossil fuel fired industrial boilers and turbines that have a maximum design heat input greater than 250 mmBtu per hour). Each NO_X allowance permits a source to emit one ton of NO_X during the seasonal control period. NO_X allowances may be bought or sold. Unused NO_X allowances may also be banked for future use, with certain limitations.

Source owners will monitor and report their NO_X emissions by using methodologies that meet the requirements of 40 CFR part 75, subpart H, and report resulting data to EPA electronically. Each budget source complies with the program by demonstrating at the end of each control period that actual emissions do not exceed the amount of allowances held for that period. However, regardless of the number of allowances a source holds, it cannot emit at levels that would violate other federal or State limits, for example, reasonably available control technology (RACT), new source performance standards, or Title IV (the Federal Acid Rain program).

Michigan's Oxides of Nitrogen Budget Trading Program establishes requirements for cement manufacturing facilities. These sources are subject to NO_X reduction requirements but do not participate in the NO_X trading program. Michigan's submittal does not rely on any additional reductions beyond the anticipated federal measures in the mobile and area source categories.

Michigan's submittal demonstrates that the Phase I NO_X emission budgets established by EPA will be met because MDEQ agrees with all of the assumptions, projections, etc. used by EPA to determine the 2007 budgets. Because Michigan has adopted all of the same controls assumed by EPA in developing the State's NO_X budget, the actual emissions in 2007 should be the same as those EPA has projected to be the State's 2007 budget.

D. What Is the Compliance Supplement Pool?

To provide additional flexibility for complying with emission control requirements associated with the NO_X SIP Call, the final NO_X SIP Call rule provided each affected state with a ''compliance supplement pool.'' The compliance supplement pool is a quantity of NO_X allowances that may be used to cover excess emissions from sources that are unable otherwise to meet control requirements during the 2004 and 2005 ozone season. Allowances from the compliance supplement pool will not be valid for compliance past the 2005 ozone season. The NO_X SIP Call included these voluntary provisions in order to address commenters' concerns about the possible adverse effect that the control requirements might have on the reliability of the electricity supply or on other industries required to install controls as the result of a state's response to the NO_X SIP Call.

A state may issue some or all of the compliance supplement pool via two mechanisms. First, a state may issue some or all of the pool to sources with credits from implementing NO_X reductions beyond all applicable requirements after September 30, 1999, but before May 31, 2004 (*i.e.*, early reductions). This allows sources that cannot install controls prior to May 31, 2004, to purchase other sources' allowances reflecting early reduction credits in order to comply. Second, a state may issue some or all of the pool to sources that demonstrate a need for an extension of the May 31, 2004 compliance deadline due to undue risk to the electricity supply or other industrial sectors, and where allowances reflecting early reductions are not available (See 40 CFR 51.121(e)(3)). Michigan has opted to issue the State's compliance supplement pool through the Early Reduction Credit program only.

E. How Does Michigan's NO_X SIP Affect Sources Subject to EPA's Section 126 Rule in the SIP Call Area?

All of the existing sources in the SIP Call area that are subject to EPA's Section 126 Rule are also subject to Michigan's NO_X rules.

VI. EPA Action

EPA is fully approving the NO_X SIP submitted on April 3, 2003 as modified on May 27, 2004. EPA finds that Michigan's submittals are fully approvable because the initial April 3, 2003 submittal was conditionally approved and the conditions for full approvability were met in the May 27, 2004 submittal. In combination, these two submittals meet the requirements of the Phase I NO_X SIP Call.

We are approving: Michigan's revision of the ozone SIP that responds to EPA's Phase I NO_X SIP Call. This revision consists of Michigan Air Pollution Control Rules 803, 805–810, and 812–817 as submitted on April 3, 2003 and Michigan Air Pollution Control Rules 802, 804 and 811 as submitted May 27, 2004. A combined package of these rules 802–817 as submitted on April 3, 2003 and May 27, 2004 was submitted as a supplement to the May 27, 2004 submittal for ease of incorporation by reference. This supplemental submittal was sent by MDEQ to EPA on August 5, 2004.

By this action, we are also vacating our April 16, 2004 (69 FR 20548) conditional approval of Michigan's earlier NO_X SIP submittal.

The EPA is publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse comments are filed. This rule will be effective February 22, 2005 without further notice unless we receive relevant adverse written comments by January 24, 2005. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective February 22, 2005.

VII. What Are the Statutory and Executive Order Review Requirements?

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Because this action does not significantly affect energy supply, distribution or use, it is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 13132: Federalism

This action also does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA.

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 22, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: December 3, 2004.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart X—Michigan

■ 2. Section 52.1170 is amended by adding paragraph (c)(121) to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(121) On April 3, 2003, the Michigan Department of Environmental Quality (MDEQ) submitted a revision to the Michigan State Implementation Plan (SIP). This SIP revision was made to address EPA requirements placed on a number of States in the eastern half of the country to reduce emissions of oxides of nitrogen (NO_X) that are contributing to the ozone transport phenomenon. The rulemaking that contains the requirements the States must meet is called the Phase I NO_X SIP Call. Michigan's April 3, 2003 SIP revision was conditionally approved on April 16, 2004. Subsequent SIP revisions to address the requirements found in EPA's conditional approval were made on May 27, 2004 and August 5, 2004. These additional submittals, in combination with the original SIP revision, fulfill the Phase I NO_X SIP Call requirements. In its August 5, 2004 supplemental SIP revision, MDEQ requests that the following rules are incorporated by reference: R336.1802 Applicability under oxides of nitrogen budget trading program, R336.1803 Definitions for oxides of nitrogen budget trading program, R336.1804 Retired unit exemption from oxides of nitrogen budget trading program, R336.1805 Standard requirements of oxides of nitrogen budget trading program, R336.1806 Computation of time under oxides of nitrogen budget trading program, R336.1807 Authorized account representative under oxides of nitrogen budget trading program, R336.1808 Permit requirements under oxides of nitrogen budget trading program, R336.1809 Compliance certification under oxides of nitrogen budget trading program, R336.1810 Allowance allocations under oxides of nitrogen budget trading program, R336.1811 New source set-aside under oxides of nitrogen budget trading program, R336.1812 Allowance tracking system and transfers under oxides of nitrogen budget trading program, R336.1813 Monitoring and reporting requirements under oxides of nitrogen budget trading, R336.1814 Individual opt-ins under oxides of nitrogen budget trading program, R336.1815 Allowance banking under oxides of nitrogen budget trading program, R336.1816 Compliance supplement pool under oxides of nitrogen budget trading program,

R336.1817 Emission limitations and restrictions for Portland cement kilns.

(i) *Incorporation by reference.* The following sections of the Michigan Administrative Code are incorporated by reference.

(A) R336.1802 Applicability under oxides of nitrogen budget trading program, effective May 20, 2004.

(B) R336.1803 Definitions for oxides of nitrogen budget trading program, effective December 4, 2002.

(C) R336.1804 Retired unit exemption from oxides of nitrogen budget trading program, effective May 20, 2004.

(D) R336.1805 Standard requirements of oxides of nitrogen budget trading program, effective December 4, 2002.

(E) R336.1806 Computation of time under oxides of nitrogen budget trading program, effective December 4, 2002.

(F) R336.1807 Authorized account representative under oxides of nitrogen budget trading program, effective December 4, 2002.

(G) R336.1808 Permit requirements under oxides of nitrogen budget trading program, effective December 4, 2002.

(H) R336.1809 Compliance certification under oxides of nitrogen budget trading program, effective December 4, 2002.

(I) R336.1810 Allowance allocations under oxides of nitrogen budget trading program, effective December 4, 2002.

(J) R336.1811 New source set-aside under oxides of nitrogen budget trading program, effective May 20, 2004.

(K) R336.1812 Allowance tracking system and transfers under oxides of nitrogen budget trading program, effective December 4, 2002.

(L) R336.1813 Monitoring and reporting requirements under oxides of nitrogen budget trading program, effective December 4, 2002.

(M) R336.1814 Individual opt-ins under oxides of nitrogen budget trading program, effective December 4, 2002.

(N) R336.1815 Allowance banking under oxides of nitrogen budget trading program, effective December 4, 2002.

(O) R336.1816 Compliance supplement pool under oxides of nitrogen budget trading program, effective December 4, 2002.

(P) R336.1817 Emission limitations and restrictions for Portland cement kilns, effective December 4, 2002.

§ 52.1218 [Amended]

■ 3. Section 52.1218 is amended by removing and reserving paragraph (a).

[FR Doc. 04–27983 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD170–3113a; FRL–7851–5]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of VOC Emissions From Yeast Manufacturing; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correcting amendment.

SUMMARY: EPA is correcting the format in the Identification of plan section of a State Implementation Plan (SIP) revision for control of volatile organic compound (VOC) emissions from yeast manufacturing which EPA approved as part of the Maryland SIP on October 27, 2004. This document corrects an error in the rule format of a final rule pertaining to the State of Maryland.

DATES: Effective December 27, 2004.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814–2108 or by e-mail at *frankford.harold@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' or ''our'' are used we mean EPA.

On October 27, 2004 (69 FR 62589), we published a final rulemaking action announcing approval of a revision to the Maryland State Implementation Plan (SIP) pertaining to control of volatile organic compounds (VOC) emissions from yeast manufacturing operations (COMAR 26.11.19.17). In our approval action, EPA incorporated by reference (IBR'd) the State rule and codified this IBR action at § 52.1070(c)(189).The effective date of the action is December 27, 2004. Subsequently, on November 29, 2004 (69 FR 69304), we published an administrative rulemaking action announcing format revisions to the Identification of plan section in 40 CFR part 52, subpart V (Maryland), as well as changes to the format for materials which are incorporated by reference (IBR). This administrative rulemaking action both recodified the existing § 52.1070 as § 52.1100 entitled ''Original Identification of plan section,'' and created a new § 52.1070 entitled ''Identification of plan.'' We are revising the entry for COMAR 26.11.19.17 in § 52.1070(c), effective December 27, 2004, so that it reflects EPA's October 27, 2004 approval action of the revised COMAR 26.11.19.17.

In rule document 04–23948 published in the **Federal Register** on October 27, 2004 (69 FR 62589), on page 62591 in the second column, Amendatory Instruction Number 2 is withdrawn.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Statutory and Executive Order Reviews

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of December 27, 2004. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to 40 CFR 52.52.1070(c) for Maryland is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Dated: December 14, 2004.

Donald S. Welsh,

Regional Administrator, EPA Region III.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

■ Accordingly, the amendment to 40 CFR 52.1070 published in the **Federal Register** on October 27, 2004 (69 FR 62591), which was to become effective on December 27, 2004, is withdrawn, and 40 CFR part 52 is further amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart V—Maryland

■ 2. In Section 52.1070, the table in paragraph (c) is amended by revising the entry for COMAR 26.11.19.17 to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE MARYLAND SIP

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ Citation at 40 CFR 52.1100
*	*	*	*	*
26.11.19 Volatile Organic Compounds From Specific Processes				
*	*	*	*	*
26.11.19.17	Control of Volatile Organic Compounds (VOC) Emissions from Yeast Manufacturing.	6/21/04	10/27/04, 69 FR 62589	SIP effective date is 12/27/04.
*	*	*	*	*

* * * * *

[FR Doc. 04–27997 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03–OAR–2004–DC–0008; FRL–7852–6]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; VOC Emission Standards for Mobile Equipment Repair and Refinishing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the District of Columbia State Implementation Plan (SIP). The revision establishes regulations for the control of volatile organic compound (VOC) emissions from mobile equipment repair and refinishing operations in the District of Columbia (the District). EPA is approving this revision to the District of Columbia SIP in accordance with the requirements of the Clean Air Act (CAA or the Act).

DATES: This rule is effective on February 22, 2005 without further notice, unless EPA receives adverse written comment by January 24, 2005. If EPA receives

such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03–OAR–2004–DC–0008 by one of the following methods:

A. Federal eRulemaking Portal: *http://www.regulations.gov.* **Federal Register** Follow the on-line instructions for submitting comments.

B. Agency Web site: *http://www.docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: *morris.makeba@epa.gov.*

D. Mail: R03–OAR–2004–DC–0008, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03–OAR–2004–DC–0008. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov Web sites are an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: On April 16, 2004, the District of Columbia (the District) submitted several revisions to its SIP. The SIP revisions include both new regulations and amendments to Title 20 of the District of Columbia Municipal Regulations (20 DCMR). The new regulations in Title 20 DCMR (Environment), Subtitle A: Air Quality, Chapter 7, Volatile Organic Compounds are:

(1) New Section 718—''Mobile Equipment Repair and Refinishing''.

(2) New Sections 719 through 734—''Consumer Products''.

(3) New Sections 735 through 741—''Portable Fuel Containers and Spouts''.

(4) New Sections 742 through 748—''Solvent Cleaning''.

(5) New Sections 749 through 754—''Architectural and Industrial Maintenance Coating''.

The April 16, 2004 submittal also includes new definitions that were added in section 799, a new section 307 to Chapter 3—to provide for a fee penalty pursuant to section 185 of the Act, and amendments to Chapters 1, 2, 6, 7, and 8 to satisfy the Act's requirements for severe ozone nonattainment areas pursuant to the Metropolitan Washington DC 1-hour ozone nonattainment area's reclassification on January 24, 2003, from serious to severe nonattainment.

On September 20, 2004, the District supplemented its April 16, 2004 submittal. This supplemental submittal provides copies of standards that are incorporated by reference in the District's new and amended regulations and a copy of the District's responses to comments it received during its rule adoption process. On November 26, 2004, the District submitted another supplemental revision to its April 16, 2004 submittal. This supplemental submittal consists of revised versions of the new VOC regulations. These are minor revisions to the regulations which clarify the standards that are incorporated by reference and correct cross-referencing and typographical errors.

This action pertains only to the addition of section 718, Mobile Equipment Repair and Refinishing, and revised section 799, containing the associated definitions for the Mobile Equipment Repair and Refinishing regulation. The remaining portions of the April 16, 2004 submittal and the supplemental submittals of September 20, 2004 and November 26, 2004, are the subject of separate rulemaking actions.

I. Background

As stated previously, this approval pertains only to the District's regulations for mobile equipment repair and refinishing. The standards and requirements contained in the District's regulations for mobile equipment repair and refinishing are based on the Ozone Transport Commission (OTC). The OTC developed control measures into model rules for a number of source categories. The OTC mobile equipment repair and refinishing model rule is based on the existing rules developed by the California Air Resources Board, which were analyzed and modified by the OTC workgroup to address VOC reduction needs in the Ozone Transport Region (OTR).

II. Summary of SIP Revision

On April 16, 2004, the District of Columbia Department of Health submitted a formal revision to its SIP. The SIP revision consists of VOC emission standards for mobile equipment repair and refinishing operations in the District of Columbia. The District of Columbia mobile equipment repair and refinishing rule (section 718) applies to each person who sells, supplies, offers for sale, manufactures or applies repair and refinishing or color-matched coatings for or to mobile equipment or mobile equipment components on or after January 1, 2005 in the District of Columbia. The rule does not apply to the following: (a) where the surface

coating process is subject to other federal requirements including, but not limited to, miscellaneous metal parts finishing requirements relating to surface coating processes; (b) where the surface coating process is at an automobile assembly plant; or (c) where the person applying the coatings is in a non-commercial facility and does not receive compensation for the application of the coatings. The rule mandates that repair and refinishing coatings that contain volatile organic compounds (VOCs) in excess of the limits specified below in Table 1, including any VOC containing materials added to the original coating supplied by the manufacturer, shall not be applied to mobile equipment or mobile equipment components.

TABLE 1.—ALLOWABLE CONTENT OF VOCS IN MOBILE EQUIPMENT REPAIR AND REFINISHING COATINGS (AS APPLIED)

Coating type	Weight (pounds per gallon)	Limit* (grams per liter)
Automotive pretreatment primer	6.5	780
Automotive primer-surfacer	4.8	575
Automotive primer-sealer	4.6	550
Automotive topcoat:		
Single stage-topcoat	5.0	600
2 stage basecoat/clearcoat	5.0	600
3 or 4-stage basecoat/clearcoat	5.2	625
Automotive multi-colored topcoat	5.7	680
Automotive specialty coating	7.0	840

*Weight of VOC per Volume of Coating (minus water and non-VOC solvents)

The regulation also requires that any person who sells, supplies, offers for sale, or manufactures mobile equipment repair and refinishing coatings subject to this section, to provide documentation with the product concerning the VOC content of the coatings, in pounds per gallon, calculated in accordance with the equations provided in this regulation.

A person at a facility subject to the provisions of this regulation must use one or more of the following application techniques to apply any repair and refinishing coatings listed in Table 1: (a) Flow/curtain coating, (b) dip coating, (c) roller coating, (d) brush coating, (e) cotton-tipped swab application, (f) electrodeposition coating, (g) high volume low pressure (HVLP) spraying, (h) electrostatic spray, (i) airless spray, or ((j) other coating application methods that demonstrate emission reductions equivalent to HVLP or electrostatic spray application methods.

The regulation also provides exemptions from the application equipment requirements for spray guns, and housekeeping and pollution prevention and training measures. The District of Columbia's regulation to control emissions from mobile equipment repair and refinishing operations includes requirements sufficient to determine compliance. The test methods used to test coatings must be the most current approved method at the time testing is performed. Compliance with the rule will be required by January 1, 2005.

III. Final Action

EPA is approving a revision to the District of Columbia SIP which establishes VOC emission standards from mobile equipment repair and refinishing operations. The implementation of this rule strengthens the District of Columbia SIP, and will result in the reduction of VOC emissions from mobile equipment repair and refinishing operations in the District of Columbia. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on February 22, 2005. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 22, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, pertaining to the District of Columbia's Mobile Equipment Repair and Refinishing rule, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 14, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart J—District of Columbia

■ 2. In Section 52.470, the table in paragraph (c) is amended by adding the following entries to ''District of Columbia Municipal Regulations (DCMR), Title 20—Environment, Chapter 7—Volatile Organic Compounds'':

a. Adding an entry for Section 718.

b. Adding a new entry for Section 799 after the existing entry for Section 799.

The added entries read as follows:

§ 52.470 Identification of plan.

* * * * *

(c) * * *

EPA.—APPROVED DISTRICT OF COLUMBIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
District of Columbia Municipal Regulations (DCMR), Title 20— Environment				
* * *	* * *	* * *	* * *	* * *
Chapter 7 Volatile Organic Compounds				
* * *	* * *	* * *	* * *	* * *
Section 718	Mobile Equipment Repair and Refinishing.	November 26, 2004.	12/23/04 [Insert page number where the document begins].	
* * *	* * *	* * *	* * *	* * *
Section 799	Definitions.	November 26, 2004.	12/23/04 [Insert page number where the document begins].	
* * *	* * *	* * *	* * *	* * *

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[FR Doc. 04–28087 Filed 12–22–04; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2003–0023; FRL–7852–3]

RIN 2060–AK49

National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipments Leaks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: The EPA is taking direct final action to amend the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks. The standards are commonly known as the Hazardous Organic NESHAP or the HON. This action amends the HON to allow vapor balancing in conjunction with the use of a pressure setting to comply with the storage tank control requirements of the standards.

DATES: The direct final rule will be effective on March 8, 2005 without further notice, unless adverse comments are received by January 24, 2005, or by February 7, 2005 if a public hearing is requested. See the proposed rule amendments in this issue of the **Federal Register** for information on the hearing. If we receive timely adverse comments, we will withdraw the direct final rule and take final action pursuant to the proposed rule amendments.

ADDRESSES: Submit your comments, identified by Docket ID No. OAR–2003–0023, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Agency Web site: http://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- *E-mail: air-and-r-docket@epa.gov.*
- *Fax:* (202) 566–1741.
- *Mail:* EPA Docket Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a duplicate copy, if possible.
- *Hand Delivery:* Air and Radiation Docket, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B–108, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

We request that a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Instructions: Direct your comments to Docket ID No. OAR–2003–0023. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the federal regulations.gov Web sites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102).

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The 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 Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (Mail Code C504–04), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5402, electronic mail address *mcdonald.randy@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* The regulated category and entities affected by this action include:

Category	NAICS code	Examples of regulated entities
Industrial	325	Chemical manufacturing facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the revisions to the regulation affected by this action. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine all of the applicability criteria in 40 CFR 63.100. If you have questions regarding the applicability of the amendments to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

What Should I Consider as I Prepare My Comments for EPA?

Submitting CBI. Do not submit this information to EPA through EDOCKET, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, 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 claimed as CBI). In addition to one complete version of the comment that includes 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. Information so marked will not be disclosed except in

accordance with procedures set forth in 40 CFR part 2.

Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (Mail Code C504–04), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5402, electronic mail address *mcdonald.randy@epa.gov.,* at least 2 days in advance of the potential date of the public hearing. Persons interested in attending the public hearing must also call Mr. Randy McDonald to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Comments. We are publishing the direct final rule without prior proposal because we view it as noncontroversial and do not anticipate adverse comments. However, in the Proposed Rules section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed. If we receive any adverse comments on a specific element of the direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public which amendments will become effective and which amendments are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule based on the proposed rule amendments. Any of the distinct amendments in the direct final rule for which we do not receive adverse comment will become effective on the date set out above. We will not institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

World Wide Web (WWW). In addition to being available in the docket, electronic copies of today's action will be posted on the Technology Transfer Network's (TTN) policy and guidance information page *http://www.epa.gov/ttn/caaa.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the direct final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia by February 22, 2005. Under section 307(d)(7)(B) of the CAA, only an objection to the direct final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review.

Outline. The information presented in this preamble is organized as follows:

I. Why are we publishing the amendments as a direct final rule?
II. What amendments are we making to the HON?
III. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Analysis
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health & Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Congressional Review Act

I. Why Are We Publishing the Amendments as a Direct Final Rule?

We are publishing the amendments without prior proposal because we view the changes as noncontroversial and anticipate no adverse comment. The final rule amendments to the HON increase flexibility by adding a new compliance option. The final rule amendments do not alter the stringency of the standards, have no adverse health or environmental impacts, and will not increase costs. The compliance option of vapor balancing and use of a pressure setting to comply with storage tank control requirements has been used in several maximum achievable control technology (MACT) standards including the NESHAP for Pharmaceuticals Production, the NESHAP for Pesticide Active Ingredient Production, and the NESHAP for Miscellaneous Organic Chemical Manufacturing.

However, in the proposed rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed. If we receive any adverse comments on the direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public that the amendments are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

II. What Amendments Are We Making to the HON?

We are amending the HON to allow vapor balancing in conjunction with the use of a tank pressure setting to comply with the storage tank control requirements. Vapor balancing captures the displaced emissions, or working losses, from the storage tank and returns the vapors to the tank truck, railcar, or barge. To eliminate diurnal breathing losses from storage vessels, the vapor balancing provisions require a pressure setting of 2.5 pounds per square inch gage (psig) on the pressure-relief valve on storage vessels. The vapor balancing provision requires that displaced vapors from tank trucks and railcars be controlled at the reloading or cleaning facility to at least 95 percent, the control level of the standard.

As a means of demonstrating continuous compliance with the pressure setting requirement, the provisions require the owner or operator to record the pressure vent setting during each transfer operation and to monitor the pressure relief valve on a quarterly basis to ensure no breathing losses. To demonstrate compliance with the offsite provisions, the owner or operator must obtain a certification from the cleaning and reloading facility indicating that the control requirements will be met. In addition, tank trucks, railcars, and barges would be required to have current certification of compliance with pressure test

requirements, and the owner or operator would be required to keep a record of the certifications.

We are making the direct final rule amendments because they provide the industry with another compliance option, one that will result in emissions reductions equal to, or greater than, those achieved by the existing control options. The direct final rule amendments would also result in a more efficient use of resources because a tank owner would not have to purchase and operate control equipment if a liquid supplier agrees to capture the vapors from the tank and treat them offsite. Vapor balancing provisions identical to those we are adding to the HON are already included in the promulgated NESHAP for Pharmaceuticals Production, Pesticide Active Ingredient Production, and Miscellaneous Organic Chemical Manufacturing.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the final rule amendments are not a ''significant regulatory action'' under the terms of Executive Order 12866 and are, therefore, not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action gives a source owner or operator the option of using vapor balancing to comply with the standards. Since it is only an option, this action will not increase the information collection burden. However, the OMB has previously approved the information collection requirements contained in the existing regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060–0282 (EPA ICR No. 1414.04).

A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U.S. EPA (2822T); 1200 Pennsylvania Ave., NW, Washington, DC 20460, or by calling (202) 566–1672. Include the ICR or OMB number in any correspondence.

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.

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.

C. Regulatory Flexibility Analysis

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule.

For purposes of assessing the impacts of today's amendments on small entities, a small entity is defined as: (1) A small business in the North American Industrial Classification System (NAICS) code 325 that has up to 500 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's amendments on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities (5 U.S.C. sections 603 and 604).'' Thus, any agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden or otherwise has a positive economic effect on all of the small entities subject to the rule. The amendments add a compliance option granting greater flexibility to small entities subject to the HON that may result in a more efficient use of resources for them and, therefore, impose no additional regulatory costs or requirements on owners or operators of affected sources.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least-costly, most cost effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal

governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the final rule amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The final rule amendments provide a source owner or operator with another option to comply with the standards. Therefore, the final rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires the 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.''

The final rule amendments do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The final rule amendments provide a source owner or operator with another option to comply with the standards and, therefore, impose no additional burden on sources. Thus, Executive Order 13132 does not apply to the final rule amendments.

In the spirit of Executive Order 13132 and consistent with EPA policy to promote communications between the EPA and State and local governments, the EPA specifically solicits comment on the final rule amendments from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) requires the EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The final rule amendments do not have tribal implications, as specified in Executive Order 13175. The final rule amendments provide a source owner or operator with another option to comply with the standards and, therefore, impose no additional burden on sources. Thus, Executive Order 13175 does not apply to the final rule amendments.

The EPA specifically solicits additional comment on the final rule amendments from tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the EPA.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. Today's final rule amendments are not subject to Executive Order 13045 because they are based on technology performance, not health or safety risks. Furthermore, the final rule amendments have been determined not to be ''economically significant'' as defined under Executive Order 12866.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

The final rule amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

No new standard requirements are cited in the final rule amendments. Therefore, the EPA is not proposing or adopting any voluntary consensus standards in the final rule amendments.

J. Congressional Review Act

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

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 16, 2004.

Michael O. Leavitt,

Administrator.

■ For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations are amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart G—[AMENDED]

■ 2. Section 63.119 is amended by:
■ a. Revising paragraphs (a)(1) and (2); and
■ b. Adding paragraph (g).

The revisions and addition read as follows:

§ 63.119 Storage vessel provisions-reference control technology.

(a) * * *

(1) For each Group 1 storage vessel (as defined in table 5 of this subpart for existing sources and table 6 of the subpart for new sources) storing a liquid for which the maximum true vapor pressure of the total organic hazardous air pollutants in the liquid is less than 76.6 kilopascals, the owner or operator shall reduce hazardous air pollutants emissions to the atmosphere either by operating and maintaining a fixed roof and internal floating roof, an external floating roof, an external floating roof converted to an internal floating roof, a closed vent system and control device, routing the emissions to a process or a fuel gas system, or vapor balancing in accordance with the requirements in paragraph (b), (c), (d), (e), (f), or (g) of this section, or equivalent as provided in § 63.121 of this subpart.

(2) For each Group 1 storage vessel (as defined in table 5 of this subpart for existing sources and table 6 of this subpart for new sources) storing a liquid for which the maximum true vapor pressure of the total organic hazardous air pollutants in the liquid is greater than or equal to 76.6 kilopascals, the owner or operator shall operate and maintain a closed vent system and control device meeting the requirements specified in paragraph (e) of this section, route the emissions to a process or a fuel gas system as specified in paragraph (f) of this section, vapor balance as specified in paragraph (g) of this section, or equivalent as provided in § 63.121 of this subpart.

* * * * *

(g) The owner or operator who elects to vapor balance to comply with the requirements of paragraphs (a)(1) and (2) of this section shall comply with paragraphs (g)(1) through (7) of this section and the recordkeeping requirements of § 63.123(i).

(1) The vapor balancing system must be designed and operated to route organic HAP vapors displaced from loading of the storage tank to the railcar, tank truck, or barge from which the storage tank is filled.

(2) Tank trucks and railcars must have a current certification in accordance with the U.S. Department of Transportation pressure test requirements of 49 CFR part 180 for tank trucks and 49 CFR 173.31 for railcars. Barges must have a current certification of vapor-tightness through testing in accordance with 40 CFR 63.565.

(3) Hazardous air pollutants must only be unloaded from tank trucks or railcars when vapor collection systems are connected to the storage tank's vapor collection system.

(4) No pressure relief device on the storage tank, or on the railcar or tank truck, shall open during loading or as a result of diurnal temperature changes (breathing losses).

(5) Pressure relief devices must be set to no less than 2.5 psig at all times to prevent breathing losses. Pressure relief devices may be set at values less than 2.5 psig if the owner or operator provides rationale in the notification of compliance status report explaining why the alternative value is sufficient to prevent breathing losses at all times. The owner or operator shall comply with paragraphs (g)(5)(i) through (iii) of this section for each pressure relief valve.

(i) The pressure relief valve shall be monitored quarterly using the method described in § 63.180(b).

(ii) An instrument reading of 500 ppmv or greater defines a leak.

(iii) When a leak is detected, it shall be repaired as soon as practicable, but no later than 5 days after it is detected, and the owner or operator shall comply with the recordkeeping requirements of § 63.181(d)(1) through (4).

(6) Railcars, tank trucks, or barges that deliver HAP to a storage tank must be reloaded or cleaned at a facility that utilizes the control techniques specified in paragraph (g)(6)(i) or (ii) of this section.

(i) The railcar, tank truck, or barge must be connected to a closed-vent system with a control device that reduces inlet emissions of HAP by 95 percent by weight or greater.

(ii) A vapor balancing system designed and operated to collect organic HAP vapor displaced from the tank truck, railcar, or barge during reloading must be used to route the collected HAP vapor to the storage tank from which the liquid being transferred originated.

(7) The owner or operator of the facility where the railcar, tank truck, or barge is reloaded or cleaned must comply with paragraphs (g)(7)(i) through (iii) of this section.

(i) Submit to the owner or operator of the storage tank and to the Administrator a written certification that the reloading or cleaning facility will meet the requirements of this section. The certifying entity may revoke the written certification by sending a written statement to the owner or operator of the storage tank giving at least 90 days notice that the certifying entity is rescinding acceptance of responsibility for compliance with the requirements of this paragraph (g)(7).

(ii) If complying with paragraph (g)(6)(i) of this section, comply with the requirements for a closed vent system and control device specified in §§ 63.119 through 63.123.

(iii) If complying with paragraph (g)(6)(ii) of this section, keep the records specified in § 63.123(i)(3).

■ 3. Section 63.123 is amended by adding paragraph (i) to read as follows:

§ 63.123 Storage vessel provisions—recordkeeping.

* * * * *

(i) An owner or operator who elects to comply with § 63.119(g) shall keep the records specified in paragraphs (i)(1) through (3) of this section.

(1) A record of the U.S. Department of Transportation certification required by § 63.119(g)(2).

(2) A record of the pressure relief vent setting specified in § 63.119(g)(5).

(3) If complying with § 63.119(g)(6)(ii), keep the records specified in paragraphs (i)(3)(i) and (ii) of this section.

(i) A record of the equipment to be used and the procedures to be followed when reloading the railcar, tank truck, or barge and displacing vapors to the storage tank from which the liquid originates.

(ii) A record of each time the vapor balancing system is used to comply with § 63.119(g)(6)(ii).

[FR Doc. 04–27992 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[RCRA–2004–0009; FRL–7854–2]

Land Disposal Restrictions: Site-Specific Treatment Standard Variance for Selenium Waste for Chemical Waste Management, Chemical Services, LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On November 19, 2004, the Environmental Protection Agency published a direct final rule to grant a

site-specific treatment standard variance from the Land Disposal Restrictions (LDR) treatment standards to Chemical Waste Management, Chemical Services LLC (CWM) in Model City, New York. EPA also published an accompanying proposed rule to supplant this rule in the event EPA received any adverse comment on the direct final rule. This variance is for a selenium-bearing hazardous waste generated by Guardian Industries Corp. (Guardian), a glass manufacturing company. EPA has received a comment on this treatment variance that it deems adverse, and is withdrawing the direct final rule. Therefore, this site-specific treatment standard variance will not take effect on January 3, 2005 and CWM cannot treat the Guardian waste under a treatment standard variance. EPA will review and address all the comments received on this variance and will decide what action to take in a future **Federal Register** document. We will not institute a second comment period on this action.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Call Center at 800–424–9346 or TDD 800–553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703–412–9810 or TDD 703–412–3323. For more detailed information on specific aspects of this rulemaking, contact Juan Parra at (703) 308–0478 or *parra.juan@epa.gov,* Office of Solid Waste (MC 5302 W), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: On November 19, 2004, EPA published a direct final rule (69 FR 67647) and a notice of proposed rulemaking (69 FR 67695) promulgating and proposing, respectively, amendments to grant a site-specific treatment standard variance from the Land Disposal Restrictions (LDR) treatment standards for a selenium-bearing hazardous waste to Chemical Waste Management, Chemical Services LLC. EPA indicated that it was promulgating this site-specific treatment variance as a direct final rule because it believed this action to be non-controversial. However, the Agency further stated that if it received any adverse comments by December 20, 2004 on the direct final rule, it would publish a timely withdrawal of the direct final rule in the **Federal Register**, and address the adverse comments and determine what action to take in a future **Federal Register** document.

List of Subjects in 40 CFR Part 268

Environmental Protection, Hazardous waste, Reporting and recordkeeping requirements.

Dated: December 16, 2004.

Thomas P. Dunne,

Assistant Administrator, Office of Solid Waste and Emergency Response.

■ Accordingly, the revision to 40 CFR 268.44 published in the **Federal Register** on November 19, 2004 (69 FR 67695), which was to become effective on January 3, 2005, is withdrawn.

[FR Doc. 04–28089 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 80

[DA 04–3408]

Use of Frequency 156.575 MHz for Port Operations Communications in Puget Sound

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission permits the use of marine VHF channel 71 (156.575 MHz) for the use of intership port operations communications in Puget Sound, the Straits of Juan de Fuca, and their approaches. This was in response to a Coast Guard request to the Commission recommending that VHF marine Channel 71 be authorized for use by the Puget Sound Pilots for intership port operations communications. This action will allow more efficient management of vessel traffic in the area, thereby increasing navigational safety and protecting the marine environment in this busy port.

DATES: Effective January 24, 2005.

FOR FURTHER INFORMATION CONTACT: James Shaffer, *James.Shaffer@FCC.gov,* Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, (202) 418–0687, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order,* DA 04–3408, adopted on October 26, 2004, and released on October 28, 2004. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov.* Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov.*

1. The *Order* amends § 80.373(f) of the Commission's rules to make VHF marine Channel 71 (156.575 MHz) available for intership port operations communications in Puget Sound, the Straits of Juan de Fuca, and the approaches thereto. This amendment will allow the vessel traffic in Puget Sound to be managed more efficiently and will protect the marine environment by preventing vessel collisions and groundings.

2. In 2000, the Commission amended § 0.331 of its rules to delegate authority to the Wireless Telecommunications Bureau (Bureau) to designate, by footnote to the frequency table in § 80.373(f), frequencies available for intership port operations communications in defined port areas. In the *Report and Order,* WT Docket No. 99–332, 15 FCC Rcd 11302 (2000), the Commission indicated that it was authorizing the Bureau to act on requests from the United States Coast Guard (Coast Guard) to make frequencies available for intership communications related to port operations in order to alleviate communications congestion related to such port operations.

3. On March 12, 2004, the Coast Guard submitted a request to the Bureau's Public Safety and Critical Infrastructure Division recommending that VHF marine Channel 71 be authorized for use by the Puget Sound Pilots for intership port operations communications at a normal power of one watt (exceptionally ten watts) in Puget Sound, the Straits of Juan de Fuca, and the approaches thereto Enclosed was a letter from the Puget Sound Pilots asking the Coast Guard to request that the Commission designate VHF marine Channel 71 as a port operations channel in the area under the jurisdiction of the Captain of the Port Puget Sound, with its use limited to intership communications with pilots regarding the movement and docking of ships at a normal power of one watt. The Coast Guard also enclosed letters from the North Pacific Marine Radio Council (NPMRC), the Puget Sound Harbor Safety and Security Committee (PSHSSC), the Recreational Boating Association of Washington (RBAW), and the Captain of the Port Puget Sound, all concurring with the request.

4. We agree with the Coast Guard that the proposed designation will enhance

maritime safety in this busy waterway. In this type of environment, harbor pilots rely upon clear and effective radio communications with tugs to help ensure the safe ingress and egress of large vessels. The parties assert that there is a critical need for an additional VHF channel for communications between large commercial vessels, tankers and other vessels carrying hazardous cargoes, and pilots and tugs in the Vessel Traffic Service Puget Sound (VTS Puget Sound). They note that the only frequency dedicated to intership communications related to port operations, VHF marine Channel 77 (156.875 MHz), is frequently congested. Congestion is intensified by the Canadian use of this channel for ship movement and docking at Delta Port, British Columbia, near the northern border of VTS Puget Sound.

5. The parties submit that VHF marine Channel 71, which currently is designated for noncommercial intership and ship-to-coast use, is a good candidate for a port operations channel because it carries very little recreational traffic, even during the summer months. RBAW agrees that recreational vessels have sufficient other channels to meet their VHF communication needs.

6. Based on the foregoing, we hereby amend the frequency table in § 80.373(f) of the Commission's rules to make VHF marine Channel 71 available for intership port operations communications in Puget Sound, the Straits of Juan de Fuca, and the approaches thereto. The normal output power must not exceed one watt, and the maximum output power must not exceed ten watts. This action will allow more efficient management of vessel traffic in the area, thereby increasing navigational safety and protecting the marine environment in this busy port.

7. We will permit private coast stations currently authorized to operate on VHF marine Channel 71 within VTS Puget Soundto continue operation until the end of their current license term on a non-interference basis. NPMRC has contacted the owners of these stations, and they have agreed to change to another appropriate frequency. Bureau staff will assist affected licensees in finding suitable alternative channels. No fee will be charged for affected stations that request an alternative channel before their next license renewals.

8. Finally, Puget Sound Pilots also request that VHF marine Channel 76 (156.825 MHz), which recently was designated for port operations communications, be limited to intership communications with pilots regarding the movement and docking of ships. The Coast Guard, however, did not support this request. We agree with the Coast Guard and do not believe that it is necessary to so limit the use of Channel 76. We believe that in redesignating Channels 75 (156.775 MHz) and 76, the Commission (which acted after Puget Sound Pilots submitted their request to the Coast Guard) addressed the needs for additional spectrum for navigation-related port operation communications. Therefore, we will not amend our rules to limit such communications.

Report to Congress

9. The Commission will send a copy of this *Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Ordering Clause

10. Accordingly, *it is ordered,* that pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and § 0.331 of the Commission's rules, 47 CFR § 0.331, part 80 of the Commission's rules is amended as set forth in Appendix A, effective January 24, 2005.

List of Subjects in 47 CFR Part 80

Communications equipment, Radio.

Federal Communications Commission

Ramona Melson,

Chief of Staff, Public Safety and Critical Infrastructure Division.

Final Rule

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 80 as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

■ 1. The authority citation for part 80 continues to read as follows:

Authority: Sections 4, 303, 307(e), 309 and 322, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, 307(e), 309 and 322 unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

■ 2. In § 80.373, the noncommercial table of paragraph (f) is amended by revising the entry for ''71'' and by adding footnote 19 to read as follows:

§ 80.373 Private communications frequencies.

* * * * *

(f) * * *

Frequencies in the 156–162 MHz band			
Carrier frequency (MHz)	Channel designator		Points of communication (Intership and between coast and ship unless otherwise indicated)
	Ship transmit	Coast transmit	
Noncommercial			
*	*	*	* *
71[19]	156.575	156.575	
*	*	*	* *

[19] 156.575 MHz is available for port operations communications use only within the U.S. Coast Guard designated VTS radio protection area of Seattle (Puget Sound) described in § 80.383. Normal output power must not exceed 1 watt. Maximum output power must not exceed 10 watts.

* * * * *

[FR Doc. 04–28028 Filed 12–22–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2004–19938]

RIN 2127–AJ50

Federal Motor Vehicle Safety Standards; Platform Lifts for Motor Vehicles, Platform Lift Installations in Motor Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Interim final rule; delay of compliance date; request for comments.

SUMMARY: This document delays the compliance dates of Federal motor vehicle safety standards for platform lifts and vehicles equipped with platform lifts. In December 2002, NHTSA published a final rule that established Federal motor vehicle safety standards for platform lifts and vehicles equipped with platform lifts. In October 2004, the agency published an amendment to these standards in response to petitions for reconsideration of the December 2002 final rule. Since that time, the agency has received several telephone calls on the inability of vehicle manufacturers to comply with the vehicle standards by the compliance date. We are also aware of some confusion within the industry as to the applicability of the standards. Additionally, in response to the October 2004 final rule, we received several petitions for reconsideration. As established in the December 2002 final rule, the standards are to become

effective December 27, 2004. This notice delays the compliance date for the platform lift standard for a period of three months and the vehicle standard for a period of six months. The delay in compliance dates will prevent a gap between the cessation of production of vehicles with pre-standard lifts and the beginning of production of vehicles with post-standard (compliant) lifts. The delay will also allow the agency to address issues of applicability in advance of the compliance dates.

DATES: *Effective date:* This final rule becomes effective December 27, 2004.

Comments must be received by NHTSA not later than February 22, 2005, and should refer to this docket and the notice number of this document.

ADDRESSES: You may submit comments [identified by the DOT DMS Docket Number above] by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *Hand Delivery:* 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.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Request for Comments heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov,* including any personal information provided. Please see the Privacy Act heading under Regulatory Analyses and Notices.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or 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.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. William Evans, Office of Crash Avoidance Standards, at (202) 366–2272, facsimile (202) 366–7022.

For legal issues, you may call Mr. Chris Calamita, Office of the Chief Counsel, at (202) 366–2992, facsimile (202) 366–3820.

You may send mail to any of these officials at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Industry Response
III. Petitions For Reconsideration
IV. Today's Final Rule; Delay of Compliance Date
V. Regulatory Analyses and Notices
VI. Request for Comments

I. Background

On December 27, 2002, the agency published in the **Federal Register** (67 FR 79416) a final rule establishing Federal Motor Vehicle Safety Standard (FMVSS) No. 403, *Platform lift systems for motor vehicles,* and FMVSS No. 404, *Platform lift installation on motor vehicles* (final rule). These two new standards provide practicable, performance-based requirements and compliance procedures to ensure the safety of platform lifts and vehicles equipped with those lift systems.

FMVSS No. 403 establishes requirements for platform lifts that are designed to carry passengers who rely on wheelchairs, scooters, canes, and other mobility aid devices in entering and exiting motor vehicles. The standard requires that these lifts meet minimum platform dimensions and maximum size limits for platform protrusions and gaps between the platform and either the vehicle floor or the ground. The standard also requires handrails, a threshold warning signal, and retaining barriers. Performance tests are specified for wheelchair retention on the platform, lift strength, and platform slip resistance requirements. A set of interlocks is prescribed to prevent accidental movement of a lift and the vehicle on which a lift is installed.

FMVSS No. 404 establishes requirements for vehicles equipped with platform lifts. Vehicle manufacturers must install lifts certified as meeting FMVSS No. 403. The vehicle standard requires that the lifts be installed according to the lift manufacturer's instructions and must continue to meet all of the applicable requirements of FMVSS No. 403. The standard also requires that specific information is made available to lift users.

The December 27, 2002 final rule established a compliance date of December 27, 2004 for both FMVSS Nos. 403 and 404.

On October 1, 2004, in response to petitions for reconsideration, the agency revised the standards by amending the definitions of certain operational functions, the requirements for lift lighting on public lifts, the interlock requirements, compliance procedures for lifts that manually deploy/stow, the environmental resistance requirements, the edge guard requirements, the wheelchair test device specifications, and the location requirements for public lift controls (69 FR 58843). The October 2004 final rule did not amend the compliance date for the standards.

II. Industry Response

The agency has received several telephone requests from vehicle manufacturers to delay the compliance date of FMVSS No. 404. Specifically, several over-the-road coach and bus manufacturers have stated that compliant lifts have not been available to allow for the production of FMVSS No. 404-compliant vehicles by the compliance date. While lift manufacturers have informed the agency that they will be able to produce compliant lifts by the compliance date, vehicle manufacturers will need additional time to incorporate these lifts in their vehicle production.

Additionally, some lifts relied upon by specialty or niche vehicle manufacturers (*i.e.,* street ''trolley'' and motor home manufacturers) will no longer be produced. These companies stated that the lack of compliant lifts has been a recent development and that additional time is required to find replacement lifts.

The agency has also received numerous inquiries regarding the applicability of the standards. There appears to be some confusion as to the applicability to lifts manufactured prior to the compliance date, aftermarket installation of lifts to vehicles manufactured prior to the compliance date, and aftermarket installation of lifts to vehicles manufactured after the compliance date.

III. Petitions for Reconsideration

Petitions for reconsideration of the October 2004 final rule were received from a school bus manufacturer, Blue Bird Body Company (Blue Bird); two school bus manufacturer associations, School Bus Manufacturers Technical Council (SBMTC) and Manufacturers Council of Small School Buses (Manufacturers Council); a mobility industry association, Adaptive Driving

Alliance (Driving Alliance); and a vehicle systems manufacturer, Safety Systems and Controls, Inc. (Safety Systems).

A majority of the comments focused on the transfer of the lighting requirements from FMVSS No. 403, the equipment standard to FMVSS No. 404, the vehicle standard. As originally established in December 2002, the agency structured the lighting requirements so that a platform lift system would be a complete, self-contained system ready for installation upon delivery to the vehicle manufacturer. FMVSS No. 403 required a lift manufacturer to provide the hardware and instructions necessary to install lighting in a manner that complies with the requirements of the standard. In response to petitions for reconsideration of the December 2002 final rule, the agency moved the responsibility for the lighting requirements from the platform lift manufacturer to the vehicle manufacturer. We explained that vehicle manufacturers have traditionally provided lift lighting. Additionally, the manufacturers of vehicles that are required by FMVSS No. 404 to be equipped with lighted platform lifts already must comply with American with Disabilities Act [1] (ADA) lighting standards.

In their petitions for reconsideration, Blue Bird, SBMTC, and Manufacturers Council stated that not all vehicles required to have lighted platform lifts are subject to the ADA requirements, notably school buses. Petitioners requested that the lighting requirements be shifted back to FMVSS No. 403. They further stated that school bus manufacturers would have difficulty in complying with the new lighting requirement in the time between the October 2004 final rule and the December 2004 compliance date. These petitioners also raised concern that the luminescence requirements of the standard would require lights that produce high levels of heat, which could potentially burn occupants, and could potentially cause glare and distraction problems.[2] At a minimum, these petitioners requested that the agency delay the compliance date of the standards while we contemplated their petitions.

Additionally, Safety Systems requested that the interlock requirements be amended to include provisions for ''malicious release.'' The Driving Alliance requested a clarification of the applicability of the standards to aftermarket installation of certified and non-certified lifts to vehicles manufactured before and after the compliance date.

IV. Today's Final Rule; Delay of Compliance Date

Today's final rule delays the compliance date of FMVSS No. 403 until April 1, 2005, and FMVSS No. 404 until July 1, 2005. This delay will prevent the disruption in the availability of vehicles manufactured to accommodate individuals with disabilities. The delay will also permit the agency to address any outstanding issues and confusion as to the applicability of the standards.

The delay in the compliance date will provide relief to vehicle manufacturers that would have been unable to incorporate compliant lifts into their vehicles by the December 27, 2004 effective date because of delays in receiving compliant lifts. The delay to the compliance date for FMVSS No. 404 also provides manufacturers an opportunity to secure replacement lifts for those lifts that will no longer be produced. This will further afford vehicle manufacturers and lift manufacturers an opportunity to perform any final engineering analysis required to incorporate compliant lifts into vehicle production.

The staggered compliance dates will ensure that vehicle manufacturers will have at least three months of lead time to incorporate compliant lifts before the compliance date for the vehicle standard. Additionally, we fully expect that lift manufacturers intending to distribute compliant lifts beginning December 27, 2004, will still do so. This will provide vehicle manufacturers adequate lead time to comply with FMVSS No. 404.

The agency recognizes that the installation of a compliant lift onto a vehicle that is not required to comply with FMVSS No. 404 may require removal or alteration of elements installed on the lift for purposes of compliance with FMVSS No. 403; *e.g.,* removal or alteration of the threshold warning system or interlock system. Because the vehicle is not required to be equipped with an FMVSS No. 403 compliant lift, we would not consider alterations to the lift in this situation as making the lift inoperative with FMVSS No. 403 within the meaning of 49 U.S.C. 30122.

The agency also recognizes that there is some confusion within the mobility industry as to the applicability of FMVSS Nos. 403 and 404 to aftermarket lift installations. The agency is in the process of responding to several requests for interpretation that will address this and related issues. These responses will be publicly available in advance of the new compliance dates.

Further, the agency is in the process of responding to petitions for reconsideration of the October 2004 final rule. The agency's response could affect the certification responsibility of platform lift and vehicle manufacturers as well as the requirements for platform lift lighting systems. The six-month delay in the compliance date relieves vehicle manufacturers of the potential of installing systems for which requirements may be amended.

Because the December 27, 2004 effective date for FMVSS Nos. 403 and 404 is fast approaching, NHTSA finds for good cause to issue this interim final rule to delay the compliance date. Further we find good cause that it should take effect immediately. Today's interim final rule makes no substantive change to the standard, but delays the compliance dates for FMVSS Nos. 403 and 404 for a period of three and six months, respectively. We are excepting comments on this delay. See, Request for Comments section below.

V. Regulatory Analyses and Notices

A. Executive Order, 12866 Regulatory Planning and Review

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees,

[1] Pub. L. 101–336, 42 U.S.C. 12101, *et seq.* Titles II and III of the ADA set specific requirements for vehicles purchased by municipalities for use in fixed route bus systems and vehicles purchased by private entities for use in public transportation to provide a level of accessibility and usability for individuals with disabilities. 42 U.S.C. 12204.

[2] Petitioners' concerns with the substance of the luminescence requirement relate to requirements established in the December 27, 2002 final rule. As such, this issue is beyond the scope of petitions for reconsideration of the October 1, 2004 final rule and may be treated as a request for rulemaking.

or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rulemaking document was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. It does not impose any burden on manufacturers, and extends the compliance date FMVSS Nos. 403 and 404 for 3 and 6 months, respectively. The agency believes that this impact on manufacturers is so minimal as to not warrant the preparation of a full regulatory evaluation. Additionally, because the Federal standards incorporate the most relevant industry standards and guidelines, the agency believes that any impact on the benefits of the Federal standards will be minimal.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, we have considered the impacts of this rulemaking action will have on small entities (5 U.S.C. 601 *et seq.*). I certify that this rulemaking action will not have a significant economic impact upon a substantial number of small entities within the context of the Regulatory Flexibility Act. The following is our statement providing the factual basis for the certification (5 U.S.C. 605(b)). The final rule affects manufacturers of platform lifts for motor vehicles and vehicles equipped with platform lifts. According to the size standards of the Small Business Association (at 13 CFR 121.601), manufacturers of platform lifts are considered manufacturers of ''All Other Motor Vehicle Parts Manufacturing'' (NAICS Code 336399). The size standard for NAICS Code 336399 is 750 employees or fewer. The size standard for manufacturers of ''Light Truck and Utility Vehicle Manufacturing'' (NAICS Code 336112) is 1,000 employees or fewer. This Final Rule will not have any significant economic impact on a substantial number of small businesses in these industries because the rule only delays by three and six months, respectively, the compliance dates of previously published final rules. Small organizations and governmental jurisdictions that purchase platform lifts and vehicles equipped with platform lifts will not be significantly affected because this rulemaking will not cause price increases. Further, the delay in compliance dates will avoid a disruption in the manufacturing and sales that would have occurred for some lift-equipped vehicles. Accordingly, we have not prepared a Final Regulatory Flexibility Analysis.

C. Executive Order 13132, Federalism

E.O. 13132 requires NHTSA 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.'' E.O. 13132 defines the term ''Policies that have federalism implications'' 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.'' Under E.O. 13132, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in E.O. 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This action, which extends the compliance date of FMVSS Nos. 403 and 404, will not result in additional expenditures by state, local or tribal governments or by any members of the private sector. Therefore, the agency has not prepared an economic assessment pursuant to the Unfunded Mandates Reform Act.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. Since it only delays the compliance date of a final rule, this final rule does not impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained.

F. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision may prescribe or continue in effect a standard applicable to the same aspect of performance of a Federal motor vehicle safety standard only if the standard is identical to the Federal standard. However, the United States Government, a state, or political subdivision of a state, may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings are not required before parties file suit in court.

G. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?

—Are the requirements in the rule clearly stated?

—Does the rule contain technical language or jargon that is not clear?

—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?

—Would more (but shorter) sections be better?

—Could we improve clarity by adding tables, lists, or diagrams?

—What else could we do to make the rule easier to understand?

Comment is solicited on the extent to which this final rule effectively uses plain language principles.

H. National Technology Transfer and Advancement Act

Under the National Technology and Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical

standards as a means to carry out policy objectives or activities determined by the agencies and departments.''

The equipment standard was drafted to include or exceed all government and voluntary consensus standards. This final rule extends the compliance date of that final rule to July 1, 2004.

I. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

J. Environmental Impacts

We have not conducted an evaluation of the impacts of this final rule under the National Environmental Policy Act. This rulemaking action extends the date by which the manufacturers must comply with the newly upgraded requirements of FMVSS No. 205. This rulemaking does not impose any change that would have any environmental impacts. Accordingly, no environmental assessment is required.

K. Executive Order 13045, Economically Significant Rules Disproportionately Affecting Children

This rule is not subject to E.O. 13045 because it is not ''economically significant'' as defined under E.O. 12866, and does not concern an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children.

VI. Request for Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments. Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.** Comments may also be submitted to the docket electronically by logging onto the Docket Management System Web site at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically. If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.[3] Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.* DOT's guidelines may be accessed at *http://dmses.dot.gov/submit/DataQualityGuidelines.pdf.*

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

[3] Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES.** To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov*).

(2) On that page, click on ''Simple Search.''

(3) On the next page (*http://dms.dot.gov/search*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''Search.''

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

List of Subjects in 49 CFR Part 571

Motor vehicle safety, reporting and recordkeeping requirements, and tires.

■ In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.403 is amended by revising S3 to read as follows:

§ 571.403 Standard No. 403; Platform lift systems for motor vehicles.

* * * * *

S3. *Application.* This standard applies to platform lifts manufactured on and after April 1, 2005, that are designed to carry passengers into and out of motor vehicles.

* * * * *

■ 3. Section 571.404 is amended by revising S3 to read as follows:

§ 571.404 Standard No. 404; Platform lift installations in motor vehicles.

* * * * *

S3. *Application.* This standard applies to motor vehicles manufactured on and after July 1, 2005, that are equipped with a platform lift to carry passengers into and out of the vehicle.

* * * * *

Issued on: December 17, 2004.

Jeffrey W. Runge,

Administrator.

[FR Doc. 04–28085 Filed 12–20–04; 12:27 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041202338–4338–01; I.D. 112204B]

Fisheries of the Exclusive Economic Zone off Alaska; Bering Sea and Aleutian Islands Management Area; 2005 Interim Harvest Specifications for Groundfish

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

ACTION: Temporary rule; interim specifications.

SUMMARY: NMFS issues 2005 interim total allowable catch (TAC) amounts for each category of groundfish, Community Development Quota (CDQ) reserve amounts, American Fisheries Act (AFA) pollock allocations and sideboard limits, and prohibited species catch (PSC) allowances and prohibited species quota (PSQ) reserves for the groundfish fisheries of the Bering Sea and Aleutian Islands management area (BSAI). The intended effect is to conserve and manage the groundfish resources in the BSAI.

DATES: The interim harvest specifications are effective from 0001 hours, Alaska local time (A.l.t.), January 1, 2005, until the effective date of the 2005 final harvest specifications for BSAI groundfish, which will be published in the **Federal Register.**

ADDRESSES: Copies of the Environmental Assessment (EA) prepared for this action are available from the NMFS Alaska Region Web site at *http://www.fakr.noaa.gov.* The final 2003 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 2003, and the final 2004 SAFE report, dated November 2004, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510–2252, telephone (907) 271–2809, or from its Web site at *http://www.fakr.noaa.gov/npfmc.*

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228, or *mary.furuness@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Federal regulations at 50 CFR part 679 implementing the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) govern the groundfish fisheries in the BSAI. The North Pacific Fishery Management Council (Council) prepared the FMP, and NMFS approved it under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations that also pertain to the U.S. fisheries appear at subpart H of 50 CFR part 600.

The Council met in October 2004 to review scientific information concerning groundfish stocks, including the 2003 SAFE report and the EA (see **ADDRESSES**), and to recommend 2005 proposed harvest specifications. The Council recommended a proposed total acceptable biological catch (ABC) of 3,345,963 metric tons (mt) and a proposed total TAC of 2,000,000 mt for the 2005 fishing year. The proposed TAC amounts for each species were based on the best available biological and socioeconomic information.

Under § 679.20(c)(1), NMFS published in the **Federal Register** the 2005 proposed harvest specifications for BSAI groundfish (December 8, 2004, 69 FR 70974). That document contains a detailed discussion of the 2005 proposed TACs, initial TACs (ITACs) and related apportionments, CDQ reserves, ABC amounts, overfishing levels, PSC allowances, PSQ reserve amounts, and associated management measures of the BSAI groundfish fishery.

This action provides interim harvest specifications and apportionments thereof for the 2005 fishing year that will become available on January 1, 2005, and will remain in effect until superseded by the 2005 final harvest specifications. Background information concerning the 2005 harvest specification process on which this interim action is based is provided in the above mentioned proposed harvest specification document.

Establishment of Interim TACs

Section 679.20(b)(1)(i) requires that 15 percent of the TAC for each target species and species group, except for pollock and the hook-and-line and pot gear allocation of sablefish, be placed in a non-specified reserve. The AFA supersedes this provision for pollock by requiring that the TAC for this species be fully allocated among the CDQ program, incidental catch allowance (ICA), and inshore, catcher/processor, and mothership directed fishery allowances. Section 803 of the Consolidated Appropriations Act of 2004 (CAA), Public Law (Pub. L.) 108–199, supersedes portions of the AFA and allocates the AI directed pollock fishery (DPF) to the Aleut Corporation after subtraction for the CDQ directed fishing allowance and ICA. Amendment 82 to the FMP would establish the management measures for the AI DPF. The proposed rule to implement Amendment 82 was published in the **Federal Register** for public comment and review on December 7, 2004 (69 FR 70589). If Amendment 82 is approved, final regulations implementing Amendment 82 are anticipated to be effective by March 2005.

Section 679.20(b)(1)(iii) requires that one half of each TAC amount placed in the non-specified reserve, with the exception of squid, be allocated to the groundfish CDQ reserve and that 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Sections 679.20(a)(5)(i)(A) and 679.31(a)(2) require that 10 percent of the pollock TAC be allocated to the pollock CDQ reserve. With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the CDQ reserves are not further apportioned by gear. Section 679.21(e)(1)(i) also

requires that 7.5 percent of each PSC limit, with the exception of herring, be withheld as a PSQ reserve for the CDQ fisheries. Regulations governing the management of the CDQ and PSQ reserves are set forth at §§ 679.30 and 679.31.

Section 679.20(c)(2) requires interim harvest specifications to be effective at 0001 hours, A.l.t., January 1, and remain in effect until superseded by the final harvest specifications. Section 679.20(c)(2)(ii) provides that the interim harvest specifications will be established as one-fourth of each proposed ITAC amount and apportionment thereof (not including pollock, Pacific cod, Atka mackerel, and the hook-and-line and pot gear allocation of sablefish), one-fourth of each proposed PSQ reserve and PSC allowance established at § 679.21, and the proposed first seasonal allowance of pollock, Pacific cod and Atka mackerel TAC. As stated in the proposed harvest specifications (69 FR 70974), no harvest of groundfish is authorized before the effective date of this action implementing the interim harvest specifications.

2005 Interim BSAI Harvest Specifications

Table 1 provides interim TAC and CDQ amounts and apportionments. Section 679.20(c)(2)(ii) does not provide for an interim harvest specification for the hook-and-line and pot gear allocations of sablefish for the CDQ reserve or for sablefish managed under the Individual Fishing Quota (IFQ) program. As a result, directed fishing for the hook-and-line and pot gear allocations of CDQ sablefish and IFQ sablefish is prohibited until the effective date of the 2005 final harvest specifications.

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TABLE 1.–2005 INTERIM TAC AMOUNTS FOR GROUNDFISH AND APPORTIONMENTS FOR THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA[1]

[Amounts are in metric tons]

Species and component (if applicable)		Area and/or gear (if applicable)	Interim TAC	Interim CDQ
Pollock [2]	AFA Inshore	BS	256,112	.....
	AFA Inshore	SCA Limit[3]	179,278	.....
	AFA Catcher/Processors[4]	BS	204,890	.....
	Catch by C/Ps	BS	187,474	.....
	Catch by CVs[4]	BS	17,416	.....
	Unlisted C/P Limit[4]	BS	1,024	.....
	AFA Catcher/Processors[4]	SCA Limit[3]	143,423	.....
	AFA Mothership	BS	51,222	.....
	AFA Mothership	SCA Limit[3]	35,856	.....
	Aleut Corporation	AI	13,800	.....
	CDQ	BS	.....	58,978
	CDQ	SCA Limit[3]	.....	41,285
	CDQ	AI	.....	760
	ICA	BS	46,445	.....
	ICA	AI	1,200	.....
	ICA	Bogoslof District	50	.....
	Excessive Harvesting Limit[5]	BS	89,639	.....
	Excessive Processing Limit[5]	BS	153,667	.....
	Total Pollock	.....	573,719	59,738
Pacific Cod [6]		Jig	1,468	.....
		Hook-and-line Catcher/Processors	44,695	.....
		Hook-and-line Catcher Vessels	167	.....
		Pot Catcher/Processors	1,844	.....
		Pot Catcher Vessels	8,380	.....
		Catcher Vessels <60 Hook-and-line, Pot	1,304	.....
		ICA	500	.....
		Trawl Catcher Vessels	30,195	.....
		Trawl Catcher/Processors	21,568	.....
	CDQ	.....	.....	9,698
	Total Pacific cod	.....	110,122	9,698
Sablefish [7,8]		BS Trawl	257	23
		BS Hook-and-line and Pot	N/A	N/A
		AI Trawl	148	13
		AI Hook-and-line and Pot	N/A	N/A
	Total Sablefish	.....	405	36
Atka mackerel [9]		Western AI	8,781	1,550
		Western HLA Limit	5,268	930
		Central AI	13,218	2,333
		Central HLA Limit	7,931	1,400
		Eastern AI/BS	.....	843
		Jig Gear	96	.....
		Other Gear	4,729	.....
	Total Atka mackerel	.....	26,824	4,726
Yellowfin sole		BSAI	18,291	1,614
Rock sole		BSAI	8,808	777
Greenland turbot		BS	574	51
		AI	170	15
	Total Greenland turbot	.....	744	66

Arrowtooth flounder	BSAI	2,550	225
Flathead sole	BSAI	4,038	356
Other flatfish [10]	BSAI	638	56
Alaska plaice	BSAI	2,125	188
Pacific ocean perch	BS	409	36
	Western AI	989	87
	Central AI	564	50
	Eastern AI	592	52
Total Pacific ocean perch	.....	2,554	225
Northern Rockfish	BSAI	1,063	94
Shortraker Rockfish	BSAI	112	10
Rougheye Rockfish	BSAI	42	4
Other rockfish [11]	BS	98	9
	AI	135	12
Total other rockfish	.....	233	21
Squid	BSAI	271	.....
"Other Species" [12]	BSAI	5,781	510
Total interim TAC	.....	758,319	78,344

[1] These amounts apply to the entire Bering Sea (BS) and Aleutian Islands (AI) management area unless otherwise specified. With the exception of pollock, and for purposes of these harvest specifications, the BS includes the Bogoslof District.

[2] In the BS, after subtraction of 10 percent for the CDQ directed fishing allowance (DFA) and 3 percent for an ICA, the pollock ITAC is allocated to the remaining sectors as a DFA (§ 679.20(a)(5)(i)(A), § 679.31(a)(2), and § 679.20(a)(5)(i)(A)(1)). The first seasonal apportionment of the BS pollock TAC for all sectors is 40 percent of the sectors annual DFA. NMFS is allocating 1,200 mt of the AI pollock as an ICA. The first season apportionment of the AI pollock TAC for CDQ is 40 percent and for the ICA is 60 percent of the annual amount. The AI directed pollock fishery allocation to the Aleut Corporation remains after subtraction for the CDQ DFA - 10 percent and the ICA - 1,200 mt. The Aleut Corporation directed pollock fishery is closed to directed fishing until the management provisions for the AI directed pollock fishery become effective under Amendment 82.

[3] The Steller sea lion conservation area (SCA) limits harvest to 28 percent of each sector's annual DFA until April 1. Twelve percent of the annual DFA allocated to the A season may be taken outside of the SCA before April 1 or inside the SCA after April 1. If 28 percent of the annual DFA is not taken inside the SCA before April 1, the remainder is available to be taken inside the SCA after April 1.

[4] Under § 679.20(a)(5)(i)(A)(4), not less than 8.5 percent of the DFA allocated to listed catcher/processors (C/Ps) shall be available for harvest only by eligible catcher vessels (CVs) delivering to listed catcher/processors. Under § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processor sector's allocation of pollock.

[5] Under § 679.20(a)(5)(i)(A)(6) NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the pollock DFAs. Under § 679.20(a)(5)(i)(A)(7) NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the pollock DFAs.

[6] After subtraction of the reserves, the ITAC amount for Pacific cod is allocated: 2 percent to vessels using jig gear, 51 percent to hook-and-line or pot gear, and 47 percent to trawl gear. The Pacific cod allocation to trawl gear is split evenly between catcher vessels and catcher/processors (See § 679.20(a)(7)(i)). The Pacific cod allocation to hook-and-line or pot gear is further allocated as an ICA (500 mt) and as the following directed fishing allowances: 80 percent to hook-and-line catcher/processors, 0.3 percent to hook-and-line catcher vessels, 3.3 percent to pot catcher/processors, 15 percent to pot catcher vessels, 1.4 percent to catcher vessels under 60 feet length over all (LOA) using hook-and-line or pot gear (See § 679.20(a)(7)(i)(c)). The first seasonal allowances of the ITAC gear apportionments are in effect on January 1 as an interim TAC. The first seasonal allocations are 60 percent of the annual TAC, except for vessels using jig gear (40 percent), trawl catcher/processors (50 percent) and trawl catcher vessels (70 percent).

[7] Sablefish gear allocations are as follows: in the BS subarea, trawl gear is allocated 50 percent, and hook-and-line and pot gear are allocated 50 percent of the TAC. In the AI subarea, trawl gear is allocated 25 percent, and hook-and-line and pot gear are allocated 75 percent of the TAC (See § 679.20(a)(4)(iii) and (iv)). One-fourth of the

ITAC amount for trawl gear is in effect January 1 as an interim TAC amount.

[8] The sablefish hook-and-line gear fishery is managed under the Individual Fishing Quota (IFQ) program and subject to regulations contained in subpart D of 50 CFR part 679. Twenty percent of the sablefish hook-and-line and pot gear final TAC amount will be reserved for use by CDQ participants. (See § 679.31(c)). Section 679.20(c)(2)(ii) does not provide for an interim harvest specification for the CDQ non-trawl sablefish reserve or for an interim harvest specification for sablefish managed under the IFQ program. In addition, in accordance with § 679.7(f)(3)(ii), retention of sablefish caught with fixed gear is prohibited unless the harvest is authorized under a valid IFQ permit and IFQ card. In 2005, IFQ permits and IFQ cards will not be valid before the effective date of the 2005 final harvest specifications. Thus, fishing for sablefish with fixed gear is not authorized under these interim harvest specifications. See subpart D of 50 CFR part 679 and § 679.23(g) for guidance on the annual allocation of IFQ and the sablefish fishing season.

[9] Section 679.20 (a)(8) requires that up to 2 percent of the Eastern Aleutian district and the BS subarea Atka mackerel ITAC be allocated to the jig gear fleet. The amount of this allocation is 1 percent. The jig gear allocation is not apportioned by season. The harvest limitation area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (§ 679.2). In 2005, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central AI.

[10] "Other flatfish" includes all flatfish species except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, arrowtooth flounder, yellowfin sole and Alaska plaice.

[11] "Other rockfish" includes all Sebastes and Sebastolobus species except for Pacific ocean perch, northern, shortraker, and rougheye rockfish.

[12] "Other species" includes sculpins, sharks, skates, and octopus. Forage fish, as defined at § 679.2, are not included in the "other species" category.

Interim Allocation of PSC Limits for Crab, Halibut, and Herring

Under § 679.21(e), annual PSC limits are specified for red king crab, *Chionoecetes bairdi* Tanner crab, and *C. opilio* crab in applicable Bycatch Limitation Zones (see § 679.2) of the Bering Sea subarea, and for Pacific halibut and Pacific herring throughout the BSAI. Section 679.21(e) authorizes the apportionment of each PSC limit into PSC allowances for specified fishery categories. Under § 679.21(e)(1)(i), 7.5 percent of each PSC limit specified for halibut, crab, and salmon is allocated as a PSQ reserve for use by the groundfish CDQ program.

Section 679.20(c)(2)(ii) provides that one-fourth of each proposed PSQ reserve and PSC allowance be made available on an interim basis for harvest at the beginning of the fishing year, until superseded by the final harvest specifications. Table 2 lists the PSQ reserves and fishery specific interim PSC allowances for halibut and crab effective at 0001 hours, A.l.t., January 1, 2005.

TABLE 2.–2005 INTERIM PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES

Trawl fisheries	Prohibited Species and zone					
	Halibut mortality (mt) BSAI	Herring (mt) BSAI	Red king crab (animals) Zone 1[1]	C. opilio (animals) COBLZ[2]	C. bairdi (animals) Zone 1[1]	C. bairdi (animals) Zone 2[1]
Yellowfin sole	222	43	8,461	694,245	85,211	447,115
Rock sole/other flatfish/flat. sole[4]	195	6	30,353	242,283	91,330	149,039
Red King Crab Savings Subarea[3]	.....	.....	10,624	.....	.....	.....
Turbot/arrowtooth/sablefish[5]	.....	3	.....	10,060	.....	.....
Rockfish	.....	.....	.....	.....	.....	.....
July 1 - December 31	17	2	.....	10,059	.....	2,747
Pacific cod	359	6	6,641	31,184	45,778	81,044
Midwater trawl pollock	.....	364	.....	.....	.....	.....
Pollock/Atka mackerel/other[6]	58	45	102	18,107	4,306	6,868
Total trawl PSC	850	469	45,556	1,005,938	226,625	686,813
Non-trawl fisheries						
Pacific cod	194					
Other non-trawl	14					
Groundfish pot and jig	exempt					
Sablefish hook-and-line	exempt					
Total non-trawl PSC	208					
PSQ reserve[7]	86	.....	3,694	81,562	18,375	55,687
PSC grand total	1,144	469	49,250	1,087,500	245,000	742,500

[1] Refer to § 679.2 for definitions of areas.

[2] C. opilio Bycatch Limitation Zone. Boundaries are defined at 50 CFR part 679, Figure 13.

[3] In October 2004, the Council proposed limiting red king crab for trawl fisheries within the Red King Crab Savings Subarea (RKCSS) to 35 percent of the total allocation to the rock sole, flathead sole, and other flatfish fishery category (§ 679.21(e)(3)(ii)(B)).

[4] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), greenland turbot, rock sole, yellowfin sole and arrowtooth flounder.

[5] Greenland turbot, arrowtooth flounder, and sablefish fishery category.

[6] Pollock other than pelagic trawl pollock, Atka mackerel, and "other species" fishery category.

[7] With the exception of herring, 7.5 percent of each PSC limit is allocated to the CDQ program as PSQ reserve. The PSQ reserve is not allocated by fishery, gear or season.

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Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), if the Administrator, NMFS, Alaska Region (Regional Administrator) determines that any allocation or apportionment of a target species or "other species" category has been or will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district (§ 697.20(d)(1)(iii)). Similarly, under regulations at § 679.21(e), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, red king crab, *C. bairdi* crab or *C. opilio* crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in that category in the specified area.

The Regional Administrator has determined that the remaining allocation amounts in Table 3 will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2005 fishing year.

TABLE 3.—2005 INTERIM DIRECTED FISHING CLOSURES FOR THE BSAI

[Amounts are in metric tons]

Area	Species[1]	Incidental catch allowance
Bogoslof District		
	Pollock	50
Aleutian Islands subarea:		
	Non-CDQ Pollock	1,200
	"Other rockfish"	135
Bering Sea subarea		
	Pacific ocean perch	409
	"Other rockfish"	98
Bering Sea and Aleutian Islands		
	Northern rockfish	1,063
	CDQ Northern rockfish	94
	"Other species"	5,781
	CDQ "Other species"	510
	Rougheye rockfish	42
	CDQ Rougheye rockfish	4
	Shortraker rockfish	112
	CDQ Shortraker rockfish	10

[1]Closures do not include CDQ fisheries unless stated.

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the directed fishing allowances for the above species or species groups as zero.

Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is immediately prohibiting directed fishing for these species in the specified areas in Table 3. These closures will remain in effect from 0001 hrs, A.l.t., January 1, 2005, until superseded by the 2005 final harvest specifications for BSAI groundfish or for the AI DPF on the approval of Amendment 82 and the effective date of its implementing regulations.

In addition, the BSAI Zone 1 annual red king crab allowance specified for the trawl rockfish fishery (see § 679.21(e)(3)(iv)(D)) is 0 mt and the BSAI first seasonal halibut bycatch allowance specified for the trawl rockfish fishery is 0 mt. The BSAI annual halibut bycatch allowance specified for the trawl Greenland turbot/arrowtooth flounder/sablefish fishery categories is 0 mt (see § 679.21(e)(3)(iv)(C)). Therefore, in accordance with § 679.21(e)(7)(ii) and (v), NMFS is prohibiting directed fishing for rockfish by vessels using trawl gear in Zone 1 of the BSAI and directed fishing for Greenland turbot/arrowtooth flounder/sablefish by vessels using trawl gear in the BSAI from 0001 hrs., A.l.t., January 1, 2005, until superseded by the final 2005 harvest specifications for BSAI groundfish. NMFS is also prohibiting directed fishing for rockfish outside Zone 1 in the BSAI until 1200 hrs, A.l.t, July 1, 2005.

While these closures are in effect, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679. Areas are defined in § 679.2. In the BSAI, "Other rockfish" includes *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, shortraker, rougheye, and northern rockfish.

Bering Sea Subarea Inshore Pollock Allocations

Section 679.4(1) sets forth procedures for AFA inshore catcher vessel pollock cooperatives to apply for and receive cooperative fishing permits and inshore pollock allocations. Table 4 lists the interim pollock allocations to the seven inshore catcher vessel pollock cooperatives for 2005. Allocations for cooperatives and vessels not participating in cooperatives are not made for the AI subarea because the CAA requires the non-CDQ directed pollock fishery to be fully allocated to the Aleut Corporation.

TABLE 4.—2005 INTERIM BERING SEA SUBAREA INSHORE COOPERATIVE ALLOCATIONS

[Amounts are in metric tons]

Cooperative name and member vessels	Sum of member vessel's official catch histories[1]	Percentage of inshore sector allocation	2005 Interim cooperative allocation
Akutan Catcher Vessel Association	245,922	28.130	72,044
ALDEBARAN, ARCTIC EXPLORER, ARCTURUS, BLUE FOX, CAPE KIWANDA, COLUMBIA, DOMINATOR, EXODUS, FLYING CLOUD, GOLDEN DAWN, GOLDEN PISCES, HAZEL LORRAINE, INTREPID EXPLORER, LESLIE LEE, LISA MELINDA, MAJESTY, MARCY J, MARGARET LYN, MARK I, NORDIC EXPLORER, NORTHERN PATRIOT, NORTHWEST EXPLORER, PACIFIC RAM, PACIFIC VIKING, PEGASUS, PEGGY JO, PERSEVERANCE, PREDATOR, RAVEN, ROYAL AMERICAN, SEEKER, SOVEREIGNTY, TRAVELER, VIKING EXPLORER			
Arctic Enterprise Association			
BRISTOL EXPLORER, OCEAN EXPLORER, PACIFIC EXPLORER	36,807	4.210	10,783
Northern Victor Fleet Cooperative.			
ANITA J, COLLIER BROTHERS, COMMODORE, EXCALIBUR II, GOLDRUSH, HALF MOON BAY, MISS BERDIE, NORDIC FURY, PACIFIC FURY, POSEIDON, ROYAL ATLANTIC, SUNSET BAY, STORM PETREL	73,656	8.425	21,578
Peter Pan Fleet Cooperative.			
AJ, AMBER DAWN, AMERICAN BEAUTY, ELIZABETH F, MORNING STAR, OCEAN LEADER, OCEANIC, PACIFIC CHALLENGER, PROVIDIAN, TOPAZ, WALTER N	23,850	2.728	6,987
Unalaska Cooperative.			
ALASKA ROSE, BERING ROSE, DESTINATION, GREAT PACIFIC, MESSIAH, MORNING STAR, MS AMY, PROGRESS, SEA WOLF, VANGUARD, WESTERN DAWN	106,737	12.209	31,269
UniSea Fleet Cooperative.			
ALSEA, AMERICAN EAGLE, ARGOSY, AURIGA, AURORA, DEFENDER, GUN–MAR, MAR–GUN, NORDIC STAR, PACIFIC MONARCH, SEADAWN, STARFISH, STARLITE, STARWARD	213,521	24.424	62,552
Westward Fleet Cooperative.			
ALASKAN COMMAND, ALYESKA, ARCTIC WIND, CAITLIN ANN, CHELSEA K, DONA MARTITA, FIERCE ALLEGIANCE, HICKORY WIND, OCEAN HOPE 3, PACIFIC KNIGHT, PACIFIC PRINCE, VIKING, WESTWARD I	173,744	19.874	50,899
Open access AFA vessels	0	0	0
Total inshore allocation	874,238	100	256,112

[1]According to regulations at § 679.62(e)(1) the individual catch history for each vessel is equal to the vessel's best 2 of 3 years inshore pollock landings from 1995 through 1997 and includes landings to catcher/processors for vessels that made 500 or more mt of landings to catcher/processors from 1995 through 1997.

In accordance with regulations at § 679.20(a)(5)(i)(A)(3), NMFS must further divide the inshore allocation into separate allocations for cooperative and open access fishing. In addition, according to regulations at § 679.22(a)(7)(vii), NMFS must establish harvest limits inside the Steller Sea Lion Conservation Area (SCA) and provide a set-aside so that catcher vessels less than or equal to 99 ft (30.2 m) LOA have the opportunity to operate entirely within the SCA until April 1. Accordingly, Table 5 lists the interim Bering Sea subarea pollock allocations to the inshore cooperative and open access sectors and establishes a cooperative sector SCA set-aside for AFA catcher vessels less than or equal to 99 ft (30.2 m) LOA. The SCA set-aside for catcher vessels less than or equal to 99 ft (30.2 m) LOA that are not participating in a cooperative will be established inseason based on actual participation levels and is not included in Table 5.

TABLE 5.—2005 INTERIM BERING SEA SUBAREA POLLOCK ALLOCATIONS TO THE COOPERATIVE AND OPEN ACCESS SECTORS OF THE INSHORE POLLOCK FISHERY

[Amounts are in metric tons]

	A season TAC	A season SCA harvest limit[1]
Cooperative sector		
Vessels > 99 ft ...	n/a	153,969
Vessels ≤ 99 ft ...	n/a	25,309
Total	256,112 ...	179,278

TABLE 5.—2005 INTERIM BERING SEA SUBAREA POLLOCK ALLOCATIONS TO THE COOPERATIVE AND OPEN ACCESS SECTORS OF THE INSHORE POLLOCK FISHERY—Continued

[Amounts are in metric tons]

	A season TAC	A season SCA harvest limit[1]
Open access sector.	0	0[2]
Total inshore	256,112 ...	179,278

[1] The Steller sea lion conservation area (SCA) is established at § 679.22(a)(7)(vii).

[2] SCA limitations for vessels less than or equal to 99 ft LOA that are not participating in a cooperative will be established on an inseason basis in accordance with § 679.22(a)(7)(vii)(C)(*2*) which specifies that '''the Regional Administrator will prohibit directed fishing for pollock by vessels greater than 99 ft (30.2 m) LOA, catching pollock for processing by the inshore component before reaching the inshore SCA harvest limit before April 1 to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA until April 1.''

Listed AFA Catcher/Processor Sideboard Limits

The basis for these sideboard limits is described in detail in the final rule implementing major provisions of the AFA (67 FR 79692, December 30, 2002). Table 6 lists the 2005 interim catcher/processor sideboard limits.

All groundfish, other than pollock, that is harvested by listed AFA catcher/processors, whether as targeted catch or as incidental catch, will be deducted from the interim sideboard limits in Table 6. However, groundfish, other than pollock, that is delivered to listed catcher/processors by catcher vessels will not be deducted from the 2005 interim sideboard limits for the listed catcher/processors.

TABLE 6.—2005 INTERIM BSAI LISTED AFA CATCHER/PROCESSOR GROUNDFISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Target species	Area	1995–1997			2005 Interim TAC available to trawl C/Ps	2005 Interim C/P sideboard limit
		Retained catch	Total catch	Ratio of retained catch to total catch		
Pacific cod trawl	BSAI	12,424	48,177	0.258	21,568	5,565
Sablefish trawl	BS	8	497	0.016	257	4
	AI	0	145	0.000	148	0
Atka mackerel	Western AI ...	.....	.....	.....	.....	.....
	A season[1]	n/a	n/a	0.200	8,781	1,756
	HLA limit[2]	.....	.....	.....	5,268	1,054
	Central AI	.....	.....	.....	.....	.....
	A season[1]	n/a	n/a	0.115	13,218	1,520
	HLA limit[2]	.....	.....	.....	7,931	912
Yellowfin sole	BSAI	100,192	435,788	0,230	18,291	4,207
Rock sole	BSAI	6,317	169,362	0.037	8,808	326
Greenland turbot	BS	121	17,305	0.007	574	4
	AI	23	4,987	0.005	170	1
Arrowtooth flounder	BSAI	76	33,987	0.002	2,550	5
Flathead sole	BSAI	1,925	52,755	0.036	4,038	145
Alaska plaice	BSAI	14	9,438	0.001	2,125	2
Other flatfish	BSAI	3,058	52,298	0.058	638	37
Pacific ocean perch	BS	12	4,879	0.002	409	1
	Western AI ...	54	13,598	0.004	989	4
	Central AI	3	5,698	0.001	564	1
	Estern AI	125	6,179	0.020	592	12
Northern rockfish	BSAI	91	13,040	0.007	1,063	7
Shortraker rockfish	BSAI	50	2,811	0.018	112	2
Rougheye rockfish	BSAI	50	2,811	0.018	42	1
Other rockfish	BS	18	621	0.029	98	3
	AI	22	806	0.027	135	4
Squid	BSAI	73	3,328	0.022	271	6
Other species	BSAI	553	68,672	0.008	5,781	46

[1]The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Listed AFA catcher/processors are limited to harvesting no more than zero in the Eastern Aleutian District and Bering Sea subarea, 20 percent of the available TAC in the Western Aleutian District, and 11.5 percent of the available TAC in the Central Aleutian District.

[2]HLA limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (§ 679.2). In 2005, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts. Pacific cod harvest by trawl gear in the Aleutian Islands HLA, west of 178 degrees W. long. is prohibited during the Atka mackerel HLA directed fisheries.

Section 679.64(a)(5) establishes a formula for PSC sideboard limits for listed AFA catcher/processors. These amounts are equivalent to the percentage of PSC amounts taken in the groundfish fisheries other than pollock by the AFA catcher/processors listed in subsection 208(e) and section 209 of the AFA from 1995 through 1997 (see Table 7). These amounts were used to calculate the relative amount of PSC that was caught by pollock catcher/processors. That relative amount of PSC was then used to determine the PSC sideboard limits for listed AFA catcher/processors in the 2005 interim fisheries for groundfish other than pollock.

PSC that is caught by listed AFA catcher/processors participating in any groundfish fishery other than pollock listed in Table 7 will accrue against the interim 2005 PSC sideboard limits for the listed AFA catcher/processors.

Section 679.21(e)(3)(v) authorizes NMFS to close directed fishing for groundfish, other than pollock, for listed AFA catcher/processors once a 2005 interim PSC sideboard limit listed in Table 7 is reached.

Crab or halibut PSC that is caught by listed AFA catcher/processors while fishing for pollock will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/''other species'' fishery categories under regulations at § 679.21(e)(3)(iv).

TABLE 7.—2005 INTERIM BSAI AFA LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS [1]

PSC species	1995—1997			2005 Interim PSC available to trawl C/Ps	2005 Interim C/P sideboard limit
	PSC catch	Total PSC	Ratio of PSC catch to total PSC		
Halibut mortality	955	11,325	0.084	850	71
Red king crab	3,098	473,750	0.007	45,556	319
C. opilio [2]	2,323,731	15,139,178	0.153	1,005,938	153,908
C. bairdi					
Zone 1	385,978	2,750,000	0,140	226,625	31,728
Zone 2	406,860	8,100,000	0.050	686,813	34,341

[1] Halibut mortality amounts are in mt of halibut mortality. Crab amounts are in numbers of animals.
[2] C. opilio Bycatch Limitation Zone. Boundaries are defined at Figure 13 of 50 CFR part 679.

AFA Catcher Vessel Sideboards Limits

Section 679.64(b) establishes a formula for setting AFA catcher vessel groundfish and PSC sideboard limits for the BSAI. The basis for these sideboard limits is described in detail in the final rule implementing major provisions of the AFA (67 FR 79692, December 30, 2002). Tables 8 and 9 list the 2005 interim AFA catcher vessel sideboard limits.

All harvests of groundfish sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or incidental catch, will be deducted from the interim sideboard limits listed in Table 8.

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TABLE 8.–2005 INTERIM BSAI AFA CATCHER VESSEL SIDEBOARDS LIMITS

[Amounts are in metric tons]

Species	Fishery by area/season/ processor/ gear	Ratio of 1995-1997 AFA CV catch to 1995-1997 TAC	2005 Interim TAC	2005 Interim catcher vessel sideboard limit
Pacific cod	BSAI			
	Jig gear	0.0000	1,468	0
	Hook-and-line CV			0
	Jan 1 - Jun 10	0.0006	167	0
	Pot gear CV			0
	Jan 1 - Jun 10	0.0006	8,380	5
	CV < 60 feet LOA using hook-and-line or pot gear	0.0006	1,304	1
	Trawl gear CV			
	Jan 20 - Apr 1	0.8609	30,195	25,995
Sablefish	BS trawl gear	0.0906	257	23
	AI trawl gear	0.0645	148	10
Atka mackerel	Eastern AI/BS			0
	Jig gear	0.0031	96	0
	Other gear			0
	Jan 1 - Apr 15	0.0032	4,729	15
	Central AI			0
	Jan 1 - Apr 15	0.0001	13,218	1
	HLA limit	0.0001	7,931	1
	Western AI			
	Jan 1 - Apr 15	0.0000	8,781	0
	HLA limit	0.0000	5,268	0
Yellowfin sole	BSAI	0.0647	18,291	1,183
Rock sole	BSAI	0.0341	8,808	300
Greenland Turbot	BS	0.0645	574	37
	AI	0.0205	170	3
Arrowtooth flounder	BSAI	0.0690	2,550	176
Alaska plaice	BSAI	0.0441	2,125	94
Other flatfish	BSAI	0.0441	638	28

Species	Fishery by area/season/ processor/ gear	Ratio of 1995-1997 AFA CV catch to 1995-1997 TAC	2005 Interim TAC	2005 Interim catcher vessel sideboard limit
POP	BS	0.1000	409	41
	Eastern AI	0.0077	989	8
	Central AI	0.0025	564	1
	Western AI	0.0000	592	0
Northern rockfish	BSAI	0.0084	1,063	9
Shortraker rockfish	BSAI	0.0037	112	0
Rougheye rockfish	BSAI	0.0037	42	0
Other rockfish	BS	0.0048	98	0
	AI	0.0095	135	1
Squid	BSAI	0.3827	271	104
Other species	BSAI	0.0541	5,781	313
Flathead Sole	BS trawl gear	0.0505	4,038	204

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The AFA catcher vessel PSC limit for halibut and each crab species in the BSAI, for which a trawl bycatch limit has been established, will be a portion of the PSC limit equal to the ratio of aggregate retained groundfish catch by AFA catcher vessels in each PSC target category from 1995 through 1997, relative to the retained catch of all vessels in that fishery from 1995 through 1997. Table 9 lists the 2005 interim PSC sideboard limits for AFA catcher vessels.

Halibut and crab PSC that are caught by AFA catcher vessels participating in fisheries for groundfish, other than pollock, listed in Table 9 will accrue against the 2005 interim PSC sideboard limits for AFA catcher vessels. Sections 679.21(d)(8) and (e)(3)(v) provide authority to close directed fishing for groundfish other than pollock for AFA catcher vessels once an 2005 interim PSC sideboard limit for the BSAI listed in Table 9 is reached. PSC that is caught by AFA catcher vessels, while fishing for pollock in the BSAI, will accrue against either the midwater pollock or the pollock/Atka mackerel/''other species'' fishery categories under regulations at § 679.21(e)(3)(iv).

TABLE 9.—2005 INTERIM BSAI AFA CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS [1]

PSC species	Target fishery category [2]	Ratio of 1995–1997 AFA CV retained catch to total retained catch	2005 Interim PSC limit	2005 Interim AFA catcher vessel PSC sideboard limit
Halibut	Pacific cod trawl	0.6183	359	222
	Pacific cod hook-and-line or pot	0.0022	194	0
	Yellowfin sole	0.1144	222	25
	Rock sole/flat. sole/other flatfish [5]	0.2841	195	55
	Turbot/Arrowtooth/Sablefish	0.2327	0	0
	Rockfish (July 1–December 31)	0.0245	17	0
	Pollock/Atka mackerel/other species	0.0227	58	1
Red King Crab	Pacific cod	0.6183	6,641	4,106
Zone 1 [4]	Yellowfin sole	0.1144	8,461	968
	Rock sole/flat. sole/other flatfish [5]	0.2841	30,353	8,623
	Pollock/Atka mackerel/other species	0.0227	102	2
C. opilio	Pacific cod	0.6183	31,184	19,281
COBLZ [3]	Yellowfin sole	0.1144	694,245	79,422
	Rock sole/flat. sole/other flatfish [5]	0.2841	242,283	68,833
	Pollock/Atka mackerel/other species	0.0227	18,107	411
	Rockfish	0.0245	10,059	246
	Turbot/Arrowtooth/Sablefish	0.2327	10,060	2,341
C. bairdi	Pacific cod	0.6183	45,778	28,305
Zone 1	Yellowfin sole	0.1144	85,211	9,748
	Rock sole/flat. sole/other flatfish [5]	0.2841	91,330	25,947
	Pollock/Atka mackerel/other species	0.0227	4,306	98
C. bairdi	Pacific cod	0.6183	81,044	50,110
Zone 2	Yellowfin sole	0.1144	447,115	51,150
	Rock sole/flat. sole/other flatfish [5]	0.2841	149,039	42,342
	Pollock/Atka mackerel/other species	0.0227	6,868	156

TABLE 9.—2005 INTERIM BSAI AFA CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS [1]—Continued

PSC species	Target fishery category [2]	Ratio of 1995–1997 AFA CV retained catch to total retained catch	2005 Interim PSC limit	2005 Interim AFA catcher vessel PSC sideboard limit
	Rockfish	0.0245	2,747	67

[1] Halibut mortality amounts are in metric tons. Crab amounts are in numbers of animals.
[2] Target fishery categories are defined in regulation at § 679.21(e)(3)(iv).
[3] *C. opilio* Bycatch Limitation Zone. Boundaries are defined at Figure 13 of 50 CFR part 679.
[4] In October 2004, the Council recommended that the red king crab bycatch for trawl fisheries within the Red King Crab Savings Subarea be limited to 35 percent of the total allocation to the rock sole/flathead sole/''other flatfish'' fishery category (§ 679.21(e)(3)(ii)(B)).
[5] ''Other flatfish'' for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder.

AFA Catcher/Processor and Catcher Vessel Sideboard Limit Directed Fishing Closures

The Regional Administrator has determined that many of the interim AFA catcher/processor and catcher vessel sideboard limits listed in Table 10 and 11 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2005 fishing year. In accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the directed fishing allowances for the below species or species groups as zero. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by AFA catcher/processors for the species in the specified areas set out in Table 10 and directed fishing by non-exempt AFA catcher vessels for the species in the specified areas set out in Table 11.

TABLE 10.—2005 INTERIM BSAI AFA LISTED CATCHER/PROCESSOR SIDEBOARD LIMIT DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear types	Incidental catch allowance
Sablefish trawl	BS	Trawl	4
	AI	Trawl	0
Rock sole	BSAI	all	326
Greenland turbot	BS	all	4
	AI	all	1
Arrowtooth flounder	BSAI	all	5
Alaska plaice	BSAI	all	2
Pacific ocean perch	BS	all	1
	Western AI	all	4
	Central AI	all	1
	Eastern AI	all	12
Northern rockfish	BSAI	all	7
Shortraker rockfish	BSAI	all	2
Rougheye rockfish	BSAI	all	1
Other rockfish	BS	all	3
	AI	all	4
Squid	BSAI	all	6
Other species	BSAI	all	46

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

TABLE 11.—2005 INTERIM BSAI AFA CATCHER VESSEL SIDEBOARD LIMIT DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear	Incidental catch allowance
Pacific cod	BSAI	hook-and-line	0
	BSAI	pot	5
	BSAI	jig	0
Sablefish	BS	trawl	23
	AI	trawl	10
Atka mackerel	Eastern AI/BS	jig	0
	Eastern AI/BS	other	15
	Central AI	all	1
	Western AI	all	0
Greenland Turbot	BS	all	37
	AI	all	3
Arrowtooth flounder	BSAI	all	176

TABLE 11.—2005 INTERIM BSAI AFA CATCHER VESSEL SIDEBOARD LIMIT DIRECTED FISHING CLOSURES [1]—Continued

[Amounts are in metric tons]

Species	Area	Gear	Incidental catch allowance
Pacific ocean perch	BS	all	41
	Western AI	all	0
	Central AI	all	1
	Eastern AI	all	8
Northern rockfish	BSAI	all	9
Shortraker rockfish	BSAI	all	0
Rougheye rockfish	BSAI	all	0
Other rockfish	BS	all	0
	AI	all	1
Squid	BSAI	all	104
Other species	BSAI	all	313

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

Classification

This action is authorized under 50 CFR 679.20 and is exempt from review under Executive Order 12866.

Because this action is a final action by NMFS, analyses required under the Magnuson-Stevens Act must be completed and considered by the agency before promulgation of the interim harvest specifications.

Section 679.20(c)(2) requires NMFS to specify harvest specifications to be effective January 1 and to remain in effect until superceded by the final harvest specifications. Without interim harvest specifications in effect on January 1, the groundfish fisheries would not be able to open, resulting in disruption within the fishing industry. NMFS cannot publish interim harvest specifications until proposed harvest specifications are completed because the interim harvest specifications are derived from the proposed harvest specifications, as required by regulations at § 679.20(c)(2).

The proposed harvest specifications are based on the preliminary recommendations of the Plan Team, which were reviewed by the Scientific and Statistical Committee, and Council in October 2004, in projecting 2005 biomass amounts, as identified in the 2003 SAFE Report, for the 2005 proposed ABC, overfishing levels, and TAC amounts. The Plan Team recommendations incorporate the most current data available from a number of sources, including current-year industry catch levels, and current-year trawl and hydro-acoustic surveys. These data are not available in time for Council review prior to the October Council meeting, as the surveys are conducted during the summer months, and industry catch levels reflect current year activity. These updated data sources represent the best available scientific information. These data provide the basis for the proposed and interim harvest specifications.

The proposed harvest specifications, as required by § 679.20(c)(1)(i)(A), must be published as soon as practicable after consultation with the Council, which occurs at the Council's October meeting. Because the interim harvest specifications are derived from the proposed harvest specifications, the proposed harvest specifications publication requirement, along with the requirement of National Standard 2 of the Magnuson-Stevens Act to use the best scientific information available, prevents NMFS from publishing the interim harvest specifications in sufficient time to have a public comment period and to have the interim harvest specifications effective on January 1.

As stated above, disruption to the fishing industry and consequent impacts to fishing communities and to the public would occur if the interim harvest specifications were not effective January 1. Additionally, the public is provided an opportunity to comment on the proposed harvest specifications, from which the interim harvest specifications are derived. For these reasons, good cause exists under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment on this action as such procedures would be impracticable and contrary to the public interest.

Likewise, the Assistant Administrator finds good cause to waive the 30-day delay in effectiveness date of the interim harvest specifications. Section 679.20(c)(2) requires NMFS to establish interim harvest specifications to be effective on January 1 and to remain in effect until superseded by the publication of final harvest specifications by the Office of the Federal Register. NMFS interprets § 679.20(c)(2) as requiring the filing of interim harvest specifications with the Office of the Federal Register before any harvest of groundfish is authorized. The interim harvest specifications are based on the 2005 proposed harvest specifications.

The interim harvest specifications rely on data used to propose the 2005 harvest specifications, and those data are not available until after the summer surveys are conducted (see above). Without interim harvest specifications in effect on January 1, the groundfish fisheries would not be able to open on that date, resulting in disruption to the fishing industry. These reasons constitute good cause pursuant to 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness date.

Because these interim harvest specifications are not required to be issued with prior notice and opportunity for public comment pursuant to 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act do not apply. Consequently, no regulatory flexibility analysis has been prepared for this action.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; 16 U.S.C. 1540(f); Pub. L. 105–277, Title II of Division C; Pub L. 106–31, Sec. 3027; Pub L. 106–554, Sec. 209; and Pub. L. 108–199, Sec. 803.

Dated: December 15, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 04–27735 Filed 12–22–04; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 69, No. 246
Thursday, December 23, 2004

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 945

[Docket No. FV04–945–1]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, OR; Continuance Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among eligible growers of Irish potatoes in certain designated counties in Idaho, and Malheur County, Oregon, to determine whether they favor continuance of the marketing order regulating the handling of Irish potatoes grown in the production area.

DATES: The referendum will be conducted from January 14 through January 31, 2005. To vote in this referendum, growers must have produced Irish potatoes for the fresh market within the designated production area in Idaho or Malheur County, Oregon, during the period August 1, 2003, through July 31, 2004.

ADDRESSES: Copies of the marketing order may be obtained from the office of the referendum agents at 1220 SW. Third Avenue, Suite 385, Portland, Oregon 97204–2807, or the Office of the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW. Third Avenue, Suite 385, Portland, Oregon 97204–2807; telephone (503) 326–2724; fax (503) 326–7440; or Kathy Finn, Acting Rulemaking Team Leader, Marketing Order Administration Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; telephone (202) 720–2491; fax (202) 720–8938.

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Order No. 945 (7 CFR part 945), hereinafter referred to as the ''order,'' and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act,'' it is hereby directed that a referendum be conducted to ascertain whether continuance of the order is favored by the growers. The referendum shall be conducted during the period January 14 through January 31, 2005, among Irish potato growers in the production area. Only growers that were engaged in the production of Irish potatoes for the fresh market in Idaho and Malheur County, Oregon, during the period of August 1, 2003, through July 31, 2004, may participate in the continuance referendum.

USDA has determined that continuance referenda are an effective means for determining whether growers favor continuation of marketing order programs. The Department would consider termination of the order if less than two-thirds of the growers voting in the referendum and growers of less than two-thirds of the volume of Irish potatoes represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, the USDA will not only consider the results of the continuance referendum. The USDA will also consider all other relevant information concerning the operation of the order and the relative benefits and disadvantages to growers, handlers, and consumers in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the ballot materials to be used in the referendum herein ordered have been submitted to and approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0178. It has been estimated that it will take an average of 20 minutes for each of the approximately 1,135 growers of Irish potatoes in Idaho and Malheur County, Oregon, to cast a ballot. Participation is voluntary. Ballots postmarked after January 31, 2005, will not be included in the vote tabulation.

Gary D. Olson and Barry Broadbent of the Northwest Marketing Field Office, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, are hereby designated as the referendum agents of the Department to conduct such referendum. The procedure applicable to the referendum shall be the ''Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended'' (7 CFR part 900.400 *et. seq*).

Ballots will be mailed to all growers of record and may also be obtained from the referendum agents, or from their appointees.

List of Subjects in 7 CFR Part 945

Irish potatoes, Marketing agreements, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 601–674.

Dated: December 17, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–28055 Filed 12–22–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 417

[Docket No. 04–017N]

HACCP Reassessment for Slaughterers of Young Calves

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of proposed rule; request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is publishing this document to inform slaughterers of young calves, including those marketed, slaughtered, and labeled as ''veal,'' of the need for such firms to reassess their Hazard Analysis and Critical Control Point (HACCP) System, including prerequisite programs, with respect to

animal drug residues and the use of unapproved new animal drugs. FSIS is concerned about the widespread, illegal use of drug implants in young calves that was discovered in 2004. The discovery of this illegal use represents a change that would affect the hazard analysis and could alter the HACCP plans, of establishments that slaughter young calves. Therefore, under the HACCP regulations, any establishment that slaughters young calves, including those marketed, slaughtered, and labeled as veal, must, as part of its calendar year 2005 annual reassessment of its HACCP plans, determine whether unapproved new animal drugs are hazards reasonably likely to occur in its process if it has not previously done so. If the reassessment results in a determination that animal drug residues, including unapproved new animal drugs, are food safety hazards reasonably likely to occur, these hazards must be addressed in the establishment's HACCP plan.

FSIS invites comments on the matters presented in this document. The comments will be used by FSIS to inform further policy development on animal drug residues.

DATES: The Agency must receive comments by February 22, 2005.

ADDRESSES: FSIS invites interested persons to submit comments on this notice. Comments may be submitted by any of the following methods:

- Mail, including floppy disks or CD–ROM's, and hand- or courier-delivered items: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 300 12th Street, SW., Room 102, Cotton Annex, Washington, DC, 20250.

All submissions received must include the Agency name and docket number 04–017N.

All comments submitted in response to this notice, as well as research and background information used by FSIS in developing this document, will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday. The comments also will be posted on the Agency's Web site at *http://www.fsis.usda.gov/OPPDE/rdad/FRDockets.htm.*

FOR FURTHER INFORMATION CONTACT: Carole Thomas, Technical Analysis Staff, Office of Policy, Program, and Employee Development, FSIS, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 405, Cotton Annex, Washington, DC, 20250–3700, (202) 205–0210.

SUPPLEMENTARY INFORMATION:

Background

FSIS administers a regulatory program under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) to protect the health and welfare of consumers by preventing the processing and distribution of meat products that are unwholesome, adulterated, or misbranded or otherwise unfit for human food. In pursuit of its goal of reducing the risk of foodborne illness from meat products to the maximum extent possible, FSIS issued final regulations on July 25, 1996, mandating the development and implementation of Pathogen Reduction and Hazard Analysis and Critical Control Point (HACCP) Systems by Federally inspected establishments (61 FR 38806). These regulations require that federally inspected establishments take preventive and corrective measures at each stage of the food production process where food safety hazards occur.

During routine ante-mortem and post-mortem inspections in late March 2004, FSIS inspection program personnel discovered drug implants in animals that were presented for slaughter as veal. For the purpose of this notice, FSIS considers young calves to be bovine food animals, weighing 400 pounds or less (carcass weight, hide-on) with characteristics of immature cattle, and ''veal'' to be young calves with a non-functioning rumen. (FSIS is aware that the Agricultural Marketing Service, USDA, has specific characterizations of what type of animal can be marketed as veal and calf. While FSIS intends to engage in rulemaking to establish a regulatory definition for veal, FSIS believes that it is in the best interest of public health to issue this reassessment notice now.)

Subsequently, FSIS learned that the use of growth promoting implants was a widespread practice within the veal industry. However, the Food and Drug Administration (FDA) has not approved growth promoting implants for use in food animals presented for slaughter as veal and considers their use to be a violation of the Federal Food, Drug, and Cosmetic Act (FFDCA).

On April 2, 2004, FDA made publicly available on its Web site, *http://www.fda.gov/cvm/guidance/guide172.doc,* ''Guidance for Industry—Use of Unapproved Hormone Implants in Veal Calves.'' This document provided guidance on the appropriate disposition of veal calves that had been implanted with unapproved new animal drugs and made clear that such use is illegal.[1] On April 5, 2004, FSIS, in the interest of public health, issued FSIS Notice 23–04, ''FSIS Verification of Veal Calves with Implants.'' This notice informed FSIS inspection program personnel of FDA's determination that the use of growth promoting implants in non-ruminating veal calves is a violation of the FFDCA and advised that veal calves could be passed for food only if they met the criteria specified in the notice.

The criteria set forth in FSIS Notice 23–04 expired on June 6, 2004. Therefore, on June 3, 2004, FSIS issued FSIS Notice 31–04, ''Verification of Implant Usage in Non-Ruminating Calves.'' This notice provides instructions for inspection program personnel to use when they suspect the use of growth promoting implants in non-ruminating veal calves. On July 16, 2004, FDA and FSIS jointly issued a letter to the American Veal Industry, as well as to other trade associations, reiterating that the practice of implanting food animals that are to be marketed as ''veal'' with growth promoting implants is illegal, and that those animals and their parts are subject to not being granted the mark of inspection.[2]

Under the FMIA, the term ''adulterated'' (21 U.S.C. 601(m)) applies to any carcass, part thereof, meat or meat food product if it bears or contains (by reason of administration of any substance to the live animal or otherwise) any added poisonous or added deleterious substance which may make such product unfit for food (*see* 601(m)(2)(A)). An unapproved new animal drug may be considered a deleterious substance. If administered to a live animal, the presence of that substance could render the product in which it is found, that is, the edible tissues of the animal, unfit for human food and thus adulterated.

Under the authority of the FFDCA, FDA determines whether or not new animal drugs proposed for use in food animals by the drug sponsor are safe for use. This determination includes consideration of whether there will be unsafe residues of the drug in the tissues that are used for human food. To ensure that there are not unsafe residues, FDA establishes and codifies tolerance levels for residues of such drugs. If FDA has not received a new

[1] U.S. Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine. April 2, 2004. Guidance for Industry—Use of Unapproved Hormone Implants in Veal Calves.

[2] U.S. Department of Agriculture, Food Safety and Inspection Service; Food and Drug Administration, Center for Veterinary Medicine. July 16, 2004.

drug application from the drug sponsor, and has not established and codified a tolerance level for the drug, the use of such drugs is illegal.

FDA has not evaluated the safety of growth promoting implants in non-ruminating young calves. Therefore, FSIS cannot determine when the edible tissues from animals to whom such substances have been administered are not unfit for human food. If FSIS cannot make this determination, it cannot determine when the edible product from those animals that have been administered the unapproved new animal drug are not adulterated, and thus it cannot apply the mark of inspection to such products.

HACCP Systems

9 CFR 417.2(a) requires establishments to conduct a hazard analysis to determine what food safety hazards are reasonably likely to occur in their process and to identify the preventive measures that the establishment can apply to control those hazards. The hazards may occur before, during, or after entry into the establishment. FSIS has identified drug residues as possible food safety hazards (9 CFR 417.2(a)(3)).

Section 417.2(a)(1) states that a food safety hazard that is reasonably likely to occur is one for which a prudent establishment would establish control measures because it historically has occurred, or because there is a reasonable possibility that it will occur in the particular type of product being processed, in the absence of those controls. Whenever a hazard analysis reveals that one or more hazards are reasonably likely to occur in the production process, the regulations require that the establishment develop and implement a written HACCP plan that includes specific control measures for each hazard so identified (417.2(b)(1) and (c)).

Requirement and Basis for Reassessment

Section 417.4(a)(3) states that every establishment shall reassess the adequacy of its HACCP plan at least annually and whenever any changes occur that could affect the hazard analysis or alter the HACCP plan. The finding that new animal drugs have been knowingly administered, on a widespread basis, to a production class of animals in which their use is not approved, represents information that could alter the hazard analysis, and ultimately the HACCP plan, of any establishment that slaughters animals of that class, in this case young calves, for human food. Therefore, establishments that slaughter young calves, including those young calves marketed, slaughtered, and labeled as ''veal,'' need to consider the hazard presented by the illegal use of animal drugs in the animals they slaughter, and what actions they should take to control it if they determine that it is reasonably likely to occur, as a result of their reassessments.

If reassessment results in a determination by the establishment that a residue of an unapproved new animal drug is a food safety hazard that is reasonably likely to occur, this hazard must be addressed in the establishment's HACCP plan. However, FSIS recognizes that some slaughterers employ measures to ensure that they do not purchase food animals for slaughter with violative animal drug residues. These slaughterers should consider incorporating these measures into their HACCP plans or prerequisite programs.

FSIS Actions To Enforce and Facilitate Compliance With the Reassessment

The Agency intends to instruct inspection program personnel to verify, as part of the Agency's verification of the 2005 hazard analysis reassessment, that establishments that slaughter young calves have considered the hazard of illegal residues. Before performing that verification, inspection program personnel will ensure that all establishments that slaughter young calves are aware that the Agency has issued this notice. They will also ensure that those establishments that have not yet reassessed their HACCP plans, based on the relevant FSIS findings discussed earlier, begin their reassessment. By looking into establishments' reassessment actions before the time that the establishments are required to complete their reassessments, FSIS will ensure that all establishments slaughtering young calves, including establishments that are considered small and very small businesses, and those that may not belong to a trade association, are aware of this notice.

Paperwork Reduction Act

FSIS has reviewed the paperwork and recordkeeping requirements in this notice in accordance with the Paperwork Reduction Act and has determined that the paperwork requirements for the regulations that require establishments that slaughter calves to reassess their HACCP Plans have already been accounted for in the Pathogen Reduction/HACCP Systems information collection approved by the Office of Management Budget (OMB). The OMB approval number for the Pathogen Reduction/HACCP Systems information collection is 0583–0103.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and other types of information that could affect or would be of interest to our constituents and stakeholders. The update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update also is available on the FSIS Web page.

Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

Done at Washington, DC, on December 20, 2004.

Barbara J. Masters,

Acting Administrator.

[FR Doc. 04–28083 Filed 12–22–04; 8:45 am]

BILLING CODE 3410–DM–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R05–OAR–2004–MI–0002; FRL–7849–2]

Approval and Promulgation of Implementation Plans: Michigan: Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is approving a revision to the plan prepared by Michigan that will limit the emissions of oxides of nitrogen (NO_X) from large stationary sources (*i.e.* power plants, industrial boilers and cement kilns). This plan meets all of the requirements contained in an EPA rule that was published in the **Federal Register** on April 16, 2004. This rule, otherwise known as the NO_X SIP Call Phase I provides for NO_X reductions from

sources in 20 States in the eastern half of the country. The effect of this approval is to ensure federal enforceability of the state air program plan and to maintain consistency between the state-adopted plan and the approved State Implementation Plan (SIP).

DATES: Written comments must be received on or before January 24, 2005.

ADDRESSES: Submit comments, identified by Regional Material in EDocket (RME) ID No. R05–OAR–2004–MI–0002 by one of the following methods: Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

Agency Web site: http://docket.epa.gov/rmepub/index.jsp. Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

E-mail: bortzer.jay@epa.gov.

Fax: (312) 886–5824.

Mail: You may send written comments to: J. Elmer Bortzer, Chief, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: J. Elmer Bortzer, Chief, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Regional Material in EDocket (RME) ID No. R05–OAR–2004–MI–0002. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through Regional Material in EDocket (RME), regulations.gov, or e-mail. The EPA Regional Material in EDocket (RME) Web site and the federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the electronic docket are listed in the Regional Material in EDocket (RME) index at *http://www.epa.gov/rmepub/index.jsp.* Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically in RME or in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please telephone Douglas Aburano at (312) 353–6960 before visiting the Region 5 Office.

FOR FURTHER INFORMATION CONTACT: Douglas Aburano, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6960. *aburano.douglas@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information
A. Does this action apply to me?
B. What should I consider as I prepare my comments for EPA?
II. What action is EPA taking today?
III. Where can I find more information about this proposal and the corresponding direct final rule?

I. General Information

A. Does This Action Apply to Me?

This action applies to large stationary sources of NO_X (such as electric generating units that produce electricity for sale, other large boilers that produce steam and/or electricity but do not sell electricity, and cement kilns) in the southern counties (Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Genesee, Gratiot, Hillsdale, Ingham, Ionia, Isabella, Jackson, Kalamazoo, Kent, Lapeer, Lenawee, Livingston, Macomb, Mecosta, Midland, Monroe, Montcalm, Muskegon, Newaygo, Oakland, Oceana, Ottawa, Saginaw, Saint Clair, Saint Joseph, Sanilac, Shiawassee, Tuscola, Van Buren, Washtenaw, Wayne) of Michigan. This action also applies to the unit at DTE Energy's Harbor Beach facility in Huron County.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit Confidential Business Information (CBI) to EPA through Regional Material in EDocket (RME), regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, 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 claimed as CBI. In addition to one complete version of the comment that includes 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. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

II. What Action Is EPA Taking Today?

EPA is proposing to approve the NO_X SIP submitted on April 3, 2003 as modified on May 27, 2004. EPA finds that Michigan's submittals are fully approvable because the initial April 3, 2003 submittal was conditionally approved and the conditions for full approvability were met in the May 27, 2004 submittal. In combination, these two submittals meet the requirements of the Phase I NO_X SIP Call.

We are proposing to approve Michigan's revision of the ozone SIP that responds to EPA's Phase I NO_X SIP Call. This revision consists of Michigan Air Pollution Control Rules 803, 805–810, and 812–817 as submitted on April 3, 2003 and Michigan Air Pollution Control Rules 802, 804 and 811 as submitted May 27, 2004. A combined package of these rules 802–817 as submitted on April 3, 2003 and May 27, 2004 was submitted as a supplement to the May 27, 2004 submittal for ease of incorporation by reference. This supplemental submittal was sent by MDEQ to EPA on August 5, 2004.

By this action, we are also proposing to vacate our April 16, 2004 (69 FR 20548) conditional approval of Michigan's earlier NO_X SIP submittal.

III. Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information, see the Direct Final Rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available electronically at Regional Material in EDocket (RME) or in hard copy at the above address. Please telephone Douglas Aburano at (312) 353–6960 before visiting the Region 5 Office.

Dated: December 3, 2004.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 04–27984 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03–OAR–2004–DC–0008; FRL–7852–7]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; VOC Emission Standards for Mobile Equipment Repair and Refinishing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the District of Columbia establishing regulations for the control of volatile organic compound (VOC) emissions from mobile equipment repair and refinishing operations in the District of Columbia. In the Final Rules section of this **Federal Register**, EPA is approving the District's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by January 24, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03–OAR–2004–DC–0008 by one of the following methods:

A. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. Agency Web site: *http://www.docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: *morris.makeba@epa.gov.*

D. Mail: R03–OAR–2004–DC–0008, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03–OAR–2004–DC–0008. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov Web sites are an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the District of Columbia Department of Public Health, Air

Quality Division, 51 N Street, NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, District of Columbia's Approval of VOC Emission Standards for Mobile Equipment Repair and Refinishing in the Metropolitan Washington, DC ozone nonattainment area, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule, and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: December 14, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 04–28088 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03–OAR–2004–MD–0001; R03–OAR–2004–VA–0005; FRL–7852–8]

Approval and Promulgation of Air Quality Implementation Plans; Maryland and Virginia; Non-Regulatory Voluntary Emission Reduction Program Measures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Maryland and by the Commonwealth of Virginia. These revisions establish a number of non-regulatory measures for which Maryland and Virginia seek SIP credit in rate-of-progress and attainment planning for the Metropolitan Washington DC 1-hour ozone nonattainment area (the Washington area). The intended effect of this action is to propose approval of SIP revisions submitted by Maryland and Virginia which establish certain non-regulatory measures. The non-regulatory measures include use of low-or-no-VOC content paints by certain state and local government agencies, auxiliary power units on locomotives, sale of reformulated consumer products in the Northern Virginia area, accelerated retirement of portable fuel containers by certain state and local government agencies, and renewable energy measures (wind-power purchases by certain local government agencies). This action is being taken under section 110 of the Clean Air Act (CAA or the Act).

DATES: Written comments must be received on or before January 24, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03–OAR–2004–MD–0001 and R03–OAR–2004–VA–0005 by one of the following methods:

A. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. Agency Web site: *http://www.docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: *morris.makeba@epa.gov.*

D. Mail: R03–OAR–2004–MD–0001/R03–OAR–2004–VA–0005, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03–OAR–2004–MD–0001 and/or R03–OAR–2004–VA–0005. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub/,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov websites are an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland, 21230, Baltimore, Maryland 21224 and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Christopher Cripps, (215) 814–2179, or by e-mail at *cripps.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION: On February 19, 2004 and February 25, 2004, respectively, the Maryland Department of the Environment (MDE) and the Virginia Department of Environmental Quality (VA DEQ) both submitted revisions to their SIPs. These SIP revisions included, among other things, amendments to the 1990 base year emissions inventory for the Metropolitan Washington DC 1-hour ozone nonattainment area (the Washington area), a rate-of-progress (ROP) plan for 1999 through 2005, an attainment demonstration, a contingency measure plan, enforceable commitments to conduct a mid-course review, a demonstration that the SIP contains sufficient transportation control measures to offset, as necessary, growth in vehicle miles traveled (VMT), a suite of transportation control measures and a suite of non-regulatory voluntary emission reduction measures.

This proposed rule pertains only to the suite of non-regulatory voluntary measures. The other portions of these SIP revisions are the subjects of will be addressed in separate rulemaking actions.

I. Background

A. What Are Non-Regulatory Voluntary Emission Reduction Program Measures and EPA's Voluntary Emission Reduction Program Measure Policies?

Many areas of the country that are designated as nonattainment are finding it increasingly difficult to find ways to achieve additional emission reductions needed to attain the National Ambient Air Quality Standards (NAAQS). Many areas have already applied reasonably available control technology (RACT) and other controls to stationary sources and are still not attaining the NAAQS. In some cases, areas have chosen to control sources well beyond RACT levels, but still cannot attain the standards. In some cases, areas may need or may choose to implement additional measures more rapidly than can be done by completing the full regulatory adoption process. These areas need to find additional innovative emission reduction approaches. One way to accomplish this is through voluntary emission reduction program measures. Voluntary emission reduction program measures are an alternative to traditional ''command and control'' approaches, and have the potential to encourage new, untried and cost-effective approaches to reduce emissions.

A voluntary emission reduction program measure is an action by a source that will reduce emissions of a criteria pollutant or a precursor to a criteria pollutant that the State could claim as an emission reduction in its SIP for purposes of demonstrating attainment, ROP towards attainment, reasonable further progress (RFP) toward attainment or maintenance of the NAAQS, but that is not directly enforceable against the source. Examples of a voluntary emission reduction program measure could include retail operations agreeing not to sell high emitting VOC products during the ozone season, or programs designed to educate consumers or sources about the effects of their actions on the environment. Under EPA's guidance, voluntary emission reduction program measures can be approved if the State retains enforceable responsibility for the reduction and meets certain other obligations.

EPA has issued guidance and policy for incorporating voluntary emission reduction program measures into SIPs. The first such guidance was a October 27, 1997 memorandum from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, entitled ''Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs),'' which was reissued in section 16.4 ''Guidance on Voluntary Emission Reduction Programs'' of ''Improving Air Quality with Economic Incentive Programs,'' United States Environmental Protection Agency, Office of Air and Radiation, EPA–452/R–01–001, January 2001. The second was a January 19, 2001 Memorandum from John Seitz, Director, Office of Air Quality Planning and Standards entitled ''Incorporating Voluntary Stationary Source Emission Reduction Programs Into State Implementation Plans—Final Policy,'' which was reissued in section 16.4 ''Guidance on Voluntary Emission Reduction Programs'' of ''Improving Air Quality with Economic Incentive Programs,'' United States Environmental Protection Agency, Office of Air and Radiation, EPA–452/R–01–001, January 2001.

Additional policy and guidance was the August 5, 2004 cover memorandum from Brian McLean, Director, Office of Atmospheric Programs, and from Stephen D. Page, Director, Office of Air Quality Planning and Standards, entitled ''Guidance on SIP Credits for Emission Reductions from Electric-sector Energy Efficiency and Renewable Energy Measures'' that issued the August 2004 document ''Guidance on State Implementation Plan (SIP) Credits for Emission Reductions from Electric-sector Energy Efficiency and Renewable Energy Measures.''

Voluntary emission reduction program measures cannot replace existing measures in the SIP and must be surplus to *technology-based requirements* of the Act, which include but which are not necessarily limited to, RACT, BACT, LAER, NSPS or NESHAP limits, or rules such as those for reducing VOC emissions promulgated pursuant to section 183 of the Act, or those assumed in a permit (such as offsets), or those needed to demonstrate conformity with the SIP pursuant to 40 CFR part 93 and section 176 of the Act.

EPA believes the authority for voluntary emission reduction program measures derives from various provisions of the Act including: sections 110 and 172 regarding emission reductions needed to achieve attainment of the NAAQS; section 182 regarding economic incentive provisions; and, in the case of mobile source measures, section 108 regarding transportation control measures (TCMs).

While the policies do not require that reduction actions be enforceable against individual sources, they place clear responsibility on a State to ensure that the emission reductions take place. State responsibility includes a commitment to evaluate the effectiveness of each measure and, in the event the voluntary emission reduction program measures does not achieve the projected emission reductions, to remedy any SIP shortfall by providing enforceable emission reductions from other sources or by showing that the emission reductions are not needed to achieve attainment, maintenance, or RFP/ROP requirements.

B. What Are Voluntary Mobile Source Emission Reduction Programs?

Voluntary emission reduction program measures for mobile sources are measures that complement existing regulatory programs through voluntary, non-regulatory changes in local transportation activities or changes in-use vehicle fleet and engine fleet composition. EPA believes that the Act allows SIP credit for new approaches to reducing mobile source emissions, where supported by enforceable commitments to monitor and assess implementation and backfill any emissions reductions shortfall in a timely fashion. This flexible approach is consistent with section 110 of the CAA. Economic incentive provisions are also available in sections 182 and 108 of the Act. Credits generated through VMEP can be counted toward attainment and maintenance of the NAAQS. Due to the innovative nature of such a program, EPA will allow up to 3 percent of the total future year emissions reductions required to attain the appropriate NAAQS, to be claimed under the VMEP policy.[1]

C. What Are Voluntary Stationary Source Emission Reduction Programs?

The stationary source policy covers what are commonly referred to as ''area'' sources which are too small and/or too numerous to be individually included in a stationary source emissions inventory. This category could include facilities that directly emit applicable

[1] See the October 27, 1997 memorandum from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, entitled ''Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs),'' which was reissued in section 16.4 ''Guidance on Voluntary Emission Reduction Programs'' of ''Improving Air Quality with Economic Incentive Programs,'' United States Environmental Protection Agency, Office of Air and Radiation, EPA–452/R–01–001, January 2001.

criteria pollutants or their precursors, such as very small printers or bakeries. It could also include products sold by wholesale or retail operations that may emit criteria pollutants or their precursors and individual consumers that may use products which emit criteria pollutants or their precursors.

D. What Are Electric-Sector Energy Efficiency and Renewable Energy Measures?

Another category of voluntary emission reduction program measures are those electric-sector energy efficiency and renewable energy projects, initiatives or measures that will result in quantifiable reductions in emissions at existing fossil fuel-fired electric generating units and will improve air quality in a nonattainment area.

Some examples of specific energy efficiency or renewable energy projects could include, but are not necessarily limited to supply-side measures, which include new and innovative initiatives to increase the efficiency or decrease the emissions from electricity generation, such as renewable energy projects like wind powered generation.

E. What Qualifies for SIP Credit?

The basic framework for ensuring SIP credit for voluntary emission reduction program measures is spelled out in the various guidance discussed in previous paragraphs. Generally, to obtain credit for voluntary emission reduction program measures, a State submits a SIP revision that:

(1) Identifies and describes the measure(s);

(2) Contains projections of emission reductions attributable to the program, along with any relevant technical support documentation;

(3) Commits to evaluation and reporting on program implementation and results; and

(4) Commits to the timely remedy of any credit shortfall should the measure(s) not achieve the anticipated emission reductions.

More specifically, the guidance suggests the following key points be considered for approval of credits. The credits should be quantifiable, surplus, enforceable, permanent, and adequately supported. In addition, the measure(s) must be consistent with attainment of the standard and with the ROP requirements and not interfere with other CAA requirements.

II. Summary of SIP Revisions Submitted by Maryland and Virginia

A. What Voluntary Emission Reduction Program Measures Did the States Submit?

The States submitted program descriptions that projected emission reductions attributable to each specific measure. Those estimates are provided in Table 1.

TABLE 1.—LIST OF VOLUNTARY EMISSION REDUCTION PROGRAM MEASURES

Measure	State	VOC reduction (tons/day)	NO_X reduction (tons/day)	Voluntary emission reduction program measures policy
Gas Can (portable fuel containers) Replacement Program.	VA, MD	0.01	0.00	Stationary Source.
Sale of Reformulated Consumer Products	VA	3.00	0.00	Stationary Source.
Low-VOC Paints Program	VA, MD	0.17	0.00	Stationary Source.
Auxiliary Power Units on Locomotives	VA	0.01	0.13	Mobile Sources.
Montgomery County Regional Wind Power Purchase.	MD	0.00	0.05	Renewable Energy.
Arlington County Regional Wind Power Purchase	VA	0.00	0.005	Renewable Energy.
Remote Sensing Device Program	VA	No Credit	No Credit	Mobile Sources.
Alternative Fueled Vehicle (AFV) Purchase Program.	VA	No Credit	No Credit	Mobile Sources.
Diesel Bus Retrofit Program	VA	No Credit	No Credit	Mobile Sources.

A more detailed analysis of all these voluntary emission reduction program measures can be found in the Technical Support Document (TSD) for this proposed action. That TSD is included in both the hard copy and E-docket for this rulemaking. For each voluntary emission reduction program measure for which the States claimed emission reduction credit, the measure was found to be quantifiable. The reductions are surplus by not being substitutes for mandatory, required emission reductions. The commitment to monitor, assess and timely remedy any shortfall from implementation of the measures is enforceable and the State held accountable. The reductions will continue at least for as long as the time period in which they are used by this SIP demonstration, so they are considered permanent. Each measure is adequately supported by personnel and program resources for implementation. The States commit to evaluating each program's measures to validate estimated credits and to remedy any shortfall in a timely manner.

B. What Limitations Apply to the Magnitude of Emissions Reductions That Can Be Attributable to Voluntary Emission Reduction Program Measures?

For a variety of reasons, such as the innovation involved in voluntary emission reduction program measures, inexperience in quantifying them, and the inability to enforce these measures against individual sources, EPA believes that at this time it is appropriate to limit the amount of emission reductions allowed from voluntary emission reduction program measures. Initially, we set an appropriate limit for stationary source voluntary emission reduction program measures and for mobile source voluntary emission reduction program measures each at 3 percent of needed reductions for ROP, RFP, or attainment demonstration purposes. (This is not 3 percent of an area's total emission inventory, but 3 percent of the reductions needed to achieve the air quality goal such as ROP or attainment.)

The amounts of emission reductions claimed from voluntary emission reduction program measures in the Maryland and Virginia SIP revisions are far less than 3 percent of the reduction needs. For these voluntary emission reduction program measures, the States claim no more than 0.2 tons per day (TPD) of NO_X and 3.2 TPD for VOC reductions. To meet the 2002 and 2005 ROP goals, the plan documents needed reductions of over 170 TPD of VOC and over 250 TPD of NO_X. To demonstrate attainment, the plan documents needed

reductions of well over 170 TPD of VOC and over 250 TPD of NO_X. The reductions from voluntary emission reduction program measures represent less than 0.1 percent (0.2/250) of the needed NO_X reductions and less than 2 percent (3.2/170) of the needed VOC reductions.

C. What Action Is EPA Proposing for the Voluntary Emission Reduction Program Measures?

We propose to approve the voluntary emission reduction program measures listed in Table 1 of this document as revisions to the Maryland and Virginia SIPs. All of these measures can be expected to have some beneficial effect on air quality by reducing emissions. Additionally, for those voluntary emission reduction program measures for which the States quantified reductions EPA is proposing to approve emission reduction credit towards ROP and/or the attainment demonstration for the Washington area in the amounts shown in Table 2.

TABLE 2.—EMISSION REDUCTIONS CREDITABLE FROM VOLUNTARY EMISSION REDUCTION PROGRAM MEASURES FOR THE METROPOLITAN WASHINGTON, DC AREA

Measure	State	VOC TPD	NO_X TPD	Implementation date
Gas Can Replacement Program				
Maryland National Capital Parks & Planning Commission, Prince George's County.	MD	0.0027		4/2005
Montgomery County		0.00088		12/2004
Prince George's County		0.00231		1/2004
Maryland totals		0.00589	0.00	
Fairfax County	VA	0.00277		5/2005
City of Fairfax		0.00138		7/2004
City of Fairfax Contractors		0.00060		7/2004
Prince William County		0.0009		5/2005
Arlington County		0.0021		5/2005
Virginia totals	0.005657		0.00	
Total Area-wide Reduction—Gas Can Replacement Program		0.01	0.00	
Sale of Reformulated Consumer Products	VA	3.00	0.00	1/2005
Low-VOC Paints Program				
Prince George's County	MD	0.002		5/2005
Maryland National Capital Parks & Planning Commission, Prince George's County.		0.006		12/2003
MDOT Traffic Marking Coatings		0.149		12/2003
Maryland totals		0.157	0.00	
Virginia totals—Fairfax County	VA	0.017		4/2004
Total Area-wide Reduction—Low-VOC Paints Program		0.174	0.00	
Montgomery County Regional Wind Power Purchase	MD	0.00	0.05	12/2004
Auxiliary Power Units on Locomotives	VA	0.01	0.13	3/2004
Arlington County Regional Wind Power Purchase	VA	0.00	0.005	5/2005

EPA approval of these voluntary emission reduction program measures for which credit is sought will obligate the States to monitor and remedy any shortfalls in reductions in accordance with their commitments to do so.

Under applicable EPA guidance and policy, for those non-regulatory voluntary measures for which States request approval but claim no reduction credits prospectively, the States may subsequently amend their SIPs with revisions documenting any emission reduction credits actually achieved. EPA would evaluate such revisions in accordance with applicable statute and regulations applicable to implementation of the standard for which reduction credit is sought.

For those non-regulatory voluntary measures for which the Commonwealth of Virginia's February 25, 2004 SIP submittal did not quantify or request any emission reductions (*i.e.*, the Remote Sensing Device Program, the Alternative Fueled Vehicle (AFV) Purchase Program, and the Diesel Bus Retrofit Program), EPA is not proposing to approve reduction credit towards the ROP plan and attainment demonstration at this time. However approval of these measures into the Virginia SIP will still obligate the Commonwealth to monitor their effectiveness. The Commonwealth's commitment included a description of how verification that the number of vehicles to be retrofitted or to be purchased were actually retrofitted and purchased. A ''shortfall'' would then be measured not in terms of emission reductions but in terms of vehicles not retrofitted or not purchased, or, may be measured by revising the SIP to quantify the shortfall in terms of emission reductions.

EPA believes approval of these measures will strengthen the SIP even where no credit is sought at this time. Some of these measures may also have other air quality benefits beyond attainment of the 1-hour and 8-hour

ozone NAAQS such as reduction of fine particulate matter. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

III. Proposed Action

A. Maryland

EPA's review of this material indicates that Maryland's February 19, 2004 SIP submittal of non-regulatory voluntary emission reduction program measures for the Washington area meet the applicable requirements of EPA guidance and policy for approval. EPA is proposing to approve the following voluntary emission reduction program measures into the Maryland SIP: Montgomery County Regional Wind Power Purchase, Low-VOC Paints Program and Gas Can Replacement Program. Specifically, EPA is proposing to approve those measures found in section 7.6 entitled ''Voluntary Bundle'' of the document entitled ''Plan to Improve Air Quality in the Washington, DC–MD–VA Region, State Implementation Plan (SIP) 'Severe Area SIP' Demonstrating Rate of Progress for 2002 and 2005; Revision to 1990 Base Year Emissions; and Severe Area Attainment Demonstration for the Washington DC–MD–VA Nonattainment Area'' (dated February 19, 2004) and Appendix J to this plan. This February 19, 2004 document and its Appendix J were submitted to EPA by Maryland on February 19, 2004. EPA is also proposing to credit the Maryland SIP with the emission reductions for these measures shown in Table 2 of this document for the Washington area.

B. Virginia

EPA's review of this material indicates that Virginia's February 25, 2004 SIP submittal of non-regulatory voluntary emission reduction program measures for the Washington area meet the applicable requirements of EPA guidance and policy for approval. EPA is proposing to approve the following voluntary emission reduction program measures into the Virginia SIP: Low-VOC Paints Program, Sale of Reformulated Consumer Products, Gas Can Replacement Program, Remote Sensing Device Program, Arlington County Regional Wind Power Purchase, Auxiliary Power Units on Locomotives, Alternative Fueled Vehicle (AFV) Purchase Program and Diesel Bus Retrofit Program. Specifically, EPA is proposing to approve those measures found in section 7.6 entitled ''Voluntary Bundle'' of the document entitled ''Plan to Improve Air Quality in the Washington, DC–MD–VA Region, State Implementation Plan (SIP) 'Severe Area SIP' Demonstrating Rate of Progress for 2002 and 2005; Revision to 1990 Base Year Emissions; and Severe Area Attainment Demonstration for the Washington DC-MD-VA Nonattainment Area'' (dated February 19, 2004) and Appendix J to this plan. This February 19, 2004 document and its Appendix J were submitted to EPA by Virginia on February 25, 2004. EPA is also proposing to credit the Virginia SIP with the emission reductions shown in Table 2 of this document for the Washington area.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed rule to approve Maryland and Virginia voluntary emission reduction program measures does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 14, 2004.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 04–28090 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2003–0023; FRL–7852–4]

RIN 2060–AK49

National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule, amendments.

SUMMARY: This action proposes to amend the National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks. The standards are commonly known as the Hazardous Organic NESHAP or the HON. This action proposes to amend the HON to allow vapor balancing in conjunction with the use of a pressure setting to comply with the storage tank control requirements of the standards.

In the Rules and Regulations section of this **Federal Register**, we are taking direct final action on the proposed amendments because we view the amendments as noncontroversial, and we anticipate no adverse comments. We have explained our reasons for the proposed amendments in the preamble to the direct final rule. If we receive no adverse comments, we will take no further action on the proposed rule. If we receive any timely adverse comments, we will publish a notice withdrawing the direct final rule. All such comments will be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period on that subsequent final rule. Any parties interested in commenting must do so at this time.

DATES: *Comments.* Written comments must be received by January 24, 2005, unless a public hearing is requested by January 3, 2005. If a public hearing is requested, written comments must be received by February 7, 2005.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing, a public hearing will be held on January 6, 2005.

ADDRESSES: Submit your comments, identified by Docket ID No. OAR–2003–0023, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Agency Web site: http://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- *E-mail: air-and-r-docket@epa.gov.*
- *Fax:* (202) 566–1741.
- *Mail:* EPA Docket Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Please include a duplicate copy, if possible.
- *Hand Delivery:* Air and Radiation Docket, Environmental Protection Agency, 1301 Constitution Avenue, NW, Room B–108, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

We request that a separate copy also be sent to the contact person listed below (*see* **FOR FURTHER INFORMATION CONTACT**).

Instructions: Direct your comments to Docket ID No. OAR–2003–0023. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the federal regulations.gov Web sites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102).

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The 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 Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Public Hearing. If a public hearing is held, it will be held at 10 a.m. at the EPA's Environmental Research Center Auditorium, Research Triangle Park, North Carolina or at an alternate site nearby.

FOR FURTHER INFORMATION CONTACT: Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (Mail Code C504–04), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5402, electronic mail address *mcdonald.randy@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* The regulated category and entities affected by this action include:

Category	NAICS code	Examples of regulated entities
Industrial	325	Chemical manufacturing facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the revisions to the regulation affected by this action. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine all of the applicability criteria in (40 CFR 63.100). If you have questions regarding the applicability of the amendments to a particular entity, consult the person

listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

What Should I Consider as I Prepare My Comments for EPA?

Submitting CBI. Do not submit this information to EPA through EDOCKET, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, 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 claimed as CBI). In addition to one complete version of the comment that includes 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. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (Mail Code C504–04), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5402, electronic mail address *mcdonald.randy@epa.gov.,* at least 2 days in advance of the potential date of the public hearing. Persons interested in attending the public hearing must also call Mr. Randy McDonald to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposal will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted on the TTN's policy and guidance page for newly proposed rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Direct Final Rule. A direct final rule identical to the proposal is published in the Rules and Regulations section of this **Federal Register**. If we receive any adverse comment pertaining to the amendment in the proposal, we will publish a timely notice in the **Federal Register** informing the public that the amendments are being withdrawn due to adverse comment. We will address all public comments concerning the withdrawn amendments in a subsequent final rule. If no relevant adverse comments are received, no further action will be taken on the proposal, and the direct final rule will become effective as provided in that action.

The regulatory text for the proposal is identical to that for the direct final rule published in the Rules and Regulations section of this **Federal Register**. For further supplemental information, the detailed rationale for the proposal, and the regulatory revisions, see the information provided in the direct final rule published in a separate part of this **Federal Register**.

Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the proposed rule amendments are not a ''significant regulatory action'' under the terms of Executive Order 12866 and are, therefore, not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action gives a source owner or operator the option of using vapor balancing to comply with the standards. Since it is only an option, this action will not increase the information collection burden. However, the OMB has previously approved the information collection requirements contained in the existing regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060–0282 (EPA ICR No. 1414.04).

A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U.S. EPA (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460, or by calling (202) 566–1672. Include the ICR or OMB number in any correspondence.

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.

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.

C. Regulatory Flexibility Analysis

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the proposed rule.

For purposes of assessing the impacts of today's proposed amendments on small entities, a small entity is defined as: (1) A small business in the North American Industrial Classification System (NAICS) code 325 that has up to 500 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed amendments on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a proposed rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact, since the primary purpose of the regulatory flexibility analysis is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities (5 U.S.C. sections 603 and 604).'' Thus, any agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden or otherwise has a positive economic effect on all of the small entities subject to the rule. The proposed amendments add a compliance option granting greater flexibility to small entities subject to the HON that may result in a more efficient use of resources for them and, therefore, impose no additional regulatory costs or requirements on owners or operators of affected sources.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least-costly, most cost effective, or least-burdensome alternative if the Administrator publishes with the rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the proposed rule amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The proposed rule amendments provide a source owner or operator with another option to comply with the standards. Therefore, the proposed rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires the 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.''

The proposed rule amendments do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The proposed rule amendments provide a source owner or operator with another option to comply with the standards and, therefore, impose no additional burden on sources. Thus, Executive Order 13132 does not apply to the proposed rule amendments.

In the spirit of Executive Order 13132 and consistent with EPA policy to promote communications between the EPA and State and local governments, the EPA specifically solicits comment on the proposed rule amendments from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) requires the EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The proposed rule amendments do not have tribal implications, as specified in Executive Order 13175. The proposed rule amendments provide a source owner or operator with another option to comply with the standards and, therefore, impose no additional burden on sources. Thus, Executive Order 13175 does not apply to the proposed rule amendments.

The EPA specifically solicits additional comment on the proposed rule amendments from tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the EPA.

The EPA interprets Executive Order 13045 as applying only to those

regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. Today's proposed rule amendments are not subject to Executive Order 13045 because they are based on technology performance, not health or safety risks. Furthermore, the proposed rule amendments have been determined not to be ''economically significant'' as defined under Executive Order 12866.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

The proposed rule amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

No new standard requirements are cited in the proposed rule amendments. Therefore, the EPA is not proposing or adopting any voluntary consensus standards in the proposed rule amendments.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 16, 2004.

Michael O. Leavitt,

Administrator.

[FR Doc. 04–27991 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL–7854–3]

Notice of a Public Meeting To Discuss Research Related to the Stage 2 Disinfectants and Disinfection Byproducts Rule

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of a public meeting.

SUMMARY: The Environmental Protection Agency (EPA) is holding a public meeting to discuss recent research related to the proposed Stage 2 Disinfectants and Disinfection Byproducts Rule (DBPR).

DATES: The public meeting will be held from 9 a.m. to 4 p.m., Eastern time, on Tuesday, January 18, 2005.

ADDRESSES: The meeting will be held on the first floor of the East Building of EPA Headquarters in Room 1153. The address is EPA East, 1201 Constitution Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For general information about this meeting, contact Sarah Bahrman by phone at (202) 564–2335, by e-mail at *bahrman.sarah@epa.gov,* or by mail at: U.S. Environmental Protection Agency, Mail Code 4607M, 1200 Pennsylvania Ave., NW., Washington, DC 20460. For technical inquiries regarding the Stage 2 Disinfectants and Disinfection Byproducts Rule, contact Tom Grubbs at (202) 564–5262, or by e-mail: *grubbs.thomas@epa.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the public meeting is to discuss recent research related to the Stage 2 DBPR. EPA proposed the Stage 2 DBPR on August 18, 2003 (68 FR 49547) and is currently working on the final rule. The proposed Stage 2 DBPR was developed based on recommendations from a Federal Advisory Committee, which consisted of a broad range of stakeholders. EPA will build on this collaborative process by way of this public meeting.

Research areas and examples of recent studies that the Agency plans to discuss at the meeting are listed at the end of this notice. This is not a comprehensive list of all recent disinfection byproduct research. A longer list of recent research can be found on the Agency's Web site at *http://www.epa.gov/safewater/stage2/index.html.* All copyrighted studies are available only in hard copy form and are accessible at the Water Docket in the EPA Docket Center, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The 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 Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

Attendees will have an opportunity to make oral remarks at specific points during the meeting. EPA also welcomes written remarks received by February 17, 2005, which can be sent to Sarah Bahrman by e-mail or by mail at the address listed in the previous section.

The main entrance to the building on Constitution Avenue is a short distance from the Federal Triangle Metro Station, which is located on 12th Street between Constitution and Pennsylvania Avenues and is served by the Blue and Orange Lines. Please note that attendees will be required to pass through security checks at the front desk and obtain a visitor's badge. All attendees will need to present a photo I.D. The building is accessible to persons using wheelchairs or scooters. Any person needing special accommodations at this meeting, including wheelchair access, should contact Sarah Bahrman (contact information provided in the previous section) at least five business days before the meeting so that the Agency can make appropriate arrangements.

Examples of Recent Research

Reproductive and Developmental Epidemiology

Cedergren, M.I., A.J. Selbing, O. Lofman, *et al.* 2002. Chlorination byproducts and nitrate in drinking water and risk for congenital cardiac defects. Environmental Research. 89(2): 124–130

Dodds, L., W. King, A.C. Allen, B.A. Armson, D.B. Deshayne and C. Nimrod. 2004. Trihalomethanes in public water supplies and risk of stillbirth. Epidemiology. 15(2):179–186

Fenster L., K. Waller, G. Windham, T. Henneman, M. Anderson, P. Mendola, J.W. Overstreet and S.H. Swan. 2003. Trihalomethane levels in home tap water and semen quality. Epidemiology. 14:650–658

Hwang B.F. and J.J.K. Jaakkola. 2003. Water chlorination and birth defects: A systematic review and meta-analysis. Archives of Environmental Health. 58(2):83–91

Infante-Rivard, C. 2004. Drinking water contaminants, gene polymorphisms, and fetal growth. Environmental Health Perspectives. 112(11):1213–1216

Shaw, G.M., D. Ranatunga, T. Quach, E. Neri, A. Correa and R.R. Neutra. 2003. Trihalomethane exposure from municipal water supplies and selected congenital malformations. Epidemiology. 14(2):191–199

Toledano, M.B., M.J. Nieuwenhuijsen, N. Best, H. Whitaker, P. Hambly, C. de Hoogh, J. Fawell, L. Jarup and P. Elliott. 2004. Relation of trihalomethane concentrations in public water supplies to stillbirth and birth weight in three water regions in England. Environmental Health Perspectives. In Press (Online 21 October 2004)

Wright J.M., J. Schwartz and D.W. Dockery. 2003. Effect of trihalomethane exposure on fetal development. Occup. Environ. Med. Mar;60(3):173–80

Wright, J.M., J. Schwartz and D.W. Dockery. 2004. The effect of disinfection by-products and mutagenic activity on birth weight and gestational duration. Environmental Health Perspectives. 112(8):920–925

Yang, C.–Y. 2004. Drinking water chlorination and adverse birth outcomes in Taiwan. Toxicology. 198(2004): 249–254

Reproductive and Developmental Toxicology

Bielmeier, S.R., D.S. Best and M.G. Narotsky. 2004. Serum hormone characterization and exogenous hormone rescue of bromodichloromethane-induced pregnancy loss in the F344 rat. Toxicol. Sci. 77(1):101–108

Bodensteiner K.J., H.R. Sawyer, C.L. Moeller, C.M. Kane, K.-Y.F. Pau, G.R. Klinefelter and D.N.R. Veeramachaneni. 2004. Chronic exposure to dibromoacetic acid, a water disinfection byproduct, diminishes primordial follicle populations in the rabbit. Toxicological Sciences. 80(1):83–91

Goldman, J.M. and A.S. Murr. 2003. Dibromoacetic acid-induced elevations in circulating estradiol: effects in both cycling and ovariectomized/steroid-primed female rats. Reproductive Toxicology. 17(5):585–592

Klinefelter, G.R., L.F. Strader, J.D. Suarez, N.L. Roberts, J.M. Goldman and A.S. Murr. 2004. Continuous exposure to dibromoacetic acid delays pubertal development and compromises sperm quality in the rat. Toxicological Sciences. 81(2):419–429

Klinefelter, G.R., L.F. Strader, J.D. Suarez and N.L. Roberts. 2002. Bromochloroacetic acid exerts qualitative effects on rat sperm: implications for a novel biomarker. Toxicological Sciences. 68:164–173

Tully, D.B., J.C. Luft, J.C. Rockett, H. Ren, J.E. Schmid, C.R. Wood and D.J. Dix. 2004. Reproductive and genomic effects in testes from mice exposed to the water disinfectant byproduct bromochloroacetic acid. Reproductive Toxicology. In Press (Online 2 September 2004)

Health Effects Reviews

Graves, C.G., G.M. Matanoski and R.G. Tardiff. 2001. Weight of evidence for an association between adverse reproductive and developmental effects and exposure to disinfection by-products: a critical review. Regulatory Toxicology and Pharmacology. 34:103–124

Cancer Epidemiology

Chevrier, C., B. Junod and S. Cordier. 2004. Does ozonation of drinking water reduce the risk of bladder cancer? Epidemiology. 15(5):605–614

Goebell, P.J., C.M. Villanueva, A.W. Rettenmeier, et al. 2004. Environmental exposure, chlorinated drinking water, and bladder cancer. World Journal of Urology. 21(6):424–432

Ranmuthugala, G., L. Pilotto, W. Smith, T. Vimalasiri, K. Dear and R. Douglas. 2003. Chlorinated drinking water and micronuclei in urinary bladder epithelial cells. Epidemiology. 14(5):617–622

Villanueva, C., M. Kogevinas and J. Grimalt. 2001. Chlorination of drinking water in Spain and bladder cancer. Gac Sanit. 15(1):48–53

Villanueva, C.M., K.P. Cantor, S. Cordier, J.J.K. Jaakkola, W.D. King, C.F. Lynch, S. Porru and M. Kogevinas. 2004. Disinfection byproducts and bladder cancer a pooled analysis. Epidemiology. 15(3):357–367

Cancer and Other Toxicology

Echigo, S., S. Itoh, T. Natsui, T. Araki and R. Ando. 2004. Contribution of brominated organic disinfection by-products to the mutagenicity of drinking water. Water Sci Technol. 50(5):321–8

George, M.H., G.R. Olson, D. Doerfler, et al. 2002. Carcinogenicity of bromodichloromethane administered in drinking water to male F344/N rats and B6C3F(1) mice. International Journal of Toxicology. 21(3):219–230

Geter, D.R., M.H. George, T.M. Moore, et al. 2004. Vehicle and mode of administration effects on the induction of aberrant crypt foci in the colons of male F344/N rats exposed to bromodichloromethane. Journal of Toxicology and Environmental Health—Part A. 67(1):23–29

Hooth, M.J., K.S. McDorman, S.D. Hester, M.H. George, L.R. Brooks, A.E. Swank and D.C. Wolf. 2002. The carcinogenic response of Tsc2 mutant Long-Evans (Eker) rats to a mixture of drinking water disinfection by-products was less than additive. Toxicol Sci. 69(2):322–31

McDorman, K.S., M.J. Hooth, T.B. Starr and D.C. Wolf. 2003. Analysis of preneoplastic and neoplastic renal lesions in Tsc2 mutant Long-Evans (Eker) rats following exposure to a mixture of drinking water disinfection byproducts. Toxicology. 187(1):1–12

McDorman, K.S., S. Chandra, M.J. Hooth, S.D. Hester, R. Schoonhoven and D.C. Wolf. 2003. Induction of transitional cell hyperplasia in the urinary bladder and aberrant crypt foci in the colon of rats treated with individual and a mixture of drinking water disinfection by-products. Toxicol Pathol. 31(2):235–242

Minear, R.A. and M.J. Plewa. 2003. Comparative genotoxicity assessment of DBPs in drinking water. Denver, Colo.: AwwaRF

Moser, V.C., P.M. Phillips, A.B. Levine, K.L. McDaniel, R.C. Sills, B.S. Jortner and M.T. Butt. 2004. Neurotoxicity produced by dibromoacetic acid in drinking water of rats. Toxicological Sciences. 79(1):112–122

Pereira, M.A., W. Wang, P.M. Kramer and L. Tao. 2004. Prevention by Methionine of Dichloroacetic Acid Induced Liver Cancer and DNA Hypomethylation in Mice. Toxicological Sciences. 77(2):243–248

Pereira, M.A., P.M. Kramer, P.B. Conran and L.H. Tao. 2001. Effect of chloroform on dichloroacetic acid and trichloroacetic acid-induced hypomethylation and expression of the c-myc gene and on their promotion of liver and kidney tumors in mice. Carcinogenesis. 22(9):1511–1519

Plewa, M.J., E.D. Wagner, S.D. Richardson, A.D. Thruston Jr., Y.-T. Woo and A.B. McKague. 2004. Chemical and biological characterization of newly discovered iodo-acid drinking water disinfection by-products. Environmental Science & Technology. 38(18): 4713–4722

Plewa, M.J., S.D. Richardson and P. Jazwierska. 2004. Halonitromethane drinking water disinfection byproducts: chemical characterization and mammailian cell cytotoxicity and genotoxicity. Environmental Science & Technology. 38(1): 62–68

Poon, R., I. Chu, G. LeBel, A. Yagminas and V.E. Valli. 2003. Effects of dibromoacetonitrile on rats following

13-week drinking water exposure. Food Chem Toxicol. 41(8):1051–61

Sehata, S., T. Maejima, M. Watanabe, S. Ogata, T. Makino, K. Tanaka, S. Manabe and M. Takaoka. 2002. Twenty-six-Week carcinogenicity study of chloroform in CB6F1 rasH2-transgenic mice. Toxicol Pathol. 30(3):328–38

Torti, V.R., A.J. Cobb, V.A. Wong, et al. 2002. Induction of micronuclei in wild-type and p53(+/-) transgenic mice by inhaled bromodichloromethane. Mutation Research-Genetic Toxicology and Environmental Mutagenesis. 520(1–2):171–178

Cessation Lag

Brennan, P., O. Bogillot, S. Cordier, E. Greiser, W. Schill, P. Vineis, G. Lopez-Abente, A. Tzonou, J. Chang-Claude, U. Bolm-Audorff, K.H. Jockel, F. Donato, C. Serra, J. Wahrendorf, M. Hours, A. T'Mannetje, M. Kogevinas and P. Boffetta. 2000. Cigarette smoking and bladder cancer in men: a pooled analysis of 11 case-control studies. International Journal of Cancer. 86(2):289–294

Brennan, P., O. Bogillot, E. Greiser, J. Chang-Claude, J. Wahrendorf, S. Cordier, K.H. Jockel, G. Lopez-Abente, A. Tzonou, P. Vineis, F. Donato, M. Hours, C. Serra, U. Bolm-Audorff, W. Schill, M. Kogevinas and P. Boffetta. 2001. The contribution of cigarette smoking to bladder cancer in women (pooled European data). Cancer Causes and Controls. 12(5):411–417

Hartge, P., D. Silverman, R. Hoove, C. Schairer, R. Altman, D. Austin, K. Cantor, M. Child, C. Key and L.D. Marrett. 1987. Changing cigarette habits and bladder cancer risk: a case-control study. J Natl Cancer Inst. 78(6):1119–1125

Zeegers, M.P., R.A. Goldbohm and P.A. van den Brandt. 2002. A prospective study on active and environmental tobacco smoking and bladder cancer risk (The Netherlands). Cancer Causes Control. 13(1):83–90

Exposure Routes

Miles, A.M., P.C. Singer, D.L. Ashley, M.C. Lynberg, P. Mendola, P.H. Langlois and J.R. Nuckols. 2002. Comparison of Trihalomethanes in Tap Water and Blood. Environ. Sci. Technology. 36(8):1692–1698

Formation of Disinfection Byproducts and Occurrence Studies

Bichsel, Y. and D. von Gunten. 2000. Formation of iodo-trihalomethanes during disinfection and oxidation of iodide-containing waters. Environ. Sci. Technol. 34:2784–2791

Cancho, B., F. Ventura, M. Galceran, A. Diaz and S. Ricart. 2000. Determination, synthesis and survey of iodinated trihalomethanes in water treatment processes. Wat. Res. 34(13):3380–3390

Chellam, S. and S.W. Krasner. 2001. Disinfection byproduct relationships and speciation in chlorinated nanofiltered waters. Environmental Science & Technology. 35(19):3988–3999

Choi, J. and R.L. Valentine. 2002. A kinetic model of N-nitrosodimethylamine (NDMA) formation during water chlorination/chloramination. Journal of Water Science and Technology. 46(3):65–71

Choi, J. and R.L. Valentine. 2002. Formation of N-nitrosodimethylamine (NDMA) from reaction of monochloramine: a new disinfection by-product. Water Research. 36(4):817–824

Choi, J., S.E. Duirk and R.L. Valentine. 2002. Mechanistic studies of N-nitrosodimethylamine (NDMA) formation in chlorinated drinking water. Journal of Environmental Monitoring. 4(2):249–252

Choi, J. and R.L. Valentine. 2003. N-nitrosodimethylamine formation by free-chlorine-enhanced nitrosation of dimethylamine. Environmental Science & Technology. 37(21):4871–4876

Gerecke, A.C. and D.L. Sedlak. 2003. Precursors of N-nitrosodimethylamine in natural waters. Environ. Sci. Technol. 37(7):1331–1336

Mitch, W.A. and D.L. Sedlak. 2002. Formation of N-nitrosodimethylamine (NDMA) from dimethylamine during chlorination. Environmental Science & Technology. 36(4):588–595

Richardson, S.D., A.D. Thruston, Jr., C. Rav-Acha, L. Groisman, I. Popilevsky, O. Juraev, V. Glezer, A.B. McKague, M.J. Plewa and E.D. Wagner. 2003. Tribrompyrrole, brominated acids, and other disinfection byproducs produced by disinfection of drinking water rich in bromide. Environmental Science & Technology. 37(17):3782–3793

Singer, P.C., H.S. Weinberg, K. Brophy, L. Liang, M. Roberts, I. Grisstede, S. Krasner, H. Baribeau, H. Arora, and I. Najm. 2002. Relative dominance of haloacetic acids and trihalomethanes in treated drinking water. Denver, Colo.: AwwaRF

Speitel, G.E., P.G. Pope, M.R. Collins, and M. Martin-Doole. Disinfection by-product formation and control during chloramination. Denver, Colo.: AwwaRF

Von Gunten, U. 2003. Ozonation of drinkingwater: Part II. Disinfection and by-product formation in presence of bromide, iodide or chlorine. Water Research. 37:1469–1487

Weinberg, H.S., S.W. Krasner, S.D. Richardson and A.D. Thruston, Jr. 2002. The Occurrence of Disinfection By-Products (DBPs) of Health Concern in Drinking Water: Results of a Nationwide DBP Occurrence Study, U.S. Environmental Protection Agency, National Exposure Research Laboratory, Athens, GA. EPA/600/R–02/068. *http://www.epa.gov/athens/publications/ EPA600R02068.pdf*

Westerhoff, P. and H. Mash. 2002. Dissolved organic nitrogen in drinking water supplies: a review. Journal of Water Supply Research and Technology-Aqua. 51(8):415–448

Dated: December 17, 2004.

Clare Donaher,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 04–28094 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 69, No. 246
Thursday, December 23, 2004

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

Agricultural Research Service

Government Owned Inventions Available for Licensing

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of government owned inventions available for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government as represented by the Department of Agriculture, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to June Blalock, Technology Licensing Program Coordinator, USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1174, Beltsville, Maryland 20705–5131; telephone: 301–504–5989 or fax: 301–504–5060. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

S.N. 09/701,868, ''Genes Coding for Tomato B-Galactosidase Polypeptides''
S.N. 09/748,036, ''Urea And Nitrogen Based Compounds As Feeding Stimulants/Aggregants And Masking Agents Of Unpalatable Chemicals For Subterranean Termites''
S.N. 09/751,397, ''Waxy Wheat Products And Processes For Producing Same''
S.N. 09/752,704, ''Method And Compositions For Attracting Mosquitoes''
S.N 09/757,686, ''Method For Produce Sanitation Using Bacteriophages''
S.N. 09/819,387, ''Compositions And Methods For Reducing Rna Virus Pathogenicity''
S.N. 09/826,146, ''Utilization Of Invertebrate Learning For Flexible And Sensitive Monitoring And Identification Of Chemicals''
S.N. 09/828,634, ''Composites Comprising Plant Material From Parthenium Spp. And Plastic''
S.N. 09/832,211, ''Method Of Detaching Microorganisms From, Or Of Inhibiting Microbial Attachment To, Animal Or Poultry Carcasses Or Seafood Or Parts Thereof''
S.N. 09/838,382, ''Production Of An Immunovariant Strain Of Eimeria Maxima Contributes To Strain Cross-Protection With Other Eimeria Maximas''
S.N. 09/907,818, ''Pcr Methods For The Identification, Detection, And Discrimination Of The Soybean Rust Pathogens''
S.N. 09/912,448, ''Synergistic Combinations Of Natural Compounds That Control Decay Of Fruits And Vegetables And Reduce Contamination By Foodborne Human Pathogens''
S.N. 09/915,840, ''Piggybac Transformation System''
S.N. 09/989,889, ''Flexible And Absorbent Alginate Wound Dressing''
S.N. 10/013,456, ''Epitope Tagging Of Recombinant Fusion Proteins For Assay Of Protein Expression In Transgenic Plants''
S.N. 10/020,505, ''Rabbiteye Blueberry Named '' 'Alapaha' ''
S.N. 10/078,001, ''Mass Uniformity/Drafting Load Analyzer''
S.N. 10/078,628, ''Method Of Weed Control''
S.N. 10/101,840, ''Piggybac Transformation System''
S.N. 10/101,943, ''Water-In-Oil Emulsion Vaccines''
S.N. 10/127,603, ''Methods And Compositions For Controlling Coleopteran Infestations''
S.N. 10/128,463, ''Foot And Mouth Disease Virus Vaccine''
S.N. 10/135,503, ''Sensor Output Analog Processing-A Microcontroller-Based Insect Monitoring System''
S.N. 10/137,113, ''Mycobacterial Diagnostics''
S.N. 10/140,817, ''Biological Control Of Postharvest Decay Of Fruit Using Strains Of Metschnikowia Species''
S.N. 10/145,787, ''Insect Trap''
S.N. 10/148,351, ''Resistance Genes''
S.N. 10/160,948, ''Genetic Markers For Improved Disease Resistance In Animals (Nramp1)''
S.N. 10/161,588, ''Detection Of Infectious Haematopoietic Necrosis Virus''
S.N. 10/161,968, ''Genetic Markers For Improved Disease Resistance In Animals (Bpi)''
S.N. 10/189,251, ''Vaccine For The Prevention Of Bacterial Infection Of The Bovine Mammary Gland''
S.N. 10/192,762, ''Animal Feed Compositions And Methods For Using The Same''
S.N. 10/205,871, ''Degradation Of Cercosporin By Laccase''
S.N. 10/225,419, ''Extraction And Concentration Method''
S.N. 10/227,727, ''Use Of Plant-Derived Oils For Reduction Of Odor Gases From Waste''
S.N. 10/235,132, ''Modified Alternan''
S.N. 10/245,072, ''Attractant Phereomone For The Colorado Potato Beetle''
S.N. 10/245,698, ''A Genetically Distinct Strain Of Channel Catfish, Designated Nwac103, With Improved Growth Performance''
S.N. 10/247,739, ''Device For Extending Duration Of Volatile Liquid Lures''
S.N. 10/251,107, ''Vaccine Compositions And Adjuvant''
S.N. 10/262,937, ''Epoxidation Of Carbon-Carbon Double Bond With Membrane Bound Peroxygenase''
S.N. 10/319,986, ''Use Of 2–Nitropropanol, 2–Nitroethane And 2–Nitroethanol For Control Of Microbial Pathogens''
S.N. 10/324,034, ''Expression Of Antimicrobial Peptides In Yeast''
S.N. 10/331,861, ''Selection Procedure For Identifying Transgenic Cells, Embryos, And Plants Without The Use Of Antibiotics''
S.N. 10/350,591, ''Microorganism For Biological Abatement Of Inhibitors In Toxic Fermentation Substrates''
S.N. 10/359,674, ''Insect Trap''
S.N. 10/366,115, ''Diamond Row Pattern Planter''
S.N. 10/404,409, ''In-Situ Production Of Fatty Acid Alkyl Esters''
S.N. 10/407,668, ''Prebiotic Oligosaccharides Via Alternansucrase Acceptor Reactions''
S.N. 10/417,747, ''Baiting System For Suppressing Populations Of Insects

Such As Mediterranean And Carribean Fruit Flies (Diptera: Tephritidae)''
S.N. 10/427,500, ''Apparatus And Method To Treat Materials For Pest Control And Storage''
S.N. 10/455,439, ''Pcr Primers And Probes For The Detection Of Xylella Fastidiosa''
S.N. 10/462,882, ''Novel Sunscreen Reagents From Hydroxy Substituted Acylglycerides''
S.N. 10/463,491, ''Novel Sunscreen Reagents From Unsaturated Waxes And Triglycerides''
S.N. 10/600,360, ''Organophosphate Insecticide Synergists For Fly And Tick Control''
S.N. 10/629,668, ''The Green Peach Aphid Densovirus And Methods Of Its Use As A Biological Control''
S.N. 10/637,922, ''Attractants For Moths''
S.N. 10/657,300, ''Cellulose/Clay Nanocomposites''
S.N. 10/659,509, ''Mimetic Insect Allatostatin Analogs For Insect Control''
S.N. 10/662,914, ''Improving Aspergillus Niger Phya Phytase By Protein Engineering''
S.N. 10/670,575, ''High Efficiency Electrostatic Air Sampler''
S.N. 10/678,023, ''Chromobacterium Suttsuga Sp. Nov. And Use For Control Of Insect Pests''
S.N. 10/698,398, ''Synthesis Of Polysuccinimide And Copoly(Succinimide-Aspartate) In A Supercritical Fluid''
S.N. 10/721,881, ''Fecundity-Promoting Factor For The Insidiosus Flower Bug Reared On Artificial Diet''
S.N. 10/803,121, ''Insect Attractant Releasing Device''
S.N. 10/819,615, ''Pyrolytic Products From Poultry Manure''
S.N. 10/833,903, ''Vaccine Compositions And Adjuvant''
S.N. 10/836,164, ''Genes Coding For Tomato B-Galactosidase Polypeptides''
S.N. 10/838,752, ''Wood Adhesives Containing Solid Residues Of Biomass Fermentations''
S.N. 10/849,977, ''Formation Of Hydrophilic Polysaccharide Coatings Of Hydrophobic Substrate''
S.N. 10/858,761, ''Vaccine Compositions And Adjuvant''
S.N. 10/858,882, ''A Modified-Live Edwardsiella Tarda Vaccine For Aquatic Animals''
S.N. 10/863,939, ''A Sensitive Antibody-Based Method For Detecting Cryptosporidium Parvum Oocysts In Water''
S.N. 10/870,781, ''Method Of Protecting Fish Against Columnaris Disease With Modified Live Flavobacterium Columnare''
S.N. 10/887,277, ''Water-In-Oil Emulsion Vaccines''
S.N. 10/895,797, ''Methods For Prevention And Treatment Of Mastitis''
P.N. 15,216, ''Peach Tree Named 'Crimson Rocket' ''
P.N. 15,063, ''Peach Tree Named 'Sweet-N-Up' ''
P.N. 6,362,256, ''Biodegradable Polymer Compositions, Methods For Making Same And Articles Therefrom''
P.N. 6,418,750, ''Multi-Purpose Cryogenic Surface Device''
P.N. 6,442,920, ''Mechanical Harvester For Tree Fruits''
P.N. 6,454,098, ''Mechanical-Pneumatic Device To Meter, Condition, And Classify Chaffy Seed''
P.N. 6,479,275, ''Penicillium Isolates For Modifying Alternan''
P.N. 6,485,949, ''Epoxidation Of Carbon-Carbon Double Bond With Membrane Bound Peroxygenase''
P.N. 6,492,537, ''Solvent Fractionation Of Menhaden Oil And Partially Hydrogenated Menhaden Oil For Making Lipid Compositions Enriched In Unsaturated Fatty Acid-Containing Triacylglycerols''
P.N. 6,502,531, ''Device And Method For Examination And Handling Of Deer And Other Animals''
P.N. 6,506,597, ''Artificial Diets For Arthropods''
P.N. 6,521,229, ''A 41 Kda Cryptosporidium Parvum Oocyst Wall Protein''
P.N. 6,528,049, ''Novel Bisexual Attractants, Aggregants And Arrestants For Adults And Larvae Of Codling Moth And Other Species Of Lepidoptera''
P.N. 6,548,742, ''Development Of Resistance To Raspberry Bushy Dwarf Virus''
P.N. 6,551,007, ''Improved Joint For Connecting Wood Members''
P.N. 6,551,599, ''Monoclonal Antibodies Against Camplobacter Jejuni and Campylobacter Coli Outer Membrane Antigens''
P.N. 6,555,106, ''System For The Control Of Enteropathogenic Bacteria In The Crops Of Poultry''
P.N. 6,559,121, ''Vaccines For The Protection Of Cattle From Psoroptic Scabies''
P.N. 6,562,600, ''Production Of Cyclic Alternan Tetrasaccharides From Oligosaccharide Substrates''
P.N. 6,562,841, ''Methods And Compositions For Repelling Arthropods''
P.N. 6,586,628, ''3–Methoxybenzyl Thiourea Derivatives And Improved Lipid Compositions Containing Same''
P.N. 6,605,283, ''Nucleotide Sequence For The Avian Metapneumovirus (Colorado) Attachment Glycoprotein Gene''
P.N. 6,622,565, ''Fluid Pressure Measurement By Mechanical Compression Of Tubing''
P.N. 6,623,779, ''Intermediate-Moisture Formed Food Products Made From Partially Dehydrated Fruit And/Or Vegetables And Novel Methods Of Packing Thereof''
P.N. 6,644,905, ''Bin Filler For Fruit Crops''
P.N. 6,660,775, ''Method And Compositions For Inhibiting The Scent Tracking Ability Of Biting Midges''
P.N. 6,669,962, ''Starch Microcapsules For Delivery Of Active Agents''
P.N. 6,670,374, ''Swainsonine Compounds As Inhibitors Of Toxin Receptor Expression''
P.N. 6,673,566, ''Diagnosis Of Tuberculosis Infection Through Analysis Of Nitrite Production Of Leukocytes Stimulated With Mycobacterial Antigens''
P.N. 6,677,469, ''Supercritical Fluid Fractionation Process For Phytosterol Ester Enrichment In Vegetable Oils''
P.N. 6,691,453, ''Naphtalene And Naphthenate Derivates As Bait Toxicants For Subterranean Termites''
P.N. 6,691,563, ''A Universal Dielectric Calibration Method And Apparatus For Moisture Content Determination In Particulate And Granular Materials''
P.N. 6,692,963, ''Method Of Reproducing Plants By Somatic Embryogenesis''
P.N. 6,694,862, ''Accessible Hand Pump''
P.N. 6,696,282, ''Fusarium Sporotrichioides Strains For Production Of Lycopene''
P.N. 6,696,562, ''Avian Astrovirus''
P.N. 6,703,014, ''Attractants And Repellants For Colorado Potato Beetle''
P.N. 6,707,384, ''Sensor Output Analog Processing—A Microcontroller-Based Insect Monitoring System''
P.N. 6,709,763, ''Formation Of Hydrophilic Polysaccharide Coatings On Hydrophobic Substrates''
P.N. 6,710,166, ''A 41 Kda Cryptosporidium Parvum Oocyst Wall Protein''
P.N. 6,733,976, ''Detection Of Bacterial Kidney Disease''
P.N. 6,770,440, ''Polymerase Chain Reaction Assay For The Detection Of Toxoplasma Gondii''
P.N. 6,773,727, ''Use Of Gossypol And Related Terpenes For Control Of Urban And Agricultural Pests''

P.N. 6,777,573, ''A Method For The Synthesis Of Ceralure B1''

June Blalock,

Technology Licensing Program Coordinator.

[FR Doc. 04–28058 Filed 12–22–04; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that the table grape variety designated ''Scarlet Royal'' is available for licensing and that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to the California Table Grape Commission of Fresno, California, an exclusive license to this variety.

DATES: Comments must be received within ninety (90) calendar days of the date of publication of this Notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as the California Table Grape Commission of Fresno, California, has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard J. Brenner,

Assistant Administrator.

[FR Doc. 04–28057 Filed 12–22–04; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that the table grape variety designated ''Autumn King'' is available for licensing and that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to the California Table Grape Commission of Fresno, California, an exclusive license to this variety.

DATES: Comments must be received within ninety (90) calendar days of the date of publication of this Notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as the California Table Grape Commission of Fresno, California, has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard J. Brenner,

Assistant Administrator.

[FR Doc. 04–28059 Filed 12–22–04; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that the Federally owned invention disclosed in U.S. Patent Application No. 10/184,005, ''Use of Recombinant Bovine CD14 in the Treatment and Prevention of Coliform Mastitis in Dairy Cows'', filed on June 27, 2002, is available for licensing and that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Monsanto Company of St. Louis, Missouri, an exclusive license to this invention.

DATES: Comments must be received within ninety (90) calendar days of the date of publication of this Notice in the **Federal Register**.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Monsanto Company of St. Louis, Missouri, has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard J. Brenner,

Assistant Administrator.

[FR Doc. 04–28060 Filed 12–22–04; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 04–129–1]

Draft Guideline on Target Animal Safety: Examination of Live Veterinary Vaccines in Target Animals for Absence of Reversion to Virulence (VICH Topic GL41)

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: A draft guideline titled ''Target Animal Safety: Examination of Live Veterinary Vaccines in Target Animals for Absence of Reversion to Virulence'' has been developed by the International Cooperation on Harmonization of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). The draft guideline is intended to establish criteria and requirements for the conduct of studies that examine the potential for reversion to or increase in virulence of live veterinary vaccines in target animals. Because the draft guideline applies, in part, to veterinary biological products regulated by the Animal and Plant Health Inspection Service under the Virus-Serum-Toxin Act, we are requesting comments on its provisions so that we may include any relevant input on the draft in the Agency's comments to the VICH Steering Committee.

DATES: We will consider all comments that we receive on or before February 22, 2005.

ADDRESSES: You may submit comments by any of the following methods:

- EDOCKET: Go to *http://www.epa.gov/feddocket* 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 you have entered EDOCKET, click on the ''View Open APHIS Dockets'' link to locate this document.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 04–129–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 04–129–1.
- E-mail: Address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 04–129–1'' on the subject line.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the instructions for locating this docket and submitting comments.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

You may request a copy of the draft guideline by writing to Dr. Donna M. Gatewood, Center for Veterinary Biologics, VS, APHIS, 510 South 17th Street, Suite 104, Ames, IA 50010, or by calling (515) 232–5785. The draft guideline is also available on the Internet at *http://www.aphis.usda.gov/vs/cvb/pel/notices*.

FOR FURTHER INFORMATION CONTACT: Dr. Albert P. Morgan, Chief of Operational Support, Center for Veterinary Biologics, Policy, Evaluation and Licensing, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; (301) 734–8245.

SUPPLEMENTARY INFORMATION:

Background

The International Cooperation on Harmonization of Technical Requirements for the Registration of Veterinary Medicinal Products (VICH) is a unique project that brings together the regulatory authorities of the European Union, Japan, and the United States and representatives from the animal health industry in the three regions. The purpose of VICH is to harmonize technical requirements for veterinary products (both drugs and biologics). Regulatory authorities and industry experts from Australia and New Zealand participate in an observer capacity. The VICH initiative is conducted under the auspices of the International Office of Epizootics. The World Federation of the Animal Health Industry (COMISA, the Confederation Mondiale de L'Industrie de la Sante Animale) provides the secretarial and administrative support for VICH activities.

The United States Government is represented in VICH by the Food and Drug Administration (FDA) and the Animal and Plant Health Inspection Service (APHIS). The FDA provides expertise regarding veterinary drugs, while APHIS fills a corresponding role for veterinary biological products. As VICH members, APHIS and FDA participate in efforts to enhance harmonization and have expressed their commitment to seeking scientifically based harmonized technical requirements for the development of veterinary drugs and biologics. One of the goals of harmonization is to identify and reduce the differences in technical requirements for veterinary drugs and biologics among regulatory agencies in different countries.

This notice informs the public that the draft document ''Target Animal Safety: Examination of Live Veterinary Vaccine in Target Animals for Absence of Reversion to Virulence'' (VICH Topic GL41) has been made available by the VICH Steering Committee for comments by interested parties. The draft guideline is intended to provide a unified standard for regulatory bodies to facilitate the mutual acceptance of reversion to virulence data. Because the draft guideline applies to some veterinary biological products regulated by APHIS under the Virus-Serum-Toxin Act, particularly with regard to reversion to virulence testing, we are requesting comments on its provisions so that we may include any relevant public input on the draft in the Agency's comments to the VICH Steering Committee.

The draft document reflects current APHIS thinking on examining veterinary vaccines in target animals for absence of reversion to virulence. In accordance with the VICH process, once a final draft of ''Target Animal Safety: Examination of Live Veterinary Vaccine in Target Animals for Absence of Reversion to Virulence'' has been approved, the guideline will be recommended for adoption by the regulatory bodies of the European Union, Japan, and the United States. As with all VICH documents, the final guideline will not create or confer any rights for or on any person and will not operate to bind APHIS or the public. Further, the VICH guidelines specifically provide for the use of alternative approaches if those approaches satisfy regulatory requirements.

Ultimately, APHIS intends to consider the VICH Steering Committee's final guidance document for use by U.S.

veterinary biologics licensees, permittees, and applicants. In addition, APHIS may also consider the use of the final guidance document as the basis for proposed additions or amendments to its regulations in 9 CFR chapter I, subchapter E (Viruses, Serums, Toxins, and Analogous Products; Organisms and Vectors). Because we anticipate that applicable provisions of the final version of ''Target Animal Safety: Examination of Live Veterinary Vaccines in Target Animals for Absence of Reversion to Virulence'' may be introduced into APHIS' veterinary biologics regulatory program in the future, we encourage your comments on the draft version.

Authority: 21 U.S.C. 151 *et seq.*

Done in Washington, DC, this 16th day of December 2004.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E4–3782 Filed 12–22–04; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Chequamegon-Nicolet National Forest, Great Divide Ranger District; WI; Twentymile Restoration Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service, Chequamegon-Nicolet National Forest, Great Divide Ranger District intends to prepare an environmental impact statement (EIS) to disclose the environmental consequences of a vegetation and water resources restoration project. In the EIS the USDA Forest Service will address the potential environmental impacts associated with: restoring northern hardwood forests to an uneven-aged condition, improving the landscape pattern of northern hardwood forests, reducing the amount of aspen in cold-water stream corridors, reducing sediment and restoring riparian and stream habitat, improving upland forest type composition, balancing the age class distribution of aspen, and providing a safe, efficient, and effective transportation system; all while promoting healthy forests and providing forest commodities.

The Twentymile Project Area is approximately 32,000 acres in size and is located in Bayfield County, approximately 25 miles northeast of Hayward, Wisconsin. The approximate legal description for the area is as follows: T44N R6W Sections 1–14 and 23–25; T44N R5W Sections 5–8, 14–23, and 26–35; T43N R5W Sections 1–3, 11, and 12; and T43N R4W Sections 4–7. See the **SUPPLEMENTARY INFORMATION** section for the purpose and need for the action.

DATES: Comments concerning the scope of the analysis should be received within 30 days following publication of this notice to receive timely consideration in the preparation of the draft EIS. The draft environmental impact statement is expected May 2005 and the final environmental impact statement is expected September 2005.

ADDRESSES: Send written comments to Anne Archie, c/o Deb Sigmund, NEPA Coordinator; Great Divide Ranger District, P.O. Box 896, Hayward, WI 54843. Send electronic comments to: *comments-eastern-chequamegon-nicolet-great-divide@fs.fed.us.* See **SUPPLEMENTARY INFORMATION** section for information on how to send electronic comments.

FOR FURTHER INFORMATION CONTACT: Deb Sigmund, NEPA Coordinator, Great Divide Ranger District, Chequamegon-Nicolet National Forest, USDA Forest Service; telephone: 715–634–4821. See address above under **ADDRESSES**. Copies of documents may be requested at the same address. Another means of obtaining information is to visit the Forest Web page at *www.fs.fed.us/r9/cnnf/*—click on ''Natural Resources'', then ''Twentymile Restoration Project''.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of the Twentymile Restoration project is to implement land management activities that are consistent with direction in the Chequamegon-Nicolet National Forests Land and Resource Management Plan (Forest Plan, 2004) and to respond to specific needs and/or problems that were identified during opportunity area and transportation system analyses.

The purpose and need for this proposal is to: (1). Restore northern hardwood forests to an uneven-aged condition (Plan, p. 1–3). These uneven-aged forests are to be characterized by a variety of tree ages and sizes, with older age classes well represented. Achieve large diameter trees (>25″ dbh), and old growth characteristics such as tip-ups, snags, and coarse woody debris (Plan, p. 3–9). Emphasis for restoration is to provide a well-developed understory that provides feeding and nesting habitat for Neotropical birds, nutrient cycling, and tree seedling establishment (Plant FEIS, p. 3–61); (2.) Improve the landscape pattern of northern hardwood forests by maintaining or recreating large northern hardwood patch conditions and allowing early successional forest patches to succeed or treat them so as to encourage conversion to long-lived species (Plan, p. 3–8); (3.) Reduce the amount of aspen in cold-water stream corridors by not regenerating it and/or converting it to long-lived conifers or northern hardwoods (Plan p. 2–17); (4.) Reduce sediment deposition and restore riparian and stream habitat. Maintain or restore streams to provide for the transport of water and sediments within the natural ranges for the watershed, which results in stable stream channels (Plan, p. 3–60). Relocate existing roads and trails out of riparian management zones and eliminate stream crossings when practicable (Plan pp. 1–3 and 2–2); (5.) Improve upland forest type composition. Terrestrial ecosystems should be in healthy, diverse, and productive conditions and support a diversity of plant and animal communities and tree species (Plan, p. 1–3); (6.) Balance the age class distribution of aspen in the areas it is desired to promote diversity for various wildlife species. A long-term sustainable level of all age classes is needed by wildlife species for dense cover and forage (Plan, p. 2–4 and 3–11); (7.) Promote healthy forests and provide forest commodities. Maintain and enhance the growth and vigor of trees within the project area, while providing a variety of wood products and species mixes for the different market niches through commercial timber harvests (Plan, p. 1–6); (8.) Provide a safe, efficient, and effective transportation system. A desirable transportation system provide safe access and meets the needs of communities and forest users; facilitates the implementation of the Forest Plan; allows for economical and efficient management within likely budget levels; meets current and future resource management objective; and has a minimal impact on natural resources. (Plan, pp. 1–7 and 2–35–38; Twentymile Roads Analysis, p. 4).

Proposed Action

The following actions have been identified to address the above needs. (1) To address the need for restoration of northern hardwood forest, approximately, 7,897 acres of predominantly even-aged northern hardwood stands would be selectively harvested. Approximately 20 acres of these northern hardwood stands would also be under planted to white pine. Within approximately 576 acres of these stands, some of the trees marked for

removal would be felled and left in place, to move these stands closer to the desired quantity of coarse wood debris. (2) To address the need for improvement of the landscape pattern of northern hardwoods, approximately 249 acres of aspen within or adjacent to existing hardwood blocks would be treated with an improvement cut to begin conversion to northern hardwoods. (3) To address the need for reducing the amount of aspen within cold-water stream corridors, approximately 64 acres of aspen would be converted to northern hardwoods by improvement cutting to no less than 85-95 square feet of basal area per acre. (4) To address the need for sediment reduction and riparian habitat restoration approximately 1 mile of road would be relocated out of stream floodplains; 1100 feet of Twentymile Creek would be restored to its original stream channel; 9 intermittent drainages to Twentymile Creek would be restored; and 230 feet of Twentymile Creek would be restored through removal of an old culvert, channel braids upstream, and a large scour pool downstream. (5) To meet the upland forest type composition objectives need, shelterwood harvests would be conducted on 81 acres of paper birch stands; overstory removals conducted on 146 acres of paper birch stands; pine thinnings conducted on about 364 acres of red pine and 29 acres of white pine stands; clearcuts conducted on 31 acres of jack pine stands followed by planting to red pine; and 13 acres of upland openings would be maintained through mowing, burning, or hand-cutting. (6) The need for balancing the age class distribution of aspen would be met by clearcutting and regenerating approximately 413 acres of aspen. (7) The need for improving forest health and providing forest commodities would be met through numbers 1, 2, 4, 5, and 6 above. (8) The transportation system needs would be met by eliminating about 29 miles of roads that are in poor locations and not needed for long-term access to the national forest; reconstructing about 4 miles of road that are in poor condition; constructing about 13 miles of new road to provide long-term access to specific areas of the forest; constructing 1.5 miles of temporary roads that would be eliminated after use; relocating 2 unsafe intersections to safer locations; and closing approximately 20 miles of National Forest System road to vehicles and ATV's to protect resources, avoid recreation use conflicts, address local government concerns, or address safety issues.

Responsible Official

Anne Archie, Forest Supervisor; Chequamegon-Nicolet National Forest, 1170 4th Avenue South, Park Falls, WI 54552.

Nature of Decision To Be Made

The decision will be limited to answering the following three questions based on the environmental analysis:

1. What actions would be used to address the purpose and need
2. Where and when these actions would occur
3. What mitigation measures and monitoring requirements would be required

Scoping Process

The Chequamegon-Nicolet National Forest proposes to scope for information by contacting persons and organizations on the District's mailing list, by publishing a notice in the local newspapers, and by posting flyers at key locations within and nearby the Twentymile project area. No scoping meetings are planned at this time. The present solicitation is for comments on this Notice of Intent and scoping materials available elsewhere, such as on the Forest Web page.

Preliminary Issues

Preliminary or potential issues have been identified from previous internal and public comments.

1. Timber Harvests may result in short-term impacts to soils, understory vegetation, wildlife, visuals, and recreational uses of the forest.
2. Long-term reductions of aspen may occur as a result of conversions, affecting the species that relay on them for food and cover.
3. Road decommissioning and closures may reduce the number of roads and miles of roads previously available for public and tribal access, for uses such as hunting, gathering, etc.
4. Road Reconstruction and Construction may disturb and impact new corridors, while creating access and use where access was previously not available.
5. Road Relocations may disturb and impact new corridors. Relocations may also improve watershed health and motorist safety.
6. Watershed Improvement projects may result in short-term increases in turbidity and sedimentation.

Electronic Access and Filing Addresses

Information is available electronically on the Forest Web page: *http://www.fs.fed.us/r9/cnnf*—click on ''Natural Resources'' and then ''Twentymile Restoration Project''. Send electronic comments to: *comments-eastern-chequamegon-nicolet-great-divide@fs.fed.us*. When submitting electronic comments, please reference the Twentymile Restoration Project on the subject line. In addition, include your name and mailing address.

Comments Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. Comments in response to this solicitation for information should focus on (1.) The proposal as described in numbers 1–8 of the Proposed Action, (2.) possible alternatives for addressing issues associated with the proposal, and (3.) any possible impacts associated with the proposal based on an individual's civil rights (race, color, national origin, age, religion, gender, disability, political beliefs, sexual orientation, or marital or family status). We are especially interested in information that might identify a specific undesired result of implementing the proposed action. Comments received in response to this solicitation including names and addresses of those who comment will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however those who submit anonymous comments will not have standing to appeal the subsequent decisions under 36 CFR parts 215 or 217.

Additionally, pursuant to 7 CFR 1.27(d), any persons may request the agency to withhold a submission from the public record by showing how the FOIA (Freedom of Information Act) permits such confidentially. Persons requesting such confidentiality should be aware that under FOIA confidentiality may be granted in only very limited circumstances, such as to protect trade secrets.

The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality and, should the request be denied, return the submission and notify the requester that the comments may be resubmitted with or without name and address within 90 days.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency

publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRCD,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986), and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: December 10, 2004.

Anne F. Archie,

Forest Supervisor.

[FR Doc. 04–28098 Filed 12–22–04; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

Determination of the 2004 Fiscal Year Interest Rates on Rural Telephone Bank Loans

AGENCY: Rural Telephone Bank, USDA.

ACTION: Notice of 2004 fiscal year interest rates determination.

SUMMARY: In accordance with 7 CFR 1610.10, the Rural Telephone Bank (Bank) fiscal year 2004 cost of money rates have been established as follows: 6.18% and 5.36% for advances from the liquidating account and financing account, respectively (fiscal year is the period beginning October 1 and ending September 30).

All loan advances made during fiscal year 2004 under Bank loans approved in fiscal years 1988 through 1991 shall bear interest at the rate of 6.18% (the liquidating account rate). All loan advances made during fiscal year 2004 under Bank loans approved during or after fiscal year 1992 shall bear interest at the rate of 5.36% (the financing account rate).

The calculation of the Bank's cost of money rates for fiscal year 2004 for the liquidating account and the financing account are provided in Tables 1 and 2. Since the calculated rates are greater than the minimum rate (5.00%) allowed under 7 U.S.C. 948(b)(3)(A), the cost of money rates for the liquidating account and financing account are set at 6.18% and 5.36%, respectively. The methodology required to calculate the cost of money rates is established in 7 CFR 1610.10(c).

FOR FURTHER INFORMATION CONTACT: Jonathan P. Claffey, Deputy Assistant Governor, Rural Telephone Bank, STOP 1590—Room 5151, 1400 Independence Avenue, SW., Washington, DC 20250–1590. Telephone: (202) 720–9556.

SUPPLEMENTARY INFORMATION: The Federal Credit Reform Act of 1990 (2 U.S.C. 661a, *et seq.*) implemented a system to reform the budgetary accounting and management of Federal credit programs. Bank loans approved on or after October 1, 1991, are accounted for in a different manner than Bank loans approved prior to fiscal year 1992. As a result, the Bank must calculate two cost of money rates: (1) The cost of money rate for advances made from the liquidating account (advances made during fiscal year 2004 on loans approved prior to October 1, 1991) and (2) the cost of money rate for advances made from the financing account (advances made during fiscal year 2004 on loans approved on or after October 1, 1991).

The cost of money rate methodology is the same for both accounts. It develops a weighted average rate for the Bank's cost of money considering total fiscal year loan advances; the excess of fiscal year loan advances over amounts received in the fiscal year from the issuance of Class A, B, and C stock, debentures and other obligations; and the costs to the Bank of obtaining funds from these sources.

During fiscal year 2004, the Bank was authorized to pay the following dividends: the dividend on Class A stock was 2.00% as established in 7 U.S.C. 946(c); no dividends were payable on Class B stock in accordance with 7 U.S.C. 946(d); and the dividend on Class C stock was established by the Bank at 6.00%.

Sources and Costs of Funds—Liquidating Account

In accordance with 7 U.S.C. 946(a), the Bank did not issue Class A stock in fiscal year 2004. There were no net issuances of Class B stock because the rescissions of loan funds advanced for Class B stock exceeded the amount of issuances. The amount received by the Bank in fiscal year 2004 from the issuance of Class C stock was $36,762.

The Bank did not issue debentures or any other obligations related to the liquidating account in fiscal year 2004. Consequently, no cost was incurred related to the issuance of debentures subject to 7 U.S.C. 948(b)(3)(D).

The excess of fiscal year 2004 loan advances from the liquidating account over amounts received from issuance of stocks, debentures, and other obligations amounted to $843,742. The cost associated with this excess is the historic cost of money rate as defined in 7 U.S.C. 948(b)(3)(D)(v). The calculation of the Bank's historic cost of money rate for advances from the liquidating account is also provided in Table 1. The methodology required to perform this calculation is described in 7 CFR 1610.10(c). The cost for money rates for fiscal years 1974 through 1987 are defined in 7 U.S.C. 948(b) and are listed in 7 CFR 1610.10(c) and Table 1 herein.

Sources and Costs of Funds—Financing Account

In accordance with 7 U.S.C. 946(a), the Bank did not issue Class A stock in fiscal year 2004. Advances for the purchase of Class B stock and cash purchases for Class B stock were $3,193,628. There were rescissions of loan funds advanced for Class B stock in the amount of $446; therefore, the amount received by the Bank from the

issuance of Class B stock, per 7 CFR 1610.10(c), was $3,193,182. The Bank did not receive any amounts in fiscal year 2004 from the issuance of Class C stock.

During fiscal year 2004, issuance of debentures or any other obligations related to advances from the financing account were $63,881,123 at an interest rate of 5.628%.

The excess of fiscal year 2004 loan advances from the liquidating account over amounts received from issuance of stocks, debentures, and other obligations amounted to $843,742. The cost associated with this excess is the historic cost of money rate as defined in 7 U.S.C. 948(b)(3)(D)(v). The calculation of the Bank's historic cost of money rate for advances from the liquidating account is also provided in Table 1. The methodology required to perform this calculation is described in 7 CFR 1610.10(c). The cost for money rates for fiscal years 1974 through 1987 are defined in 7 U.S.C. 948(b) and are listed in 7 CFR 1610.10(c) and Table 1 herein.

Dated: December 17, 2004.

Curtis Anderson,

Acting Governor, Rural Telephone Bank.

BILLING CODE 3410–15–P

Table 1

Rural Telephone Bank Cost of Money Rate - Liquidating Account

FY 2004 Source of Bank Funds	(a) Amount	(b) Cost	(c) (a)x(b)	(c) / Advances
Issuance of Class A Stock	$ -	2.00%	$ -	0.0000%
Issuance of Class B Stock *	$ -	0.00%	$ -	0.0000%
Issuance of Class C Stock	$ 36,762	6.00%	$ 2,206	0.2505%
Issuance of Debentures and Other Obligations	$ -	0.00%	$ -	0.0000%
Excess of Total Advances Over Issuances	$ 843,742	6.19%	$ 52,213	5.9299%
Total FY 2004 Advances	$ 880,504		CALCULATED COST OF MONEY RATE =	6.18%
			MINIMUM RATE ALLOWABLE =	5.00%

* No amount used because rescissions exceeded issuances.

Rural Telephone Bank Historical Cost of Money Rate - Liquidating Account

Fiscal Year	(a) Cost of Money	(b) Advances	(c) (a)x(b)	(c) / Total Advances
FY 1974	5.01%	$ 111,022,574	$ 5,562,231	0.231%
FY 1975	5.85%	$ 130,663,197	$ 7,643,797	0.318%
FY 1976	5.33%	$ 99,915,066	$ 5,325,473	0.221%
FY 1977	5.00%	$ 80,907,425	$ 4,045,371	0.168%
FY 1978	5.87%	$ 142,297,190	$ 8,352,845	0.347%
FY 1979	5.93%	$ 130,540,067	$ 7,741,026	0.322%
FY 1980	8.10%	$ 199,944,235	$ 16,195,483	0.673%
FY 1981	9.46%	$ 148,599,372	$ 14,057,501	0.584%
FY 1982	8.39%	$ 112,232,127	$ 9,416,275	0.392%
FY 1983	6.99%	$ 93,402,836	$ 6,528,858	0.271%
FY 1984	6.55%	$ 90,450,549	$ 5,924,511	0.246%
FY 1985	5.00%	$ 72,583,394	$ 3,629,170	0.151%
FY 1986	5.00%	$ 71,582,383	$ 3,579,119	0.149%
FY 1987	5.00%	$ 51,974,938	$ 2,598,747	0.108%
FY 1988	5.00%	$ 119,488,367	$ 5,974,418	0.248%
FY 1989	5.00%	$ 97,046,947	$ 4,852,347	0.202%
FY 1990	5.00%	$ 107,694,991	$ 5,384,750	0.224%
FY 1991	5.43%	$ 163,143,075	$ 8,858,669	0.368%
FY 1992	6.14%	$ 84,940,822	$ 5,215,366	0.217%
FY 1993	6.05%	$ 84,605,366	$ 5,118,625	0.213%
FY 1994	6.15%	$ 54,530,897	$ 3,353,650	0.139%
FY 1995	6.04%	$ 35,967,133	$ 2,172,415	0.090%
FY 1996	6.05%	$ 30,965,187	$ 1,873,394	0.078%
FY 1997	5.98%	$ 32,602,587	$ 1,949,635	0.081%
FY 1998	5.96%	$ 20,673,798	$ 1,232,158	0.051%
FY 1999	6.01%	$ 17,796,518	$ 1,069,571	0.044%
FY 2000	6.01%	$ 10,436,622	$ 627,241	0.026%
FY 2001	5.95%	$ 6,638,107	$ 394,967	0.016%
FY 2002	6.51%	$ 1,864,500	$ 121,379	0.005%
FY 2003	6.05%	$ 604,800	$ 36,590	0.002%
	TOTAL ADVANCES	$ 2,405,115,070	COST OF MONEY	6.19%

Table 2

Rural Telephone Bank Cost of Money Rate - Financing Account

FY 2004 Source of Bank Funds	(a) Amount	(b) Cost	(c) (a)x(b)	(c) / Advances
Issuance of Class A Stock	$ -	2.000%	$ -	0.0000%
Issuance of Class B Stock	$ 3,193,182	0.000%	$ -	0.0000%
Issuance of Class C Stock	$ -	6.000%	$ -	0.0000%
Issuance of Debentures and Other Obligations*	$ 63,881,123	5.628%	$ 3,595,444	5.3604%
Excess of Total Advances Over Issuances	$ 446	6.040%	$ 27	0.0000%
Total FY 2004 Advances	$ 67,074,751		CALCULATED COST OF MONEY RATE =	5.36%
			MINIMUM RATE ALLOWABLE =	5.00%

* RTB borrowed $74,198,375 from the financing account in FY2004, the remaining funds will be be used to cover other obligations of the fund.

Rural Telephone Bank Historical Cost of Money Rate - Financing Account

Fiscal Year	(a) Cost of Money	(b) Advances	(c) (a)x(b)	(c) / Total Advances
FY 1992	7.38%	$ 4,056,250	$ 299,351	0.063%
FY 1993	6.35%	$ 23,839,200	$ 1,513,789	0.317%
FY 1994	6.40%	$ 56,838,902	$ 3,637,690	0.763%
FY 1995	6.88%	$ 37,161,517	$ 2,556,712	0.536%
FY 1996	6.42%	$ 44,536,621	$ 2,859,251	0.600%
FY 1997	6.54%	$ 34,368,726	$ 2,247,715	0.471%
FY 1998	5.71%	$ 34,446,458	$ 1,966,893	0.413%
FY 1999	5.54%	$ 38,685,732	$ 2,143,190	0.449%
FY 2000	6.05%	$ 31,401,867	$ 1,899,813	0.398%
FY 2001	5.17%	$ 55,405,896	$ 2,864,485	0.601%
FY 2002	6.05%	$ 60,232,919	$ 3,644,092	0.764%
FY 2003	5.67%	$ 55,835,695	$ 3,165,884	0.664%
	TOTAL ADVANCES	$ 476,809,783	COST OF MONEY	6.04%

[FR Doc. 04–28080 Filed 12–22–04; 8:45 am]
BILLING CODE 3410–15–C

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Publication of Depreciation Rates

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Utilities Service (RUS) hereby announces the depreciation rates for telecommunications plant for the period ending December 31, 2003.

DATES: These rates are effective immediately and will remain in effect until rates are available for the period ending December 31, 2004, approximately six months from now.

FOR FURTHER INFORMATION CONTACT: Jonathan P. Claffey, Deputy Assistant Administrator, Telecommunications Program, Rural Utilities Service, STOP 1590—Room 5151, 1400 Independence Avenue, SW., Washington, DC 20250–1590. Telephone: (202) 720–9556.

SUPPLEMENTARY INFORMATION: In the RUS regulation 7 CFR part 1737, Pre-Loan Policies and Procedures Common to Insured and Guaranteed Telecommunications Loans, section 1737.70(e) explains the depreciation rates that are used by RUS in its feasibility studies. Section 1737.70(e)(2) refers to median depreciation rates published by RUS for all borrowers. The following chart provides those rates, compiled by RUS, for the reporting period ending December 31, 2003:

MEDIAN DEPRECIATION RATES OF RUS BORROWERS BY EQUIPMENT CATEGORY FOR PERIOD ENDING DECEMBER 31, 2003

Telecommunications plant category	Depreciation rate (percent)
1. Land and Support Assets:	
a. Motor Vehicles	15.00
b. Aircraft	11.25
c. Special purpose vehicles	12.07
d. Garage and other work equipment	10.00
e. Buildings	3.16
f. Furniture and Office equipment	10.00
g. General purpose computers	19.325
2. Central Office Switching:	
a. Digital	8.33
b. Analog & Electro-mechanical	10.00
c. Operator Systems	9.00
3. Central Office Transmission:	
a. Radio Systems	9.46
b. Circuit equipment	10.00
4. Information origination/termination:	
a. Station apparatus	12.00
b. Customer premises wiring	10.00
c. Large private branch exchanges	12.50
d. Public telephone terminal equipment	11.10
e. Other terminal equipment	10.00
5. Cable and wire facilities:	
a. Aerial cable—Poles	6.36
b. Aerial cable—Metal	6.00
c. Aerial cable—Fiber	5.10
d. Underground cable—Metal	5.00
e. Underground cable—Fiber	5.00
f. Buried cable—Metal	5.00
g. Buried cable—Fiber	5.00
h. Conduit systems	3.03
i. Other	10.07

Dated: December 17, 2004.

Curtis Anderson,

Acting Administrator, Rural Utilities Service.

[FR Doc. 04–28081 Filed 12–22–04; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Technical Advisory Committee; Notice of Open Meeting

The Materials Technical Advisory Committee (MTAC) will meet on January 27, 2005, 10:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to advanced materials and related technology.

Agenda:

1. Opening remarks.

2. Presentation of papers and comments by the public.

3. Review of Chemical Weapons Convention Schedules.

The meeting will be open to the public and a limited number of seats will be available. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials to Lee Ann Carpenter at *Lcarpent@bis.doc.gov.*

For more information contact Lee Ann Carpenter on (202) 482–2583.

Dated: December 20, 2004.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 04–28103 Filed 12–22–04; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–838]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 23, 2004.

SUMMARY: On August 4, 2004, the Department of Commerce (the Department) published its preliminary determination of sales at less than fair value (LTFV) of certain frozen and canned warmwater shrimp from Brazil. The period of investigation is October 1, 2002, through September 30, 2003.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below in the section entitled ''Final Determination Margins.''

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Kate Johnson, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4007 or (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that certain frozen and canned warmwater shrimp from Brazil is being, or is likely to be, sold in the United States at LTFV, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

The preliminary determination in this investigation was published on August 4, 2004. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 47081 (*Preliminary Determination*). We amended the preliminary determination to correct certain ministerial errors made in the margin calculation for Empresa de Armazenagem Frigorifica Ltda. (EMPAF), which we determined to be significant under 19 CFR 351.224(g). *See Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 52860 (August 30, 2004).

Since the amended preliminary determination, the following events have occurred. During the period July through October 2004, various interested parties, including the petitioners,[1] submitted comments on the scope of this and the concurrent investigations of certain frozen and canned warmwater shrimp.

On September 1, 2004, Norte Pesca, S.A. withdrew from this investigation. During the period September 6—17, 2004, and September 29—October 1, 2004, we conducted the sales and cost verifications of the questionnaire responses of EMPAF and Central de

[1] The petitioners in this investigation are the Ad Hoc Shrimp Trade Action Committee (an ad hoc coalition representative of U.S. producers of frozen and canned warmwater shrimp and harvesters of wild-caught warmwater shrimp), Versaggi Shrimp Corporation, and Indian Ridge Shrimp Company.

Industrializacao e Distribuicao de Alimentos Ltda. (CIDA).

On September 3, 2004, CIDA and the Association of Brazilian Shrimp Farmers (ABCC) requested a hearing. EMPAF requested a hearing on September 28, 2004. On October 20 and 26, 2004, Xian-Ning Seafood Co., Ltd., an interested party in the companion investigation of frozen and canned warmwater shrimp from Thailand, submitted case and rebuttal briefs, respectively.[2] We received case briefs on November 3, 2004, from the petitioners, CIDA, EMPAF, ABCC, and two other interested parties in this investigation, Eastern Fish Company, Inc. and Long John Silver's, Inc.[3] On November 12, 2004, we received rebuttal briefs from the petitioners, CIDA, EMPAF, Eastern Fish Company, Inc. and Long John Silver's, Inc.[4] On November 17, 2004, CIDA, EMPAF and ABCC withdrew their requests for a hearing.

On November 12, 2004, and November 15, 2004, pursuant to the Department's request, we received revised sales and cost databases from CIDA and EMPAF, respectively, which incorporated certain changes discovered in preparation for and during verification.

On November 23, 2004, the Department convened a public hearing on scope issues. On November 29, 2004, the Department made final scope determinations with respect to shrimp scampi and dusted and battered shrimp. See the November 29, 2004, Memoranda from Edward C. Yang to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration entitled, ''Scope Clarification on Shrimp Scampi'; and ''Scope Clarification on Dusted Shrimp and Battered Shrimp,'' respectively. *See also* the ''Scope of Investigation'' section of this notice, below, for further discussion.[5]

Also on November 29, 2004, the Department clarified that a shrimp sauce produced by a company in the companion investigation of frozen and canned warmwater shrimp from the People's Republic of China, Lee Kum Kee (USA) Inc., is not covered by the scope of that investigation. *See* the November 29, 2004, Memorandum from Edward C. Yang to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration entitled, ''Scope Clarification on Lee Kum Kee's Shrimp Sauce.''

Period of Investigation

The period of investigation is October 1, 2002, through September 30, 2003.

Analysis of Comments Received

The various scope issues are discussed in the ''Case History'' section of this notice and the separate scope memoranda. All other issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated December 17, 2004, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building (CRU). In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

The scope of this investigation includes certain warmwater shrimp and prawns, whether frozen or canned, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,[6] deveined or not deveined, cooked or raw, or otherwise processed in frozen or canned form.

The frozen or canned warmwater shrimp and prawn products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through either freezing or canning and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of the investigation. In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of the investigation.

Excluded from the scope are: (1) Breaded shrimp and prawns (1605.20.10.20); (2) shrimp and prawns generally classified in the Pandalidae family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (1605.20.05.10); (5) dried shrimp and prawns; (6) dusted shrimp; and (7) battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

[2] These briefs related only to scope issues.

[3] The briefs submitted by Eastern Fish Company, Inc. And Long John Silver's, Inc. related only to scope issues.

[4] *Id.*

[5] In addition to these scope determinations, the Department previously made five other scope determinations: (1) On May 21, 2004, the Department declined to expand the scope of this investigation to include fresh (never frozen) shrimp; (2) on July 2, 2004, pursuant to a request from Ocean Duke Corporation, an interested party in the companion investigation of frozen and canned warmwater shrimp from Thailand, the Department found that its ''Seafood Mix'' is excluded from the scope of this investigation; (3) on July 2, 2004, the Department found that salad shrimp, sold in counts of 250 pieces or higher, are included within the scope of the this investigation; (4) on July 2, 2004, the Department found that Macrobrachium rosenbergii and organic shrimp are included within the scope of this investigation; and (5) on July 2, 2004, the Department found that peeled shrimp are included within the scope of this investigation.

[6] ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

The products covered by this scope are currently classifiable under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, 1605.20.10.30, and 1605.20.10.40. These HTSUS subheadings are provided for convenience and customs purposes only and are not dispositive, but rather the written description of the scope of this investigation is dispositive.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Decision Memorandum.

Use of Facts Available for Norte Pesca

On September 1, 2004, two weeks prior to the Department's planned verification of Norte Pesca's submitted cost and sales information, Norte Pesca notified the Department that it no longer intended to participate in this investigation. *See Letter from Norte Pesca to the U.S. Secretary of Commerce* on file in the CRU. As a result, we were unable to verify the information submitted by Norte Pesca. By ceasing to participate, Norte Pesca significantly impeded the investigation. Pursuant to sections 776(a)(2)(C) and (D) of the Act, if an interested party significantly impedes the investigation or provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

Once we determine that the use of facts available is warranted, section 776(b) of the Act further permits us to apply an adverse inference if we make the additional finding that ''a respondent has failed to cooperate by not acting to the best of its ability to comply with a request for information.'' By ceasing to participate in the investigation and precluding the verification of its submitted cost and sales information, Norte Pesca did not act to the best of its ability as required by section 776(b) of the Act. Consequently, we have determined to make an adverse inference in determining the dumping margin for Norte Pesca. *See Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From the Republic of Korea*, 68 FR 47540 (August 11, 2003).

Section 776(b) of the Act authorizes the Department to use as adverse facts available (AFA) information derived from the petition, a final investigation determination, a previous administrative review, or any other information placed on the record. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Carbon and Certain Alloy Steel Wire Rod from Brazil, Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances*, 67 FR 55792 (August 30, 2002); *Static Random Access Memory Semiconductors from Taiwan, Final Determination of Sales at Less than Fair Value*, 63 FR 8909, (February 23, 1998). The Department applies AFA ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. No. 103–316, vol. 1, at 870 (1994)*(SAA).

As total AFA we have assigned to exports of the subject merchandise produced by Norte Pesca the rate of 67.80, which is the rate assigned to Norte Pesca in the preliminary determination. We find that this rate is sufficiently adverse to serve the purposes of facts available, explained above. *See* Memorandum to Louis Apple, Director, AD/CVD Operations, Office 2, Import Administration, Final Determination of Certain Frozen and Canned Warmwater Shrimp from Brazil: Use of Facts Available for Norte Pesca, dated December 17, 2004, on file in the CRU (AFA Memorandum).

Section 776(c) of the Act provides that, when the Department relies on secondary information in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. We have interpreted ''corroborate'' to mean that we will, to the extent practicable, examine the reliability and relevance of the information submitted. *See Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 5554 (February 4, 2000); *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996).

As detailed in the AFA Memorandum, in selecting the AFA rate for Norte Pesca, we did not use either of the two highest of the three petition rates because we were unable to corroborate them with independent information reasonably at our disposal and we have an alternative that we find to be sufficiently adverse to effectuate the purpose of the AFA provision of the statute. We did not use the remaining petition rate because it was lower than Norte Pesca's preliminary margin, and as such would not accomplish the objectives of AFA, stated above. Thus, we assigned the rate of 67.80 percent, which was based on information submitted by Norte Pesca in its questionnaire responses and database submissions, and remains on the record of this investigation. Because this information was provided to us by the respondent, it is not considered to be secondary information, and therefore, needs not be corroborated. We conclude that this data, although unverified, continues to be the best information reasonably available to us to effectuate the purpose of AFA.

Collapsing CIDA With Its Affiliated Processor

CIDA and its processing company, Cia Exportadora de Produtus do Mar (''Produmar''), are two separate companies owned and operated by members of the same family. In the preliminary determination, consistent with 19 CFR 351.401(h) of the Department's regulations, we determined that Produmar was an affiliated toller rather than a manufacturer or producer, because it neither acquired ownership nor controlled the sale of the subject merchandise. *See Preliminary Determination* at 47087. Therefore, rather than collapsing these two entities and using Produmar's costs in our COP and CV calculations, we applied the ''major input'' rule, and used the transfer price for Produmar's processing services. We stated that given the nature of the affiliation between the entities at issue, we recognized that a related issue could arise as to whether there is a potential for manipulation of price or production and, if so, whether the two entities should receive the same dumping rate. Based on this recognition, we solicited comments from the parties as to whether to collapse CIDA and Produmar in the final determination.

Since the preliminary determination, and as detailed in the December 17, 2004, Issues and Decision Memorandum, the extent to which the two companies operate as a single entity has become apparent, such that we believe there to be significant potential for manipulation of price and production between CIDA and Produmar. Therefore, we have collapsed the two entities for the final determination. Accordingly, we have used the actual costs incurred by Produmar in valuing the processing services it provided to CIDA, and we have assigned the two companies a single dumping margin.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents (except for Norte Pesca as discussed above) for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of certain frozen and canned warmwater shrimp from Brazil that are entered, or withdrawn from warehouse, for consumption on or after August 4, 2004, the publication date of the preliminary determination in the **Federal Register** or, in the case of EMPAF, August 30, 2004, the publication date of the amended preliminary determination. CBP shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

Final Determination Margins

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Empresa de Armazenagem Frigorifica Ltda. (EMPAF) ...	10.70
Central de Industrializacao e Distribuicao de Alimentos Ltda. (CIDA)/Cia Exportadora de Produtos do Mar (Produmar)	9.69
Norte Pesca S.A.	67.80
All Others	10.40

In accordance with section 735(c)(5)(A) of the Act, we have based the ''all others'' rate on the weighted average of the dumping margins calculated for the exporters/manufacturers investigated in this proceeding. The ''all others'' rate is derived exclusive of all *de minimis* margins and margins based entirely on AFA.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine within 45 days whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: December 17, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memorandum

Comments

General Issues

Comment 1: Offsets for Non-Dumped Comparisons
Comment 2: Calculation of the ''All Others'' Rate

Company-Specific Issues

CIDA

Comment 3: Billing Adjustments
Comment 4: Insurance Payments as an Offset to General and Administrative Expenses
Comment 5: Collapsing CIDA with its Affiliated Processor
Comment 6: Cost Allocation Methodology
Comment 7: Ration and Larva Costs
Comment 8: Loss on Sale of Fixed Assets
Comment 9: ICMS Taxes
Comment 10: Change in Raw Shrimp Inventory
Comment 11: Prompt Payment Discounts

EMPAF

Comment 12: Presumed Credit and IPI Export Credit Premium Revenue
Comment 13: Brazilian Indirect Selling Expenses
Comment 14: U.S. Indirect Selling Expenses
Comment 15: Container Weight
Comment 16: SPECIES Product Characteristic
Comment 17: Accounting Errors Prior to the Cost Reporting Period
Comment 18: Double Counting Indirect Selling Expenses
Comment 19: Amortization of Pre-Operational Costs
Comment 20: Allocation of Depreciation to Work-in-Process Inventory
Comment 21: Other Adjustments to Shrimp Costs

Norte Pesca

Comment 22: Adverse Facts Available Rate for Norte Pesca

[FR Doc. 04–28110 Filed 12–21–04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–331–802]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Ecuador

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 23, 2004.

SUMMARY: On August 4, 2004, the Department of Commerce (the Department) published its preliminary determination of sales at less-than-fair-value (LTFV) of certain frozen and canned warmwater shrimp from Ecuador. The period of investigation is October 1, 2002, through September 30, 2003.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below in the section entitled ''Final Determination Margins.''

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Terre Keaton,

Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136, or (202) 482–1280, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that certain frozen and canned warmwater shrimp from Ecuador is being, or is likely to be, sold in the United States at LTFV, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

The preliminary determination in this investigation was published on August 4, 2004. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From Ecuador*, 69 FR 47091 (*Preliminary Determination*).

Since the preliminary determination, the following events have occurred. During the period July through October 2004, various interested parties, including the petitioners,[1] submitted comments on the scope of this and the concurrent investigations of certain frozen and canned warmwater shrimp.

In August and September 2004, we conducted sales and cost verifications of the questionnaire responses of the three respondents in this case, Exporklore S.A. (Exporklore), Exportadora De Alimentos S.A. (Expalsa), and Promarisco S.A. (Promarisco).

On August 13, 2004, the respondents requested a public hearing. We received case briefs on October 28, 2004, from the petitioners and the respondents. Promarisco resubmitted its brief on November 3, 2004, at the Department's request, in order to exclude unsolicited new factual information. In addition, in October 2004, Xian-Ning Seafood Co., Ltd., an interested party in the companion investigation of frozen and canned warmwater shrimp from Thailand, and two interested parties in this investigation, Eastern Fish Company, Inc., and Long John Silver's, Inc., submitted case and rebuttal briefs with respect to scope issues.

On November 5 and 10, 2004, pursuant to the Department's request, Exporklore and Expalsa, respectively, submitted revised sales and cost databases which incorporated certain changes discovered in preparation for and during verification.

On November 23, 2004, the Department convened a public hearing on scope issues. On November 29, 2004, the Department made final scope determinations with respect to shrimp scampi and dusted and battered shrimp. *See* the November 29, 2004, Memoranda from Edward C. Yang to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration entitled ''Scope Clarification on Shrimp Scampi''; and ''Scope Clarification on Dusted Shrimp and Battered Shrimp,'' respectively. *See also* the ''Scope of Investigation'' section of this notice, below, for further discussion.[2]

Also on November 29, 2004, the Department clarified that a shrimp sauce produced by a company in the companion investigation of frozen and canned warmwater shrimp from the People's Republic of China, Lee Kum Kee (USA) Inc., is not covered by the scope of that investigation. *See* the November 29, 2004, Memorandum from Edward C. Yang to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration entitled ''Scope Clarification on Lee Kum Kee's Shrimp Sauce.''

Period of Investigation

The period of investigation is October 1, 2002, through September 30, 2003.

Analysis of Comments Received

The various scope issues are discussed in the ''Case History'' section of this notice and the separate scope memoranda. All issues raised in the case briefs by parties to this proceeding and to which we have responded are listed in the appendix to this notice and addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated December 17, 2004, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

The scope of this investigation includes certain warmwater shrimp and prawns, whether frozen or canned, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,[3] deveined or not deveined, cooked or raw, or otherwise processed in frozen or canned form.

The frozen or canned warmwater shrimp and prawn products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through either freezing or canning and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of the investigation. In addition, food preparations, which are not ''prepared

[1] The petitioners in this investigation are the Ad Hoc Shrimp Trade Action Committee (an ad hoc coalition representative of U.S. producers of frozen and canned warmwater shrimp and harvesters of wild-caught warmwater shrimp), Versaggi Shrimp Corporation, and Indian Ridge Shrimp Company.

[2] In addition to these scope determinations, the Department previously made five other scope determinations: (1) On May 21, 2004, the Department declined to expand the scope of this investigation to include fresh (never frozen) shrimp; (2) on July 2, 2004, pursuant to a request from Ocean Duke Corporation, an interested party in the companion investigation of frozen and canned warmwater shrimp from Thailand, the Department found that its ''Seafood Mix'' is excluded from the scope of this investigation; (3) on July 2, 2004, the Department found that salad shrimp, sold in counts of 250 pieces or higher, are included within the scope of this investigation; (4) on July 2, 2004, the Department found that *Macrobrachium rosenbergii* and organic shrimp are included within the scope of this investigation; and (5) on July 2, 2004, the Department found that peeled shrimp are included within the scope of this investigation.

[3] ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of the investigation.

Excluded from the scope are: (1) Breaded shrimp and prawns (1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (1605.20.05.10); (5) dried shrimp and prawns; (6) dusted shrimp; and (7) battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this scope are currently classifiable under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, 1605.20.10.30, and 1605.20.10.40. These HTSUS subheadings are provided for convenience and customs purposes only and are not dispositive, but rather the written description of the scope of this investigation is dispositive.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations. For a discussion of these changes, see the ''Margin Calculations'' section of the Decision Memorandum.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of certain frozen and canned warmwater shrimp from Ecuador that are entered, or withdrawn from warehouse, for consumption on or after August 4, 2004, the publication date of the preliminary determination in the **Federal Register**. CBP shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margin shown below. The suspension of liquidation instructions will remain in effect until further notice.

Final Determination Margins

The weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average margin percentage
Exportadora De Alimentos S.A. (Expalsa)	2.62
Exporklore S.A.	2.35
Promarisco S.A.	4.48
All Others	3.26

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine within 45 days whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: December 17, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memorandum

Comments

Comment 1: Offsets for Non-Dumped Sales
Comment 2: Exclusion of Substandard Shrimp from the U.S. Sales Databases
Comment 3: ''Container Weight'' as Product Matching Characteristic
Comment 4: ''As Sold'' Versus HLSO Basis for Price and Quantity
Comment 5: ''Packaging'' Materials Versus ''Packing'' Materials
Comment 6: Expalsa's and Promarisco's Inland Freight and Testing Expense Methodology
Comment 7: Expalsa's Sales of Organic Shrimp
Comment 8: Grade as a Model-Matching Criterion for Expalsa Sales
Comment 9: Expalsa's Sales of ''Non-Standard Mixes''
Comment 10: Treatment of Expalsa's Expenses for Returned Shipments
Comment 11: Expalsa's Post-Petition Filing Billing Adjustments
Comment 12: Treatment of Certain Expalsa Sales to Italy as Samples
Comment 13: Rebates on Expalsa's Italian Sales
Comment 14: Cost Changes for Expalsa's Minor Corrections of Preservative Code
Comment 15: Payments to Exporklore's Sales Agent as Rebates or Commissions
Comment 16: Methodology for Calculating Exporklore's Payment to Agent for Italian Sales
Comment 17: Ocean Freight Revenue and Expense Treatment on Exporklore C&F Sales
Comment 18: Exporklore Bank Charges
Comment 19: Exporklore's Raw Material Costs
Comment 20: Currency Adjustment in Calculation of Exporklore's Financial Expense Ratio
Comment 21: Treatment of Commissions Paid to Affiliates in Exporklore's Labor Costs
Comment 22: Spain as the Appropriate Comparison Market for Promarisco
Comment 23: Classification and Exclusion of Certain Promarisco Spanish Sales as Samples
Comment 24: Billing Adjustments and Date of Sale for Certain Promarisco U.S. Long-Term Contract Sales
Comment 25: Bonus Payment to Promarisco's Spanish Sales Agent
Comment 26: Calculation of Promarisco's Indirect Selling Expense Ratio
Comment 27: Adjustment for Unreconciled Differences in Promarisco's Cost of Manufacture
Comment 28: Input Adjustment for Promarisco's Shrimp Purchases from Affiliated Farms

Comment 29: Adjustment of Promarisco's G&A Expense Ratio to Exclude Packing Expenses

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BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–840]

Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 23, 2004.

SUMMARY: On August 4, 2004, the Department of Commerce published its preliminary determination of sales at less than fair value of certain frozen and canned warmwater shrimp from India. The period of investigation is October 1, 2002, through September 30, 2003.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below in the section entitled ''Final Determination Margins.''

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood or Jill Pollack, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3874 or (202) 482–4593, respectively.

SUPPLEMENTARY INFORMATION

Final Determination

We determine that certain frozen and canned warmwater shrimp from India is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales of LTFV are shown in the ''Continuation of Suspension of Liquidation'' section of this notice. In addition, we determine that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to imports of the subject merchandise from India.

Case History

The preliminary determination in this investigation was published on August 4, 2004. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India,* 69 FR 47111 (Aug. 4, 2004) (*Preliminary Determination*).

Since the preliminary determination, the following events have occurred. During the period July through October 2004, various interested parties, including the petitioners,[1] submitted comments on the scope of this and the companion investigations of certain frozen and canned warmwater shrimp.

From August through October 2004, we conducted verifications of the questionnaire responses of the three respondents in this case, Devi Sea Foods Limited (Devi), Hindustan Lever Limited (HLL), and Nekkanti Seafoods Limited (Nekkanti).

In October 2004, we received case and rebuttal briefs from the petitioners, the respondents, and Xian-Ning Seafood Co., Ltd. (Xian-Ning), an interested party in the companion investigation of frozen and canned warmwater shrimp from Thailand.[2] The Department held a public hearing on November 3, 2004, at the request of Devi, HLL, Nekkanti, and the American Breaded Shrimp Processors, an interested party in this investigation. On November 23, 2004, the Department convened a public hearing on scope issues.

On November 29, 2004, the Department made final scope determinations with respect to shrimp scampi and dusted and battered shrimp. *See* the November 29, 2004, memoranda from Edward C. Yang to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, entitled ''Scope Clarification on Shrimp Scampi''; and ''Scope Clarification on Dusted Shrimp and Battered Shrimp,'' respectively. *See also* the ''Scope of Investigation'' section of this notice, below, for further discussion.[3]

Also on November 29, 2004, the Department clarified that a shrimp sauce produced by a company in the companion investigation of frozen and canned warmwater shrimp from the People's Republic of China, Lee Kum Kee (USA) Inc., is not covered by the scope of that investigation. *See* the November 29, 2004, Memorandum from Edward C. Yang to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, entitled ''Scope Clarification on Lee Kum Kee's Shrimp Sauce.''

Period of Investigation

The period of investigation (POI) is October 1, 2002, through September 30, 2003.

Analysis of Comments Received

The various scope issues are discussed in the ''Case History'' section of this notice and the separate scope memoranda. All other issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated December 17, 2004, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

The scope of this investigation includes certain warmwater shrimp and prawns, whether frozen or canned, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,[4] deveined or not

[1] The petitioners in this investigation are the Ad Hoc Shrimp Trade Action Committee (an *ad hoc* coalition representative of U.S. producers of frozen and canned warmwater shrimp and harvesters of wild-caught warmwater shrimp), Versaggi Shrimp Corporation, and Indian Ridge Shrimp Company.

[2] This brief related only to scope issues.

[3] In addition to these scope determinations, the Department previously made five other scope determinations: (1) On May 21, 2004, the Department declined to expand the scope of this investigation to include fresh (never frozen) shrimp; (2) on July 2, 2004, pursuant to a request from Ocean Duke Corporation, an interested party in this investigation, the Department found that its ''Seafood Mix'' is excluded from the scope of this investigation; (3) on July 2, 2004, the Department found that salad shrimp, sold in counts of 250 pieces or higher, are included within the scope of this investigation; (4) on July 2, 2004, the Department found that *Macrobrachium rosenbergii* and organic shrimp are included within the scope of this investigation; and (5) on July 2, 2004, the Department found that peeled shrimp are included within the scope of this investigation.

[4] ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

deveined, cooked or raw, or otherwise processed in frozen or canned form.

The frozen or canned warmwater shrimp and prawn products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (''HTSUS''), are products which are processed from warmwater shrimp and prawns through either freezing or canning and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this investigation. In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this investigation.

Excluded from the scope are: (1) Breaded shrimp and prawns (1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (1605.20.05.10); (5) dried shrimp and prawns; (6) certain dusted shrimp; and (7) certain battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this investigation are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, 1605.20.10.30, and 1605.20.10.40. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this investigation is dispositive.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations. For a discussion of these changes, see the ''Margin Calculations'' section of the Decision Memorandum.

Critical Circumstances

In our preliminary determination, we found that critical circumstances existed with respect to HLL's exports of the subject merchandise, but not for exports made by Devi, Nekkanti, or the companies subject to the ''all others'' rate. *See Preliminary Determination*, 69 FR at 47118–47119. We received comments on our preliminary finding of critical circumstances from HLL, which argues that we should no longer find that critical circumstances exist for it because the increase in imports shown in the Department's critical circumstances analysis was the result of seasonality. We also received comments from the petitioners, who support the preliminary finding of critical circumstances for HLL.

To determine whether there is a history of injurious dumping of the merchandise under investigation, in accordance with section 735(a)(3)(A)(i) of the Act, the Department normally considers evidence of an existing antidumping duty order on the subject merchandise in the United States or elsewhere to be sufficient. *See Preliminary Determination of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696 (Nov. 27, 2000). With regard to imports of certain frozen and canned warmwater shrimp from India, the petitioners make no statement concerning a history of dumping. We are not aware of any antidumping order in the United States or in any country on certain frozen and canned warmwater shrimp from India. For this reason, the Department does not find a history of injurious dumping of the subject merchandise from India pursuant to section 735(a)(3)(A)(i) of the Act.

To determine whether the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales in accordance with section 735(a)(3)(A)(ii) of the Act, the Department normally considers margins of 25 percent or more for export price (EP) sales or 15 percent or more for constructed export price transactions sufficient to impute knowledge of dumping. *See Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 31972, 31978 (Oct. 19, 2001). Each of the respondents made only EP sales during the POI and the final dumping margin calculated for each respondent, including HLL, is less than 25 percent. Therefore, we determine that there is an insufficient basis to find that importers should have known that the respondents were selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales pursuant to section 735(a)(3)(A)(ii) of the Act.

Because the requirements of section 735(a)(3)(A) of the Act are not met, we determine that critical circumstances do not exist for imports of subject merchandise from India. For further discussion, see the Decision Memorandum at *Comment 20*.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (CBP) to continue to suspend

liquidation of all entries of certain frozen and canned warmwater shrimp from India that are entered, or withdrawn from warehouse, for consumption on or after August 4, 2004, the publication date of the preliminary determination in the **Federal Register**. However, because we find that critical circumstances do not exist with regard to imports by HLL of certain frozen and canned warmwater shrimp from India, we will instruct CBP to terminate the retroactive suspension of liquidation for HLL between May 6, 2004 (90 days prior to the date of publication of the preliminary determination), and August 4, 2004, which was instituted due to the preliminary affirmative critical circumstances finding for this respondent. CBP shall also release any bond or other security, and refund any cash deposit required, under section 733(d)(1)(B) of the Act with respect to HLL's entries of the merchandise the liquidation of which was suspended retroactively under section 733(e)(2) of the Act. For entries on or after August 4, 2004, CBP shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

Final Determination Margins

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Devi Sea Foods Ltd.	5.02
Hindustan Lever Ltd.	13.42
Nekkanti Seafoods Ltd. ..	9.71
All Others	9.45

In accordance with section 735(c)(5)(A), we have based the ''All Others'' rate on the weighted average of the dumping margins calculated for the exporters/manufacturers investigated in this proceeding.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine within 45 days whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: December 17, 2004.

James Jochum,

Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memorandum

Comments

1. Offsets for Non-Dumped Sales
2. Methodology for Calculating the ''All Others'' Rate
3. Use of Container Weight as a Matching Characteristic
4. Position of Species in the Matching Hierarchy
5. ''As Sold'' Versus ''HLSO'' Product Comparisons
6. Use of Forward Exchange Contracts to Make Currency Conversions
7. Revenue from the Duty Entitlement Passbook Scheme
8. Export House Revenue
9. Ministerial Errors in the Preliminary Determination
10. Selection of Comparison Market for Devi
11. Credit Expenses for Devi
12. Third Country Sale Outside the Ordinary Course of Trade for HLL
13. Glazing Adjustment for HLL
14. Filler Adjustment for HLL
15. Bank Charges for HLL
16. General and Administrative Expenses for HLL
17. Level at Which Financing Expenses Are Calculated for HLL
18. Offset to Financing Expenses for HLL
19. Cost Reconciliation for HLL
20. Critical Circumstances for HLL
21. Additional Revenue for Nekkanti

[FR Doc. 04–28170 Filed 12–21–04; 10:32 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–822]

Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 23, 2004.

SUMMARY: On August 4, 2004, the Department of Commerce published its preliminary determination of sales at less than fair value of certain frozen and canned warmwater shrimp from Thailand. The period of investigation is October 1, 2002, through September 30, 2003.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins for the investigated companies are listed below in the section entitled ''Final Determination Margins.''

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Alice Gibbons, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0656 or (202) 482–0498, respectively.

SUPPLEMENTARY INFORMATION:

Final Determination

We determine that certain frozen and canned warmwater shrimp from Thailand is being, or is likely to be, sold in the United States at less-than-fair-value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales of LTFV are shown in the ''Continuation of Suspension of Liquidation'' section of this notice. In addition, we determine that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to imports of the subject merchandise from Thailand.

Case History

The preliminary determination in this investigation was published on August 4, 2004. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Negative Critical*

Circumstances Determination: Certain Frozen and Canned Warmwater Shrimp From Thailand, 69 FR 47100 (Aug. 4, 2004) (*Preliminary Determination*).

Since the preliminary determination, the following events have occurred. During the period July through October 2004, various interested parties, including the petitioners,[1] submitted comments on the scope of this and the concurrent investigations of certain frozen and canned warmwater shrimp.

In August and September 2004, we conducted verification of the questionnaire responses of the three respondents in this case, Andaman Seafood Co., Ltd., Chanthaburi Seafoods Co., Ltd., and Thailand Fishery Cold Storage Public Co., Ltd. (collectively ''the Rubicon Group''); Thai I-Mei Frozen Foods Co., Ltd. (Thai I-Mei); and the Union Frozen Products Co., Ltd. (UFP).

In October and November 2004, we received case briefs from the petitioners, the respondents, and the Government of Thailand and Xian-Ning Seafood Co., Ltd., interested parties in this investigation, and rebuttal briefs from the petitioners, the Rubicon Group, and Thai I-Mei. Two of the respondents (*i.e.*, the Rubicon Group and Thai I-Mei) and the American Breaded Shrimp Processors, an interested party, requested that a hearing be held by the Department. However, in November 2004, the Department canceled the hearing because the Rubicon Group and Thai I-Mei withdrew their requests. *See* the November 3, 2004, memorandum to the file from Alice Gibbons entitled, ''Cancellation of Public Hearing in the Antidumping Duty Investigation on Certain Frozen and Canned Warmwater Shrimp from Thailand.'' On November 23, 2004, the Department convened a public hearing on scope issues.

On November 29, 2004, the Department made final scope determinations with respect to shrimp scampi and dusted and battered shrimp. *See* the November 29, 2004, Memoranda from Edward C. Yang to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration entitled ''Scope Clarification on Shrimp Scampi''; and ''Scope Clarification on Dusted Shrimp and Battered Shrimp,'' respectively. *See also* the ''Scope of Investigation'' section of this notice, below, for further discussion.[2]

Also on November 29, 2004, the Department clarified that a shrimp sauce produced by a company in the companion investigation of frozen and canned warmwater shrimp from the People's Republic of China, Lee Kum Kee (USA) Inc., is not covered by the scope of that investigation. *See* the November 29, 2004, Memorandum from Edward C. Yang to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration entitled ''Scope Clarification on Lee Kum Kee's Shrimp Sauce.''

Period of Investigation

The period of investigation is October 1, 2002, through September 30, 2003.

Analysis of Comments Received

The various scope issues are discussed in the ''Case History'' section of this notice and the separate scope memoranda. All other issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration to James Jochum, Assistant Secretary for Import Administration, dated December 17, 2004, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

The scope of this investigation includes certain warmwater shrimp and prawns, whether frozen or canned, wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,[3] deveined or not deveined, cooked or raw, or otherwise processed in frozen or canned form.

The frozen or canned warmwater shrimp and prawn products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (''HTSUS''), are products which are processed from warmwater shrimp and prawns through either freezing or canning and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this investigation. In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this investigation.

Excluded from the scope are: (1) Breaded shrimp and prawns (1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (1605.20.05.10); (5) dried shrimp and prawns; (6) dusted shrimp; and (7) battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly

[1] The petitioners in this investigation are the Ad Hoc Shrimp Trade Action Committee (an ad hoc coalition representative of U.S. producers of frozen and canned warmwater shrimp and harvesters of wild-caught warmwater shrimp), Versaggi Shrimp Corporation, and Indian Ridge Shrimp Company.

[2] In addition to these scope determinations, the Department previously made five other scope determinations: (1) On May 21, 2004, the Department declined to expand the scope of this investigation to include fresh (never frozen) shrimp; (2) on July 2, 2004, pursuant to a request from Ocean Duke Corporation, an interested party in this investigation, the Department found that its ''Seafood Mix'' is excluded from the scope of this investigation; (3) on July 2, 2004, the Department found that salad shrimp, sold in counts of 250 pieces or higher, are included within the scope of this investigation; (4) on July 2, 2004, the Department found that *Macrobrachium rosenbergii* and organic shrimp are included within the scope of this investigation; and (5) on July 2, 2004, the Department found that peeled shrimp are included within the scope of this investigation.

[3] ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this investigation are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, 1605.20.10.30, and 1605.20.10.40. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this investigation is dispositive.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we have made certain changes to the margin calculations. For a discussion of these changes, see the ''Margin Calculations'' section of the Decision Memorandum.

Critical Circumstances

In our preliminary determination, we found that critical circumstances did not exist with respect to imports of the subject merchandise from Thailand because the requirements of section 733(e)(1)(A) of the Act had not been met. *See Preliminary Determination,* 69 FR at 47109–10. For the final determination, we continue to find that critical circumstances do not exist for the same reasons, in accordance with section 735(a)(3)(A) of the Act.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of certain frozen and canned warmwater shrimp from Thailand that are entered, or withdrawn from warehouse, for consumption on or after August 4, 2004, the publication date of the preliminary determination in the **Federal Register**. CBP shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

Final Determination Margins

The weighted-average dumping margins are as follows:

Exporter/manufacturer [4]	Weighted-average margin percentage
Andaman Seafood Co., Ltd.	5.79
Chanthaburi Seafoods Co., Ltd.	5.79
Chanthaburi Frozen Food Co., Ltd.	5.79
Phattana Seafood Co., Ltd.	5.79
Thai I-Mei Frozen Foods Co., Ltd.	6.20
Thailand Fishery Cold Storage Public Co., Ltd.	5.79
Thai International Seafood Co., Ltd.	5.79
The Union Frozen Products Co., Ltd.	6.82
Wales & Company Universe, Ltd.	5.79
Y2K Frozen Food Co., Ltd.	5.79
All Others	6.03

In accordance with section 735(c)(5)(A) of the Act, we have based the ''all others'' rate on the weighted average of the dumping margins calculated for the exporters/manufacturers investigated in this proceeding.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine within 45 days whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: December 17, 2004.

James Jochum,

Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memo

Comments

1. Offsets for Non-Dumped Sales
2. Revenue from the Thai Government Duty Compensation Program
3. Ministerial Errors in the Preliminary Determination
4. Exclusion of Broken Shrimp from the Margin Calculations
5. Whether to Grant a Constructed Export Price (CEP) Offset for the Rubicon Group
6. Allocation of Indirect Selling Expenses for the Rubicon Group
7. Treatment of Transportation Expenses for the Rubicon Group
8. Double Counting in the Calculation of Financial Ratios for the Rubicon Group
9. Verification Corrections for the Rubicon Group
10. Date-of-Sale Methodology for Thai I-Mei
11. Count Sizes for Thai I-Mei
12. Appropriate Denominator to Use for General and Administrative (G&A) and Interest Calculations for Thai I-Mei
13. Adverse Facts Available (AFA) Cost Adjustments for Thai I-Mei
14. Calculation of Constructed Value (CV) Profit for Thai I-Mei
15. Adjustment to Cost Offset Reported for UFP

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BILLING CODE 3510–DS–P

[4] The following companies are part of the Rubicon Group and thus have been assigned the same dumping margin: Andaman Seafood Co., Ltd., Chanthaburi Frozen Food Co., Ltd., Chanthaburi Seafoods Co., Ltd., Phattana Seafood Co., Ltd., Thailand Fishery Cold Storage Public Co., Ltd., Thai International Seafood Co., Ltd., Wales & Company Universe, Ltd., and Y2K Frozen Food Co., Ltd.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 122004A]

Pacific Fishery Management Council; Coastal Pelagic Species Fishery Management Plan Work Sessions Focused on Pacific Sardine Allocation.

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (CPSMT) will hold a work session, which is open to the public.

DATES: The CPSMT will meet Tuesday, January 11, 2005, from 9 a.m. to 5 p.m. and Wednesday, January 12, 2005, from 9 a.m. until business for the day is completed.

ADDRESSES: The meetings will be held at National Marine Fisheries Service, Southwest Fisheries Science Center, Large Conference Room (D–203), 8604 La Jolla Shores Drive, La Jolla, California 92037, (858) 546–7000

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Burner, Pacific Fishery Management Council, (503) 820–2280.

SUPPLEMENTARY INFORMATION: The CPSMT will meet to discuss analysis of alternative management measures for annual allocation of the Pacific sardine harvest guideline. This work will result in development of Amendment 11 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The goal is for the Council to take final action on FMP Amendment 11 at the June 2005 Council meeting, with implementation by the National Marine Fisheries Service in time for the start of the January 2006 Pacific sardine season.

The main purpose of the meeting will be to initiate analysis of sardine allocation alternatives, including organization of analytical documents, drafting assignments, and schedule for completion of the documents. The CPSMT will also discuss initial preparations for development of the 2005 CPS Stock Assessment and Fishery Evaluation (SAFE) document.

At their November 2004 meeting, the Council adopted for analysis several alternatives for annual allocation of the Pacific sardine harvest guideline. The Council also adopted a series of program objectives that were recommended by the Council's Coastal Pelagic Species Advisory Subpanel. For the analysis, the Council gave specific direction to the CPSMT:

- Analyze each alternative in a consistent manner;
- Review differential impacts on northern and southern sectors for each alternative;
- Review effects of high and low catch years by sector for each alternative;
- Review resulting effects at various harvest guideline (HG) levels ranging from 25,000 mt- 200,000 mt (at appropriate intervals) for each alternative; and
- At the discretion of the CPSMT, combine aspects of the various alternatives to create new alternatives that meet program objectives.

Program objectives and specific alternatives adopted for analysis are available from the Council. See the Winter 2004 Edition of the Pacific Council News, on-line at: *http://www.pcouncil.org/newsletters/2004/winter04.pdf*. This information is also available upon request from Council staff, please contact Mr. Mike Burner.

Please note that this is a public meeting, and time for public comment will be provided at the discretion of the committee chairmen. Generally, a public comment period will be provided just prior to the end of each day's session. Please note, this is not a public hearing, rather this is a work session for the purpose of analyzing management alternatives for Pacific sardine allocation.

Although nonemergency issues not contained in the meeting agenda may come before the CPSMT for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the CPSMT's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

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

Dated: December 20, 2004.

Alan D. Risenhoover,

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

[FR Doc. E4–3781 Filed 12–22–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Overview Information; Early Reading First Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

Catalog of Federal Domestic Assistance (CFDA) Number: 84.359A/B.

Dates: Applications Available: December 28, 2004 (pre- and full applications).

Deadline for Transmittal of Pre-Applications: February 7, 2005.

Deadline for Transmittal of Full Applications: May 2, 2005 (for applicants invited to submit full applications only).

Deadline for Intergovernmental Review: July 1, 2005.

Eligible Applicants: The term ''eligible applicant'' means the following: (a) One or more local educational agencies (LEAs) that are eligible to receive a subgrant under the Reading First program (title I, part B, subpart 1, Elementary and Secondary Education Act of 1965, as amended (ESEA)), (b) one or more public or private organizations or agencies (including faith-based organizations) located in a community served by an eligible LEA; or (c) one or more eligible LEAs, applying in collaboration with one or more eligible organizations or agencies. To qualify under paragraph (b) of this definition, the organization's or agency's application must be on behalf of one or more programs that serve preschool-age children (such as a Head Start program, a child care program, or a family literacy program such as Even Start, or a lab school at a university), unless the organization or agency itself operates a preschool program.

Estimated Available Funds: $104,160,000.

Estimated Range of Awards: $750,000–$4,500,000.

Estimated Average Size of Awards: $2,800,000.

Estimated Number of Awards: 23–139.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program supports local efforts to enhance the oral language, cognitive, and early reading skills of preschool-age children especially those from low-income families, through strategies, materials, and professional development that are grounded in scientifically based reading research.

Priorities: Under this competition we are particularly interested in applications that address the following invitational and competitive priorities.

Invitational Priorities: For FY 2005 these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These priorities are:

Invitational Priority 1—Intensity

The Secretary is especially interested in preschool programs that operate full-time, full-year early childhood educational programs, at a minimum of 6.5 hours per day, 5 days per week, 46 weeks per year, and that serve children for the two consecutive years prior to their entry into kindergarten.

Scientifically based research on increasing the effectiveness of early childhood education programs serving children from low-income families tells us that children attending such programs that have a greater intensity of service make higher and more persistent gains in the language and cognitive domains than children who attend early childhood programs that have lesser intensity of service. In other words, children who spend more time in high-quality early childhood education programs learn more than children who spend less time in those programs. The purpose of Invitational Priority 1 is to encourage preschool programs supported with Early Reading First (ERF) funds to provide services that are of a sufficient duration and intensity to maximize language and early literacy gains for children enrolled in those programs.

Invitational Priority 2—Children From Low-Income Families

The Secretary is especially interested in projects in which, in all preschool centers supported by the Early Reading First funds, at least 75 percent of the children enrolled in the preschool qualify to receive free or reduced priced lunches; or at least 75 percent of the children enrolled in the elementary school in the school attendance area in which that center is located qualify to receive free or reduced priced lunches.

One of the statutory purposes of the Early Reading First program is to enhance the early language, literacy, and early reading development of preschool-age children, particularly those from low-income families. This invitational priority is intended to increase the likelihood that preschool programs supported with Early Reading First funds serve children primarily from low-income families.

Competitive Preference Priority: In accordance with 34 CFR 75.105(b)(2)(ii), this priority is from § 75.225 of the Education Department General Administrative Regulations (EDGAR), which apply to this program (34 CFR 75.225).

Competitive Preference Priority—Novice Applicant

For FY 2005 this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award an additional five (5) points to a pre-application and an additional five (5) points to a full application meeting this competitive priority.

This priority is:

Novice Applicant

The applicant must be a ''novice applicant'' as defined in 34 CFR 75.225.

Program Authority: 20 U.S.C. 6371–6376.

Applicable Regulations: EDGAR in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99 as applicable.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grant.

Estimated Available Funds: $104,160,000.

Estimated Range of Awards: $750,000–$4,500,000.

Estimated Average Size of Awards: $2,800,000.

Estimated Number of Awards: 23–139.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* The term ''eligible applicant'' means the following: (a) One or more LEAs that are eligible to receive a subgrant under the Reading First program (title I, part B, subpart 1, ESEA); (b) one or more public or private organizations or agencies (including faith-based organizations) located in a community served by an eligible LEA; or (c) one or more eligible LEAs, applying in collaboration with one or more eligible organizations or agencies. To qualify under paragraph (b) of this definition, the organization's or agency's application must be on behalf of one or more programs that serve preschool-age children (such as a Head Start program, a child care program, or a family literacy program such as Even Start, or a lab school at a university), unless the organization or agency itself operates a preschool program.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You may obtain an application package via the Internet or from the Education Publications Center (EDPubs). To obtain an application via the Internet, use the following web address: *www.ed.gov/programs/earlyreading/applicant.html*. To obtain a copy from ED Pubs, write or call the following Education Publications Center, P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov*.

If you request an application package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.359A/B.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of the pre-application, and the full application, together with the forms you must submit, are in the application package for this program. All applicants may apply in the pre-application phase; applicants must be invited to submit a full application. Page Limits: The pre-application narrative and the full application narrative for this program (Part II of the pre- and full applications) are where you, the applicant, address the selection criteria that reviewers use to evaluate your pre- and full applications. You must limit Part II of the pre-application

to the equivalent of no more than ten (10) pages and Part II of the full application to the equivalent of no more than thirty-five (35) pages. Part III of the full application is where you, the applicant, provide a budget narrative that reviewers use to evaluate your full application. You must limit the budget narrative in Part III of the full application to the equivalent of no more than five (5) pages. Part IV of the full application is where you, the applicant, provide the list and a brief description of the existing preschool programs that the proposed Early Reading First project would support, up to five (5) resumes (curriculum vita), and the demonstration of stakeholder support for the project reviewers will use to evaluate your full application. You must limit the list and the brief description of the existing preschool programs to the equivalent of no more than five (5) pages. You must limit each resume to the equivalent of no more than three (3) pages each and limit the demonstration of stakeholder support for the project to the equivalent of no more than five (5) pages. For all page limits, use the following standards:

• A ''page'' is 8.5″ × 11″ on one side only, with 1″ margins at the top, bottom, and both sides.

• Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, quotations, and references included in the body of the narrative.

• Text in endnotes, charts, tables, figures, and graphs may be single-spaced.

• Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch), including text in endnotes, charts, tables, figures, and graphs.

The page limits do not apply to Part I, the cover sheet and the one (1) page abstract; or the following portions of the full application: Part III, the budget (ED Form 524); or Part IV, the assurances and certifications; and the endnotes.

Our reviewers will not read any pages of your pre-application or full application that—

• Exceed the page limit if you apply these standards; or

• Exceed the equivalent of the page limit if you apply other standards.

3. *Submission Dates and Times:*

Applications Available: December 28, 2004 (pre- and full applications).

Deadline for Transmittal of Pre-Applications: February 7, 2005.

Deadline for Transmittal of Full Applications: May 2, 2005 (for applicants invited to submit full applications only).

Deadline for Intergovernmental Review: July 1, 2005.

Pre- and full applications for grants under the Early Reading First program must be submitted electronically using the Electronic Grant Application System (e-Application) available through the Department's e-Grants system. For information (including dates and times) about how to submit your application electronically or to request a waiver of the electronic submission requirement, please refer to Section IV.6. *Other Submission Requirements* in this notice. We do not consider a pre-application or a full application that does not comply with the deadline requirements.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Pre- and full applications for grants under this program must be submitted electronically, unless you request a waiver of this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Pre- and full applications for grants under the Early Reading First program, CFDA Number 84.359A/B, must be submitted electronically using e-Application available through the Department's e-Grants system, accessible through the e-Grants portal page at: *http://e-grants.ed.gov*.

If you are unable to submit a pre- or full application through the e-Grants system, you may submit a written request for a waiver of the electronic submission requirement. In your request, you should explain the reason or reasons that prevent you from using the Internet to submit your pre- or full application. Address your request to: Rebecca Haynes, room 3W234, Washington, DC 20202–6132, (202) 260–0968. Please submit your request no later than two weeks before the applicable application deadline date. Your paper pre- or full application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

If, within two (2) weeks of the applicable application deadline date, including on the applicable application deadline date itself, you are unable to submit an application electronically, you must submit a paper pre- or full application in accordance with the mail or hand delivery instructions described in this notice. The paper pre- or full application must include a written request for a waiver documenting the reasons that prevented you from using the Internet to submit your pre- or full application electronically.

While completing your electronic pre- or full application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a pre- or full grant application to us.

Please note the following:

• You must complete the electronic submission of your pre- or full grant application by 4:30 p.m., Washington, DC time, on the applicable application deadline date. The e-Application system will not accept a pre- or full application for this program after 4:30 p.m., Washington, DC time, on the applicable application deadline date. Therefore, we strongly recommend that you do not wait until the applicable application deadline date to begin the pre- or full application process.

• The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight Saturday, Washington, DC time. Please note that the system is unavailable on Sundays, and between 7 p.m. on Wednesdays and 6 a.m. on Thursdays, Washington, DC time, for maintenance. Any modifications to these hours are posted on the e-Grants Web site.

• You will not receive additional point value because you submit your pre- or full application in electronic format, nor will we penalize you if you request a waiver and submit your pre- or full application in paper format because you were prevented from submitting it electronically as required.

• You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• Your electronic pre- or full application must comply with any page limit requirements described in this notice.

• Prior to submitting your electronic pre- or full application, you may wish to print a copy of it for your records.

• After you electronically submit your pre- or full application, you will receive an automatic acknowledgement that will include a PR/Award number (an identifying number unique to your pre- or full application).

• Within three (3) working days after submitting your electronic application, fax a signed copy of the ED 424 to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.

2. The applicant's Authorizing Representative must sign this form.

3. Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the ED 424.

4. Fax the signed ED 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you are prevented from electronically submitting your pre- or full application on the applicable application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your pre- or full application electronically, by mail, or by hand delivery. We will grant this extension if—

1. You are a registered user of e-Application and you have initiated the applicable electronic application for this competition; and

2. (a) The e-Application system is unavailable for sixty minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the applicable application deadline date; or

(b) The e-Application system is unavailable for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time, on the applicable application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If the system is down and therefore the applicable application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application.

Extensions referred to in this section apply only to the unavailability of the Department's e-Application system. If the e-Application system is available, and you are unable to submit your application electronically or you do not receive an automatic acknowledgement of your submission, you must submit your pre- or full application in paper format by mail or hand delivery in accordance with the instructions in this notice. Your paper pre- or full application must be accompanied by a written request for waiver of the electronic submission requirement documenting the reasons that prevented you from using the Internet to submit your pre- or full application electronically.

b. *Submission of Paper Applications by Mail.*

If you have requested a waiver of the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your pre- or full application to the Department. You must send the original and two (2) copies of your pre- or full application, on or before the applicable application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.359A/B), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.359A/B), 7100 Old Landover Road, Landover, MD 20785–1506.

You must show proof of mailing consisting of one of the following:

1. A legibly dated U.S. Postal Service postmark;

2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

3. A dated shipping label, invoice, or receipt from a commercial carrier; or

4. Any other proof of mailing acceptable to the U.S. Secretary of Education.

If you mail your pre- or full application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

1. A private metered postmark, or

2. A mail receipt that is not dated by the U.S. Postal Service.

If your pre- or full application is postmarked after the applicable application deadline date, we will not consider your application.

Note: Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you have requested a waiver of the electronic submission requirement, you (or a courier service) may deliver your paper pre- or full application to the Department by hand. You must deliver the original and two (2) copies of your pre- or full application by hand, on or before the applicable application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: 84.359A/B, 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your pre-or full application to the Department:

1. You must indicate on the envelope and—if not provided by the Department—in Item 4 of the ED 424 the CFDA number—and suffix letter, if any—of the competition under which you are submitting your pre- or full application.

2. The Application Control Center will mail a Grant Application Receipt Acknowledgment to you. If you do not receive the notification of application receipt within fifteen (15) business days of the applicable application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* This program has separate selection criteria for pre-applications and full applications.

A. *Pre-applications:* The following selection criterion for pre-applications is in 34 CFR 75.210 of EDGAR. Further information about this selection criterion is in the application package. The maximum score for the pre-application selection criterion is 100 points.

Quality of the project design (0–100 points). The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(a) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice. (34 CFR 75.210(c)(2)(xiii))

(b) The extent to which the proposed project represents an exceptional approach for meeting statutory purposes and requirements. (34 CFR 75.210(c)(2)(xiv))

(c) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources. (34 CFR 75.210(c)(2)(xvi))

B. Full Application: The following selection criteria for those invited to submit full applications are in 34 CFR 75.210 of EDGAR. Further information about each of these selection criteria is in the application package. The maximum score for each criterion is indicated after the title of the criterion.

(i) *Quality of the project design (0–60 points).* The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(a) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice. (34 CFR 75.210(c)(2)(xiii))

(b) The extent to which the proposed project represents an exceptional approach for meeting statutory purposes and requirements. (34 CFR 75.210(c)(2)(xiv))

(c) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources. (34 CFR 75.210(c)(2)(xvi))

(ii) *Quality of project personnel (0–8 points).* The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (34 CFR 75.210(e)(1),(2))

In addition, the Secretary considers the following factors:

(a) The qualifications, including relevant training and experience, of the project director or principal investigator. (34 CFR 75.210(e)(3)(i))

(b) The qualifications, including relevant training and experience, of key project personnel. (34 CFR 75.210(e)(3)(ii))

(c) The qualifications, including relevant training and experience, of project consultants or subcontractors. (34 CFR 75.210(e)(3)(iii))

(iii) *Adequacy of resources (0–8 points).* The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(a) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project. (34 CFR 75.210(f)(2)(ii))

(b) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (34 CFR 75.210(f)(2)(iv))

(iv) *Quality of the management plan (0–8 points).* The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(a) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (34 CFR 75.210(g)(2)(i))

(b) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project. (34 CFR 75.210(g)(2)(ii))

(c) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project. (34 CFR 75.210(g)(2)(iv))

(v) *Quality of the project evaluation (0–8 points).* The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(a) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (34 CFR 75.210(h)(2)(i))

(b) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible. (34 CFR 75.210(h)(2)(iv))

(vi) *Significance (0–8 points).* The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study. (34 CFR 75.210(b)(2)(vi))

I. Award Administration Information

1. *Award Notices:* If your pre-application is successful, we notify you in writing and post the list of successful applicants on the Early Reading First Web site at *www.ed.gov/programs/earlyreading/awards.html.* If your full application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your pre-application is not evaluated, or following the submission of your pre-application you are not invited to submit a full application, we notify you. If your full application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements*: We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting*: At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118. Early Reading First grantees also are required to meet the annual reporting requirements outlined in section 1225 of the ESEA.

4. *Performance Measures:* Under the Government Performance and Results Act (GPRA), the Secretary has established the following two measures for evaluating the overall effectiveness of the Early Reading First program:

(1) The percentage of preschool-age children who demonstrate age-appropriate oral language skills as measured by the Peabody Picture Vocabulary Test-III; and

(2) the average number of letters that preschool-age children are able to identify as measured by the Upper Case Alphabet Knowledge subtask on the PALS Pre-K assessment.

We will expect all grantees to document their success in addressing these performance measures in the annual performance report referred to in section VI.3. of this notice.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Rebecca Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W234, Washington, DC 20202–6132. Telephone: (202) 260–0968 or by e-mail: *Rebecca.Haynes@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister/index.html.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *www.gpoaccess.gov/nara/index.html.*

Dated: December 17, 2004.

Raymond Simon,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. E4–3780 Filed 12–22–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Federal Pell Grant, Federal Perkins Loan, Federal Work-Study, Federal Supplemental Educational Opportunity Grant, Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice of revision of the Federal Need Analysis Methodology for the 2005–2006 award year.

SUMMARY: The Secretary of Education announces the updates to the state tax tables that will be used in the statutory ''Federal Need Analysis Methodology'' to determine a student's expected family contribution (EFC) for award year 2005–2006 under part F of title IV of the Higher Education Act of 1965 (HEA), as amended (Title IV, HEA Programs). An EFC is the amount a student and his or her family may reasonably be expected to contribute toward the student's postsecondary educational costs for purposes of determining financial aid eligibility. The Title IV, HEA Programs include the Federal Pell Grant, campus-based (Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs), Federal Family Education Loan, and William D. Ford Federal Direct Loan Programs.

FOR FURTHER INFORMATION CONTACT: Ms. Marya Dennis, Management and Program Analyst, U.S. Department of Education, Union Center Plaza, 830 First Street, NE., Washington, DC 20202. Telephone: (202) 377–3385. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: Part F of title IV of the HEA specifies the criteria, data elements, calculations, and tables used in the Federal Need Analysis Methodology EFC calculations.

Section 478 of part F of the HEA requires the Secretary to adjust four of the tables—the Income Protection Allowance, the Adjusted Net Worth of a Business or Farm, the Education Savings and Asset Protection Allowance, and the Assessment Schedules and Rates—each award year to take into account inflation. The changes are based, in general, upon increases in the Consumer Price Index. The Secretary published these adjusted tables in the **Federal Register** on June 17, 2004. *See* 69 FR 33890.

Section 478(g) of part F of the HEA further directs the Secretary to update the tables for State and other taxes after reviewing the Department of Treasury's Statistics of Income file data maintained by the Internal Revenue Service. The Secretary delayed publication of these tables in order to complete a thorough review of the available information from the Statistics of Income file data maintained by the Internal Revenue Service. Also, a provision in the Consolidated Appropriations Act, 2004 (Pub. L. 108–199), directed the Advisory Committee on Student Financial Assistance to examine the efficiency, effectiveness and fairness of the current procedures to update formula offsets and allowances. The Secretary considered the preliminary findings of the Advisory Committee's analysis as he reviewed the Statistics of Income file data.

Finally, section 482 of part F of the HEA requires the Secretary to publish the annual Federal Need Analysis Methodology updates by June 1. On June 16, 2004, also as required by section 482 of part F of the HEA, the Secretary informed the Chairmen and Ranking Members of the House Education and Workforce and Senate Health, Education, Labor, and Pensions Committees that the Department did not meet this deadline.

The State tax table information for 2005–2006 is as follows:

Allowance for State and Other Taxes. The allowance for State and other taxes protects a portion of the parents' and students' income from being considered available for postsecondary educational expenses. There are four tables for State and other taxes, one each for parents of dependent students, independent students with dependents other than a spouse, dependent students, and independent students without dependents other than a spouse.

[In percent]

State	Parents of dependents and independents with dependents other than a spouse		Dependents and independents without dependents other than a spouse—all (in percent)
	Under $15,000 (in percent)	$15,000 and up (in percent)	
Alabama	3	2	2
Alaska	2	1	0
Arizona	4	3	2
Arkansas	3	2	3

[In percent]

State	Parents of dependents and independents with dependents other than a spouse		Dependents and independents without dependents other than a spouse—all (in percent)
	Under $15,000 (in percent)	$15,000 and up (in percent)	
California	7	6	5
Colorado	4	3	3
Connecticut	7	6	4
Delaware	4	3	3
District of Columbia	7	6	6
Florida	2	1	0
Georgia	5	4	3
Hawaii	4	3	4
Idaho	5	4	3
Illinois	5	4	2
Indiana	4	3	3
Iowa	5	4	3
Kansas	5	4	3
Kentucky	5	4	4
Louisiana	2	1	2
Maine	6	5	4
Maryland	7	6	5
Massachusetts	6	5	4
Michigan	5	4	3
Minnesota	6	5	4
Mississippi	3	2	2
Missouri	4	3	3
Montana	5	4	3
Nebraska	5	4	3
Nevada	2	1	1
New Hampshire	4	3	1
New Jersey	8	7	4
New Mexico	4	3	3
New York	8	7	5
North Carolina	6	5	4
North Dakota	2	1	1
Ohio	6	5	4
Oklahoma	4	3	3
Oregon	7	6	5
Pennsylvania	5	4	3
Rhode Island	7	6	4
South Carolina	5	4	3
South Dakota	1	0	0
Tennessee	1	0	0
Texas	2	1	0
Utah	5	4	4
Vermont	6	5	3
Virginia	5	4	3
Washington	2	1	0
West Virginia	3	2	2
Wisconsin	7	6	4
Wyoming	1	0	0
Other	3	2	2

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(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant; 84.032 Federal Family Education Loan Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; 84.268 William D. Ford Federal Direct Loan Program)

Dated: December 17, 2004.

Theresa S. Shaw,

Chief Operating Officer, Federal Student Aid.

[FR Doc. E4–3779 Filed 12–22–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; List of Correspondence

AGENCY: Department of Education.

ACTION: List of Correspondence from July 1, 2004 through September 30, 2004.

SUMMARY: The Secretary is publishing the following list pursuant to section 607(d) of the Individuals with Disabilities Education Act, as amended (IDEA). Under section 607(d) of the IDEA, the Secretary is required, on a quarterly basis, to publish in the **Federal Register** a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education (Department) of the IDEA or the regulations that implement the IDEA.

FOR FURTHER INFORMATION CONTACT: Melisande Lee or JoLeta Reynolds. Telephone: (202) 245–7459 (press 3).

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of this notice in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact persons listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION: The following list identifies correspondence from the Department issued from July 1, 2004 through September 30, 2004.

Included on the list are those letters that contain interpretations of the requirements of the IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law and its regulations. The date and topic addressed by a letter are identified, and summary information is also provided, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been deleted, as appropriate.

Part B—Assistance for Education of All Children With Disabilities

Section 611—Authorization; Allotment; Use of Funds; Authorization of Appropriations

Topic Addressed: Use of funds.

- Letter dated August 17, 2004 to Washington Office of Public Instruction Director of Agency Financial Services Renoe Lewis, regarding the treatment of program income, generated from registration fees charged to participants at professional development conferences
- Letter dated July 22, 2004 to individual (personally identifiable information redacted), regarding whether a local educational agency (LEA) can use funds under Part B of IDEA to pay the salary of a reading specialist, who may or may not meet the State qualification standards for employment, to provide direct instruction to students with disabilities.

Topic Addressed: Subgrants to local educational agencies.

- Letter dated September 13, 2004 to Ohio Department of Education Associate Director of Federal and State Grants Management Jeffrey M. Jordan, responding to a specific request for guidance, pursuant to 34 CFR 81.33 of the Education Department General Administrative Regulations, for clarification on how a State educational agency (SEA) satisfies the requirement under Part B of IDEA relating to the portion of its grant that must flow through to its LEAs.

Section 612—State Eligibility

Topic Addressed: Procedural safeguards.

- Letter dated July 13, 2004 to individual (personally identifiable information redacted), clarifying that Part B of IDEA does not provide for the Office of Special Education Programs' review of individual State-level complaint decisions or due process hearings, and that depending on State law, a complainant may be able to appeal a State complaint decision to an appropriate State court.

Topic Addressed: Confidentiality.

- Letter dated August 13, 2004 to individual (personally identifiable information redacted), from Family Policy Compliance Office Director LeRoy S. Rooker, regarding the applicability and scope of hearing procedures under the Family Educational Rights and Privacy Act (FERPA) and Part B of IDEA for parents seeking to challenge the content of the education records of a student with a disability and clarifying that a public agency may not bypass a parent's right to a hearing under FERPA by requiring the parent to request an impartial due process hearing under Part B of IDEA.

Section 613—Local Educational Agency Eligibility

Topic Addressed: Schoolwide programs.

- Letter dated August 24, 2004 to Washington, DC Attorney Leigh M. Manasevit, regarding the use of funds awarded under Part B of IDEA for a schoolwide program under Title I of the Elementary and Secondary Education Act of 1965, as amended, and clarifying the requirements that apply if Part B of IDEA funds are not consolidated with other funds in a schoolwide plan.

Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, And Educational Placements

Topic Addressed: Evaluations and reevaluations.

- Letter dated July 14, 2004 to Santa Monica, California Attorney Howard J. Fulfrost, regarding a parent's refusal to consent to the initial provision of special education and related services, including the relationship of the requirements of Part B of IDEA to California law, and clarifying (1) how a school district can meet its obligation to make a free appropriate public education (FAPE) available and protect itself against possible future claims of a denial of FAPE; and (2) that a student with a disability whose parent has refused consent is not provided the discipline protections under Part B of IDEA and may be disciplined in the same manner as nondisabled students.
- Letter dated July 19, 2004 to Washington, DC Attorney Leigh M. Manasevit, written on behalf of the North Carolina Department of Public Instruction, regarding a parent's refusal to consent to the initial provision of special education and related services and clarifying (1) how a school district can meet its obligation to make FAPE available and protect itself against possible future claims of a denial of FAPE; and (2) that a student with a disability whose parent has refused consent does not have the right under Part B of IDEA to compensatory services, is not provided the discipline protections under Part B of IDEA, and may be disciplined in the same manner as nondisabled students.

Section 615—Procedural Safeguards

Topic Addressed: Appeals.

- Letter dated August 12, 2004 to individual (personally identifiable information redacted), regarding the appeal rights that Part B of IDEA affords to any party aggrieved by the findings and decisions of a hearing in a one-tier system, and clarifying that certain provisions in the Florida statute and regulations giving an aggrieved party the right to appeal to a specific State court are inconsistent with section 615(i)(1) and (2) of IDEA because that State court

does not have authority to hear additional evidence at the request of a party.

• Letter dated July 22, 2004 to California Assembly Legislative Director David Heckler, regarding proposed legislation that would impose conditions other than those contained in Part B of IDEA that would limit the ability of a court or a hearing officer to fashion appropriate relief, including awarding full reimbursement for a nonpublic placement where FAPE is not made available to a child with a disability in a timely manner.

Part C—Infants And Toddlers With Disabilities

Section 635—Requirements For Statewide System

Topic Addressed: Child find.

• Letter dated July 12, 2004 to California Department of Developmental Services Part C Coordinator Rick Ingraham, clarifying that Part C does not set forth any specific percentage of children that each State must serve in its Part C program, but that States that establish numerical goals must ensure that only eligible children are identified and that eligible children and families are not denied services under Part C of IDEA.

Part D—National Activities To Improve Education of Children With Disabilities

Subpart 2—Coordinated Research, Personnel Preparation, Technical Assistance, Support, and Dissemination of Information

Section 687—Technology Development, Demonstration, and Utilization; and Media Services

Topic Addressed: Captioning.

• Letter dated August 30, 2004 from U. S. Secretary of Education Rod Paige to U.S. Congressman Maurice Hinchey and other members of Congress, regarding the Department's decision to use IDEA funds to support captioning and video description only for programming that clearly fits within the ''educational, informational, and news'' categories.

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(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

Dated: December 20, 2004.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. E4–3798 Filed 12–22–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration, Hopkins Ridge Wind Interconnection Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: This notice announces the availability of the ROD to interconnect the proposed Hopkins Ridge Wind Energy Project into the Federal Columbia River Transmission System, as requested by RES America Developments. Transmission services would be provided for 150 megawatts of the output of the proposed wind project. This decision is consistent with and tiered to BPA's Business Plan Final Environmental Impact Statement (DOE/EIS–0183, June 1995), and the Business Plan Record of Decision (August 1995). The proposed interconnection project involves constructing a switching substation adjacent to an existing BPA transmission line near the wind project. The switching substation would be located on a 5-acre parcel of land currently used for wheat farming, immediately east of the intersection of Hartsock Grade Road and Lewis Gulch Road, Columbia County, Washington. BPA would construct the substation from March 1, 2005 through the fall of 2005.

ADDRESSES: Copies of the ROD and EIS may be obtained by calling BPA's toll-free document request line, 1–800–622–4520. The ROD and EIS Summary are also available on our Web site, *http://www.efw.bpa.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly St. Hilaire, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon, 97208–3621; toll-free telephone number 1–800–282–3713; fax number 503–230–5699; or e-mail *ksthilaire@bpa.gov*.

Issued in Portland, Oregon, on December 20, 2004.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. 04–28100 Filed 12–22–04; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Soliciting Comments, Motions To Intervene, and Protests

December 15, 2004.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands.

b. *Project No.:* 1490–036.

c. *Date Filed:* November 24, 2004.

d. *Applicant:* Brazos River Authority.

e. *Name of Project:* Morris Sheppard Project.

f. *Location:* The project is located on the Possum Kingdom Reservoir on the Brazos River in Palo Pinto County, Texas. This project does not occupy any federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) 825(r) and 799 and 801.

h. *Applicant Contact:* Mr. Phillip J. Ford, General Manager/CEO, Brazos River Authority, 4600 Cobbs Drive, P.O. Box 7555, Waco, TX 76714–7555, (254) 761–3100.

i. *FERC Contacts:* Any questions on this notice should be addressed to Mrs. Jean Potvin at (202) 502–8928, or e-mail address: *jean.potvin@ferc.gov*.

j. *Deadline for filing comments and/or motions:* January 4, 2005.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–1490–036) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Request:* Brazos River Authority (Authority) is seeking

Commission approval of the existing 54-slip Scenic Point Northview Marina and approval to permit the addition of 36 boat slips to the marina. All of the boat slips would be available for rental to the public.

l. *Location of the Application:* The filing is available for review at the Commission in the Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online support at *FERCOnLineSupport@ferc.gov* or toll free (866) 208–3676 or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3790 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–35–000]

Colorado Interstate Gas Company; Notice of Application

December 15, 2004.

Take notice that on December 7, 2004, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed an application in Docket No. CP05–35–000, pursuant to section 7(c) of the Natural Gas Act (NGA) and § 157.5, *et seq.*, of the Commission's Regulations for a certificate of public convenience and necessity authorizing CIG to add 1,040 acres to the protective acreage of its Fort Morgan Storage Field located in Morgan County, Colorado, all as more fully described in the request which is on file with the Commission and open to public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link, select ''Docket #'' and follow the instructions. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions regarding this Application should be directed to Robert T. Tomlinson, Director, Regulatory Affairs, Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado, 80944 at (719) 520–3788 or by fax at (719) 667–7534, or Craig V. Richardson, Vice President and General Counsel, Colorado Interstate Gas Company; P.O. Box 1087, Colorado Springs, Colorado, 80944 at (719) 520–4829 or by fax at (719) 520–4898.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10) by the comment date, below. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken; but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Protests and interventions may be filed electronically via the Internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: January 5, 2005.

Magalie R. Salas.

Secretary.

[FR Doc. E4–3797 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–617–001]

Dominion Transmission, Inc.; Notice of Compliance Filing

December 15, 2004.

Take notice that on November 15, 2004, Dominion Transmission, Inc. (DTI) filed supplemental information concerning its annual Power Cost Adjustment (EPCA) filing. In the Commission's letter order dated October 29, 2004, in Docket No. RP04–617–000 (109 FERC ¶5–61,112 (2004)), the Commission directed DTI to provide further explanatory information to respond to the protest regarding discounting of its EPCA rates.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Protest Date: 5 p.m. eastern time on December 22, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3794 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–061]

Dominion Transmission, Inc. Notice of Negotiated Rate

December 15, 2004.

Take notice that on December 8, 2004, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective November 1, 2004:

Ninth Revised Sheet No. 1300
Sixth Revised Sheet No. 1406

DTI states that the purpose of this filing is to extend a previously approved negotiated rate agreement between WPS Syracuse Generation LLC (WPS) and DTI. DTI states that it is also filing to disclose what it believes is a material deviation from the FT/FTNN form of service agreement. Article III of WPS's contract has a forty-five day termination notice instead of a twelve month notice. DTI explains that this filing results in a neutral revenue impact.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3796 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR05–1–000]

Enbridge Energy Company, Inc.; Notice of Petition for Declaratory Order

December 16, 2004.

Take notice that on December 10, 2004, Enbridge Energy Company, Inc. (Enbridge) pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2004), has petitioned the Commission to issue a declaratory order confirming the proposed rate structure for Enbridge's planned Spearhead Pipeline, which will transport primarily Canadian crude oil from Chicago, Illinois, to Cushing, Oklahoma. Enbridge requests an expedited Commission decision on its petition by March 1, 2005.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Intervention and Protest Date: 5 p.m. eastern time on January 10, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3789 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Soliciting Comments, Motions To Intervene, and Protests

December 15, 2004.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands.

b. *Project No.:* 271–079.

c. *Date Filed:* December 6, 2004.

d. *Applicant:* Entergy Arkansas, Inc.

e. *Name of Project:* Carpenter-Remmel Project.

f. *Location:* The Carpenter-Remmel Project is located on the Ouachita River in Garland and Hot Spring Counties, Arkansas. This proposal is located on approximately 3.5 acres of Lake Hamilton (project reservoir) in Garland County and does not affect any federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a), 825(r), and sections 799 and 801.

h. *Applicant Contact:* Mr. Bobby Pharr, Entergy, 141 West County Line Road, Malvern, AR 72104, (501) 844–2197.

i. *FERC Contacts:* Any questions on this notice should be addressed to Mrs. Jean Potvin at (202) 502–8928, or e-mail address: *jean.potvin@ferc.gov.*

j. *Deadline for filing comments and/or motions:* January 4, 2005.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–271–079) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Request:* Entergy is seeking Commission approval to permit K&S Development to place four individual floating docks with 4 slips each at the Lakeland Harbor Condominium Development on Lake Hamilton.

l. *Location of the Application:* The filing is available for review at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online support at *FERCONLineSupport@ferc.gov* or toll free (866) 208–3676 or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 382.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3791 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–067]

Gas Transmission Northwest Corporation; Notice of Negotiated Rate

December 15, 2004.

Take notice that on December 8, 2004, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1-A, the following tariff sheets, to become effective December 9, 2004:

Third Revised Sheet No. 24
Original Sheet No. 27
Original Sheet No. 28
Sheet No. 29

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission,

888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3783 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ES04–29–001 and ES04–39–002]

ISO New England, Inc.; Notice of Filing

December 15, 2004.

Take notice that on December 14, 2004, ISO New England, Inc. (ISO-New England) filed a correction to its November 19, 2004 application pursuant to section 204 of the Federal Power Act. The November 19, 2004 application requested that the Commission amend the authorization to issue unsecured promissory notes previously granted to permit ISO-New England to use proceeds from the borrowings for general public utility purposes, including funding working capital. The November 19, 2004 application incorrectly referenced Docket No. ES04–39–000 as the proceeding in which the prior authorization that ISO New England seeks to amend was granted. The corrected application requests that the Commission amend the authorization to issue unsecured promissory notes previously granted on May 27, 2004, in Docket No. ES04–29–000, to permit ISO-New England to use proceeds from the borrowings for general public utility purposes, including funding working capital.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on all parties to the proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on December 21, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3788 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3001–011]

New York Independent System Operator, Inc.; Notice of Filing

December 15, 2004.

Take notice that on December 1, 2004, the New York Independent System Operator, Inc. (NYISO) submitted a sixth semi-annual report on the status of its demand side management programs, and the addition of new generation resources in New York State in compliance with the Commission's previous orders in Docket No. ER01–3001–000.

The NYISO states that it has served a copy of this filing upon all the parties that have executed service agreements and the electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on December 23, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3786 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–377–006]

Northern Border Pipeline Company; Notice of Negotiated Rate

December 15, 2004.

Take notice that on December 7, 2004, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of Northern Border's FERC Gas Tariff, First Revised Volume No. 1, Fifth Revised Sheet No. 99A, to become effective November 1, 2004.

Northern Border states that the purpose of this filing is to implement a negotiated rate under a Firm Transportation Agreement between Northern Border Pipeline Company and BP Canada Energy Marketing Corp., and to delete a negotiated rate between Northern Border and Tenaska Marketing Ventures.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3793 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–111–001]

TransCanada Hydro Northeast, Inc.; Notice of Amendment of Filing

December 15, 2004.

Take notice that on December 13, 2004, TransCanada Hydro Northeast Inc. (TC Hydro NE) submitted an amendment to its October 29, 2004 application requesting that the Commission accept for filing a market-based tariff for TC Hydro NE, and otherwise grant applicant the authority to sell energy and capacity and ancillary services in wholesale transactions at negotiated, market-based rates pursuant to Part 35 of the Commission's regulations.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on December 23, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3787 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–116–000]

Williston Basin Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

December 16, 2004.

Take notice that on December 3, 2004, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Revised Volume No. 1, Eleventh Revised Sheet No. 376, to become effective December 3, 2004.

Williston Basin has revised the above-referenced tariff sheet found in Section 48 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, to add a receipt point, Point ID No. 05068 (Recluse-Western Gas Resources), to Williston Basin's Powder River Pool.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission,

888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3795 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL05–42–000]

Kiowa Power Partners, LLC, Complainant, v. Public Service Company of Oklahoma and American Electric Power Service Corporation, Respondents; Notice of Complaint

December 15, 2004.

Take notice that on December 14, 2004, Kiowa Power Partners, LLC (Kiowa) filed a Complaint with the Commission, pursuant to section 206 of the Federal Power Act, against Public Service Company of Oklahoma and American Electric Power Service Corporation (collectively, PSO). The Complaint asserts that PSO is violating the Commission's Interconnection Policy, engaging in prohibited ''and'' pricing, and charging unjust and unreasonable rates because PSO has misclassified certain interconnection-related facilities in the Kiowa-PSO Interconnection Agreement and is refusing to provide transmission credits for facilities that should properly be classified as network upgrades under the Commission's Interconnection Policy. Copies of the Complaint have been served on PSO.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on January 4, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3784 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL05–43–000]

Tenaska Gateway Partners, Ltd., Complainant, v. Southwestern Electric Power Company and American Electric Power Service Corporation, Respondents; Notice of Complaint

December 15, 2004.

Take notice that on December 14, 2004, Tenaska Gateway Partners, Ltd. (Tenaska Gateway) filed a Complaint with the Commission, pursuant to section 206 of the Federal Power Act, against Southwestern Electric Power Company and American Electric Power Service Corporation (collectively, SWEPCO). The Complaint asserts that SWEPCO is violating the Commission's Interconnection Policy, engaging in prohibited ''and'' pricing, and charging unjust and unreasonable rates because SWEPCO has misclassified certain interconnection-related facilities in the Tenaska Gateway-SWEPCO Interconnection Agreement and is refusing to provide transmission credits for facilities that should properly be classified as network upgrades under the Commission's Interconnection Policy.

Tenaska Gateway states that copies of the Complaint have been served on SWEPCO.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests, must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests, must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on January 4, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3785 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF04–11–000]

Sempra Energy LNG, Sempra Energy International; Notice of Intent To Prepare an Environmental Impact Statement for the Port Arthur LNG Project and Request for Comments on Environmental Issues and Notice of Scoping Meetings

December 15, 2004.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) plans to prepare an environmental impact statement (EIS) that discusses the environmental impacts of the Sempra Energy LNG's and Sempra Energy International's (collectively referred to as Sempra) proposed Port Arthur LNG Project involving construction and operation of a liquefied natural gas (LNG) import terminal, natural gas pipelines and associated facilities in Jefferson County, Texas and Cameron, Calcasieu, and Beauregard Parishes, Louisiana. This EIS will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

The Port Arthur LNG is currently in the preliminary stages of design and at this time a formal application has not been filed with the Commission. For this project, the Commission is initiating the National Environmental Policy Act (NEPA) review prior to receiving the application. This allows interested stakeholders to become involved early in the project planning and to identify and resolve issues before a formal application is filed with the FERC. A docket number (PF04–11–000) has been established to place information filed by Sempra and related documents issued by the Commission, into the public record.[1] Once a formal application is filed with the FERC, a new docket number will be established.

This notice is being sent to residents within 0.5 mile of the proposed LNG terminal site; landowners along the pipeline routes under consideration; Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; and local libraries and newspapers.

With this notice, we[2] are asking federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EIS.[3] These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies which would like to request cooperating status should follow the instructions for filing comments described later in this notice. We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

Some affected landowners may be contacted by a project representative about the acquisition of an easement to construct, operate, and maintain the proposed pipeline. If so, the company should seek to negotiate a mutually acceptable agreement. In the event that the project is certificated by the Commission, that approval conveys the right of eminent domain for securing easements for the pipeline. Therefore, if easement negotiations fail to produce an agreement, the company could initiate condemnation proceedings in accordance with state law.

Summary of the Proposed Project

Sempra proposes to construct and operate an LNG import terminal and two natural gas pipelines to import LNG and deliver up to 1.5 billion cubic feet per day (Bcf/d) of natural gas during Phase I, increasing to 3.0 Bcf/d during Phase II, to existing intrastate and interstate pipeline systems.

The LNG terminal proposal would be located approximately 10 miles south of Port Arthur, Jefferson County, Texas and 2 miles northwest of the town of Sabine Pass. The terminal would be located on a 286-acre site along State Highway (SH) 87, immediately adjacent to the J.D. Murphree Wildlife Management Area and along the west bank of the Sabine-Neches Waterway (Port Arthur Ship Channel).

The terminal would be designed to accept LNG cargo, temporarily store and vaporize LNG, and would contain two ship berths, and up to six storage tanks, each with a net usable volume of 160,000 cubic meters (m^3) or 1,006,000 barrels (each tank would be approximately 150 feet tall and 250 feet in diameter). Phase I would involve the construction of three storage tanks with an additional three tanks being added in Phase II.

The terminal would contain a dedicated slip and berths capable of accommodating the unloading of two LNG tankers. The berths would be designed for LNG tankers, such that the entire ship within the slip would be outside of the existing ship channel. One LNG tanker would visit the terminal every 2 days in the initial phase, increasing to one tanker every day in the second phase.

The pipelines would consist of two 36-inch-diameter natural gas send out pipelines to transport the vaporized natural gas to the existing interstate gas facilities. The first pipeline would consist of a 3.0-mile long pipeline from the terminal, heading south to an interconnection with the existing NGPL facilities in Jefferson County, Texas. The second pipeline would consist of a 70.0-mile long pipeline from the terminal, traveling northeast across Sabine Lake through Jefferson County, Texas and into Cameron, Calcasieu, and Beauregard Parishes, Louisiana to an interconnection with the existing Transco pipeline system.

A map depicting the proposed terminal site and the pipeline routes is provided in Appendix 1.[4]

Non-Jurisdictional Facilities

The proposed project would require the relocation of approximately 3.3 miles of SH 87 as well as existing pipelines and other utilities that parallel the highway. Sempra would relocate the highway on property that is already owned by the company.

There are five gas or oil pipelines and a water line that would also have to be relocated or abandoned. The length of each pipeline to be relocated is approximately three miles. These pipelines would be re-routed to the west of the LNG terminal along the east side of the re-located SH 87. Telephone and power lines would also be relocated concurrently with SH 87.

The proposed LNG terminal would require electrical service. Entergy would install a new 230 kilovolt (kV) interconnecting transmission line consisting of two independent 230 kV electrical transmission/distribution lines and a new substation. The proposed substation would be located on a 500 foot by 450 foot (approximately 5.17 acre) site within the LNG terminal property boundary. The new Entergy substation would provide dedicated and redundant service for the terminal.

[1] To view information in the docket, follow the instructions for using the eLibrary link at the end of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Office of Energy Projects.

[3] Agencies which have previously requested cooperating status for this project need not request it again.

[4] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Internet Web site (*http://www.ferc.gov*) at the ''eLibrary'' link or from the Commission's Public Reference and Files Maintenance Branch at (202) 502–8371. For instructions on connecting to eLibrary refer to the last page of this notice.

Land Requirements for Construction

Construction of the proposed facilities would require approximately 190 acres for the terminal permanent facilities of which approximately 115 acres are for the marine facilities. An additional 68.5 acres of area outside of the LNG terminal would be used for temporary construction areas (laydown, office, and parking), for a total of 183.6 acres of disturbance for construction. The ship berths would require dredging to achieve the required size and depth to accommodate the LNG tanker ships.

The two pipelines would be constructed on a nominal 100-foot-wide right-of-way with occasional increases in the right-of-way width for additional workspace at waterbody, highway, and railroad crossings, and for topsoil storage. Other temporary land requirements would include land for pipe storage and equipment yards. Operation of the pipeline facilities would require a nominal 50-foot-wide permanent right-of-way.

Construction of the 3.0 mile natural gas pipeline would affect a total of 28.3 acres. Approximately 11.3 acres of the total would be retained for operation of the pipeline and aboveground facilities.

Construction of the 70.0 mile natural gas pipeline would affect a total of approximately 374.5 acres of land. Approximately 150.0 acres would be retained for operation of the pipeline and above ground facilities.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity or an import authorization under Section 3 of the Natural Gas Act. NEPA also requires us to discover and address concerns the public would have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues and reasonable alternatives. By this Notice of Intent, the Commission staff requests agency and public comments on the scope of the issues to address in the EIS. All comments received are considered during the preparation of the EIS. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EIS discusses impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Land use
- Water resources, fisheries, and wetlands
- Cultural resources
- Vegetation and wildlife
- Air quality and noise
- Endangered and threatened species
- Hazardous waste
- Public safety

We may also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues are included in the draft EIS. Depending on the comments received during the scoping process, the draft EIS would be published and mailed to federal, state, and local agencies, Native American tribes, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A 45-day comment period would be allotted for review of the draft EIS. All comments on the draft EIS would be considered and the document revised before issuing a final EIS. This draft EIS is used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Currently Identified Environmental Issues

We have identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Sempra. This preliminary list of issues may be changed based on your comments and our analysis.

- Geology and Soils

Assessment of dredged material management plan, including the potential for beneficial uses of dredged material.

- Water Resources

Assessment of construction effects on water quality.

Review of wetland areas impacted on the terminal site.

Impacts of constructing pipelines through coastal marshes.

Impacts of construction through Sabine Lake.

- Fish, Wildlife, and Vegetation

Effects on wildlife and fisheries including commercial and recreational fisheries.

Potential effect of electric transmission lines on shore birds and other birds.

- Endangered and Threatened Species

Effects on federally-listed species.
Effects on essential fish habitat.

- Reliability and Safety

Safety and security of the terminal and pipeline.
LNG shipping.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns may be addressed in the EA/EIS and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they may be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to:

Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

- Label one copy of the comments for the attention of Gas Branch 2; and
- Reference Docket No. PF04–11–000 on the original and both copies.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we would include all comments that we receive within a reasonable time frame in our environmental analysis of this project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments you should create a free account which can be created on-line.

If you do not want to send comments at this time but still want to remain on our mailing list, please return the attached Mailing List Retention Form (Appendix 2). If you do not return the form, you may be taken off the mailing list.

Additional Information

Additional information about the project is available from the

Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet website (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm*.

Public Scoping Meeting

In addition to or in lieu of sending written comments, we invite you to attend the public scoping meetings we will conduct in the area. The locations and times for these meetings are listed below:

January 11, 2005, 7 p.m. (c.s.t.), VFW Post 9854, 2292 Highway 109 South, Vinton, LA 70668, (337) 589–5832; and

January 12, 2005, 7 p.m. (c.s.t.), Holiday Inn, 2929 Jimmy Johnson Boulevard, Port Arthur, TX 77642, (409) 724–5000.

The public scoping meetings are designed to provide state and local agencies, interested groups, affected landowners, and the general public with more detailed information and another opportunity to offer your comments on the proposed project. Interested groups and individuals are encouraged to attend the meeting and to present comments on the environmental issues they believe should be addressed in the EIS. A transcript of the meetings will be made so that your comments will be accurately recorded.

Finally, public meetings will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Magalie R. Salas,

Secretary.

[FR Doc. E4–3792 Filed 12–22–04; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7854–4]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*). 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.

FOR FURTHER INFORMATION CONTACT: Susan Auby (202) 566–1672, or e-mail at *auby.susan@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1630.08, Oil Pollution Act Facility Response Plan Requirements; in 40 CFR 112.20 and 112.21; was approved 11/30/2004; OMB Number 2050–0135; expires 11/30/2007.

EPA ICR No. 1949.03; Implementation of Incentives Designed for EPA's National Environmental Performance Track Program (Final Rule); was approved 11/12/2004; OMB Number 2010–0032; expires 08/31/2006.

EPA ICR No. 2156.01; Mobile Source Emission Factors; Populations, Usage and Emissions of Diesel Nonroad Equipment in EPA Region 7 (Survey); was approved 11/18/2004; OMB Number 2060–0553; expires 11/30/2007.

EPA ICR No. 1158.08; NSPS for Rubber Tire Manufacturing; was approved 11/17/2004; in 40 CFR part 60, subpart BBB; OMB Number 2060–0156; expires 11/30/2007.

EPA ICR No. 1078.07; NSPS for Phosphate Rock Plants; was approved 11/18/2004; in 40 CFR part 60, subpart NN; OMB Number 2060–0111; expires 11/30/2007.

EPA ICR No. 2020.02; Federal Implementation Plans under the Clean Air Act for Indian Reservations in Idaho, Oregon, and Washington; was approved 11/16/2004; in 40 CFR part 49, subpart M; OMB Numbers 2060–0558; expires 11/30/2007.

EPA ICR No. 2002.03; Cross-Media Electronic Reporting and Recordkeeping Rule (Final Rule); was approved 11/18/2004; in 40 CFR 3.1000, 40 CFR 3.2000; OMB Number 2025–0003; expires 11/30/2007.

EPA ICR No. 0193.08; NESHAP for Beryllium; was approved 12/06/2004; in 40 CFR part 61, subpart C; OMB Number 2060–0092; expires 12/31/2007.

EPA ICR No. 1080.11; NESHAP for Benzene Emissions From Coke By-Product Recovery Plants; was approved 12/06/2004; in 40 CFR part 61, subpart L; OMB Number 2060–0185; expires 12/31/2007.

EPA ICR No. 1941.03; Evaluation of PrintSTEP (Renewal); was approved 12/08/2004; OMB Number 2020–0023; expires 04/30/2006.

EPA ICR No. 1564.06; NSPS for Small Industrial-Commercial-Institutional Steam Generating Units; was approved 11/09/2004; in 40 CFR part 60, subpart Dc; OMB Number 2060–0202; expires 11/30/2007.

EPA ICR No. 1698.05; Reporting and Recordkeeping Requirements Under EPA's Waste Wise Program; was approved 12/06/2004; OMB Number 2050–0139; expires 11/30/2005.

EPA ICR No. 1730.04; NSPS for Hospital/Medical/Infectious Waste Incinerators; in 40 CFR part 60, subpart Ec; OMB Number 2060–0363; expires 12/31/2007.

EPA ICR No. 1676.04; Clean Air Act Tribal Authority; was approved 12/09/2004; OMB Number 2060–0306; expires 12/31/2007.

Short Term Extensions

EPA ICR No. 1663.03; Information Collection Request Update Compliance Assurance Monitoring Program; in 40 CFR part 64; OMB Number 2060–0376; on 11/17/2004 OMB extended the expiration date to 02/28/2005.

EPA ICR No. 1639.04; National Pollutant Discharge Elimination System Great Lakes Water Quality Guidance; OMB Number 2040–0180; on 11/18/2004 OMB extended the expiration date to 02/28/2005.

EPA ICR No. 1973.02; Cooling Water Intake Structures New Facility Final Rule; OMB Number 2040–0241; on 11/18/2004; OMB extended the expiration date to 02/28/2005.

EPA ICR No. 1944.02; Information Collection Request for Baseline Standards and Best Management Practices for the Coal Mining Point Source Category; in 40 CFR part 434; OMB Number 2040–0239; on 11/18/2004 OMB extended the expiration date to 02/28/2005.

EPA ICR No. 1725.03; Marine Engine Manufacturer Production Line Testing

Reporting and Recordkeeping Requirements; in 40 CFR part 91; OMB Number 2060–0323; on 12/06/2004 OMB extended the expiration date to 03/31/2005.

EPA ICR No. 0107.07; Source Compliance and State Action Reporting; OMB Number 2060–0096; on 12/07/2004 OMB extended the expiration date to 02/28/2005.

EPA ICR No. 1922.02; Storage, Treatment, Transportation, and Disposal of Mixed Waste (Final Rule); OMB Number 2060–0181; on 11/16/2004; OMB extended the expiration date to 02/28/2005.

Comment Filed

EPA ICR No. 2144.01; Standards and Practices for All Appropriate Inquires (Proposed Rule); on 11/15/2004 OMB filed a comment.

Withdrawn

EPA ICR No. 2053.01; Best Workplaces for Commuter Program (Survey); on 12/02/2004 was withdrawn from OMB.

EPA ICR No. 2151.01; Obtaining Feedback on Pubic Involvement Activities and Processes; on 12/03/2004 was withdrawn from OMB.

Dated: December 14, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–28091 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2004–0082; FRL–7854–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Lead-Based Paint Pre-Renovation Information Dissemination—TSCA Section 406(b); EPA ICR No. 1669.04, OMB No. 2070–0158

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. This is a request to renew an existing approved collection. This ICR is scheduled to expire on December 31, 2004. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated cost.

DATES: Additional comments may be submitted on or before January 24, 2005.

ADDRESSES: Submit your comments, referencing docket ID Number OPPT–2004–0082, to (1) EPA online using EDOCKET (our preferred method), by email to *oppt.ncic@epa.gov* or by mail to: Document Control Office (DCO), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Mailcode: 7407T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: 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: Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mailcode: 7408, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On April 19, 2004, EPA sought comments on this renewal ICR (69 FR 20871). EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received three comments during the comment period, which are addressed in the Supporting Statement of the ICR.

EPA has established a public docket for this ICR under Docket ID No. OPPT–2004–0082, which is available for public viewing at the OPPT 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 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Pollution Prevention and Toxics Docket is 202–566–0280. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket*. Use EDOCKET to submit or view public comments, access the index listing of the contents of the 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 docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public 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 EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket*.

Title: Lead-Based Paint Pre-Renovation Information Dissemination—TSCA Sec. 406(b).

Abstract: This information collection involves third-party notification to owners and occupants of housing that will allow these individuals to avoid exposure to lead-contaminated dust and lead-based paint debris that are sometimes generated during renovations of housing where lead-based paint is present, thereby protecting public health. Since young children are especially susceptible to the hazards of lead, owners and occupants with children can take action to protect their children from lead poisonings. Section 406(b) of the Toxic Substances Control Act (TSCA) requires EPA to promulgate regulations requiring certain persons who perform renovations of target housing for compensation to provide a lead hazard information pamphlet (developed under TSCA section 406(a)) to the owner and occupants of such housing prior to beginning the renovation. Those who fail to provide the pamphlet as required may be subject to both civil and criminal sanctions.

Responses to the collection of information are mandatory (*see* 40 CFR part 745, subpart E). Respondents may claim all or part of a notice as CBI. EPA will disclose information that is covered by a CBI claim only to the extent permitted by, and in accordance with, the procedures in 40 CFR part 2.

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 in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9 and included on the related collection instrument or form, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average about one and a half hours 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: Persons who perform renovations of certain types of housing, constructed prior to 1978, for compensation.

Frequency of Collection: On occasion.

Estimated No. of Respondents: 2,482,000.

Estimated Total Annual Burden on Respondents: 3,461,542 hours.

Estimated Total Annual Costs: $111,929,595.

Changes in Burden Estimates: This request reflects an increase of 522,996 hours (from 2,938,546 hours to 3,461,542 hours) in the total estimated respondent burden from that currently in the OMB inventory. This increase is due to an increase in the estimated number of annual renovation events, as detailed in the Supporting Statement for this ICR. The increased number of renovation events is the result of increased spending on renovations and reflects a general economic trend. The change in burden represents an adjustment.

Dated: December 14, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–28092 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OECA–2004–0004; FRL–7854–6]

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; NESHAP for Ferroalloys Production: Ferromanganese and Silicomanganese (Renewal), ICR Number 1831.03, OMB Number 2060–0391

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on December 30, 2004. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before January 24, 2005.

ADDRESSES: Submit your comments, referencing docket ID number OECA–2004–0004, to (1) EPA online using EDOCKET (our preferred method), by email to *docket.oeca@epa.gov*, or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), Enforcement and Compliance Docket and Information Center, EPA West, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: 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: María Malavé, Compliance Assessment and Media Programs Division, Mail Code 2223A, Office of Compliance, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–7027; fax number: (202) 564–0050; e-mail address: *malave.maria@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 25, 2004 (69 FR 29718), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OECA–2004–0004, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, 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) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center Docket is: (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket*. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public 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 EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *www.epa.gov/edocket*.

Title: NESHAP for Ferroalloys Production: Ferromanganese and Silicomanganese (40 CFR part 63, subpart XXX) (Renewal).

Abstract: The national emission standards for hazardous air pollutants (NESHAP) using maximum achievable

control technology (MACT) were proposed on August 4, 1998, promulgated on May 20, 1999, and amended most recently on March 22, 2001. The rule applies to ferroalloy production facilities that manufacture ferromanganese and silicomanganese that are major sources of hazardous air pollutants (HAPs) or are co-located at major sources of HAPs.

In general, all NESHAP (MACT) standards require initial notifications, performance tests, and periodic reports. Respondents that are not required to conduct an initial performance test are required to notify the Administrator of the initial compliance status of the source. Sources are also required to monitor and maintain records of its operations including: (1) Process or control device parameters; (2) bag leak detention systems; (3) maintenance plan for air pollution control devices (*e.g.*, capture system and venturi scrubbers); (4) certification that monitoring devices are accurate; and (5) the implementation and corrective actions taken related to the startup, and shutdown and malfunction plan and the fugitive dust control plan. The types of periodic reports required by this regulation include: opacity-related reports; performance test results reports; immediate and periodic startup/shutdown/malfunction reports, quarterly emissions reports; capture hood inspection reports; fugitive dust operations reports; annual compliance status reports. These notifications, reports, and records are essential in determining compliance, and are required of all sources subject to NESHAP (MACT) standards.

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, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 83 hours 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: Ferroalloy production facilities that manufacture ferromanganese and silicomanganese and are major sources of HAPs or are co-located at major sources of HAPs.

Estimated Number of Respondents: 1.

Frequency of Response: Initial, quarterly, semiannual and annual.

Estimated Total Annual Hour Burden: 584 hours.

Estimated Total Annual Costs: $37,261, which includes $0 annualized capital/startup costs, $0 annual O&M costs, and $37,261 annual labor costs.

Changes in the Estimates: There is decrease of 162 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease in labor hours is due to the following assumptions: (1) The source has complied with the initial notification requirements and the initial compliance demonstration requirements since the effective date of the rule has passed; and (2) the source has already developed its record system including the startup, shutdown and malfunction plan; the fugitive dust plan; and the control equipment/maintenance plan.

Dated: December 14, 2004.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 04–28093 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6658–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act, as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 2, 2004 (69 FR 17403).

Draft EISs

ERP No. D–AFS–E65071–FL Rating EC1, Ocala National Forest Access Designation Process, Roads and Trail Systems Development, Implementation, Lake, Marion, and Putnam Counties, FL.

Summary: While EPA supports the access designation process, it has environmental concerns that there are no commitments to either close, decommission, or monitor the remaining unclassified roads and trails to ensure that unregulated public travel will not continue.

ERP No. D–BIA–J02044–WY Rating EC1, Wind River Natural Gas Field Development Project, Construction, Drilling and Production Operation of Natural Gas Wells, Fremont County, WY.

Summary: EPA expressed concern regarding air quality and visual environmental impacts to Class 1 Airsheds, and recommended mitigation measures such as: Using electric drill rigs and new technology diesel engines; purchasing wind-generated electricity; and the Tribes should investigate and consider developing their own renewable electricity generation capability to power tribal related projects to reduce air emissions.

ERP No. D–BLM–J02043–CO Rating EO1, Northern San Juan Basin Coal Bed Methane Project, Proposed to Drill Approximately 300 Wells to Produce Natural Gas from Coal Beds on Federal, State and Private Owned Lands, Special-Use-Permit, Application for Permit to Drill and U.S. Army COE Section 404 Permit, LaPlata and Archulea Counties, CO.

Summary: EPA expressed environmental objections because of potential adverse impacts to human health from methane gas mitigation into home/businesses, impacts to drinking water wells and the potential of reduced visibility at Mesa Verde NP and Weminuche WA, and surface disturbing activities in an inventoried Roadless Area. EPA suggests the final EIS include additional mitigation measures for the employment of newer drilling technologies to reduce impacts.

Final EISs

ERP No. F–FHW–G40172–TX TX–121 Highway Construction, I–30 to Farm-to-Market 1187 (FM 1187), Funding, USCG Section 9 and US Army COE Section 10 and 404 Permits Issuance, Fort Worth, Tarrant County, TX.

Summary: EPA has no comments on the Final EIS. ERP No. F–FRC–L05227–00 Box Canyon Hydroelectric Project, (FERC Project No. 2042–013), New License Application for an existing 72-megawatt (Mw) Hydroelectric Project, Public Utility District (PUD) No. 1, Pend Oreille River, Pend Oreille County, WA and Bonner County, ID.

Summary: EPA continues to have concerns that studies and analyses needed to define project impacts and identify needed mitigation measures have been deferred until after issuance of a new license.

ERP No. F1–AFS–L61190–OR Mt. Ashland Ski Area Expansion, Site Specific Project, Maintenance and Enhancements of Environmental Resources, Implementation, Special Use Permit, Ashland Ranger District, Rogue River National Forest and Scott River Ranger District, Klamath National Forest, Jackson County, OR.

Summary: EPA supports the selection of Modified Alternative 2, which should mitigate sediment yield into streams.

Dated: December 20, 2004.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 04–28096 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6658–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed December 13, 2004 Through December 17, 2004

Pursuant to 40 CFR 1506.9.

EIS No. 040584, Final EIS, BLM, NV, Las Vegas Valley Disposal Boundary Project, Disposal and Use of Public Land under the Management of (BLM), Implementation, Clark County, NV, Wait Period Ends: January 24, 2005, Contact: Mark Morse (702) 515–5220.

This document is available on the Internet at: *http://www.nv.blm.gov/lvdiseis.*

EIS No. 040585, Draft EIS, FHW, NE, Bellevue Bridge Study, To Improve Connectivity between the Omaha Metropolitan Area and across the Missouri River from U.S. 75 to I–29, Coast Guard Permit, NPDES Permit, U.S. Army COE Section 10 and 404 Permits, Mills County, IA and Sarpy County, NE, Comment Period Ends: February 28, 2005, Contact: Philip Barnes (515) 233–7300.

EIS No. 040586, Draft EIS, FHW, WA, WA–28 Eastside Corridor Project, Proposal to Improve WA–28 (Sunset Highway) Corridor from WA–2–97 (Ocdabashian Bridge) to 9th Street N.E. in East Wenatchee, City of East Wenatchee, Douglas County, WA, Comment Period Ends: February 27, 2005, Contact: Steve Saxton (360) 753–9411.

This document is available on the Internet at: *http://www.wsdot.wa.gov/Projects/SR28Wenatchee EastsideCorridor/.*

EIS No. 040587, Final EIS, DHS, MD, National Biodefense Analysis and Countermeasures Center (NBACC) Facility at Fort Detrick, Construction and Operation, Fort Detrick, Frederick County, MD, Wait Period Ends: January 24, 2005, Contact: Kevin Anderson (301) 846–2156.

EIS No. 040588, Draft EIS, FHW, IA, NE, Council Bluffs Interstate System Improvements Project, Transportation Improve from Missouri River on I–80 to East of the I–480 Interchange, (Tier 1), Pottawattamie County, IA and Douglas County, NE, Comment Period Ends: February 28, 2005, Contact: Philip Barnes (515) 233–7300.

EIS No. 040589, Final Supplement, AFS, AK, Kensington Gold Project, Proposed Modifications of the 1998 Approved Plan Operation, NPDES, ESA and U.S. COE Section 10 and 404 Permits, Tongass National Forest, City of Juneau, AK, Wait Period Ends: January 24, 2005, Contact: Jeff Defreest (907) 790–7407.

EIS No. 040590, Draft EIS, AFS, WA, White Pass Expansion Master Development Plan, Implementation, Naches Ranger District, Okanogan-Wenatchee National Forests and Cowwlitz Valley Ranger District, Gifford Pinchot National Forest, Yakima and Lewis County, WA , Comment Period Ends: February 22, 2005, Contact: Randy Shepard (509) 653–1400.

EIS No. 040591, Draft EIS, FRC, TX, Vista del Sol Liquefield Natural Gas (LNG) Terminal Project, Construct, Install and Operate an LNG Terminal and Natural Gas Pipeline Facilities, Vista del Sol LNG Terminal LP and Vista del Sol Pipeline LP, TX, Comment Period Ends: February 7, 2005, Contact: Thomas Russo (202) 502–8004.

EIS No. 040592, Final EIS, SFW, CO, Rocky Flats National Wildlife Refuge Comprehensive Conservation Plan, 15-Year Guidance for Management of Refuge Operations, Habitat Restoration and Visitor Services, Implementation, Jefferson and Boulder Counties, CO, Wait Period Ends: January 24, 2005, Contact: Laurie Shannon (303) 289–0151.

EIS No. 040593, Draft EIS, AFS, CO, County Line Vegetation Management Project, Salvaging Spruce Beetle Infected Trees and Thinning Spruce-Fir Stand, Rio Grande National Forest, Conejos Peak Ranger District, Conejos County, CO, Comment Period Ends: February 7, 2005, Contact: John Murphy (719) 852–5941.

EIS No. 040594, Final EIS, FTA, VA, Dulles Corridor Rapid Transit Project, High-Quality and High-Capacity Transit Service in the Dulles Corridor, West Falls Church Metrorail Station in Fairfax County to the Vicinity of Route 772 in Loudoun County, VA, Wait Period Ends: January 24, 2005, Contact: Patricia Kampf (215) 656–7100.

Amended Notices

EIS No. 040505, Draft EIS, USA, Battle Area Complex (BAX) and a Combined Arms Collective Training Facility (CACTF) Construction and Operation, U.S. Army Training Lands in Alaska, Comment Period Ends: January 10, 2005, Contact: Kevin Gardner (907) 384–3331. Revision of FR Notice Published on 11/05/04: CEQ Comment Period Ending 12/20/2004 has been Extended to 01/10/2005.

EIS No. 040557, Draft EIS, AFS, AK, Tuxekan Island Timber Sale(s) Project, Harvesting Timber, Coast Guard Bridge Permit and U.S. Army COE Section 10 and 404 Permits, Tongass National Forest, Thorne Bay Ranger District, Thorne Bay, AK, Comment Period Ends: January 24, 2005, Contact: Forrest Cole (907) 228–6200. Revision of FR Notice Published on 12/10/2004: Correction to Contact Person Telephone Number.

Dated: December 20, 2004.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 04–28097 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0422; FRL–7694–1]

Buprofezin; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of

regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket identification (ID) number OPP–2004–0422, must be received on or before January 24, 2005.

ADDRESSES: 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**.

FOR FURTHER INFORMATION CONTACT: Richard J. Gebken, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6701; e-mail address: *gebken.richard@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing 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 this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person 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 ID number OPP–2004–0422. 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, 1801 S. Bell St., 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/*.

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 I.B.1. 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. 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–2004–0422. 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–2004–0422. 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–2004–0422.

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, 1801 S. Bell St., Arlington, VA, Attention: Docket ID Number OPP–2004–0422. 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. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 17, 2004.

Meredith F. Laws,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by FFDCA section 408(d)(3). The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Nichino America, Inc.

PP 4F6887

EPA has received a revision to pesticide petition (PP 4F6887) from Nichino America, Inc., 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808, proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.511 by establishing permanent tolerances for residues of buprofezin (2-[(1,1-dimethylethyl)imino]tetrahydro-3(1-methylethyl)-5-phenyl-4H-1,3,5-thiadiazin-4-one) in or on the following raw agricultural commodities: Head lettuce, leaf lettuce, vegetables, vegetables, cucurbits, group 9.

A. Background

In the **Federal Register** of August 26, 1998 (63 FR 45483) (FRL–5791–1), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP 7F4923) by Nichino America, Inc., 4550 New Linden Hill Road, Wilmington, DE 19808. The petition requested that 40 CFR 180.511 be amended by establishing a tolerance for residues of the insecticide buprofezin in or on head lettuce, leaf lettuce, and vegetables, cucurbits, group 9 at 5.0, 13.0, and 0.50 parts per million (ppm), respectively.

The notice included a summary of the petition prepared by Nichino America, Inc., the registrant. There were no comments received in response to the initial notice of filing. On August 31, 2000 (65 FR 52938) (FRL–6740–1), EPA issued a final rule under section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the establishment of time-limited tolerances in conjunction to the original pesticide petition (PP 7F4923).

These tolerances were time-limited because the Agency lacked data on a developmental neurotoxicity study in rats (OPPTS Harmonized Guideline 870.6300) guideline requirement (40 CFR part 158) for food/feed use, validation of frozen storage intervals, petition method validation, an interference study, a confirmatory method, and additional cantaloupe and leaf lettuce field trials.

Nichino America, Inc. has addressed all the data deficiencies, identified in the final rule described above, and is therefore requesting that permanent tolerances be established for head and leaf lettuce and vegetables, cucurbits, group 7 at 5.0, 13.0, and 0.50 ppm, respectively.

B. Toxicological Profile

An extensive battery of toxicology studies has been conducted with buprofezin. EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk The nature of the toxic effects caused by buprofezin is discussed in Unit III.A. of the final rule on Buprofezin Pesticide Tolerance published in the **Federal Register** of August 31, 2000 (65 FR 52938) (FRL–6740–1). A subsequent assessment of toxic effects caused by buprofezin, including the toxicological endpoints of concern, is discussed in Unit III.A. and Unit III.B. of the final rule in the **Federal Register** published June 25, 2003 (68 FR 37766) (FRL–7310–7).

C. Aggregate Exposure

The Agency conducted acute and chronic dietary risk analyses using the Dietary Exposure Evaluation Model (DEEM™) and concluded that acute exposure to buprofezin, as a result of dietary exposure, is below the Agency's level of concern. The anticipated residues were used for evaluation. The Agency evaluated chronic risk for buprofezin, as a result of dietary (food and water) exposure, is below the Agency's level of concern. The Agency concluded with reasonable certainty that residues of buprofezin in food and drinking water do not contribute significantly to the acute or chronic aggregate human health risk.

The term residential exposure is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Buprofezin is not registered for use on any sites that would result in residential exposure.

D. Cumulative Effects

A determination has not been made that buprofezin has a common mechanism of toxicity with other substances. Buprofezin does not appear to produce a common toxic metabolite with other substances. A cumulative risk assessment was, therefore, not performed for this analysis.

E. Safety Determination

Based on the acute dietary, chronic dietary, and water risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population and to infants and children from aggregate exposure to buprofezin residues.

F. International Tolerances

Canada, Codex, and Mexico do not have maximum residue limits for residues of buprofezin in/on the proposed crops. Therefore, harmonization is not an issue.

[FR Doc. 04–28095 Filed 12–22–04; 8:45 am]

BILLING CODE 6560–50–S

EXPORT-IMPORT BANK OF THE UNITED STATES

Economic Impact Policy

This notice is to inform the public that the Export-Import Bank of the United States has received an application to finance the export of approximately $1.2 billion in U.S. semiconductor manufacturing equipment to dedicated foundries in China. The U.S. exports will enable the dedicated 200-mm and 300-mm foundries to produce approximately 80,000 wafers per month (200-mm equivalent) of logic products. Available information indicates that some of this new production will be exported from China and consumed globally. Interested parties may submit comments on this transaction by e-mail to *economic.impact@exim.gov* or by mail to 811 Vermont Avenue, NW., Room 1238, Washington, DC 20571, within 14 days of the date this notice appears in the **Federal Register**.

Helene S. Walsh,

Director, Policy Oversight and Review.

[FR Doc. 04–28101 Filed 12–22–04; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL MARITIME COMMISSION

Notice of Request for Additional Information

The Commission gives notice that it has requested that the parties to the below listed agreement provide additional information pursuant to section 6(d) of the Shipping Act of 1984, 46 U.S.C. app. 1705(d). The Commission has determined that further information is necessary to evaluate the proposed agreement modification. This action prevents the agreement modification from becoming effective as originally scheduled.

Agreement No.: 011453–004.

Title: Southern Africa/Oceania Agreement.

Parties: Safmarine Container Lines N.V.; Mediterranean Shipping Co., S.A.; and A.P. Moller-Maersk A/S.

By Order of the Federal Maritime Commission.

Dated: December 17, 2004.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 04–28042 Filed 12–22–04; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY: Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1,

1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Cindy Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829)

OMB Desk Officer—Mark Menchik—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, or email to mmenchik@omb.eop.gov

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Reports

1. Report title: Application for Employment with the Board of Governors of the Federal Reserve System

Agency form number: FR 28

OMB control number: 7100–0181

Frequency: On occasion

Reporters: Employment applicants

Annual reporting hours: 2,500 hours

Estimated average hours per response: 1 hour

Number of respondents: 2,500

General description of report: This information collection is required to obtain a benefit (sections 10(4) and 11(1) of the Federal Reserve Act (12 U.S.C. Sec. 244 and 248(1)). The Board is required to treat the information collected on the Application as confidential pursuant to the requirements of the Privacy Act (5 U.S.C. Sec. 552a). Individual respondent data are regarded as confidential under the Freedom of Information Act (5 U.S.C. Sections. 552(b)(2) and (b)(6)).

Abstract: The Application collects information to determine the qualifications, suitability, and availability of applicants for employment with the Board. The Application asks about education, training, employment, and other information covering the period since the applicant left high school.

Current Actions: On October 15, 2004, the Federal Reserve issued for public comment proposed revisions to the Application for Employment with the Board of Governors of the Federal Reserve System (FR 28) (69 FR 61250). The comment period expired on December 14, 2004. The proposed revisions to the Application consisted of adding the applicant's email address and cell phone number and modifying the education and training section to inform applicants that educational claims must be from an accredited school. The Federal Reserve also proposed to modify the Applicant's Voluntary Self–Identification Form (FR 28s) to be consistent with the Office of Management and Budget's (OMBs) Statistical Policy Directive No. 15, (Race and Ethnic Standards for Federal Statistics and Administrative Reporting). The Federal Reserve Board also proposed to revise the Research Assistant Candidate Survey of Interests (FR 28i), by modifying the areas of interest, changing the rating scale format, adding a section on software packages used by the candidate, and adding a line for the candidate's name. The Federal Reserve did not receive any comments. Changes will be implemented as proposed.

2. Report title: Compensation and Salary Surveys

Agency form number: FR 29a, b, c

OMB control number: 7100–0290

Frequency: FR 29a, annually; FR 29b, on occasion; FR 29c, annually

Reporters: Employers considered competitors for Federal Reserve employees

Annual reporting hours: FR 29a, 150 hours; FR 29b, 50 hours

Estimated average hours per response: FR 29a, 6 hours; FR 29b, 1 hour

Number of respondents: 35

General description of report: This information collection is voluntary (sections 10(4) and 11(1) of the Federal Reserve Act (12 U.S.C. 244 and 248(1)) and is given confidential treatment (5 U.S.C 552 (b)(4) and (b)(6)).

Abstract: The surveys collect information on salaries, employee compensation policies, and other employee programs from employers that are considered competitors for Federal Reserve employees. The data from the surveys primarily are used to determine the appropriate salary structure and salary adjustments for Federal Reserve employees.

Current Actions: On October 15, 2004, the Federal Reserve issued for public comment proposed revisions to the Compensation and Salary Surveys (FR 29a, b, c) (69 FR 61250). The Federal Reserve proposed to discontinue the annual Compensation Trend Survey (FR 29c). The international consulting firm of Hay Management Consultants had conducted this survey, on behalf of the Federal Reserve, since 1991. However, since 2001, the Federal Reserve has relied on data published in other national compensation surveys. The Annual Salary Survey (FR 29a) and the ad hoc surveys related to salary and other employment issues (FR 29b), will not be revised. The Federal Reserve did not receive any comments. Changes will be implemented as proposed.

3. Report title: Studies of Board Publications

Agency form number: FR 1373a,b

OMB control number: 7100–0301

Frequency: FR 1373a, three times per year; FR 1373b, eight times per year

Reporters: FR 1373a, community–based educators, key stakeholders, and other educators who have previously requested consumer education materials from the Federal Reserve; FR 1373b, current subscribers of the publications being surveyed.

Annual reporting hours: FR 1373a, 368 hours; FR 1373b, 446 hours.

Estimated average hours per response: FR 1373a, 30 minutes (survey), 90 minutes (panel discussion); FR 1373b, 15 minutes.

Number of respondents: FR 1373a, 445; FR 1373b, 517.

General description of report: This information collection is voluntary. The FR 1373a study is authorized pursuant to the Federal Trade Commission Improvement Act (15 U.S.C. § 57(a)); the FR 1373 b study is authorized pursuant to 12 U.S.C. § 248(i). The specific information collected is not considered confidential.

Abstract: The FR 1373a study allows the Federal Reserve to: 1) conduct periodic reviews and evaluations of the consumer education materials, and 2) develop and evaluate consumer education materials under consideration for distribution. The FR 1373b study helps Federal Reserve evaluate other Board publications. In addition, the Federal Reserve uses the FR 1373b data to help determine if it should continue to issue certain publications and, if so, whether the public would like to see changes in the method of information delivery, frequency, content, format, or appearance.

Current Actions: On October 15, 2004, the Federal Reserve issued for public comment proposed revisions to the Studies of Board Publications (FR 1373a, b) (69 FR 61250). The Federal Reserve proposed to revise the FR 1373a by adding focus group or guided discussions once a year with three groups of fifteen respondents. Each discussion will take an estimated ninety minutes. The goal for such focused discussions will be to identify what issues consumers want addressed and how they would like to receive this information. The Federal Reserve will work with community groups or other appropriate stakeholders to recruit small groups of consumers to serve as voluntary respondents. The Federal Reserve did not receive any comments. Changes will be implemented as proposed.

Board of Governors of the Federal Reserve System, December 17, 2004.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 04–28041 Filed 12–22–04; 8:45 am]

BILLING CODE: 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices, Acquisitions of Shares of Bank or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 04-27578) published on page 75314 of the issue for Thursday, December 16, 2004.

Under the Federal Reserve Bank of St. Louis heading, the entry for Martin B. Rowe, Harrisburg, Illinois, is revised to read as follows:

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Martin B. Rowe, Harrisburg, Illinois, individually and as a member of the Rowe Family Control Group, which consists of Martin B. Rowe, the Burt H. Rowe, Jr. Marital Trust and the Anne Rowe Family Trust, all of Harrisburg, Illinois; Marianna R. Deal, Rachelle L. Rowe, and Caroline C. Rowe, all of St. Louis, Missouri; and Anne Rowe, St. Louis, Missouri; to acquire control of First Eldorado Bancshares, Inc., Eldorado, Illinois, and thereby indirectly acquire control of Dana Bancorp, Inc., Dana, Indiana, The First National Bank of Dana, Dana Indiana, and First State Bank of Eldorado, Eldorado, Illinois.

Comments on this application must be received by January 3, 2005.

Board of Governors of the Federal Reserve System, December 17, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–28063 Filed 12–22–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 18, 2005.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106–2204:

1. The Royal Bank of Scotland Group plc, Edinburgh, Scotland and its subsidiaries, The Royal Bank of Scotland plc, Edinburgh, Scotland, RBSG International Holdings Ltd, Edinburgh, Scotland, and Citizens Financial Group, Inc., Providence, Rhode Island; to acquire 100 percent of the voting shares of Citizens Bank,National Association, Albany, New York, a *de novo* bank.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. One World Holding, Inc., Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of One World Bank, Dallas, Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, December 17, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–28064 Filed 12–22–04; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5036–N]

Medicare Program; Solicitation for Proposals for the Cancer Prevention and Treatment Demonstration for Ethnic and Racial Minorities

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice informs interested parties of an opportunity to apply for cooperative agreements to implement and operate demonstration projects under the Cancer Prevention and Treatment Demonstration for Ethnic and Racial Minorities as required by Section 122 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA). In addition, this notice contains information on how to obtain the complete solicitation and supporting information.

DATES: Applications will be considered timely if we receive them on or before March 23, 2005.

ADDRESSES: Mail applications to—Centers for Medicare & Medicaid Services; Office of Operations Management, AGG, Cooperative Agreements Management Staff; Attention: Judith L. Norris; 7500 Security Boulevard, Mailstop C2–21–15; Baltimore, Maryland 21244–1850.

Please refer to file code CMS–5036–N on the application. Because of staffing and resource limitations, we cannot accept applications by facsimile (FAX) transmission. Applications postmarked after the closing date, or postmarked on or before the closing date but not received in time for panel review, will be considered late applications.

FOR FURTHER INFORMATION CONTACT: Diane Merriman, CMS Project Officer, at (410) 786–7237 or *CPTDEMO@cms.hhs.gov*. General information regarding this initiative is available on the DHHS Web site at *http://www.grants.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 122(b) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) (Pub. L. 106–554) requires us to evaluate best practices in the private sector, community programs, and academic research to identify methods that reduce disparities among

individuals of ethnic and racial minority groups in the prevention and treatment of cancer.

As specified in Sections 122(a) and (b) of BIPA, we are to design and implement at least nine demonstration projects in specific target populations for the purpose of developing models and evaluating methods that: (1) Improve the quality of items and services provided to target individuals in order to facilitate reduced disparities in early detection and treatment of cancer; (2) improve clinical outcomes, satisfaction, quality of life, and appropriate use of Medicare-covered services and referral patterns among those target individuals with cancer; (3) eliminate disparities in the rate of preventive cancer screening measures; and (4) promote collaboration with community-based organizations to ensure cultural competency of health care professionals and linguistic access for persons with limited English proficiency.

Each of the following four legislatively-mandated target populations are required to be the subject of two separate demonstration projects: American Indians (including Alaskan Natives, Eskimos and Aleuts); Asian Americans and Pacific Islanders; Blacks; and Hispanics. At least one of the nine required demonstration projects must be implemented in a rural area, and one must be implemented in an inner-city area. In addition, one of the nine demonstration projects must be implemented in the Pacific Islands.

If the initial demonstration evaluation indicates that these projects: (1) Reduce Medicare expenditures; or (2) do not increase Medicare expenditures, reduce ethnic and racial health disparities, and increase beneficiary and health care provider satisfaction, the existing demonstration projects will continue, and the number of demonstration projects may be expanded in the future.

II. Provisions of the Notice

The purpose of this notice is to inform interested parties of an opportunity to apply for cooperative agreements to implement cancer prevention and treatment demonstration projects for ethnic and racial minorities.

As specified in Section 122 of BIPA, we will award at least nine cooperative agreement demonstration projects that will identify methods to reduce disparities in early cancer screening, diagnosis, and treatment for Black, Hispanic, Asian American and Pacific Islander, and American Indian (including Alaskan Natives, Eskimos, and Aleuts) Medicare beneficiary populations. Award recipients are expected to use the best available scientific evidence to identify promising models of cancer screening, diagnosis and treatment interventions to promote health and the appropriate utilization of Medicare covered services, eliminate disparities in cancer detection and treatment among ethnic and racial populations of Medicare beneficiaries, and provide information to improve the effectiveness of the Medicare program.

The Congress authorized the Cancer Prevention and Treatment Demonstration for Ethnic and Racial Minorities project for a potentially indefinite period of time, and appropriated $25 million in funding for the initial phase of the program. The demonstration projects will have a 3- to 5-year operation period. We will consider an award of up to $50,000 per demonstration project to cover initial implementation costs. The entire award will not be made initially but will be distributed incrementally between the time of conditional awards and the approval of the demonstration by the Office of Management and Budget (OMB). We also expect the costs of conducting these demonstration projects to range from $400,000 to $1.5 million per project per year. These costs will be reimbursed through capitation payment to the demonstration site. No State or local matching funds are required. Furthermore, we anticipate that projects will be awarded in mid-2005, and that project startup activities would begin immediately after completion of the waiver cost process (in late 2005).

The facilitation activities to be funded under these demonstration projects will focus on three areas of potential cancer disparity reduction: screening, diagnosis, and treatment. The applicant will provide facilitation services for two populations: (1) Medicare beneficiaries belonging to a defined ethnic or racial minority group who do not have a current diagnosis of cancer before enrollment in the demonstration project; and (2) Medicare beneficiaries belonging to a defined ethnic or racial minority who have been diagnosed with cancer before enrollment in the demonstration project.

For the first population, the applicant must propose strategies for improving outcomes for cancers of the breast, cervix, colon and/or rectum, and prostate through facilitation of: (1) Cancer screening services; (2) follow-up of abnormal findings and diagnosis; and (3) improved access to and follow-up of treatment and adjuvant treatment services. For the second population, the applicant must propose facilitation strategies to improve access to and follow-up of treatment and adjuvant treatment services for confirmed diagnosis of at least one of the demonstration-specified cancers and/or lung cancer.

Potentially qualified applicants include, but are not limited to: Disease management organizations; health insurers; physician group practices; coordinated care services providers; provider-sponsored organizations; academic medical centers; comprehensive cancer centers; special population networks; community clinical oncology programs; community-based health organizations; community health centers; federally qualified health centers; minority institutions such as, among others, Historically Black Colleges and Universities, Hispanic Serving Institutions, and Hispanic health organizations and associations; tribal organizations; a consortium of the above entities; or any other legal entity that the Secretary determines to be appropriate. We strongly encourage the establishment of collaborative consortia for this demonstration. The applicant must demonstrate its ability to effectively deliver cancer screening, diagnosis, and treatment facilitation services on a capitation basis to one or more of the following populations: Black, Hispanic, Asian American and Pacific Islander, and American Indian (including Alaskan Natives, Eskimos, and Aleuts) Medicare beneficiaries. Interested parties are to obtain complete solicitation and supporting information on the DHHS Web site at *http://www.grants.gov*.

III. Collection of Information Requirements

The application associated with this demonstration entitled ''Medicare Waiver Demonstration Application'' is currently approved under OMB approval number 0938–0880, with a current expiration date of July 31, 2006.

In addition, the collection requirements associated with this demonstration do not impose information collection and record keeping requirements, because they meet the ''information'' definition exception under 5 CFR 1320.3(h)(5) which states: '' 'Information' does not generally include items in the following categories: (5) facts or opinions obtained initially or in follow-on requests, from individuals (including individuals in control groups) under treatment or clinical examination in connection with research on or prophylaxis to prevent a clinical disorder, direct treatment of that disorder, or the interpretation of biological analyses of body fluids, tissues, or other specimens, or the

identification or classification of such specimens. * * *''

Authority: Section 122 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) (Pub. L. 106–554).

(Catalog of Federal Domestic Assistance Program No. 93.779, Medical Assistance Program; No. 93.773, Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 15, 2004.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 04–27527 Filed 12–14–04; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions and Delegations of Authority

This notice amends Part K of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Administration for Children and Families (ACF), as follows: Chapter KA, Office of the Assistant Secretary for Children and Families (OAS) as last amended October 16, 2001 (66 FR 52627) and Chapter KN, Office of Public Affairs (OPA) as last amended January 2, 1998 (63 FR 81–87). This notice announces the transfer of the Freedom of Information Act (FOIA) functions from the Office of the Executive Secretariat and places them in the Division of Public Information, Office of Public Affairs.

These Chapters are amended as follows:

I. Chapter KA, Office of the Assistant Secretary for Children and Families

A. Delete KA.20 Functions, Paragraph C in its entirety and replace with the following:

C. The Executive Secretariat (ExecSec) ensures that issues requiring the attention of the Assistant Secretary, Deputy Assistant Secretaries and/or executive staff are addressed on a timely and coordinated basis and facilitates decisions on matters requiring immediate action including White House, Congressional and Secretarial assignments. ExecSec serves as the ACF liaison with the HHS Executive Secretariat. It receives, assesses and controls incoming correspondence and assignments to the appropriate ACF component(s) for response and action and provides assistance and advice to ACF staff on the development of responses to correspondence. ExecSec provides assistance to ACF staff on the use of the controlled correspondence system. ExecSec coordinates and/or prepares congressional correspondence, tracks development of periodic reports and facilitates Departmental clearances.

II. Chapter KN, Office of Public Affairs

A. Delete KN.00. Mission in its entirety and replace with the following:

KN.00 Mission. The Office of Public Affairs (OPA) develops, directs and coordinates public affairs and communications services for ACF. OPA serves as liaison with the Office of the Secretary, Office of Public Affairs in processing the Freedom of Information Act inquiries for ACF and coordinates hot line calls received by the Office of Inspector General and the Government Accountability Office relating to ACF operations and personnel. OPA provides leadership, direction and oversight in promoting ACF's public affairs policies, programs and initiatives. OPA also provides printing and distribution services for ACF.

B. Delete KN.20 Functions paragraph B, in its entirety and replace with the following:

B. The Division of Public Information (the Division) develops and implements public affairs strategies to achieve ACF program objectives in coordination with other ACF components. The Division coordinates news media relations strategy; responds to all media inquiries concerning ACF programs and related issues; develops fact sheets, news releases, feature articles for magazines and other publications on ACF programs and initiatives; and manages preparation and clearance of speeches and official statements on ACF programs. The Division coordinates regional public affairs policies and public affairs activities pertaining to ACF programs and initiatives. The Division Director serves as liaison to the Office of the Secretary, Office of Public Affairs in processing the Freedom of Information Act inquiries and coordinates hot line calls received by the Office of Inspector General and the Government Accountability Office relating to ACF operations and personnel.

Dated: December 14, 2004.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. 04–28052 Filed 12–22–04; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Non-Small Cell Lung Cancer Cell Line H3255

Herbert K. Oie et al. (NCI)
DHHS Reference No. E–028–2005/0—Research Tool
Licensing Contact: Mojdeh Bahar; 301/435–2950; *baharm@mail.nih.gov.*

This invention, the H3255 cell line, was initiated from malignant cells isolated from the pleural effusion from a non-smoker Caucasian female. The cultured tumor cells, identified as Non-Small Cell Lung Carcinoma Cells (NSCLC), were found to have a mutation within the EGFR gene that made them very sensitive to certain growth inhibiting drugs, such as gefitinib (iressa). Cell lines sensitive to growth inhibitors could be used in the treatment of cancer as potential chemotherapeutic agents.

LRATlerin, Related Compounds and Methods of Use

Denise P. Simmons (NCI)
U.S. Provisional Application No. 60/613,256 filed 27 Sep 2004 (DHHS Reference No. E–349–2004/0–US–01)
Licensing Contact: Mojdeh Bahar; 301/435–2950; *baharm@mail.nih.gov.*

The invention discloses combinations of anti-tumor agents and anti-

proliferative peptides, methods for making such compounds, and methods for using these compounds for the treatment of hyper-proliferative diseases such as cancer or psoriasis. A current limitation on cancer therapy is that therapeutic agents may not target tumor cells specifically or enter the cells efficiently. A strategy that combines the therapeutic agent with a moiety that mediates cellular entry is one method to overcome this limitation. However, the efficacy of the therapeutic agent within the cells can be reduced by the linkage to the moiety that mediates cellular entry. The compounds of the current invention are designed to enter cells efficiently, and upon entry, to uncouple the therapeutic agent from the cellular targeting moiety.

Rottlerin, a protein kinase C inhibitor, selectively induces apoptosis of metastasized melanoma cells of epithelial morphology (DHHS Ref. No. E–311–2003), and is a potential therapeutic agent. Peptides derived from the known tumor suppressor genes H–Ha–Rev107 and H–TIG3, that are homologous to a peptide of LRAT (lecithin:retinol acyl transferase) cross the cell membrane and localize to the nucleus. These peptides, which inhibit the growth of melanoma cells (described in DHHS Ref. No. E–052–2002), could also serve as intracellular delivery agents.

The current invention discloses a novel composition of rottlerin and LRAT peptide (named LRATlerin). LRATlerin is designed so that the LRAT peptide can release the rottlerin upon cellular entry. LRATlerin has enhanced properties not exhibited by rottlerin or the peptide alone including the ability to induce apoptosis of primary site and metastasized tumor cells that are epithelioid or fibroblastoid, without apparent toxicity normal healthy cells. Thus, the compositions of the current invention have the potential to be highly effective therapies for proliferative diseases.

Modulating Expression of the Metastasis Suppressor MxA

Jane B. Trepel et al. (NCI)
DHHS Reference No. E–257–2004/0–US–01 (U.S. Provisional Patent Application)
Licensing Contact: Mojdeh Bahar; 301/435–2950; *baharm@mail.nih.gov.*

The invention discloses compounds that could be used to inhibit metastases. The compounds of the current invention were discovered by high-throughput screening of a novel cell line engineered with a MxA reporter. The compounds could be used to treat metastatic cancers including prostate and melanomas by increasing MxA expression.

MxA expression reduces cell motility and metastases in a mouse model. Cells expressing MxA produced smaller tumors in engrafted mice compared to controls. When injected into mouse spleens, cells expressing MxA showed a significantly delayed metastasis, and the mice survived significantly longer than controls. Expression of MxA reduced cellular motility of prostate cancer cell lines *in vitro* and reduced cellular motility and invasiveness of the highly metastatic melanoma cell line LOX.

Background information for this technology can be found in DHHS Reference No. E–292–2001.

In addition to licensing, the technology is available for further development through collaborative research with the inventors via a Cooperative Research and Development Agreement (CRADA).

Modified Myelin Basic Protein Molecules

Michael J. Lenardo et al. (NIAID)
DHHS Ref. No. E–033–1996/0–US–01
Licensing Contact: Mojdeh Bahar; 301/435–2950; *baharm@mail.nih.gov.*

This invention is directed to compositions and methods for clinical assessment, diagnosis and treatment of Multiple Sclerosis (MS). The compositions are molecules related to the 21.5 kDA fetal isoform of human myelin basic protein (MBP), and include nucleic acids and polypeptides. The nucleic acids are useful in the efficient production of modified and unmodified MBP polypeptides and the polypeptides are useful for assaying T cells for responsiveness to MBP epitopes. They are further useful as therapeutic agents that act by inducing T cell responses, including apoptosis, as a means of treating MS.

Modified Proteolipid Protein Molecules

Michael J. Lenardo et al. (NIAID)
DHHS Ref. No. E–128–1996/1–US–01
Licensing Contact: Mojdeh Bahar; 301/435–2950; *baharm@mail.nih.gov.*

This invention is directed to compositions and methods for clinical assessment, diagnosis and treatment of Multiple Sclerosis (MS). The compositions are molecules related to the human proteolipid protein (PLP), and include nucleic acids and polypeptides. The nucleic acids are useful in the production of modified PLP polypeptides and the polypeptides are useful for assaying T cells for responsiveness to PLP epitopes. They are further useful as therapeutic agents that act by inducing T cell responses, including apoptosis, as a means of treating MS.

Dated: December 15, 2004.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 04–28068 Filed 12–22–04; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request Certificate of Compliance for Turbine Fuel Withdrawals

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Certificate of Compliance for Turbine Fuel Withdrawals. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 22, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn. Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity

of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Certificate of Compliance for Turbine Fuel Withdrawals.

OMB Number: 1651–0072.

Form Number: N/A.

Abstract: This information is collected to ensure regulatory compliance for Turbine Fuel Withdrawals to protect revenue collections.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension.

Affected Public: Businesses, Institutions.

Estimated Number of Respondents: 30.

Estimated Time Per Respondent: 12 hours.

Estimated Total Annual Burden Hours: 360.

Estimated Total Annualized Cost on the Public: $14,916.

Dated: December 16, 2004.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 04–28069 Filed 12–22–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Request for Information

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Request for Information. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 22, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Request for Information.

OMB Number: 1651–0023.

Form Number: Form CBP–28.

Abstract: Form CBP–28 is used by CBP personnel to request additional information from importers when the invoice or other documentation provide insufficient information for CBP to carry out its responsibilities to protect revenues.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension.

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 60,000.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 60,000.

Estimated Total Annualized Cost on the Public: N/A.

Dated: December 16, 2004.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 04–28070 Filed 12–22–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Establishment of a Container Station

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Establishment of a Container Station. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 22, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the

functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Establishment of a Container Station.

OMB Number: 1651–0040.

Form Number: N/A.

Abstract: This collection is an application to establish a container station for the vaning and devaning of cargo.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Institutions.

Estimated Number of Respondents: 205.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 615.

Estimated Total Annualized Cost on the Public: $8917.

Dated: December 20, 2004.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 04–28071 Filed 12–22–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Notice of Detention

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Notice of Detention. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 22, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Notice of Detention.

OMB Number: 1651–0073.

Form Number: N/A.

Abstract: This collection requires a response to the Notice of Detention of merchandise and to provide evidence of admissibility to allow entry.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension.

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 1350.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 2700.

Estimated Total Annualized Cost on the Public: $148,500.

Dated: December 16, 2004.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 04–28072 Filed 12–22–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Ship's Stores Declaration

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Ship's Stores Declaration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 22, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Attn: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Bureau of Customs and Border Protection, Attn: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the

collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Ship's Stores Declaration.

OMB Number: 1651–0018.

Form Number: Customs Form 1303.

Abstract: This collection is required for audit cargo purposes to ensure that goods used for Ship's Stores can be easily distinguished from other cargo and retain duty free status.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension.

Affected Public: Businesses, Institutions.

Estimated Number of Respondents: 8,000.

Estimated Time Per Respondent: 3.35 hours.

Estimated Total Annual Burden Hours: 26,000.

Estimated Total Annualized Cost on the Public: $567,840.

Dated: December 20, 2004.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 04–28073 Filed 12–22–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Record of Vessel Foreign Repair or Equipment Purchase

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Record of Vessel Foreign Repair or Equipment Purchase. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 22, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Record of Vessel Foreign Repair or Equipment Purchase.

OMB Number: 1651–0027.

Form Number: Form CBP–226.

Abstract: This collection is required to ensure the collection of revenue (duty) required on all equipment, parts, or materials purchased, and repairs made to U.S. Flag vessels outside the United States.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension.

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 1,500.

Estimated Total Annualized Cost on the Public: $30,000.

Dated: December 16, 2004.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 04–28074 Filed 12–22–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Lay Order Period—General Order Merchandise

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Lay Order Period—General Order Merchandise. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 22, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other

Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Lay Order Period—General Order Merchandise Cost Submissions.

OMB Number: 1651–0079.

Form Number: N/A.

Abstract: This collection is required to ensure that the operator of an arriving carrier, or transfer agent shall notify a bonded warehouse proprietor of the presence of merchandise that has remained at the place of arrival or unlading without entry beyond the time period provided for by regulation.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension.

Affected Public: Businesses, Institutions.

Estimated Number of Respondents: 390.

Estimated Time Per Respondent: 32.5 hours.

Estimated Total Annual Burden Hours: 12,675.

Estimated Total Annualized Cost on the Public: $190,125.

Dated: December 16, 2004.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 04–28075 Filed 12–22–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Declaration for Unaccompanied Articles

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Declaration for Unaccompanied Articles. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 22, 2005, to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Declaration for Unaccompanied Articles.

OMB Number: 1651–0030.

Form Number: CBP Form-255.

Abstract: This collection is completed by each arriving passenger for each parcel or container which is being sent from an Insular Possession at a later date. This declaration allows that traveler to claim their appropriate allowable exemption.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension.

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 7,500.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 1,250.

Estimated Total Annualized Cost on the Public: $18,750.

Dated: December 16, 2004.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 04–28076 Filed 12–22–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; North American Free Trade Agreement Duty Deferral

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the North American Free Trade Agreement Duty Deferral. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 22, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group,

Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: North American Free Trade Agreement Duty Deferral.

OMB Number: 1651–0071.

Form Number: N/A.

Abstract: The North American Free Trade Agreement Duty Deferral Program prescribe the documentary and other requirements that must be followed when merchandise is withdrawn from a U.S. duty-deferral program for exportation to another NAFTA country.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 5.6 hours.

Estimated Total Annual Burden Hours: 280.

Estimated Total Annualized Cost on the Public: $6,160.

Dated: December 16, 2004.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 04–28077 Filed 12–22–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Entry of Articles for Exhibition

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Entry of Articles for Exhibition. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before February 22, 2005, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229, Tel. (202) 344–1426.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Entry of Articles for Exhibition.

OMB Number: 1651–0037.

Form Number: N/A.

Abstract: This information is used by CBP to substantiate that the goods imported for exhibit have been approved for entry by the Department of Commerce.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension.

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 40.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 530.

Estimated Total Annualized Cost on the Public: $14,792.

Dated: December 16, 2004.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 04–28078 Filed 12–22–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4903–N–103]

Notice of Submission of Proposed Information Collection to OMB; American Healthy Homes Survey

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been 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.

HUD is requesting approval for a survey to collect information to estimate

existing levels of environmental contaminants in the nation's housing, including lead levels in dust, soil and paint, and allergen, mold and pesticide levels in dust. For the first time, data will be collected nationwide to estimate arsenic levels associated with the use of CCA-treated wood products, and to estimate the prevalence of vermiculite attic insulation. Two procedures will be compared to determine mold present in homes. This is a collaboration between HUD, EPA, CPSC, and CDC.

DATES: *Comments Due Date:* January 24, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; or Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins or Ms Deitzer.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: American Healthy Homes Survey.

OMB Approval Number: 2539–Pending.

Description of the Need for the Information and Its Proposed Use: The information collected through this survey will be used to estimate existing levels of environmental contaminants in the nation's housing, including lead levels in dust, soil and paint, and allergen, mold and pesticide levels in dust. For the first time, data will be collected nationwide to estimate arsenic levels associated with the use of CCA-treated wood products, and to estimate the prevalence of vermiculite attic insulation. Two procedures will be compared to determine mold present in homes. This is a collaboration between HUD, EPA, CPSC, and CDC.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden Hours
Reporting Burden	1,080	1,080		4.35		4,700

Total Estimated Burden Hours: 4,700.
Status: New collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: December 17, 2004.

Wayne Eddins,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 04–28051 Filed 12–22–04; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4901–N–52]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: December 23, 2004.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988, court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: December 16, 2004.

Mark R. Johnston,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 04–27920 Filed 12–22–04; 8:45 am]

BILLING CODE 4210–29–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–288]

Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports

AGENCY: International Trade Commission.

ACTION: Notice of determination.

EFFECTIVE DATE: December 16, 2004.

SUMMARY: Section 7 of the Steel Trade Liberalization Program Implementation Act of 1989 (''the Act''), as amended (19 U.S.C. 2703 note), which concerns local feedstock requirements for fuel ethyl alcohol imported by the United States from CBERA-beneficiary countries, requires the Commission to determine annually the U.S. domestic market for fuel ethyl alcohol during the 12-month period ending on the preceding September 30. The domestic market determination made by the Commission is to be used to establish the ''base quantity'' of imports that can be imported with a zero percent local feedstock requirement. The base quantity to be used by the U.S. Customs and Border Protection in the

administration of the law is the greater of 60 million gallons or 7 percent of U.S. consumption as determined by the Commission. Beyond the base quantity of imports, progressively higher local feedstock requirements are placed on imports of fuel ethyl alcohol and mixtures from the CBERA-beneficiary countries.

For the 12-month period ending September 30, 2004, the Commission has determined the level of U.S. consumption of fuel ethyl alcohol to be 3.43 billion gallons. Seven percent of this amount is 240.4 million gallons (these figures have been rounded). Therefore, the base quantity for 2005 should be 240.4 million gallons.

FOR FURTHER INFORMATION CONTACT: Douglas Newman (202) 205–3328, *douglas.newman@usitc.gov,* in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart, *william.gearhart@usitc.gov,* of the Commission's Office of the General Counsel at (202) 205–3091.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Background: For purposes of making determinations of the U.S. market for fuel ethyl alcohol as required by section 7 of the Act, the Commission instituted Investigation No. 332–288, Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports, in March 1990. The Commission uses official statistics of the U.S. Department of Energy to make these determinations as well as the PIERS database of the Journal of Commerce, which is based on U.S. export declarations.

Section 225 of the Customs and Trade Act of 1990 (Public Law 101–382, August 20, 1990) amended the original language set forth in the Steel Trade Liberalization Program Implementation Act of 1989. The amendment requires the Commission to make a determination of the U.S. domestic market for fuel ethyl alcohol for each year after 1989.

Issued: December 17, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–28105 Filed 12–22–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'') and the Clean Water Act (''CWA'')

Under Section 122(d)92) of CERCLA, 42 U.S.C. 9622(d)(2), and 28 CFR 50.7, notice is hereby given that on December 10, 2004, proposed Consent Decrees in *United States* v. *Alcoa, Inc.*, Civil Action No. 6:04–cv–00119, were lodged with the United States District Court for the Southern District of Texas.

In this action the United States and the State of Texas sought injunctive relief, costs, and natural resource damages pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'') and the Clean Water Act (''CWA'') and the regulations promulgated thereunder. The Alcoa facility is located in Point Comfort, Calhoun County, Texas.

Under the Consent Decree for CERCLA Response Actions and Response Costs, Alcoa Inc. and Alcoa World Alumina L.L.C. will operate a groundwater recovery system at a former chlorine-alkali plant, dredge mercury-contaminated sediments, and cap portions of the Plant and monitor sediments and fish to confirm the recovery of sediment and fish tissue to acceptable levels. The companies also will pay past costs of $404,726 to the United States and $100,000 to Texas. The companies also agreed to pay the governments' future costs.

Under the Consent Decree for Natural Resource Damages, Alcoa Inc. and Alcoa World Alumina L.L.C. will construct new fishing piers at Six Mile Park, Point Comfort Park, and Bayfront Peninsula; replace an existing auxiliary boat ramp and construct a new timber dock at Six Mile Park; modify an existing jetty at Magnolia Beach; and construct a new timber dock at Six Mile Park and at Lighthouse Beach. The companies also will construct a 10.9-acre oyster reef at an estimated cost of $1 million and will create a 69.3-acre intertidal marsh at an estimated cost of $10 million. In addition, the companies will arrange for the conveyance to the United States of approximately 729 acres of property, which is adjacent to the Aransas National Wildlife Refuge, for inclusion into the Refuge after the marsh restoration project has been completed. The companies will pay about $800,000 in additional past costs, plus $195,000 for future costs that the federal and state trustees expect to incur.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Alcoa Inc.*, D.J. Ref. Nos. 90–11–3–655/1 and 90–11–3–655/2. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Consent Decrees may be examined during the public comment period on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decrees may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a complete copy of the Consent Decrees from the Consent Decree Library, please enclose a check in the amount of $215.00 (25 cents per page reproduction cost) payable to the U.S. Treasury. If only one complete Consent Decree is sought, please enclose a check in the amount of $178.25 for the Consent Decree for CERCLA Response Actions and Response Costs, or $36.75 for the Consent Decree for Natural Resource Damages. In requesting a copy of both Consent Decrees, exclusive of exhibits and defendants' signatures, please enclose a check in the amount of $49.50 (25 cents per page reproduction cost) payable to the U.S. Treasury. If only one Consent Decree, without exhibits and signatures, is sought, please enclose a check in the amount of $35.75 for the Consent Decree for CERCLA Response Actions and Response Costs, or $13.75 for the Consent Decree for Natural Resource Damages.

Thomas A. Mariani, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–28047 Filed 12–22–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response Compensation and Liability Act (''CERCLA'')

Pursuant to 28 CFR 507 notice is hereby given that on December 10, 2004, a proposed Consent Decree in the case of *United States* v. *MW Custom Papers, LLC et al.* Civil Action No. 1:04–CV–383, was lodged with the United States District Court for the Eastern District of Tennessee.

In this action, the United States sought injunctive relief and recovery of response costs under Sections 106(a) and 107 of CERCLA, 42 U.S.C. 9606(a) and 9607, to remedy conditions in connection with the release or threatened release of hazardous substances into the environment at the Tennessee Products Superfund Site in Chattanooga, Tennessee (hereinafter referred to as the ''Site''). The Settlors under the proposed Consent Decree, MW Custom Papers, LLC, Reilly Industries, Inc., and Southern Wood Piedmont Company, each arranged for the disposal of hazardous substances at the Site.

Under a proposed Consent Decree, the Settlors have agreed to perform the remedy chosen by EPA to clean up the Site, and to pay $6.35 million which will go towards the cleanup and partial reimbursement of EPA's past response costs. The United States has also agreed to pay $17.4 million in settlement of its liability at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *MW Custom Papers, LLC et al.,* D.J. Ref. 90–11–3–1709/1.

The Consent Decree may be examined at U.S. EPA Region 4, 61 Forsyth Street, Atlanta, Georgia, 30303—Attn: William Sapp. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.*

A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy of the Decree from the Consent Decree Library, please enclose a check in the amount of $95.00 (25 cents per page reproduction cost for 380 pages) payable to the U.S. Treasury. In requesting a copy of the Consent Decree, exclusive of exhibits, please enclose a check in the amount of $21.25 (25 cents per page reproduction cost for 85 pages) payable to the U.S. Treasury.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section.

[FR Doc. 04–28045 Filed 12–22–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

Under 28 CFR 50.7, notice is hereby given that on December 9, 2004, a proposed Consent Decree in *United States* v. *City of Reading, Pennsylvania,* Civil Action No. 04–5696, was lodged with the United States District Court for the Eastern District of Pennsylvania, simultaneously with a complaint.

The complaint alleges discharges of pollutants and other violations of the Clean Water Act, 33 U.S.C. 1251 *et seq.,* by the City of Reading and seeks injunctive relief and civil penalties for its operation of its sewage treatment plant.

The consent decree lodged concurrently with the complaint resolves the claims in the complaint and obligates the City of Reading to pay a civil penalty of $239,000 to be divided equally between the United States and the Commonwealth of Pennsylvania. In the settlement, the City agrees to extensive remedies to or replacements of parts of the existing sewage treatment plant. The City also will perform a Supplemental Environmental Project in the Angelica Park wetlands.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *City of Reading,* DOJ #90–5–1–1–07869 and Civil Action No. 04–5696.

The Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Pennsylvania, c/o Margaret Hutchinson, 615 Chestnut Street, Suite 1250, Philadelphia, PA, 19106, and at U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $14.00, payable to the U.S. Treasury.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–28046 Filed 12–22–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Partial Consent Decree Under the Solid Waste Disposal Act (a.k.a the Resource Conservation and Recovery Act, ''RCRA'')

Under 28 CFR 50.7, notice is hereby given that on December 3, 2004, a complaint was filed and a proposed consent Decree was lodged in *United States* v. *United States Ceramic Tile Company, et al.,* Civil Action Number 5:04 CV 2394, with the United States District Court for the Northern District of Ohio.

This Consent Decree resolves specified claims against the United States Ceramic Tile Company (''U.S. Ceramic'') under the Solid Waste Disposal Act, 42 U.S.C.A. 6901, *et seq.* U.S. Ceramic Tile owns and operates a ceramic tile manufacturing facility at 10233 Sandyville Road, East Sparta, Ohio.

The proposed consent decree obligates U.S. Ceramic to (1) undertake certain additional work to correct the improper closure of its facility's surface impoundment and waste pile; (2) pay $1.27 million in stipulated penalties for all of its violations of a prior court filed consent decree; and (3) conduct investigations of and perform all corrective measures necessary at its facility solid waste management units.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree.

Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *United States Ceramic Tile Company, et al.,* D.J. Ref. 90–7–1–376C.

The proposed consent decree may be examined at U.S. EPA Region V, 77 West Jackson Blvd, Chicago, IL 60604–3590. During the public comment period, the proposed consent decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy of the proposed consent decree, please enclose a check in the amount of $45.75, payable to the U.S. Treasury, for reproduction costs.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 04–28044 Filed 12–22–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting Notice No. 1–04]

Sunshine Act Meeting Notice

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of Commission business and other matters specified, as follows:

DATE AND TIME: Thursday, December 30, 2004, at 11 a.m.

SUBJECT MATTER: Issuance of Proposed Decisions in claims against Albania.

STATUS: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579. Telephone: (202) 616–6988.

Dated at Washington, DC.

Mauricio J. Tamargo,

Chairman.

[FR Doc. 04–28207 Filed 12–21–04; 3:16 pm]

BILLING CODE 4410–01–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,871]

Merrow Machine Company, Newington, CT; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 27, 2004 in response to a worker petition filed by International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers—Communications Workers of America, Local 249, on behalf of workers at Merrow Machine Company, Newington, Connecticut.

The Department issued a negative determination (TA–W–55,871) applicable to the petitioning group of workers on July 13, 2004. No new information or change in circumstances is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 2nd day of December, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 04–28038 Filed 12–22–04; 8:45 am]

BILLING CODE 4510–30–M

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. W.A. Mining, Inc.

[Docket No. M–2004–050–C]

True Line, Inc., P.O. Box 85, Thorpe, West Virginia 24888 has filed a petition for W. A. Mining, Inc., to modify the application of 30 CFR 77.214(a) (Draw-off tunnels; stockpiling and reclaiming operations; general) to its Caretta Mine No. 2 (MSHA I.D. No. 46–08240) located in McDowell County, West Virginia. The petitioner proposes to remove an old abandoned refuse pile near the mine site and backfill the mine bench with the refuse material in accordance with Surface Mining Coal Reclamation Act (SMCRA) regulations. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Kingwood Mining Company, LLC

[Docket No. M–2004–051–C]

Kingwood Mining Company, LLC, Route 1, Box 294C, Newburg, West Virginia 26410 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (Weekly examination) to its Whitetail K-Mine (MSHA I.D. No. 46–08751) located in Preston County, West Virginia. The petitioner proposes to: (i) examine the airway of the return air course in its entirety up to both sides of the area in question (16XC and 20XC) due to deteriorating roof conditions, the affected area cannot be traveled in its entirety; and (ii) provide date boards at both ends of the affected area and have a certified person examine the area on a weekly basis to measure for quantity and quality of air outby (downwind) location (16XC) and record results of the measurements in a book and made available to interested parties. 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 Federal eRulemaking Portal: *http://www.regulations.gov;* E-mail: *Comments@MSHA.gov;* Fax: (202) 693–9441; or Regular Mail/Hand Delivery/Courier: Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209. All comments must be postmarked or received in that office on or before January 24, 2005. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 16th day of December 2004.

Marvin W. Nichols, Jr.,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 04–28082 Filed 12–22–04; 8:45 am]

BILLING CODE 4510–43–P

NUCLEAR REGULATORY COMMISSION

Proposed Interim Staff Guidance (ISG)–17 on; Periodic Inspection of Bus Ducts for License Renewal Solicitation of Public Comment

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Solicitation of public comment.

SUMMARY: The NRC is soliciting public comment on its proposed interim staff guidance (ISG) for license renewal. This ISG proposes an acceptable aging management program (AMP), ''Periodic Inspection of Bus Ducts,'' to manage the effects of aging on bus ducts during the period of extended operation. The NRC staff issues ISGs to facilitate timely implementation of the license renewal rule and to review activities associated with a license renewal application. Upon receiving public comments, the NRC staff will evaluate the comments and make a determination to incorporate the comments, as appropriate. Once the NRC staff completes the ISG, it will issue the ISG for NRC and industry use. The NRC staff will also incorporate the approved ISG into the next revision of the license renewal guidance documents.

DATES: Comments may be submitted by February 22, 2005. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be submitted to: Chief Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments should be delivered to: 11545 Rockville Pike, Rockville, Maryland, Room T–6D59, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Persons may also provide comments via e-mail at *NRCREP@NRC.GOV.* The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209, (301) 415–4737, or by e-mail at *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Mark Lintz, License Renewal Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone (301) 415–4051 or e-mail *mpl2@nrc.gov.*

SUPPLEMENTARY INFORMATION: Attachment 1 to this **Federal Register** notice, entitled Staff Position and Rationale for the Interim Staff Guidance (ISG)–17: Proposed Aging Management Program (AMP) XI.E4, ''Periodic Inspection of Bus Ducts'' contains the NRC staff's rationale for publishing ISG–17. Attachment 2 to this **Federal Register** notice, entitled Proposed Aging Management Program: Periodic Inspection of Bus Ducts, contains the proposed AMP required to implement ISG–17.

NRC Information Notice 89–64, entitled ''Electrical Bus Bar Failures,'' and NRC Information Notice 98–36, entitled ''Inadequate or Poorly Controlled, Non-Safety-Related Maintenance Activities Unnecessarily Challenged Safety Systems,'' provide examples that illustrate the importance of periodic inspection of bus ducts and the potential problems that can arise from age-related bus duct failures. Instances of the loosening of the bus bar connecting bolts at several plants due to thermal cycling have been reported in Sandia National Laboratory Report entitled Aging Management Guideline for Commercial Nuclear Power Plants (Sandia 96–0344; September 1996) and in NRC Information Notice 2000–14, entitled ''Non-Vital Bus Fault Leads to Fire and Loss of Offsite Power.'' The last report identified torque relaxation of splice plate connecting bolts as one potential cause of a bus duct failure.

Operating experience has shown that electrical buses in bus ducts have failed due to cracked insulation in the presence of moisture, debris buildup, and loosening of bus connecting bolts. These failures could lead to loss of power to electrical loads connected to the buses and could cause unnecessary challenges to plant safety systems. To prevent such failures, NRC has developed ISG–17 to ensure that:

(1) Internal portions of bus duct assemblies are free of corrosion, debris, excessive dust buildup, and moisture intrusion;

(2) Electrical buses and their supports are free of insulation cracking; and

(3) Bolted connections of the buses are secure.

Additionally, the external portions of bus ducts and structural supports will also be inspected in accordance with a plant-specific structural monitoring program.

Dated at Rockville, Maryland, this 16th day of December 2004.

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.

Attachment 1: Staff Position and Rationale for the Interim Staff Guidance (ISG)–17: Proposed Aging Management Program (AMP) XI.E4, ''Periodic Inspection of Bus Ducts''

Staff Position

Consistent with the requirements specified in 10 CFR 54.4(a), bus ducts (non-segregated phase bus and isolated phase buses) support safety-related and non-safety-related functions in that the failure of the bus ducts precludes a safety function from being accomplished [10 CFR 54.4(a)(1) and (a)(2)].

Thermal cycling of bus ducts can result in torque relaxation of connecting bolts, causing loose connections that lead to arcing, overheating, and explosive damage. Bus insulation material may experience a significant temperature rise during operation that may cause age-related degradation during the period of extended operation. Insulation failure, along with the presence of moisture or debris, may provide phase-to-phase or phase-to-ground electrical tracking paths that eventually result in catastrophic failure of the bus ducts. These bus ducts, therefore, need to be inspected periodically during the period of extended operation to preclude their failure.

In order to prevent such occurrences, the staff has developed an aging management program for periodic inspection of bus ducts for license renewal to ensure that;

(1) Internal portions of bus duct assemblies are free of corrosion, debris, excessive dust buildup, and moisture intrusion; and

(2) Electrical buses and their supports are free of insulation cracking; and

(3) Bolted connections of the buses are secure.

Additionally, the external portions of bus ducts and structural supports will also be inspected in accordance with a plant-specific structural monitoring program.

Rationale

An electrical bus is an assembly of bus conductors with the associated connections, joints, and insulating supports. Bus ducts are electrical buses installed on electrically insulated supports and are constructed with all

phase conductors enclosed in either a separate metal enclosure or a common metal enclosure. The conductors are separated and insulated from each other and from the ground by insulating bus supports. Also, the conductors in the non-segregated bus are insulated throughout to reduce corona and electrical tracking. The bus ducts are used in power systems that connect various elements of electric power circuits, such as switchgears, transformers, main generators, and diesel generators.

Industry operating experience indicates that the failure of bus ducts is caused by the cracking of bus bar insulation (bus sleeving) combined with the accumulation of moisture or debris. Cracked insulation results from high ambient temperatures and contamination from bus bar joint compound. Cracked insulation in the presence of moisture or debris provides phase-to-phase or phase-to-ground electrical tracking paths, which results in catastrophic failure of the buses. Bus failure leads to loss of power to electrical loads connected to the buses, causes subsequent reactor trips, and initiates unnecessary challenges to plant safety systems.

Bus ducts exposed to appreciable ohmic heating during operation may experience loosening of bolted connections because of the repeated cycling of connected loads. This phenomenon can occur in heavily loaded circuits, *i.e.*, those exposed to appreciable ohmic heating. A Sandia National Laboratory Report entitled, Aging Management Guideline for Commercial Nuclear Power Plants (Sandia 96–0344; September 1996) documents instances of bolted connection loosening at several plants due to thermal cycling. NRC Information Notice 2000–14, entitled Non-Vital Bus Fault Leads to Fire and Loss of Offsite Power, identified torque relaxation of splice plate connecting bolts as one potential cause of a bus duct fault.

In addition to NRC Information Notice 2004–14, NRC Information Notice 89–64, entitled Electrical Bus Bar Failures, and NRC Information Notice 98–36, entitled Inadequate or Poorly Controlled, Non-Safety-Related Maintenance Activities Unnecessary Challenged Safety Systems, also provide examples that underscore the safety significance of bus ducts and the potential problems that can arise from age-related bus duct failures.

Attachment 2: Proposed Aging Management Program: Periodic Inspection of Bus Ducts

XI.E4 Periodic Inspection of Bus Ducts

Program Description

An electrical bus is an assembly of bus conductors with the associated connections, joints, and insulating supports. Bus ducts are electrical buses installed on electrically insulated supports and are constructed with all phase conductors enclosed in either a separate metal enclosure or a common metal enclosure. The conductors are separated and insulated from each other and from the ground by insulating supports. Also, the conductors in the non-segregated bus are insulated throughout to reduce corona and electrical tracking. The bus ducts are used in power systems that connect various elements of electric power circuits, such as switchgears, transformers, main generators, and diesel generators.

Industry operating experience indicates that the failure of bus ducts is caused by the cracking of bus bar insulation (bus sleeving) combined with the accumulation of moisture or debris. Cracked insulation results from high ambient temperatures and contamination from bus bar joint compound. Cracked insulation in the presence of moisture or debris provides phase-to-phase or phase-to-ground electrical tracking paths, which results in catastrophic failure of the buses. Bus failure leads to loss of power to electrical loads connected to the buses, causes subsequent reactor trips, and initiates unnecessary challenges to plant systems.

Bus ducts exposed to appreciable ohmic heating during operation may experience loosening of bolted connections because of the repeated cycling of connected loads. This phenomenon can occur in heavily loaded circuits, i.e., those exposed to appreciable ohmic heating. Sandia 96–0344 identified instances of bolted connection loosening at several plants due to thermal cycling. NRC Information Notice 2000–14 identified torque relaxation of splice plate connecting bolts as one potential cause of a bus duct fault.

One objective of the aging management program is to provide an inspection of bus ducts. In managing this aspect of the aging management program, bolted connections at sample sections of the buses in the bus ducts will be checked for proper torque, or the bolted joints will be checked for low resistance. This activity will include visual inspection of interior portions of bus ducts to identify aging degradation of insulating and metallic components and water/debris intrusion. The external portions of bus ducts and structural supports will be inspected in accordance with a plant-specific structural monitoring program.

Evaluation and Technical Basis

1. *Scope of Program:* This program applies to all bus ducts within the scope of license renewal.

2. *Preventive Actions:* This is an inspection program and no actions are taken as part of this program to prevent or mitigate aging degradation.

3. *Parameters Monitored/Inspected:* A sample of accessible bolted connections (bus joints and ending devices) will be checked for proper torque, or the resistance of bolted joints will be checked using a micro-ohm meter of sufficient current capacity that is suitable for checking bus bar connections. This program will also inspect the internal portions of accessible bus ducts for cracks, corrosion, foreign debris, dust buildup, and moisture intrusion. The bus insulating system will be inspected for signs of embrittlement, cracking, melting, swelling, or discoloration, which may indicate overheating or aging degradation. The bus supports will be inspected for structural integrity and cracking.

4. *Detection of Aging Effects:* Visual inspection of internal portions of bus ducts detects cracks, corrosion, debris, dust and moisture. Visual inspection of the bus insulating system detects embrittlement, cracking, melting, swelling and discoloration. Visual inspection of bus supports detects cracking and lack of structural integrity. Internal portions of bus ducts, the bus insulating system, and the bus supports are visually inspected at least once every 10 years.

A torque test or a resistance test of a sample of accessible bolted connections is performed at least once every 10 years. This program will be completed before the end of the initial 40-year license term and every 10 years thereafter. This is an adequate period to identify failures of the bus ducts since experience has shown that aging degradation is a slow process. A 10-year inspection frequency will provide two data points during a 20-year period, which can be used to characterize the degradation rate.

5. *Monitoring and Trending:* Trending actions are not included as part of this program because the ability to trend inspection results is limited. Although not a requirement, trending would

provide additional information on the rate of degradation.

6. *Acceptance Criteria:* Bolted connections must meet the manufacturer's minimum torque specifications, or the resistance of bolted joints must meet required specifications. Bus ducts are to be free from any surface anomalies that suggest that conductor insulation degradation exists. An additional acceptance criterion includes no indication of unacceptable corrosion, cracking, foreign debris, dust buildup, or moisture intrusion. Any condition or situation that, if not corrected, could lead to a loss of intended function is considered unacceptable.

7. *Corrective Actions:* Further investigation and evaluation is performed when the acceptance criterion is not met. Corrective actions may include but are not limited to sample expansion, increased inspection frequency, and replacement or repair of the affected bus duct insulation components. When an unacceptable or situation is identified, a determination shall be made as to whether the same condition or situation is applicable to other areas, and sample expansion shall include those areas. As discussed in the appendix to this report, the staff finds the requirements of 10 CFR part 50, appendix B, acceptable to address corrective actions.

8. *Confirmation Process:* As discussed in the appendix to this report, the staff finds the requirements of 10 CFR part 50, appendix B, acceptable to address the confirmation process.

9. *Administrative Controls:* As discussed in the appendix to this report, the staff finds the requirements of 10 CFR part 50, appendix B, acceptable to address administrative controls.

10. *Operating experience:* Industry operating experience has demonstrated that the failures of bus ducts are caused by cracked insulation of the bus combined with moisture or debris buildup internal to the bus ducts. It has also been shown that bus duct internals exposed to appreciable ohmic heating during operation may experience loosening of bolted connections related to repeated cycling of connected loads.

References

1. IEEE Std. P1205–2000, IEEE Guide for Assessing, Monitoring and Mitigating Aging Effects on Class 1E Equipment Used in Nuclear Power Generating Stations.

2. SAND 96–0344, Aging Management Guideline for Commercial Nuclear Power Plants—Electrical Cable and Terminations, prepared by Sandia National Laboratories for the U.S. Department of Energy, September 1996.

3. EPRI TR–109619, Guideline for the Management of Adverse Localized Equipment Environments, Electric Power Research Institute, Palo Alto, CA, June 1999.

4. EPRI TR–104213, Bolted Joint Maintenance & Application Guide, Electric Power Research Institute, Palo Alto, CA, December 1995.

5. NRC Information Notice 89–64, ''Electrical Bus Bar Failures.''

6. NRC Information Notice 98–36, ''Inadequate or Poorly Controlled, Non-Safety-Related Maintenance Activities Unnecessary Challenged Safety Systems.''

7. NRC Information Notice 2000–14, ''Non-Vital Bus Fault Leads to Fire and Loss of Offsite Power.''

[FR Doc. 04–28067 Filed 12–22–04; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Liability for Termination of Single-Employer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (''PBGC'') is requesting that the Office of Management and Budget (''OMB'') extend approval, under the Paperwork Reduction Act, of a collection of information in its regulation on Liability for Termination of Single-Employer Plans, 29 CFR Part 4062 (OMB control number 1212–0017; expires January 31, 2005). This notice informs the public of the PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by January 24, 2005.

ADDRESSES: Comments should be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503. Copies of the request for extension (including the collection of information) may be obtained without charge by writing to or visiting the PBGC's Communications and Public Affairs Department, suite 240, 1200 K Street, NW., Washington, DC 20005–4026, or calling (202) 326–4040. (TTY and TDD users may call (800) 877–8339 and request connection to (202) 326–4040). The regulation on Employer Liability can be accessed on the PBGC's Web site at *http://www.pbgc.gov.*

FOR FURTHER INFORMATION CONTACT: Thomas H. Gabriel, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, (202) 326–4024. (For TTY and TDD, call (800) 877–8339 and request connection to (202) 326–4024).

SUPPLEMENTARY INFORMATION: Section 4062 of the Employee Retirement Income Security Act of 1974 provides that the contributing sponsor of a single-employer pension plan and members of the sponsor's controlled group (''the employer'') incur liability (''employer liability'') if the plan terminates with assets insufficient to pay benefit liabilities under the plan. The PBGC's statutory lien for employer liability and the payment terms for employer liability are affected by whether and to what extent employer liability exceeds 30 percent of the employer's net worth.

Section 4062.6 of the PBGC's employer liability regulation (29 CFR 4062.6) requires a contributing sponsor or member of the contributing sponsor's controlled group who believes employer liability upon plan termination exceeds 30 percent of the employer's net worth to so notify the PBGC and to submit net worth information. This information is necessary to enable the PBGC to determine whether and to what extent employer liability exceeds 30 percent of the employer's net worth.

The collection of information under the regulation has been approved by OMB under control number 1212–0017 (expires January 31, 2005). The PBGC is requesting that OMB extend its approval for three years. 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 PBGC estimates that an average of 5 contributing sponsors or controlled group members per year will respond to this collection of information. The PBGC further estimates that the average annual burden of this collection of information will be 12 hours and $3,300 per respondent, with an average total annual burden of 60 hours and $16,500.

Issued in Washington, DC, this 20th day of December, 2004.

Stuart A. Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 04–28115 Filed 12–22–04; 8:45 am]

BILLING CODE 7708–01–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, January 13, 2005,
Thursday, January 27, 2005,
Thursday, February 10, 2005, and
Thursday, February 24, 2005

The meetings will start at 10 a.m. and will be held in Room 5A06A, 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.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meetings 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 these meetings 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: December 16, 2004.

Mary M. Rose,

Chairperson, Federal Prevailing Rate Advisory Committee.

[FR Doc. 04–28107 Filed 12–22–04; 8:45 am]

BILLING CODE 6325–49–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are Invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection

Statement Regarding Contributions and Support of Children: OMB 3220–0195. Section 2(d)(4) of the Railroad Retirement Act (RRA), provides, in part, that a child is deemed dependent if the conditions set forth in Section 202(d)(3),(4) and (9) of the Social Security Act are met. Section 202(d)(4) of the Social Security Act, as amended by Public Law 104–121, requires as a condition of dependency, that a child receives one-half of his or her support from the stepparent. This dependency impacts upon the entitlement of a spouse or survivor of an employee whose entitlement is based upon having a stepchild of the employee in care, or on an individual seeking a child's annuity as a stepchild of an employee. Therefore, depending on the employee for at least one-half support is a condition affecting eligibility for increasing an employee or spouse annuity under the social security overall minimum provisions on the basis of the presence of a dependent child, the employee's natural child in limited situations, adopted children, stepchildren, grandchildren and step-grandchildren and equitably adopted children. The regulations outlining child support and dependency requirements are prescribed in 20 CFR 222.50–57.

In order to correctly determine if an applicant is entitled to a child's annuity based on actual dependency, the RRB uses Form G–139, Statement Regarding Contributions and Support of Children, to obtain financial information needed to make a comparison between the amount of support received from the railroad employee and the amount received from other sources. Completion is required to obtain a benefit. One response is required of each respondent.

The RRB estimates that 500 Form G–139's are completed annually. The completion time is estimated at 60 minutes. The RRB proposes non-burden impacting editorial changes to Form G–139.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or *Charles.Mierzwa@RRB.GOV.* Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092 or *Ronald.Hodapp@RRB.GOV.* Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 04–28065 Filed 12–22–04; 8:45 am]

BILLING CODE 7905–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #P077]

State of Alaska (Amendment #2)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective December 9, 2004, the above numbered Public Assistance declaration is hereby amended to reestablish the incident period for this disaster as beginning on October 18, 2004, and continuing through and including October 24, 2004.

All other information remains the same, *i.e.*, the deadline for filing

applications for physical damage is January 14, 2005.

(Catalog of Federal Domestic Assistance Program No. 59008).

Dated: December 16, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04–28108 Filed 12–22–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Revision of Privacy Act System of Records

AGENCY: Small Business Administration.

ACTION: Notice of revision of agency's Privacy Act System of Records.

SUMMARY: SBA is revising its Privacy Act Systems of Records, SBA 20, DISASTER LOAN CASE FILES. SBA is amending this system to account for modernization of its disaster loan making and record keeping processes. Two new routine uses have been added to address sharing of data with the Department of the Treasury to provide for loan disbursements, and with the Internal Revenue Service to request and obtain income verification. Two routine uses were revised to delete references to HUD, and another to reflect the new name for GAO. Loan Servicing Centers were added as System Locations, as was the Office of Disaster Assistance DCMS Operations Center, while references to HUD offices were deleted. Descriptions of Categories of Individuals Covered by the System, Categories of Records in the System were updated to encompass the inclusion of disaster business loan data and pre-application registrants for all disaster loan programs. Under Policies and Practices for Storing, Retrieving, Accessing, Retaining and Disposing of Records, revisions reflect the ability to retrieve records by Employer Identification Number, an updated reference to electronic data under safeguards, a corrected reference to retention and disposal procedures, addition of the Director of DCMS Operations Center as a System Manager, and additions to source categories to include IRS, FEMA and credit reporting agencies.

DATES: Written comments on the Addition to the Agency's System of Records must be received on or before January 24, 2005. The notice shall be effective as proposed with or without further publication 15 days after the end of the comment period, unless comments are received which would require contrary determination and the Agency publishes another Notice before the effective date.

ADDRESSES: Written comments on the System of Records should be directed to Michael V. Sorrento, Director, DCMS Operations Center, Office of Disaster Assistance, 1175 Herndon Parkway, Herndon, VA 20170.

FOR FURTHER INFORMATION CONTACT: Michael V. Sorrento, Director, DCMS Operations Center, (703) 487–3642.

SUPPLEMENTARY INFORMATION: This publication is in accordance with the Privacy Act stipulation that Agencies publish their Systems of Records in the **Federal Register** when there is a revision, change or addition. SBA is amending the Notice of System of Records for SBA 20, Disaster Loan Case File, previously published at 69 FR 58597 (2004). System SBA 20, Disaster Loan Case File, is being amended to reflect changes brought on by automation of the disaster loan making process, including the use of an electronic case file, centralized data storage, and electronic interface with internal and external systems necessary to process, approve and disburse disaster home and business loans. Routine uses for interface with U.S. Department of the Treasury and the Federal Emergency Management Agency have been added. SBA is amending a routine use to update the new name of GAO to Government Accountability Office. SBA is also adding Loan Servicing Centers as system locations while deleting references to HUD here and elsewhere. The Director of DCMS Operations Center is added as a System Manager. SBA is amending the categories of individuals and records covered by the system to include disaster business loans and pre-application registrants for disaster assistance, which also caused amendments to text for form and grammar.

Altered Systems of Records

Narrative Statement; U.S. Small Business Administration Privacy Act System of Records SBA 20, Disaster Loan Case File; Amendment to System of Records

A. Narrative Statement

1. The amendment of System of Records SBA 20 is required by the implementation of the Disaster Credit Management System (DCMS), a new electronic database and software system for the electronic processing and storage of Disaster home and business loan applications. The DCMS is not a new system of records, as it is substantially similar in scope and purpose to the paper case files now encompassed under System SBA 20. Amendment is appropriate to fully reflect the scope and use of records, and the categories of individuals covered by the system. Due to the long maturity of SBA Disaster loans, paper case files will remain as a format for these records for the foreseeable future.

2. Refer to the following citations: Pub. L. 85–536, 15 U.S.C. 634(b)(6) *et seq.* (Small Business Act, all provisions relating to disaster loan programs); 44 U.S.C. 3101 (Records Management by Federal Agencies).

3. The effect on the individual is minimal because the information collected is already being collected by the SBA under previously approved manual form and by the SBA's previously established and published Privacy Act System of Records SBA 20, Disaster Loan Case Files. The information covered in this system of records, as amended, will be viewed only by Agency personnel and participating contractors in the line of their official duties. All of these individuals must comply with the requirements of the PA of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

4. Access and use of Disaster Loan Case File records is limited to Agency officials acting in their official capacities, with a need-to-know, and to participating contractors. Access and use of electronic data will be via secure Internet, with restricted password(s)/passcode(s).

5. The proposed new routine uses for the new System of Records satisfy the compatibility requirement of subsection (a) (7) of the Act as follows:

The proposed new routine uses allow disclosure of disaster loan making records to the U.S. Department of Treasury for the issuance of loan funds, and to the Federal Emergency Management Agency, Department of Homeland Security, to coordinate disaster assistance programs and monitor for duplication. SBA needs to share relevant information with other federal, state and local agencies involved in the delivery of disaster assistance to comply with laws and promote the effective delivery of disaster assistance. The information in this System of Records is collected by SBA for the purpose of its decision making and servicing of disaster loans, and to document and ensure compliance with applicable laws and regulations.

6. OMB approved SBA 3245–0017—Disaster Business Loan Application (SBA Form 5, SBA Form 739A, SBA Form 1368, SBA Form 2202) expires 07/31/2007; OMB approved SBA 3245–

0018—Disaster Home Loan Application (SBA Form 5C, SBA Form 739) expires 09/30/2006; OMB approved SBA 3245–0084—Home/Business Loan Inquiry Record (SBA Form 700) expires 09/30/2006; OMB approved SBA 3245–0326—Pre-Disaster Mitigation Application (SBA Form 5M) expires 09/30/2006; OMB approved SBA 3245–0136—Disaster Survey Worksheet (SBA Form 987) expires 03/31/2007; OMB approved SBA 3245–0188—Personal Financial Statement (SBA Form 413) on 11/30/2004; OMB approval 3245–0178—Statement of Personal History (SBA Form 912) expires 09/30/2006.

SBA 20

SYSTEM NAME:

Disaster Loan Case File—SBA 20.

SYSTEM LOCATION:

Office of Disaster Assistance, DCMS Operations Center, Herndon, Virginia. Data hosting by contractor off site in secure locations per SBA Office of Chief Information Officer (''OCIO'') standards. SBA Disaster Area Offices and SBA Loan Servicing Offices. See Appendix A for SBA Disaster Area Office and Loan Servicing Office addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM INCLUDES:

Applicants and recipients of disaster home and business loans; registrants for disaster assistance who are provided disaster home and business loan applications.

CATEGORIES OF RECORDS IN THE SYSTEM INCLUDES:

Information relating to pre-application registrants, disaster home and business loan applicants and recipients of disaster home and business loans from the time of pre-application registration. These records include:

Loan applications, supporting documents, personal history, financial statements, credit information investigative reports, appraisers' reports, waivers, loan record transfers, correspondence, recommendations, authorizations, disbursement amount, term and rate, payment history, collateral, UCC filings and re-filings, collection and liquidation activities, financial statements, settlements and compromises, participating bank information, field visit reports, borrowers insurance information and loan accounting information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 634(b)(6), 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES, THESE RECORDS MAY BE USED, DISCLOSED OR REFERRED:

f. To provide data to the Government Accountability Office (''GAO'') for periodic reviews of SBA.

g. In response, to a request from a State or Federal agency in connection with the issuance of a grant, loan or other benefit by that agency which is relevant to their decision on the matter; this may be requested individually or as part of a computer match.

h. To other Federal agencies to conduct computer matching programs to locate delinquent SBA borrowers who are receiving Federal salaries or benefit payments and programs to identify delinquent SBA borrowers receiving federal salaries or benefit payments. Disclosure will be made if the records indicate the loan is in default, at least 30 days past due or to update a previous disclosure. SBA will make the disclosures to obtain repayments of debts under the provisions of the Debt Collection Act of 1982 by voluntary repayment, or by administrative or salary offset procedures.

p. To transmit data to U.S. Department of the Treasury to effect issuance of loan funds to borrowers.

q. To the Federal Emergency Management Agency (''FEMA'') to coordinate the issuance of federal disaster assistance to disaster victims and monitor for duplication.

r. To the public under the Freedom of Information Act (''FOIA''), 5 U.S.C. 552.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS:

RETRIEVAL:

By applicant/recipient name, cross-referenced loan number or borrower's Social Security Number or Employer Identification Number.

SAFEGUARDS:

Access and use limited to persons with official need to know to know; electronic data access is protected by password and user identification codes.

RETENTION AND DISPOSAL:

In accordance with Standard Operating Procedure 00 41 2, Appendix 18.

SYSTEM MANAGER(S) AND ADDRESS:

Disaster Area Office Directors. See Appendix A.

Director, DCMS Operations Center, 1175 Herndon Parkway, Herndon, VA 20170.

CONTESTING PROCEDURES:

Notify the officials listed above, state the reason(s) for contesting it and the proposed amendment sought.

SOURCE CATEGORIES:

Subject, individuals, Agency employees, financial institutions, commercial credit reporting agencies, law enforcement agencies, Internal Revenue Service and Federal Emergency Management Agency.

Dated: December 15, 2004.

Delorice P. Ford,

Sr. Privacy Act Official.

[FR Doc. 04–28109 Filed 12–22–04; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4941]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: American Music Abroad

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/CU–05–14.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates: Application Deadline: February 15, 2005.

Executive Summary: The Cultural Programs Division in the Office of Citizen Exchanges within the Bureau of Educational and Cultural Affairs (ECA) announces an open competition for a grant to administer the American Music Abroad Program (formerly known as Jazz Ambassadors). The Program will consist of concert tours for a selected number of professional American jazz and urban music performers in countries where there is limited exposure to American culture. The musicians selected for this program must demonstrate high artistic ability and be conversant with broader aspects of contemporary American society and culture. Tours include workshops and master classes in addition to concerts.

U.S. public and non-profit organizations meeting the provisions described in Internal Revenue code section 26 U.S.C. 501(c)(3) may submit proposals that support the goals of the American Music Abroad program: to promote mutual understanding and cross-cultural awareness. The tours accomplish this by providing an opportunity for international audiences to experience American musical life, highlighting our country's cultural history as well as the contemporary cultural scene, and allowing American performers to learn about life and culture in the foreign host countries.

The Bureau is particularly interested in proposals for administration of tours by jazz and urban music performers to countries with significant Muslim populations, and that engage educators or groups that influence youth. In the Western Hemisphere, we are also interested in proposals for projects that reach indigenous populations. For the purpose of this competition, eligible regions are Africa, East Asia, Eurasia, Central Europe and the Balkans, the Near East/North Africa, South Asia and the Western Hemisphere.

No guarantee is made or implied that a grant will be awarded for tours to all of these regions.

All organizations must demonstrate a minimum of four years experience conducting international performing arts exchange programs to be eligible for this competition.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: The Bureau seeks proposals to engage audiences overseas that rarely have opportunities to hear live American music and interact with American performers, by administering six tours by jazz quartets and two by presenters of urban music styles. American Music Abroad participants must be U.S. citizens at least 21 years old; demonstrate the highest artistic and musical ability; be conversant with broader aspects of contemporary American society and culture; and adaptable to unescorted, rigorous touring through regions where travel and performance situations may be difficult. In addition to performances, American Music Abroad musicians will conduct or participate in master classes, lectures, workshops, impromptu musical sessions, radio and TV appearances, and other activities with local cultural institutions, musicians, and students. An opportunity for a Washington, DC public performance by each ensemble in connection with the overseas tour should be included in the proposal.

History: Since 1998, the United States Department of State, through the Bureau of Educational and Cultural Affairs, and the John F. Kennedy Center for the Performing Arts have collaborated in the selection and presentation of jazz groups overseas, to present the creativity and artistry of America's unique, original form of music to audiences which rarely have opportunities to hear live American music and interact with American performing artists. In 1998, selected jazz ensembles, designated for the first time as ''Jazz Ambassadors,'' toured Africa, the Near East and South Asia. In 1999, Jazz Ambassadors performed in Latin America, the Middle East, and Africa. In recent years, tours have included certain countries in Europe and Eurasia, as well as East Asia.

Program goals are to promote mutual understanding and cross-cultural awareness. The tours accomplish this by providing an opportunity for international audiences to experience American life and traditions through music that highlights our country's cultural history along with contemporary musical styles, as well as by allowing American performing artists to learn about life and culture in the foreign host countries.

Additional area of program emphasis: To broaden the appeal of this program to youthful audiences in disadvantaged communities, ECA is initiating the presentation in 2005 of two ensembles representing urban music styles.

Guidelines: The grant period will begin approximately May 2005 and continue through approximately April 2006. The successful applicant will administer the international tour program for approximately eight ensembles, which already have been auditioned and selected for travel to begin in 2005. The successful applicant will also organize auditions for new groups that will travel in 2006.

Proposals should reflect a practical understanding of global, cultural, political, economic and social issues. Special attention should be given to describing the applicant organization's experience with planning and implementing complex and unpredictable logistical scenarios in the regions mentioned above. Applicants should identify any U.S. and foreign partner organizations and/or venues with whom they are proposing to collaborate, and describe previous cooperative projects in the section on ''Institutional Capacity.''

ECA intends to award one grant to a qualified institution or organization to administer the American Music Abroad program globally. The grant may be renewed up to two times, subject to the grantee organization's successful implementation of the program. Grant activities may include, but are not limited to, carrying out up to eight (8) international tours through advance tour planning; programming educational and outreach activities in consultation with U.S. embassies abroad; scheduling Washington, DC public performance dates for each ensemble; assisting musicians with passport, visa, immunizations, and pre-tour preparations; arranging and providing orientation sessions and pre-travel briefings; creating press materials and overseas publicity support; evaluating program activities; reporting; participating in the selection process; and assisting ensembles and embassies with follow-on program development. Applicants should have experience in global exchange planning and implementation, and should address the above elements in the proposal. The grantee must be highly responsive and able to work in close consultation with the participating U.S. embassies' Public Affairs Sections overseas.

A pre-tour briefing session for each ensemble should be held with State Department regional experts and ECA program officers in attendance. This event should be scheduled in coordination with the Washington, DC public performance.

The successful applicant of the competition would advertise the call for applications and auditions to jazz and urban music musicians, and manage the selection panels for the 2006 program.

ECA/PE/C/CU activities and responsibilities for this program are as follows:

Determination of priority countries on tour itineraries.

Arranging for participation of Department of State officers in pre-tour briefings and any debriefings that might take place.

Approval of all tour arrangements.

Approval of application and audition arrangements for 2006 American Music Abroad.

Participation in selection of 2006 American Music Abroad.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: FY–2005.

Approximate Total Funding: Pending availability of funding, $800,000.

Approximate Number of Awards: 1.

Approximate Average Award: $800,000.

Ceiling of Award Range: $800,000.

Anticipated Award Date: Pending availability of funds, May 1, 2005.

Anticipated Project Completion Date: April 30, 2006.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this grant for two additional fiscal years, before openly competing it again.

III. Eligibility Information

III.1 Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2 Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs, which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3 Other Eligibility Requirements:

(a) Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding one grant, in an amount up to $800,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition.

(b) Technical eligibility: All proposals must comply with the following: (1) Fully adhere to the guidelines stated herein and in the Solicitation Package; (2) proposal submission deadline date; (3) non-profit organization status.

IV. Application and Submission Information

Note: Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1 Contact Information to Request an Application Package: Please contact the Cultural Programs Division (ECA/PE/C/CU) in the Office of Citizen Exchanges, Room 568, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, 202/203–7488; fax 202/203–7525; e-mail *ProctorLM@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/CU–05–14 located at the top of this announcement when making your request.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document that consists of required application forms, and standard guidelines for proposal preparation.

Please specify the Bureau Program Officer, Sandra H. Rouse, and refer to the Funding Opportunity Number ECA/PE/C/CU–05–14 located at the top of this announcement on all other inquiries and correspondence.

IV.2 To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm.* Please read all information before downloading.

IV.3 Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The original and 14 copies (15 proposals total) of the application should be sent per the instructions under IV.3f ''Submission Dates and Times'' section below.

IV.3a Applicant institutions are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence to All Regulations Governing the J Visa. It is not anticipated that there will be foreign participants coming to the U.S. under this award. However, if they do, they will be governed under the J VISA regulations. The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should explicitly state in writing that

the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.*, including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 401–9810, FAX: (202) 401–9809.

IV.3d.2 Diversity, Freedom and Democracy. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3 Program Monitoring and Evaluation. Proposals must include proposed criteria against which the grantee will monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes*. *Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes*, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change.

Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.

2. *Participant learning,* such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. *Participant behavior,* concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. *Institutional changes,* such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) Specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.*, surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e Please take the following information into consideration when preparing your budget:

IV.3e.1 Applicants must submit a comprehensive budget for the entire program. Award may not exceed $800,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2 For budgeting purposes, applicants should estimate costs based on eight quartets traveling for approximately four (4) weeks to (8) destinations with significant Muslim populations in the following regions: Africa, East Asia, Eurasia, Central Europe and the Balkans, the Near East/

North Africa, South Asia and the Western Hemisphere. Final determination of participating regions and countries will be made in collaboration with ECA, U.S. embassies and the successful applicant after the grant is awarded.

IV.3e.3 Allowable costs for the program include the following:

(1) Program Expenses, including but not limited to: Domestic and international travel for the selected ensembles; visas and immunizations; airport taxes and country entrance fees; honoraria; educational materials and presentation items; excess and overweight baggage fees; trip itinerary booklets; press kits and promotional materials; follow-on activities; monitoring and evaluation; and international travel for program implementation and/or evaluation purposes.

(2) Administration Expenses. The following guidelines may be helpful in developing a proposed budget:

A. Travel Costs. International and domestic airfares. (per The Fly America Act), transit costs, ground transportation, and visas for the American Music Abroad participants to travel to the tour destinations. No travel costs for applicants for 2006 tours can be charged to this award.

B. Per Diem: For the Washington, DC portion of the tour, organizations should use the published Federal per diem rates, and estimate per diems based on a two-night stay per ensemble member. The Public Affairs Sections of the participating U.S. embassies and consulates are responsible for per diem abroad. Domestic per diem rates may be accessed at: *http://www.policyworks.gov/*.

C. Subgrantees and Consultants. Subgrantee organizations may be used, in which case the written agreement between the prospective grantee and subgrantee should be included in the proposal. Subgrants must be itemized in the budget under General Program Expenses. Consultants may be used to provide specialized expertise. Daily honoraria cannot exceed $250 per day, and applicants are strongly encouraged to use organizational resources and to cost share heavily in this area.

D. Health Insurance. Each American Music Abroad participant will be covered under the terms of the ECA-sponsored ASPE health insurance policy. The cost for international travel insurance for staff travel may be included in the proposal budget.

E. Honoraria for American Music Abroad participants. Daily honorarium is $200 per day for each performer, including rest days.

F. Educational and Promotional Items. Ensemble members may use these funds for individual purchases or they may pool funds for joint purposes. ECA funds for educational and promotional items should not exceed $500 per ensemble.

G. Excess Baggage. Excess baggage costs are based on size and weight of instrument. Excess baggage estimates may be subject to change once actual tour itineraries are scheduled, however for proposal budget purposes, costs should be estimated at $3,500 per ensemble.

H. Immunizations/Visas. For purposes of a proposed budget, line items for immunizations should be estimated at $400 per musician, and visas/visa photos should be estimated at $600 per musician.

I. Press Kits. Each overseas post should receive appropriate contents for press kits. Items may be created and sent electronically, with the understanding that in some cases, posts may not be able to access large files or attachments. This line item may also include funds for shooting and duplicating B&W publicity photos and duplicating CDS.

J. Staff Travel. Allowable costs include domestic staff travel for one staff member to attend selection panels in approximately two U.S. cities. International staff travel will be allowable, especially if associated with monitoring and evaluation, as long as costs for a full four-week tour for each ensemble are completely covered. Cost-sharing for staff travel is strongly encouraged.

K. Administrative Costs. Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While there is no rigid ratio of administrative to program costs, proposals in which the administrative costs do not exceed 25% of the total requested from ECA grant funds will be more competitive on cost effectiveness. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f *Submission Dates and Times:*

Application Deadline Date: February 15, 2005.

Explanation of Deadlines: In light of recent events and heightened security measures, proposal submissions must be sent via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.) and be shipped no later than the above deadline. The delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. ECA will not notify you upon receipt of application. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered. Applications may not be submitted electronically at this time.

Applicants must follow all instructions in the Solicitation Package.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and 14 copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/CU–05–14, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

V.3g Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1 Review Process: The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be

reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria: Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Program Planning and Ability to Achieve Objectives:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

2. *Institutional Capacity:* Proposals should include (1) the institution's mission and date of establishment; (2) an outline of prior awards—U.S. government and/or private support received for tours abroad; and (3) descriptions of experienced staff members who will implement the program. The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the regions abroad. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

3. *Cost Effectiveness and Cost Sharing:* Overhead and administrative costs in the proposal budget, including salaries and honoraria, should be kept as low as possible. Priority will be given to proposals whose administrative costs are less than twenty-five (25) per cent of the total funds requested from the Bureau. Applicants are strongly encouraged to cost share a portion of overhead and administrative expenses. Proposals should maximize cost sharing through other private sector support as well as institutional direct funding contributions. Proposals that do not reflect cost sharing will be deemed not competitive in this category.

4. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities). Applicants should refer to the Bureau's Diversity, Freedom and Democracy Guidelines in the Proposal Submission Instructions (PSI) and the Diversity, Freedom and Democracy Guidelines section above for additional guidance.

5. *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

6. *Monitoring and Evaluation:* Proposals should include a plan to monitor and evaluate the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives are recommended. See the ''Evaluation'' section (above) for more information on the components of a competitive evaluation plan. Successful applicants (grantee institutions) will be expected to submit a report after each program component concludes or on a quarterly basis, whichever is less frequent. The Bureau also requires that grantee institutions submit a final narrative and financial report no more than 90 days after the expiration of a grant. Please refer to the ''Evaluation'' section above for more guidance.

VI. Award Administration Information

VI.1a Award Notices: Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements:

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments.''

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following websites for additional information:

http://www.whitehouse.gov/omb/grants.

http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.

VI.3 Reporting Requirements: You must provide ECA with a hard copy original plus two copies of the following reports:

(1) A final program and financial report no more than 90 days after the expiration of the award;

(2) Any interim report(s) required in the Bureau's Cooperative Agreement document.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.)

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer (two copies) and ECA Program Officer (one copy) listed in the final assistance award document.

VI.4 Optional Program Data Requirements: The successful applicant will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. At a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three workdays prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Sandra Rouse, Cultural Programs Division, ECA/PE/C/CU, Room 568, Reference Number ECA/PE/C/CU–05–14, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, telephone: 202–203–7493; fax: 202–203–7525; *RouseSH@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/CU–05–14.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: December 17, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 04–28106 Filed 12–22–04; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: JR 89/Fanny Bridge Improvements, Tahoe City, Placer County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed project in Tahoe City, Placer County, California. The Tahoe Regional Planning Agency (TRPA) has determined that an EIS/EIS/EIR is required to analyze the potential impacts pursuant to the TRPA Code of Ordinances, the California Environmental Quality Act (CEQA), and the National Environmental Policy Act (NEPA) for the proposed transportation project associated with SR 89/Fanny Bridge traffic congestion.

FOR FURTHER INFORMATION CONTACT: Leland W. Dong, Senior Project Development Engineer, Federal Highway Administration, 650 Capitol Mall, Suite 4–100, Sacramento, CA 95814–4708. Telephone: (916) 498–5860, e-mail: *leland.dong@fhwa.dot.gov.* The local agency contact is Jennifer Hannum, Associate Transportation Planner, Transportation Division, Tahoe Regional Planning Agency, P.O. Box 5310, Stateline, NV 89449. Telephone: (775) 588–4547, ext: 297, e-mail: *jhannum@trpa.org.*

SUPPLEMENTARY INFORMATION: Currently, there is excessive traffic congestion associated with pedestrian movement on and across Fanny Bridge. In addition, the Fanny Bridge structure is nearing the end of its design life and needs to be replaced or undergo extensive maintenance repairs. The purpose of the SR 89/Fanny Bridge project is to (1) rectify the traffic congestion near the SR 89 Wye, and (2) repair or replace Fanny Bridge. This proposed project includes the following alternatives:

1. *No project.* Continue maintenance or even heavy maintenance of Fanny Bridge (other than replace piers or replace deck). This may also include near-term modifications to the Wye or pedestrian crossing in the vicinity of the bridge.

2. *Widen/replace existing bridge.* Includes downstream widening, with a possible inclusion of a roundabout vs. use of a traffic signal at existing Wye. As part of evaluation of potential mitigation measures, provisions for a pedestrian overpass or underpass will be considered.

3. *repair existing bridge, provide adjacent pedestrian bridge(s), prohibit pedestrians on existing bridge.* Include a new pedestrian bridge immediately upstream from Fanny Bridge, and possibly one immediately downstream as well. A roundabout vs. traffic signal at the existing Wye to also be evaluated.

4. *New alignment, close SR 89.* Provide new alignment for SR 89 to a new Wye intersection (either configured similar to existing Wye or configured with a roundabout) at a location about ¼ mile south of the existing Wye. Provide bicycle trail underpass of new alignment on north shore of Truckee River. Provide a second roundabout where the relocated SR 89 rejoins the existing highway with third approach serving only recreational parking. Close existing SR 89 to through traffic and evaluate a roundabout vs. signal at existing Wye.

5. *New alignment, keep old 89 open.* Provide new alignment for SR 89 to a new Wye intersection (either configured similar to existing Wye or configured with a roundabout) at a location about ¼ mile southwest of the existing Wye. Provide bicycle trail underpass of new alignment on north shore of Truckee River. Provide a second roundabout where the relocated SR 89 rejoins the existing highway with a third approach serving only recreational parking. (No change in access to existing recreational parking area from existing SR 89). Roundabout vs. signal at existing Wye to be evaluated. Existing SR 89 used as a local access only.

Public scoping meetings as well as community advisory committee meetings were conducted in August 2003, March 2004, April 2004, and May 2004 in the Tahoe City community. No additional formal scoping is planned, however, there will be continued public involvement as the project is developed. The alternatives being examined in the environmental documentation are the direct outcome of those public meetings. A copy of the Draft EIS/EIS/EIR will be available on the project Web site, *http://www.fannybridge.com,* when it becomes available.

To ensure that the full range of issues related to this proposed action are addressed and all major issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: December 13, 2004.

Leland W. Dong,

Senior Project Development Engineer, Federal Highway Administration, Sacramento, California.

[FR Doc. 04–28099 Filed 12–22–04; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (2005–1)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, DOT.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the first quarter 2005 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The first quarter 2005 RCAF (Unadjusted) is 1.107. The first quarter 2005 RCAF (Adjusted) is 0.546. The first quarter 2005 RCAF–5 is 0.521.

EFFECTIVE DATE: January 1, 2005.

FOR FURTHER INFORMATION CONTACT: Mac Frampton, (202) 565–1541. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, call ASAP Document Solutions at (301) 577–2600. [Assistance for the hearing impaired is available through FIRS: 1–800–877–8339.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: December 17, 2004.

By the Board, Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.

Vernon A. Williams,

Secretary.

[FR Doc. 04–28086 Filed 12–22–04; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–874X]

Sierra Northern Railway—Abandonment Exemption—in Yolo County, CA

Sierra Northern Railway (Sierra) has filed a notice of exemption [1] under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon an approximately 9.27-mile line of railroad extending from milepost 90.5 in the City of West Sacramento to a point south of Pumphouse Road, in Yolo County, CA. The line traverses United States Postal Service Zip Codes 95612 and 95691.

Sierra has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 25, 2005, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 3, 2005.

Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 12, 2005, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to Sierra's representative: Janie C. I. Sheng, Kirkpatrick & Lockhart LLP, 1800 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Sierra has filed an environmental report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 30, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), Sierra shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by Sierra's filing of a notice of consummation by December 23, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: December 16, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–27977 Filed 12–22–04; 8:45 am]

BILLING CODE 4915–01–P

[1] The notice was supplemented by a filing received on December 15, 2004.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Effective October 31, 2004, the filing fee for an OFA increased to $1,200. *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2004 Update*, STB Ex Parte No. 542 (Sub-No. 11) (STB served Oct. 1, 2004).

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0393]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Management (OM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to evaluate quotations received and to determine which quotation offers the best value in terms of price and other factors.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 2005.

ADDRESSES: Submit written comments on the collection of information to Donald E. Kaliher, Office of Acquisition Resources Service (049A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *donald.kaliher@mail.va.gov*. Please refer to ''OMB Control No. 2900–0393'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Donald E. Kaliher at (202) 273–8819.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM's functions, including whether the information will have practical utility; (2) the accuracy of OM's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Department of Veterans Affairs Acquisition Regulation (VAAR) Part 813.

OMB Control Number: 2900–0393.

Type of Review: Extension of a currently approved collection.

Abstract: VA collects acquisition information from firms and individuals who wish to sell supplies, services, and construction or who wish to establish blanket purchase agreements (BPA) or other contractually related agreements with VA. VA uses the information collected to determine to whom to award contracts or with whom to enter into BPAs or other contractually related agreements.

Affected Public: Business or other for-profit, Individuals and households, Not-for-profit institutions, and State, Local or Tribal Government.

Estimated Annual Burden: 20,845 hours.

Estimated Average Burden Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Number of Respondents: 20,845.

Dated: December 10, 2004.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 04–28031 Filed 12–22–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0418]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office Management (OM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine whether or not a firm's plant being considered for an award has been inspected by another Federal agency and whether or not an award of a contract to the firm involves a conflict of interest.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 2005.

ADDRESSES: Submit written comments on the collection of information to Donald E. Kaliher, Office of Acquisition Resources Service (049A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *donald.kaliher@mail.va.gov.* Please refer to ''OMB Control No. 2900–0418'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Donald E. Kaliher at (202) 273–8819.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM's functions, including whether the information will have practical utility; (2) the accuracy of OM's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Department of Veterans Affairs Acquisition Regulation (VAAR) Sections 809.106–1, 809.504(d), and Clause 852.209–70.

OMB Control Number: 2900–0418.

Type of Review: Extension of a currently approved.

Abstract:

a. VAAR section 809.106–1 requires VA to contact a firm being considered for a contract award for bakery, dairy, or ice cream products or for laundry or dry cleaning services whether or not the firm's facility has recently been inspected by another Federal agency and, if so, which agency. The information is used to determine whether a separate inspection of the facility should be conducted by VA prior to award contract.

b. VAAR section 809.504(d) and Clause 852.209–70 requires VA to determine whether or not to award a contract to a firm that might involve or result in a conflict of interest. VA uses the information to determine whether additional contract terms and conditions are necessary to mitigate the conflict.

Affected Public: Business or other for-profit; individuals and households; and not-for-profit institutions.

Estimated Annual Burden:

a. VAAR section 809.106–1—30 hours.

b. VAAR section 809.504(d) and VAAR clause 852.209–7—500 hours.

Estimated Average Burden Per Respondent:

a. VAAR section 809.106–1—3 minutes.

b. VAAR section 809.504(d) and Clause 852.209–7—30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. VAAR section 809.106–1—600.

b. VAAR section 809.504(d) and Clause 852.209–7—1,000.

Dated: December 10, 2004.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 04–28032 Filed 12–22–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0590]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Management (OM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine if offerors and contractors have adequate insurance coverage prior to contract award.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 2005.

ADDRESSES: Submit written comments on the collection of information to Donald E. Kaliher, Office of Management (049A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *donald.kaliher@mail.va.gov*. Please refer to ''OMB Control No. 2900–0590'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Donald E. Kaliher at (202) 273–8819.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OM invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OM's functions, including whether the information will have practical utility; (2) the accuracy of OM's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Veterans Affairs Acquisition Regulation Clauses 852.237–7, Indemnification and Medical Liability Insurance.

b. Veterans Affairs Acquisition Regulation Clauses 852.237–71, Indemnification and Insurance.

c. Veterans Affairs Acquisition Regulation Clauses 852.207–70, Report of Employment Under Commercial Activities.

OMB Control Number: 2900–0590.

Type of Review: Extension of a currently approved collection.

Abstract:

a. VA Acquisition Regulation Clauses 852.237–7 is used in solicitations and contracts for the acquisition of non-personal health care services. It requires the bidder/offeror prior to contract award to furnish evidence of insurability of the offeror and/or all healthcare providers who will perform under the contract. The information provided is used to ensure that VA will not be held liable for any negligent acts of the contractor or its employees and that VA and VA beneficiaries are protected by adequate insurance coverage.

b. Clause 852.237–71 is used in solicitations for vehicle or aircraft services. It requires the bidder/offeror prior to contract award to furnish evidence that the firm possesses the types and amounts of insurance required by the solicitation. The information is necessary to ensure that VA beneficiaries and the public are protected by adequate insurance coverage.

c. Clause 852.207–70 is used in solicitations for commercial items and services where the work is currently being performed by VA employees and where those employees might be displaced as a result of an award to a commercial firm. The clause requires the contractor to report the names of the affected Federal employees offered employment opening and the names of employees who applied for but not offered employment and the reasons for withholding offers to those employees. The information collected is used by contracting officers to monitor and ensure compliance by the contractor under the requirements of Federal Acquisition Regulation clause 52.207–3, Right of First Refusal of Employment.

Affected Public: Business or other for-profit; individuals and households; not-for-profit institutions, and State, Local or Tribal Government.

Estimated Annual Burden:

a. Veterans Affairs Acquisition Regulation Clauses 852.237–7, Indemnification and Medical Liability Insurance—750 hours

b. Veterans Affairs Acquisition Regulation Clauses 852.237–71, Indemnification and Insurance—250 hours.

c. Veterans Affairs Acquisition Regulation Clauses 852.207–70, Report of Employment Under Commercial Activities—15 hours.

Estimated Average Burden Per Respondent: 30 minutes.

a. Veterans Affairs Acquisition Regulation Clauses 852.237–7, Indemnification and Medical Liability Insurance—30 minutes.

b. Veterans Affairs Acquisition Regulation Clauses 852.237–71, Indemnification and Insurance—30 minutes.

c. Veterans Affairs Acquisition Regulation Clauses 852.207–70, Report of Employment Under Commercial Activities—30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,030.

a. Veterans Affairs Acquisition Regulation Clauses 852.237–7, Indemnification and Medical Liability Insurance—1,500.

b. Veterans Affairs Acquisition Regulation Clauses 852.237–71, Indemnification and Insurance—500.

c. Veterans Affairs Acquisition Regulation Clauses 852.207–70, Report of Employment Under Commercial Activities—30.

Dated: December 10, 2004.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 04–28033 Filed 12–22–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0422]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of Management (OM), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to administer contracts.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 2005.

ADDRESSES: Submit written comments on the collection of information to Cathy I. Dailey, Office of Acquisition Resources Service (049A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *cathy.dailey@mail.va.gov.* Please refer to ''OMB Control No. 2900–0422'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cathy I. Dailey at (202) 273–8774.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, (OM) invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of (OM)'s functions, including whether the information will have practical utility; (2) the accuracy of (OM)'s estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Department of Veterans Affairs Acquisition Regulation (VAAR) Clause 852.236–72, Performance of Work by the Contractor.

b. Department of Veterans Affairs Acquisition Regulation (VAAR) Alternate I to Clause 852.236–80, Subcontracts and Work Coordination.

c. Department of Veterans Affairs Acquisition Regulation (VAAR) Clause 852.236–82, Payments Under Fixed-Price Construction Contracts (without NAS), including Alternate I.

d. Department of Veterans Affairs Acquisition Regulation (VAAR) Clause 852.236–83, Payments Under Fixed-Price Construction Contracts (with NAS), including Alternate I.

e. Department of Veterans Affairs Acquisition Regulation (VAAR) Clause 852.236–84, Schedule of Work Progress.

f. Department of Veterans Affairs Acquisition Regulation (VAAR) Clause 852.236–88, Contract Changes, Supplements FAR Clause 52.243–4, Changes.

OMB Control Number: 2900–0422.

Type of Review: Extension of a currently approved collection.

Abstract: The information contained Department of Veterans Acquisition Regulation (VAAR) Clauses 852.236–72, Alternate I to 852.236–80, 852.236–82, 852.236–83, 852.236–84, and 852.236–88 is necessary for VA to administer construction contracts, and to carry out its responsibility to construct, maintain and repair real property for the Department.

a. VAAR Clause 852.236–72, Performance of Work by the Contractor, requires contractors awarded a construction contract containing Federal Acquisition Regulation (FAR) clause 52.236–1, to submit a statement designating the branch or branches of contract work to be performed by the contractor's own forces. The VAAR clause implements the FAR clause by requiring the contractor to provide information to the contracting officer on how the contractor intends to fulfill this contractual obligation. The contracting officer uses this information to ensure that the contractor complies with the contract requirements.

b. Alternate I to Clause 852.236–80, Work Coordination, requires construction contractors, on contracts involving complex mechanical-electrical work, to furnish coordination drawings showing the manner in which utility lines will fit into available spaces and relate to each other and to the existing building elements. The information is used by the contracting officer and VA engineer assigned to the project to resolve any problems relating to the installation of utilities on construction contract.

c. VAAR Clause 852.236–82, Payments Under Fixed-Price Construction Contracts (without NAS), requires construction contractors to submit a schedule of costs for work to be performed under the contract. If the contract includes guarantee period services, Alternate I requires contractor to submit information on the total and itemized costs of the guarantee period services and to submit a performance plan/program. The information is needed to allow the contracting officer to determine the correct amount to pay the contractor as work progresses and to properly proportion the amount paid for guarantee period services.

d. VAAR Clause 852.236–83, Payments Under Fixed-Price Construction Contracts (with NAS), requires construction contractors to submit a schedule of costs for work to be performed under the contract. If the contract includes guarantee period services, Alternate I requires contractor to submit information on the total and itemized costs of the guarantee period services and to submit a performance plan/program. The information is needed to allow the contracting officer to determine the correct amount to pay the contractor as work progresses and to properly proportion the amount paid for guarantee period services. The difference between this clause and the one above 852.236–82 is that this clause requires the contractor to use a computerized Network Analysis System (NAS) to prepare the cost estimate.

e. VAAR Clause 852.236–84, Schedule of Work Progress, requires construction contractors, on contracts that do not require the use of a NAS, to submit a progress schedule. The information is used by the contracting officer to track the contractor's progress under the contract and to determine whether or not the contractor is making satisfactory progress.

f. VAAR Clause 852.236–88, Contract Changes, Supplements FAR Clause 52.243–4, Changes. FAR Clause 52.243–4 authorizes the contracting officer to order changes to a construction contract but does not specifically require the contractor to submit cost proposals for those changes. VAAR Clause 852.236–88 requires contractors to submit cost

proposal for changes ordered by the contracting officer or for changes proposed by the contractor. This information is needed to allow the contracting officer and the contractor to reach a mutually acceptable agreement on how much to pay the contractor for the proposed changes to the contract. It is also used by the contracting officer to determine whether or not to authorize the proposed changes or whether or not additional or alternate cost proposals for changes are needed.

Affected Public: Business or other for-profit; individuals and households; and not-for-profit institutions.

Estimated Annual Burden:

a. VAAR Clause 852.236–72, Performance of Work by the Contractor—36 hours.

b. VAAR Alternate I to Clause 852.236–80, Subcontracts and Work Coordination—1,190 hours.

c. VAAR Clause 852.236–82, Payments Under Fixed-Price Construction Contracts (without NAS), including Alternate I—1,397 hours.

d. VAAR Clause 852.236–83, Payments Under Fixed-Price Construction Contracts (with NAS), including Alternate I—59 hours.

e. VAAR Clause 852.236–84, Schedule of Work Progress—2,095 hours.

f. VAAR Clause 852.236–88, Contract Changes, Supplements FAR Clause 52.243–4, Changes—807 hours.

Estimated Average Burden Per Respondent:

a. VAAR Clause 852.236–72, Performance of Work by the Contractor—1 hour.

b. VAAR Alternate I to Clause 852.236–80, Subcontracts and Work Coordination—10 hours.

c. VAAR Clause 852.236–82, Payments Under Fixed-Price Construction Contracts (without NAS), including Alternate I—1 hour.

d. VAAR Clause 852.236–83, Payments Under Fixed-Price Construction Contracts (with NAS), including Alternate I—30 minutes.

e. VAAR Clause 852.236–84, Schedule of Work Progress—1 hour.

f. VAAR Clause 852.236–88, Contract Changes, Supplements FAR Clause 52.243–4, Changes—3 hours.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. VAAR Clause 852.236–72, Performance of Work by the Contractor—36.

b. VAAR Alternate I to Clause 852.236–80, Subcontracts and Work Coordination—119.

c. Department of Veterans Affairs Acquisition Regulation (VAAR) Clause 852.236–82, Payments Under Fixed-Price Construction Contracts (without NAS), including Alternate I—1,397.

d. VAAR Clause 852.236–83, Payments Under Fixed-Price Construction Contracts (with NAS), including Alternate I—119.

e. VAAR Clause 852.236–84, Schedule of Work Progress—1,397.

f. VAAR Clause 852.236–88, Contract Changes, Supplements FAR Clause 52.243–4, Changes—269.

Dated: December 10, 2004.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Records Management Service.

[FR Doc. 04–28034 Filed 12–22–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0605]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Office of General Counsel, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Office of General Counsel (OGC), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine applicants' eligibility for accreditation as claims agents with VA.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 22, 2005.

ADDRESSES: Submit written comments on the collection of information to James T. Dehn (022G2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *James T. Dehn@mail.va.gov.* Please refer to ''OMB Control No. 2900–0605'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: James T. Dehn at (202) 273–6349 or FAX (202) 273–6404.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OGC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OGC's functions, including whether the information will have practical utility; (2) the accuracy of OGC's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Accreditation as a Claims Agent, VA Form 21a.

OMB Control Number: 2900–0605.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21a is completed by applicants in filing an application with VA General Counsel for accreditation as claims agents to represent benefit claimants before VA. The information requested is necessary to establish the statutory and regulatory eligibility requirements, *e.g.*, good character and reputation which includes basic identifying information, information concerning past representation, military service, employment, criminal activity and mental health of the applicant. VA uses the information to determine the applicant's eligibility for accreditation as a claims agent.

Affected Public: Individuals and households.

Estimated Annual Burden: 15 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 20.

Dated: December 10, 2004.

By direction of the Secretary.

Jacqueline Parks,

IT Specialist, Information Management Service.

[FR Doc. 04–28035 Filed 12–22–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Office of Research and Development; Government Owned Invention Available for Licensing

AGENCY: Office of Research and Development, VA.

ACTION: Notice of government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 and/or Cooperative Research and Development Agreements (CRADA) Collaboration under 15 U.S.C. 3710a to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on the invention may be obtained by writing to: Mindy L. Aisen, M.D., Department of Veterans Affairs, Acting Director Technology Transfer Program, Office of Research and Development, 810 Vermont Avenue, NW., Washington, DC 20420; fax: 202–254–0255; e-mail: *mindy.aisen@mail.va.gov*. Any request for information should include the Number and Title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The invention available for licensing is: U.S. Provisional Patent Application No. 60/574,756 ''Production of Urokinase in a Three-Dimensional Cell Culture.''

Dated: December 13, 2004.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 04–28036 Filed 12–22–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Office of Research and Development; Government Owned Invention Available for Licensing

AGENCY: Office of Research and Development, VA.

ACTION: Notice of government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 and/or Cooperative Research and Development Agreements (CRADA) Collaboration under 15 U.S.C. 3710a to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on the invention may be obtained by writing to: Mindy L. Aisen, M.D., Department of Veterans Affairs, Acting Director Technology Transfer Program, Office of Research and Development, 810 Vermont Avenue, NW., Washington, DC 20420; fax: (202) 254–0255; email: *mindy.aisen@mail.va.gov*. Any request for information should include the number and title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The invention available for licensing is: U.S. Patent Application No. 10/867,951 ''A Novel Specific Inhibitor of the Cyclin Kinase Inhibitor p21 $^{UWaf1/Cip1}$ and Methods of Using the Inhibitor.''

Dated: December 13, 2004.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 04–28037 Filed 12–22–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Office of Research and Development; Government Owned Invention Available for Licensing

AGENCY: Office of Research and Development, VA.

ACTION: Notice of government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 and/or Cooperative Research and Development Agreements (CRADA) Collaboration under 15 U.S.C. 3710a to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on the invention may be obtained by writing to: Mindy L. Aisen, M.D., Department of Veterans Affairs, Acting Director Technology Transfer Program, Office of Research and Development, 810 Vermont Avenue, NW., Washington, DC 20420; fax: (202) 254–0473; email: *mindy.aisen@mail.va.gov*. Any request for information should include the number and title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The invention available for licensing is: U.S. Provisional Patent Application No. 60/580,382 ''Computer Program to Quantify Pharyngeal Residue and Swallowing''.

Dated: December 13, 2004.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 04–28039 Filed 12–22–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Government Owned Invention Available for Licensing; Office of Research and Development

AGENCY: Office of Research and Development, VA.

ACTION: Notice of government owned invention available for licensing.

SUMMARY: The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 and/or Cooperative Research and Development Agreements (CRADA) Collaboration under 15 U.S.C. 3710a to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on the invention may be obtained by writing to: Robert W. Potts, Department of Veterans Affairs, Director Technology Transfer Program, Office of Research and Development, 810 Vermont Avenue, NW., Washington, DC 20420;

fax: (202) 254–0260; e-mail: *bob.potts@hq.med.va.gov.* Any request for information should include the Number and Title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The invention available for licensing is: U.S. Provisional Patent Application No. 60/591,207 ''Securing Implantable Neuromuscular Electrodes with Mesh''.

Dated: December 15, 2004.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 04–28040 Filed 12–22–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Poverty Threshold

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) hereby gives notice of the weighted average poverty threshold established for 2003 for one person (unrelated individual) as established by the Bureau of the Census. The amount is $9,393.

DATES: For VA determinations, the 2003 poverty threshold is effective August 26, 2004, the date on which it was established by the Bureau of the Census.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7218.

SUPPLEMENTARY INFORMATION: We published a final rule amending 38 CFR 4.16(a) in the **Federal Register** of August 3, 1990, 55 FR 31,579. The amendment provided that marginal employment generally shall be deemed to exist when a veteran's earned annual income does not exceed the amount established by the Bureau of the Census as the poverty threshold for one person. The provisions of 38 CFR 4.16(a) use the poverty threshold as a standard in defining marginal employment when considering total disability ratings for compensation based on unemployability of an individual. We stated we would publish subsequent poverty threshold figures as notices in the **Federal Register**.

The Bureau of the Census recently published the weighted average poverty thresholds for 2003. The threshold for one person (unrelated individual) is $9,393.

Dated: December 14, 2004.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 04–28030 Filed 12–22–04; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 69, No. 246

Thursday, December 23, 2004

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 Part 39

[Docket No. FAA–2004–19613; Directorate Identifier 2004–SW–38–AD; Amendment 39–13870; AD 2004–23–15]

RIN 2120–AA64

Airworthiness Directives; MD Helicopters, Inc. Model MD900 Helicopters

Correction

In rule document 04–25542 beginning on page 67805 in the issue of Monday, November 22, 2004, make the following correction:

On page 67805, in the first column, under the **DATES** heading, in the second paragraph, in the third line, ''January 21, 2004'' should read, ''January 21, 2005.''

[FR Doc. C4–25542 Filed 12–22–04; 8:45 am]

BILLING CODE 1505–01–D

GOVERNMENT ACCOUNTABILITY OFFICE

4 CFR Part 21

Government Accountability Office, Administrative Practice and Procedure, Bid Protest Regulations, Government Contracts

Correction

In proposed rule document 04–27615 beginning on page 75878 in the issue of Monday, December 20, 2004, make the following corrections:

1. On page 75878, in the first column, under the **SUMMARY** heading, in the 23rd line, ''legislating'' should read, ''legislation''.

2. On the same page, under the **SUPPLEMENTARY INFORMATION** heading, in the third column, in the second line, ''should'' should read, ''would''.

3. On the same page, in the same column, in the first paragraph, in the 13th line, ''bide'' should read, ''bid'' and in the 24th line, ''a'' should read, ''at''.

4. On the same page, in the same column, in the second paragraph, in the 7th line, the citation ''April 19, 2004, CPD ¶ 82'' should read, ''April 19, 2004, 2004 CPD ¶ 82''.

5. On page 75879, under the **Issues Not for GAO Review** heading, in the second column, in the first paragraph, in the 4th line, ''considerations'' should read, ''consideration''.

6. On the same page, in the third column, in first paragraph, in the first line, ''Regulations'' should read, ''Regulations,''.

7. On the same page, in the same column, the List of Subjects heading is corrected to read as follows:

List of Subjects in 4 CFR Part 21

8. On the same page, in the same column, in the last line, ''title 34'' should read, ''title 4''.

[FR Doc. C4–27615 Filed 12–22–04; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,

December 23, 2004

Part II

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone: Process for Exempting Critical Uses From the Phaseout of Methyl Bromide; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–7850–8]

RIN 2060–AJ63

Protection of Stratospheric Ozone: Process for Exempting Critical Uses From the Phaseout of Methyl Bromide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to exempt production and import of methyl bromide for critical uses from the accelerated phaseout regulations that govern the production, import, export, transformation and destruction of substances that deplete the ozone layer under the authority of the Clean Air Act (CAA). Today's amendments establish the framework for an exemption permitted under the *Montreal Protocol on Substances That Deplete the Ozone Layer* (Protocol) and the CAA and specify the amount of methyl bromide that may be supplied in 2005 from available stocks and new production and consumption to meet approved critical uses. In addition, this action establishes the list of critical uses approved by EPA for 2005.

DATES: *Effective Date:* This final rule is effective on January 1, 2005.

ADDRESSES: EPA has established a docket for this action under Docket ID No. OAR–2003–0230. All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The 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 Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Hodayah Finman, U.S. Environmental Protection Agency, Office of Air and Radiation, Stratospheric Protection Division (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 343–9246; fax numbers: (202) 343–2338; *finman.hodayah@epa.gov.* You may also visit the EPA's Ozone Depletion Web site at *www.epa.gov/ozone* for further information about EPA's Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and other related topics.

SUPPLEMENTARY INFORMATION: This final rule concerns CAA restrictions on the consumption, production and on the use of methyl bromide (class I, Group VI controlled substance) for critical uses after the phaseout date of January 1, 2005. Under the CAA, methyl bromide consumption and production will be phased out on January 1, 2005 apart from allowable exemptions, namely the critical use exemption and the existing quarantine and pre-shipment exemption. With today's action, EPA is establishing a framework for how the critical use exemption will operate as well as specific amounts of methyl bromide to be made available for approved critical uses in 2005.

Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C., Chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. Today's final rule is issued under section 307(d) of the CAA, which states: ''The provisions of section 553 through 557 * * * of Title 5 shall not, except as expressly provided in this subsection, apply to actions to which this subsection applies.'' CAA Section 307(d)(1). Thus, section 553(d) of the APA does not apply to this rule. EPA nevertheless is acting consistently with the policies underlying APA section 553(d) in making this rule effective January 1, 2005. APA section 553(d) provides an exception for any action that grants or recognizes an exemption or relieves a restriction. Today's final rule grants an exemption from the phaseout of production and import of methyl bromide for critical uses. Because the complete phaseout takes effect January 1, 2005, EPA is making this exemption effective on the same date to ensure the availability of methyl bromide for critical uses.

Table of Contents

I. General Information
A. Does This Action Apply to Me?
II. What Is the Background of the Phaseout Regulations for Ozone Depleting Substances?
III. What Is Methyl Bromide?
IV. What Is the Background for Today's Action?
V. What Are the Details of Today's Action?
A. Critical Need
1. Should EPA Establish a Critical Use Exemption
2. Should EPA Further Adjust the Amount of Methyl Bromide Under the Critical Use Exemption
B. Amount From Stocks
C. Access to Stocks
D. Cap on Critical Use Methyl Bromide
E. Critical Use Allowance Allocations
1. Allocation of Critical Use Allowances
2. Baseline for Critical Use Allowance Distribution
3. Frequency of Critical Use Allowance Distribution
F. Critical Stock Allowance Allocations
G. Trading Allowances
H. Acquiring Critical Use Methyl Bromide
I. Who Is an Approved Critical User
1. Users and Uses
2. New Market Entrants
J. Reporting and Recordkeeping Requirements
1. Reporting
2. Recordkeeping
3. Treatment of Unused Critical Use Methyl Bromide
K. Enforcement Provisions
L. Export Provisions
VI. What Are the Other Considerations and Situations on Which EPA Received Comments?
A. Distribution of Permits to Approved Critical Users
B. Comments on the Burden Associated With This Regulatory System
VII. Statutory and Executive Order Reviews
A. Executive Order No. 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order No. 13132: Federalism
F. Executive Order No. 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order No. 13045: Protection of Children From Environmental Health & Safety Risks
H. Executive Order No. 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Congressional Review Act

I. General Information

A. Does This Action Apply to Me?

Entities potentially regulated by this proposed action are those associated with the production, import, export, sale, application and use of methyl bromide. Potentially regulated categories and entities include:

Category	Examples of regulated entities
Industry	Producers, Importers and Exporters of methyl bromide; Applicators, Distributors of methyl bromide; Users of methyl bromide, e.g. farmers of vegetable crops, fruits and seedlings; and owners of stored food commodities and structures such as grain mills and processors, Government and non-government researchers.

The above table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this proposed action. This table lists the types of entities that EPA is aware could potentially be regulated by this proposed action. To determine whether your facility, company, business, or organization is regulated by this proposed action, you should carefully examine the regulations promulgated at 40 CFR Part 82, Subpart A. 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.

II. What Is the Background of the Phaseout Regulations for Ozone Depleting Substances?

The current regulatory requirements of the Stratospheric Ozone Protection Program that limit production and consumption of ozone depleting substances can be found at 40 CFR Part 82 Subpart A. The regulatory program was originally published in the **Federal Register** on August 12, 1988 (53 FR 30566), in response to the 1987 signing and subsequent ratification of the Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol). The U.S. was one of the original signatories to the 1987 Montreal Protocol and the U.S. ratified the Protocol on April 21, 1988. Congress then enacted, and President Bush signed into law, the Clean Air Act Amendments of 1990 (CAAA of 1990) which included Title VI on Stratospheric Ozone Protection, codified as 42 U.S.C. Chapter 85, Subchapter VI, to ensure that the United States could satisfy its obligations under the Protocol. EPA issued new regulations to implement this legislation and has made several amendments to the regulations since that time.

III. What Is Methyl Bromide?

Methyl bromide is an odorless, colorless, toxic gas, which is used as a broad-spectrum pesticide and is controlled under the CAA as a Class I ozone depleting substance (ODS). Methyl bromide is used in the U.S. and throughout the world as a fumigant to control a wide variety of pests such as insects, weeds, rodents, pathogens, and nematodes. Additional characteristics and details about the uses of methyl bromide can be found in the proposed rule on the phaseout schedule for methyl bromide published in the **Federal Register** on March 18, 1993 (58 FR 15014) and the final rule published in the **Federal Register** on December 10, 1993 (58 FR 65018). The phaseout schedule for methyl bromide was revised in a direct final rulemaking on November 28, 2000 (65 FR 70795) which allowed for the phased reduction in methyl bromide consumption and extended the phaseout to 2005. The revised phaseout schedule was again amended to allow for an exemption for quarantine and preshipment purposes on July 19, 2001 (66 FR 37751) with an interim final rule and with a final rule (68 FR 238) on January 2, 2003. Information on methyl bromide can be found at the following sites of the World Wide Web: *http://www.epa.gov/ozone/mbr* and *www.unep.org/ozone* or by contacting the Stratospheric Ozone Hotline at 1–800–296–1996.

Because it is a pesticide, methyl bromide is also regulated by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and other statutes and regulatory authority and by States under their own statutes and regulatory authority. Under FIFRA, methyl bromide is a restricted use pesticide. Because of this status, a restricted use pesticide is subject to certain Federal and State requirements governing its sale, distribution, and use. Nothing in this final rule implementing the Clear Air Act is intended to derogate from provisions in any other Federal, State, or Local laws or regulations governing actions including, but not limited to, the sale, distribution, transfer, and use of methyl bromide. All entities that would be affected by provisions of this final rule must continue to comply with FIFRA and other pertinent statutory and regulatory requirements for pesticides (including, but not limited to, requirements pertaining to restricted use pesticides) when importing, exporting, acquiring, selling, distributing, transferring, or using methyl bromide for critical uses. The regulations in today's action are intended only to implement CAA restrictions on the production, consumption and use of methyl bromide for critical uses exempted from the phaseout of methyl bromide.

IV. What Is the Background for Today's Action?

EPA published a proposed rule in the **Federal Register** on August 25, 2004 (69 FR 52366) proposing an exemption to the phaseout of methyl bromide for critical uses, an allowance allocation system for critical use methyl bromide, and a list of approved critical uses. EPA received 15,231 on-time comments related to Air Docket OAR–2003–0230 and 6 people spoke at a hearing EPA held on September 20, 2004 in Washington D.C. that was attended by 20 individuals.

Methyl bromide was added to the Protocol as an ozone depleting substance in 1992 through the Copenhagen Amendment to the Protocol. The Parties agreed that each industrialized country's level of methyl bromide production and consumption in 1991 should be the baseline for establishing a freeze in the level of methyl bromide production and consumption for industrialized countries. EPA published a final rule in the **Federal Register** on December 10, 1993 (58 FR 65018), listing methyl bromide as a class I, Group VI controlled substance, freezing U.S. production and consumption at this 1991 level, and, in Section 82.7 of the rule, setting forth the percentage of baseline allowances for methyl bromide granted to companies in each control period (each calendar year) until the year 2001, when the complete phaseout would occur (58 FR 65018). This phaseout date was established in response to a petition filed in 1991 under sections 602(c)(3) and 606(b) of the CAAA of 1990, requesting that EPA list methyl bromide as a class I substance and phase out its production and consumption. This date was consistent with Section 602(d) of the CAAA of 1990, which for newly listed class I ozone-depleting substances provides that ''no extension [of the phaseout schedule in section 604] under this subsection may extend the date for termination of production of any class I substance to a date more than 7 years after January 1 of the year after the year in which the substance is added to the list of class I substances.'' EPA based its action on scientific assessments and actions by the Parties to the Montreal Protocol to freeze the level of methyl bromide production and consumption for industrialized countries at the 1992 Meeting of the Parties in Copenhagen.

At their 1995 meeting, the Parties made adjustments to the methyl bromide control measures and agreed to reduction steps and a 2010 phaseout date for industrialized countries with

exemptions permitted for critical uses. At this time, the U.S. continued to have a 2001 phaseout date in accordance with the CAAA of 1990 language. At their 1997 meeting, the Parties agreed to further adjustments to the phaseout schedule for methyl bromide in industrialized countries, with reduction steps leading to a 2005 phaseout for industrialized countries. In October 1998, the U.S. Congress amended the CAA to prohibit the termination of production of methyl bromide prior to January 1, 2005, to require EPA to bring the U.S. phaseout of methyl bromide in line with the schedule specified under the Protocol, and to authorize EPA to provide exemptions for critical uses. These amendments were contained in Section 764 of the 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act (Pub. L. 105–277, October 21, 1998) and were codified in Section 604 of the CAA, 42 U.S.C. 7671c. On November 28, 2000, EPA issued regulations to amend the phaseout schedule for methyl bromide and extend the complete phaseout of production and consumption to 2005 (65 FR 70795).

Today, in accordance with the 1998 amendments to the CAA, EPA is further amending 40 CFR Part 82 to implement an exemption to the 2005 phaseout of methyl bromide that allows continued production and consumption of methyl bromide for critical uses. Section 604(d)(6) of the CAA provides that ''[t]o the extent consistent with the Montreal Protocol, the Administrator, after notice and the opportunity for public comment, and after consultation with other departments or instrumentalities of the Federal Government having regulatory authority related to methyl bromide, including the Secretary of Agriculture, may exempt the production, importation, and consumption of methyl bromide for critical uses.'' 42 U.S.C. 7671c(d)(6). Article 2H(5) of the Montreal Protocol provides that the 2005 methyl bromide phaseout shall not apply ''to the extent the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be critical uses.''

Both Section 604(d)(6) and Section 614(b) of the CAA address the relationship between the Montreal Protocol and actions taken under the CAA's stratospheric ozone provisions. Section 604(d)(6) addresses critical uses specifically, while Section 614(b) is more general in scope. Section 604(d)(6) states that ''to the extent consistent with the Montreal Protocol,'' the Administrator may exempt methyl bromide for critical uses. Section 614(b) states: ''This title as added by the Clean Air Act Amendments of 1990 shall be construed, interpreted, and applied as a supplement to the terms and conditions of the Montreal Protocol, as provided in Article 2, paragraph 11 thereof, and shall not be construed, interpreted, or applied to abrogate the responsibilities or obligations of the United States to implement fully the provisions of the Montreal Protocol. In the case of conflict between any provision of this title and any provision of the Montreal Protocol, the more stringent provision shall govern.''

EPA must take into account not only the text of Article 2H but also the related Decisions of the Protocol Parties that interpret that text. Under customary international law, as codified in the 1969 Vienna Convention on the Law of Treaties (8 International Legal Materials 679 (1969)) both the treaty text and the practice of the parties in interpreting that text form the basis for its interpretation. Although the United States is not a party to the 1969 Convention, the United States has regarded it since 1971 as ''the authoritative guide to current treaty law and practice.'' See Secretary of State William D. Rodgers to President Richard Nixon, October 18, 1971, 92d Cong., 1st Sess., Exec. L (Nov. 22, 1971). Specifically, Article 31(1) of the Vienna Convention provides that ''[a] treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in light of its object and purpose.''

Article 31(3) goes on to provide that ''[t]here shall be taken into account, together with the context: (a) Any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions.'' In the current circumstances, Decisions of the Parties can be construed as subsequent consensus agreements among the Parties to the Montreal Protocol, including the United States, regarding the interpretation and application of the Protocol.

In accordance with Article 2H(5), the Parties have issued several Decisions pertaining to the critical use exemption. At their Ninth Meeting in 1997, the Parties issued Decision IX/6 which established criteria applicable to the critical use exemption. In paragraph 1 of Decision IX/6, the Parties agreed as follows:

(a) That a use of methyl bromide should qualify as ''critical'' only if the nominating Party determines that:

(i) The specific use is critical because the lack of availability of methyl bromide for that use would result in a significant market disruption; and

(ii) There are no technically and economically feasible alternatives or substitutes available to the user that are acceptable from the standpoint of environment and health and are suitable to the crops and circumstances of the nomination;

(b) That production and consumption, if any, of methyl bromide for critical uses should be permitted only if:

(i) All technically and economically feasible steps have been taken to minimize the critical use and any associated emission of methyl bromide;

(ii) Methyl bromide is not available in sufficient quantity and quality from existing stocks of banked or recycled methyl bromide, also bearing in mind the developing countries' need for methyl bromide;

(iii) It is demonstrated that an appropriate effort is being made to evaluate, commercialize and secure national regulatory approval of alternatives and substitutes, taking into account the circumstances of the nomination * * * Non-Article V [Developed country] parties must demonstrate that research programmes are in place to develop and deploy alternatives and substitutes * * *.

The Parties also agreed in Decision IX/6 that the technical panel (discussed below) that reviews nominations and makes recommendations to the Parties regarding approval of critical use exemptions, would base its review and recommendations on the criteria in paragraphs (a)(ii) and (b). The criterion in paragraph (a)(i) was not subject to review by this technical panel.

At the First Extraordinary Meeting of the Parties in March of 2004, the Parties issued several decisions that address the agreed critical uses, the allowable levels of new production and consumption for critical uses, the conditions for granting critical use exemptions, and reporting obligations. Decision Ex. I/3 covers the agreed critical uses and allowable levels of new production and consumption for the year 2005. This Decision includes the following terms:

1. For the agreed critical uses set forth in annex II A to the report of the First Extraordinary Meeting of the Parties to the Montreal Protocol for each Party, to permit, subject to the conditions set forth in decision Ex. I/4, the levels of production and consumption set forth in annex II B to the present report which are necessary to satisfy critical uses, with the understanding that additional levels and categories of uses may be approved by the Sixteenth Meeting of the Parties in accordance with decision IX/6;

2. That a Party with a critical-use exemption level in excess of permitted levels of production and consumption

for critical uses is to make up any such difference between those levels by using quantities of methyl bromide from stocks that the Party has recognized to be available;

3. That a Party using stocks under paragraph 2 above shall prohibit the use of stocks in the categories set forth in annex II A to the report of the First Extraordinary Meeting of the Parties to the Montreal Protocol when amounts from stocks combined with allowable production and consumption for critical uses exceed the total level for that Party set forth in annex II A to the present report;

4. That Parties should endeavor to allocate the quantities of methyl bromide recommended by the Technology and Economic Assessment Panel as listed in annex II A to the report of the First Extraordinary Meeting of the Parties;

5. That each Party which has an agreed critical use should ensure that the criteria in paragraph 1 of decision IX/6 are applied when licensing, permitting or authorizing the use of methyl bromide and that such procedures take into account available stocks. Each Party is requested to report on the implementation of the present paragraph to the Ozone Secretariat.

The agreed critical uses and allowable levels of production and consumption are set forth in annexes to the Parties' report. Decision Ex I/4 addresses the conditions for granting and reporting critical-use exemption for methyl bromide.

Decisions IX/6, Ex. I/3, and Ex. I/4 are subsequent consensus agreements of the Parties that address the interpretation and application of the critical use provision in Article 2H(5) of the Protocol. For example, Decision Ex. I/3 reflects a decision called for by the text of Article 2H(5) where the parties are directed to ''decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be critical uses.'' EPA intends to follow the terms of Decisions IX/6, Ex. I/3, and Ex. I/4. This will ensure consistency with the Montreal Protocol and satisfy the requirements of Section 604(d)(6) and Section 614(b) of the CAA.

V. What Are the Details of Today's Action?

A. Critical Need

1. Should EPA Establish a Critical Use Exemption?

With today's final action, EPA is establishing the critical use exemption (CUE) by amending 40 CFR Part 82 to exempt production and import of methyl bromide from the January 1, 2005 phaseout to meet the needs of users who do not have technically and economically feasible alternatives available to them. In today's rulemaking, EPA is describing the framework for the critical use exemption, assigning allowances for critical use methyl bromide, and determining the quantities of exempted methyl bromide allowable under the Clean Air Act (CAA) and the Montreal Protocol.

EPA received 15,176 on time comments requesting the Agency not to exempt any methyl bromide for critical uses. The CAA allows the Agency to create an exemption for critical uses to the extent consistent with the Protocol. The Protocol authorizes an exemption to the extent decided by the Parties. In Decision Ex. I/3, the Parties decided to permit a limited exemption for specified uses nominated by the United States. EPA, in conjunction with other U.S. government entities, spent substantial time reviewing applications for critical use exemptions and preparing a nomination based on the lack of technically and economically feasible alternatives for the nominated uses. As discussed below, EPA does not have new information that would change the basis for the nomination. Although the Act does not require EPA to establish an exemption, EPA believes that the lack of suitable alternatives for the uses listed as approved critical uses in today's rulemaking warrants the establishment of an exemption.

The history of the ozone protection programs has been the transition of industries away from production, import, and use of ozone depleting chemicals to alternatives. In some instances a successful transition was possible within the allotted time. In other instances, additional time has been required to allow for the development and market penetration of alternatives. In fact, more than ten years after the phaseout of chloroflurocarbons (CFCs), the U.S. government is still exempting the production of CFCs for essential uses in metered dose inhalers. In the instance of critical uses where suitable alternatives are not yet available for all uses, EPA believes it would be inconsistent with the history and the goals of the ozone protection program to not allow for a safety valve in accordance with the provisions of both international and domestic law.

2. Should EPA Further Adjust the Amount of Methyl Bromide Available Under the Critical Use Exemption?

Similar to CFCs which were used in varied applications, methyl bromide is a highly effective general biocide and is used in a wide variety of distinctly different pest control operations. Some of the effective treatments which are available as alternatives to methyl bromide work in certain niche applications or under specific conditions. There is no ''drop in'' replacement for all of the current uses of methyl bromide. The registration of alternatives continues to be a priority for the Agency.

EPA conducted a thorough analysis on the technical and economic feasibility of available alternatives specified by the Methyl Bromide Technical Options Committee (MBTOC) for each critical use and the potential for significant market disruption in the event that methyl bromide were not available for a particular use. The analysis, in the form of the U.S. nomination of critical uses and answers to clarifying questions on those documents, is available in the docket OAR–2003–0230. A memorandum describing the review process, titled ''Memorandum: 2003 Nomination Process'' is also available in the docket. In the notice of proposed rulemaking, EPA solicited comments on the technical and economic assessment conducted on the alternatives to methyl bromide.

EPA received 14 comments on the technical and economic assessment of alternatives to methyl bromide. These comments did not provide the Agency with any new information for EPA's consideration on the efficacy and cost of alternatives. Therefore, EPA is not further adjusting the amount of methyl bromide available under the critical use exemption.

One commenter stated that their products, 1,3-dichloropropene (1,3–D) and sulfuryl flouride (SF), can displace a significant portion of the critical use market, 40% of the authorized amount, but they recognize that from a practical transition perspective, such reductions will not easily happen in the next year. The commenter provided a table indicating that these two products could be technical and economical substitutes in every critical use category for which their products are registered.

In the U.S. nomination, the EPA took great pains to describe the specific circumstances that make 1,3–D, which may be otherwise technically and economically feasible, not feasible for a certain portion of total domestic use. The EPA determined that 1,3–D products can be used in a variety of circumstances but there are some factors, such as regulatory limits on the use of 1,3–D or the presence of heavy nutsedge weed populations that would

make the 1,3–D products not technically and economically feasible. EPA, in consultation with the U.S. Department of Agriculture (USDA), has determined that over the portion of the crop there may be technical limitations to the use of 1,3–D treatments or economic losses associated with the use of this fumigant.

The commenter specifically pointed to comments made in the 2004 Methyl Bromide Technical Options Committee (MBTOC) report where the committee indicated that there are technically feasible herbicides available to control nutsedge, specifically halosulfuron for peppers and halosulfuron and triflxysulfuron for tomatoes, that can be used in combination with 1,3–D products to provide complete spectrum pest control. As described in the nomination, both of these herbicides have been recently registered and can provide effective control of nutsedge populations, however certain regulatory restrictions exist on the use of these products causing them to be not technically available within current cropping systems for the exempted portion of production. For example, both products have plant back restrictions which limit the ability of growers to plant a second crop. Almost without exception, U.S. pepper and tomato farmers plant more than one crop on the same acreage. The U.S. nominations additionally analyzed the feasibility of using 1,3–D products without the herbicides and finds that the treatment is not economically feasible. For example, a typical tomato farm in the southeastern U.S. would experience approximately $5,700 in losses per acre using 1,3–D products compared to using methyl bromide due to losses in product yield and quality.

The commenter indicated the use of alternatives, specifically an emulsified formulation of chloropicrin (Pic EC) and metham sodium in combination with chloropicrin, is technically feasible for strawberry production in California according to the 2004 MBTOC report. Again, the U.S. nomination describes the limitations of these alternatives for the specific circumstance of the nominated acreage. For example, 15% of the nominated area is located on hilly terrain that makes the use of drip applied fumigants a technically infeasible alternative. Furthermore, chloropicrin is not a full spectrum fumigant. Chloropicrin provides good control of disease but the nomination clearly states that the nominated area additionally has nematode and weed pressures as well. The commenter did not provide a copy of a study documenting comparable pest control and yields using Pic EC for areas with nematode, weed, and disease pressures. Further, metham sodium used with chloropicrin is not economically feasible according to the nomination. EPA, in consultation with USDA, has determined that yield differences could result in 24% decline in gross revenues on average compared to methyl bromide.

Six of the 14 comments indicted above that the Agency should reduce the amounts the methyl bromide exempted from the phaseout to allow for the uptake of a newly registered alternative, sulfuryl fluoride, for mills and grains. Sulfuryl fluoride (SF) was registered by EPA for use on grains and flour mills on January 23, 2004 under the trade name Profume. The SF fumigant has been available in the U.S. since 1961 under the trade name Vikane for non food uses such as structural termite fumigation. The registrant, Dow Agrochemicals, is pursuing registration of Profume for use on dried fruit and tree nuts and non-specific food handling and storage.

The U.S. originally nominated 536,328 kilograms (kg) of methyl bromide for critical uses in mills and processors for the year 2005. As described in the notice of proposed rulemaking, this nomination was reduced by the Parties to 483,000 kgs to account for the market uptake of alternatives including sulfuryl fluoride and to account for more efficient methyl bromide fumigation practices. This reduction is a 10% reduction from the originally nominated amount. The 2004 MBTOC report on recommended exemptions for next year (2006) states that a further 10% reduction for flour mills could be warranted to allow for the adoption of a number of alternatives, of which sulfuryl fluoride is one, and more efficient methyl bromide fumigation techniques. Since the 2005 exemption had already been reduced by 10% for sulfuryl fluoride and that 10% seems to be a reasonable technical adoption rate according to the MBTOC as quoted by the commenter. EPA does not believe further reductions for 2005 can be justified at this time given the lack of specific technical and economic feasibility data provided to the Agency on Profume and given the lack of specific market penetration data provided by the commenter to substantiate assertions for a larger market penetration.

EPA understands that Profume can be effective in controlling insects, although higher rates of the chemical are required to control insect eggs. As this is a newly registered compound, EPA does not have sufficient data at this time to conduct a technical and economic analysis to determine if further reductions are warranted. One key uncertainty regarding the market penetration and economic feasibility of Profume is the cost of the product on a per pound basis and the cost of a typical fumigation. The Agency anticipates that as trial fumigations or commercial fumigations take place, that the registrant will be able to compile technical and economic data to EPA for use in the development of future critical use nominations.

In addition to the technical and economic data required to conduct a critical use assessment, as noted by the Technology and Economic Assessment Panel (TEAP), a scientific panel that advises the Parties to the Montreal Protocol, a specific alternative may take up to 5 fumigation cycles of use before efficacy can be determined in the specific circumstances of the user. This would mean that several repeat fumigations would be needed before determining the technical feasibility of an alternative. An additional limitation to SF uptake at this time is that many mills in the U.S. produce partial recipe products that contain ingredients such as sugar or baking soda. The registration of SF does not include tolerances for these ingredients thus limiting the use of this alternative for a certain portion of the sector. Finally SF is not registered in California and therefore can not be used by mills in that state.

B. Amount From Stocks

EPA is allowing up to 1,283,214 kilograms of methyl bromide from inventories stockpiled before the phaseout date of January 1, 2005 to be sold for approved critical uses. In evaluating the issue of the amount of the critical use level for 2005 that should be met from stocks, EPA considered comments received and the following statements in Decision Ex. I/3. Decision Ex I/3(1) permits a level of production and consumption equal to 30% of the 1991 baseline and establishes an agreed critical use level equal to 35% of the 1991 baseline. With regard to drawdown from existing inventory, Decision Ex. I/3(2) states: ''That a Party with a critical-use exemption level in excess of permitted levels of production and consumption for critical uses is to make up any such difference between those levels by using quantities of methyl bromide from stocks that the Party has recognized to be available.'' The availability of stocks is also addressed in Decision Ex. I/3(5), which states: ''That each Party which has an agreed critical use should ensure that the criteria in paragraph 1 of decision IX/6 are applied when licensing, permitting

or authorizing the use of methyl bromide and that such procedures take into account available stocks.

In acting in accordance with Decision Ex. I/3, EPA looks to Paragraph (3) of that Decision, which states that a Party ''shall prohibit'' the use of stocks when the usage of stocks combined with production and consumption exceeds the total level of critical uses agreed to by the Parties, and to Paragraph (2) of that Decision, which states that a Party with a use exemption exceeding allowable production and consumption ''is to make up'' any such difference by using stocks recognized to be available. Additionally, Paragraph (5) of Decision Ex. I/3 states that Parties should ensure that Decision IX/6's criteria are applied, and Decision IX/6 states that production and consumption should not be permitted where stocks are recognized to be available.

Taking into account the language of Decision Ex. I/3's first three Paragraphs, and the fact that the fifth Paragraph is hortatory, EPA concludes that the appropriate level of stocks utilization is set forth in Decision Ex. I/3(1), which establishes a critical use level of 35% but permits production and consumption of 30%. Paragraph (1) of Decision Ex. I/3, read in conjunction with paragraph (2) of the same Decision, specifies the amount of the critical use level for 2005 that should be met from stocks. Paragraph (1) establishes a critical use level of 35% of baseline but permits production and consumption of 30%. Paragraph (2) explains that the difference is to made up by using available stocks. Therefore, the amount of the United States' 2005 critical use level that should be met from stocks is 1,283,214 kilograms, *i.e.*, an amount equivalent to 5% of baseline.

EPA's conclusion is consistent with Paragraph (5) of Decision Ex. I/3. That Paragraph requests each Party with an agreed critical use to take into account available stocks when authorizing the use of methyl bromide. Given the language in Paragraphs (1) and (2) of Decision Ex. I/3, EPA interprets Paragraph (5)'s language as meaning that the U.S. should not authorize critical use exemptions without including provisions addressing drawdown from stocks for critical uses. EPA is acting consistently with Paragraph (5) by establishing requirements governing the sale of pre-phaseout inventories for approved critical uses. In section V.F of today's rulemaking, EPA describes the mechanism by which the Agency is allowing stocks of methyl bromide to be sold for approved critical uses. In addition, EPA is taking into account stocks through the trading provisions outlined in section V. G of today's rulemaking, which allow critical use allowances to be converted into critical stock allowances.

EPA had proposed to undertake an independent analysis of the amount to come from stocks and to adjust the authorized level of new production and consumption for critical uses by the amount of ''available'' stocks determined through this analysis. The methodology proposed for this analysis was elaborated in the NPRM and also in a Technical Support Document that can be obtained from the rulemaking docket.

EPA also sought comment on an alternative approach: ''For the 2005 calendar year, the Agency could make a determination that the amount of methyl bromide available from existing stocks is simply based on the difference between the limit on methyl bromide for critical uses (8,942 metric tons) and the limit on new production and import (7,659 metric tons) in the Decision Ex. I/3.'' 69 FR 52375. This is essentially the approach adopted in today's final rule. EPA is clarifying, however, that the appropriate level of stock drawdown for critical uses in 2005 is set out in Decision Ex. I/3.

EPA received 10 comments on the independent assessment approach proposed in the NPRM for determining available stocks: five comments in favor of this approach and nine comments suggesting further refinements to the methodology. However, since EPA is not using the methodology to determine available stocks for the 2005 control period, the Agency is not responding to the details of the comments in today's rulemaking.

One commenter stated that EPA should use a ''mathematical'' approach, under which the amount from stocks would equal the difference between the limit on methyl bromide for critical uses and the limit on new production and import. EPA believes that the approach adopted in this final rule is consistent with this commenter's recommendation.

Two commenters stated that all stocks must be used before any new production is permitted and that all stocks other than those for export to developing countries should be considered ''available'' for critical uses. One commenter refers to Decision IX/6, paragraph (1)(b), in which the Parties agreed: ''That production and consumption, if any, of methyl bromide for critical uses should be permitted only if: * * * (ii) Methyl bromide is not available in sufficient quantity and quality from existing stocks of banked or recycled methyl bromide, also bearing in mind the developing countries' need for methyl bromide.'' EPA does not believe that this is an accurate characterization of Decision IX/6 as it relates to Decision Ex. I/3. Paragraph 2 of Decision Ex. I/3 states that a Party ''is to make up'' the difference between an agreed use level and production and consumption ''from stocks that the Party has recognized to be available.'' Moreover, Decision IX/6 asks Parties to permit production and consumption where ''methyl bromide is not available in sufficient quantity and quality from existing stocks of banked and recycled methyl bromide, also bearing in mind the developing countries' need for methyl bromide.'' Both of these statements contemplate the possibility that available stocks could be less than existing stocks. Moreover, the United States and other countries have interpreted identical decisional language in the essential use exemption context not to require the use of all existing stocks, and Decision Ex. I/3's consideration of stocks is consistent with this interpretation. In addition, EPA disagrees with the commenter's assumption that all stocks that are not specifically designated for export to developing countries are available for critical uses. For example, there may be stocks in the U.S. produced specifically for quarantine and pre-shipment uses or stocks held on behalf of another entity for a non-critical use during their transition to alternatives. In addition, the U.S. is a global supplier of methyl bromide and existing inventories may be tagged for critical uses in other developed countries.

C. Access to Stocks

In the proposed rule, EPA described several different approaches to controlling access to stocks of methyl bromide produced or imported before the phaseout date of January 1, 2005. EPA proposed a limit on the sale of stocks to approved critical users. In addition, EPA proposed to prohibit sale of stocks to end users in nominated sectors who lacked the limiting critical conditions that make methyl bromide use critical for the categories listed in Decision Ex. I/3. EPA sought comment on whether to apply use restrictions to other groups. The Agency recognizes that a person who qualifies as an approved critical user may have both approved critical uses and other uses. Further, the Agency also recognizes the possibility that an approved critical user could grow two distinct crops or fumigate two distinct commodities in the same field or structure during a single control period. In today's rule, EPA is restricting access to stocks for approved critical uses. Approved

critical uses are listed in Appendix L to 40 CFR Part 82, Subpart A.

The total amount of pre-phaseout inventory that may be sold as critical use methyl bromide is equivalent to 5% of the 1991 baseline. As discussed below, this rule creates critical stock allowances (CSAs) in this amount. For each kilogram of methyl bromide sold from pre-phaseout inventories as critical use methyl bromide, a CSA holder must expend one CSA.

In finalizing the provisions on access to stocks, EPA considered comments received and the language of Decision Ex I/3(3), which states: ''That a Party using stocks under paragraph 2 above shall prohibit the use of stocks in the categories set forth in annex II A to the report of the First Extraordinary Meeting of the Parties to the Montreal Protocol when amounts from stocks combined with allowable production and consumption for critical uses exceed the total level for that Party set forth in annex II A to the present report.''

EPA received four comments supporting unlimited access to stocks for approved critical uses and 24 additional comments supporting unlimited access to stocks for all uses. EPA also received 1 comment stating that there is no legal basis for allowing use of stocks by users that did not apply for or did not qualify for critical use status, and no basis for the Agency's supposition that some users did not apply for CUE status because they were counting on use of stocks.

EPA reads Decision Ex I/3(3) as requiring limitations on the use of stocks only with respect to uses agreed by the Parties to be critical. Annex II A to the report of the First Extraordinary Meeting is titled ''Agreed critical-use categories.'' Paragraph (1) of Decision Ex. I/3 permits limited production and consumption ''[f]or the agreed critical uses set forth in annex II A.'' Because paragraph (3) of Decision Ex I/3 also refers to Annex II A, EPA concludes that the burden of the stock restriction is coextensive with the benefit of the new production and import. EPA does not believe that Decision Ex I/3(3) can be read to allow unlimited access to stocks for approved critical uses because the prohibition is directly linked to ''the categories set forth in annex II A,'' which are the categories of critical uses agreed to by the Parties. Nor can the Decision be read to allow unlimited access to stocks for all uses: that would fail to give any effect to the phrase ''shall prohibit the use of stocks.'' EPA disagrees with the comment that there is no legal basis for allowing use of stocks by users that did not apply for or did not qualify for critical use status. Decision Ex I/3(3) does not require that individual Parties prohibit use of stocks by users whose uses fall outside the categories of agreed critical uses. Nothing in the Protocol or the CAA mandates that EPA limit drawdown from stocks for such uses. In anticipating that some users did not apply for CUE status because they were counting on use of stocks, the Agency did not assume that any user had special knowledge of the total amount of stocks available but rather that an individual user might have confirmed with its supplier that enough methyl bromide would be available from that supplier's inventory to meet the individual user's limited transitional needs. For example, some onion growers in the southeastern U.S. informed EPA in their comments on the rulemaking they did not apply for an exemption because they intend to avail themselves of existing stocks.

Nine commenters stated that EPA does not have legal authority to restrict the use of methyl bromide stocks. These commenters argue that no provision of the CAA authorizes EPA to impose such restrictions. Specifically, they state that section 604(d)(6) refers only to production, importation, and consumption, and that by addressing use in other sections of the CAA, Congress demonstrated its intent to deny EPA authority to regulate stocks under 604(d)(6). However, section 604(d)(6) directly relates to use: the exempted production, importation and consumption is for critical ''uses.'' While Congress, in the CAA, generally mandated that production and consumption of ozone-depleting substances be phased out across the board, regardless of use, the Act does contain certain provisions, including section 604(d)(6), that authorize EPA to provide exceptions on the basis of use. Thus, section 604(d)(6) is one of the provisions of the CAA where use is clearly at issue.

In today's final rule, EPA is imposing narrowly tailored use restrictions as a condition of obtaining new production and import. EPA believes that section 604(d)(6) mandates this result. In section 604(d)(6), Congress provided EPA authority to exempt production and import of methyl bromide for critical uses, but only ''to the extent consistent with the Protocol.'' The use restrictions in today's final rule are necessary to ensure that total usage for critical uses does not exceed the limit agreed to by the Parties in implementing the critical use provision in Article 2H of the Protocol. The relationship between sections 604(d)(6) and 614(b) of the CAA and the Protocol and its Decisions is discussed in detail in the NPRM and in the background section of this preamble.

The commenters further argue that EPA cannot rely on Decision Ex I/3 to justify restrictions on use of stocks. They state that while Decisions may be used to interpret existing requirements in the Protocol, they cannot be used to substantively change those requirements. However, EPA is not suggesting that Decision Ex I/3 substantively changed the requirements of Article 2H. Article 2H establishes a prohibition on the production and consumption of methyl bromide, but states that the prohibition shall not apply ''to the extent the Parties decide to permit the level of production and consumption that is necessary to satisfy uses agreed by them to be critical uses.'' The Parties have not interpreted Article 2H in the manner the commenters assert. Instead, they understood the language referring to ''uses agreed by them to be critical uses'' to allow the Parties to tie the determinations of production and consumption to use. Under international law, this interpretation and practice of the Parties may, in the current situation, be read to be an accurate interpretation of Article 2H's language. Although Decision Ex. I/3 focuses on regulating production and consumption, the Parties could reasonably set related conditions on agreeing to production and consumption at a particular level. Therefore, the stock restrictions are an integral part of the Parties' decision regarding the level of production and consumption necessary to satisfy critical uses.

The commenters further characterize the restrictions on access to stocks proposed in the NPRM as ''an attempt by the Agency to bypass the Treaty Clause of the U.S. Constitution by unilaterally amending the Montreal Protocol through a rulemaking, without the advice and consent of the Senate.'' EPA rejects this characterization. Article 2H explicitly assigns to the Parties the task of deciding what level of production and consumption ''is necessary to satisfy uses agreed by them to be critical uses * * *.'' Therefore, EPA looks to the Parties' Decisions to provide the details of the exemption authorized in Article 2H. In Decision Ex I/3, the Parties decided what level of production and consumption was necessary given certain assumptions about stocks. Accordingly, in compliance with Article 2H, this final rule addresses both production and consumption and the use of stocks.

D. Cap on Critical Use Methyl Bromide

Based on the EPA's assessment of the technical and economic feasibility of alternatives and the potential for a significant market disruption if methyl bromide were not available for the uses listed in Appendix L, and the lack of any new information that would change EPA's assessment, EPA is establishing the following amounts of methyl bromide as critical use methyl bromide available only for approved critical uses as described in section V.H of this preamble for the control period of the year of 2005.

With today's action, EPA is finalizing a determination that 8,942,214 kgs of methyl bromide are required to satisfy critical uses for 2005. EPA intends to address supplemental and new CUE allocations in a subsequent rulemaking following the 16th Meeting of the Parties to the Montreal Protocol. EPA is authorizing the full amount of new production/import allowable under Decision Ex I/3, a total of 7,659,000 kgs, and is authorizing those entities that hold inventories of methyl bromide to sell 1,283,214 kgs for approved critical uses during 2005. The details of allowance allocation for both critical production/import and critical stocks are described in sections V.E and V.F of this preamble.

EPA co-proposed two options for the cap on critical use methyl bromide: A universal cap where all approved critical uses would purchase critical use methyl bromide under the same cap and a sector specific cap where each of the 16 critical use sectors would have their own cap of reserved material. EPA also solicited comment on an applicant-specific cap and on several hybrid options. In preparing this final rule, EPA considered comments received and Decision Ex I/3(4), which states: ''That Parties should endeavor to allocate the quantities of methyl bromide recommended by the Technology and Economic Assessment Panel as listed in annex II A to the report of the First Extraordinary Meeting of the Parties.''

EPA received 28 comments supporting the fully flexible universal cap. Commenters supported this option for several reasons: ease of implementation, cost savings and efficiencies to the regulated community, and the inability of EPA to predict with precision the exact market demand for methyl bromide on a sector basis. EPA received four comments supporting a sector specific cap to ensure that smaller uses, less frequent uses, and uses that occur towards the end of the control period are guaranteed access to some minimum supply. EPA received one comment supporting an applicant specific approach so that the Agency can track use of methyl bromide at a more specific level. EPA also received one comment supporting a hybrid option that would separate pre-plant uses of methyl bromide from post-harvest uses. Additional comments received by EPA on other hybrids are addressed in the response to comment (RTC) document available in the docket for today's rule.

In today's rulemaking, EPA is establishing two types of critical use allowances (CUAs) for the production/import of methyl bromide: CUAs for pre-plant soil uses and CUAs for post-harvest and structural uses. The portion of the critical use methyl bromide supplies obtained from available stocks, however, will be allocated as a universal cap as proposed. EPA did not receive any adverse comment on the proposal to make the quantities from stocks available in a universal fashion.

EPA agrees with the comments made by entities supporting the universal option and believes that such a system would in fact lead to the most economically efficient outcome and impose the least burden on industry. However, to address concerns raised by smaller, less frequent and end of year uses, EPA is separating out the post-harvest uses of methyl bromide, which occur regularly throughout the year, from pre-plant uses which tend to be clustered around a particular time in the growing season. Noting that Decision Ex I/3 (4) states that Parties ''should endeavor'' to allocate ''as listed in annex II A,'' EPA examined our ability to implement a sector specific system. However, there are several practical impediments to implementing such a system. EPA does not have precise data on use of methyl bromide because the current regulations on methyl bromide require reporting of production, imports, and exports of methyl bromide, not use. The more specific the categories for which EPA is estimating use, the less precise the estimate becomes. Therefore, EPA is reluctant to create sector or applicant specific limits because of the inherent uncertainty of the data at that detailed level. With the establishment of the critical use exemption, EPA will begin to track sector level use data and therefore the concern about data viability should diminish over time.

Another limitation to the sector or applicant specific approach is the upstream allowance allocation system itself where EPA issues allowances to producers and importers and not end users. Using an upstream allowance allocation system as proposed, EPA would be unable to adjust amounts of methyl bromide from one sector to another after the allowance was expended. This artifact of the allocation framework would deny the marketplace any flexibility to meet unforseen demand in a particular use. For example, under a sector specific system, if a pest outbreak were to occur in the peppers sector no additional material could be made available to peppers even if there were an unanticipated surplus in a different sector. For these reasons, EPA believes it is not practicable to implement a sector specific system at this time.

The Agency believes, and has received comment to that effect, that the pre-plant and post-harvest markets operate as separate markets under the phaseout, as evidenced by the different prices for methyl bromide in the two markets, for several reasons. The timing and cycles of fumigations for the two sectors are different as well. Pre-plant fumigations typically occur once a year about a month before planting the first crop whereas fumigations for post-harvest uses occur routinely throughout the year to control ongoing insect pressures. The standard product formulations for pre-plant and post harvest uses substantially differ. In the pre-plant uses the formulations of methyl bromide contain substantially more chloropicrin, as much as 50%. Lastly, the post harvest sector has more purchasing power than the pre-plant sector and is therefore willing to pay more for methyl bromide. Post-harvest uses rely on nearly pure methyl bromide. For all of these reasons, EPA believes that these two use categories already function as separate markets and therefore the hybrid option would not result in substantial regulatory burden but would achieve a careful balance between flexibility and greater assurance.

EPA believes that establishing distinct caps for pre-plant and post-harvest uses is consistent with the Parties' statement in Decision Ex I/3(4) that each Party ''should endeavor'' to allocate ''as listed in annex II A.'' By virtue of this rulemaking process, EPA has made the endeavor to allocate quantities of methyl bromide in a manner consistent with Annex IIA of the Report to the First Extraordinary Meeting of the Parties. Because of the practical and administrative difficulties described above, however, EPA has arrived at an allocation system that relies at least partly on the market to allocate quantities on a sectoral basis. EPA anticipates, based on historical use patterns and the research undertaken pursuant to submitting the U.S. nomination, that usage patterns will

generally reflect the sectoral quantities found in Annex IIA.

E. Critical Use Allowance Allocations

1. Allocation of Critical Use Allowances

EPA is allocating the following number of pre-plant and post-harvest critical use allowances (CUAs) to the entities listed below subject to the trading provisions discussed in section V.G of the preamble. Through this rulemaking, EPA is notifying entities in Table I that they have an allocation of the number of critical use allowances specified in the table for 2005. Depending on the agreement of the Parties to the Protocol, EPA may engage in a subsequent rulemaking to allocate supplemental methyl bromide for 2005. Each allowance is equivalent to 1 kg of critical use methyl bromide. These allowances expire at the end of the control period and, consistent with the proposed rule and comments received, are not bankable from one year to the next.

TABLE I.—ALLOCATION OF CRITICAL USE ALLOWANCES

Company	2005 Critical use allowances for pre-plant uses * (kilograms)	2005 Critical use allowances for post-harvest uses * (kilograms)
Great Lakes Chemical Corp	4,357,690	297,049
Albemarle Corp	1,791,950	122,151
Ameribrom, Inc	989,911	67,479
TriCal, Inc	30,679	2,091
Total	7,170,230	488,770

* For production or import of class I, Group VI controlled substance exclusively for the Pre-Plant or Post-Harvest uses specified in Appendix L to 40 CFR Part 82.

2. Baseline for Critical Use Allowance Distribution

EPA is using the 1991 methyl bromide consumption baseline for distribution of critical use allowances because this is the best data available to the Agency at the current time. EPA used the 1991 baseline to distribute allowances to the companies listed above during the phaseout of methyl bromide. The 1991 baseline is therefore familiar to the regulated community and poses the least steep learning curve on industry of all the options discussed in the proposed rule.

EPA received four comments supporting use of the 1991 baseline for distribution of allowances and two comments favoring a baseline that uses the volume of methyl bromide marketed over the past three years. EPA does not have the necessary data to implement a marketed volume baseline representing the past three years and the time required to gather, verify, and make publically available such data would prohibit the Agency from implementing this exemption before the beginning of the control period. Such a baseline is therefore not practical to implement.

3. Frequency of Critical Use Allowance Distribution

EPA will issue critical use allowances once a year through an annual rulemaking as proposed, with one important exception noted below. EPA described scenarios where the Agency would distribute allowances more than once a year but did not receive any comments in favor of such options.

The exception to the once a year allocation of allowances applies when the Parties authorize supplemental critical use exemptions for a given control period after EPA has already initiated the notice and comment rulemaking process for the original authorized exemptions. For example, the Parties authorized exemptions for 2005 at their First Extraordinary Meeting of the Parties in March 2004. The Parties are considering additional exemptions for 2005 at the Sixteenth Meeting of the Parties to be held November 2004. EPA would propose additional exemptions as a result of additional authorizations made by the Parties. In this situation, EPA could in fact issue allowances twice for a single control period.

F. Critical Stock Allowance Allocations

EPA is allocating critical stock allowances (CSAs) to the entities listed below in Table 2 for the control period of 2005. CSAs are being issued on a pro-rata basis according to the amount of stocks owned by the entity based on an average of their December 31, 2003 and August 25, 2004 data because only that entity has the ability to sell the quantities of material associated with the CSAs on a kilogram basis, regardless of which company is physically holding the stocks. Similar to CUAs, CSAs can not be banked from one control period to the next.

Critical stock allowances (CSAs) are not used to produce or import methyl bromide but are rights that enable the holder to sell pre-phaseout inventories of methyl bromide for use in approved critical uses. A CSA is expended when the entity selling methyl bromide sells the material, or fumigation services with the material, to an approved critical user who certifies that the material is for an approved critical use. Thus, the movement of pre-phaseout inventories of methyl bromide along the supply chain does not require expenditure of a CSA.

EPA has determined that the individual holdings of stocks of methyl bromide are confidential business information. The amount of CSAs allocated to each company could be used to calculate the individual stock holdings if information on aggregate stock holdings were released. EPA has determined that the aggregate stock information is not confidential business information but is currently withholding that information due to the filing of complaints seeking to enjoin the Agency from its release. Because release could occur depending on the outcome of that litigation, EPA is not listing the number of allowances distributed to each entity. Concurrent with today's rule, EPA is sending letters to each entity to inform them of the number of critical stock allowances EPA has issued them. In addition, EPA is placing a document listing the allocations and distribution basis of critical stock allowances for each entity in the confidential portion of the docket.

TABLE 2.—ALLOCATION OF CRITICAL STOCK ALLOWANCES

Company	
Albemarle	
Ameribrom, Inc.	
Bill Clark Pest Control, Inc.	
Blair Soil Fumigation	
Burnside Services, Inc.	
Cardinal Professional Products	
Carolina Eastern, Inc.	
Degesch America, Inc.	
Dodson Bros.	
Great Lakes Chemical Corp.	
Harvey Fertilizer & Gas	
Helena Chemical Co.	
Hendrix & Dail	
Hy Yield Bromine	
Industrial Fumigation Company	
J.C. Ehrlich Co.	
Pacific Ag	
Pest Fog Sales Corp.	
Pro Source One	
Reddick Fumigants	
Royster-Clark, Inc.	
Southern State Cooperative, Inc.	
Trical Inc.	
Trident Agricultural Products	
UAP Southeast (NC)	
UAP Southeast (SC)	
Univar	
Vanguard Fumigation Co.	
Western Fumigation	
Total	1,283,214 kilograms

G. Trading Allowances

In accordance with Section 607 of the CAA of 1990, EPA is allowing producers and importers of methyl bromide to trade or transfer critical use allowances subject to the provisions of 40 CFR part 82. In accordance with paragraph (c) of Section 607, EPA is establishing an offset of one tenth of one percent of the amount of the CUAs transferred consistent with proposed rule. The Act requires that transfers of allowances result in lower production than if the trade had not occurred.

The offset will be deducted from the transferor's allowance balance at the time of a trade. A one tenth of one percent offset is consistent with the offset required for the transfer of essential use allowances under the phaseout program for class I controlled ozone-depleting substances (ODS), which, like critical use allowances permit the exempted production or import of ODS beyond a phaseout date.

Because, CSAs govern the amount of existing material that can be sold, EPA is not implementing an offset for the transfer of CSAs. If the holder of a CSA does not wish to sell his inventories of methyl bromide to the critical use market, he (the transferor) may sell his allowances to another methyl bromide producer, importer, distributer, or applicator (the transferee).

EPA received seven comments supporting the ability of allowance holders to trade allowances. EPA did not receive any adverse comments on the one tenth of one percent offset that is similarly applied to the essential use exemption and is implementing this offset in today's rule.

EPA received one comment suggesting that the Agency should modify its proposed CSA trading framework to allow anyone who wishes to sell inventories of critical use methyl bromide to buy CSAs, not just initial CSA recipients. EPA modified its proposal to allow for any entity in the methyl bromide supply chain to acquire CSAs even if they did not receive an initial CSA allocation from EPA. EPA agrees that the Agency should not restrict the normal flow of commerce.

Lastly, the Agency is allowing for trades of CUAs into CSAs and is not requiring an offset to accompany such transactions. A CUA holder would retire a number of allowances to EPA and EPA would then issue additional CSAs to the allowance holder. EPA is allowing this type of allowance trade to accommodate an entity who wishes to forgo exempted production or import of new methyl bromide to make more of pre-phaseout inventories available for approved critical uses. EPA believes that an environmental benefit would be derived in this type of exchange since the result is less new production or import. As described in the proposed rule, EPA is not allowing the reverse transaction, exchange of CSAs for CUAs, because Decision Ex I/3 imposes a cap of no more than 30% production and import for critical uses in 2005. If the Agency were to allow CSAs to become additional rights to production or import, the U.S. would potentially run into non-compliance with the 30% production cap.

For consistency with the requirements governing other types of allowance transfers in the ozone protection program, EPA is requiring that an entity who sells allowances must file an allowance transfer form with EPA. Existing regulations require EPA to process these forms within 3 business days of receipt.

The Agency believes that trading critical use allowances and critical stock allowances will allow entities to make rational business decisions as to the amount of critical use methyl bromide to produce or import in a given control period and thus supports flexible trading provisions with appropriate environmental offsets as described in this section of today's rule.

H. Acquiring Critical Use Methyl Bromide

Approved critical users who have an approved critical use may acquire methyl bromide, as described in the proposal, in a similar manner to which they acquire methyl bromide exempted for quarantine and pre-shipment uses (68 FR 237, January 2, 2003). EPA received eight comments supporting the ''QPS-like'' approach because it is familiar to the regulated community.

Approved critical users who have an approved critical use may acquire critical use methyl bromide, or fumigation services with critical use methyl bromide, by certifying at the point of purchase that they are in fact approved critical users and that they will use the methyl bromide for an approved critical use. The certifications shall be retained by the supplier for a minimum of three years and are part of the reporting and recordkeeping requirements set forth in § 82.13 of this regulation.

Specifically, the certification will state, in part: ''I certify, under penalty of law, I am an approved critical user and I will use this quantity of methyl bromide for an approved critical use. My action conforms to the requirements associated with the critical use exemption published in 40 CFR part 82. I am aware that any agricultural commodity within a treatment chamber, facility, or field I fumigate with critical use methyl bromide can not subsequently or concurrently be fumigated with non-critical use methyl bromide during the same control period, excepting a QPS treatment or a treatment for a different use (*e.g.*, a different crop or commodity). I will not use this quantity of methyl bromide for a treatment chamber, facility, or field that I previously fumigated with non-critical use methyl bromide purchased during the same control period, excepting a QPS treatment or a treatment for a different use (*e.g.*, a different crop or commodity), unless a local township limit now prevents me from using methyl bromide alternatives.'' The form will further require users to provide information on the type of critical use methyl bromide purchased, the location of the treatment, the crop or commodity treated, the quantity of critical use methyl bromide purchased and the acreage/cubic footage treated. This information is required so that distributers and applicators are able to meet their annual reporting obligations to EPA. Providing false information on this form constitutes a violation.

EPA is prohibiting suppliers from selling critical use methyl bromide without first obtaining a signed and dated certification form.

I. Who Is an Approved Critical User

1. Users and Uses

An approved critical user may obtain access to exempted production/import and reserved inventories of pre-phaseout methyl bromide stocks, the combination of which constitute the supply of ''critical use methyl bromide'' intended to meet the needs of agreed critical uses. However, a condition for obtaining access to critical use methyl bromide is a limit on the amount of stocks that can be purchased in the control period, as described under section V.D of this rule.

An approved critical user is a self identified entity who meets the following requirements:

(1) For the applicable control period, applied to EPA for a critical use exemption or is a member of a consortium that applied for a critical use exemption for a use and location of use that was included in the U.S. nomination, authorized by a Decision of the Parties to the Montreal Protocol, and notice and comment rulemaking to be a critical use in that location, and

(2) Has an area in the applicable location of use that requires methyl bromide fumigation because the person reasonably expects that the area will be subject to a limiting critical condition (LCC) during the applicable control period, if an LCC is given in Appendix L.

Using these criteria, an approved critical user could be a tomato farmer in Florida whose farm is over karst topography but would not include a tomato farmer in Oklahoma even if he too has a farm over karst topography because no exemption application was filed on behalf of Oklahoma tomato farmers. Similarly, a Florida tomato farmer who did not have a field with karst topography, or one of the other limiting critical conditions specified in this rule, would not be an approved critical user because the circumstance of the use is not an approved critical use.

Approved critical uses are those uses of methyl bromide listed in Appendix L to 40 CFR Part 82 for the use listed in column A and the location of use in Column B, reproduced from the regulatory text in the table below.

TABLE 3.—APPROVED CRITICAL USES

Column A—approved critical uses	Column B—approved critical user and location of use	Column C—limiting critical conditions
	PRE-PLANT USES	
Cucurbits	(a) Michigan growers	With a reasonable expectation that moderate to severe fungal pathogen infestation already either exists or could occur without methyl bromide fumigation.
	(b) Alabama, Arkansas, Georgia, North Carolina, South Carolina, Tennessee, and Virginia growers.	With a reasonable expectation that moderate to severe yellow or purple nutsedge infestation already either exists or could occur without methyl bromide fumigation.
Eggplant	(a) Georgia growers	With a reasonable expectation that moderate to severe yellow or purple nutsedge infestation either already exists or could occur without methyl bromide fumigation.
	(b) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions either already exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or karst topography.
Forest Seedlings	(a) Members of the Southern Forest Nursery Management Cooperative limited to growing locations in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
	(b) International Paper and its subsidiaries limited to growing locations in Arkansas, Alabama, Georgia, South Carolina and, Texas.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
	(c) Weyerhaeuser Company and its subsidiaries limited to growing locations in Alabama, Arkansas, North Carolina, South Carolina, Oregon, and Washington.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
	(d) Public (government owned) seedling nurseries in the states of California, Idaho, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Nebraska, New Jersey, Ohio, Oregon, Pennsylvania, Utah, Washington, West Virginia, and Wisconsin.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
	(e) Members of the Nursery Technology Cooperative limited to growing locations in Oregon and Washington.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.

TABLE 3.—APPROVED CRITICAL USES—Continued

Column A—approved critical uses	Column B—approved critical user and location of use	Column C—limiting critical conditions
	(f) Michigan seedling nurseries	With a reasonable expectation that one or more of the following limiting critical conditions already exists or could occur without methyl bromide fumigation: moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
Ginger	Hawaii growers	With a reasonable expectation that the limiting critical condition already either exists or could occur without methyl bromide fumigation, or moderate to severe bacterial wilt infestation.
Orchard Nursery Seedlings	(a) Members of the Western Raspberry Nursery Consortium limited to growing locations in California and Washington (Driscoll's raspberries and their contract growers in California and Washington).	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe nematode infestation, medium to heavy clay soils, or a prohibition of on the use of 1,3- dichloropropene products due to reaching local township limits on the use of this alternative.
	(b) Members of the California Association of Nurserymen-Deciduous Fruit and Nut Tree Growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe nematode infestation, medium to heavy clay soils, or a prohibition of on the use of 1,3- dichloropropene products due to reaching local township limits on the use of this alternative.
	(c) Members of the California Association of Nurserymen-Citrus and Avocado Growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe nematode infestation, medium to heavy clay soils, or a prohibition of on the use of 1,3-dichloropropene products due to reaching local township limits on the use of this alternative.
Orchard Replant	(a) California stone fruit growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Replanted (non- virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached.
	(b) California table and raisin grape growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached.
	(c) California walnut growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached.
	(d) California almond growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached.
Ornamentals	(a) Yoder Brothers Inc. in Florida	For use in all chrysanthemum production.
	(b) California rose nurseries	With a reasonable expectation that the user may be prohibited from using 1,3-dichloropropene products because local township limits for this alternative have been reached.

TABLE 3.—APPROVED CRITICAL USES—Continued

Column A—approved critical uses	Column B—approved critical user and location of use	Column C—limiting critical conditions
Peppers	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe disease infestation, or moderate to severe yellow or purple nutsedge infestation, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached.
	(b) Alabama, Arkansas, Georgia, North Carolina, South Carolina, Tennessee and Virginia growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less.
	(c) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or karst topography.
Strawberry Nurseries	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe black root rot or crown rot, or moderate to severe yellow or purple nutsedge infestation.
	(b) North Carolina and Tennessee growers	With a reasonable expectation that the use will occur in the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less.
Strawberry Fruit	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe black root rot or crown rot, moderate to severe yellow or purple nutsedge infestation, a prohibition of the use of 1,3-dichloropropene products because local township limits for this alternative have been reached, time to transition to an alternative.
	(b) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge, or karst topography.
	(c) Alabama, Arkansas, Georgia, North Carolina, South Carolina, Tennessee, Virginia, Ohio, and New Jersey growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge, or the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less.
Sweet Potatoes	California growers	With a reasonable expectation that the user may be prohibited from using 1,3-dichloropropene products because local township limits for this alternative have been reached.
Tomatoes	(a) Michigan growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe disease infestation, fungal pathogens infestation.
	(b) Alabama, Arkansas, Georgia, North Carolina, South Carolina, Tennessee and Virginia growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less.
	(c) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or karst topography.

TABLE 3.—APPROVED CRITICAL USES—Continued

Column A—approved critical uses	Column B—approved critical user and location of use	Column C—limiting critical conditions
Turfgrass	(a) U.S. turfgrass sod nursery producers who are members of Turfgrass Producers International (TPI).	For the production of industry certified pure sod.
	(b) U.S. golf courses	For establishing sod in the construction of new golf courses or the renovation of putting greens, tees, and fairways.
POST-HARVEST USES		
Food Processing	(a) Rice millers in all locations in the U.S. who are members of the USA Rice Millers Association..	With a reasonable expectation that one or more of the following limiting critical conditions exists: older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
	(b) Pet food manufacturing facilities in the U.S. who are active members of the Pet Food Institute. (For today's rule, ''pet food'' refers to domestic dog and cat food).	With a reasonable expectation that one or more of the following limiting critical conditions exists: older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
	(c) Kraft Foods in the U.S.	With a reasonable expectation that one or more of the following limiting critical conditions exists: older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
	(d) Members of the North American Millers' Association in the U.S.	With a reasonable expectation that one or more of the following limiting critical conditions already exists or could occur without methyl bromide fumigation: older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
Commodity Storage	(a) Gwaltney of Smithfield in the U.S	For smokehouse ham curing facilities owned by the company.
	(b) California entities storing walnuts, beans, dried plums, figs, raisins, and pistachios in California.	With a reasonable expectation that one or more of the following limiting critical conditions exists: rapid fumigation is required to meet a critical market window, such as during the holiday season, rapid fumigation is required when a buyer provides short (2 days or less) notification for a purchase, or there is a short period after harvest in which to fumigate and there is limited silo availability for using alternatives.

The approved critical uses and limiting critical conditions listed in the above table have been modified from the original proposal to reflect comments provided to EPA. EPA received clarifying comments from four commenters that EPA mischaracterized the scope of their application or misidentified some limiting critical conditions. For example, one commenter indicated to EPA that their application only covered dog and cat pet food facilities whereas EPA inadvertently listed all pet food facilities as part of the consortium.

The most significant change to this section involves the limiting critical conditions (LCC). EPA received four comments with concerns about the LCCs and two in favor of the LCCs. The concerns raised in the comments is that these conditions are difficult to understand and identify. For example, one commenter asked how many nutsedges over what area constitute ''moderate to severe'' infestation. The same commenter also indicated that at the time of fumigation, nutsedges would not be visible. EPA recognizes that a user may not be able to certify that certain limiting critical conditions will definitely occur. For example, a grower may not know with one hundred percent certainty that moderate to severe nutsedge infestation would occur in a given field in the absence of methyl bromide fumigation. However, the grower should be able to form a reasonable expectation in this regard, based on past experience and the information included in the application. EPA has modified the definition of approved critical user to reflect the ''reasonable expectation'' standard. Therefore, if a reasonable person expects that he would have high levels of nutsedge, perhaps because of a problem in a neighboring field or the field in question had problems the previous year, that would be a sufficient basis to meet the LCC. This renders it unnecessary for the grower to wait for a nutsedge problem to develop during the growing season when it is no longer possible to remedy the problem.

EPA received two sets of comments requesting specific modifications to the LCCs. Based on those comments, EPA is making the following changes in today's rule: (a) Eliminating the LCC of ''moderate to severe nematode pressure'' in all uses except Michigan tomatoes because the commenter correctly states that there are effective alternatives to control this condition when it occurs alone; (b) eliminating ''moderate to

severe pathogens'' in all uses except Michigan tomatoes because there are effective alternatives to control this condition when it occurs alone and; (c) modifying the buffer zone LCC to reflect recent label changes that reduce the buffer to 100 feet from an occupied structure. The last LCC would apply, as the commenter pointed out, only in situations where methyl bromide has a less restrictive buffer zone. EPA is eliminating the first two LCCs on nematode and pathogen infestation because there are effective alternatives to control these pests when they happen to be the only key pest. EPA had incorrectly characterized these conditions as stand alone circumstances that would allow for the use of methyl bromide in the proposal although the nomination describes these situations as requiring methyl bromide when in conjunction with another circumstance. EPA did not eliminate the first two LCC for Michigan tomatoes because severe neamatode or pathogen pressures alone make the alternatives not feasible. This is because Michigan is a cold climate and the alternatives which would otherwise be effective can not properly diffuse in the cool soils.

2. New Market Entrants

EPA received two favorable comments on the proposed method for regulating access to critical use methyl bromide by new market entrants. For example, a new market entrant may be a new farmer, a farmer who is expanding production of a crop that is an approved critical use or, a farmer that is moving production from one location to a new location that has the limiting critical condition. EPA is finalizing a framework in today's rule that allows a new market entrant who is a member of a consortium that applied for an exemption to be an approved critical user so long as the use is for a use listed in column A and a location listed in column B of Appendix L to 40 CFR 82. Therefore, an approved critical user includes those users who are members of a consortium that applied for an exemption, even if the user was not a member of the consortium at the time the application was filed. As described in the proposal, EPA will not increase the amount of methyl bromide exempted to accommodate new market entrants without first seeking authorization from the Parties through the nomination and then engaging in a notice and comment rulemaking process. Therefore any increase in demand for methyl bromide due to new market entrants must be met under the cap set forth in today's rule.

For example, the Southern Forest Nursery Management Cooperative consists of a certain number of forest seedling nursery operators. The Cooperative made an application to EPA for an exemption solely on behalf of their membership. If a company that is a member of the Cooperative otherwise meets the definition of approved critical user, the company can access critical use methyl bromide even if it did not join the Cooperative until 2004.

The Agency wishes to accommodate the ever shifting marketplace to allow growers to increase or move production as needed provided that critical use methyl bromide only goes to those uses and locations listed in Appendix L of 40 CFR part 82.

EPA received three comments against EPA's definition because it allows for users to join a consortium in 2005 and use methyl bromide that should be reserved only for those who were part of the consortium at the time of application in the opinion of the commenters. One commenter provided an alternative approach that would have EPA disallow all new market entrants for the first year they enter the market. EPA considered this approach but EPA does not have information on every company that is part of a given consortium. Therefore, it would be difficult if not impossible for EPA to ''pre-qualify'' some companies as critical uses and disqualify others. Instead, EPA is finalizing an approach that leaves it up to each consortium to define their membership at the time of application for an exemption as broadly or narrowly as they choose.

J. Reporting and Recordkeeping Requirements

1. Reporting

With today's action, producers and importers are required to report the number of expended and unexpended pre-plant CUAs and post-harvest CUAs on a quarterly basis to EPA. On an annual basis, producers, importers, distributers, and third-party applicators are required to report to EPA the following information: the number of expended and unexpended CSAs; a list of the total amount of pre-plant methyl bromide bought and the amount sold to approved critical users for each sector; a list of the total amount of post-harvest methyl bromide bought and the amount sold to approved critical users for each sector; the amount of critical use methyl bromide that has not been sold to an approved critical user as of the end of the control period that the reporting entity owns; the amount of critical use methyl bromide that has not been sold to an approved critical user that reporting entity is holding on behalf of another entity along with the name of the entity who owns the material.

This information is required so that EPA can track compliance with the critical use allowance and critical stock allowance caps, determine how much methyl bromide is used on a sector (crop or use) basis, and determine how much critical use methyl bromide remains unused at the end of the compliance period. The information collected for this exemption is authorized under Sections 603(b), 603(d) and 614(b) of the CAAA of 1990. EPA believes these reporting requirements are necessary to meet U.S. reporting obligations under Article 7 of the Protocol, CAA reporting requirements to Congress under Section 603(d), and implementation of the exemption from one control period to the next.

The reporting framework that EPA is implementing with today's action is consistent with the information requirements described in the proposal and section 114 request for information on inventories (69 FR 52366 and 69 FR 52403). EPA did not receive any adverse comment on the information requirements although one entity indicated that EPA underestimated the time various compliance activities would take. EPA believes that today's recordkeeping and reporting requirements create the least burden while still ensuring compliance with Protocol requirements. See section VI.C of this preamble for EPA's response to those comments.

EPA also received comment that the Agency should use a real time database system to track the use of methyl bromide. A system similar to this is used in California to allow regulators to prohibit the use of 1,3-D products when the local township cap is close to its maximum allowable level. EPA is primarily concerned with understanding how much methyl bromide is used for each critical use sector on an annual basis. Therefore, a real time tracking system is not warranted. The reporting requirements described in today's action are sufficient to meet the information requirements under the Protocol and the CAAA of 1990 and to ensure that EPA can implement the exemption from one control period to the next. However, there is nothing in this rule to prohibit the private development of such a system and EPA understands that one such database company has had conversations with methyl bromide registrants about developing a database

similar to the one described in the proposal.

EPA received one comment that the Agency should develop a better understanding on use of methyl bromide and to facilitate that understanding, EPA should require direct reporting on methyl bromide use by all large users, defined as those who use more than 10,000 kgs of methyl bromide a year. While EPA understands that at some point during the exemption program it may be helpful to understand use trends for major individual users, the Agency does not believe that it will derive any additional benefit from requiring annual reporting of the data. In addition this would impose additional burden on users and potentially on producers, importers, and distributers. In the event that EPA does need this data at some point, the Agency could use section 114 of the CAA to require distributers and third-party applicators to provide individual user data to EPA based on the recordkeeping requirements laid out in today's rule.

2. Recordkeeping

Producers, importers, distributers, and third-party applicators are required to maintain self certification records for three years along with other transactional records such as invoices and order forms. EPA did not receive any adverse comments on the recordkeeping requirements described in the proposal and is implementing the recordkeeping requirements without modification.

3. Treatment of Unused Critical Use Methyl Bromide

EPA will use the information collected through the annual reporting requirement to determine how much unused critical use methyl bromide is available, or not already sold to an approved critical user, at the end of the calendar year. EPA proposed deducting the corresponding amount from the total number of critical use allowances the Agency would make available for the following control period. A number of commenters correctly indicated that EPA would not have the data on the amount of critical use methyl bromide unused at the end of the year until the March of the following year when the last report is due. EPA is only issuing allowances once a year and such allowance allocations are likely to take place well before EPA has the required data on unused methyl bromide. Therefore, with today's action, EPA is creating a system for deducting the amount of unused methyl bromide from the total number of allowances issued for the control period following the control period immediately after the control period when the methyl bromide was unused for critical uses. The 2007 CUAs will reflect any unused critical use methyl bromide from 2005 and so forth. For the year 2006, this will result in no reductions made; however all years after 2006 will experience a reduction should there be any unused critical use methyl bromide.

All pre-plant critical use methyl bromide from 2005 would remain pre-plant critical use methyl bromide in 2006 available for all 2006 pre-plant approved critical uses, subject to any adjustments that may be described in the 2006 or 2007 allocation notice and comment rulemaking.

EPA received comment that the Agency should account for the time lag between reporting and issuing of allowances for the following control period using an estimated approach. In other words, the Agency would estimate how much critical use methyl bromide would be unused and then deduct that amount from the number of allowances issued for the following year. EPA is requiring reporting of the required data once a year and so the Agency would have little basis for making realistic estimates of this nature. Although EPA could require more frequent data reports, EPA would still have to estimate year end data because of the large number of fumigations that occur late in the control period. EPA prefers to use actual data even if there is a time lag to ensure that those who need critical use methyl bromide have access to it and that future production can be adjusted to reflect the actual carryover.

K. Enforcement Provisions

Unauthorized production, import, or sale of critical use methyl bromide will incur a violation on a per kilogram basis identical to nearly all other aspects of the ozone protection program. Section 113 of the CAA governs enforcement activities for violations of requirements under Title VI. One commenter supported the size of violations EPA proposed for allowance holders. There were no dissenting comments on this point.

EPA proposed adjusting the maximum potential fine applied to end users of methyl bromide because users typically operate on a smaller scale and have less ability to pay than chemical companies. EPA proposed defining a violation for improper use of critical use methyl bromide as one violation for every 200 kilograms of misuse. EPA received several comments that the Agency should further lower the penalties to be identical to those applied under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the statute that usually governs use of fumigants. Today those penalties are $1,200 per violation, and a violation is the occurrence of misuse. EPA also received two comments supporting a maximum penalty of $25,000 per violation, and a violation is the occurrence of misuse and nine comments that end user penalties should be identical to those under FIFRA or should be handled exclusively under FIFRA authorities.

With today's rule, EPA is defining a violation with respect to improper use by a user as one violation for every 200 kilograms noting that EPA typically uses discretion in assessing penalties and takes into account such things as the size of the operation and ability to pay as well as the circumstances—such as whether the misuse was self-reported. Today's rule lowers the basis for calculating a maximum penalty and the Agency notes there is discretion to apply less than the maximum fine per each violation. Today's rule is providing assurances to the end users that they will not face the same level of fines as a chemical producer and codifies flexibility for the Agency to apply less than the maximum penalty for this type of violation. In assessing penalties, the Agency takes into consideration the size of the violator, the economic benefit or advantage achieved from the violation and the ability of the violator to pay a penalty. Thus, the concerns raised by commenters regarding the ability of methyl bromide users to pay the maximum allowable fine proposed by the Agency are addressed through the flexibility EPA provides to enforcement officers in assessing penalties.

Because it is a pesticide, methyl bromide is also regulated by EPA under FIFRA and under other statutes and regulatory authority and by states under their own statutes and regulatory authority. Nothing in today's rule is intended to derogate from provisions in any other Federal, State, or local laws or regulations governing actions including, but not limited to, the sale, distribution, transfer, and use of methyl bromide.

L. Exporting Provisions

We received two comments that noted the need for regulatory provisions that would permit U.S. producers of methyl bromide to manufacture material for other countries with critical uses authorized by the Parties. In today's action, the regulatory text includes provisions that permit methyl bromide production explicitly and solely to meet the needs of other countries that have been authorized critical use exemptions for the specific control period. The

producers will be required to report quarterly on quantities produced solely for export to meet orders placed by other countries with authorized critical needs. The proposal noted that the U.S. is the largest world manufacturer of methyl bromide and that U.S. manufacturers will likely produce to meet the needs of other non-Article 5(1) countries that have critical uses authorized by the Parties, such as Canada, Australia or Italy. In creating the regulatory provisions in today's rule to permit production beyond the phaseout explicitly for export to other countries with critical uses authorized by the Parties, we are also correcting an oversight that was discussed in the final rule published in the **Federal Register** on January 2, 2003, (68 FR 238) regarding production beyond the phaseout for quarantine and preshipment applications. In that prior final rule (68 FR 238) as well as in the proposal, we discuss that exempt production for quarantine and preshipment applications is above and beyond the reduction steps prior to the phaseout, and continues after the phaseout. The addition of provisions regarding the quarantine and preshipment exemption is to correct the absence of the intended exemption beyond the phaseout.

VI. What Are the Other Considerations and Situations on Which EPA Received Comments?

A. Distribution of Permits to Approved Critical Users

In today's rule, EPA is creating an exemption program that emphasizes direct regulation of the supply chain of methyl bromide through an allowance allocation system that distributes allowances to producers, importers, distributers, and third-party applicators of methyl bromide as described in section V of this preamble. EPA did receive two comments supporting a system that emphasizes direct regulation of the user community whereby EPA would issue critical use permits to end users of methyl bromide in order to direct critical use methyl bromide to the appropriate uses.

One commenter supported the user oriented approach because the administrative burden of such a system would act as a deterrent to the use of methyl bromide and would lead to greater efficiencies. As EPA described in the proposal, the critical use permit (CUP) system would impose additional costs and burden on industry compared to the proposed option. Although these costs could be a deterrent to the use of methyl bromide and thus achieve an environmental objective of reducing methyl bromide use, EPA is committed to a regulatory approach that relies on existing market mechanisms. Certain critical uses were agreed to and determined through an extensive domestic and international review based on the technical and economic feasibility of alternatives. EPA does not want to impose a regulatory framework with the goal of establishing high administrative costs to force growers who do not have any alternative available to them out of the market. Doing so would obviate the purpose of an exemption altogether.

EPA believes the timing of the domestic and international authorization process would not allow for the creation of a end user allocation scheme on a yearly basis. In addition the learning and transaction costs of changing the whole market structure in the face of the phaseout could adversely impact in U.S. agricultural sectors. For a more detailed description of the economic consideration of the user based system, please refer to the Regulatory Impact Assessment conducted for the proposed rulemaking available at EPA's e-docket number OAR–2003–0230.

EPA received two comments on using an auction to distribute permits to users of methyl bromide, one in favor and one opposed. The commenter in favor of the auction indicated that the revenues derived from an auction could be used to fund transition activities. The other commenter indicated that the auction approach would take a significant amount of time to develop and methyl bromide would be directed to the highest value uses disadvantaging other important uses of methyl bromide. This commenter disputes EPA's assertion that an auction would serve to redistribute windfall profits. EPA did not propose and is not finalizing this option due to the lack of clear statutory guidance on some of the details of this approach, the time it would take to develop this program, and the relatively small size of the market compared to the burden associated with this approach.

B. Comments on the Burden Associated With This Regulatory System

EPA received one comment on the estimated burden hours associated with this regulatory system. One commenter indicated that EPA grossly underestimated the time required for data compilation and reporting and suggested that it is at least two times greater than what EPA estimated in the Paperwork Reduction Analysis. This commenter did not provide additional comment to explain specifically how or why the EPA estimate was incorrect nor did they indicate which particular activities should be adjusted. Therefore, EPA has not adjusted the estimated burden hours.

VII. Statutory and Executive Order Reviews

A. Executive Order No. 12866: Regulatory Planning and Review

Under Executive Order No. 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

OMB has notified EPA that it considers this a ''significant regulatory action'' under Executive Order No. 12866 and EPA has submitted it to OMB for review. We will document changes made in response to OMB suggestions or recommendations in the public record.

EPA conducted an economic impact analysis that attempts to assess the likely effect of allowing critical use exemptions on the regulated entities using three illustrative alternatives. The estimated cost savings are approximately $19 million to $31 million on an annual basis. The two factors that affect these estimates are the size of the cap and how freely critical use methyl bromide is allocated. Since the assumed cap in the analysis is 39% of the 1991 baseline consumption, and the allocation system chosen for the final rule is not a full universal cap system, the likely cost savings that should result from this rule is lower than the estimates presented in the analysis.

B. Paperwork Reduction Act

The information collection requirements in this rule will be

submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* The information collection requirements are not enforceable until OMB approves them.

The information collection under this rule is authorized under Sections 603(b), 603(d) and 614(b) of the CAAA of 1990.

The mandatory reporting requirements included in this rule are intended to:

(1) Satisfy U.S. obligations under the international treaty, *The Montreal Protocol on Substances that Deplete the Ozone Layer* (Protocol), to report data under Article 7;

(2) Fulfill statutory obligations under Section 603(b) of the CAAA of 1990 for reporting and monitoring;

(3) Provide information to report to Congress on the production, use and consumption of class I controlled substances as statutorily required in Section 603(d) of the CAAA of 1990.

Information will be collected through quarterly reporting by producers and importers and annual reporting by distributors and third party applicators of methyl bromide. EPA estimates the total burden associated with today's action to be 1,505 hours annually. EPA does not estimate any start-up or capital costs associated with today's action.

Collection activity	No. of respondents	Total No. of responses	Hours per response	Total hours
Rule Familiarization	54	54	4	216
Report Inventory Data (one time)	54	54	2.5	135
Data Compilation (quarterly basis)	4	16	4	64
Data Compilation (annual basis)	50	50	8	400
Data Reporting (quarterly basis)	4	16	.5	8
Data Reporting (annual basis)	50	50	.5	25
Reporting on Allowance Trading Activities	4	16	.5	8
Self Certification Activities by Producers, Importers, and Distributors	54	100	.25	25
Self Certification Activities by End Users	2,000	2,500	.25	625
Total Burden Hours			18	1,505

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.

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 in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that is identified by the North American Industry Classification System (NAICS) Code in the Table below; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

Category	NAICS code	SIC code	NAICS Small business size standard (in number of employees or millions of dollars)
Agricultural production	1112—Vegetable and Melon farming; 1113—Fruit and Nut Tree farming; 1114—Greenhouse, Nursery, and Floriculture production.	0171—Berry Crops; 0172—Grapes; 0173—Tree Nuts; 0175—Deciduous Tree Fruits (except apple orchards and farms); 0179—Fruit and Tree Nuts, NEC; 0181—Ornamental Floriculture and Nursery products; 0831—Forest Nurseries and Gathering of Forest products.	$0.75 million.
Storage Uses	115114—Postharvest Crop activities (except Cotton Ginning); 311211—Flour Milling; 311212—Rice Milling.	2041—Flour and Other Grain; Mill Products; 2044—Rice Milling.	$6 million.
	493110—General Warehousing and Storage; 493130—Farm Product Warehousing and Storage.	4221—Farm Product Warehousing and Storage; 4225—General Warehousing and Storage.	$21.5 million.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

Since this rule will make methyl bromide available for approved critical uses after the phaseout date of January 1, 2005, this is a de-regulatory action which will confer a benefit to users of methyl bromide. EPA believes the estimated de-regulatory value for users of methyl bromide is between $20 million to $30 million annually. We have therefore concluded that today's final rule will relieve regulatory burden for all small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's rule creates a recordkeeping and reporting burden on the private sector that is estimated to be under $200,000 on an annual basis. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. Further, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments because it does not create any requirements on any State, local, or tribal government.

E. Executive Order No. 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), 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 does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Today's rule is expected to primarily affect producers, suppliers, importers and exporters and users of methyl bromide. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order No. 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order No. 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order No. 13175. Today's final rule does not significantly or uniquely affect the communities of Indian tribal governments. The final rule does not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order No. 13175 does not apply to this final rule.

G. Executive Order No. 13045: Protection of Children From Environmental Health & Safety Risks

Executive Order No. 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under Section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order No. 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a ''significant energy action'' as defined in Executive Order No. 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse

effect on the supply, distribution, or use of energy. This rule does not pertain to any segment of the energy production economy nor does it regulate any manner of energy use. Therefore, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer Advancement Act

As noted in the proposed rule, 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) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involved technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on January 1, 2005.

List of Subjects in 40 CFR Part 82

Environmental protection, Chemicals, Exports, Imports, Methyl bromide, Ozone, Production, Reporting and recordkeeping requirements, Treaties.

Dated: December 15, 2004.

Michael O. Leavitt,

Administrator.

■ For the reasons stated in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Subpart A—Production and Consumption Controls

■ 2. Section 82.3 is amended as follows:
■ a. By adding definitions in alphabetical order for the terms, ''Approved critical use(s),'' ''Approved critical user(s),'' ''Consortium,'' ''Critical stock allowance (CSA),'' ''Critical stock allowance (CSA) holder,'' ''Critical use,'' ''Critical use allowance (CUA),'' ''Critical use allowance (CUA) for pre-plant use,'' ''Critical use allowance (CUA) for post-harvest use,'' ''Critical use allowance (CUA) holder,'' ''Critical use methyl bromide,'' ''Limiting critical condition,'' ''Location of use,'' ''Third party applicator,'' ''Unexpended critical stock allowance (CUA),'' and ''Unexpended critical use allowances (CUA);''
■ b. By revising definition of ''Confer.''

§ 82.3 Definitions for class I and class II controlled substances.

* * * * *

Approved critical use(s) means those uses of methyl bromide listed in Column A of appendix L to this subpart as further clarified in Columns B and C of that appendix.

Approved critical user(s) means a person who:

(1) For the applicable control period, applied to EPA for a critical use exemption or is a member of a consortium that applied to EPA for a critical use exemption for a use and location of use that was included in the U.S. nomination, authorized by a Decision of the Parties to the Montreal Protocol, and then finally determined by EPA in a notice-and-comment rulemaking to be an approved critical use; and

(2) Has an area in the applicable location of use that requires methyl bromide fumigation because the person reasonably expects that the area will be subject to a limiting critical condition during the applicable control period.

* * * * *

Confer means to shift the essential-use allowances obtained under § 82.8 from the holder of the unexpended essential-use allowances to a person for the production of a specified controlled substance, or to shift the HCFC–141b exemption allowances granted under § 82.16(h) from the holder of the unexpended HCFC–141b exemption allowances to a person for the production or import of the controlled substance.

Consortium means an organization representing a group of methyl bromide users that has collectively submitted an application for a critical use exemption on behalf of all members of the group. The members of a consortium shall be determined on the basis of the rules established by the organization. Members may either be required to formally join the consortium (*e.g.*, by submitting an application or paying dues) or may automatically become members upon meeting particular criteria (*e.g.*, a grower of a specific crop in a particular region).

* * * * *

Critical stock allowance (CSA) means the right granted by this subpart to sell one (1) kilogram of class I, Group VI controlled substances from inventory produced or imported prior to the January 1, 2005 phaseout date for an approved critical use during the specified control period to the extent permitted by federal and state pesticide statutes and regulations other than the Clean Air Act and regulations in this part. A person's critical stock allowances are the total of the allowances obtained under § 82.8(c) as may be modified under § 82.12 (transfer of allowances).

Critical stock allowance (CSA) holder means an entity to which EPA allocates a quantity of critical stock allowances as reflected under § 82.8(c), or who receives a quantity of critical stock allowances through a transfer under § 82.12.

Critical use means a circumstance in which the following two conditions are satisfied:

(1) There are no technically and economically feasible alternatives or substitutes for methyl bromide available that are acceptable from the standpoint of environment and health and are suitable to the crops and circumstances involved, and

(2) The lack of availability of methyl bromide for a particular use would result in significant market disruption.

Critical use allowance (CUA) means the privilege granted by this subpart to produce or import one (1) kilogram of methyl bromide for an approved critical use during the specified control period. A person's critical use allowances are the total of the allowances obtained

under § 82.8(c) as may be modified under § 82.12 (transfer of allowances).

Critical use allowance for pre-plant uses means the privilege granted by this subpart to produce or import one (1) kilogram of methyl bromide solely for an approved critical use in pre-plant categories specified in Appendix L to this subpart during the specified control period. A person's critical use allowances for pre-plant uses are the total of the allowances obtained under § 82.8(c) as may be modified under § 82.12 (transfer of allowances).

Critical use allowance for post-harvest uses means the privilege granted by this subpart to produce or import one (1) kilogram of methyl bromide solely for an approved critical use in post-harvest categories specified in appendix L to this subpart during the specified control period. A person's critical use allowances for post-harvest uses are the total of the allowances obtained under § 82.8(c) as may be modified under § 82.12 (transfer of allowances).

Critical use allowance (CUA) holder means an entity to which EPA allocates a quantity of critical use allowances as reflected in § 82.8(c) or who receives a quantity of critical use allowances through a transfer under § 82.12.

Critical use methyl bromide means the class I, Group VI controlled substance produced or imported through expending a critical use allowance or that portion of inventory produced or imported prior to the January 1, 2005 phaseout date that is sold only for approved critical uses through expending a critical stock allowance.

* * * * *

Limiting critical condition means the regulatory, technical, and economic circumstances listed in Column C of Appendix L to this subpart that establish conditions of critical use for methyl bromide in a fumigation area.

Location of use means the geographic area (such as a state, region, or the entire United States) covered by an application for a critical use exemption in which the limiting critical condition may occur.

* * * * *

Third party applicator means an applicator of critical use methyl bromide who fumigates or treats commodities, structures, crops, or land on behalf of an approved critical user.

* * * * *

Unexpended critical stock allowance (CSA) means critical stock allowances against which methyl bromide has not yet been sold for an approved critical use.

Unexpended critical use allowances (CUA) means critical use allowances against which methyl bromide has not yet been produced or imported. At any time in any control period a person's unexpended critical use allowances are the total of the level of critical use allowances the person holds at that time for that control period, minus the level of class I, Group VI controlled substances that the person has produced or has imported solely for approved critical uses in that control period.

* * * * *

■ 3. Section 82.4 is amended by revising paragraphs (b), (d) and (n), and by adding paragraph (p) as follows:

§ 82.4 Prohibitions for class I controlled substances.

* * * * *

(b) (1) Effective January 1, 1996, for any class I, Group I, Group II, Group III, Group IV, Group V, or Group VII controlled substances, and effective January 1, 2005, for any class I, Group VI controlled substance, and effective August 18, 2003, for any class I, Group VIII controlled substance, no person may produce, at any time in any control period, (except that are transformed or destroyed domestically or by a person of another Party) in excess of the amount of conferred unexpended essential use allowances or exemptions, or in excess of the amount of unexpended critical use allowances, or in excess of the amount of unexpended Article 5 allowances as allocated under § 82.9 as may be modified under § 82.12 (transfer of allowances), for that substance held by that person under the authority of this subpart at that time for that control period. Every kilogram of excess production constitutes a separate violation of this subpart.

(2) Effective January 1, 2005, production of class I, Group VI controlled substances is not subject to the prohibitions in paragraph (b)(1) of this section if it is solely for quarantine or preshipment applications as defined in this subpart, or it is solely for export to satisfy critical uses authorized by the Parties for that control period.

* * * * *

(d) Effective January 1, 1996, for any class I, Group I, Group II, Group III, Group IV, Group V, or Group VII controlled substances, and effective January 1, 2005, for any class I, Group VI controlled substance, and effective August 18, 2003, for any class I, Group VIII controlled substance, no person may import (except for transhipments or heels), at any time in any control period, (except for controlled substances that are transformed or destroyed) in excess of the amount of unexpended essential use allowances or exemptions, or in excess of unexpended critical use allowances, for that substance held by that person under the authority of this subpart at that time for that control period. Every kilogram of excess importation (other than transhipments or heels) constitutes a separate violation of this subpart. It is a violation of this subpart to obtain unused class I controlled substances under the general laboratory exemption in excess of actual need and to recycle that material for sale into other markets.

* * * * *

(n) No person may use class I controlled substances produced or imported under the essential use exemption for any purpose other than those set forth in this paragraph. Effective January 1, 1996, essential-use allowances are apportioned to a person under § 82.8(a) and (b) for the exempted production or importation of specified class I controlled substances solely for the purposes listed in paragraphs (n)(1)(i) through (iii) of this section.

(1) Essential-uses for the production or importation of controlled substances as agreed to by the Parties to the Protocol and subject to the periodic revision of the Parties are:

(i) Metered dose inhalers (MDIs) for the treatment of asthma and chronic obstructive pulmonary disease that were approved by the Food and Drug Administration before December 31, 2000.

(ii) Space Shuttle—solvents.

(iii) Essential laboratory and analytical uses (defined in Appendix G of this subpart).

(2) Any person acquiring unused class I controlled substances produced or imported under the authority of essential-use allowances or the essential-use exemption granted in § 82.8 to this subpart for use in anything other than an essential-use (*i.e.*, for uses other than those specifically listed in paragraph (n)(1) of this section) is in violation of this subpart. Each kilogram of unused class I controlled substance produced or imported under the authority of essential-use allowances or the essential-use exemption and used for a non-essential use is a separate violation of this subpart. Any person selling unused class I controlled substances produced or imported under authority of essential-use allowances or the essential-use exemption for uses other than an essential-use is in violation of this subpart. Each kilogram of unused class I controlled substances produced or imported under authority of essential-use allowances or the essential-use exemption and sold for a use other than an essential-use is a

separate violation of this subpart. It is a violation of this subpart to obtain unused class I controlled substances under the exemption for laboratory and analytical uses in excess of actual need and to recycle that material for sale into other markets.

* * * * *

(p) Critical Use Exemption: With respect to class I, Group VI substances (methyl bromide):

(1) For critical use allowance holders and critical stock allowance holders:

(i) No person shall sell critical use methyl bromide without first receiving a certification from the purchaser that the quantity purchased will be sold or used solely for an approved critical use. Every kilogram of critical use methyl bromide sold without first obtaining such certification constitutes a separate violation of this subpart.

(ii) No person shall sell a portion of inventory produced or imported prior to the January 1, 2005 phaseout date as critical use methyl bromide in excess of the number of unexpended critical stock allowances held by that person.

(iii) A person who sells methyl bromide produced or imported before the phaseout date of January 1, 2005 for a use identified by the user as a critical use must hold sufficient critical stock allowances (CSA) for the transaction and shall expend one allowance for each kilogram of methyl bromide sold. Every kilogram of critical use methyl bromide produced or imported before the phaseout date of January 1, 2005 that is sold without expending an allowance constitutes a separate violation of this subpart.

(2) For approved critical users, each action associated with each 200 kilograms of critical use methyl bromide for the following subparagraphs constitutes a separate violation of this subpart.

(i) No person shall take possession of quantities of critical use methyl bromide or acquire fumigation services using quantities of critical use methyl bromide without first completing the appropriate certification in accordance with the requirements in § 82.13.

(ii) No person who purchases critical use methyl bromide may use such quantities for a use other than the specified critical use listed in Column A and the specified location of use in Column B of Appendix L to this subpart.

(iii) No person who purchases critical use methyl bromide produced or imported with expended critical use allowances for pre-plant uses, may use such quantities for other than the pre-plant uses as specified in Column A and Column B of appendix L to this subpart.

(iv) No person who purchases critical use methyl bromide produced or imported with expended critical use allowances for post-harvest uses, may use such quantities for other than the post-harvest uses as specified in Column A and Column B of appendix L to this subpart.

(v) No person who uses critical use methyl bromide on a specific field or structure may concurrently or subsequently use non-critical use methyl bromide on the same field or structure for the same use (as defined in Column A and Column B of appendix L) in the same control period, excepting methyl bromide used under the quarantine and pre-shipment exemption.

(vi) No person who purchases critical use methyl bromide during the control period shall use that methyl bromide on a field or structure for which that person has used non-critical use methyl bromide for the same use (as defined in Columns A and B of appendix L) in the same control period, excepting methyl bromide used under the quarantine and pre-shipment exemption, unless, subsequent to that person's use of the non-critical use methyl bromide, that person becomes subject to a prohibition on the use of methyl bromide alternatives due to the reaching of a local township limit described in appendix L of this part.

* * * * *

■ 4. Section 82.8 is added to read as follows:

§ 82.8 Grant of essential use allowances and critical use allowances.

(a) Effective January 1, 1996, persons in the following list are allocated essential-use allowances or exemptions for quantities of a specific class I controlled substance for a specific essential-use (the Administrator reserves the right to revise the allocations based on future decisions of the Parties).

TABLE 1.—ESSENTIAL USE ALLOWANCES FOR CALENDAR YEAR 2004

Company	Chemical	Quantity (metric tons)
(1) Metered Dose Inhalers (for Oral Inhalation) for Treatment of Asthma and Chronic Obstructive Pulmonary Disease		
Armstrong Pharmaceuticals	CFC–11 or CFC–12 or CFC–114	390.60
Aventis Pharmaceutical Products	CFC–11 or CFC–12 or CFC–114	48.40
Boehringer Ingelheim Pharmaceuticals	CFC–11 or CFC–12 or CFC–114	500.20
PLIVA Inc.	CFC–11 or CFC–12 or CFC–114	136.00
Schering-Plough Corporation	CFC–11 or CFC–12 or CFC–114	918.00
3M Pharmaceuticals	CFC–11 or CFC–12 or CFC–114	84.71
(2) Cleaning, Bonding and Surface Activation Applications for the Space Shuttle Rockets and Titan Rockets		
National Aeronautics and Space Administration (NASA)/ Thiokol Rocket.	Methyl Chloroform	141.877

(b) A global exemption for class I controlled substances for essential laboratory and analytical uses shall be in effect through December 31, 2005 subject to the restrictions in Appendix G of this subpart, and subject to the record-keeping and reporting requirements at § 82.13(u) through (x). There is no amount specified for this exemption.

(c) Effective January 1, 2005, critical use allowances are apportioned as set forth in paragraph (c)(1) of this section for the exempted production and import of class I, Group VI controlled substances specifically for those approved critical uses listed in Appendix L to this subpart for the applicable control period. Every kilogram of production and import in excess of the total number and type of unexpended critical use allowances held for a particular type of use constitutes a separate violation of this subpart. Effective January 1, 2005,

critical stock allowances are issued as set forth in paragraph (c)(2) of this section for the sale of class I, Group VI controlled substances from inventory produced or imported before the January 1, 2005 phaseout date specifically for those approved critical uses listed in Appendix L to this subpart for the applicable control period.

(1) Allocated critical use allowances granted for specified control period.

Company	2005 Critical use allowances for pre-plant uses* (kilograms)	2005 Critical use allowances for post-harvest uses* (kilograms)
Albemarle Corp	1,791,950	122,151
Ameribrom, Inc	989,911	67,479
Great Lakes Chemical Corp	4,357,690	297,049
TriCal, Inc	30,679	2,091

*For production or import of class I, Group VI controlled substance exclusively for the Pre-Plant or Post-Harvest uses specified in appendix L to this subpart.

(2) Allocated critical stock allowances granted for specified control period. The following companies are allocated critical stock allowances for 2005 on pro-rata basis in relation to the stocks held by each.

Company
Albemarle
Ameribrom, Inc.
Bill Clark Pest Control, Inc.
Blair Soil Fumigation
Burnside Services, Inc.
Cardinal Professional Products
Carolina Eastern, Inc.
Degesch America, Inc.
Dodson Bros.
Great Lakes Chemical Corp.
Harvey Fertilizer & Gas
Helena Chemical Co.
Hendrix & Dail
Hy Yield Bromine
Industrial Fumigation Company
J.C. Ehrlich Co.
Pacific Ag
Pest Fog Sales Corp.
Pro Source One
Reddick Fumigants
Royster-Clark, Inc.
Southern State Cooperative, Inc.
Trical Inc.
Trident Agricultural Products
UAP Southeast (NC)
UAP Southeast (SC)
Univar
Vanguard Fumigation Co.
Western Fumigation
Total—1,283,214 kilograms.

■ 5. Section 82.12 is amended by revising paragraph (a)(1) introductory text, (a)(1)(i)(H), (a)(1)(ii) introductory text, and (a)(1)(iii) and by adding paragraph (e) to read as follows:

§ 82.12 Transfers of allowances for class I controlled substances.

(a) *Inter-company transfers.* (1) Until January 1, 1996, for all class I controlled substances, except for Group VI, and until January 1, 2005, for Group VI, any person (''transferor'') may transfer to any other person (''transferee'') any amount of the transferor's consumption allowances or production allowances, and effective January 1, 1995, for all class I controlled substances any person (''transferor'') may transfer to any other person (''transferee'') any amount of the transferor's Article 5 allowances. After January 1, 2002, any essential-use allowance holder (including those persons that hold essential-use allowances issued by a Party other than the United States) (''transferor'') may transfer essential-use allowances for CFCs to a metered dose inhaler company solely for the manufacture of essential MDIs. After January 1, 2005, any critical use allowance holder (''transferor'') may transfer critical use allowances to any other person (''transferee''). After January 1, 2005, any critical stock allowance holder (''transferor'') may transfer critical stock allowances to any critical stock allowance holder or any methyl bromide producer, importer, distributer or third party applicator (''transferee'').

(i) * * *

(H) The one percent offset applied to the unweighted amount traded will be deducted from the transferor's production or consumption allowance balance (except for trades from transformers and destroyers to producers or importers for the purpose of allowance reimbursement). In the case of transferring essential use allowances, the amount of one tenth of one percent of the amount traded will be deducted from the transferor's allowance balance. In the case of transferring critical use allowances, the amount of one tenth of one percent of the amount traded will be deducted from the transferor's critical use allowance balance.

* * * * *

(ii) The Administrator will determine whether the records maintained by EPA, taking into account any previous transfers and any production, allowable imports and exports of controlled substances reported by the transferor, indicate that the transferor possesses, as of the date the transfer claim is processed, unexpended allowances sufficient to cover the transfer claim (*i.e.,* the amount to be transferred plus, in the case of transferors of essential use allowances and critical use allowances, one tenth of one percent of the transferred amount). Within three working days of receiving a complete transfer claim, the Administrator will take action to notify the transferor and transferee as follows:

* * * * *

(iii) In the event that the Administrator does not respond to a transfer claim within the three working days specified in paragraph (a)(1)(ii) of this section the transferor and transferee may proceed with the transfer. EPA will reduce the transferor's balance of unexpended allowances by the amount to be transferred plus, in the case of transfers of production or consumption allowances, one percent of that amount, and in the case of essential use allowances and critical use allowances, one tenth of one percent of that amount. However if EPA ultimately finds that the transferor did not have sufficient unexpended allowances to cover the claim, the transferor and transferee will be held liable for any violations of the regulations of this subpart that occur as a result of, or in conjunction with, the improper transfer.

* * * * *

(e) Exchange of Critical Use Allowances for Critical Stock Allowances. (1) Critical use allowance holders may petition the Administrator to exchange a quantity of their unexpended critical use allowances for an equivalent amount of critical stock allowances. A person allocated critical stock allowances may not petition to exchange unexpended critical stock allowances for critical use allowances.

(2) [Reserved]

■ 6. Section 82.13 is amended as follows:
■ a. Revising paragraph (a).
■ b. Adding paragraphs (f)(2)(xx) through (f)(2)(xxii).
■ c. Revising paragraph (f)(3)(iv).
■ d. Adding paragraphs (f)(3)(xvi), and (f)(3)(xvii).
■ e. Adding paragraphs (g)(1)(xx) and (xxi).
■ f. Revising paragraph (g)(4)(vii).
■ h. Adding paragraphs (g)(4)(xviii) and (bb) through (dd).

§ 82.13 Recordkeeping and reporting requirements for class I controlled substances.

(a) Unless otherwise specified, the recordkeeping and reporting requirements set forth in this section take effect on January 1, 1995. For class I, Group VIII controlled substances, the recordkeeping and reporting requirements set forth in this section take effect on August 18, 2003. For class I, Group VI critical use methyl bromide, the recordkeeping and reporting requirements set forth in this section take effect January 1, 2005.

* * * * *

(f) * * *

(2) * * *

(xx) For class I, Group VI controlled substances, dated records such as invoices and order forms, and a log of the quantity of controlled substances produced for critical use, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use, and the quantity sold for critical use, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use;

(xxi) Written certifications that quantities of class I, Group VI controlled substances produced for critical use were purchased by distributors, applicators, or approved critical users to be used or sold only for critical use in accordance with the definitions and prohibitions in this subpart. Certifications must be maintained by the producer for a minimum of three years and;

(xxii) For class I, Group VI controlled substances, dated records such as invoices and order forms, and a log of the quantity of controlled substances produced solely for export to satisfy critical uses authorized by the Parties for that control period, and the quantity sold solely for export to satisfy critical uses authorized by the Parties for that control period.

(3) * * *

(iv) The producer's total of expended and unexpended production allowances, consumption allowances, Article 5 allowances, critical use allowances (pre-plant), critical use allowances (post-harvest), critical stock allowances, and amount of essential-use allowances and destruction and transformation credits conferred at the end of that quarter;

* * * * *

(xvi) For critical uses of class I, Group VI controlled substances, producers shall report annually the amount of critical use methyl bromide owned by the reporting entity, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use, as well as quantities held by the reporting entity on behalf of another entity, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use along with the name of the entity on whose behalf the material is held; and

(xvii) A list of the quantities of class I, Group VI controlled substances produced by the producer and exported by the producer and/or by other U.S. companies in that control period, solely to satisfy the critical uses authorized by the Parties for that control period.

(g) * * *

(1) * * *

(xx) For class I, Group VI controlled substances, dated records such as invoices and order forms, of the quantity of controlled substances imported for critical use, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use, and the quantity sold for critical use, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use, and;

(xxi) Written certifications that quantities of class I, Group VI controlled substances imported for critical use were purchased by distributors, applicators, or approved critical users to be used or sold only for critical use in accordance with the definitions and prohibitions in this subpart. Certifications must be maintained by an importer for a minimum of three years.

(4) * * *

(vii) The importer's total sum of expended and unexpended consumption allowances by chemical as of the end of that quarter and the total sum of expended and unexpended critical use allowances (pre-plant) and unexpended critical use allowances (post-harvest) and critical stock allowances;

* * * * *

(xviii) For critical uses of class I, Group VI controlled substances, importers shall report annually the amount of critical use methyl bromide owned by the reporting entity, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use, as well as quantities held by the reporting entity on behalf of another entity, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use along with the name of the entity on whose behalf the material is held.

* * * * *

(bb) Every distributor of methyl bromide (class I, Group VI controlled substances) who purchases or receives a quantity of critical use methyl bromide must comply with recordkeeping and reporting requirements specified in this paragraph (bb).

(1) Recordkeeping—Every distributor of critical use methyl bromide must certify to the producer or importer or other entity from which they are acquiring quantities of critical use methyl bromide that such quantities received will be sold or used only for approved critical use(s) in accordance with the definitions and prohibitions in this subpart.

(i) Every distributor of a quantity of critical use methyl bromide must receive from an applicator, or any other entity to whom they sell critical use methyl bromide, a certification of the quantity of critical use methyl bromide ordered, prior to delivery of the quantity, stating that the quantity will be sold or used only for approved critical uses in accordance with definitions and prohibitions in this subpart.

(ii) Every distributor of methyl bromide who receives a certification from an applicator or any other entity to which they sell critical use methyl bromide must maintain the certifications as records for 3 years.

(iii) Every distributor of a quantity of critical use methyl bromide must maintain invoice and order records related to the sale of such material for 3 years.

(2) Reporting—Every distributor of critical use methyl bromide must report to the Administrator annually, the following items:

(i) For critical uses of class I, Group VI controlled substances, an annual list of the amount of critical use methyl bromide bought;

(ii) For critical uses of class I, Group VI controlled substances, an annual list of the amount of critical use methyl bromide sold for each specified critical use in Appendix L of this subpart;

(iii) For critical uses of class I, Group VI controlled substances, report the amount of critical use methyl bromide owned by the reporting entity, specifying quantities dedicated for pre-

plant use and quantities dedicated for post-harvest use, as well as quantities held by the reporting entity on behalf of another entity, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use, along with the name of the entity on whose behalf the material is held;

(iv) The number of unexpended critical stock allowances.

(cc) Every third party applicator of methyl bromide (class I, Group VI controlled substances) that purchases or receives critical use methyl bromide must comply with recordkeeping and reporting requirements specified in this paragraph (cc).

(1) Recordkeeping—Every third party applicator of critical use methyl bromide must certify to the producer or importer or other entity from which they are acquiring quantities of critical use methyl bromide that such quantities received will be sold or used only for approved critical use(s) in accordance with the definitions and prohibitions in this subpart.

(i) Every third party applicator of a quantity of critical use methyl bromide must receive from any entity to whom they sell critical use methyl bromide, a certification of the quantity of critical use methyl bromide ordered, prior to delivery of the quantity, stating that the quantity will be sold or used only for approved critical uses in accordance with definitions and prohibitions in this subpart.

(ii) Every third party applicator of methyl bromide who receives a certification from an entity to which they sell critical use methyl bromide must maintain the certifications as records for 3 years.

(iii) Every third party applicator of a quantity of critical use methyl bromide must maintain invoice and order records related to the sale of such material for 3 years.

(2) Reporting—Every third party applicator of critical use methyl bromide must report to the Administrator annually, the following items:

(i) For critical uses of class I, Group VI controlled substances, an annual list of the amount of critical use methyl bromide bought;

(ii) For critical uses of class I, Group VI controlled substances, an annual list of the amount of critical use methyl bromide sold for each specified critical use in Appendix L of this subpart;

(iii) For critical uses of class I, Group VI controlled substances, report annually the amount of critical use methyl bromide owned by the reporting entity, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use, as well as quantities held by the reporting entity on behalf of another entity, specifying quantities dedicated for pre-plant use and quantities dedicated for post-harvest use, along with the name of the entity on whose behalf the material is held;

(iv) The number of unexpended critical stock allowances.

(dd) Every approved critical user purchasing an amount of critical use methyl bromide or purchasing fumigation services with critical use methyl bromide must, for each request, identify the use as a critical use and certify being an approved critical user. The approved critical user certification will state, in part: ''I certify, under penalty of law, I am an approved critical user and I will use this quantity of methyl bromide for an approved critical use. My action conforms to the requirements associated with the critical use exemption published in 40 CFR part 82. I am aware that any agricultural commodity within a treatment chamber, facility, or field I fumigate with critical use methyl bromide can not subsequently or concurrently be fumigated with non-critical use methyl bromide during the same control period, excepting a QPS treatment or a treatment for a different use (*e.g.*, a different crop or commodity). I will not use this quantity of methyl bromide for a treatment chamber, facility, or field that I previously fumigated with non-critical use methyl bromide purchased during the same control period, excepting a QPS treatment or a treatment for a different use (*e.g.*, a different crop or commodity), unless a local township limit now prevents me from using methyl bromide alternatives.'' The certification will also indicate the type of critical use methyl bromide purchased, the location of the treatment, the crop or commodity treated, the quantity of critical use methyl bromide purchased, the acreage/square footage treated and will be signed and dated by the approved critical user.

■ 7. Add Appendix L to subpart A to read as follows:

Appendix L to Subpart A Of Part 82—Approved Critical Uses, and Limiting Critical Conditions for Those Uses for the 2005 Control Period

Column A—Approved critical uses	Column B—Approved critical user and location of use	Column C—Limiting critical conditions
	PRE-PLANT USES	
Cucurbits	(a) Michigan growers	With a reasonable expectation that moderate to severe fungal pathogen infestation already either exists or could occur without methyl bromide fumigation.
	(b) Alabama, Arkansas, Georgia, North Carolina, South Carolina, Tennessee, and Virginia growers.	With a reasonable expectation that moderate to severe yellow or purple nutsedge infestation already either exists or could occur without methyl bromide fumigation.
Eggplant	(a) Georgia growers	With a reasonable expectation that moderate to severe yellow or purple nutsedge infestation either already exist or could occur without methyl bromide fumigation.
	(b) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions either already exist or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or karst topography.
Forest Seedlings	(a) Members of the Southern Forest Nursery Management Cooperative limited to growing locations in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.	With a reasonable expectation that one or more of the following limiting critical conditions already either exist or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.

Column A—Approved critical uses	Column B—Approved critical user and location of use	Column C—Limiting critical conditions
	(b) International Paper and its subsidiaries limited to growing locations in Arkansas, Alabama, Georgia, South Carolina and, Texas.	With a reasonable expectation that one or more of the following limiting critical conditions already either exist or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
	(c) Weyerhaeuser Company and its subsidiaries limiting to growing locations in Alabama, Arkansas, North Carolina, South Carolina, Oregon, and Washington.	With a reasonable expectation that one or more of the following limited critical conditions already either exist or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
	(d) Public (government owned) seedling nurseries in the states of California, Idaho, Illinois, Indiana, Kansas, Kentucky, Maryland, Missouri, Nebraska, New Jersey, Ohio, Oregon, Pennsylvania, Utah, Washington, West Virginia and, Wisconsin.	With a reasonable expectation that one or more of the following limiting critical conditions already either exist or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
	(e) Members of the Nursery Technology Cooperative limited to growing locations in Oregon and Washington.	With a reasonable expectation that one or more of the following limiting critical conditions already either exist or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
	(f) Michigan seedling nurseries	With a reasonable expectation that one or more of the following limiting critical conditions already exist or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or moderate to severe disease infestation.
Ginger	Hawaii growers	With a reasonable expectation that the limiting critical condition already either exists or could occur without methyl bromide fumigation, or moderate to severe bacterial wilt infestation.
Orchard Nursery Seedlings	(a) Members of the Western Raspberry Nursery Consortium limited to growing locations in California and Washington (Driscoll's raspberries and their contract growers in California and Washington).	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe nematode infestation, medium to heavy clay soils, or a prohibition of on the use of 1,3-dichloropropene products due to reaching local township limits on the use of this alternative.
	(b) Members of the California Association of Nurserymen-Deciduous Fruit and Nut Tree Growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe nematode infestation, medium to heavy clay soils, or a prohibition of on the use of 1,3-dichloropropene products due to reaching local township limits on the use of this alternative.
	(c) Members of the California Association of Nurserymen-Citrus and Avocado Growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe nematode infestation, medium to heavy clay soils, or a prohibition of on the use of 1,3-dichloropropene products due to reaching local township limits on the use of this alternative.
Orchard Replant	(a) California stone fruit growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached.
	(b) California table and raisin grape growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3- dichloropropene products because local township limits for this alternative have been reached.

Column A—Approved critical uses	Column B—Approved critical user and location of use	Column C—Limiting critical conditions
	(c) California walnut growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached.
	(d) California almond growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Replanted (non-virgin) orchard soils to prevent orchard replant disease, or medium to heavy soils, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached.
Ornamentals	(a) Yoder Brothers Inc. in Florida	For use in all chrysanthemum production.
	(b) California rose nurseries	With a reasonable expectation that the user may be prohibited from using 1,3-dichloropropene products because local township limits for this alternative have been reached.
Peppers	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe disease infestation, or moderate to severe yellow or purple nutsedge infestation, or a prohibition on the use of 1,3-dichloropropene products because local township limits for this alternative have been reached.
	(b) Alabama, Arkansas, Georgia, North Carolina, South Carolina, Tennessee and Virginia growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less.
	(c) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or karst topography.
Strawberry Nurseries	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe black root rot or crown rote, or moderate to severe yellow or purple nutsedge infestation.
	(b) North Carolina and Tennessee growers	With a reasonable expectation that the use will occur in the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less.
Strawberry Fruit	(a) California growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe black root rot or crown rot, moderate to severe yellow or purple nutsedge infestation, a prohibition of the use of 1,3-dichloropropene products because local township limits for this alternative have been reached, time to transition to an alternative.
	(b) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge, or karst topography.
	(c) Alabama, Arkansas, Georgia, North Carolina, South Carolina, Tennessee, Virginia, Ohio and, New Jersey growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge, or the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less.

Column A—Approved critical uses	Column B—Approved critical user and location of use	Column C—Limiting critical conditions
Sweet Potatoes	California growers	With a reasonable expectation that the user may be prohibited from using 1,3-dichloropropene products because local township limits for this alternative have been reached.
Tomatoes	(a) Michigan growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: moderate to severe disease infestation, fungal pathogens infestation.
	(b) Alabama, Arkansas, Georgia, North Carolina, South Carolina, Tennessee and Virginia growers.	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or the presence of an occupied structure within 100 feet of a grower's field the size of 100 acres or less.
	(c) Florida growers	With a reasonable expectation that one or more of the following limiting critical conditions already either exists or could occur without methyl bromide fumigation: Moderate to severe yellow or purple nutsedge infestation, or karst topography.
Turfgrass	(a) U.S. turfgrass sod nursery producers who are members of Turfgrass Producers International (TPI).	For the production of industry certified pure sod.
	(b) U.S. golf courses	For establishing sod in the construction of new golf courses or the renovation of putting greens, tees, and fairways.
POST–HARVEST USES		
Food Processing	(a) Rice millers in all locations in the U.S. who are members of the USA Rice Millers Association.	With a reasonable expectation that one or more of the following limiting critical conditions exists: Older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
	(b) Pet food manufacturing facilities in the U.S. who are active members of the Pet Food Institute. (For today's rule, ''pet food'' refers to domestic dog and cat food).	With a reasonable expectation that one or more of the following limiting critical conditions exists: Older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
	(c) Kraft Foods in the U.S	With a reasonable expectation that one or more of the following limiting critical conditions exists: Older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
	(d) Members of the North American Millers' Association in the U.S.	With a reasonable expectation that one or more of the following limiting critical conditions already exists or could occur without methyl bromide fumigation: Older structures that can not be properly sealed to use an alternative to methyl bromide, or the presence of sensitive electronic equipment subject to corrosivity, time to transition to an alternative.
Commodity Storage	(a) Gwaltney of Smithfield in the U.S.	For smokehouse ham curing facilities owned by the company.
	(b) California entities storing walnuts, beans, dried plums, figs, raisins, and pistachios in California.	With a reasonable expectation that one or more of the following limiting critical conditions exists: Rapid fumigation is required to meet a critical market window, such as during the holiday season, rapid fumigation is required when a buyer provides short (2 days or less) notification for a purchase, or there is a short period after harvest in which to fumigate and there is limited silo availability for using alternatives.

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Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 660

Magnuson-Stevens Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 040830250–4342–02; I.D. 081304C]

RIN 0648–AS27

Magnuson-Stevens Act Provisions; Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures

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

ACTION: Final rule.

SUMMARY: With this final rule, NMFS implements the 2005–2006 fishery specifications and management measures for groundfish taken in the U.S. exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California. This rule includes the levels of the acceptable biological catch (ABC) and optimum yields (OYS). The commercial OYS (the total catch OYS reduced by tribal allocations and by amounts expected to be taken in recreational and resource survey compensation fisheries) in this rule are allocated between the limited entry and open access fisheries and between different sectors of the limited entry fleet. Management measures for 2005–2006 are intended to: achieve but not exceed OYS; prevent overfishing; rebuild overfished species; reduce and minimize the bycatch and discard of overfished and depleted stocks; provide equitable harvest opportunity for the recreational and commercial fishing sectors; and, within the commercial fisheries, achieve harvest guidelines and limited entry and open access allocations to the extent practicable.

DATES: Effective January 1, 2005.

ADDRESSES: Copies of the Final Environmental Impact Statement (FEIS) for this action are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), at 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–820–2280. Copies of additional reports referred to in this document may also be obtained from the Council. Copies of the Record of Decision (ROD), final regulatory flexibility analysis (FRFA), and the Small Entity Compliance Guide (SECG) are available from D. Robert Lohn, Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way, NE, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier (Northwest Region, NMFS), phone: 206–526–6129; fax: 206–526–6736 and; e-mail: *yvonne.dereynier@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

The proposed and final rules for this action are also accessible via the Internet at the Office of the Federal Register's website at *http://www.gpoaccess.gov/fr/index.html*. Background information and documents are available at the NMFS Northwest Region website at *www.nwr.noaa.gov/1sustfsh/gdfsh01.htm* and at the Council's website at *www.pcouncil.org*. The SECG is available online at *www.nwr.noaa.gov/1press/sfdpress.htm*.

Background

A proposed rule to implement the 2005–2006 specifications and management measures for Pacific coast groundfish was published on September 21, 2004 (69 FR 56550). NMFS requested public comment on the proposed rule through October 21, 2004. During the comment period, NMFS received five letters of comment, which are addressed later in the preamble to this final rule. See the preamble to the proposed rule for additional background information on the fishery and on this final rule.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the FMP require that NMFS implement actions to prevent overfishing and to rebuild overfished stocks. Specifications and management measures for 2005–2006 are designed to rebuild overfished stocks consistent with statutory requirements through constraining direct and incidental mortality, and to achieve as much of the OYS as practicable for healthier groundfish stocks managed under the FMP. In order to protect overfished species, allowable harvest levels of healthy species will only be achieved where such harvest will not deter rebuilding of overfished and depleted stocks. Commercial management measures for 2005–2006 include landings limits, size limits, gear restrictions, and time/area closures. Recreational management measures include bag limits, size limits, gear restrictions, and time/area closures. This final rule continues the coastwide depth-based management program that NMFS introduced in 2003, which closes portions of the continental shelf to fishing for groundfish and to fishing for many non-groundfish species in fisheries that take groundfish incidentally. These closures are intended to protect and rebuild overfished groundfish species.

Comments and Responses

During the comment period for the 2005–2006 specifications and management measures, which ended on October 21, 2004, NMFS received five letters of comment. One letter was received from a member of the public, two of these letters were received from non-governmental organizations representing environmental interests, and the fourth letter was received from the California Department of Fish and Game (CDFG). NMFS also received a letter of comment from the Council, summarizing its discussions at its September 2004 meeting on limited refinements to its 2005–2006 specifications and management measures recommendations. Those recommendations are discussed below in the section on *Changes from the Proposed Rule*. Comments received on the proposed rule are addressed here:

Comment 1: A commenter stated that the Magnuson-Stevens Act requires NMFS to rebuild overfished species as quickly as possible, citing 16 U.S.C. 1854(e)(4)(A). This commenter further stated that the fishing harvest levels NMFS proposes for nearly all the overfished Pacific groundfish species in the proposed specifications fail to comply with this legal requirement because they delay rebuilding for many years.

Response: The commenter states that overfished species must be rebuilt as quickly as possible. The Magnuson-Stevens Act, however, states that rebuilding periods shall ''(i) be as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and (ii) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise.'' [16 U.S.C. 1854(e)(4)(A)(i) and (ii)]

Federal regulations at 50 CFR 600.310(e)(4)(ii)(B) provide guidance on the lower and upper limits for rebuilding periods:

''(B) These factors enter into the specification of the time period for rebuilding as follows:

(1) The lower limit of the specified time period for rebuilding is determined by the status and biology of the stock or stock complex and its interactions with other components of the marine ecosystem, and is defined as the amount of time that would be required for rebuilding if fishing mortality were eliminated entirely.

(2) If the lower limit is less than 10 years, then the specified time period for rebuilding may be adjusted upward to the extent warranted by the needs of fishing communities and recommendations by international organizations in which the United States participates, except that no such upward adjustment can result in the specified time period exceeding 10 years, unless management measures under an international agreement in which the United States participates dictate otherwise.

(3) If the lower limit is 10 years or greater, then the specified time period for rebuilding may be adjusted upward to the extent warranted by the needs of fishing communities and recommendations by international organizations in which the United States participates, except that no such upward adjustment can exceed the rebuilding period calculated in the absence of fishing mortality, plus one mean generation time or equivalent period based on the species' life-history characteristics. For example, suppose a stock could be rebuilt within 12 years in the absence of any fishing mortality, and has a mean generation time of 8 years. The rebuilding period, in this case, could be as long as 20 years.≥

The overfished species harvest specifications implemented via this final rule were set according to the rebuilding plans and rebuilding parameters set for these species in the FMP and in Federal regulations. Allowable rebuilding periods for the eight overfished species were analyzed and discussed in and developed through Amendments 16–2 and 16–3 to the FMP. Rebuilding plans for the eight overfished West Coast groundfish species are found within the FMP at Section 4.5.4. Harvest parameters to implement rebuilding requirements are found in Federal regulations at 50 CFR 660.365.

In the preamble to the proposed rule for this action (69 FR 56550, September 21, 2004), NMFS provided details for each overfished species on minimum time to rebuild (T_{MIN}), maximum time to rebuild (T_{MAX}) and target rebuilding time (T_{TARGET}). All of the minimum, maximum, and target rebuilding times for all of the overfished species were determined following stock assessments and rebuilding analyses for each species, using the best scientific information available at the time of the assessment. None of the overfished species, except lingcod, have T_{TARGET} values equal to or exceeding their T_{MAX} values. Lingcod's T_{TARGET} and T_{MAX} are both 2009, which is ten years after lingcod was declared overfished and also in compliance with the Magnuson-Stevens Act and national standard guidelines. All of the T_{TARGET} values for the overfished species were determined following the requirements and guidance of the Magnuson-Stevens Act and the national standard guidelines. Thus, the rebuilding periods for all West Coast groundfish species and the harvest specifications implemented herein for those species comply with the Magnuson-Stevens Act; the commenter's assertion is incorrect.

Comment 2: One commenter stated that the harvest levels NMFS proposed conflict with NMFS's ''Technical Guidance on the Use of the Precautionary Approaches to Implementing National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act'' (Technical Guidance). This commenter stated that the Technical Guidance directs NMFS to select overfished species harvest levels that have a 90–percent probability of rebuilding before T_{MAX} and that result in a rebuilding period no longer than the midpoint between T_{MIN} and T_{MAX}. Further, this commenter stated that the OYS NMFS proposed for overfished species violate one or both of these directives. A second commenter stated that, under the Technical Guidance, overfished species harvest levels should be set so that the probability of achieving rebuilding by TMAX should be 90–percent or greater for those species whose assessments involve uncertainty. This second commenter also supported rebuilding periods no longer than the midpoint between T_{MIN} and T_{MAX}.

Response: NMFS has discussed this issue thoroughly in the preambles to its final rules to implement Amendment 16–1 (69 FR 8861, February 26, 2004,) Amendment 16–2 (69 FR 19347, April 13, 2004) and Amendment 16–3 (69 FR 57874, September 28, 2004.) These same commenters submitted these same comments on those rules and NMFS responded to those comments in each of those final rules. NMFS herein summarizes its responses to these comments and refers interested readers to the cited final rules for further information.

The first commenter is incorrect in calling the Technical Guidance a ''directive.'' The Technical Guidance is not a binding regulation that must be followed. As mentioned in the Preface to the Technical Guidance itself, it provides guidance on ''those aspects of scientific fishery management advice that have biological underpinnings'' and it recognizes that there are other important factors for fisheries management, such as the social and economic goals of the Magnuson-Stevens Act. Overfished species rebuilding plan probabilities of achieving B_{MSY} within T_{MAX} years that are less than 90 percent, and TTARGET dates that are greater than the midpoint between T_{MIN} and T_{MAX}, have been established in order to meet varying needs of West Coast fishing communities. As discussed in the response to Comment 1, all of the TTARGET dates for all of the overfished species are in compliance with the Magnuson-Stevens Act and the national standard guidelines.

Comment 3: A commenter referred to the Technical Guidance, stating that agreed upon fishing mortality rates and strategies to rebuild depleted species should be upheld when large year classes appear to ensure a successful rebuilding plan.

Response: The response to Comment 2 explained the status of the Technical Guidance. Amendments 16 2 and 16–3 amended the FMP to include overfished species rebuilding plans for lingcod, canary rockfish, darkblotched rockfish, Pacific ocean perch (POP), cowcod, bocaccio, yelloweye rockfish, and widow rockfish within the FMP. To implement these plans, two rebuilding parameters were added to the Code of Federal Regulations (CFR) for each overfished stock, the target year for rebuilding and the harvest control rule. The target year for rebuilding (T_{TARGET})is the year in which there is a 50 percent likelihood that the stock will have been rebuilt with a given mortality rate. The harvest control rule expresses a given fishing mortality rate that is to be used over the course of rebuilding. These parameters are used to establish the annual OYS.

The FMP also provides that, after a new stock assessment, if the Council and NMFS conclude that either or both the target year for rebuilding and the harvest control rule defined in regulation should be revised, the revision will be implemented through notice and comment rulemaking, and the updated values codified in the Federal regulation. Any change to a harvest control rule must be fully supported by a corresponding analysis.

The harvest control rule for lingcod is being revised by this action from F=0.0531 to F=0.17 in the north and from F=0.061 to F=0.15 in the south. These revisions are being made because of new data that became available from a new stock assessment and a revised rebuilding analysis. Rebuilding projections for the northern areas, if considered in isolation, indicate that the stock is above the rebuilt threshold of B40%. However, the southern portion of the stock has not yet rebuilt. When the total biomass is viewed coastwide, it is less than 1 percent below the rebuilt target of $B_{40\%}$.

For lingcod, the new assessment and rebuilding plan results indicated that the same TTARGET as is currently in regulation (69 FR 19347; April 13, 2004) could be maintained, but would allow a higher harvest rate while also increasing the probability of rebuilding the stock to TTARGET from 60 percent to 70 percent. The Magnuson-Stevens Act requires the Secretary of Commerce to review the adequacy of rebuilding plans at intervals that may not exceed 2 years. The rebuilding plans for all eight overfished species will be reviewed following their 2005 stock assessments. The Council's Scientific and Statistical Committee (SSC) is also drafting revisions to its Rebuilding Analyses Terms of Reference to incorporate rebuilding plan adequacy reviews. These reviews will aid NMFS and the Council in determining how and whether harvest targets and management measures need to be revised for the 2007 2008 fishing period.

Comment 4: A commenter stated that the PFMC has not adhered to its FMP's 40–10 policy (at Section 4.5 of the FMP) in developing its alternatives for 2005–2006 harvest levels for species in the precautionary zone (between B_{25} and B_{40} abundance.)

Response: The Council uses a precautionary policy, which was adopted as guidance in 1999 through Amendment 11 to the FMP, for setting OYS. The precautionary policy, also referred to as the 40–10 harvest policy, is intended to prevent species or stocks from becoming overfished. The biomass level needed to produce maximum sustainable yield (MSY) is referred to as B_{MSY}. The Council uses 40 percent of a stock's unfished biomass as a default proxy for B_{MSY}, or $B_{40\%}$. If the stock biomass is larger than B_{MSY}, the OY may be set equal to or less than ABC. A stock with a current biomass between 25 percent of the unfished level ($B_{25\%}$) and the B_{MSY} precautionary threshold is said to be in the ''precautionary zone.'' The Council's 40–10 policy reduces the fishing mortality rate when a stock is at or below its precautionary threshold. The lower a stock is in that $B_{25\%}$-$B_{40\%}$ range, the greater the reduction in OY relative to the ABC. This is a default rebuilding policy for precautionary zone species that is intended to foster a quicker return to the B_{MSY} level for those species. Stocks that fall below the B25% level are designated as overfished. Each of the eight overfished groundfish stocks is managed with species-specific harvest levels intended to rebuild that stock within its target rebuilding date, rather than with the default 40–10 policy. For further information on the 40–10 policy, see the preamble of the final rule to implement Amendment 16–1 (69 FR 8861, February 26, 2004) or the FMP at Section 4.5.

In 2005 and 2006, three stocks previously known to be in the precautionary zone were identified in section 2.4.2 of the FEIS for this action: Dover sole, sablefish, and shortspine thornyhead north. As discussed in the footnotes to Tables 1a–2b in this rule and in those same tables for and the preamble to the proposed rule for this action, the 2005 and 2006 OYS for these three precautionary zone species are all based on the 40–10 harvest policy. The first stock assessment for cabezon was prepared in 2003 for use in setting the 2005 and 2006 specifications and management measures. As a result of this stock assessment, cabezon was believed to be at 34.7 percent of its unfished biomass, which also makes it a precautionary zone stock. A description of the stock assessment and further discussion on the alternative ABCs and OYS may be found in the preamble of the proposed rule for this action (69 FR 56550, September 21, 2004).

During the specifications development process for 2005 and 2006, three alternative OYS were considered for each year for cabezon. The low OY alternatives of 44 mt for 2005 and 63 mt for 2006 were based on a harvest rate proxy of $F_{50\%}$ with the application of the 60–20 harvest policy. A 60–20 harvest policy is used by the state of California for nearshore species in which the biomass is estimated to be within the precautionary zone, below 60 percent of their unfished biomass. The 60–20 harvest policy is similar to the 40–10 harvest policy described above, in that it reduces the fishing mortality rate when a stock is at or below its precautionary threshold. The difference is that the precautionary threshold is set at 60 percent of a stock's unfished biomass rather than at 40 percent. The OY is reduced in relation to the ABC, until, at $B_{20\%}$, the OY would be set at zero. California uses this more precautionary policy for its nearshore species to buffer against the strong fishing effort levels in California's nearshore waters. The mid-range OY alternatives of 69 mt for both 2005 and for 2006 were based on a constant harvest rate recommended by the CDFG. The high OY alternatives of 91 mt for 2005 and 107 mt for 2006 were based on the harvest rate proxy of F45% with the application of the 40–10 harvest policy. The Council considered these alternatives at its April 2004 meeting and recommended an ABC of 103 mt for 2005 and 108 mt for 2006, with a constant harvest OY of 69 mt for each year. Using a constant harvest rate over the 2 year period is expected to help stabilize the fishery and management measures.

Thus, the commenter is correct in stating that cabezon OY for 2005 and 2006 is not based on a strict 40–10 harvest policy. This is because the 40–10 harvest policy was the high OY option and the OY that is being adopted is a more conservative option. Adopting an OY that is more conservative than the 40–10 is expected to foster quicker return to the MSY level and is not contrary to the FMP. There are no other stocks in the precautionary zone.

Comment 5: A commenter urged NMFS to adopt catch levels that achieve OY on a continuing basis, saying that the MSY harvest levels should be treated as harvest limits that are rarely exceeded and that OY should be used as a management target safely below the MSY threshold.

Response: The harvest specifications implemented via this final rule are intended to achieve OY on a continuing basis. They are based on the requirements of and guidance from the Magnuson-Stevens Act, the national standard guidelines, and the FMP. Harvest specifications for overfished species are specific to and based on the rebuilding needs of each particular stock. Under the FMP ABCs are set at the MSY level. As discussed in the response to Comment 4, species in what the FMP refers to as the precautionary zone are managed with the 40–10 harvest policy to reduce OY from ABC. Species with less rigorous or no stock assessments are also managed using precautionary policies, described in the footnotes to Tables 1a–2b. In brief, those that have less rigorous stock assessments have OYS that are 56.25 percent of their ABCs and those that have no quantifiable stock assessments have OYS that are 37.5 of their ABCs.

Stocks that are above $B_{40\%}$ and which have been assessed through formal stock assessments are permitted under the FMP to have their harvest specifications

set so that OY=ABC. These stocks in 2005–2006 are: petrale sole, arrowtooth flounder, chilipepper rockfish, yellowtail rockfish, longspine thornyhead, and black rockfish. Pacific whiting was also in this category in 2004, but its assessment for 2005 is not yet complete. Other species, such as blackgill rockfish, are estimated be above $B_{40\%}$, but have had precautionary reductions to their harvest levels because they have not been rigorously assessed. Some of these more abundant stocks, such as chilipepper, have also had their OYS reduced from their ABCs in order to prevent strong target fishing on stocks that co-occur with overfished species. Management measures to constrain the incidental catch of overfished species will result in the OYS of most of the more abundant species not being fully harvested in 2005 and 2006.

NMFS is in the process of revising its National Standard 1 guidelines. Through that process, NMFS is considering the commenter's idea that OY levels for all species be set below MSY levels. To revise the National Standard 1 guidelines, NMFS will issue a proposed rule and provide a public comment period. The agency urges the commenter and others to track this process and review the proposed revisions to the national standard guidelines when they become available. NMFS has provided a preliminary study of revisions to the guidelines and draft regulatory language online at: *http://www.nmfs.noaa.gov/sfa/domes_fish/index.htm#PR.* The agency expects to publish a proposed rule discussing these potential revisions in January 2005.

Comment 6: A commenter stated that in proposing fishing harvest levels for the eight overfished groundfish species, NMFS has failed to disclose and consider adequately the total fishing mortality for these species in recent years, including repetitive overharvest for many of these species in recent years. This commenter further stated that in doing so, NMFS violated the Magnuson-Stevens Act at 16 U.S.C. 1853(a)(5), violated the reasoned decisionmaking duties imposed by the Administrative Procedure Act (APA), and the environmental analysis and disclosure obligations imposed by the National Environmental Policy Act (NEPA). This same commenter had commented on the EIS for this action and incorporated the comments they had provided on the EIS into the comments on the proposed rule for this action.

Response: Fishing mortality estimates of overfished groundfish species, also referred to as total catch estimates, are calculated by summing the best available data from recreational fishing, research activities, non-groundfish fishing, and commercial (including exempted fishing permit (EFP) fishing) fishing. The total catch values for the commercial fisheries, where discard mortality occurs at-sea, include both the landed catch values and at-sea discard mortality estimates. NMFS's bycatch and total catch modeling efforts were discussed in the preamble to the proposed rule for this action.

The commenter incorrectly states that NMFS has failed to disclose total fishing mortality for overfished species in recent years. Numerous tables in the FEIS provide historical total catch estimates that include data from recent years as well as projected total catch estimates of overfished species for 2005 and 2006. Overall total catch estimates for 2002 and 2003 from commercial fisheries (including EFP fishing), tribal and recreational fisheries are presented in Tables 4–1 and 4–2 of the FEIS. These tables display the total catch ABC and OY values (exceeding the ABC is considered overfishing), total landed catch, estimated total discard mortality, and an estimate of total catch (landed catch plus discard mortality). Total catch estimates from research activities in 2002 and 2003 are summarized in Tables 2–6 to 2–7. Tables 2–8 and 2–9 contain projections of scientific research catch for 2005 and 2006, which are based on the historic scientific activities. In addition, historical total catch is also incorporated into stock assessments. Landed catch and discard values can be found in the various stock assessments.

The commenter is also incorrect in stating that NMFS has failed to consider adequately the total fishing mortality of overfished species in recent years, including years in which the OY was exceeded (overharvested). The potential risk of exceeding the OY was disclosed in Section 9.7 of the FEIS, as part of the discussion of unavoidable adverse impacts. It is disclosed that overfishing is a *potential* adverse impact that could jeopardize the sustainability of a stock. However, this discussion emphasized that this is a potential adverse effect, which would depend on a continuing mis-specification of harvest levels or an inability to constrain total mortality to correctly specified OYS. NMFS addresses the effects of past over-harvest by accounting for historical harvests in the stock assessments used to set OYS. These analyses, which are discussed in Section 4.3 of the FEIS, form the basis for the range of OYS considered in the EIS. In addition, for fisheries that have shown a risk of exceeding the OY in the past, the Council has set more precautionary management measures in order to reduce the chance of exceeding the OY. For example, high catch rates in the California recreational groundfish fishery during 2003, which contributed to overfishing of lingcod stocks, were given greater weight in the catch projection model for 2005–2006 used to develop management measures for that fishery, resulting in more restrictive management measures.

Finally, NMFS responded to comments on the EIS from this commenter within the FEIS for this action. Those comments and agency responses are not included herein, but are available from the Council (see **ADDRESSES**).

Comment 7: A commenter recommended that, on an annual basis, NMFS and/or the Council should compare annual total mortality levels with specified OY values to determine if any overages have occurred. This commenter further recommended that, if overages have occurred, an inseason adjustment be made to the current year's OYS to compensate for the prior year's overages.

Response: The purpose of harvest limits is to achieve, ''on a continuing basis, the OY from each fishery'' (50 CFR 600.310(a.)) It is not NMFS' practice to adjust OYS for one year by the overages or underages from previous years. NMFS makes adjustments to harvest limits (ABCs and OYS) after conducting an assessment of the population of a particular species, an assessment that occurs every 2–4 years. However, NMFS and the Council continually address over- and under-harvests by adjusting management measures to try to achieve, but not exceed OYS. (OYS of several of the more abundant stocks will, of necessity, not be achieved in order to protect co-occurring overfished species.) Management measures are adjusted inseason using the best available scientific information. For example, after the 2003–2004 limited entry trawl and fixed gear observer program data becomes available in January 2005, it will be incorporated into the bycatch model for inseason use in management of the 2005 fisheries. In addition, NMFS is required to report annually to Congress on the status of overfished species and on whether overfishing has occurred on any managed species or species group (*http://www.nmfs.noaa.gov/sfa/reports.html#sos*).

Comment 8: A commenter stated that the darkblotched rockfish OY proposed by NMFS is the same as the ABC

proposed for darkblotched rockfish. This commenter further stated that both the Magnuson-Stevens Act and the FMP bar NMFS from setting the OY for an overfished species at that species' ABC. The commenter cited the Magnuson-Stevens Act at 16 U.S.C. 1802(28), stating that the Act requires NMFS to set OYS for rebuilding species at a level below that which would result in the maximum sustained yield from the fishery, in order to allow for rebuilding. The commenter also cited the FMP at 4.6 as reading ''Reduction in catches or fishing rates for either precautionary or rebuilding purposes is an important component of converting values of ABC to values of OY.''

Response: When setting the 2005 and 2006 ABCs, the Council again followed its policy of using a default harvest rate as a proxy for the fishing mortality rate that is expected to achieve MSY. Since 2001, the Council has used the following harvest rate proxies to set ABC values at MSY values: $F_{40\%}$ for flatfish, $F_{50\%}$ for rockfish (including thornyheads), and $F_{45\%}$ for other groundfish such as sablefish and lingcod. The 2005–2006 OYS were set at levels that are expected to prevent overfishing; they are equal to or less than the ABCs. For overfished species, the OYS are consistent with adopted rebuilding plans, which allow each stock to rebuild within a period of time specific to that stock. For further discussion on the process for setting OYS, see the Amendment 16–2 final rule preamble's response to Comment 7 (69 FR 19347, April 13, 2004.)

A rebuilding analysis projects stock growth into the future given specific parameters. These parameters include potential growth of the stock, referred to as recruitment, or the amount of young fish that mature and enter the fishery. The rebuilding analysis methodology uses a Monte Carlo simulation technique in which many simulations project the change in a stock's biomass over time for a given fishing mortality rate, and is based on the biological characteristics of the species, including the known recruitment variability. A rebuilding analysis is different from a stock assessment which uses past biological and fishery information to judge the current state of the stock.

Selecting OYS for species managed under rebuilding plans is a different process than that used for species managed under the 40–10 harvest policy or the precautionary approach taken in setting OYS for species with no stock assessments or only rudimentary ones. For species without rebuilding plans, the ABC is the starting point and precautionary deductions are made to derive the OY.

Because darkblotched rockfish has been designated as an overfished species, a rebuilding analysis was prepared and a rebuilding plan was implemented in 2004. The 2003 stock assessment update and rebuilding analysis for darkblotched rockfish showed a sensitivity to relatively high 2000 and 2001 recruitment estimates (numbers of young fish from the 2000 and 2001 year classes that are expected to grow large enough to be caught in the fisheries.) Including recruitment estimates from 2000 and 2001 in the rebuilding analysis resulted in higher OY estimates because those recruits are predicted to enter the fishery and help rebuild the stock before the maximum allowable time. The ABCs on the other hand, were not as affected because the 2000 and 2001 recruits are too small to have already entered the fishery.

The darkblotched rockfish OYS being adopted for 2005 and 2006 are based on the species' rebuilding analysis using the recruitment estimates from the 2000 year class, but not from the 2001 year class. Using 2000 as the last year for recruitment estimates is more conservative than using model runs where the last year of recruitment estimates were from 2001, as was considered during the adoption of 2004 specifications and the darkblotched rockfish rebuilding plan. At that time, the Stock Assessment Review (STAR) panel had recommended that the model include the 2000 year class recruitment estimate, in order to balance the conflicting effects of the need to use the most recent information and the higher uncertainty levels associated with the most recent information on the sizes of younger year classes. The Council's recommendation was consistent with the STAR panel's recommendation. The OY generated from the rebuilding analysis was greater than the ABC generated from the stock assessment, both of which were reviewed by the Council's SSC. However, the Council recognized that they could not set a species' OY to exceed its ABC, and therefore recommended that the 2004 darkblotched rockfish OY be set equal to its 240 mt ABC. No new darkblotched rockfish stock assessment or rebuilding analysis was conducted in 2004, thus the 2005–2006 ABC and OY values are based on the 2003 stock assessment update and rebuilding analysis.

The commenter is incorrect in stating that the Magnuson-Stevens Act and the FMP bar NMFS from setting the OY for an overfished species at that species' ABC. The Magnuson-Stevens Act defines OY as being a value based on MSY; as reduced by any relevant economic, social, or ecological factor. Because of the rebuilding analysis, no factors require a reduction from the ABC to establish the darkblotched rockfish OY. An OY must be no higher than MSY for all stocks. For overfished fisheries (stocks), the OYS must be based upon a rebuilding schedule that increases stocks' biomass levels to those that would produce MSY within an appropriate time frame. On April 13, 2004 (69 FR 19347), Amendment 16–2 to the groundfish FMP implemented a rebuilding plan for darkblotched rockfish. The OYS being adopted for 2005 and 2006 are based on the darkblotched rockfish rebuilding plan. For darkblotched rockfish the ABC and OY for 2005 are being set at 269 mt and the ABC and OY for 2006 are being set at 294 mt.

Comment 9: A commenter stated that ''NMFS's proposed fishing harvest level for darkblotched rockfish violates the Magnuson-Stevens Act and the APA because it fails to correct, or even give reasoned consideration to correcting, for repetitive overharvests of the species in recent years.'' This commenter further stated that NMFS has more often exceeded its darkblotched rockfish OYS than has complied with them in recent years, which the commenter considers relevant factors within the meaning of the APA's requirement for reasoned decisionmaking.

Response: A full coastwide stock assessment for darkblotched rockfish was prepared for 2000. This stock assessment was updated in 2001 with data from the 2000 slope survey conducted by the Alaska Fisheries Science Center (AFSC)and available 2000 fishery data. In 2003 the assessment was updated for the 2003 rebuilding analysis and further added 2001 AFSC slope and shelf survey data and fishery data through 2002. As stated above, NMFS addresses the effects of past over-harvest during new stock assessments by accounting for historical harvests in the stock. These stock assessments are used as the basis for rebuilding plans, which define the range of OYS for overfished species.

As described below, the darkblotched rockfish OY was exceeded in 2001 and 2002, but not in 2003. The ABC was not exceeded in any of these years, so there was no ''overfishing'' during these years. Tables on Page 4 of the July 11, 2003, darkblotched rockfish stock status and rebuilding update display the harvest estimates (total catch estimates available at the time of the update for 2001 and 2002) that were incorporated into the analysis. In this comment, when the commenter uses the term

''overharvesting'' NMFS assumes that the commenter is using this term to indicate that the OY has been exceeded. The total estimated 2001 catch of darkblotched rockfish that was used in the rebuilding analysis was 161 mt, the 2001 ABC was a range between 302 and 349 mt and the total catch OY was 130 mt. Although the OY was exceeded, the ABC was not exceeded, therefore overfishing did not occur on darkblotched rockfish in 2001.

Overall 2002 and 2003 total catch estimates from commercial fisheries (including EFP fishing), tribal, and recreational fisheries are presented in Tables 4–1 and 4–2 of the FEIS. Total catch estimates for research activities in recent years are summarized in Tables 2–6 to 2–7. In 2002, the total estimated catch of darkblotched rockfish was 202.28 mt, the 2002 ABC was 205 mt and the total catch OY was 168 mt. Though the OY was exceeded, the ABC was not, therefore overfishing did not occur on darkblotched rockfish in 2002. In 2003, the total estimated catch of darkblotched rockfish was 144.9 mt, the 2003 ABC was 205 mt and the total catch OY was 172 mt. Neither the ABC or the OY were exceeded, therefore overfishing did not occur on darkblotched rockfish in 2003. Table 2–7 was incorrectly labeled as 2002 in the DEIS which may have lead the commenter to believe that an additional 5 mt of darkblotched rockfish had been taken in 2002. This typographical error was corrected in the FEIS.

In September 2004, the total catch of darkblotched rockfish was believed to have reached the 2004 OY, which is the same as the ABC. Therefore, NMFS made 2004 inseason fishery adjustments that were intended to drastically reduce the total mortality of darkblotched rockfish. As a result of projected overfishing in 2004 and to prevent overharvest in 2005 and 2006, the Council recommended enlarging the trawl Rockfish Conservation Area (trawl RCA) in 2005–2006 by moving the seaward boundary of the limited entry trawl RCA north of 38° N. lat. from a boundary line approximating the 150 fm (274 m) depth contour to one approximating the 200 fm (366 m) depth contour, with petrale sole fishing areas open in January-February and November-December. In addition, since the same trawl RCA also generally applies to the open access non-groundfish trawl fisheries, NMFS is extending this change to the open access non-groundfish trawl fleet between 40°10′ N. lat. and 38° N. lat. The Council also recommended reducing their initially-recommended slope rockfish trip limit north of 38° N. lat. from 8,000 lb (3,629 kg) to 4,000 lbs (1,814 kg) per two months. These recommendations were based on higher-than-expected incidental catches of darkblotched rockfish in 2004 resulting from trawl vessels targeting slope rockfish offshore of the trawl RCA. The Council recommended the reduced trip limits to allow slope rockfish retention at incidental levels in the DTS (Dover sole, thornyheads, sablefish) fishery without encouraging directed slope rockfish targeting. NMFS concurred with the Council's recommendation and has made the appropriate changes to the trawl RCAs and trip limits.

For 2005 and 2006, the predicted total darkblotched rockfish fishing mortality from all directed and incidental groundfish fisheries and research activities is expected to be substantially lower than the annual OYS (these values can be found in the footnotes to Table 1a). These darkblotched rockfish mortality savings are a secondary benefit of management measures intended to constrain canary rockfish total mortality. Designing management measures that result in total mortality levels that are lower than a species' OY leaves a residual amount of available harvest. This residual amount can reduce the risk of exceeding a species OY, particularly when there are difficulties in catch accounting or when new information becomes available that changes NMFS' understanding of total catch.

In summary, NMFS disagrees with the commenter's assertion that NMFS's proposed fishing harvest level for darkblotched rockfish fails to correct or give reasoned consideration to correcting, for having exceeded the OY (overharvests) in recent years. NMFS has disclosed recent total catch levels of darkblotched rockfish in relation to the annual ABCs and total catch OYS. As fishery data has become available, it has been incorporated into assessments, assessment updates and the rebuilding analyses. NMFS has modified 2005–2006 management measures following the September 2004 Council meeting when it was determined that overharvest might occur in 2004. This reconsideration resulted in changes to this final rule that are intended to keep the harvest of darkblotched rockfish within its OY.

Comment 10: A commenter stated that the proposed specifications, including but not limited to those for canary rockfish, fail to correct for past overharvests of overfished species or even to give reasoned consideration to correcting for those past overharvests.

Response: Fishing mortality, the rate at which animals are removed from the stock as a result of fishing, is incorporated into the stock assessment models. It is important for stock assessment scientists to use data regarding stock growth and mortality (fishing and natural) to understand the level of fishing a stock can sustain such that enough fish survive to replenish the stock and, in the case of overfished species, to rebuild it to the MSY level. As stated above, NMFS addresses the effects of past overharvest during stock assessments by accounting for historical harvests of the stock. These stock assessments are used as the basis for rebuilding plans which define the range of OYS for overfished species.

Table 2b from the 2001 canary rockfish stock assessment, which was prepared in April 2002, shows the commercial and recreational canary rockfish catch data from 1941–2001 that were used in the most recent canary rockfish stock assessment model. This was the best data available at the time of the assessment. The appropriate discard rates were applied to commercial landings to derive estimates of total catch. Similar data can also be found in the stock assessments for other species.

Overall, total catch estimates for 2002 and 2003 from commercial fisheries (including EFP fishing), tribal, and recreational fisheries are presented in Tables 4–1 and 4–2 of the FEIS. Total catch estimates for research activities in recent years are summarized in Tables 2–6 to 2–7. In 2002, the estimated total catch of canary rockfish was 109.7 mt, the 2002 ABC was 272 mt and the total catch OY was 93 mt. In 2003, the estimated total catch of canary rockfish was 49.8 mt, the 2003 ABC was 272 mt and the total catch OY was 44 mt. Although the OYS were exceeded in both of these years, the ABC was not, therefore overfishing did not occur on canary rockfish in 2002 or 2003. Similar data can also be found in the FEIS for overfished and other species. Darkblotched rockfish was addressed above in the response to Comment 9.

Canary rockfish are a schooling continental shelf rockfish taken in commercial and recreational fisheries coastwide. In June 2004, the Council's Groundfish Management Team (GMT) reported that a single early-June tow taken by a catcher vessel operating in the whiting mothership fishery was estimated to contain 3.9 mt of canary rockfish. This single haul exceeded the 0.9 mt total catch projection for the mothership sector. In response to the elevated catches of canary rockfish in the whiting fishery, the Council requested that NMFS implement an emergency rule that would allow

appropriate sectors of the commercial whiting fishery to be closed if the impacts of the fishery on canary rockfish reached 7.3 mt for all sectors combined. NMFS implemented this emergency authority on August 3, 2004 (69 FR 46448).

NMFS monitored the whiting fishery throughout the summer and fall for its catch of overfished species, particularly canary and darkblotched rockfish. Based on canary rockfish harvest in non-whiting fisheries and the low canary bycatch rates in the whiting fishery following the June Council meeting, the Council lowered the canary rockfish bycatch limit on the whiting fisheries to 6.2 mt at its September Council meeting. Additionally, the Council recommended a limit of 9.5 mt of darkblotched rockfish bycatch in the whiting fisheries. NMFS retained the emergency authority to close sectors of the whiting fishery in between Council meetings. The Council recommended to NMFS that the agency propose for the 2005–2006 fishing period to retain mid-season whiting sector closure authority and to exercise that authority if 7.3 mt of canary rockfish are taken in the whiting fishery prior to the fishery's achieving the Pacific whiting OY. The Council also recommended the same authority for mid-season whiting sector closures if 231.8 mt in 2005 or 243.2 mt in 2006 of widow rockfish are taken in the whiting fishery prior to the fishery's achieving the Pacific whiting OY. As the 2005 and 2006 fishing seasons progress, NMFS and the Council will monitor the fisheries to determine whether additional or modified bycatch limits are necessary for the whiting fisheries. Similar to 2004, bycatch limits of overfished species would likely be based on the GMT's bycatch scorecard amounts. NMFS concurs with this recommendation and has implemented it with this action at § 660.370(c)(1)(ii) and § 660.373(b)(4).

In summary, NMFS finds that the commenter is incorrect in stating that NMFS's proposed fishing harvest level for canary rockfish fails to correct or give reasoned consideration to correcting, for having exceeded the OY (overharvests) in recent years. NMFS has disclosed recent total catch levels of canary rockfish in relation to the annual ABCs and total catch OYS. As fishery data has become available, it has been incorporated into assessments, assessment updates and the rebuilding analyses. Management measures are designed, using the best and most current information available, to keep harvests within OYS. The Council's recommendations and NMFS's proposed rule were based in part on their experiences managing the 2004 fisheries.

Comment 11: A commenter stated that NMFS has proposed to more than triple the OY for lingcod, despite its admission that recruitment of the 1999 year class is uncertain and that there is uncertainty in the catch projections and the stock assessment for the species. This commenter further stated that, in light of this uncertainty and the lingcod overharvests in 2002 and 2003, NMFS cannot increase the rate of lingcod harvest and still comply with its duties to prevent overfishing and rebuild overfished species as quickly as possible. Finally, the commenter stated that NMFS has claimed to make management changes to address past lingcod overharvests, but that management changes made in 2003 to respond to 2002 overharvests were unsuccessful at preventing overharvests in 2003.

Response: A new coastwide stock assessment was prepared for lingcod in 2003. As a result of the revised assessment, the spawning stock biomass was estimated to be at 31 percent of its unfished biomass in the north and 19 percent of its unfished biomass in the south. This is a substantial increase from the previous assessment which had estimated the lingcod biomass to be at 15 percent coastwide in 2000. As a result of the new adopted stock assessment, the coastwide ABCs will be 2,922 mt (1,874 north and 1,048 south) in 2005 and 2,716 mt, (1,694 north and 1,021 south) in 2006. NMFS recognizes that this is a large increase from the 2004 ABC of 1,385 mt which was based on the previous assessment.

A new rebuilding analysis was also prepared for lingcod. Rebuilding projections for the northern areas, if considered in isolation, indicate that the stock is above the rebuilt threshold of B40%. (It should be noted that the assessment model estimate of current biomass can differ from the estimate obtained from the rebuilding analysis, because the rebuilding analysis computes B0 using average recruitment from 1973–2002, while the Coleraine assessment model uses the estimate of average recruitment in an unfished state (R0), and references the 2003 spawning biomass.) The southern portion of the stock has not yet rebuilt. When the total biomass is viewed coastwide, it is less than 1% percent below the rebuilt target of $B_{40\%}$.

The Council considered the alternative OYS and recommended the mid-range OY, with the modification that the OY be fixed at 2,414 mt (the 2006 value, which was the lower of the two values) for both years. For lingcod, the new assessment and rebuilding plan results indicated that the same T_{TARGET} as is currently in regulation for the lingcod rebuilding plan (69 FR 19347; April 13, 2004) could be maintained, but would allow a higher harvest rate while also increasing the probability of rebuilding the stock by T_{MAX} from 60 percent to 70 percent. The commenter is correct that this increase is more than 3 times the 735 mt OY in 2004; however, the increase in the OY conforms with the lingcod rebuilding plan and is not unexpected given the increased size of the lingcod biomass.

In support of their selection, the Council indicated that the lingcod harvest guidelines needed to be conservative because the 1999 year class is moving through the fishery and recruitment is uncertain. There is uncertainty in catch projections and assessments, and the Council did not want to see an increase in effort in the fishery. The estimated mortality from all directed and incidental groundfish fisheries and research activities are predicted to result in total fishing mortality of lingcod that is substantially lower than the annual OYS (these values can be found in the footnotes to Table 1a). These lingcod mortality savings are a secondary benefit of management measures intended to constrain canary rockfish total mortality. Designing management measures that result in total mortality levels that are lower than that species' OY leaves a residual amount of available harvest. This residual amount can reduce the risk of exceeding a species' OY, particularly when there are difficulties in catch accounting or when new information becomes available that changes NMFS' understanding of total catch.

Throughout the specification and management measure process, NMFS has acknowledged the scientific uncertainty in setting ABCs and OYS and has disclosed, in various supporting documents and in the rulemaking process, the precautionary measures taken to address the inherent uncertainty in fisheries management. Although greater scientific certainty can improve management decisions, scientific uncertainty is an inherent part of fisheries management. Uncertainties must be acknowledged, as has been done within the stock assessments, FEIS, and in the proposed rule supporting this action. In general, NMFS has been precautionary when implementing measures to protect the fishery resources against the harm that could result from those uncertainties. Many other overfished species' rebuilding measures are intended to

acknowledge scientific uncertainty in fisheries management and to guard against potential negative effects of that uncertainty.

In 2002, the estimated catch of lingcod was 983 mt, the 2002 ABC was 841 mt and the total catch OY was 577 mt. In 2003, the estimated catch of lingcod was 1,371.6 mt, the 2003 ABC was 841 mt and the total catch OY was 651 mt. These total catch estimates for 2002 and 2003 were updated with new observer program data on bycatch rates in summer 2004 for the FEIS for this action.

The commenter who submitted this particular comment also commented on the proposed rule to implement the 2004 specifications and management measures (69 FR 1380), stating that the agency needed to do something about reducing the effect of the 2004 fisheries on lingcod. This comment and NMFS's response are found in the final rule to implement the 2004 specifications and management measures, see Comment 12 and response, 69 FR 11064, March 9, 2004. In short, NMFS acknowledged that overfishing had occurred on lingcod in 2002 and 2003, and that restrictive measures taken in 2003 had not been adequate to prevent overfishing. The agency then detailed changes it had made between the proposed and final rules for 2004 in order to further constrain fishing, particularly in the recreational fishery off California.

NMFS has revised its specifications and management measures process through Amendment 17 to the FMP, in order to provide a public notice-and-comment period on a proposed rule prior to the start of the fishing year. This new process requires the agency to prepare the proposed and final rules for the 2005–2006 specifications and management measures prior to the completion of either the 2004 fishing year or the datasets on total 2004 fishing mortality. NMFS anticipates that, as new 2004 fishing year data becomes available in 2005, the Council and NMFS will consider whether revisions are needed to management measures intended to constrain lingcod harvest. This final rule implements the California recreational fishery measures initially proposed for this action, which are more constraining in season length and area closures than those implemented for 2004. Lingcod bag limit changes generally do not have much effect on the overall catch of lingcod, since most anglers only take one lingcod per trip.

Comment 12: A commenter stated that NMFS is proposing to manage canary rockfish in an aggressively risky way that fails to offer the protection it needs because it has provided only a small reserve in the canary rockfish OY compared with those provided for lingcod, bocaccio and darkblotched rockfish.

Response: As discussed in the preamble to the proposed rule for this action, and in the footnotes to Tables 1a–2b, the canary rockfish OY has been divided between the commercial, recreational, tribal, and research fisheries. There is a small, residual amount of canary rockfish, 2.5 mt in 2005 and 1.8 mt in 2006, that is currently not projected to be harvested by these fisheries. This residual amount is held in reserve for possible use during the 2005 and/or 2006 fisheries. Also discussed in the preamble to the proposed rule for this action is the fact that harvest restrictions to protect canary rockfish will constrain all fisheries in their achievement of target species' OYS. A secondary effect of the constraints required to protect canary rockfish is protection for other, associated overfished species. The residual amounts of lingcod, bocaccio, and darkblotched rockfish that may be unharvested in 2005 and/or 2006 are expected to go unharvested because canary rockfish co-occurs with these species. Management measures to protect canary rockfish are not only constraining to the achievement of target species OYS, they also keep harvests of other overfished species below their OYS. In other words, NMFS expects there to be residual unharvested amounts of lingcod, bocaccio, and darkblotched rockfish because the harvest of these species will be restricted by canary rockfish protection measures. To eliminate confusion over the use of varying terms, NMFS has corrected the footnotes to Tables 1a–2b to refer to the expected residual amounts of unharvest fish as ''residual amounts'' not expected to be taken in any sector, rather than as ''reserves,'' which might be confused as being available to a particular sector.

The trip limits are based on the best available information, and are designed to keep harvests within the OYS. These residual amounts of overfished species that are not currently projected to be harvested result in part from the design of the overall fishery. They are not specifically designed as a management tool to keep harvests under the OY, but NMFS acknowledges this secondary benefit from the reserves. These reserves reduce the need for intensive inseason management to keep the harvest within the OY, and to reduce the risk of exceeding the OY. However, the overall management regime balances these benefits and risks with the other benefits and risks inherent in the management system.

Comment 13: A commenter stated that NMFS's proposed status quo management of canary rockfish violates the Magnuson-Stevens Act because of the large overharvest of canary rockfish in recent years.

Response: NMFS discussed recent years' canary rockfish harvest in the response to Comment 10. The 2002 total catch is estimated to be 16.7 mt above the OY of 93 mt and 162.3 mt below the ABC of 272 mt. The 2003 total catch is estimated to be 5.8 mt above the OY of 44 mt and 222.2 mt below the ABC of 272 mt.

The commenter has incorrectly asserted that NMFS has proposed status quo management to protect canary rockfish and other overfished species. The canary rockfish ABCs for 2005 and 2006 were set in accordance with the Council's precautionary policy of setting rockfish ABCs based on an F50% harvest rate. The 2005 and 2006 OYS for canary rockfish were set in accordance with the FMP's overfished species rebuilding plan for this species (Section 4.5.4) and implementing Federal regulations at 50 CFR 660.365(a).

Canary rockfish are taken in a wide range of fisheries and NMFS has revised management measures from 2004, particularly making them more conservative in fisheries with a greater tendency to incidentally catch canary rockfish. As discussed above in the response to Comment 10, NMFS is implementing in this final rule a bycatch limit program for the Pacific whiting fisheries. The mothership fishery for whiting took an unexpected amount of canary rockfish in 2004, leading to an emergency rule to establish a canary rockfish bycatch limit. For 2005 and 2006, NMFS has implemented canary and widow rockfish bycatch limits for the whiting fishery at § 660.373(b)(4). Regulations at § 660.370(c)(1)(ii) allow the Council and NMFS, via routine inseason action, to establish new bycatch limits or adjust bycatch limits inseason for overfished species taken in the whiting fisheries. NMFS has also implemented a new requirement for a bycatch-reducing trawl gear, the selective flatfish trawl gear, for use in nearshore waters north of 40°10′ N. lat. As discussed in the preamble to the proposed rule for this action, this modified trawl net design has shown itself successful in several years of experiments at reducing incidental rockfish catch in trawl fisheries targeting more abundant flatfish. Management measures to control canary rockfish catch in the

California recreational fisheries are also more restrictive than in 2004, with shorter fishing seasons and larger closed areas.

Comment 14: A commenter stated that NMFS is not proposing to allow for a harvest reserve for widow rockfish in 2005 or 2006. The commenter asks why a significant harvest reserve is necessary for lingcod, darkblotched, and bocaccio, but not for widow rockfish.

Response: As discussed above in the response to Comment 12, the residual amounts of lingcod, darkblotched rockfish, and bocaccio that are expected to go unharvested are the result of management measures intended to constrain the harvest of canary rockfish. The Council did not set specific harvest reserves for these species; rather, it has simply indicated the amounts of these species expected to go unharvested because the fisheries are constrained to protect canary rockfish.

Widow rockfish is a schooling, pelagic shelf rockfish that is similar to yellowtail rockfish in its open water schooling tendencies, whereas canary rockfish tend to school near rockpiles. The bulk of the widow rockfish OYS in 2005 and 2006 are expected to be taken in the Pacific whiting fisheries, a primarily open water fishery. Although the Pacific whiting biomass is estimated to be above B40%, NMFS reduced the 2004 whiting ABC from 514,441 mt to a 250,000 mt OY to protect co-occurring widow rockfish from incidental catch in the whiting fisheries. NMFS anticipates that the 2005 and 2006 ABCs for Pacific whiting will be similarly large, and will again have to be reduced so that the OYS are set at levels that protect widow rockfish. The at-sea whiting fisheries will continue to be monitored inseason by mandatory observers (69 FR 31751, June 7, 2004) with near realtime data while the shore-based fishery will be monitored under a full retention program which will have a monitoring mechanism and timely inseason data. The whiting fishery may take less widow rockfish than expected; but as an initial prediction, NMFS and the Council expect the whiting fisheries to take the majority of the widow rockfish OYS in 2005 and 2006, leaving little or no residual amounts of widow rockfish unharvested. Given the level of inseason monitoring in the whiting fisheries, it is reasonable to expect that fishing can be constrained to stay within the specified limit for widow rockfish.

In 2004, the whiting harvest was constrained to 250,000 mt with an estimated take of 211 mt of widow rockfish. Through the end of the primary season, the preliminary estimate of widow rockfish in the whiting fishery was 49.86 mt, well below the projected value of 211 mt. However, because the incidental take of widow rockfish has been associated with rare events where a substantial amount is taken in an individual tow, effective monitoring is essential. In addition, NMFS supports the at-sea whiting industry's efforts to self monitor bycatch through the use of the Sea State program, in which bycatch data is exchanged within the fleet so that the participating vessels can take immediate action when bycatch concerns arise.

Comment 15: A commenter stated that, without explanation, NMFS proposed to decrease slightly the cowcod OY for 2005 then to raise it again for 2006. This commenter also stated that NMFS has proposed substantial increases for bocaccio and yelloweye rockfish harvest levels. Finally, the commenter stated that NMFS had failed to explain these increases, thereby failing to meet its duties to engage in reasoned decisionmaking, to prevent overfishing, and to rebuild overfished species as quickly and effectively as possible.

Response: NMFS is not raising the cowcod OY for 2006. There was a typographical error in the Table 2a 2006 OY for cowcod. With this final rule, OYS for the Monterey and Conception areas have been revised from 2.4 mt for each to 2.1 mt for each, which is consistent with the approved rebuilding plan for cowcod. Footnote ''y'' from Table 2a had correctly stated this, and the ''Overfished Species'' section of the preamble to the proposed rule for this action provided details from the cowcod rebuilding plan, including the correct OY. A typo in the harvest control value in footnote ''Y'' for Table 1a was identified and revised from F=0.0009 to F=0.009. The F=0.009 is the rebuilding harvest rate in Federal regulations implementing the cowcod rebuilding plan at § 660.365(f) and was used to determine the 2005 and 2006 OYs for cowcod. This harvest control rule was correctly listed in the ''Overfished Species'' section of the proposed rule for this action.

The bases for the bocaccio and yelloweye rockfish OYS for 2005 and 2006 were explained in the footnotes to Tables 1a through 2b and in the ''Overfished Species'' section of the preamble to the proposed rule for this action. These species are being managed in accordance with the approved rebuilding plans at Section 4.5.4 of the FMP and implementing Federal regulations at 50 CFR 660.365(a). Changes in the OYS result when rebuilding harvest rates are applied to the annual biomass projections from the most recent stock assessments. In this case, the stocks are projected to have increased slightly, resulting in slight increases to the OYS. An error in the harvest control rule in the bocaccio footnote to Table 2a (2006) has been revised from F= 0.041 to F=0.0498. The F=0.0498 is the rebuilding harvest rate in Federal regulations implementing the bocaccio rebuilding plan at § 660.365(e) and was used to determine the 2005 and 2006 OYS for bocaccio. This harvest control rule was correctly listed in the ''Overfished Species'' section of the proposed rule for this action. NMFS identified a typo in the P_{MAX} value in Table 2–2 of the FEIS the correct value is 80 percent (the value adopted for yelloweye rockfish rebuilding under amendment 16–3.)

Comment 16: A commenter stated that NMFS has proposed to dramatically shrink the size of the RCAs off the Pacific Coast. This commenter was opposed to this proposal, stating that nothing has changed that warrants a rolling back of these RCAs. This commenter stated that doing so is forbidden by the Magnuson-Stevens Act because it reduces the use of practicable bycatch-reduction measures, as defined at 16 U.S.C. 1851(a)(9) and 1853(a)(11). This commenter also states that since the RCAs serve to protect essential fish habitat (EFH), they may not be abandoned or scaled back. And, this commenter states that because the RCAs are used to prevent overfishing and rebuild overfished species, scaling them back violates the Magnuson-Stevens Act requirement to rebuild overfished stocks as quickly as possible. The commenter states that NMFS has failed to explain the roll-back in the size of the RCAs or to explain how the increased mortality caused by the scaling back of the RCAs can be squared with NMFS's legal obligations under the APA.

Response: RCAs are gear and fishery-specific, so that there is a Trawl RCA, a Non-Trawl RCA, and a Recreational RCA. These RCAs vary in size and in area covered depending on how the gear type affected interacts with overfished species. For 2005 and 2006, NMFS is implementing a status quo Non-Trawl RCA; a status quo Recreational RCA off Washington and Oregon, and a Recreational RCA off California that covers a larger area and which is closed for longer periods during the year than in 2004. The Trawl RCA that NMFS initially proposed would have allowed fishing in a larger area both shoreward and seaward of the 2004 Trawl RCA. However, as explained in the preamble to this final rule in the section ''Changes from the Proposed Rule,'' this final rule established the seaward boundary of the

RCA at 200 fm (369 m) throughout the year, with modifications for petrale sole fishing areas in the winter months of January-February and November-December. The final rule for the 2004 fisheries had this same seaward boundary, except that it only extended to 150 fm (276 m) in the July-August period. Therefore, the only changes in the Trawl RCA are the increase in size from a deeper seaward boundary in July-August and the shoreward boundary changes described below. The Trawl RCA implemented here is 70.6 percent the size of the initially established 2004 Trawl RCA. The reductions in the size of the Trawl RCA are detailed in Table 3–1 of the FEIS for this action.

The RCAs were intended and designed to reduce the bycatch of adult life stage overfished species. For 2005 and beyond, NMFS is implementing a new gear requirement for trawl vessels participating in the area shoreward of the RCA north of 40°10' N. lat. Council discussion documents leading up to their final recommendations including the results of a set of ODFW gear experiments, the EIS for this action, and the preamble to the proposed rule all discussed the new selective flatfish trawl gear and its rockfish bycatch-reduction properties. Selective flatfish trawl gear reduces the bycatch of rockfish in targeted flatfish fisheries, including overfished rockfish, and increases the areas where trawl vessels may operate with lower bycatch rates. Using a gear restriction in order to reduce the restrictiveness of other fishery management measures is the FMP's eighth objective. NMFS is able to reduce the size of the Trawl RCA in 2005–2006 because it has implemented this new trawl gear requirement. This reduction in the size of the Trawl RCA as a result of the new gear requirement was also explained in Council and NMFS background, NEPA, and **Federal Register** documents. Thus, the commenter is incorrect in asserting that NMFS has failed in its obligations to explain the revision in the size of the RCAs. The commenter also draws an erroneous conclusion in equating a reduction in the size of the RCAs with an increase in rockfish mortality. NMFS expects that rockfish bycatch mortality rates in the nearshore trawl fishery north of 40°10' N. lat. will be reduced with this new gear requirement. The combination of the new gear requirement and the smaller RCA is projected to keep the mortality of overfished species within the rebuilding OYS and allow harvest of healthy stocks.

As stated above, the RCAs were designed to reduce the bycatch of adult life-stage overfished species. Under Amendment 11 to the FMP, groundfish EFH includes the entire West Coast EEZ. Thus, with the RCAs being inside the EEZ and closed to fishing for groundfish, they do afford some habitat protection for EFH from groundfish fishing gear. They do not, however, target particular groundfish habitat for habitat protection from fishing gear. NMFS is exploring measures for groundfish habitat protection with its EIS on Groundfish EFH, a draft of which is scheduled to be made available to the public in February 2005. NMFS anticipates that EIS will result in an FMP amendment that provides habitat protection measures to reduce the effects of fishing gear on EFH. If those habitat protection measures result in fishing area closures, NMFS expects to subsequently re-evaluate the area and location of its RCAs to better mesh its EFH protection and bycatch reduction responsibilities.

Finally, the RCAs have been set in accordance with overfished species harvest specifications, which are based on overfished species rebuilding rates set in the FMP's rebuilding plans. Regulations that impose additional gear restrictions, reduce the size of the Trawl RCA, and increase the size of the Recreational RCA continue to implement the approved rebuilding plans for groundfish, in accordance with the Magnuson-Stevens Act. The commenter's misinterpretation of the rebuilding provisions of the Magnuson-Stevens Act were addressed in the response to Comment 1, above.

Comment 17: A commenter expressed a concern that the shift of fishing effort from the continental shelf to the slope due to the RCA closures has placed greater pressure on slope and offshore habitats and marine life. This commenter urged NMFS to analyze and address the adverse impacts of fishing gears used in the groundfish fishery on EFH through the use of habitat-friendly gears, no-take marine protected areas, and time and effort restrictions.

Response: NMFS agrees that it is likely that fishing effort has increased in continental slope areas as a result of the closure of large portions of the continental shelf to fishing for groundfish. The agency notes, however, that approximately 35 percent of the limited entry trawl fleet were removed from the fishing grounds altogether with the December 2003 trawl vessel/permit buyback program. Thus, while continental shelf RCAs may have increased slope fishing effort, the buyback decreased trawl fishing effort on the slope and elsewhere. NMFS is analyzing the adverse impacts of fishing gear on EFH and the measures proposed by the commenter as part of its EIS on West Coast Groundfish EFH. NMFS expects to make the Draft EIS available for public review in February 2005. In the interim, this final rule implements measures the commenter has proposed in the form of: requirements that prevent large-footrope gear from operating within and shoreward of the RCAs to prevent those vessels from accessing overfished rockfish in their rocky habitat; RCAs designed to reduce incidental catch of overfished groundfish and which, as an added benefit, protect EFH within the RCAs from the effects of groundfish fishing gear; and, season closures used in most of the fisheries to reduce overfished species bycatch, although those have only brief and temporary incidental benefits for habitat. Fishing effort has been restricted in the Federal commercial fisheries through the limited entry program, the sablefish endorsement permit stacking program, and the trawl permit buyback program.

Comment 18: A commenter stated that NMFS has refused to even seriously consider the alternative of managing the fishery under a system of bycatch caps. This commenter also stated that NMFS has failed to establish adequate bycatch assessment requirements for the fishery because there are no bycatch assessment requirements contained in the proposed specifications. A second commenter stated that a standardized reporting methodology has not been established for all fisheries and urges NMFS to establish a standardize reporting methodology as soon as possible to accurately count bycatch of groundfish-related fishing. This second commenter also urged NMFS to assess the bycatch of all marine life in the groundfish fishery and take steps to minimize this bycatch in accordance with Federal law.

Response: The first commenter is incorrect in asserting that NMFS has not considered implementing bycatch caps to manage the fisheries. In September 2004, NMFS published a Programmatic FEIS on groundfish bycatch mitigation. This document discusses bycatch cap programs and the requirements for implementing one. Because the requirements for establishing a program have not been met, it is currently not practicable to implement caps in most of the fishery at this time. However, NMFS and the Council are working to implement the preferred alternative in the EIS. Nonetheless, this final rule implements a bycatch limit provision for the high volume whiting fisheries. This fishery is monitored inseason with

real-time observer data, which makes bycatch limits a viable management measure to reduced incidental catch of overfished species. Under the provisions at 50 CFR 660.370(c)(1)(ii), the Council may recommend and NMFS may establish or adjust overfished species bycatch limits inseason for the Pacific whiting fisheries. At § 660.373(b)(4), NMFS has implemented initial bycatch limits for canary rockfish of 7.3 mt in 2005 and 2006 and for widow rockfish of 231.8 mt in 2005 and 243.2 mt in 2006. If an overfished species bycatch limit were achieved, NMFS would have the authority to close one or more sectors of the whiting fishery without further consultation with the Council. NMFS first implemented this provision in 2004 with an emergency rule (69 FR 46448, August 3, 2004).

The first commenter is also incorrect in asserting that there are no bycatch assessment requirements in place for the fisheries because there are no bycatch assessment requirements in this action. NMFS discussed its bycatch reporting and assessment methodologies in the preamble to the proposed rule for this action (69 FR 56550, September 21, 2004). Regulations implementing requirements for fishing and at-sea processing vessels to participate in Federal observer programs that gather bycatch data may be found at 50 CFR 660.314.

West Coast standardized bycatch reporting methodologies collect total catch (landed + discard) data from the commercial and recreational fisheries. As discussed in the preamble to the proposed rule for this action, the West Coast Groundfish Observer Program and the at-sea whiting observer program, in combination with state logbooks, state EFP data-gathering programs, vessel monitoring system coverage, and landings reporting requirements together constitute the standardized total catch reporting methodology for West Coast commercial groundfish fisheries. The standardized total catch reporting methodology for recreational fisheries is a combination of Federal and state efforts using at-dock port sampling programs, charterboat logbooks, and state and Federal in-person and telephone interviews. NMFS and the states work together through the Pacific States Marine Fisheries Commission and through the Council process to constantly improve and update their standardized total catch reporting methodologies. In 2005–2006, NMFS will be revising its bycatch model to incorporate data on limited entry fixed gear fisheries other than the primary sablefish fishery, which will also include improvements in our understanding of bycatch in the directed open access fisheries. NMFS also expects to incorporate observer data from the directed open access fisheries into the groundfish management process in 2005 for inseason management of the nearshore open access fisheries.

The second commenter also requested that NMFS assess the bycatch of all marine life in the groundfish fishery and take steps to minimize this bycatch in accordance with Federal law. In the West Coast groundfish fisheries, the need to protect and rebuild overfished groundfish and to prevent incidental catch of endangered and threatened salmon has driven the agency's priorities for bycatch assessment. However, the agency collects data on a broad range of bycatch species and assesses marine life bycatch as staff time and funding permits. Both the Northwest and Southwest Fisheries Science Centers are researching Pacific ecosystem interactions between a broad range of marine species and between these species and their physical environment.

Comment 19: A commenter stated that NMFS and the Council must remain committed to using information from the groundfish observer program to adjust management measures inseason based on higher than anticipated bycatch mortality.

Response: The agency's past practice has been to incorporate new observer data inseason into the management process. The Council used newly received observer data to revise its management measures inseason in both 2003 and 2004. NMFS and the Council plan to continue this practice in the 2005–2006 management cycle, as explained above in the response to Comment 7.

Comment 20: Two commenters asserted that NMFS has failed to adopt, or even analyze, all practicable bycatch reduction measures.

Response: NMFS has evaluated the practicability of bycatch reduction measures in an EIS published in September 2004, and is currently working on implementation of the preferred alternative. In addition, NMFS has explained in the preamble to the proposed rule, in a section entitled, ''Management Measures to Reduce Bycatch,'' the currently practicable bycatch reduction measures that are in place in the fishery, through this final rule and through associated regulatory programs.

Comment 21: A commenter asserted that the proposed specifications fail to show that NMFS is proposing management measures sufficient to enforce the harvest levels mandated by the specifications.

Response: The preamble to the proposed rule for this action explains how and why the management measures were designed, and the EIS and other documents referred to in the proposed rule provide additional explanatory information.

Comment 22: The CDFG requested that NMFS align the limited entry fixed gear trip limit for shortspine thornyheads north and south of 40°10' N. lat. so that they are both 2,000 lb (907.2 kg) per 2–month period.

Response: NMFS consulted with representatives of the States of Oregon and Washington on this request from the State of California, who did not oppose California's proposal. Subsequent to that consultation, NMFS agrees with and is implementing this recommendation. This is a minor change to the regulation and will reduce confusion for fishermen and enforcement personnel. With this final rule, the shortspine thornyhead 2–month cumulative limit for limited entry fixed gear participants operating north of 40°10′ N. lat. will be 2,000 lb (907.2 kg) instead of 2,100 lb, as proposed. This cumulative limit is currently in place for vessels operating in this fishery and area, and will be the same as the limit for this fishery operating south of 40°10′ N. lat.

Comment 23: The CDFG requested that NMFS specify that dip nets are a legal open access gear for groundfish. Dip nets are defined in Section 1.43 of Title 14 California Code of Regulations as, ''Webbing supported by a frame, and hand held, not more than six feet in greatest dimension, excluding handle.≥

Response: NMFS is not implementing this recommendation. Although dip nets themselves may have minimal impact on the environment, the open access fishery is already overcapitalized and it would be inappropriate to add a new gear type to the fishery in this final rule. The groundfish regulations currently list the gears that are permitted in this fishery at § 660.310, and dip nets are not listed there. Proposals to add a new permitted gear to the groundfish fishery should be proposed by the Council under one of the management frameworks in the FMP.

Changes from the Proposed Rule

At its September 13–17 meeting in San Diego, CA, the Council reviewed its June recommendations for the 2005–2006 fishery specifications and management measures. The Council provided NMFS with comments on its June recommendations, asking that NMFS make a few refinements to the

2005–2006 specifications and management measures that the agency had published as proposed in the **Federal Register**. On September 24, 2004, Council staff transmitted the Council's recommended refinements in a letter to NMFS. That letter did not detail the Council's rationale for the recommended refinements, referring instead to public discussions held at the September 2004 Council meeting. Thus, the Council's September 2004 recommendations are discussed in this section on changes from the proposed rule, rather than above in responses to comments received during the comment period.

The Council recommended reducing limited entry fixed gear limits for longspine (from 19,000 lb (8618.4 kg)/two months to 10,000 lb (4,536 kg)/2 months) and shortspine thornyheads (from 4,200 lb (1905.12 kg)/two months to 2,000 lb (907.2 kg)/two months) south of 40°10′ N. lat. The trip limits the Council had recommended in June had been based on the limited entry trawl trip limits for these species, and the trawl limits had been based in part on the reduced number of trawl fishery participants following the trawl buyback. The Council and its advisory bodies felt that it was inappropriate to increase thornyhead landings limits for a sector of the fishery that had not participated in, and which would not be paying for, the trawl buyback program. The thornyhead limits the Council had recommended in June were higher than those in place for the limited entry fixed gear fishery in 2004. The Council was also concerned that these higher thornyhead limits would allow the fisheries to attain the thornyhead OYS early in the year, requiring early fishery closures. NMFS concurs with this recommendation and has made the recommended changes to the limited entry trip limits in Table 4 (South).

NMFS provided the Council with a revised projection in the level of expected 2006 research catch of sablefish in advance of the September 2004 Council meeting. As a result of the projected increase in 2006 research catch of sablefish, the Council recommended slight decreases in the limited entry fixed gear tier sablefish limits for 2006. The tier limits the Council had recommended in June were: Tier 1 at 63,000 lb (28,576 kg), Tier 2 at 28,600 lb (12,973 kg), and Tier 3 at 16,400 lb (7,394 kg). The Council has recommended revising those limits to: Tier 1 at 62,700 lb (28,440 kg), Tier 2 at 28,500 lb (12,927 kg), and Tier 3 at 16,300 lb (7,394 kg). Prior to publishing the proposed rule for this action, NMFS had mistakenly calculated the 2006 tier limits from the amount of sablefish available to the fisheries after the increase in research catch estimates had been accounted for. Thus, the proposed rule for this action proposed to implement the 2006 tier limits that the Council recommended at its September meeting. For this reason, no changes will be made to this action as a result of the Council's confirmation of the needed increase in sablefish research set aside.

Although lingcod is considered to be a coastwide stock, the Council indicated that the OY should be set to avoid the disproportionate catch of lingcod coming from either the northern or southern areas of the coast. Therefore, the Council recommended establishing separate northern and southern lingcod OYS, with the north-south division occurring at 42° N. lat, the Oregon-California border.

For the states to better manage the catch of lingcod in their recreational fisheries to stay within their respective OYS, the Council also recommended setting recreational harvest guidelines for the same areas. With state specific harvest guidelines, each state can monitor its recreational catches and adjust state management measures to keep the harvests within the harvest guideline. For the recreational fisheries in the southern area, the harvest guideline will be 422 mt in both 2005 and 2006. For the recreational fisheries in the northern area, the harvest guidelines announced in the proposed rule were 206 mt for 2005 and 239 mt for 2006.

The northern recreational fishery for 2005 and 2006 was calculated in June 2004 using an increasing linear trend of lingcod catches since 2001. The increasing trend appears to be the result of increasing availability of lingcod to the recreational fishery due to successful rebuilding of the stock. Because angler effort, angler success, and average fish weight also show an increasing trend, it was necessary to recalculate the anticipated catches using actual inseason catch estimates from 2004. The recalculation resulted in slightly higher recreational catch estimates for 2005 and 2006 for the northern area. At its September 2004 meeting, the Council considered this new information and recommended that the lingcod harvest guideline for the northern recreational fishery be revised to accommodate the increased projections. For 2005, the northern area recreational harvest guideline for lingcod is being revised from 206 mt to 234 mt, and for 2006 it is being revised from 239 mt to 271 mt. Because a large portion of the lingcod OY was not anticipated to be taken in either 2005 or 2006, these will not result in the OY being exceeded. NMFS concurs with this recommendation and has made the recommended changes to Tables 1 and 2 of 50 CFR part 660 subpart G.

At its September meeting, the Council also recommended moving the 2005–2006 seaward boundary of the limited entry trawl RCA north of 38° N. lat. from a boundary line approximating the 150 fm (274 m) depth contour to one approximating the 200 fm (366 m) depth contour, with petrale sole fishing areas open in January-February and November-December in order to protect darkblotched rockfish. Historically, the limited entry and open access exempted trawl RCAs have had the same boundaries unless otherwise specified. Darkblotched rockfish is also in need of protection from exempted trawl fisheries in this area and the Council did not specify a separate open access trawl RCA for this area. Therefore, NMFS is applying the Council's boundary revision recommendation to both the limited entry and open access non-groundfish trawl fleets between 40°10′ N. lat and 38° N. lat. [Note: The open access non-groundfish trawl fleet north of 40°10' N. lat. is not subject to RCA restrictions.] Additionally, the Council recommended reducing their initially-recommended slope rockfish trip limit north of 38° N. lat. from 8,000 lb (3,629 kg) to 4,000 lb (1,814 kg) per two months. These recommendations were based on higher-than-expected incidental catches of darkblotched rockfish in 2004 resulting from trawl vessels targeting slope rockfish offshore of the trawl RCA. The Council recommended the reduced trip limits and increased RCA size to allow slope rockfish retention at incidental levels in the DTS (Dover sole, thornyheads, sablefish) fishery without encouraging directed slope rockfish targeting. NMFS concurs with this recommendation and has made the appropriate changes to the trawl RCAs and trip limits in Table 3 (North) and (South) and in the open access RCAs in Table 5 (South.)

Finally, the Council's GMT had noticed a typo in the limited entry fixed gear and open access trip limit tables for deeper nearshore rockfish between 40°10′′ N. lat. and 34°27′ N. lat. Table 4 (South) and Table 5 (South) in the proposed rule had indicated a deeper nearshore rockfish trip limit of 400 lb (181 kg) per month in September-October. Those tables should have indicated a deeper nearshore rockfish trip limit of 400 lb (181 kg) per *two months* in September-October. NMFS concurs with this recommended correction and has made the appropriate

changes to Tables 4 (South) and 5 (South). [NOTE: After the Council recommended this change, CDFG realized that this trip limit was intentionally modeled as the original 400 lb per month. Therefore, this trip limit may be changed back to 400 lb per month during an inseason action in 2005.]

In addition to Council recommended changes, NMFS is also clarifying limited entry trawl gear requirements based on feedback received during a NMFS Enforcement training session held in Seattle on September 21, 2004. Language specifying skirt mesh size on midwater trawl gear is re-worded to relieve an unnecessary restriction. Previously, Federal regulations at 50 CFR 660.310 had required that skirt mesh size be the same as and coincide knot-to-knot with the net to which it is attached. The intent of this regulation is to facilitate the escape of small fish from the net by ensuring that skirt mesh size is not smaller than the mesh size on the net to which it is attached. The regulation is not intended to prevent skirt mesh size from being larger than the mesh size on the net to which it is attached. Therefore, language specifying skirt mesh size is reworded to require that skirt mesh size must be equal to or larger than the mesh size on the net to which it is attached.

NMFS is clarifying language at § 660.382(a) and § 660.383(a) on weekly trip limits for sablefish. This is not a change to the regulations, rather in these paragraphs, new examples are provided to clarify regulations prohibiting vessels from landing sablefish under both the weekly and daily trip limits within the same calendar week.

NMFS is clarifying language at § 660.370(h)(7) regarding operating in both limited entry and open access fisheries to include closed areas as follows, ''Open access trip limits and closed areas apply to any fishing conducted with open access gear,...'' Since open access closed areas are not always the same as limited entry closed areas, the phrase ''closed areas'' was added to this paragraph to clarify that open access closed areas also apply to limited entry vessels when those vessels are fishing with open access gear.

There has been some confusion about whether gear other than the open access gear listed in the open access fishery section could be used to participate in the open access fishery. In order to eliminate this confusion, NMFS is clarifying language at Section 660.383(b) to state that gear used to fish in the open access fishery must be one of the gears listed in the open access fishery section at 660.383(b). This is not a substantive change in the regulations because other sections of the regulations (§§ 660.310 and 660.306(a)(5) make it clear that only specifically authorized gear may be used in the groundfish fishery. This is merely a clarification of a section of the regulations.

As explained above in the responses to Comments 10 and 18 and in the preamble to the proposed rule for this action, NMFS is implementing overfished species bycatch limits as a routine management measure for the whiting fishery in 2005–2006. In the proposed rule for this action, NMFS had proposed codifying bycatch limits as a routine management measure for the whiting fishery, but had not included specific limits for any overfished species. During review of an internal draft of this final rule, Council staff pointed out to NMFS that the Council had, as part of its specifications and management measures package, recommended bycatch limits of 7.3 mt for canary rockfish in 2005 and 2006 and 231.8 mt and 243.2 mt for widow rockfish in 2005 and 2006, respectively. These limits were discussed in the DEIS at Sections 2.2 and 4.3. Therefore, NMFS has revised this final rule to include a new sub-paragraph § 660.373(b)(4) on bycatch limits in the Pacific whiting fishery that codifies the limits the Council recommended for canary and widow rockfish. None of these changes are substantive; rather, they clarify how a new regulatory program is to be used.

Finally, NMFS made corrections to Tables 1 and 2 of 50 CFR 660 Subpart G to correct typos from these tables as they had appeared in the proposed rule for this action. NMFS corrected the 2006 cowcod OYS in Table 2a the OY value for the Monterey area was revised from 2.4 mt to 2.1 mt, and the OY value for the Conception area was changed from 2.4 mt to 2.1 mt. NMFS corrected the amount of lingcod estimated to be taken in non-groundfish fisheries in footnote b/ for Table 1a from 2.0 mt to 2.8 mt. NMFS corrected the estimated tribal catch value for yelloweye rockfish in footnote aa/ for Table 2a, changing it from 2.4 mt to 2.3 mt. Finally, NMFS also corrected some harvest rates referenced in footnotes, as described above in the response to Comment 15.

Changes to RCA boundary coordinates announced by NMFS in this final rule are in response to feedback NMFS received from the commercial trawl industry and CDFG. The commercial trawl industry contacted NMFS and CDFG to let the agencies know that the 200 fm (366 m) RCA boundary, specifically designed to allow fishing in petrale sole areas, did not, in fact, allow fishing in petrale sole areas off northern California. CDFG reviewed the 200 fm (366 m) RCA boundary in question and concurred with industry that, unlike the 250 fm (457 m) RCA boundary, modified to allow fishing in petrale sole areas, the 200 fm (366 m) RCA boundary it did not allow access to petrale sole areas. Therefore, CDFG recommended revising the 200 fm (366 m) RCA boundary, that is modified to allow fishing in petrale sole areas, to provide fishery access to two important petrale sole fishing areas off northern California. During CDFG's review of petrale sole fishing areas, they also discovered that both RCA boundaries (the 200 fm (366 m) and the 250 fm (457 m)) specifically designed to allow fishing in petrale sole areas did not adhere to their respective depth contours as closely as possible. To ensure that these RCA boundaries adhere to the proper depth contours, CDFG additionally recommended minor revisions to the 200 fm (366 m) RCA boundary, that is modified to allow fishing in petrale sole areas, and minor revisions to the 250 fm (457 m) RCA boundary, that is modified to allow fishing in petrale sole areas. Another RCA boundary revision suggested by CDFG involves the 100 fm (183 m) RCA boundary around the California's Cordell Banks. The 100 fm (183 m) RCA boundary around Cordell Banks is designed to fully enclose the Banks, with a series of specific latitude and longitude coordinates, in order to prohibit fishing for groundfish in the Banks's shallow waters. Because the 100 fm (183 m) RCA boundaries coordinates published in the proposed rule (69 FR 56550, September 21, 2004) did not fully enclose the Cordell Banks area, CDFG recommended revising the coordinates to ensure that they fully enclose Cordell Banks. NMFS concurs with these recommendations and revisions to the 200 fm (366 m) and the 250 fm (457 m) RCA boundaries, modified to allow fishing in petrale sole areas, can be found in § 660.394 and revisions to the 100 (183 m) RCA boundary around Cordell Banks can be found in § 660.390.

Revisions to Paperwork Reduction Act References in 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the PRA requires that agencies inventory and display a current control number assigned by the Director, Office of Management and Budget (OMB), for each agency information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this rule will move gear

identification regulations from § 660.310 to § 660.382, 15 CFR 902.1(b) is revised to reference correctly the new section resulting from this regulations reorganization.

Classification

These final specifications and management measures for 2005–2006 are issued under the authority of, and are in accordance with, the Magnuson-Stevens Act, the FMP, and 50 CFR part 660 subpart G (the regulations implementing the FMP).

The 2005–2006 specifications and management measures are intended to protect overfished and other depressed stocks while also allowing as much harvest of more abundant groundfish stocks as possible during the course of the year. If these measures are not effective on January 1, 2005, the management measures from January 1, 2004 will remain in effect. Management measures from January 2004 were based on the best scientific information available at that time. Since then, stock assessments on lingcod and cabezon, plus new observer data and revisions to NMFS's bycatch model have become available and have been used to develop the 2005–2006 management measures. The 2004 management measures are also not tailored to the 2005–2006 harvest levels and, for some species, are not conservative enough to meet the Council's rebuilding goals for 2005–2006. Leaving the 2004 management measures in place could cause harm to some stocks. The commercial fishery is managed with two-month cumulative limits, so even a short delay in effectiveness could allow the fleets to harvest the entire two-month limit before the 2005 measures are effective. Delaying the effectiveness of this rule by 30 days would also be confusing to the public, since it would result in a change in trip limits in the midst of the two-month January-February cumulative trip limit period. The comment period on the proposed rule for this action ended on October 20, 2004; NMFS has been working expeditiously since then to review and respond to comments received, and to make the modifications discussed earlier in this notice to trip limits and area closures. Finally, delay in publishing these measures could also require unnecessarily restrictive measures, including possible fishery closures, later in the year to make up for the excessive harvest that would be caused by late implementation of these regulations. Thus, a delay in effectiveness could ultimately cause economic harm to the fishing industry and associated fishing communities. For these reasons, the AA finds good cause under 5 U.S.C. 553(d)(3) to waive the requirement to delay the effective date of this rule for 30 days.

The Council prepared an FEIS for this action; a notice of availability was published on November 12, 2004 (69 FR 65427). A copy of this FEIS is available from the Council (see ADDRESSES). On December 13, 2004, NMFS issued a ROD that documents the agency's final decisions on NMFS's approval of the Council's preferred OY alternative for the 2005–2006 Pacific Coast groundfish specifications and management measures. On the whole, the 2005–2006 specifications and management measures are structured to protect and rebuild overfished groundfish species and are expected to have short-term positive effects on the biological environment and negative effects on fishing communities and the socio-economic environment. Over the long-term and beyond the two-year scope of these specifications and management measures, this action is expected to have positive effects on both the biological and socio-economic environment.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Pursuant to Executive Order 13175, this final rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, regulations implementing the FMP establish a procedure by which the tribes with treaty fishing rights in the area covered by the FMP request new allocations or regulations specific to the tribes, in writing, before the first of the two meetings at which the Council considers groundfish management measures. The regulations at 50 CFR 660.324(d) further state ''the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.'' The tribal management measures in this rule have been developed following these procedures. The tribal representative on the Council made a motion to adopt the tribal management measures, which was passed by the Council. Those management measures, which were developed and proposed by the tribes, are finalized via this rule.

NMFS prepared an FRFA that describes the impact of this action on small entities. The IRFA was summarized in the proposed rule published on September 21, 2004 (69 FR 56550). The following is a summary of the FRFA. A SECG for this final rule is available from the Regional Administrator (see **ADDRESSES**) or online at www.nwr.noaa.gov/1press/sfdpress.htm. The need for and objectives of this final rule are contained in the SUMMARY and in the Background section under **SUPPLEMENTARY INFORMATION**. NMFS did not receive any comments on the IRFA or on the proposed rule regarding the economic effects of this final rule.

These final 2005–2006 specifications and management measures are intended to allow West Coast commercial and recreational fisheries participants to fish the harvestable surplus of more abundant stocks while also ensuring that those fisheries do not exceed the allowable catch levels intended to protect overfished and depleted stocks. The form of the specifications, in ABCs and OYS, follows the guidance of the Magnuson-Stevens Act, the national standard guidelines, and the FMP for protecting and conserving fish stocks. Fishery management measures include trip and bag limits, size limits, time/area closures, gear restrictions, and other measures intended to allow year-round West Coast groundfish landings without compromising overfished species rebuilding measures.

Approximately 1,700 vessels participated in the West Coast commercial groundfish fisheries in 2001. Of those, about 420 vessels were registered to limited entry permits issued for either trawl, longline, or pot gear. Of the remaining approximately 1,280 vessels, about 770 participated in the open access fisheries and derived more than 5 percent of their fisheries revenue from groundfish landings. All but 10–20 of the 1,700 vessels participating in the groundfish fisheries are considered small businesses by the Small Business Administration. In the 2001 recreational fisheries, there were 106 Washington charter vessels engaged in salt water fishing outside of Puget Sound, 232 charter vessels active on the Oregon coast, and 415 charter vessels active on the California coast. Although some charter businesses, particularly those in or near large California cities, may not be small businesses, all are assumed to be small businesses for purposes of this discussion.

The Magnuson-Stevens Act requires that actions taken to implement FMPs be consistent with the ten national standards, one of which requires that conservation and management measures shall, consistent with the conservation

requirements of the Act, ''take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities and, (B) to the extent practicable, minimize adverse economic impacts on such communities.''

Fishing communities that rely on the groundfish resource and people who participate in the groundfish fisheries have weathered many regulatory changes in recent years. NMFS and the Council introduced the first overfished species rebuilding measures in 2000, which severely curtailed the fisheries from previous fishing levels. Since then, NMFS has implemented numerous management measures and regulatory programs intended to rebuild overfished stocks and to better monitor the catch and bycatch of all groundfish species. These programs are expected to improve the status of West Coast groundfish overfished stocks over time and, by extension, the economic health of the fishing communities that depend on those stocks. Initially, however, the broad suite of new regulatory programs that NMFS has introduced since 2000 have: reduced overall groundfish harvest levels, increased costs of participating in the fisheries, and caused confusion for fishery participants trying to track new regulatory regimes.

The Council considered five alternative specifications and management measures regimes for 2005 and 2006: the no action alternative, which would have implemented the 2004 regime for 2005 and 2006; the low OY alternative, which set a series of conservative groundfish harvest levels that were either intended to achieve high probabilities of rebuilding within TMAX for overfished species or modest harvest levels for more abundant stocks; the high OY alternative, which set harvest levels that were either intended to achieve lower probabilities of rebuilding within TMAX for overfished species or higher harvest levels for more abundant stocks; the medium OY alternative, which set harvest levels intermediate to those of the low and high alternatives, and; the Council OY alternative (preferred alternative,) which was the same as the medium OY alternative, but with more precautionary OY levels for lingcod, Pacific cod, cowcod, canary and yelloweye rockfish. Each of these alternatives included both harvest levels (specifications) and management measures needed to achieve those harvest levels, with the most restrictive management measures corresponding to the lowest OYS. The most notable difference between the Council's preferred alternative and the other alternatives is that alternative's requirement that trawl vessels operating north of 40°10′ N. lat. use selective flatfish trawl gear. Because selective flatfish trawl gear has lower rockfish bycatch rates than conventional trawl gear, the targeted flatfish amounts available to the trawl fisheries are higher under the Council's preferred alternative than under the other alternatives.

Each of the alternatives analyzed by the Council was expected to have different overall effects on the economy. Among other factors, the EIS for this action reviewed alternatives for expected changes in revenue and income from 2003 levels. The low OY alternative was expected to decrease annual commercial income from the no action alternative by $1.99 million in 2005 and 2006, decrease commercial fishery-related annual employment from the no action alternative by 0.3 percent in 2005 and 2006, and result in no changes in recreational fishery income from the no action alternative. The high OY alternative was expected to increase annual commercial income from the no action alternative by $2.54 million in 2005 and 2006, increase commercial fishery-related annual employment from the no action alternative by 0.4 percent in 2005 and 2006, and result in no changes in recreational fishery income from the no action alternative. The medium OY alternative was expected to increase annual commercial income from the no action alternative by $1.51 million in 2005 and 2006, increase commercial fishery-related annual employment from the no action alternative by 0.3 percent in 2005 and 2006, and result in no changes in recreational fishery income from the no action alternative. The Council's OY alternative was expected to increase annual commercial income from the no action alternative by $3.02 million in 2005 and 2006, increase commercial fishery-related annual employment from the no action alternative by 0.5 percent in 2005 and 2006, and result in no changes in recreational fishery income from the no action alternative. The Council's preferred alternative would have had commercial fisheries effects that were similar to or less beneficial than the medium OY alternative had the Council preferred alternative not included the requirement that trawl vessels north of 40°10' N. lat. fish with selective flatfish trawl gear in nearshore waters. The Council's preferred alternative is intended to meet the conservation requirements of the Magnuson-Stevens Act while reducing to the extent practicable the adverse economic impacts of these conservation measures on the fishing industries and associated communities.

The following collection-of-information requirement has already been approved by OMB for U.S. fishing activities:

a. Approved under 0648–0305 Gear identification requirements, estimated at 15 minutes per response (§ 660.382).

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: December 13, 2004.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

■ 1. The authority citation for part 660 continues to read as follows:

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

■ 2. In § 660.302, the definition for '' Trawl fishing line,'' is removed, the definitions for ''Fishing gear,'' ''Groundfish,'' ''land or landings,'' ''North-South management area,'' and ''Trip limits,'' at paragraph (3) are revised and the definition for ''fishery,'' is added to read as follows:

§ 660.302 Definitions.

* * * * *

Fishery (See § 600.10).

* * * * *

Fishing gear includes the following types of gear and equipment used in the groundfish fishery:

(1) *Bobbin trawl.* The same as a roller trawl, a type of bottom trawl.

(2) *Bottom trawl.* A trawl in which the otter boards or the footrope of the net are in contact with the seabed. It includes roller (or bobbin) trawls, Danish and Scottish seine gear, and pair trawls fished on the bottom. Any trawl not meeting the requirements for a midwater trawl in § 660.322 is a bottom trawl.

(3) *Breastline.* A rope or cable that connects the end of the headrope and the end of the trawl fishing line along the edge of the trawl web closest to the towing point.

(4) *Chafing gear.* Webbing or other material attached to the codend of a

trawl net to protect the codend from wear.

(5) *Codend.* (See § 600.10).

(6) *Commercial vertical hook-and-line.* Commercial fishing with hook-and-line gear that involves a single line anchored at the bottom and buoyed at the surface so as to fish vertically.

(7) *Double-bar mesh.* Two lengths of twine tied into a single knot.

(8) *Double-walled codend.* A codend constructed of two walls of webbing.

(9) *Fixed gear (anchored nontrawl gear).* Longline, trap or pot, set net, and stationary hook-and-line (including commercial vertical hook-and-line) gears.

(10) *Gillnet.* (See § 600.10).

(11) Headrope. A rope or wire attached to the trawl webbing forming the leading edge of the top panel of the trawl net.

(12) *Hook-and-line.* One or more hooks attached to one or more lines. It may be stationary (commercial vertical hook-and-line) or mobile (troll).

(13) *Longline.* A stationary, buoyed, and anchored groundline with hooks attached, so as to fish along the seabed. It does not include commercial vertical hook-and-line or troll gear.

(14) *Mesh size.* The opening between opposing knots. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot, regardless of twine size.

(15) *Midwater (pelagic or off-bottom) trawl.* A trawl in which the otter boards may be in contact with the seabed but the footrope of the net remains above the seabed. It includes pair trawls if fished in midwater. A midwater trawl has no rollers or bobbins on the net.

(16) *Non-groundfish trawl gear.* Any trawl gear other than bottom or midwater trawl gear authorized for use in the limited entry groundfish trawl fishery. Non-groundfish trawl gear generally includes trawl gear used to target pink shrimp, ridgeback prawns, California halibut and sea cucumber.

(17) *Nontrawl gear.* All legal commercial groundfish gear other than trawl gear.

(18) *Pot.* A trap.

(19) *Roller trawl (bobbin trawl).* A trawl with footropes equipped with rollers or bobbins made of wood, steel, rubber, plastic, or other hard material that keep the footrope above the seabed, thereby protecting the net. A roller trawl is a type of bottom trawl.

(20) *Set net.* A stationary, buoyed, and anchored gillnet or trammel net.

(21) *Single-walled codend.* A codend constructed of a single wall of webbing knitted with single or double-bar mesh.

(22) *Spear.* A sharp, pointed, or barbed instrument on a shaft.

(23) *Trammel net.* A gillnet made with two or more walls joined to a common float line.

(24) *Trap (or pot).* A portable, enclosed device with one or more gates or entrances and one or more lines attached to surface floats.

(25) *Trawl fishing line.* A length of chain or wire rope in the bottom front end of a trawl net to which the webbing or lead ropes are attached.

(26) *Trawl riblines.* Heavy rope or line that runs down the sides, top, or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing.

* * * * *

Groundfish means species managed by the PCGFMP, specifically:

(1) Sharks: leopard shark, *Triakis semifasciata*; soupfin shark, *Galeorhinus zyopterus*; spiny dogfish, *Squalus acanthias*.

(2) Skates: big skate, *Raja binoculata*; California skate, *R. inornata*; longnose skate, *R. rhina*.

(3) Ratfish: ratfish, *Hydrolagus colliei*.

(4) Morids: finescale codling, *Antimora microlepis*.

(5) Grenadiers: Pacific rattail, *Coryphaenoides acrolepis*.

(6) Roundfish: cabezon, *Scorpaenichthys marmoratus*; kelp greenling, *Hexagrammos decagrammus*; lingcod, *Ophiodon elongatus*; Pacific cod, *Gadus macrocephalus*; Pacific whiting, *Merluccius productus*; sablefish, *Anoplopoma fimbria*.

(7) Rockfish: In addition to the species below, longspine thornyhead, *S. altivelis*, and shortspine thornyhead, *S. alascanus*, ''rockfish'' managed under the PCGFMP include all genera and species of the family Scorpaenidae that occur off Washington, Oregon, and California, even if not listed below. The Scorpaenidae genera are Sebastes, Scorpaena, Scorpaenodes, and Sebastolobus. Where species below are listed both in a major category (nearshore, shelf, slope) and as an area-specific listing (north or south of 40°10′ N. lat.) those species are considered ''minor'' in the geographic area listed.

(i) Nearshore rockfish includes black rockfish, *Sebastes melanops* and the following minor nearshore rockfish species:

(A) North of 40°10′ N. lat.:black and yellow rockfish, *S. chrysomelas*; blue rockfish, *S. mystinus*; brown rockfish, *S. auriculatus*; calico rockfish, *S. dalli*; China rockfish, *S. nebulosus*; copper rockfish, *S. caurinus*; gopher rockfish, *S. carnatus*; grass rockfish, *S. rastrelliger*; kelp rockfish, *S. atrovirens*; olive rockfish, *S. serranoides*; quillback rockfish, *S. maliger*; treefish, *S. serriceps*.

(B) South of 40°10′ N. lat., nearshore rockfish are divided into three management categories:

(*1*) Shallow nearshore rockfish consists of black and yellow rockfish, *S. chrysomelas*; China rockfish, *S. nebulosus*; gopher rockfish, *S. carnatus*; grass rockfish, *S. rastrelliger*; kelp rockfish, *S. atrovirens*.

(*2*) Deeper nearshore rockfish consists of black rockfish, *S. melanops*, blue rockfish, *S. mystinus*; brown rockfish, *S. auriculatus*; calico rockfish, *S. dalli*; copper rockfish, *S. caurinus*; olive rockfish, *S. serranoides*; quillback rockfish, *S. maliger*; treefish, *S. serriceps*.

(*3*) California scorpionfish, *Scorpaena guttata*.

(ii) Shelf rockfish includes bocaccio, *Sebastes paucispinis*; canary rockfish, *S. pinniger*; chilipepper, *S. goodei*; cowcod, *S. levis*; shortbelly rockfish, *S. jordani*; widow rockfish, *S. entomelas*; yelloweye rockfish, *S. ruberrimus*; yellowtail rockfish, *S. flavidus* and the following minor shelf rockfish species:

(A) North of 40°10′ N. lat.: bronzespotted rockfish, *S. gilli*; bocaccio, *Sebastes paucispinis*; chameleon rockfish, *S. phillipsi*; chilipepper, *S. goodei*; cowcod, *S. levis*; dusky rockfish, *S. ciliatus*; dwarf-red, *S. rufianus*; flag rockfish, *S. rubrivinctus*; freckled, *S. lentiginosus*; greenblotched rockfish, *S. rosenblatti*; greenspotted rockfish, *S. chlorostictus*; greenstriped rockfish, *S. elongatus*; halfbanded rockfish, *S. semicinctus*; harlequin rockfish, *S. variegatus*; honeycomb rockfish, *S. umbrosus*; Mexican rockfish, *S. macdonaldi*; pink rockfish, *S. eos*; pinkrose rockfish, *S. simulator*; pygmy rockfish, *S. wilsoni*; redstripe rockfish, *S. proriger*; rosethorn rockfish, *S. helvomaculatus*; rosy rockfish, *S. rosaceus*; silvergray rockfish, *S. brevispinis*; speckled rockfish, *S. ovalis*; squarespot rockfish, *S. hopkinsi*; starry rockfish, *S. constellatus*; stripetail rockfish, *S. saxicola*; swordspine rockfish, *S. ensifer*; tiger rockfish, *S. nigrocinctus*; vermilion rockfish, *S. miniatus*.

(B) South of 40°10′ N. lat.: bronzespotted rockfish, *S. gilli*; chameleon rockfish, *S. phillipsi*; dusky rockfish, *S. ciliatus*; dwarf-red rockfish, *S. rufianus*; flag rockfish, *S. rubrivinctus*; freckled, *S. lentiginosus*; greenblotched rockfish, *S. rosenblatti*; greenspotted rockfish, *S. chlorostictus*; greenstriped rockfish, *S. elongatus*; halfbanded rockfish, *S. semicinctus*; harlequin rockfish, *S. variegatus*; honeycomb rockfish, *S. umbrosus*; Mexican rockfish, *S. macdonaldi*; pink

rockfish, *S. eos*; pinkrose rockfish, *S. simulator*; pygmy rockfish, *S. wilsoni*; redstripe rockfish, *S. proriger*; rosethorn rockfish, *S. helvomaculatus*; rosy rockfish, *S. rosaceus*; silvergray rockfish, *S. brevispinis*; speckled rockfish, *S. ovalis*; squarespot rockfish, *S. hopkinsi*; starry rockfish, *S. constellatus*; stripetail rockfish, *S. saxicola*; swordspine rockfish, *S. ensifer*; tiger rockfish, *S. nigrocinctus*; vermilion rockfish, *S. miniatus*; yellowtail rockfish, *S. flavidus*.

(iii) Slope rockfish includes darkblotched rockfish, *S. crameri*; Pacific ocean perch, *S. alutus*; splitnose rockfish, *S. diploproa* and the following minor slope rockfish species:

(A) North of 40°10' N. lat.: aurora rockfish, *Sebastes aurora*; bank rockfish, *S. rufus*; blackgill rockfish, *S. melanostomus*; redbanded rockfish, *S. babcocki*; rougheye rockfish, *S. aleutianus*; sharpchin rockfish, *S. zacentrus*; shortraker rockfish, *S. borealis*; splitnose rockfish, *S. diploproa*; yellowmouth rockfish, *S. reedi*.

(B) South of 40°10′ N. lat.: aurora rockfish, *Sebastes aurora*; bank rockfish, *S. rufus*; blackgill rockfish, *S. melanostomus*; Pacific ocean perch, *S. alutus*; redbanded rockfish, *S. babcocki*; rougheye rockfish, *S. aleutianus*; sharpchin rockfish, *S. zacentrus*; shortraker rockfish, *S. borealis*; yellowmouth rockfish, *S. reedi*.

(8) Flatfish: arrowtooth flounder (arrowtooth turbot), *Atheresthes stomias*; butter sole, *Isopsetta isolepis*; curlfin sole, *Pleuronichthys decurrens*; Dover sole, *Microstomus pacificus*; English sole, *Parophrys vetulus*; flathead sole, *Hippoglossoides elassodon*; Pacific sanddab, *Citharichthys sordidus*; petrale sole, *Eopsetta jordani*; rex sole, *Glyptocephalus zachirus*; rock sole, *Lepidopsetta bilineata*; sand sole, *Psettichthys melanostictus*; starry flounder, *Platichthys stellatus*. Where Tables 3–5 of this subpart refer to landings limits for ''other flatfish,'' those limits apply to all flatfish cumulatively taken except for those flatfish species specifically listed in Tables 1–2 of this subpart. (i.e., ''other flatfish'' includes butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.)

(9) ''Other fish'': Where Tables 3–5 of this subpart refer to landings limits for ''other fish,'' those limits apply to all groundfish listed here in paragraphs (1)-(8) except for those groundfish species specifically listed in Tables 1–2 of this subpart with an ABC for that area (generally north and/or south of 40°10' N. lat.). (i.e., ''other fish'' may include all sharks, skates, ratfish, morids, grenadiers, and kelp greenling listed in this section, as well as cabezon in the north and Pacific cod in the south.)

* * * * *

Land or landing means to begin transfer of fish, offloading fish, or to offload fish from any vessel. Once transfer of fish begins, all fish aboard the vessel are counted as part of the landing.

* * * * *

North-South management area means the management areas defined in paragraphs (1)(i) through (v) of this definition (Vancouver, Columbia, Eureka, Monterey Conception) or defined and bounded by one or more of the commonly used geographic coordinates set out in paragraphs (2)(i) through (xi) of this definition for the purposes of implementing different management measures in separate sections of the U.S. West Coast.

(1) *Management areas*—(i) *Vancouver.* (A) The northeastern boundary is that part of a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35.73′ N. lat., 124°43.00′ W. long.) south of the International Boundary between the U.S. and Canada (at 48°29.62′ N. lat., 124°43.55′ W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(B) The northern and northwestern boundary is a line connecting the following coordinates in the order listed, which is the provisional international boundary of the EEZ as shown on NOAA/NOS Charts #18480 and #18007:

Point	N. Lat.	W. Long.
1	48°29.62′	124°43.55′
2	48°30.18′	124°47.22′
3	48°30.37′	124°50.35′
4	48°30.23′	124°54.87′
5	48°29.95′	124°59.23′
6	48°29.73′	125°00.10′
7	48°28.15′	125°05.78′
8	48°27.17′	125°08.42′
9	48°26.78′	125°09.20′
10	48°20.27′	125°22.80′
11	48°18.37′	125°29.97′
12	48°11.08′	125°53.80′
13	47°49.25′	126°40.95′
14	47°36.78′	127°11.97′
15	47°22.00′	127°41.38′
16	46°42.08′	128°51.93′
17	46°31.78′	129°07.65′
.....	.....	.....

(C) The southern limit is 47°30′ N. lat.

(i) *Columbia.* (A) The northern limit is 47°30′ N. lat.

(B) The southern limit is 43°00′ N. lat.

(ii) *Eureka.* (A) The northern limit is 43°00′ N. lat.

(B) The southern limit is 40°30′ N. lat.

(iii) *Monterey.* (A) The northern limit is 40°30′ N. lat.

(B) The southern limit is 36°00′ N. lat.

(iv) *Conception.* (A) The northern limit is 36°00′ N. lat.

(B) The southern limit is the U.S.-Mexico International Boundary, which is a line connecting the following coordinates in the order listed:

Point	N. Lat.	W. Long.
1	32°35.37′	117°27.82′
2	32°37.62′	117°49.52′
3	31°07.97′	118°36.30′
4	30°32.52′	121°51.97′
.....	.....	.....

(2) *Commonly used geographic coordinates.* (i) Cape Alava, WA—48°10.00′ N. lat.

(ii) Queets River, WA—47°31.70′ N. lat.

(iii) Leadbetter Point, WA—46°38.17′ N. lat.

(iv) Washington/Oregon border—46°16.00′ N. lat.

(v) Cape Falcon, OR—45°46.00′ N. lat.

(vi) Cape Lookout, OR—45°20.25′ N. lat.

(vii) Cascade Head, OR—45°03.83′ N. lat.

(viii) Heceta Head, OR—44°08.30′ N. lat.

(ix) Cape Argo, OR—43°20.83′ N. lat.

(x) Cape Blanco, OR—42°50.00′ N. lat.

(xi) Humbug Mountain—42°40.50′ N. lat.

(xii) Marck Arch, OR—42°13.67′ N. lat.

(xiii) Oregon/California border—42°00.00' N. lat.

(xiv) Cape Mendocino, CA—40°30.00′ N. lat.

(xv) North/South management line—40°10.00′ N. lat.

(xvi) Point Arena, CA—38°57.50′ N. lat.

(xvii) Point San Pedro, CA—37°35.67′ N. lat.

(xviii) Pigeon Point, CA—37°11.00′ N. lat.

(xix) Ano Nuevo, CA—37°07.00′ N. lat.

(xx) Point Lopez, CA—36°00.00′ N. lat.

(xxi) Point Conception, CA—34°27.00′ N. lat. [Note: Regulations that apply to waters north of 34°27.00′ N. lat. are applicable only west of 120°28.00′ W. long.; regulations that apply to waters south of 34°27.00′ N. lat. also apply to all waters both east of 120°28.00′ W. long. and north of 34°27.00′ N. lat.]

* * * * *

Trip limits. * * *

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(3) A weekly trip limit is the maximum amount of a groundfish

species or species group that may be taken and retained, possessed, or landed per vessel in 7 consecutive days, starting at 0001 hours l.t. on Sunday and ending at 2400 hours l.t. on Saturday. Weekly trip limits may not be accumulated during multiple week trips. If a calendar week falls within two different months or two different cumulative limit periods, a vessel is not entitled to two separate weekly limits during that week.

* * * * *

■ 3. In § 660.306, paragraphs (a)(6) and (a)(7) are revised and (a)(12) is added to read as follows:

§ 660.306 Prohibitions.

* * * * *

(a) * * *

(6) Take and retain, possess, or land more groundfish than specified under §§ 660.370 through 660.373 or §§ 660.381 through 660.385, or under an EFP issued under § 660.350 or part 600 of this chapter.

(7) Fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, quota, harvest guideline, or OY, if the vessel fished or landed in an area during a time when such trip limit, size limit, quota, harvest guideline, or OY applied.

* * * * *

(12) Transfer fish to another vessel at sea unless a vessel is participating in the primary whiting fishery as part of the mothership or catcher-processor sectors, as described at § 660.373(a).

* * * * *

§ 660.310 [Removed]

■ 4. Remove § 660.310.

■ 5. Section 660.321 is added to read as follows:

§ 660.321 Black rockfish harvest guideline.

From the commercial harvest of black rockfish off Washington State, a treaty Indian tribes' harvest guideline is set of 20,000 lb (9,072 kg) for the area north of Cape Alava, WA (48°09.50' N. lat) and 10,000 lb (4,536 kg) for the area between Destruction Island, WA (47°40' N. lat.) and Leadbetter Point, WA (46°38.17' N. lat.). This harvest guideline applies and is available to the treaty Indian tribes identified in § 660.324(b).

■ 6. Section § 660.322 is added to read as follows:

§ 660.322 Sablefish allocations.

(a) *Tribal-nontribal allocation.* The sablefish allocation to Pacific coast treaty Indian tribes identified at § 660.324(b) is 10 percent of the sablefish total catch OY for the area north of 36° N. lat. This allocation represents the total amount available to the treaty Indian fisheries before deductions for discard mortality. The annual tribal sablefish allocations are provided in § 660.385(a).

(b) *Between the limited entry and open access sectors.* Sablefish is allocated between the limited entry and open access fisheries according to the procedure described in § 660.320(a).

(c) *Between the limited entry trawl and limited entry nontrawl sectors.* The limited entry sablefish allocation is further allocated 58 percent to the trawl sector and 42 percent to the nontrawl (longline and pot/trap) sector.

(d) *Between the limited entry fixed gear primary season and daily trip limit fisheries.* Within the limited entry nontrawl sector allocation, 85 percent is reserved for the primary season described in § 660.372(b), leaving 15 percent for the limited entry daily trip limit fishery described in § 660.372(c).

(e) *Ratios between tiers for sablefish endorsed limited entry permit holders.* The Regional Administrator will biennially or annually calculate the size of the cumulative trip limit for each of the three tiers associated with the sablefish endorsement such that the ratio of limits between the tiers is approximately 1:1.75:3.85 for Tier 3:Tier 2:Tier 1, respectively. The size of the cumulative trip limits will vary depending on the amount of sablefish available for the primary fishery and on estimated discard mortality rates within the fishery. The size of the cumulative trip limits for the three tiers in the primary fishery will be announced in § 660.372.

■ 7. In § 660.323, paragraph (a) is revised to read as follows:

§ 660.323 Pacific whiting allocations, allocation attainment, and inseason allocation reapportionment.

(a) *Allocations.* (1) Annual treaty tribal whiting allocations are provided in § 660.385(e).

(2) The non-tribal commercial harvest guideline for whiting is allocated among three sectors, as follows: 34 percent for the catcher/processor sector; 24 percent for the mothership sector; and 42 percent for the shoreside sector. No more than 5 percent of the shoreside allocation may be taken and retained south of 42° N. lat. before the start of the primary whiting season north of 42° N. lat. These allocations are harvest guidelines unless otherwise announced in the **Federal Register**. The non-tribal Pacific whiting allocations in 2005 are as follows:

(i) *Catcher/processor sector*–TBA(24 percent);

(ii) *Mothership sector*–TBA (34 percent);

(iii) *Shore-based sector*–TBA (42 percent). No more than 5 percent (TBA) of the shore-based whiting allocation may be taken before the shore-based fishery begins north of 42° N. lat. on June 15, 2005.

* * * * *

■ 8. In § 660.365, paragraph (c) is revised to read as follows:

§ 660.365 Overfished species rebuilding plans.

* * * * *

(c) *Lingcod.* The target date for rebuilding the lingcod stock to B_{MSY} is 2009. The harvest control rule to be used to rebuild the lingcod stock is an annual harvest rate of F=0.17 in the north and F=0.15 in the south.

* * * * *

■ 9. In § 660.370, paragraphs (a), (c) introductory text, (c)(1), (d) and (f) are revised and (g) and (h) are added to read as follows:

§ 660.370 Specifications and management measures.

(a) *General.* NMFS will establish and adjust specifications and management measures biennially or annually and during the fishing year. Management of the Pacific Coast groundfish fishery will be conducted consistent with the standards and procedures in the PCGFMP and other applicable law. The PCGFMP is available from the Regional Administrator or the Council. Regulations under this subpart may be promulgated, removed, or revised during the fishing year. Any such action will be made according to the framework standards and procedures in the PCGFMP and other applicable law, and will be published in the **Federal Register**.

* * * * *

(c) *Routine management measures.* In addition to the catch restrictions in §§ 660.371 through 660.373, other catch restrictions that are likely to be adjusted on a biennial or more frequent basis may be imposed and announced by a single notification in the **Federal Register** if good cause exists under the APA to waive notice and comment, and if they have been designated as routine through the two-meeting process described in the PCGFMP. Routine management measures that may be revised during the fishing year via this process are implemented in paragraph (h) of this section and in §§ 660.371 through 660.373, §§ 660.381 through 660.385 and Tables 3–5 of this subpart. Most trip, bag, and size limits, and area closures in the groundfish fishery have been designated ''routine,'' which

means they may be changed rapidly after a single Council meeting. Council meetings are held in the months of March, April, June, September, and November. Inseason changes to routine management measures are announced in the **Federal Register** pursuant to the requirements of the Administrative Procedure Act (APA). Changes to trip limits are effective at the times stated in the **Federal Register**. Once a change is effective, it is illegal to take and retain, possess, or land more fish than allowed under the new trip limit. This means that, unless otherwise announced in the **Federal Register**, offloading must begin before the time a fishery closes or a more restrictive trip limit takes effect. The following catch restrictions have been designated as routine:

(1) *Commercial limited entry and open access fisheries*—(i) T*rip landing and frequency limits, size limits, all gear.* Trip landing and frequency limits have been designated as routine for the following species or species groups: widow rockfish, canary rockfish, yellowtail rockfish, Pacific ocean perch, yelloweye rockfish, black rockfish, blue rockfish, splitnose rockfish, chilipepper rockfish, bocaccio, cowcod, minor nearshore rockfish or shallow and deeper minor nearshore rockfish, shelf or minor shelf rockfish, and minor slope rockfish; DTS complex which is composed of Dover sole, sablefish, shortspine thornyheads, and longspine thornyheads; petrale sole, rex sole, arrowtooth flounder, Pacific sanddabs, and the flatfish complex, which is composed of those species plus any other flatfish species listed at § 660.302; Pacific whiting; lingcod; and ''other fish'' as a complex consisting of all groundfish species listed at § 660.302 and not otherwise listed as a distinct species or species group. Size limits have been designated as routine for sablefish and lingcod. Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on a biennial or more frequent basis for the purpose of keeping landings within the harvest levels announced by NMFS, and for the other purposes given in paragraphs (c)(1)(i)(A) and (B) of this section.

(A) *Trip landing and frequency limits.* To extend the fishing season; to minimize disruption of traditional fishing and marketing patterns; to reduce discards; to discourage target fishing while allowing small incidental catches to be landed; to protect overfished species; to allow small fisheries to operate outside the normal season; and, for the open access fishery only, to maintain landings at the historical proportions during the 1984-88 window period.

(B) *Size limits.* To protect juvenile fish; to extend the fishing season.

(ii) *Differential trip landing limits and frequency limits based on gear type, closed seasons.* Trip landing and frequency limits that differ by gear type and closed seasons may be imposed or adjusted on a biennial or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks. To achieve the rebuilding of an overfished or depleted stock, the Pacific whiting primary seasons described at § 660.373(b), may be closed for any or all of the fishery sectors identified at § 660.373(a) before the sector allocation is reached if any of the bycatch limits identified at § 660.373(b)(4) are reached.

* * * * *

(d) *Automatic actions.* Automatic management actions may be initiated by the NMFS Regional Administrator without prior public notice, opportunity to comment, or a Council meeting. These actions are nondiscretionary, and the impacts must have been taken into account prior to the action. Unless otherwise stated, a single notice will be published in the **Federal Register** making the action effective if good cause exists under the APA to waive notice and comment. Automatic actions are used in the Pacific whiting fishery to close the fishery or reinstate trip limits when a whiting harvest guideline, commercial harvest guideline, or a sector's allocation is reached, or is projected to be reached; or to reapportion unused allocation to other sectors of the fishery.

* * * * *

(f) *Exempted fisheries.* U.S. vessels operating under an exempted fishing permit (EFP) issued under 50 CFR part 600 are also subject to restrictions in §§ 660.301 through 660.394, unless otherwise provided in the permit. EFPs may include the collecting of scientific samples of groundfish species that would otherwise be prohibited for retention.

(g) *Applicability.* Groundfish species harvested in the territorial sea (0–3 nm) will be counted toward the catch limitations in §§ 660.370 through 660.385 and in Tables 1–5 of this subpart.

(h) *Fishery restrictions.*—(1) *Commercial trip limits and recreational bag and boat limits.* Commercial trip limits and recreational bag and boat limits defined in § 660.302 and set in §§ 660.371 through 660.373, §§ 660.381 through 660.385 and Tables 3–5 of this subpart must not be exceeded.

(2) *Landing.* As stated at 50 CFR 660.302 (in the definition of ''Landing''), once the offloading of any species begins, all fish aboard the vessel are counted as part of the landing and must be reported as such. Transfer of fish at sea is prohibited under § 660.306(a)(12) unless a vessel is participating in the primary whiting fishery as part of the mothership or catcher-processor sectors, as described at § 660.373(a).

(3) *Fishing ahead.* Unless the fishery is closed, a vessel that has landed its cumulative or daily limit may continue to fish on the limit for the next legal period, so long as no fish (including, but not limited to, groundfish with no trip limits, shrimp, prawns, or other nongroundfish species or shellfish) are landed (offloaded) until the next legal period. Fishing ahead is not allowed during or before a closed period.

(4) *Weights and percentages.* All weights are round weights or round-weight equivalents unless otherwise specified. Percentages are based on round weights, and, unless otherwise specified, apply only to legal fish on board.

(5) *Size limits, length measurement, and weight limits*—(i) *Size limits and length measurement.* Unless otherwise specified, size limits in the commercial and recreational groundfish fisheries apply to the ''total length,'' which is the longest measurement of the fish without mutilation of the fish or the use of force to extend the length of the fish. No fish with a size limit may be retained if it is in such condition that its length has been extended or cannot be determined by these methods. For conversions not listed here, contact the state where the fish will be landed.

(A) *Whole fish.* For a whole fish, total length is measured from the tip of the snout (mouth closed) to the tip of the tail in a natural, relaxed position.

(B) ''*Headed*'' *fish.* For a fish with the head removed (''headed''), the length is measured from the origin of the first dorsal fin (where the front dorsal fin meets the dorsal surface of the body closest to the head) to the tip of the upper lobe of the tail; the dorsal fin and tail must be left intact.

(C) *Filets.* A filet is the flesh from one side of a fish extending from the head to the tail, which has been removed from the body (head, tail, and backbone) in a single continuous piece. Filet lengths may be subject to size limits for some groundfish taken in the recreational fishery off California (see § 660.384). A filet is measured along the length of the longest part of the filet in a relaxed position; stretching or otherwise manipulating the filet to increase its length is not permitted.

(ii) *Weight limits and conversions.* The weight limit conversion factor established by the state where the fish is or will be landed will be used to convert the processed weight to round weight for purposes of applying the trip limit. Weight conversions provided herein are those conversions currently in use by the States of Washington, Oregon and California and may be subject to change by those states. Fishery participants should contact fishery enforcement officials in the state where the fish will be landed to determine that state's official conversion factor. To determine the round weight, multiply the processed weight times the conversion factor.

(iii) *Sablefish.* The following conversion applies to both the limited entry and open access fisheries when trip limits are in effect for those fisheries. For headed and gutted (eviscerated) sablefish the weight conversion factor is 1.6 (multiply the headed and gutted weight by 1.6 to determine the round weight).

(iv) *Lingcod.* The following conversions apply in both limited entry and open access fisheries.

(A) For lingcod with the head removed, the minimum size limit is 19.5 inches (49.5 cm), which corresponds to 24 inches (61 cm) total length for whole fish.

(B) The weight conversion factor for headed and gutted lingcod is 1.5. The conversion factor for lingcod that has only been gutted with the head on is 1.1.

(6) *Sorting.* Under § 660.306(a)(7), it is unlawful for any person to ''fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, quota, harvest guideline, or OY, if the vessel fished or landed in an area during a time when such trip limit, size limit, OY, or quota applied.'' The States of Washington, Oregon, and California may also require that vessels record their landings as sorted on their state fish tickets. This provision applies to both the limited entry and open access fisheries. The following species must be sorted in 2005 and 2006:

(i) For vessels with a limited entry permit:

(A) Coastwide – widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, shortbelly rockfish, black rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, shortspine and longspine thornyhead, Dover sole, arrowtooth flounder, rex sole, petrale sole, arrowtooth flounder, other flatfish, lingcod, sablefish, and Pacific whiting

(B) North of 40°10′ N. lat.—POP, yellowtail rockfish, and, for fixed gear, blue rockfish;

(C) South of 40°10′ N. lat.—minor shallow nearshore rockfish, minor deeper nearshore rockfish, California scorpionfish, chilipepper rockfish, bocaccio rockfish, splitnose rockfish, Pacific sanddabs, and cabezon.

(ii) For open access vessels (vessels without a limited entry permit):

(A) Coastwide -widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, black rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, Dover sole, arrowtooth flounder, petrale sole, rex sole, other flatfish, lingcod, sablefish, Pacific whiting, and Pacific sanddabs;

(B) North of 40°10′ N. lat.—blue rockfish, POP, yellowtail rockfish;

(C) South of 40°10′ N. lat.—minor shallow nearshore rockfish, minor deeper nearshore rockfish, chilipepper rockfish, bocaccio rockfish, splitnose rockfish, and cabezon;

(D) South of Point Conception, CA—thornyheads.

(7) *Operating in both limited entry and open access fisheries.* Open access trip limits apply to any fishing conducted with open access gear, even if the vessel has a valid limited entry permit with an endorsement for another type of gear. A vessel that operates in both the open access and limited entry fisheries is not entitled to two separate trip limits for the same species. If a vessel has a limited entry permit and uses open access gear, but the open access limit is smaller than the limited entry limit, the open access limit may not be exceeded and counts toward the limited entry limit. If a vessel has a limited entry permit and uses open access gear, but the open access limit is larger than the limited entry limit, the smaller limited entry limit applies, even if taken entirely with open access gear.

(8) *''Crossover provisions,'' operating in north-south management areas with different trip limits.* NMFS uses different types of management areas for West Coast groundfish management. One type of management area is the north-south management area, a large ocean area with northern and southern boundary lines wherein trip limits, seasons, and conservation areas follow a single theme. Within each north-south management area, there may be one or more conservation areas, detailed in §§ 660.302 and 660.390 through 660.394. The provisions within this paragraph apply to vessels operating in different north-south management areas. Trip limits for a species or a species group may differ in different north-south management areas along the coast. The following ''crossover'' provisions apply to vessels operating in different geographical areas that have different cumulative or ''per trip'' trip limits for the same species or species group. Such crossover provisions do not apply to species that are subject only to daily trip limits, or to the trip limits for black rockfish off Washington (see § 660.371).

(i) *Going from a more restrictive to a more liberal area.* If a vessel takes and retains any groundfish species or species group of groundfish in an area where a more restrictive trip limit applies before fishing in an area where a more liberal trip limit (or no trip limit) applies, then that vessel is subject to the more restrictive trip limit for the entire period to which that trip limit applies, no matter where the fish are taken and retained, possessed, or landed.

(ii) *Going from a more liberal to a more restrictive area.* If a vessel takes and retains a groundfish species or species group in an area where a higher trip limit or no trip limit applies, and takes and retains, possesses or lands the same species or species group in an area where a more restrictive trip limit applies, that vessel is subject to the more restrictive trip limit for the entire period to which that trip limit applies, no matter where the fish are taken and retained, possessed, or landed.

(iii) *Operating in two different areas where a species or species group is managed with different types of trip limits.* During the fishing year, NMFS may implement management measures for a species or species group that set different types of trip limits (for example, per trip limits versus cumulative trip limits) for different areas. If a vessel fishes for a species or species group that is managed with different types of trip limits in two different areas within the same cumulative limit period, then that vessel is subject to the most restrictive overall cumulative limit for that species, regardless of where fishing occurs.

(iv) *Minor rockfish.* Several rockfish species are designated with species-specific limits on one side of the 40°10′ N. lat. management line, and are included as part of a minor rockfish complex on the other side of the line. A vessel that takes and retains fish from a minor rockfish complex (nearshore, shelf, or slope) on both sides of a management line during a single cumulative limit period is subject to the more restrictive cumulative limit for that minor rockfish complex during that period.

(A) If a vessel takes and retains minor slope rockfish north of 40°10.00′ N. lat., that vessel is also permitted to take and

retain, possess or land splitnose rockfish up to its cumulative limit south of 38° N. lat., even if splitnose rockfish were a part of the landings from minor slope rockfish taken and retained north of 40°10.00′ N. lat.

(B) If a vessel takes and retains minor slope rockfish south of 40°10.00′ N. lat., that vessel is also permitted to take and retain, possess or land POP up to its cumulative limit north of 40°10.00′ N. lat., even if POP were a part of the landings from minor slope rockfish taken and retained south of 38° N. lat.

(C) If a trawl vessel takes and retains minor shelf rockfish south of 40°10′ N. lat., that vessel is also permitted to take and retain, possess, or land yellowtail rockfish up to its cumulative limits north of 40°10′ N. lat., even if yellowtail rockfish is part of the landings from minor shelf rockfish taken and retained south of 40°10′ N. lat. Yellowtail rockfish is included in overall shelf rockfish limits for limited entry fixed gear and open access gear groups. Widow rockfish is included in overall shelf rockfish limits for all gear groups.

(D) If a trawl vessel takes and retains minor shelf rockfish north of 40°10′ N. lat., that vessel is also permitted to take and retain, possess, or land chilipepper rockfish up to its cumulative limits south of 40°10′ N. lat., even if chilipepper rockfish is part of the landings from minor shelf rockfish taken and retained north of 40°10′ N. lat.

(v) *''DTS complex.''* There are differential trawl trip limits for the ''DTS complex'' north and south of the management line at 40°10' N. lat. Vessels operating in the limited entry trawl fishery are subject to the crossover provisions in this paragraph when making landings that include any one of the four species in the ''DTS complex.''

(vi) *Flatfish complex.* There are differential trip limits for the flatfish complex (butter, curlfin, English, flathead, petrale, rex, rock, and sand soles, Pacific sanddab, and starry flounder) north and south of the management line at 40°10' N. lat. Vessels operating in the limited entry trawl fishery are subject to the crossover provisions in this paragraph when making landings that include any one of the species in the flatfish complex.

■ 10. Section 660.371 is revised to read as follows:

§ 660.371 Black rockfish fishery management.

The trip limit for black rockfish (Sebastes melanops) for commercial fishing vessels using hook-and-line gear between the U.S.-Canada border and Cape Alava (48°09.50′ N. lat.), and between Destruction Island (47°40′ N. lat.) and Leadbetter Point (46°38.17′ N. lat.), is 100 lbs (45 kg) or 30 percent, by weight of all fish on board, whichever is greater, per vessel per fishing trip. These per trip limits apply to limited entry and open access fisheries, in conjunction with the cumulative trip limits and other management measures in §§ 660.382 and 660.383. The crossover provisions in § 660.370(h)(8) do not apply to the black rockfish per-trip limits.

■ 11. In § 660.372, the introductory paragraph, paragraphs (b)(1), and (b)(3)(i) are revised, (b)(3)(ii) is removed and paragraphs (b)(3)(iii) and (b)(3)(iv) are redesignated as paragraphs (b)(3)(ii) and (b)(3)(iii), respectively, and paragraph (c) is revised to read as follows:

§ 660.372 Fixed gear sablefish fishery management.

This section applies to the primary season for the fixed gear limited entry sablefish fishery north of 36° N. lat., except for paragraph (c), of this section, which also applies to the open access fishery north of 36° N. lat. and to both the limited entry and open access fisheries south of 36° N. lat. Limited entry and open access fixed gear sablefish fishing outside of the primary sablefish season north of 36° N. lat. is governed by routine management measures imposed under § 660.370.

* * * * *

(b) *Primary season limited entry, fixed gear sablefish fishery*—(1) *Season dates.* North of 36° N. lat., the primary sablefish season for limited entry, fixed gear vessels begins at 12 noon l.t. on April 1 and ends at 12 noon l.t. on October 31, unless otherwise announced by the Regional Administrator. If a vessel is registered for use with a sablefish-endorsed limited entry permit, all sablefish taken after April 1 count against the cumulative limits associated with the permit(s) registered for use with that vessel.

* * * * *

(3) * * *

(i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. During the primary season, each vessel authorized to participate in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that vessel. If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in the **Federal Register** for the tiers for those permits, except as limited by paragraph (b)(3)(iii) of this section. Up to 3 permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than 3 primary season sablefish cumulative limits in any one year. A vessel registered for use with multiple limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under paragraph (c) of this section. For 2005, the following limits are in effect: Tier 1 at 64,100 lb (29,075 kg), Tier 2 at 29,100 lb (13,200 kg), and Tier 3 at 16,600 lb (7,530 kg). For 2006, the following limits are in effect: Tier 1 at 62,700 lb (28,440 kg), Tier 2 at 28,500 lb (12,927 kg), and Tier 3 at 16,300 lb (7,394 kg).

* * * * *

(c) *Limited entry and open access daily trip limit fisheries both north and south of 36° N. lat.* (1) Before the start of the primary season, all sablefish landings made by a vessel authorized under paragraph (a) of this section to participate in the primary season will be subject to the restrictions and limits of the limited entry daily and/or weekly trip limit fishery for sablefish, which is governed by routine management measures imposed under § 660.370(c).

(2) Following the start of the primary season, all landings made by a vessel authorized under paragraph (a) of this section to participate in the primary season will count against the primary season cumulative limit(s) associated with the permit(s) registered for use with that vessel. A vessel that is eligible to participate in the primary sablefish season may participate in the daily trip limit fishery for sablefish once that vessels' primary season sablefish limit(s) have been taken, or after the end of the primary season, whichever occurs earlier. Any subsequent sablefish landings by that vessel will be subject to the restrictions and limits of the limited entry daily and/or trip limit fishery for sablefish for the remainder of the calendar year.

(3) No vessel may land sablefish against both its primary season cumulative sablefish limits and against the daily and/or weekly trip limit fishery limits within the same 24 hour period of 0001 hours l.t. to 2400 hours l.t. If a vessel has taken all of its tier limit except for an amount that is smaller than the daily trip limit amount, that vessel's subsequent sablefish landings are automatically subject to daily and/or weekly trip limits.

(4) Vessels registered for use with a limited entry, fixed gear permit that does not have a sablefish endorsement may participate in the limited entry, daily and/or weekly trip limit fishery for as long as that fishery is open during the year, subject to routine management measures imposed under § 660.370(c). Daily and/or weekly trip limits for the limited entry fishery north and south of 36° N. lat. are provided in Tables 4 (North) and 4 (South) of this subpart.

(5) Open access vessels may participate in the open access, daily trip limit fishery for as long as that fishery is open during the year, subject to the routine management measures imposed under § 660.370(c). Daily and/or weekly trip limits for the open access fishery north and south of 36° N. lat. are provided in Tables 5 (North) and 5 (South) of this subpart.

* * * * *

■ 12. In § 660.373, paragraphs (b)(1)(iii), (b)(3), (b)(4), and (d)(1) are added and paragraph (d)(2) is added and reserved to read as follows:

§ 660.373 Pacific whiting (whiting) fishery management.

* * * * *

(b) * * *

(1) * * *

(iii) *2005 and 2006 primary whiting seasons.* After the start of a primary season for a sector of the whiting fishery, the season remains open for that sector until the quota is taken and the fishery season for that sector is closed by NMFS. In both 2005 and 2006, the primary seasons for the whiting fishery start on the same dates as follows:

(A) Catcher/processor sector – May 15;

(B) Mothership sector May 15;

(C) Shore-based sector June 15 north of 42° N. lat.; April 1 between 42° – 40°30′ N. lat.

* * * * *

(3) *2005–2006 trip limits in the whiting fishery.* The ''per trip'' limit for whiting before and after the regular (primary) season for the shore-based sector is announced in Table 4 of this subpart, and is a routine management measure under § 660.370(c). This trip limit includes any whiting caught shoreward of 100 fathoms (183 m) in the Eureka, CA area. The ''per trip'' limit for other groundfish species before, during and after the regular (primary) season are announced in Table 3 (North) and Table 3 (South) of this subpart and apply as follows:

(i) During the groundfish cumulative limit periods both before and after the primary whiting season, vessels may use either small and/or large footrope gear, but are subject to the more restrictive trip limits for those entire cumulative periods.

(ii) During the primary whiting season for a sector of the fishery, then the midwater trip limits apply and are additive to the trip limits for other groundfish species for that fishing period (i.e., vessels are not constrained by the lower midwater limits and can harvest up to a footrope-specific trawl limit plus the midwater trawl limit per species or species group for that cumulative limit period).

(4) *2005—2006 bycatch limits in the whiting fishery.* The bycatch limits for the whiting fishery may be used inseason to close a sector or sectors of the whiting fishery to achieve the rebuilding of an overfished or depleted stock, under routine managmenet measure authority at § 660.370 (c)(1)(ii). These limits are routine management measures under § 660.370 (c) and, as such, may be adjusted inseason or may have new species added to the list of those with bycatch limits. For 2005, the whiting fishey bycatch limits are 7.3 mt of canary rockfish and 231.8 mt of widow rockfish. For 2006, the whiting fishery bycatch limits are 7.3 mt of canary rockfish and 243.2 mt of widow rockfish.

* * * * *

(d) * * *

(1) *2005–2006 whiting trip limits.* No more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fm (183 m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka management area (defined at § 660.302).

(2) [Reserved]

* * * * *

■ 13. A new § 660.380 is added to read as follows:

§ 660.380 Groundfish harvest specifications.

Fishery specifications include ABCs, the designation of OYs (which may be represented by harvest guidelines (HGs) or quotas for species that need individual management,) and the allocation of commercial OYs between the open access and limited entry segments of the fishery. These specifications include fish caught in state ocean waters (0–3 nm offshore) as well as fish caught in the EEZ (3–200 nm offshore). Specifications and management measures are provided as Tables 1a and 1b, and 2a and 2b of this subpart.

■ 14. A new § 660.381 is added to read as follows:

§ 660.381 Limited entry trawl fishery management measures.

(a) *General.* Limited entry trawl vessels include those vessels registered to a limited entry permit with a trawl endorsement. Most species taken in limited entry trawl fisheries will be managed with cumulative trip limits (see trip limits in Tables 3 (North) and 3 (South) of this subpart), size limits (see § 660.370 (h)(5)), seasons (see Pacific whiting at § 660.373), gear restrictions (see paragraph (b) of this section) and closed areas (see paragraph (d) of this section and §§ 660.390 through 660.394). The trawl fishery has gear requirements and trip limits that differ by the type of trawl gear on board and the area fished. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally-managed groundfish. Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (d)(1) of this section and § 660.390). The trip limits in Table 3 (North) and Table 3 (South) of this subpart apply to vessels participating in the limited entry groundfish trawl fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally-managed groundfish.

(b) *Trawl gear requirements and restrictions.* Trawl nets may be fished with or without otter boards, and may use warps or cables to herd fish.

(1) *Codends.* Only single-walled codends may be used in any trawl. Double-walled codends are prohibited.

(2) *Mesh size.* Groundfish trawl gear must meet the minimum mesh size requirements in this paragraph. Mesh size requirements apply throughout the net. Minimum trawl mesh sizes are: bottom trawl, 4.5 inches (11.4 cm); midwater trawl, 3.0 inches (7.6 cm). Minimum trawl mesh size requirements are met if a 20–gauge stainless steel wedge, less one thickness of the metal wedge, can be passed with only thumb pressure through at least 16 of 20 sets of two meshes each of wet mesh.

(3) *Chafing gear.* Chafing gear may encircle no more than 50 percent of the net's circumference, except as provided in paragraph (b)(5) of this section. No section of chafing gear may be longer than 50 meshes of the net to which it is attached. Except at the corners, the terminal end of each section of chafing gear must not be connected to the net. (The terminal end is the end farthest

from the mouth of the net.) Chafing gear must be attached outside any riblines and restraining straps. There is no limit on the number of sections of chafing gear on a net.

(4) *Large footrope trawl gear.* Large footrope gear is bottom trawl gear with a footrope diameter larger than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope).

(5) *Small footrope trawl gear.* Small footrope gear is bottom trawl gear with a footrope diameter of 8 inches (20 cm) or smaller (including rollers, bobbins or other material encircling or tied along the length of the footrope). Chafing gear may be used only on the last 50 meshes of a small footrope trawl, measured from the terminal (closed) end of the codend. Other lines or ropes that run parallel to the footrope may not be augmented such that they have a diameter larger than 8 inches (20 cm). For enforcement purposes, the footrope will be measured in a straight line from the outside edge to the opposite outside edge at the widest part on any individual part, including any individual disk, roller, bobbin, or any other device.

(i) Selective flatfish trawl gear is a type of small footrope trawl gear. The selective flatfish trawl net must be a two-seamed net and its breastline may not be longer than 3 ft (0.92 m) in length. There may be no floats along the center third of the selective flatfish trawl net's headrope and the headrope must be at least 30 percent longer in length than the footrope. Selective flatfish trawl gear may not have a footrope that is longer than 105 ft (32.26 m) in length. An explanatory diagram of a selective flatfish trawl net is provided as Figure 1 of Part 660, Subpart G.

(ii) [Reserved]

(6) *Midwater (or pelagic) trawl gear.* Midwater trawl gear must have unprotected footropes at the trawl mouth, and must not have rollers, bobbins, tires, wheels, rubber discs, or any similar device anywhere on any part of the net. The footrope of midwater gear may not be enlarged by encircling it with chains or by any other means. Ropes or lines running parallel to the footrope of midwater trawl gear must be bare and may not be suspended with chains or any other materials. Sweep lines, including the bottom leg of the bridle, must be bare. For at least 20 ft (6.15 m) immediately behind the footrope or headrope, bare ropes or mesh of 16–inch (40.6–cm) minimum mesh size must completely encircle the net. A band of mesh (a ''skirt'') may encircle the net under transfer cables, lifting or splitting straps (chokers), but must be: over riblines and restraining straps; the same mesh size and coincide knot-to-knot with the net to which it is attached; and no wider than 16 meshes.

(c) *Cumulative trip limits and prohibitions by limited entry trawl gear type.* Management measures may vary depending on the type of trawl gear (i.e., large footrope, small footrope, selective flatfish, or midwater trawl gear) used and/or on board a vessel during a fishing trip and the area fished. Trawl nets may be used on and off the seabed. For some species or species groups, Table 3 (North) and Table 3 (South) provide cumulative and/or trip limits that are specific to different types of trawl gear: large footrope, small footrope (including selective flatfish), selective flatfish, and midwater. If Table 3 (North) and Table 3 (South) provide gear specific limits for a particular species or species group, it is unlawful to take and retain, possess or land that species or species group with limited entry trawl gears other than those listed.

(1) *Large footrope trawl gear.* It is unlawful for any vessel using large footrope gear to fish for groundfish shoreward of the RCAs defined at paragraph (d) of this section and at §§ 660.390 through 660.394. The use of large footrope gear is permitted seaward of the RCAs coastwide.

(2) *Small footrope trawl gear.* North of 40°10′ N. lat., it is unlawful for any vessel using small footrope gear (except selective flatfish gear) to fish for groundfish or have small footrope trawl gear (except selective flatfish gear) onboard while fishing shoreward of the RCA defined at paragraph (d) of this section and at §§ 660.390 through 660.394. South of 40°10′ N. lat., small footrope gear is required shoreward of the RCA. Small footrope gear is permitted seaward of the RCA coastwide.

(i) North of 40°10′ N. lat., selective flatfish gear is required shoreward of the RCA defined at paragraph (d) of this section and at §§ 660.390 through 660.394. South of 40°10′ N. lat., selective flatfish gear is permitted, but not required, shoreward of the RCA. The use of selective flatfish trawl gear is permitted seaward of the RCA coastwide.

(ii) [Reserved]

(3) *Midwater trawl gear.* North of 40°10′ N. lat., midwater trawl gear is permitted only for vessels participating in the primary Pacific whiting fishery (for details on the Pacific whiting fishery see § 660.373). South of 40°10′ N. lat., the use of midwater trawl gear is prohibited shoreward of the RCA and permitted seaward of the RCA.

(4) *More than one type of trawl gear on board.* The cumulative trip limits in Table 3 (North) or Table 3 (South) of this subpart must not be exceeded. A vessel that is trawling within a Groundfish Conservation Area (GCA) with trawl gear authorized for use within a GCA may not have any other type of trawl gear on board.

(i) North of 40°10′ N. lat., a vessel may have more than one type of limited entry trawl gear on board, but the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear. If selective flatfish trawl gear is used by or is on board a vessel at any time north of 40°10′ N. lat. (either shoreward or seaward of RCA) and those trip limits are the most restrictive for a species or species group during the entire cumulative limit period, then selective flatfish trawl limits apply to that vessel for that species or species group for that entire cumulative limit period, regardless of whether other gear types are also used during that period. Midwater trawl gear is allowed only for vessels participating in the primary whiting season. On non-whiting trips (defined as any fishing trip that takes, retains, possess, or lands less than 10,000 lb (4,536 kg) of whiting), vessels with both large footrope and midwater trawl gear on board during a trip may access the large footrope limits while fishing with large footrope gear seaward of the RCA.

(ii) South of 40°10′ N. lat., a vessel may have more than one type of limited entry trawl gear on board, but the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative limit for that gear. If a vessel has small footrope trawl gear on board, then it may not have any other trawl gear on board. For vessels using more than one type of trawl gear during a cumulative limit period, limits are additive up to the largest limit for the type of gear used during that period. (Example: If a vessel harvests 300 lb (136 kg) of chilipepper rockfish with small footrope gear, it may harvest up to 11,700 lb (5,209 kg) of chilipepper rockfish with large footrope gear during July and August.) If a vessel fishes north of 40°10′ N. lat. with either selective flatfish or small footrope gear onboard the vessel at any time during the cumulative limit period, the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear.

(d) *Trawl Groundfish Conservation Areas (GCAs).* A Groundfish Conservation Area (GCA), a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. The following

GCAs apply to vessels participating in the limited entry trawl fishery.

(1) *Cowcod Conservation Areas (CCAs).* Vessels using limited entry trawl gear are prohibited from fishing within the CCAs. See § 660.390 for the coordinates that define the CCAs. Limited entry trawl vessels may transit through the Western CCA with their gear stowed and groundfish on board only in a corridor through the Western CCA bounded on the north by the latitude line at 33°00.50' N. lat., and bounded on the south by the latitude line at 32°59.50' N. lat. It is unlawful to take and retain, possess, or land groundfish within the CCAs, except as authorized in this paragraph, when those waters are open to fishing.

(2) Farallon Islands. Under California law, commercial fishing for all groundfish is prohibited between the shoreline and the 10 fm (18 m) depth contour around the Farallon Islands. (See § 660.390)

(3) *Cordell Banks.* Commercial fishing for groundfish is prohibited in waters less than 100 fm (183 m) around Cordell Banks as defined by specific latitude and longitude coordinates at § 660.390. [Note: California state regulations also prohibit fishing for all greenlings of the genus Hexagrammos, California sheephead and ocean whitefish in this area.]

(4) *Trawl rockfish conservation areas.* The trawl RCAs are closed areas, defined by specific latitude and longitude coordinates designed to approximate specific depth contours, where fishing with limited entry trawl gear is prohibited.

(i) Coastwide, it is unlawful to take and retain, possess, or land any species of fish taken with trawl gear within the trawl RCA, except as permitted for vessels participating in the primary whiting season. Throughout the year, boundaries for the trawl RCA are provided in Table 3 (North) and Table 3 (South) of this subpart, and may be modified by NMFS inseason pursuant to § 660.370(c). Trawl RCA boundaries are defined by specific latitude and longitude coordinates which are provided at §§ 660.390 through 660.394.

(ii) Trawl vessels may transit through the trawl RCA, with or without groundfish on board, provided all groundfish trawl gear is stowed either: below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; or remaining on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors. These restrictions do not apply to vessels fishing with mid-water trawl gear for Pacific whiting or taking and retaining yellowtail rockfish or widow rockfish in association with Pacific whiting caught with mid-water trawl gear or to taking and retaining yellowtail or widow rockfish with mid-water trawl gear when trip limits are authorized for those species.

(iii) If a vessel fishes in the trawl RCA, it may not participate in any fishing on that trip that is prohibited by the restrictions that apply within the trawl RCA. [For example, if a vessel participates in the pink shrimp fishery within the RCA, the vessel cannot on the same trip participate in the DTS fishery seaward of the RCA.] Nothing in these Federal regulations supercede any state regulations that may prohibit trawling shoreward of the 3–nm state waters boundary line.

■ 15. A new § 660.382 is added to read as follows:

§ 660.382 Limited entry fixed gear fishery management measures.

(a) *General.* Most species taken in limited entry fixed gear (longline and pot/trap) fisheries will be managed with cumulative trip limits (see trip limits in Tables 4 (North) and 4 (South) of this subpart), size limits (see § 660.370(h)(5)), seasons (see trip limits in Tables 4 (North) and 4 (South) of this subpart and primary sablefish season details in § 660.372(b)), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (c) of this section and §§ 660.390 through 660.394). Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (c)(2) of this section and § 660.390). Yelloweye rockfish and canary rockfish retention is prohibited in the limited entry fixed gear fisheries. Regulations governing and tier limits for the limited entry, fixed gear primary sablefish season north of 36° N. lat. are found in § 660.372. Vessels not participating in the primary sablefish season are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see § 660.371. The trip limits in Table 4 (North) and Table 4 (South) of this subpart apply to vessels participating in the limited entry groundfish fixed gear fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally-managed groundfish.

(b) *Gear Restrictions*—(1) *General.* The following types of fishing gear are authorized in the limited entry fixed gear fishery, with the restrictions set forth in this section: longline and pot or trap. Vessels participating in the limited entry fixed gear fishery may also fish with open access gear subject to the gear restrictions at § 660.383(b), but will be subject to the most restrictive trip limits for the gear used as specified at § 660.370(h)(7).

(2) *Limited entry fixed gear.* (i) Fixed gear (longline, trap or pot) must be:

(A) Marked at the surface, at each terminal end, with a pole, flag, light, radar reflector, and a buoy.

(B) Attended at least once every 7 days.

(ii) A buoy used to mark fixed gear under paragraph (b)(2)(i)(A) of this section must be marked with a number clearly identifying the owner or operator of the vessel. The number may be either:

(A) If required by applicable state law, the vessel's number, the commercial fishing license number, or buoy brand number; or

(B) The vessel documentation number issued by the USCG, or, for an undocumented vessel, the vessel registration number issued by the state.

(3) *Traps or pots.* Traps must have biodegradable escape panels constructed with # 21 or smaller untreated cotton twine in such a manner that an opening at least 8 inches (20.3 cm) in diameter results when the twine deteriorates.

(c) *Groundfish Conservation Areas.* A Groundfish Conservation Area (GCA), a type of closed area, is a geographic area defined by coordinates expressed in degrees latitude and longitude. The following GCAs apply to vessels participating in the limited entry fixed gear fishery.

(1) *Yelloweye Rockfish Conservation Area.* The latitude and longitude coordinates of the Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at § 660.390. The YRCA is designated as an area to be avoided (a voluntary closure) by commercial fixed gear fishermen.

(2) *Cowcod Conservation Areas.* The latitude and longitude coordinates of the Cowcod Conservation Areas (CCAs) boundaries are specified at § 660.390. Fishing with limited entry fixed gear is prohibited within the CCAs, except that fishing for ''other flatfish'' is permitted within the CCAs using no more than 12 hooks, ''Number 2'' or smaller, which

measure no more than 11 mm (0.44 inches) point to shank, and up to 2 lb (0.91 kg) of weight per line. Fishing with limited entry fixed gear for rockfish and lingcod is permitted shoreward of the 20–fm (37–m) depth contour. It is unlawful to take and retain, possess, or land groundfish within the CCAs, except for species authorized in this paragraph caught according to gear requirements in this paragraph, when those waters are open to fishing. Commercial fishing vessels may transit through the Western CCA with their gear stowed and groundfish on board only in a corridor through the Western CCA bounded on the north by the latitude line at 33°00.50′ N. lat., and bounded on the south by the latitude line at 32°59.50′ N. lat.

(3) *Non-trawl Rockfish Conservation Areas.* Fishing for groundfish with non-trawl gear (limited entry or open access longline and pot or trap, open access hook-and-line, gillnet, set net, trammel net and spear) is prohibited within the non-trawl rockfish conservation area (RCA), except that commercial fishing for ''other flatfish'' is permitted within the non-trawl RCA off California (between 42° N. lat. south to the U.S./Mexico border) using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to 2 lb (0.91 kg) of weight per line. It is unlawful to take and retain, possess, or land groundfish taken with non-trawl gear within the non-trawl RCA, unless otherwise authorized in this section. Limited entry fixed gear vessels may transit through the non-trawl RCA, with or without groundfish on board. These restrictions do not apply to vessels fishing for species other than groundfish with non-trawl gear, although non-trawl vessels on a fishing trip for species other than groundfish that occurs within the non-trawl RCA may not retain any groundfish taken on that trip. If a vessel fishes in the non-trawl RCA, it may not participate in any fishing on that trip that is prohibited by the restrictions that apply within the non-trawl RCA. [For example, if a vessel participates in the salmon troll fishery within the RCA, the vessel cannot on the same trip participate in the sablefish fishery outside of the RCA.] Boundaries for the non-trawl RCA throughout the year are provided in the header to Table 4 (North) and Table 4 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.370(c). Non-trawl RCA boundaries are defined by specific latitude and longitude coordinates and are provided at §§ 660.390 through 660.394.

(4) *Farallon Islands.* Under California law, commercial fishing for all groundfish is prohibited between the shoreline and the 10–fm (18–m) depth contour around the Farallon Islands, except that commercial fishing for ''other flatfish'' is permitted around the Farallon Islands using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to 2 lb (0.91 kg) of weight per line. (See Table 4 (South) of this subpart.) For a definition of the Farallon Islands, see § 660.390.

(5) *Cordell Banks.* Commercial fishing for groundfish is prohibited in waters less than 100 fm (183 m) around Cordell Banks as defined by specific latitude and longitude coordinates at § 660.390, except that commercial fishing for ''other flatfish'' is permitted around Cordell Banks using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to 2 lb (0.91 kg) of weight per line. [Note: California state regulations also prohibit fishing for all greenlings of the genus *Hexagrammos*, California sheephead and ocean whitefish in this area.]

■ 16. Section 660.383 is added to read as follows:

§ 660.383 Open access fishery management measures.

(a) *General.* Groundfish species taken in open access fisheries will be managed with cumulative trip limits (see trip limits in Tables 5 (North) and 5 (South) of this subpart), size limits (see § 660.370(h)(5)), seasons, gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (c) of this section and §§ 660.390 through 660.394). Unless otherwise specified, a vessel operating in the open access fishery is subject to, and must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery. Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (c)(2) of this section and § 660.390). Retention of yelloweye rockfish and canary rockfish is prohibited in all open access fisheries. For information on the open access daily/weekly trip limit fishery for sablefish, see § 660.372(c) and the trip limits in Tables 5 (North) and 5 (South) of this subpart. Open access vessels are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see § 660.371. The trip limits in Table 5 (North) and Table 5 (South) of this subpart apply to vessels participating in the open access fisheries and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally managed groundfish.

(b) *Gear restrictions.* Open access gear is gear used to take and retain groundfish from a vessel that does not have a valid permit for the Pacific Coast groundfish fishery with an endorsement for the gear used to harvest the groundfish. This includes longline, trap, pot, hook-and-line (fixed or mobile), setnet (anchored gillnet or trammel net, which are permissible south of 38° N. lat. only), spear and non-groundfish trawl gear (trawls used to target non-groundfish species: pink shrimp or ridgeback prawns, and, south of Pt. Arena, CA (38°57.50′ N. lat.), California halibut or sea cucumbers). Restrictions for gears used in the open access fisheries are as follows:

(1) *Non-groundfish trawl gear.* Non-groundfish trawl gear is any trawl gear other than limited entry groundfish trawl gear as described at § 660.381(b) and as defined at § 660.302 for trawl vessels with limited entry groundfish permits. Non-groundfish trawl gear is generally trawl gear used to target pink shrimp, ridgeback prawn, California halibut and sea cucumber. Non-groundfish trawl gear is exempt from the limited entry trawl gear restrictions at § 660.381(b).

(2) *Fixed gear.* (i) Fixed gear (longline, trap or pot, set net and stationary hook-and-line gear, including commercial vertical hook-and-line gear) must be:

(A) Marked at the surface, at each terminal end, with a pole, flag, light, radar reflector, and a buoy except as provided in paragraph (b)(3)(ii) of this section.

(B) Attended at least once every 7 days.

(ii) Commercial vertical hook-and-line gear that is closely tended may be marked only with a single buoy of sufficient size to float the gear. ''Closely tended'' means that a vessel is within visual sighting distance or within 0.25 nm (463 m) as determined by electronic navigational equipment, of its commercial vertical hook-and-line gear.

(iii) A buoy used to mark fixed gear under paragraph (b)(3)(i)(A) or (b)(3)(ii) of this section must be marked with a

number clearly identifying the owner or operator of the vessel. The number may be either:

(A) If required by applicable state law, the vessel's number, the commercial fishing license number, or buoy brand number; or

(B) The vessel documentation number issued by the USCG, or, for an undocumented vessel, the vessel registration number issued by the state.

(3) *Set nets.* Fishing for groundfish with set nets is prohibited in the fishery management area north of 38°00.00′ N. lat.

(4) *Traps or pots.* Traps must have biodegradable escape panels constructed with # 21 or smaller untreated cotton twine in such a manner that an opening at least 8 inches (20.3 cm) in diameter results when the twine deteriorates.

(5) *Spears.* Spears may be propelled by hand or by mechanical means.

(c) *Open Access Groundfish Conservation Areas.* A Groundfish Conservation Area (GCA), a type of closed area, is a geographic area defined by coordinates expressed in degrees latitude and longitude. The following GCAs apply to participants in the open access fishery.

(1) *Yelloweye Rockfish Conservation Area.* The latitude and longitude coordinates of the Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at § 660.390. The YRCA is designated as an area to be avoided (a voluntary closure) by commercial fixed gear fishermen.

(2) *Cowcod Conservation Areas.* The latitude and longitude coordinates of the Cowcod Conservation Areas (CCAs) boundaries are specified at § 660.390. Fishing with open access gear is prohibited within the CCAs, except that fishing for ''other flatfish'' is permitted within the CCAs using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to 2 lb (0.91 kg) of weight per line. Fishing with open access gear, except trawl gear, for rockfish and lingcod is permitted shoreward of the 20–fm (37–m) depth contour. It is unlawful to take and retain, possess, or land groundfish within the CCAs, except for species authorized in this paragraph caught according to gear requirements in this paragraph, when those waters are open to fishing. Commercial fishing vessels may transit through the Western CCA with their gear stowed and groundfish on board only in a corridor through the Western CCA bounded on the north by the latitude line at 33°00.50′ N. lat., and bounded on the south by the latitude line at 32°59.50′ N. lat.

(3) *Non-trawl Rockfish Conservation Areas for the open access fisheries.* Fishing for groundfish with non-trawl gear (limited entry or open access longline and pot or trap, open access hook-and-line, gillnet, set net, trammel net and spear) is prohibited within the non-trawl rockfish conservation area (RCA), except that commercial fishing for ''other flatfish'' is permitted within the non-trawl RCA off California (between 42° N. lat. south to the U.S./Mexico border) using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to 2 lb (0.91 kg) of weight per line. It is unlawful to take and retain, possess, or land groundfish taken with non-trawl gear within the non-trawl RCA, unless otherwise authorized in this section. Open access non-trawl gear vessels may transit through the non-trawl RCA, with or without groundfish on board. These restrictions do not apply to vessels fishing for species other than groundfish with non-trawl gear, although non-trawl vessels on a fishing trip for species other than groundfish that occurs within the non-trawl RCA may not retain any groundfish taken on that trip. If a vessel fishes in the non-trawl RCA, it may not participate in any fishing on that trip that is prohibited by the restrictions that apply within the non-trawl RCA. Retention of groundfish caught by salmon troll gear is prohibited in the designated RCAs, except that salmon trollers may retain yellowtail rockfish caught both inside and outside the non-trawl RCA subject to the limits in Tables 5 (North) and 5 (South) of this subpart. Boundaries for the non-trawl RCA throughout the year are provided in the open access trip limit tables, Table 5 (North) and Table 5(South) of this subpart and may be modified by NMFS inseason pursuant to § 660.370(c). Non-trawl RCA boundaries are defined by specific latitude and longitude coordinates which are specified at §§ 660.390 through 660.394.

(4) *Trawl Rockfish Conservation Areas for the open access non-groundfish trawl fisheries.*

(i) Fishing with any open access trawl gear is prohibited within the trawl RCA coastwide, except as authorized in this paragraph. Coastwide, it is unlawful to take and retain, possess, or land any species of fish taken with trawl gear within the trawl RCA, except as permitted in this paragraph for vessels participating in the pink shrimp and ridgeback prawn trawl fisheries. Boundaries for the trawl RCA throughout the year in the open access fishery are provided in Table 5 (North) and Table 5 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.370(c). Trawl RCA boundaries are defined by specific latitude and longitude coordinates which are specified below at §§ 660.390 through 660.394. The trawl rockfish conservation area (RCA) is closed coastwide to open access non-groundfish trawl fishing, except as follows:

(A) Pink shrimp trawling is permitted in the trawl RCA, and

(B) When the shoreward line of the trawl RCA is shallower than 100 fm (183 m), the ridgeback prawn trawl fishery south of 34°27.00′ N. lat. may operate out to the 100 fm boundary line specified at § 660.393 (i.e., the shoreward boundary of the trawl RCA is at the 100 fm boundary line all year for the ridgeback prawn trawl fishery in this area).

(ii) For the non-groundfish trawl gear fisheries, non-groundfish trawl gear RCAs, if applicable, are generally described in the non-groundfish trawl gear sections at the bottom of Tables 5 (North) and 5 (South) of this subpart. Retention of groundfish caught by non-groundfish trawl gear is prohibited in the designated RCAs, except that:

(A) pink shrimp trawl may retain groundfish caught both within and shoreward and seaward of the non-groundfish trawl RCA subject to the limits in Tables 5 (North) and 5 (South) of this subpart, and

(B) South of 34°27′ N. lat., ridgeback prawn trawl may retain groundfish caught both within the non-groundfish trawl RCA out to 100 fm (183 m) when the shoreward boundary of the trawl RCA is shallower than 100 fm (183 m) (i.e., the shoreward boundary of the trawl RCA is at the 100 fm boundary line all year for the ridgeback prawn trawl fishery in this area) and shoreward and seaward of the non-groundfish trawl RCA subject to the limits in Tables 5 (North) and 5 (South) of this subpart.

(iii) If a vessel fishes in the trawl RCA, it may not participate in any fishing on that trip that is prohibited by the restrictions that apply within the trawl RCA. [For example, if a vessel participates in the pink shrimp fishery within the RCA, the vessel cannot on the same trip participate in the DTS fishery seaward of the RCA.] Nothing in these Federal regulations supercede any state regulations that may prohibit trawling shoreward of the 3–nm state waters boundary line.

(5) *Farallon Islands.* Under California law, commercial fishing for all groundfish is prohibited between the shoreline and the 10–fm (18–m) depth contour around the Farallon Islands, except that commercial fishing for

''other flatfish'' is permitted around the Farallon Islands using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to 2 lb (0.91 kg) of weight per line. (See Table 5 (South) of this subpart.) For a definition of the Farallon Islands, see § 660.390.

(6) *Cordell Banks.* Commercial fishing for groundfish is prohibited in waters less than 100 fm (183 m) around Cordell Banks as defined by specific latitude and longitude coordinates at § 660.390, except that commercial fishing for ''other flatfish'' is permitted around Cordell Banks using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to 2 lb (0.91 kg) of weight per line. [Note: California state regulations also prohibit fishing for all greenlings of the genus *Hexagrammos*, California sheephead and ocean whitefish in this area.]

(d) *Groundfish taken with non-groundfish trawl gear by vessels engaged in fishing for ridgeback prawns, California halibut, or sea cucumbers.* Trip limits for groundfish retained in the ridgeback prawn, California halibut, or sea cucumber fisheries are in the open access trip limit table, Table 5 (South) of this subpart. The table also generally describes the RCAs for vessels participating in these fisheries.

(1) *Participation in the ridgeback prawn fishery.* A trawl vessel will be considered participating in the ridgeback prawn fishery if:

(i) It is not fishing under a valid Federal limited entry groundfish permit issued under § 660.333 for trawl gear; and

(ii) The landing includes ridgeback prawns taken in accordance with California Fish and Game Code, section 8595, which states: ''Prawns or shrimp may be taken for commercial purposes with a trawl net, subject to Article 10 (commencing with Section 8830) of Chapter 3.''

(2) *Participation in the California halibut fishery.* A trawl vessel will be considered participating in the California halibut fishery if:

(i) It is not fishing under a valid Federal limited entry groundfish permit issued under § 660.333 for trawl gear;

(ii) All fishing on the trip takes place south of Pt. Arena, CA (38°57.50′ N. lat.); and

(iii) The landing includes California halibut of a size required by California Fish and Game Code section 8392(a), which states: ''No California halibut may be taken, possessed or sold which measures less than 22 in (56 cm) in total length, unless it weighs 4 lb (1.8144 kg) or more in the round, 3 and one-half lbs (1.587 kg) or more dressed with the head on, or 3 lbs (1.3608 kg) or more dressed with the head off. Total length means the shortest distance between the tip of the jaw or snout, whichever extends farthest while the mouth is closed, and the tip of the longest lobe of the tail, measured while the halibut is lying flat in natural repose, without resort to any force other than the swinging or fanning of the tail.''

(3) *Participation in the sea cucumber fishery.* A trawl vessel will be considered to be participating in the sea cucumber fishery if:

(i) It is not fishing under a valid Federal limited entry groundfish permit issued under § 660.333 for trawl gear;

(ii) All fishing on the trip takes place south of Pt. Arena, CA (38°57.50′ N. lat.); and

(iii) The landing includes sea cucumbers taken in accordance with California Fish and Game Code, section 8405, which requires a permit issued by the State of California.

(e) *Groundfish taken with non-groundfish trawl gear by vessels engaged in fishing for pink shrimp.* Trip limits for groundfish retained in the pink shrimp fishery are in Tables 5 (North) and 5 (South) of this subpart. Notwithstanding § 660.370(h)(7), a vessel that takes and retains pink shrimp and also takes and retains groundfish in either the limited entry or another open access fishery during the same applicable cumulative limit period that it takes and retains pink shrimp (which may be 1 month or 2 months, depending on the fishery and the time of year), may retain the larger of the two limits, but only if the limit(s) for each gear or fishery are not exceeded when operating in that fishery or with that gear. The limits are not additive; the vessel may not retain a separate trip limit for each fishery.

■ 17. Section § 660.384 is added to read as follows:

§ 660.384 Recreational fishery management measures.

(a) *General.* Federal recreational groundfish regulations are not intended to supersede any more restrictive state recreational groundfish regulations relating to federally-managed groundfish. The bag limits include fish taken in both state and Federal waters.

(b) *Gear restrictions.* The only types of fishing gear authorized for recreational fishing are hook-and-line and spear. Spears may be propelled by hand or by mechanical means. More fishery-specific gear restrictions may be required by state as noted in paragraph (c) of this section (e.g. California's recreational ''other flatfish'' fishery).

(c) *State-specific recreational fishery management measures.* Federal recreational groundfish regulations are not intended to supersede any more restrictive State recreational groundfish regulations relating to federally-managed groundfish. Off the coast of Washington, Oregon, and California, boat limits apply, whereby each fisher aboard a vessel may continue to use angling gear until the combined daily limits of groundfish for all licensed and juvenile anglers aboard has been attained (additional state restrictions on boat limits may apply).

(1) *Washington.* For each person engaged in recreational fishing in the EEZ seaward of Washington, the groundfish bag limit is 15 groundfish per day, including rockfish and lingcod, and is open year-round (except for lingcod). The following sublimits and closed areas apply:

(i) *Recreational Groundfish Conservation Areas off Washington.*

(A) *Yelloweye Rockfish Conservation Area.* Recreational fishing for groundfish and halibut is prohibited within the YRCA. It is unlawful for recreational fishing vessels to take, retain, possess, or land groundfish within the YRCA. The YRCA is defined by latitude and longitude coordinates specified at § 660.390.

(B) *Recreational Rockfish Conservation Area.* Fishing for groundfish with recreational gear is prohibited within the recreational RCA. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA. A vessel fishing in the recreational RCA may not be in possession of any groundfish. [For example, if a vessel participates in the recreational salmon fishery within the RCA, the vessel cannot be in possession of groundfish while in the RCA. The vessel may, however, on the same trip fish for and retain groundfish shoreward of the RCA on the return trip to port.] Off Washington, if recreational fishing for all groundfish is prohibited seaward of a boundary line approximating the 30–fm (55–m) depth contour, a document will be published in the **Federal Register** inseason pursuant to § 660.370(c). Coordinates for the boundary line approximating the 30–fm (55–m) depth contour are listed in § 660.391.

(ii) *Rockfish.* In areas of the EEZ seaward of Washington that are open to recreational groundfish fishing, there is a 10 rockfish per day bag limit. Taking and retaining canary rockfish and yelloweye rockfish is prohibited.

(iii) *Lingcod.* Recreational fishing for lingcod is open between the closest Saturday to March 15 through the closest Saturday to October 15. For 2005, the lingcod season will be open from March 12 through October 15. For 2006, the lingcod season will be open from March 18 through October 14. In areas of the EEZ seaward of Washington that are open to recreational groundfish fishing and when the recreational season for lingcod is open, there is a bag limit of 2 lingcod per day, which may be no smaller than 24 in (61 cm) total length.

(2) *Oregon*—(i) *Recreational Groundfish Conservation Areas off Oregon.* Fishing for groundfish with recreational gear is prohibited within the recreational RCA, a type of closed area or GCA. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA. A vessel fishing in the recreational RCA may not be in possession of any groundfish. [For example, if a vessel participates in the recreational salmon fishery within the RCA, the vessel cannot be in possession of groundfish while in the RCA. The vessel may, however, on the same trip fish for and retain groundfish shoreward of the RCA on the return trip to port.] Off Oregon, from June 1 through September 30, recreational fishing for groundfish is prohibited seaward of a recreational RCA boundary line approximating the 40 fm (73 m) depth contour. Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are listed at § 660.391. Recreational fishing for all groundfish may be prohibited inseason seaward of the 20 fm (37 m) depth contour or a boundary line approximating the 30 fm (55 m) depth contour. If the closure seaward of the 20 fm (37 m) depth contour or a boundary line approximating the 30 fm (55 m) depth contour is implemented inseason, a document will be published in the **Federal Register** pursuant to § 660.370(c). Coordinates for the boundary line approximating the 30 fm (55 m) depth contour are listed at § 660.391.

(ii) *Seasons.* Recreational fishing for groundfish is open from January 1 through December 31, subject to the closed areas described in paragraph (c)(2) of this section.

(iii) *Bag limits, size limits.* The bag limits for each person engaged in recreational fishing in the EEZ seaward of Oregon are two lingcod per day, which may be no smaller than 24 in (61 cm) total length; and 10 marine fish per day, which excludes Pacific halibut, salmon, tuna, perch species, sturgeon, sanddabs, lingcod, striped bass and baitfish (herring, smelt, anchovies and sardines), but which includes rockfish, greenling, cabezon and other groundfish species. The minimum size limit for cabezon retained in the recreational fishery is 16 in (41 cm) and for greenling is 10 in (26 cm). Taking and retaining canary rockfish and yelloweye rockfish is prohibited.

(3) *California.* Seaward of California, California law provides that, in times and areas when the recreational fishery is open, there is a 20–fish bag limit for all species of finfish, within which no more than 10 fish of any one species may be taken or possessed by any one person. [Note: There are some exceptions to this rule. The following groundfish species are not subject to a bag limit: petrale sole, Pacific sanddab and starry flounder.] California state law may provide regulations similar to Federal regulations for the following state-managed species: ocean whitefish, California sheephead, and all greenlings of the genus *Hexogrammos*. Kelp greenling is the only federally-managed greenling. Retention of cowcod, yelloweye rockfish, and canary rockfish is prohibited in the recreational fishery seaward of California all year in all areas. For each person engaged in recreational fishing in the EEZ seaward of California, the following closed areas, seasons, bag limits, and size limits apply:

(i) *Recreational Groundfish Conservation Areas off California.* A Groundfish Conservation Area (GCA), a type of closed area, is a geographic area defined by coordinates expressed in degrees latitude and longitude. The following GCAs apply to participants in California's recreational fishery.

(A) *Recreational Rockfish Conservation Areas.* The recreational RCAs are areas that are closed to recreational fishing for groundfish. Fishing for groundfish with recreational gear is prohibited within the recreational RCA, except that recreational fishing for ''other flatfish'' is permitted within the recreational RCA as specified in paragraph (c)(3)(iv) of this section. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA, unless otherwise authorized in this section. A vessel fishing in the recreational RCA may not be in possession of any species prohibited by the restrictions that apply within the recreational RCA. [For example, if a vessel participates in the recreational salmon fishery within the RCA, the vessel cannot be in possession of rockfish while in the RCA. The vessel may, however, on the same trip fish for and retain rockfish shoreward of the RCA on the return trip to port.]

(*1*) *Between 42° N. lat. (California/Oregon border) and 40°10.00′ N. lat.*, recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 40 fm (73 m) depth contour along the mainland coast and along islands and offshore seamounts from July 1 through October 31; and is closed entirely from January 1 through June 30 and from November 1 through December 31 (i.e., prohibited seaward of the shoreline). Recreational fishing for all groundfish may be prohibited inseason seaward of a boundary line approximating the 30 fm (55 m) depth contour. If a closure seaward of the boundary line approximating the 30 fm (55 m) depth contour is implemented inseason, a document will be published in the **Federal Register** pursuant to § 660.370(c). Coordinates for the boundary line approximating the 30 fm (55 m) and 40 fm (73 m) depth contours are specified in § 660.391.

(*2*) *Between 40°10.00′ N. lat. and 36°N. lat.*, recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of the 20 fm (37 m) depth contour along the mainland coast and along islands and offshore seamounts from July 1 through November 30; and is closed entirely from January 1 through June 30 and from December 1 through December 31 (i.e., prohibited seaward of the shoreline). Closures around the Farallon Islands (see paragraph (c)(3)(i)(C) of this section) and Cordell Banks (see paragraph (c)(3)(i)(D) of this section) also apply in this area.

(*3*) *Between 36° N. lat. and 34°27.00′ N. lat.*, recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited shoreward of the 20 fm (37 m) depth contour and seaward of a boundary line approximating the 40–fm (73–m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through September 30 (i.e., fishing is permitted only between 20 fm and 40 fm); and is closed entirely from January 1 through April 30 and from October 1 through December 31 (i.e., prohibited seaward of the shoreline). Coordinates for the boundary line approximating the 40–fm (73–m) depth contour are specified in § 660.391.

(*4*) *South of 34°27.00′ N. lat.*, recreational fishing for all groundfish (except California scorpionfish as specified below in this paragraph and in paragraph (v) and ''other flatfish'' as

specified in paragraph (c)(3)(iv) of this section) is prohibited shoreward of a boundary line approximating the 30 fm (55 m) depth contour and seaward of a boundary line approximating the 60–fm (110–m) depth contour along the mainland coast and along islands and offshore seamounts from March 1 through June 30; and is prohibited seaward of a boundary line approximating the 40–fm (73–m) depth contour from July 1 through September 30; except in the CCAs where fishing is prohibited seaward of the 20–fm (37–m) depth contour when the fishing season is open (see paragraph (c)(3)(i)(B) of this section). Recreational fishing for all groundfish (except California scorpionfish and ''other flatfish'') is closed entirely from January 1 through February 29 and from October 1 through December 31 (i.e., prohibited seaward of the shoreline). Recreational fishing for California scorpionfish south of 34°27.00′ N. lat. is prohibited seaward of a boundary line approximating the 40–fm (73–m) depth contour from October 1 through November 30, and seaward of the 20–fm (37–m) depth contour from December 1 through December 31, except in the CCAs where fishing is prohibited seaward of the 20–fm (37–m) depth contour when the fishing season is open. Recreational fishing for California scorpionfish south of 34°27.00′ N. lat. is closed entirely from January 1 through September 30 (i.e., prohibited seaward of the shoreline). Coordinates for the boundary line approximating the 30 fm (55 m), 40 fm (73 m), and 60–fm (110–m) depth contours are specified in §§ 660.391 and 660.392.

(B) *Cowcod Conservation Areas.* The latitude and longitude coordinates of the Cowcod Conservation Areas (CCAs) boundaries are specified at § 660.390. In general, recreational fishing for all groundfish is prohibited within the CCAs, except that fishing for ''other flatfish'' is permitted within the CCAs as specified in paragraph (c)(3)(iv) of this section. However, recreational fishing for the following species is permitted shoreward of the 20–fm (37–m) depth contour: minor nearshore rockfish, cabezon, kelp greenling, lingcod, California scorpionfish, and ''other flatfish'' (subject to gear requirements at paragraph (c)(3)(iv) of this section). [NOTE: California state regulations also permit recreational fishing for all greenlings of the genus Hexogrammas shoreward of the 20–fm (37–m) depth contour in the CCAs.] It is unlawful to take and retain, possess, or land groundfish within the CCAs, except for species authorized in this section.

(C) *Farallon Islands.* Under California state law, recreational fishing for groundfish is prohibited between the shoreline and the 10–fm (18–m) depth contour around the Farallon Islands, except that recreational fishing for ''other flatfish'' is permitted around the Farallon Islands as specified in paragraph (c)(3)(iv) of this section. (Note: California state regulations also prohibit the retention of other greenlings of the genus Hexagrammos, California sheephead and ocean whitefish.) For a definition of the Farallon Islands, see § 660.390.

(D) *Cordell Banks.* Recreational fishing for groundfish is prohibited in waters less than 100 fm (183 m) around Cordell Banks as defined by specific latitude and longitude coordinates at § 660.390, except that recreational fishing for ''other flatfish'' is permitted around Cordell Banks as specified in paragraph (c)(3)(iv) of this section. [Note: California state regulations also prohibit fishing for all greenlings of the genus *Hexagrammos*, California sheephead and ocean whitefish.]

(ii) *RCG Complex.* The California rockfish, cabezon, greenling complex (RCG Complex), as defined in state regulations (Section 1.91, Title 14, California Code of Regulations), includes all rockfish, kelp greenling, rock greenling, and cabezon. This category does not include California scorpionfish, also known as ''sculpin.

(A) *Seasons.* When recreational fishing for the RCG Complex is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(*1*) *North of 40°10.00′ N. lat.*, recreational fishing for the RCG Complex is open from July 1 through October 31.

(*2*) *Between 40°10.00′ N. lat. and 36° N. lat.*, recreational fishing for the RCG Complex is open from July 1 through November 30 (i.e., it's closed from January 1 through June 30 and from December 1 through December 31).

(*3*) *Between 36° N. lat. and 34°27.00′ N. lat.*, recreational fishing for the RCG Complex is open from May 1 through September 30 (i.e., it's closed from January 1 through April 30 and from October 1 through December 31).

(*4*) *South of 34°27.00′ N. lat.*, recreational fishing for the RCG Complex is open from March 1 through September 30 (i.e., it's closed from January 1 through February 29 and from October 1 through December 31).

(B) *Bag limits, hook limits.* In times and areas when the recreational season for the RCG Complex is open, there is a limit of 2 hooks and 1 line when fishing for rockfish. The bag limit is 10 RCG Complex fish per day coastwide. Retention of canary rockfish, yelloweye rockfish and cowcod is prohibited. North of 40°10′ N. lat., within the 10 RCG Complex fish per day limit, no more than 2 may be bocaccio, no more than 2 may be greenling (kelp and/or other greenlings) and no more than 3 may be cabezon. South of 40°10′ N. lat., within the 10 RCG Complex fish per day limit, no more than 1 may be bocaccio, no more than 2 may be greenling (kelp and/or other greenlings) and no more than 3 may be cabezon. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(C) *Size limits.* The following size limits apply: bocaccio may be no smaller than 10 in (25 cm) total length; cabezon may be no smaller than 15 in (38 cm) total length; and kelp and other greenling may be no smaller than 12 in (30 cm) total length.

(D) *Dressing/Fileting.* Cabezon, kelp greenling, and rock greenling taken in the recreational fishery may not be fileted at sea. Rockfish skin may not be removed when fileting or otherwise dressing rockfish taken in the recreational fishery. The following rockfish filet size limits apply: bocaccio filets may be no smaller than 5 in (12.8 cm) and brown-skinned rockfish fillets may be no smaller than 6.5 in (16.6 cm). ''Brown-skinned'' rockfish include the following species: brown, calico, copper, gopher, kelp, olive, speckled, squarespot, and yellowtail.

(iii) *Lingcod*—(A) *Seasons.* When recreational fishing for lingcod is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(*1*) *North of 40°10.00′ N. lat.*, recreational fishing for lingcod is open from July 1 through October 31.

(*2*) *Between 40°10.00′ N. lat. and 36° N. lat.*, recreational fishing for lingcod is open from July 1 through November 30 (i.e., it's closed from January 1 through June 30 and from December 1 through December 31).

(*3*) *Between 36° N. lat. and 34°27.00' N. lat.*, recreational fishing for lingcod is open from May 1 through September 30 (i.e., it's closed from January 1 through April 30 and from October 1 through December 31).

(*4*) *South of 34°27.00′ N. lat.*, recreational fishing for lingcod is open from March 1 through September 30 (i.e., it's closed from January 1 through February 29 and from October 1 through December 31).

(B) *Bag limits, hook limits.* In times and areas when the recreational season for lingcod is open, there is a limit of 2 hooks and 1 line when fishing for lingcod. The bag limit is 2 lingcod per day. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(C) *Size limits.* Lingcod may be no smaller than 24 in (61 cm) total length.

(D) *Dressing/Fileting.* Lingcod filets may be no smaller than 16 in (41 cm) in length.

(iv) *''Other flatfish''.* Coastwide off California, recreational fishing for ''other flatfish'' is permitted both shoreward of and within the closed areas described in paragraph (c)(3)(i) of this section. Recreational fishing for ''other flatfish'' is permitted within the closed areas, subject to a limit of up to 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to 2 lb (0.91 kg) of weight per line. ''Other flatfish,'' except Pacific sanddab and starry flounder, are subject to the overall 20–fish bag limit for all species of finfish, of which there may be no more than 10 fish of any one species. There is no season restriction or size limit for ''other flatfish;'' however, it is prohibited to filet ''other flatfish'' at sea.

(v) *California scorpionfish.* California scorpionfish only occur south of 40°10.00′ N. lat.

(A) *Seasons.* When recreational fishing for California scorpionfish is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(*1*) *Between 40°10.00′ N. lat. and 36° N. lat.*, recreational fishing for California scorpionfish is open from July 1 through November 30 (i.e., it's closed from January 1 through June 30 and from December 1 through December 31).

(*2*) *Between 36° N. lat. and 34°27.00′ N. lat.*, recreational fishing for California scorpionfish is open from May 1 through September 30 (i.e., it's closed from January 1 through April 30 and from October 1 through December 31).

(*3*) *South of 34°27.00′ N. lat.*, recreational fishing for California scorpionfish is open from October 1 through December 31 (i.e., it's closed from January 1 through September 30).

(B) *Bag limits, hook limits.* South of 40°10.00' N. lat., in times and areas where the recreational season for California scorpionfish is open, the bag limit is 5 California scorpionfish per day. California scorpionfish do not count against the 10 RCG Complex fish per day limit. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(C) *Size limits.* California scorpionfish may be no smaller than 10 in (25 cm) total length.

(D) *Dressing/Fileting.* California scorpionfish filets may be no smaller than 5 in (12.8 cm) and must bear an intact 1 in (2.6 cm) square patch of skin.

■ 18. Section 660.385 is added to read as follows:

§ 660.385 Washington coastal tribal fisheries management measures.

In 1994, the United States formally recognized that the four Washington coastal treaty Indian tribes (Makah, Quileute, Hoh, and Quinault) have treaty rights to fish for groundfish in the Pacific Ocean, and concluded that, in general terms, the quantification of those rights is 50 percent of the harvestable surplus of groundfish that pass through the tribes usual and accustomed fishing areas (described at 50 CFR 660.324). Tribal fishery allocations for sablefish and whiting, are provided in paragraphs (a) and (e) of this section, respectively, and the tribal harvest guideline for black rockfish is provided in paragraph (b)(1) of this section. Trip limits for certain species were recommended by the tribes and the Council for 2005–2006 and are specified here with the tribal allocations.

(a) *Sablefish.* In 2005, the tribal allocation is 731.4 mt and in 2006 the tribal allocation is 719.4 mt. These allocations are, for each year, 10 percent of the total catch OY, less 2.3 percent estimated discard mortality.

(b) *Rockfish.* (1) For the commercial harvest of black rockfish off Washington State, a harvest guideline of: 20,000 lb (9,072 kg) north of Cape Alava, WA (48°09′30″ N. lat.) and 10,000 lb (4,536 kg) between Destruction Island, WA (47°40′00″ N. lat.) and Leadbetter Point, WA (46°38′10″ N. lat.). There are no tribal harvest restrictions for the area between Cape Alava and Destruction Island.

(2) Thornyheads are subject to a 300–lb (136–kg) trip limit.

(3) Canary rockfish are subject to a 300–lb (136–kg) trip limit.

(4) Yelloweye rockfish are subject to a 100–lb (45–kg) trip limit.

(5) The Makah Tribe will manage the midwater trawl fisheries as follows: yellowtail rockfish taken in the directed tribal mid-water trawl fisheries are subject to a cumulative limit of 180,000 lb (81,647 kg) per 2–month period for the entire fleet. Landings of widow rockfish must not exceed 10 percent of the weight of yellowtail rockfish landed in any two-month period. These limits may be adjusted by the tribe inseason to minimize the incidental catch of canary rockfish and widow rockfish.

(6) Other rockfish, including minor nearshore, minor shelf, and minor slope rockfish groups are subject to a 300–lb (136–kg) trip limit per species or species group, or to the non-tribal limited entry trip limit for those species if those limits are less restrictive than 300 lb (136 kg) per trip.

(7) Rockfish taken during open competition tribal commercial fisheries for Pacific halibut will not be subject to trip limits.

(c) *Lingcod.* Lingcod are subject to a 600 lb (272 kg) daily trip limit and a 1,800 lb (816 kg) weekly limit, unless taken in the treaty salmon troll fisheries. Lingcod taken in the treaty salmon troll fisheries are subject to a 1,000 lb (454 kg) daily trip limit and a 4,000 lb (1,814 kg) weekly limit.

(d) *Flatfish and other fish.* Treaty fishing vessels using bottom trawl gear are subject to the limits applicable to the non-tribal limited entry trawl fishery for Pacific cod, English sole, rex sole, arrowtooth flounder, and other flatfish that are published at the beginning of the year. Treaty fishing vessels are restricted to a 50,000 lb (22,680 kg) per 2–month limit for petrale sole for the entire year.

(e) *Pacific whiting.* Whiting allocations will be announced when the final OY is announced in the **Federal Register**.

■ 19. Section 660.390 is revised to read as follows:

§ 660.390 Groundfish conservation areas.

In § 660.302, a groundfish conservation area is defined as ''a geographic area defined by coordinates expressed in latitude and longitude, created and enforced for the purpose of contributing to the rebuilding of overfished West Coast groundfish species.'' While some groundfish conservation areas may be designed with the intent that their shape be determined by ocean bottom depth contours, their shapes are defined in regulation by latitude/longitude coordinates and are enforced by those coordinates. Latitude/longitude coordinates designating the large-scale boundaries for rockfish conservation areas are found in §§ 660.391 through 660.394. Fishing activity that is prohibited or permitted within a particular groundfish conservation area is detailed in Federal Register documents associated with the harvest specifications and management measures process and at § 660.381 through § 660.384.

(a) *Yelloweye Rockfish Conservation Area*. The Yelloweye Rockfish Conservation Area (YRCA) is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

48°18.00′ N. lat.; 125°18.00′ W. long.;
48°18.00′ N. lat.; 124°59.00′ W. long.;
48°11.00′ N. lat.; 124°59.00′ W. long.;
48°11.00′ N. lat.; 125°11.00′ W. long.;
48°04.00′ N. lat.; 125°11.00′ W. long.;
48°04.00′ N. lat.; 124°59.00′ W. long.;
48°00.00′ N. lat.; 124°59.00′ W. long.;
48°00.00′ N. lat.; 125°18.00′ W. long.;
and connecting back to 48°18.00′ N. lat.; 125°18.00′ W.long.

(b) *Cowcod Conservation Areas*. The Cowcod Conservation Areas (CCAs) are two areas off the southern California coast intended to protect cowcod. The Western CCA is an area south of Point Conception defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed:

33°50.00′ N. lat., 119°30.00′ W. long.;
33°50.00′ N. lat., 118°50.00′ W. long.;
32°20.00′ N. lat., 118°50.00′ W. long.;
32°20.00′ N. lat., 119°37.00′ W. long.;
33°00.00′ N. lat., 119°37.00′ W. long.;
33°00.00′ N. lat., 119°53.00′ W. long.;
33°33.00′ N. lat., 119°53.00′ W. long.;
33°33.00′ N. lat., 119°30.00′ W. long.;
and connecting back to 33°50.00′ N. lat., 119°30.00′ W.long.

The Eastern CCA is an area west of San Diego defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed:

32°42.00′ N. lat., 118°02.00′ W. long.;
32°42.00′ N. lat., 117°50.00′ W. long.;
32°36.70′ N. lat., 117°50.00′ W. long.;
32°30.00′ N. lat., 117°53.50′ W. long.;
32°30.00′ N. lat., 118°02.00′ W. long.;
and connecting back to 32°42.00′ N. lat., 118°02.00′ W.long.

(c) *Farallon Islands*. The Farallon Islands, off San Francisco and San Mateo Counties, include Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock. Generally, the State of California prohibts fishing for groundfish between the shoreline and the 10 fm (18 m) depth contour around the Farallon Islands.

(d) *Cordell Banks*. Cordell Banks are located offshore of California's Marin County. Generally, fishing for groundfish is prohibited in waters less than 100 fm (183 m) around Cordell Banks as defined by specific latitude and longitude coordinates.The Cordell Banks closed area is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

38°03.18′ N. lat., 123°20.77′ W. long.;
38°06.29′ N. lat., 123°25.03′ W. long.;
38°06.34′ N. lat., 123°29.32′ W. long.;
38°04.57′ N. lat., 123°31.30′ W. long.;
38°02.32′ N. lat., 123°31.07′ W. long.;
38°00.00′ N. lat., 123°28.40′ W. long.;
37°58.10′ N. lat., 123°26.66′ W. long.;
37°55.07′ N. lat., 123°26.81′ W. long.;
and connecting back to 38°03.18' N. lat., 123°20.77′ W. long.

(e) *Rockfish Conservation Areas*. RCAs are defined in the **Federal Register** through the harvest specifications and management measures process. RCAs may apply to a single gear type or to a group of gear types such as ''trawl RCAs'' or ''non-trawl RCAs.'' Specific latitude and longitude coordinates for RCA boundaries that approximate the depth contours selected for both trawl, non-trawl, and recreational RCAs are provided in §§ 660.391 through 660.394. Also provided in §§ 660.391 through 660.394 are references to islands and rocks that serve as reference points for the RCAs.

(1) *Trawl (Limited Entry and Open Access Nongroundfish Trawl Gears) Rockfish Conservation Area*. Trawl RCAs are intended to protect a complex of species, such as overfished shelf rockfish species, and have boundaries defined by specific latitude and longitude coordinates intended to approximate particular depth contours. Boundaries for the trawl RCA throughout the year are provided in Tables 3 and 5 (North) and Tables 3 and 5 (South) and may be modified by NMFS inseason pursuant to § 660.370(c). Trawl RCA boundaries are defined by specific latitude and longitude coordinates and are provided in §§ 660.391 through 660.394.

(2) *Non-Trawl (Limited Entry Fixed Gear and Open Access Non-trawl Gears) Rockfish Conservation Area*. Non-trawl RCAs are intended to protect a complex of species, such as overfished shelf rockfish species, and have boundaries defined by specific latitude and longitude coordinates intended to approximate particular depth contours. Boundaries for the non-trawl RCA throughout the year are provided in Tables 4 and 5 (North) and Tables 4 and 5 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.370(c). Non-trawl RCA boundaries are defined by specific latitude and longitude coordinates and are provided in §§ 660.391 through 660.394.

(3) *Recreational Rockfish Conservation Area*. Recreational RCAs are closed areas intended to protect overfished rockfish species. Recreational RCAs may either have boundaries defined by general depth contours or boundaries defined by specific latitude and longitude coordinates intended to approximate particular depth contours. Boundaries for the recreational RCAs throughout the year are provided in the text in § 660.384(c) under each state (Washington, Oregon and California) and may be modified by NMFS inseason. Recreational RCA boundaries that are defined by specific latitude and longitude coordinates and are provided in §§ 660.391 through 660.394.

■ 20. Section 660.391 is added to read as follows:

§ 660.391 Latitude/longitude coordinates defining the 27 fm (49 m) through 40 fm (73 m) depth contours.

Boundaries for RCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 27 fm (49 m) through 40 fm (73 m) depth contours.

(a) The 27 fm (49 m) depth contour used between 46°16′ N. lat. and 40°10′ N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 46°16.00′ N. lat., 124°12.39′ W. long.;
(2) 46°14.85′ N. lat., 124°12.39′ W. long.;
(3) 46°03.95′ N. lat., 124°03.64′ W. long.;
(4) 45°43.14′ N. lat., 124°00.17′ W. long.;
(5) 45°23.33′ N. lat., 124°01.99′ W. long.;
(6) 45°09.54′ N. lat., 124°01.65′ W. long.;
(7) 44°39.99′ N. lat., 124°08.67′ W. long.;
(8) 44°20.86′ N. lat., 124°10.31′ W. long.;
(9) 43°37.11′ N. lat., 124°14.91′ W. long.;
(10) 43°27.54′ N. lat., 124°18.98′ W. long.;
(11) 43°20.68′ N. lat., 124°25.53′ W. long.;
(12) 43°15.08′ N. lat., 124°27.17′ W. long.;
(13) 43°06.89′ N. lat., 124°29.65′ W. long.;
(14) 43°01.02′ N. lat., 124°29.70′ W. long.;
(15) 42°52.67′ N. lat., 124°36.10′ W. long.;
(16) 42°45.96′ N. lat., 124°37.95′ W. long.;
(17) 42°45.80′ N. lat., 124°35.41′ W. long.;
(18) 42°38.46′ N. lat., 124°27.49′ W. long.;
(19) 42°35.29′ N. lat., 124°26.85′ W. long.;

(20) 42°31.49′ N. lat., 124°31.40′ W. long.;
(21) 42°29.06′ N. lat., 124°32.24′ W. long.;
(22) 42°14.26′ N. lat., 124°26.27′ W. long.;
(23) 42°04.86′ N. lat., 124°21.94′ W. long.;
(24) 42°00.10′ N. lat., 124°20.99′ W. long.;
(25) 42°00.00′ N. lat., 124°21.03′ W. long.;
(26) 41°56.33′ N. lat., 124°20.34′ W. long.;
(27) 41°50.93′ N. lat., 124°23.74′ W. long.;
(28) 41°41.83′ N. lat., 124°16.99′ W. long.;
(29) 41°35.48′ N. lat., 124°16.35′ W. long.;
(30) 41°23.51′ N. lat., 124°10.48′ W. long.;
(31) 41°04.62′ N. lat., 124°14.44′ W. long.;
(32) 40°54.28′ N. lat., 124°13.90′ W. long.;
(33) 40°40.37′ N. lat., 124°26.21′ W. long.;
(34) 40°34.03′ N. lat., 124°27.36′ W. long.;
(35) 40°28.88′ N. lat., 124°32.41′ W. long.;
(36) 40°24.82′ N. lat., 124°29.56′ W. long.;
(37) 40°22.64′ N. lat., 124°24.05′ W. long.;
(38) 40°18.67′ N. lat., 124°21.90′ W. long.;
(39) 40°14.23′ N. lat., 124°23.72′ W. long.; and
(40) 40°10.00′ N. lat., 124°17.22′ W. long.

(b) The 30 fm (55 m) depth contour between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:

(1) 48°24.79′ N. lat., 124°44.07′ W. long.;
(2) 48°24.80′ N. lat., 124°44.74′ W. long.;
(3) 48°23.94′ N. lat., 124°44.70′ W. long.;
(4) 48°23.51′ N. lat., 124°45.01′ W. long.;
(5) 48°22.59′ N. lat., 124°44.97′ W. long.;
(6) 48°21.75′ N. lat., 124°45.26′ W. long.;
(7) 48°21.23′ N. lat., 124°47.78′ W. long.;
(8) 48°20.32′ N. lat., 124°49.53′ W. long.;
(9) 48°16.72′ N. lat., 124°51.58′ W. long.;
(10) 48°10.00′ N. lat., 124°52.58′ W. long.;
(11) 48°05.63′ N. lat., 124°52.91′ W. long.;
(12) 47°53.37′ N. lat., 124°47.37′ W. long.;
(13) 47°40.28′ N. lat., 124°40.07′ W. long.;
(14) 47°31.70′ N. lat., 124°37.03′ W. long.;
(15) 47°25.67′ N. lat., 124°34.79′ W. long.;
(16) 47°12.82′ N. lat., 124°29.12′ W. long.;
(17) 46°52.94′ N. lat., 124°22.58′ W. long.;
(18) 46°44.18′ N. lat., 124°18.00′ W. long.;
(19) 46°38.17′ N. lat., 124°15.88′ W. long.;
(20) 46°29.53′ N. lat., 124°15.89′ W. long.;
(21) 46°19.27′ N. lat., 124°14.15′ W. long.;
(22) 46°16.00′ N. lat., 124°13.05′ W. long.;
(23) 46°07.00′ N. lat., 124°07.01′ W. long.;
(24) 45°55.95′ N. lat., 124°02.23′ W. long.;
(25) 45°54.53′ N. lat., 124°02.57′ W. long.;
(26) 45°50.65′ N. lat., 124°01.62′ W. long.;
(27) 45°48.20′ N. lat., 124°02.16′ W. long.;
(28) 45°46.00′ N. lat., 124°01.86′ W. long.;
(29) 45°43.47′ N. lat., 124°01.28′ W. long.;
(30) 45°40.48′ N. lat., 124°01.03′ W. long.;
(31) 45°39.04′ N. lat., 124°01.68′ W. long.;
(32) 45°35.48′ N. lat., 124°01.89′ W. long.;
(33) 45°29.81′ N. lat., 124°02.45′ W. long.;
(34) 45°27.96′ N. lat., 124°01.89′ W. long.;
(35) 45°27.22′ N. lat., 124°02.67′ W. long.;
(36) 45°24.20′ N. lat., 124°02.94′ W. long.;
(37) 45°20.60′ N. lat., 124°01.74′ W. long.;
(38) 45°20.25′ N. lat., 124°01.85′ W. long.;
(39) 45°16.44′ N. lat., 124°03.22′ W. long.;
(40) 45°13.63′ N. lat., 124°02.70′ W. long.;
(41) 45°11.04′ N. lat., 124°03.59′ W. long.;
(42) 45°08.55′ N. lat., 124°03.47′ W. long.;
(43) 45°02.82′ N. lat., 124°04.64′ W. long.;
(44) 45°03.38′ N. lat., 124°04.79′ W. long.;
(45) 44°58.06′ N. lat., 124°05.03′ W. long.;
(46) 44°53.97′ N. lat., 124°06.92′ W. long.;
(47) 44°48.89′ N. lat., 124°07.04′ W. long.;
(48) 44°46.94′ N. lat., 124°08.25′ W. long.;
(49) 44°42.72′ N. lat., 124°08.98′ W. long.;
(50) 44°38.16′ N. lat., 124°11.48′ W. long.;
(51) 44°33.38′ N. lat., 124°11.54′ W. long.;
(52) 44°28.51′ N. lat., 124°12.03′ W. long.;
(53) 44°27.65′ N. lat., 124°12.56′ W. long.;
(54) 44°19.67′ N. lat., 124°12.37′ W. long.;
(55) 44°10.79′ N. lat., 124°12.22′ W. long.;
(56) 44°09.22′ N. lat., 124°12.28′ W. long.;
(57) 44°08.30′ N. lat., 124°12.30′ W. long.;
(58) 44°00.22′ N. lat., 124°12.80′ W. long.;
(59) 43°51.56′ N. lat., 124°13.17′ W. long.;
(60) 43°44.26′ N. lat., 124°14.50′ W. long.;
(61) 43°33.82′ N. lat., 124°16.28′ W. long.;
(62) 43°28.66′ N. lat., 124°18.72′ W. long.;
(63) 43°23.12′ N. lat., 124°24.04′ W. long.;
(64) 43°20.83′ N. lat., 124°25.67′ W. long.;
(65) 43°20.49′ N. lat., 124°25.90′ W. long.;
(66) 43°16.41′ N. lat., 124°27.52′ W. long.;
(67) 43°14.23′ N. lat., 124°29.28′ W. long.;
(68) 43°14.03′ N. lat., 124°28.31′ W. long.;
(69) 43°11.92′ N. lat., 124°28.26′ W. long.;
(70) 43°11.02′ N. lat., 124°29.11′ W. long.;
(71) 43°10.13′ N. lat., 124°29.15′ W. long.;
(72) 43°09.27′ N. lat., 124°31.03′ W. long.;
(73) 43°07.73′ N. lat., 124°30.92′ W. long.;
(74) 43°05.93′ N. lat., 124°29.64′ W. long.;
(75) 43°01.59′ N. lat., 124°30.64′ W. long.;
(76) 42°59.73′ N. lat., 124°31.16′ W. long.;
(77) 42°53.75′ N. lat., 124°36.09′ W. long.;
(78) 42°50.00′ N. lat., 124°38.39′ W. long.;
(79) 42°49.37′ N. lat., 124°38.81′ W. long.;
(80) 42°46.42′ N. lat., 124°37.69′ W. long.;
(81) 42°46.07′ N. lat., 124°38.56′ W. long.;

(82) 42°45.29′ N. lat., 124°37.95′ W. long.;
(83) 42°45.61′ N. lat., 124°36.87′ W. long.;
(84) 42°44.28′ N. lat., 124°33.64′ W. long.;
(85) 42°42.75′ N. lat., 124°31.84′ W. long.;
(86) 42°40.50′ N. lat., 124°29.67′ W. long.;
(87) 42°40.04′ N. lat., 124°29.19′ W. long.;
(88) 42°38.09′ N. lat., 124°28.39′ W. long.;
(89) 42°36.72′ N. lat., 124°27.54′ W. long.;
(90) 42°36.56′ N. lat., 124°28.40′ W. long.;
(91) 42°35.76′ N. lat., 124°28.79′ W. long.;
(92) 42°34.03′ N. lat., 124°29.98′ W. long.;
(93) 42°34.19′ N. lat., 124°30.58′ W. long.;
(94) 42°31.27′ N. lat., 124°32.24′ W. long.;
(95) 42°27.07′ N. lat., 124°32.53′ W. long.;
(96) 42°24.21′ N. lat., 124°31.23′ W. long.;
(97) 42°20.47′ N. lat., 124°28.87′ W. long.;
(98) 42°14.60′ N. lat., 124°26.80′ W. long.;
(99) 42°13.67′ N. lat., 124°26.25′ W. long.;
(100) 42°10.90′ N. lat., 124°24.57′ W. long.;
(101) 42°07.04′ N. lat., 124°23.35′ W. long.;
(102) 42°02.16′ N. lat., 124°22.59′ W. long.;
(103) 42°00.00′ N. lat., 124°21.81′ W. long.;
(104) 41°55.75′ N. lat., 124°20.72′ W. long.;
(105) 41°50.93′ N. lat., 124°23.76′ W. long.;
(106) 41°42.53′ N. lat., 124°16.47′ W. long.;
(107) 41°37.20′ N. lat., 124°17.05′ W. long.;
(108) 41°24.58′ N. lat., 124°10.51′ W. long.;
(109) 41°20.73′ N. lat., 124°11.73′ W. long.;
(110) 41°17.59′ N. lat., 124°10.66′ W. long.;
(111) 41°04.54′ N. lat., 124°14.47′ W. long.;
(112) 40°54.26′ N. lat., 124°13.90′ W. long.;
(113) 40°40.31′ N. lat., 124°26.24′ W. long.;
(114) 40°34.00′ N. lat., 124°27.39′ W. long.;
(115) 40°30.00′ N. lat., 124°31.32′ W. long.;
(116) 40°28.89′ N. lat., 124°32.43′ W. long.;
(117) 40°24.77′ N. lat., 124°29.51′ W. long.;
(118) 40°22.47′ N. lat., 124°24.12′ W. long.;
(119) 40°19.73′ N. lat., 124°23.59′ W. long.;
(120) 40°18.64′ N. lat., 124°21.89′ W. long.;
(121) 40°17.67′ N. lat., 124°23.07′ W. long.;
(122) 40°15.58′ N. lat., 124°23.61′ W. long.;
(123) 40°13.42′ N. lat., 124°22.94′ W. long.;
(124) 40°10.00′ N. lat., 124°16.65′ W. long.;
(125) 40°09.46′ N. lat., 124°15.28′ W. long.;
(126) 40°08.89′ N. lat., 124°15.24′ W. long.;
(127) 40°06.40′ N. lat., 124°10.97′ W. long.;
(128) 40°06.08′ N. lat., 124°09.34′ W. long.;
(129) 40°06.64′ N. lat., 124°08.00′ W. long.;
(130) 40°05.08′ N. lat., 124°07.57′ W. long.;
(131) 40°04.29′ N. lat., 124°08.12′ W. long.;
(132) 40°00.61′ N. lat., 124°07.35′ W. long.;
(133) 39°58.60′ N. lat., 124°05.51′ W. long.;
(134) 39°54.89′ N. lat., 124°04.67′ W. long.;
(135) 39°53.01′ N. lat., 124°02.33′ W. long.;
(136) 39°53.20′ N. lat., 123°58.18′ W. long.;
(137) 39°48.45′ N. lat., 123°53.21′ W. long.;
(138) 39°43.89′ N. lat., 123°51.75′ W. long.;
(139) 39°39.60′ N. lat., 123°49.14′ W. long.;
(140) 39°34.43′ N. lat., 123°48.48′ W. long.;
(141) 39°30.63′ N. lat., 123°49.71′ W. long.;
(142) 39°21.25′ N. lat., 123°50.54′ W. long.;
(143) 39°08.87′ N. lat., 123°46.24′ W. long.;
(144) 39°03.79′ N. lat., 123°43.91′ W. long.;
(145) 38°59.65′ N. lat., 123°45.94′ W. long.;
(146) 38°57.50′ N. lat., 123°46.28′ W. long.;
(147) 38°56.80′ N. lat., 123°46.48′ W. long.;
(148) 38°51.16′ N. lat., 123°41.48′ W. long.;
(149) 38°45.77′ N. lat., 123°35.14′ W. long.;
(150) 38°42.21′ N. lat., 123°28.17′ W. long.;
(151) 38°34.05′ N. lat., 123°20.96′ W. long.;
(152) 38°22.47′ N. lat., 123°07.48′ W. long.;
(153) 38°16.52′ N. lat., 123°05.62′ W. long.;
(154) 38°14.42′ N. lat., 123°01.91′ W. long.;
(155) 38°08.24′ N. lat., 122°59.79′ W. long.;
(156) 38°02.69′ N. lat., 123°01.96′ W. long.;
(157) 38°00.00′ N. lat., 123°04.75′ W. long.;
(158) 37°58.41′ N. lat., 123°02.93′ W. long.;
(159) 37°58.25′ N. lat., 122°56.49′ W. long.;
(160) 37°50.30′ N. lat., 122°52.23′ W. long.;
(161) 37°43.36′ N. lat., 123°04.18′ W. long.;
(162) 37°40.77′ N. lat., 123°01.62′ W. long.;
(163) 37°40.13′ N. lat., 122°57.30′ W. long.;
(164) 37°42.59′ N. lat., 122°53.64′ W. long.;
(165) 37°35.67′ N. lat., 122°44.20′ W. long.;
(166) 37°29.62′ N. lat., 122°36.00′ W. long.;
(167) 37°22.38′ N. lat., 122°31.66′ W. long.;
(168) 37°13.86′ N. lat., 122°28.27′ W. long.;
(169) 37°11.00′ N. lat., 122°26.50′ W. long.;
(170) 37°08.01′ N. lat., 122°24.75′ W. long.;
(171) 37°07.00′ N. lat., 122°23.60′ W. long.;
(172) 37°05.84′ N. lat., 122°22.47′ W. long.;
(173) 36°58.77′ N. lat., 122°13.03′ W. long.;
(174) 36°53.74′ N. lat., 122°03.39′ W. long.;
(175) 36°52.71′ N. lat., 122°00.14′ W. long.;
(176) 36°52.51′ N. lat., 121°56.77′ W. long.;
(177) 36°49.44′ N. lat., 121°49.63′ W. long.;
(178) 36°48.01′ N. lat., 121°49.92′ W. long.;
(179) 36°48.25′ N. lat., 121°47.66′ W. long.;
(180) 36°46.26′ N. lat., 121°51.27′ W. long.;
(181) 36°39.14′ N. lat., 121°52.05′ W. long.;
(182) 36°38.00′ N. lat., 121°53.57′ W. long.;
(183) 36°39.14′ N. lat., 121°55.45′ W. long.;
(184) 36°38.50′ N. lat., 121°57.09′ W. long.;
(185) 36°36.75′ N. lat., 121°59.44′ W. long.;
(186) 36°34.97′ N. lat., 121°59.37′ W. long.;

(187) 36°33.07′ N. lat., 121°58.32′ W. long.;
(188) 36°33.27′ N. lat., 121°57.07′ W. long.;
(189) 36°32.68′ N. lat., 121°57.03′ W. long.;
(190) 36°32.04′ N. lat., 121°55.98′ W. long.;
(191) 36°31.61′ N. lat., 121°55.72′ W. long.;
(192) 36°31.59′ N. lat., 121°57.12′ W. long.;
(193) 36°31.52′ N. lat., 121°57.57′ W. long.;
(194) 36°30.88′ N. lat., 121°57.90′ W. long.;
(195) 36°30.25′ N. lat., 121°57.37′ W. long.;
(196) 36°29.47′ N. lat., 121°57.55′ W. long.;
(197) 36°26.72′ N. lat., 121°56.40′ W. long.;
(198) 36°24.33′ N. lat., 121°56.00′ W. long.;
(199) 36°23.36′ N. lat., 121°55.45′ W. long.;
(200) 36°18.86′ N. lat., 121°56.15′ W. long.;
(201) 36°16.21′ N. lat., 121°54.81′ W. long.;
(202) 36°15.30′ N. lat., 121°53.79′ W. long.;
(203) 36°12.04′ N. lat., 121°45.38′ W. long.;
(204) 36°11.87′ N. lat., 121°44.45′ W. long.;
(205) 36°12.13′ N. lat., 121°44.25′ W. long.;
(206) 36°11.89′ N. lat., 121°43.65′ W. long.;
(207) 36°10.56′ N. lat., 121°42.62′ W. long.;
(208) 36°09.90′ N. lat., 121°41.57′ W. long.;
(209) 36°08.14′ N. lat., 121°40.44′ W. long.;
(210) 36°06.69′ N. lat., 121°38.79′ W. long.;
(211) 36°05.85′ N. lat., 121°38.47′ W. long.;
(212) 36°03.08′ N. lat., 121°36.25′ W. long.;
(213) 36°02.92′ N. lat., 121°35.89′ W. long.;
(214) 36°01.53′ N. lat., 121°36.13′ W. long.;
(215) 36°00.59′ N. lat., 121°35.40′ W. long.;
(216) 36°00.00′ N. lat., 121°34.10′ W. long.;
(217) 35°59.93′ N. lat., 121°33.81′ W. long.;
(218) 35°59.69′ N. lat., 121°31.84′ W. long.;
(219) 35°58.59′ N. lat., 121°30.30′ W. long.;
(220) 35°54.02′ N. lat., 121°29.71′ W. long.;
(221) 35°51.54′ N. lat., 121°27.67′ W. long.;
(222) 35°50.42′ N. lat., 121°25.79′ W. long.;
(223) 35°48.37′ N. lat., 121°24.29′ W. long.;
(224) 35°47.02′ N. lat., 121°22.46′ W. long.;
(225) 35°42.28′ N. lat., 121°21.20′ W. long.;
(226) 35°41.57′ N. lat., 121°21.82′ W. long.;
(227) 35°39.24′ N. lat., 121°18.84′ W. long.;
(228) 35°35.14′ N. lat., 121°10.45′ W. long.;
(229) 35°30.11′ N. lat., 121°05.59′ W. long.;
(230) 35°25.86′ N. lat., 121°00.07′ W. long.;
(231) 35°22.82′ N. lat., 120°54.68′ W. long.;
(232) 35°17.96′ N. lat., 120°55.54′ W. long.;
(233) 35°14.83′ N. lat., 120°55.42′ W. long.;
(234) 35°08.87′ N. lat., 120°50.22′ W. long.;
(235) 35°05.55′ N. lat., 120°44.89′ W. long.;
(236) 35°02.91′ N. lat., 120°43.94′ W. long.;
(237) 34°53.80′ N. lat., 120°43.94′ W. long.;
(238) 34°34.89′ N. lat., 120°41.92′ W. long.;
(239) 34°32.48′ N. lat., 120°40.05′ W. long.;
(240) 34°30.12′ N. lat., 120°32.81′ W. long.;
(241) 34°27.00′ N. lat., 120°30.46′ W. long.;
(242) 34°27.00′ N. lat., 120°30.31′ W. long.;
(243) 34°25.84′ N. lat., 120°27.40′ W. long.;
(244) 34°25.16′ N. lat., 120°20.18′ W. long.;
(245) 34°25.88′ N. lat., 120°18.24′ W. long.;
(246) 34°27.26′ N. lat., 120°12.47′ W. long.;
(247) 34°26.27′ N. lat., 120°02.22′ W. long.;
(248) 34°23.41′ N. lat., 119°53.40′ W. long.;
(249) 34°23.33′ N. lat., 119°48.74′ W. long.;
(250) 34°22.31′ N. lat., 119°41.36′ W. long.;
(251) 34°21.72′ N. lat., 119°40.14′ W. long.;
(252) 34°21.25′ N. lat., 119°41.18′ W. long.;
(253) 34°20.25′ N. lat., 119°39.03′ W. long.;
(254) 34°19.87′ N. lat., 119°33.65′ W. long.;
(255) 34°18.67′ N. lat., 119°30.16′ W. long.;
(256) 34°16.95′ N. lat., 119°27.90′ W. long.;
(257) 34°13.02′ N. lat., 119°26.99′ W. long.;
(258) 34°08.62′ N. lat., 119°20.89′ W. long.;
(259) 34°06.95′ N. lat., 119°17.68′ W. long.;
(260) 34°05.93′ N. lat., 119°15.17′ W. long.;
(261) 34°08.42′ N. lat., 119°13.11′ W. long.;
(262) 34°05.23′ N. lat., 119°13.34′ W. long.;
(263) 34°04.98′ N. lat., 119°11.39′ W. long.;
(264) 34°04.55′ N. lat., 119°11.09′ W. long.;
(265) 34°04.15′ N. lat., 119°09.35′ W. long.;
(266) 34°04.89′ N. lat., 119°07.86′ W. long.;
(267) 34°04.08′ N. lat., 119°07.33′ W. long.;
(268) 34°04.10′ N. lat., 119°06.89′ W. long.;
(269) 34°05.08′ N. lat., 119°07.02′ W. long.;
(270) 34°05.27′ N. lat., 119°04.95′ W. long.;
(271) 34°04.51′ N. lat., 119°04.70′ W. long.;
(272) 34°02.26′ N. lat., 118°59.88′ W. long.;
(273) 34°01.08′ N. lat., 118°59.77′ W. long.;
(274) 34°00.94′ N. lat., 118°51.65′ W. long.;
(275) 33°59.77′ N. lat., 118°49.26′ W. long.;
(276) 34°00.04′ N. lat., 118°48.92′ W. long.;
(277) 33°59.65′ N. lat., 118°48.43′ W. long.;
(278) 33°59.46′ N. lat., 118°47.25′ W. long.;
(279) 33°59.80′ N. lat., 118°45.89′ W. long.;
(280) 34°00.21′ N. lat., 118°37.64′ W. long.;
(281) 33°59.26′ N. lat., 118°34.58′ W. long.;
(282) 33°58.07′ N. lat., 118°33.36′ W. long.;
(283) 33°53.76′ N. lat., 118°30.14′ W. long.;
(284) 33°51.00′ N. lat., 118°25.19′ W. long.;
(285) 33°50.07′ N. lat., 118°24.70′ W. long.;
(286) 33°50.16′ N. lat., 118°23.77′ W. long.;
(287) 33°48.80′ N. lat., 118°25.31′ W. long.;
(288) 33°47.07′ N. lat., 118°27.07′ W. long.;
(289) 33°46.12′ N. lat., 118°26.87′ W. long.;
(290) 33°44.15′ N. lat., 118°25.15′ W. long.;
(291) 33°43.54′ N. lat., 118°23.02′ W. long.;

(292) 33°41.35′ N. lat., 118°18.86′ W. long.;
(293) 33°39.96′ N. lat., 118°17.37′ W. long.;
(294) 33°40.12′ N. lat., 118°16.33′ W. long.;
(295) 33°39.28′ N. lat., 118°16.21′ W. long.;
(296) 33°38.04′ N. lat., 118°14.86′ W. long.;
(297) 33°36.57′ N. lat., 118°14.67′ W. long.;
(298) 33°34.93′ N. lat., 118°10.94′ W. long.;
(399) 33°35.14′ N. lat., 118°08.61′ W. long.;
(300) 33°35.69′ N. lat., 118°07.68′ W. long.;
(301) 33°36.21′ N. lat., 118°07.53′ W. long.;
(302) 33°36.43′ N. lat., 118°06.73′ W. long.;
(303) 33°36.05′ N. lat., 118°06.15′ W. long.;
(304) 33°36.32′ N. lat., 118°03.91′ W. long.;
(305) 33°35.69′ N. lat., 118°03.64′ W. long.;
(306) 33°34.62′ N. lat., 118°00.04′ W. long.;
(307) 33°34.80′ N. lat., 117°57.73′ W. long.;
(308) 33°35.57′ N. lat., 117°56.62′ W. long.;
(309) 33°35.46′ N. lat., 117°55.99′ W. long.;
(310) 33°35.98′ N. lat., 117°55.99′ W. long.;
(311) 33°35.46′ N. lat., 117°55.38′ W. long.;
(312) 33°35.21′ N. lat., 117°53.46′ W. long.;
(313) 33°33.61′ N. lat., 117°50.45′ W. long.;
(314) 33°31.41′ N. lat., 117°47.28′ W. long.;
(315) 33°27.54′ N. lat., 117°44.36′ W. long.;
(316) 33°26.63′ N. lat., 117°43.17′ W. long.;
(317) 33°25.21′ N. lat., 117°40.90′ W. long.;
(318) 33°20.33′ N. lat., 117°35.99′ W. long.;
(319) 33°16.35′ N. lat., 117°31.51′ W. long.;
(320) 33°11.53′ N. lat., 117°26.81′ W. long.;
(321) 33°07.59′ N. lat., 117°21.13′ W. long.;
(322) 33°02.21′ N. lat., 117°19.05′ W. long.;
(323) 32°56.55′ N. lat., 117°17.70′ W. long.;
(324) 32°54.61′ N. lat., 117°16.60′ W. long.;
(325) 32°52.32′ N. lat., 117°15.97′ W. long.;
(326) 32°51.48′ N. lat., 117°16.15′ W. long.;
(327) 32°51.85′ N. lat., 117°17.26′ W. long.;
(328) 32°51.55′ N. lat., 117°19.01′ W. long.;
(329) 32°49.55′ N. lat., 117°19.63′ W. long.;
(330) 32°46.71′ N. lat., 117°18.32′ W. long.;
(331) 32°36.35′ N. lat., 117°15.68′ W. long.; and
(332) 32°32.85′ N. lat., 117°15.44′ W. long.

(c) The 30 fm (55 m) depth contour around the Farallon Islands off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 37°46.73′ N. lat., 123°6.37′ W. long.;
(2) 37°45.79′ N. lat., 123°07.91′ W. long.;
(3) 37°45.28′ N. lat., 123°07.75′ W. long.;
(4) 37°44.98′ N. lat., 123°07.11′ W. long.;
(5) 37°45.51′ N. lat., 123°06.26′ W. long.;
(6) 37°45.14′ N. lat., 123°05.41′ W. long.;
(7) 37°45.31′ N. lat., 123°04.82′ W. long.;
(8) 37°46.11′ N. lat., 123°05.23′ W. long.;
(9) 37°46.44′ N. lat., 123°05.63′ W. long.; and
(10) 37°46.73′ N. lat., 123°06.37′ W. long.

(d) The 30 fm (55 m) depth contour around Noon Day Rock off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 37°47.83′ N. lat., 123°10.83′ W. long.;
(2) 37°47.51′ N. lat., 123°11.19′ W. long.;
(3) 37°47.33′ N. lat., 123°10.68′ W. long.;
(4) 37°47.02′ N. lat., 123°10.59′ W. long.;
(5) 37°47.21′ N. lat., 123°09.85′ W. long.;
(6) 37°47.56′ N. lat., 123°09.72′ W. long.;
(7) 37°47.87′ N. lat., 123°10.26′ W. long.; and
(8) 37°47.83′ N. lat., 123°10.83′ W. long.

(e) The 30 fm (55 m) depth contour around the northern Channel Islands off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 34°00.98′ N. lat., 119°20.46′ W. long.;
(2) 34°00.53′ N. lat., 119°20.98′ W. long.;
(3) 34°00.17′ N. lat., 119°21.83′ W. long.;
(4) 33° 59.65′ N. lat., 119°24.45′ W. long.;
(5) 33°59.68′ N. lat., 119°25.20′ W. long.;
(6) 33°59.95′ N. lat., 119°26.25′ W. long.;
(7) 33°59.87′ N. lat., 119°27.27′ W. long.;
(8) 33°59.55′ N. lat., 119°28.02′ W. long.;
(9) 33°58.63′ N. lat., 119°36.48′ W. long.;
(10) 33°57.62′ N. lat., 119°41.13′ W. long.;
(11) 33°57.00′ N. lat., 119°42.20′ W. long.;
(12) 33°56.93′ N. lat., 119°48.00′ W. long.;
(13) 33°56.45′ N. lat., 119°49.12′ W. long.;
(14) 33°58.54′ N. lat., 119°52.80′ W. long.;
(15) 33°59.95′ N. lat., 119°54.49′ W. long.;
(16) 33°59.83′ N. lat., 119°56.00′ W. long.;
(17) 33°59.18′ N. lat., 119°57.17′ W. long.;
(18) 33°57.83′ N. lat., 119°56.74′ W. long.;
(19) 33°55.71′ N. lat., 119°56.89′ W. long.;
(20) 33°53.89′ N. lat., 119°57.68′ W. long.;
(21) 33°52.93′ N. lat., 119°59.80′ W. long.;
(22) 33°52.79′ N. lat., 120°01.81′ W. long.;
(23) 33°52.51′ N. lat., 120°03.08′ W. long.;
(24) 33°53.12′ N. lat., 120°04.88′ W. long.;
(25) 33°53.12′ N. lat., 120°05.80′ W. long.;
(26) 33°52.94′ N. lat., 120°06.50′ W. long.;
(27) 33°54.03′ N. lat., 120°10.00′ W. long.;
(28) 33°54.58′ N. lat., 120°11.82′ W. long.;
(29) 33°57.08′ N. lat., 120°14.58′ W. long.;
(30) 33°59.50′ N. lat., 120°16.72′ W. long.;
(31) 33°59.63′ N. lat., 120°17.88′ W. long.;
(32) 34°00.30′ N. lat., 120°19.14′ W. long.;
(33) 34°00.02′ N. lat., 120°19.68′ W. long.;
(34) 34°00.08′ N. lat., 120°21.73′ W. long.;
(35) 34°00.94′ N. lat., 120°24.82′ W. long.;
(36) 34°01.09′ N. lat., 120°27.29′ W. long.;
(37) 34°00.96′ N. lat., 120°28.09′ W. long.;
(38) 34°01.56′ N. lat., 120°28.71′ W. long.;

(39) 34°01.80′ N. lat., 120°28.31′ W. long.;
(40) 34°03.60′ N. lat., 120°28.87′ W. long.;
(41) 34°05.20′ N. lat., 120°29.38′ W. long.;
(42) 34°05.35′ N. lat., 120°28.20′ W. long.;
(43) 34°05.30′ N. lat., 120°27.33′ W. long.;
(44) 34°05.65′ N. lat., 120°26.79′ W. long.;
(45) 34°05.69′ N. lat., 120°25.82′ W. long.;
(46) 34°07.24′ N. lat., 120°24.98′ W. long.;
(47) 34°06.00′ N. lat., 120°23.30′ W. long.;
(48) 34°05.64′ N. lat., 120°21.44′ W. long.;
(49) 34°03.61′ N. lat., 120°18.40′ W. long.;
(50) 34°03.25′ N. lat., 120°16.64′ W. long.;
(51) 34°04.33′ N. lat., 120°14.22′ W. long.;
(52) 34°04.11′ N. lat., 120°11.17′ W. long.;
(53) 34°03.72′ N. lat., 120°09.93′ W. long.;
(54) 34°03.81′ N. lat., 120°08.96′ W. long.;
(55) 34°03.36′ N. lat., 120°06.52′ W. long.;
(56) 34°04.80′ N. lat., 120°04.00′ W. long.;
(57) 34°03.48′ N. lat., 120°01.75′ W. long.;
(58) 34°04.00′ N. lat., 120°01.00′ W. long.;
(59) 34°03.99′ N. lat., 120°00.15′ W. long.;
(60) 34°03.51′ N. lat., 119°59.42′ W. long.;
(61) 34°03.79′ N. lat., 119°58.15′ W. long.;
(62) 34°04.72′ N. lat., 119°57.61′ W. long.;
(63) 34°05.14′ N. lat., 119°55.17′ W. long.;
(64) 34°04.66′ N. lat., 119°51.60′ W. long.;
(65) 34°03.79′ N. lat., 119°48.86′ W. long.;
(66) 34°03.79′ N. lat., 119°45.46′ W. long.;
(67) 34°03.27′ N. lat., 119°44.17′ W. long.;
(68) 34°03.29′ N. lat., 119°43.30′ W. long.;
(69) 34°01.71′ N. lat., 119°40.83′ W. long.;
(70) 34°01.74′ N. lat., 119°37.92′ W. long.;
(71) 34°02.07′ N. lat., 119°37.17′ W. long.;
(72) 34°02.93′ N. lat., 119°36.52′ W. long.;
(73) 34°03.48′ N. lat., 119°35.50′ W. long.;
(74) 34°03.56′ N. lat., 119°32.80′ W. long.;
(75) 34°02.72′ N. lat., 119°31.84′ W. long.;
(76) 34°02.20′ N. lat., 119°30.53′ W. long.;
(77) 34°01.49′ N. lat., 119°30.20′ W. long.;
(78) 34°00.66′ N. lat., 119°28.62′ W. long.;
(79) 34°00.66′ N. lat., 119°27.57′ W. long.;
(80) 34°01.41′ N. lat., 119°26.91′ W. long.;
(81) 34°00.91′ N. lat., 119°24.28′ W. long.;
(82) 34°01.51′ N. lat., 119°22.06′ W. long.; and
(83) 34°01.41′ N. lat., 119°20.61′ W. long.

(f) The 30 fm (55 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°03.37′ N. lat., 118°37.76′ W. long.;
(2) 33°02.72′ N. lat., 118°38.12′ W. long.;
(3) 33°02.18′ N. lat., 118°37.46′ W. long.;
(4) 33°00.66′ N. lat., 118°37.36′ W. long.;
(5) 33°00.08′ N. lat., 118°36.94′ W. long.;
(6) 33°00.11′ N. lat., 118°36.00′ W. long.;
(7) 32°58.02′ N. lat., 118°35.41′ W. long.;
(8) 32°56.00′ N. lat., 118°33.59′ W. long.;
(9) 32°54.76′ N. lat., 118°33.58′ W. long.;
(10) 32°53.97′ N. lat., 118°32.45′ W. long.;
(11) 32°51.18′ N. lat., 118°30.83′ W. long.;
(12) 32°50.00′ N. lat., 118°29.68′ W. long.;
(13) 32°49.72′ N. lat., 118°28.33′ W. long.;
(14) 32°47.88′ N. lat., 118°26.90′ W. long.;
(15) 32°47.30′ N. lat., 118°25.73′ W. long.;
(16) 32°47.28′ N. lat., 118°24.83′ W. long.;
(17) 32°48.12′ N. lat., 118°24.33′ W. long.;
(18) 32°48.74′ N. lat., 118°23.39′ W. long.;
(19) 32°48.69′ N. lat., 118°21.75′ W. long.;
(20) 32°49.06′ N. lat., 118°20.53′ W. long.;
(21) 32°50.28′ N. lat., 118°21.90′ W. long.;
(22) 32°51.73′ N. lat., 118°23.86′ W. long.;
(23) 32°52.79′ N. lat., 118°25.08′ W. long.;
(24) 32°54.03′ N. lat., 118°26.83′ W. long.;
(25) 32°54.70′ N. lat., 118°27.55′ W. long.;
(26) 32°55.49′ N. lat., 118°29.04′ W. long.;
(27) 32°59.58′ N. lat., 118°32.51′ W. long.;
(28) 32°59.89′ N. lat., 118°32.52′ W. long.;
(29) 33°00.29′ N. lat., 118°32.73′ W. long.;
(30) 33°00.85′ N. lat., 118°33.50′ W. long.;
(31) 33°01.70′ N. lat., 118°33.64′ W. long.;
(32) 33°02.90′ N. lat., 118°35.35′ W. long.;
(33) 33°02.61′ N. lat., 118°36.96′ W. long.; and
(34) 33°03.37′ N. lat., 118°37.76′ W. long.

(g) The 30 fm (55 m) depth contour around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°19.13′ N. lat., 118°18.04′ W. long.;
(2) 33°18.32′ N. lat., 118°18.20′ W. long.;
(3) 33°17.82′ N. lat., 118°18.73′ W. long.;
(4) 33°17.54′ N. lat., 118°19.52′ W. long.;
(5) 33°17.99′ N. lat., 118°21.71′ W. long.;
(6) 33°18.48′ N. lat., 118°22.82′ W. long.;
(7) 33°18.77′ N. lat., 118°26.95′ W. long.;
(8) 33°19.69′ N. lat., 118°28.87′ W. long.;
(9) 33°20.53′ N. lat., 118°30.52′ W. long.;
(10) 33°20.46′ N. lat., 118°31.47′ W. long.;
(11) 33°20.98′ N. lat., 118°31.39′ W. long.;
(12) 33°20.81′ N. lat., 118°30.49′ W. long.;
(13) 33°21.38′ N. lat., 118°30.07′ W. long.;
(14) 33°23.12′ N. lat., 118°29.31′ W. long.;
(15) 33°24.95′ N. lat., 118°29.70′ W. long.;
(16) 33°25.39′ N. lat., 118°30.50′ W. long.;
(17) 33°25.21′ N. lat., 118°30.79′ W. long.;
(18) 33°25.65′ N. lat., 118°31.60′ W. long.;
(19) 33°25.65′ N. lat., 118°32.04′ W. long.;
(20) 33°25.94′ N. lat., 118°32.96′ W. long.;

(21) 33°25.86′ N. lat., 118°33.49′ W. long.;
(22) 33°26.06′ N. lat., 118°34.12′ W. long.;
(23) 33°28.28′ N. lat., 118°36.60′ W. long.;
(24) 33°28.83′ N. lat., 118°36.42′ W. long.;
(25) 33°28.72′ N. lat., 118°34.93′ W. long.;
(26) 33°28.71′ N. lat., 118°33.61′ W. long.;
(27) 33°28.81′ N. lat., 118°32.95′ W. long.;
(28) 33°28.73′ N. lat., 118°32.07′ W. long.;
(29) 33°27.55′ N. lat., 118°30.14′ W. long.;
(30) 33°27.86′ N. lat., 118°29.41′ W. long.;
(31) 33°26.98′ N. lat., 118°29.06′ W. long.;
(32) 33°26.96′ N. lat., 118°28.58′ W. long.;
(33) 33°26.76′ N. lat., 118°28.40′ W. long.;
(34) 33°26.52′ N. lat., 118°27.66′ W. long.;
(35) 33°26.31′ N. lat., 118°27.41′ W. long.;
(36) 33°25.09′ N. lat., 118°23.13′ W. long.;
(37) 33°24.80′ N. lat., 118°22.86′ W. long.;
(38) 33°24.60′ N. lat., 118°22.02′ W. long.;
(39) 33°22.82′ N. lat., 118°21.04′ W. long.;
(40) 33°20.23′ N. lat., 118°18.45′ W. long.; and
(41) 33°19.13′ N. lat., 118°18.04′ W. long.

(h) The 40 fm (73 m) depth contour between 46°16′ N. lat. and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:

(1) 46°16.00′ N. lat., 124°16.10′ W. long.;
(2) 46°15.29′ N. lat., 124°15.60′ W. long.;
(3) 46°11.90′ N. lat., 124°13.59′ W. long.;
(4) 46°06.93′ N. lat., 124°10.15′ W. long.;
(5) 46°05.33′ N. lat., 124°08.30′ W. long.;
(6) 45°58.69′ N. lat., 124°05.60′ W. long.;
(7) 45°57.71′ N. lat., 124°05.82′ W. long.;
(8) 45°53.97′ N. lat., 124°05.04′ W. long.;
(9) 45°49.75′ N. lat., 124°05.14′ W. long.;
(10) 45°47.88′ N. lat., 124°05.16′ W. long.;
(11) 45°47.07′ N. lat., 124°04.21′ W. long.;
(12) 45°46.00′ N. lat., 124°04.49′ W. long.;
(13) 45°44.34′ N. lat., 124°05.09′ W. long.;
(14) 45°40.64′ N. lat., 124°04.90′ W. long.;
(15) 45°33.00′ N. lat., 124°04.46′ W. long.;
(16) 45°32.27′ N. lat., 124°04.74′ W. long.;
(17) 45°29.26′ N. lat., 124°04.22′ W. long.;
(18) 45°20.25′ N. lat., 124°04.67′ W. long.;
(19) 45°19.99′ N. lat., 124°04.62′ W. long.;
(20) 45°17.50′ N. lat., 124°04.91′ W. long.;
(21) 45°11.29′ N. lat., 124°05.19′ W. long.;
(22) 45°05.79′ N. lat., 124°05.40′ W. long.;
(23) 45°05.07′ N. lat., 124°05.93′ W. long.;
(24) 45°03.83′ N. lat., 124°06.47′ W. long.;
(25) 45°01.70′ N. lat., 124°06.53′ W. long.;
(26) 44°58.75′ N. lat., 124°07.14′ W. long.;
(27) 44°51.28′ N. lat., 124°10.21′ W. long.;
(28) 44°49.49′ N. lat., 124°10.89′ W. long.;
(29) 44°44.96′ N. lat., 124°14.39′ W. long.;
(30) 44°43.44′ N. lat., 124°14.78′ W. long.;
(31) 44°42.27′ N. lat., 124°13.81′ W. long.;
(32) 44°41.68′ N. lat., 124°15.38′ W. long.;
(33) 44°34.87′ N. lat., 124°15.80′ W. long.;
(34) 44°33.74′ N. lat., 124°14.43′ W. long.;
(35) 44°27.66′ N. lat., 124°16.99′ W. long.;
(36) 44°19.13′ N. lat., 124°19.22′ W. long.;
(37) 44°15.35′ N. lat., 124°17.37′ W. long.;
(38) 44°14.38′ N. lat., 124°17.78′ W. long.;
(39) 44°12.80′ N. lat., 124°17.18′ W. long.;
(40) 44°09.23′ N. lat., 124°15.96′ W. long.;
(41) 44°08.38′ N. lat., 124°16.80′ W. long.;
(42) 44°08.30′ N. lat., 124°16.75′ W. long.;
(43) 44°01.18′ N. lat., 124°15.42′ W. long.;
(44) 43°51.60′ N. lat., 124°14.68′ W. long.;
(45) 43°42.66′ N. lat., 124°15.46′ W. long.;
(46) 43°40.49′ N. lat., 124°15.74′ W. long.;
(47) 43°38.77′ N. lat., 124°15.64′ W. long.;
(48) 43°34.52′ N. lat., 124°16.73′ W. long.;
(49) 43°28.82′ N. lat., 124°19.52′ W. long.;
(50) 43°23.91′ N. lat., 124°24.28′ W. long.;
(51) 43°20.83′ N. lat., 124°26.63′ W. long.;
(52) 43°17.96′ N. lat., 124°28.81′ W. long.;
(53) 43°16.75′ N. lat., 124°28.42′ W. long.;
(54) 43°13.98′ N. lat., 124°31.99′ W. long.;
(55) 43°13.71′ N. lat., 124°33.25′ W. long.;
(56) 43°12.26′ N. lat., 124°34.16′ W. long.;
(57) 43°10.96′ N. lat., 124°32.34′ W. long.;
(58) 43°05.65′ N. lat., 124°31.52′ W. long.;
(59) 42°59.66′ N. lat., 124°32.58′ W. long.;
(60) 42°54.97′ N. lat., 124°36.99′ W. long.;
(61) 42°53.81′ N. lat., 124°38.58′ W. long.;
(62) 42°50.00′ N. lat., 124°39.68′ W. long.;
(63) 42°49.14′ N. lat., 124°39.92′ W. long.;
(64) 42°46.47′ N. lat., 124°38.65′ W. long.;
(65) 42°45.60′ N. lat., 124°39.04′ W. long.;
(66) 42°44.79′ N. lat., 124°37.96′ W. long.;
(67) 42°45.00′ N. lat., 124°36.39′ W. long.;
(68) 42°44.14′ N. lat., 124°35.16′ W. long.;
(69) 42°42.15′ N. lat., 124°32.82′ W. long.;
(70) 42°40.50′ N. lat., 124°31.98′ W. long.;
(71) 42°38.82′ N. lat., 124°31.09′ W. long.;
(72) 42°35.91′ N. lat., 124°31.02′ W. long.;
(73) 42°31.34′ N. lat., 124°34.84′ W. long.;
(74) 42°28.13′ N. lat., 124°34.83′ W. long.;
(75) 42°26.73′ N. lat., 124°35.58′ W. long.;
(76) 42°23.85′ N. lat., 124°34.05′ W. long.;
(77) 42°21.68′ N. lat., 124°30.64′ W. long.;
(78) 42°19.62′ N. lat., 124°29.02′ W. long.;
(79) 42°15.01′ N. lat., 124°27.72′ W. long.;
(80) 42°13.67′ N. lat., 124°26.93′ W. long.;
(81) 42°11.38′ N. lat., 124°25.62′ W. long.;

(82) 42°04.66′ N. lat., 124°24.39′ W. long.;
(83) 42°00.00′ N. lat., 124°23.55′ W. long.;
(84) 41°51.35′ N. lat., 124°25.25′ W. long.;
(85) 41°44.10′ N. lat., 124°19.05′ W. long.;
(86) 41°38.00′ N. lat., 124°20.04′ W. long.;
(87) 41°18.43′ N. lat., 124°13.48′ W. long.;
(88) 40°55.12′ N. lat., 124°16.33′ W. long.;
(89) 40°41.00′ N. lat., 124°27.66′ W. long.;
(90) 40°36.71′ N. lat., 124°27.15′ W. long.;
(91) 40°32.81′ N. lat., 124°29.42′ W. long.;
(92) 40°30.00′ N. lat., 124°32.38′ W. long.;
(93) 40°29.13′ N. lat., 124°33.23′ W. long.;
(94) 40°24.55′ N. lat., 124°30.40′ W. long.;
(95) 40°22.32′ N. lat., 124°24.19′ W. long.;
(96) 40°19.67′ N. lat., 124°25.52′ W. long.;
(97) 40°18.63′ N. lat., 124°22.38′ W. long.;
(98) 40°15.21′ N. lat., 124°24.53′ W. long.;
(99) 40°12.56′ N. lat., 124°22.69′ W. long.;
(100) 40°10.00′ N. lat., 124°17.84′ W. long.;
(101) 40°09.30′ N. lat., 124°15.68′ W. long.;
(102) 40°08.31′ N. lat., 124°15.17′ W. long.;
(103) 40°05.62′ N. lat., 124°09.80′ W. long.;
(104) 40°06.57′ N. lat., 124°07.99′ W. long.;
(105) 40°00.86′ N. lat., 124°08.42′ W. long.;
(106) 39°54.79′ N. lat., 124°05.25′ W. long.;
(107) 39°52.75′ N. lat., 124°02.62′ W. long.;
(108) 39°52.51′ N. lat., 123°58.15′ W. long.;
(109) 39°49.64′ N. lat., 123°54.98′ W. long.;
(110) 39°41.46′ N. lat., 123°50.65′ W. long.;
(111) 39°34.57′ N. lat., 123°49.24′ W. long.;
(112) 39°22.62′ N. lat., 123°51.21′ W. long.;
(113) 39°04.58′ N. lat., 123°45.43′ W. long.;
(114) 39°00.45′ N. lat., 123°47.58′ W. long.;
(115) 38°57.50′ N. lat., 123°47.27′ W. long.;
(116) 38°55.82′ N. lat., 123°46.97′ W. long.;
(117) 38°52.26′ N. lat., 123°44.35′ W. long.;
(118) 38°45.41′ N. lat., 123°35.67′ W. long.;
(119) 38°40.60′ N. lat., 123°28.22′ W. long.;
(120) 38°21.64′ N. lat., 123°08.91′ W. long.;
(121) 38°12.01′ N. lat., 123°03.86′ W. long.;
(122) 38°06.16′ N. lat., 123°07.01′ W. long.;
(123) 38°00.00′ N. lat., 123°07.05′ W. long.;
(124) 37°51.73′ N. lat., 122°57.97′ W. long.;
(125) 37°47.96′ N. lat., 122°59.34′ W. long.;
(126) 37°47.37′ N. lat., 123°08.84′ W. long.;
(127) 37°50.00′ N. lat., 123°14.38′ W. long.;
(128) 37°39.91′ N. lat., 123°00.84′ W. long.;
(129) 37°38.75′ N. lat., 122°52.16′ W. long.;
(130) 37°35.67′ N. lat., 122°49.47′ W. long.;
(131) 37°20.24′ N. lat., 122°33.82′ W. long.;
(132) 37°11.00′ N. lat., 122°28.50′ W. long.;
(133) 37°07.00′ N. lat., 122°26.26′ W. long.;
(134) 36°52.04′ N. lat., 122°04.60′ W. long.;
(135) 36°52.00′ N. lat., 121°57.41′ W. long.;
(136) 36°47.87′ N. lat., 121°50.15′ W. long.;
(137) 36°48.07′ N. lat., 121°48.21′ W. long.;
(138) 36°45.93′ N. lat., 121°52.11′ W. long.;
(139) 36°40.55′ N. lat., 121°52.59′ W. long.;
(140) 36°38.93′ N. lat., 121°58.17′ W. long.;
(141) 36°36.54′ N. lat., 122°00.18′ W. long.;
(142) 36°32.87′ N. lat., 121°58.81′ W. long.;
(143) 36°31.90′ N. lat., 121°56.00′ W. long.;
(144) 36°31.51′ N. lat., 121°58.17′ W. long.;
(145) 36°23.28′ N. lat., 121°56.10′ W. long.;
(146) 36°17.52′ N. lat., 121°57.33′ W. long.;
(147) 36°15.90′ N. lat., 121°57.00′ W. long.;
(148) 36°11.06′ N. lat., 121°43.10′ W. long.;
(149) 36°02.85′ N. lat., 121°36.21′ W. long.;
(150) 36°01.22′ N. lat., 121°36.36′ W. long.;
(151) 36°00.00′ N. lat., 121°34.73′ W. long.;
(152) 35°58.67′ N. lat., 121°30.68′ W. long.;
(153) 35°54.16′ N. lat., 121°30.21′ W. long.;
(154) 35°46.98′ N. lat., 121°24.02′ W. long.;
(155) 35°40.75′ N. lat., 121°21.89′ W. long.;
(156) 35°34.36′ N. lat., 121°11.07′ W. long.;
(157) 35°29.30′ N. lat., 121°05.74′ W. long.;
(158) 35°22.15′ N. lat., 120°56.15′ W. long.;
(159) 35°14.93′ N. lat., 120°56.37′ W. long.;
(160) 35°04.06′ N. lat., 120°46.35′ W. long.;
(161) 34°45.85′ N. lat., 120°43.96′ W. long.;
(162) 34°37.80′ N. lat., 120°44.44′ W. long.;
(163) 34°32.82′ N. lat., 120°42.08′ W. long.;
(164) 34°27.00′ N. lat., 120°31.27′ W. long.;
(165) 34°24.25′ N. lat., 120°23.33′ W. long.;
(166) 34°26.48′ N. lat., 120°13.93′ W. long.;
(167) 34°25.12′ N. lat., 120°03.46′ W. long.;
(168) 34°17.58′ N. lat., 119°31.62′ W. long.;
(169) 34°11.49′ N. lat., 119°27.30′ W. long.;
(170) 34°05.59′ N. lat., 119°15.52′ W. long.;
(171) 34°08.60′ N. lat., 119°12.93′ W. long.;
(172) 34°04.81′ N. lat., 119°13.44′ W. long.;
(173) 34°04.26′ N. lat., 119°12.39′ W. long.;
(174) 34°03.89′ N. lat., 119°07.06′ W. long.;
(175) 34°05.14′ N. lat., 119°05.55′ W. long.;
(176) 34°01.27′ N. lat., 118°59.62′ W. long.;
(177) 33°59.56′ N. lat., 118°48.21′ W. long.;
(178) 33°59.30′ N. lat., 118°35.43′ W. long.;
(179) 33°55.14′ N. lat., 118°32.16′ W. long.;
(180) 33°52.95′ N. lat., 118°34.49′ W. long.;
(181) 33°51.07′ N. lat., 118°31.50′ W. long.;
(182) 33°52.45′ N. lat., 118°28.54′ W. long.;
(183) 33°49.86′ N. lat., 118°24.10′ W. long.;
(184) 33°47.14′ N. lat., 118°28.38′ W. long.;
(185) 33°44.14′ N. lat., 118°25.18′ W. long.;
(186) 33°41.54′ N. lat., 118°19.63′ W. long.;

(187) 33°37.86′ N. lat., 118°15.06′ W. long.;
(188) 33°36.58′ N. lat., 118°15.97′ W. long.;
(189) 33°34.78′ N. lat., 118°12.60′ W. long.;
(190) 33°34.46′ N. lat., 118°08.77′ W. long.;
(191) 33°35.92′ N. lat., 118°07.04′ W. long.;
(192) 33°36.06′ N. lat., 118°03.96′ W. long.;
(193) 33°34.98′ N. lat., 118°02.74′ W. long.;
(194) 33°34.03′ N. lat., 117°59.37′ W. long.;
(195) 33°35.46′ N. lat., 117°55.61′ W. long.;
(196) 33°34.97′ N. lat., 117°53.33′ W. long.;
(197) 33°31.20′ N. lat., 117°47.40′ W. long.;
(198) 33°27.26′ N. lat., 117°44.34′ W. long.;
(199) 33°24.84′ N. lat., 117°40.75′ W. long.;
(200) 33°11.45′ N. lat., 117°26.84′ W. long.;
(201) 33°07.59′ N. lat., 117°21.46′ W. long.;
(202) 33°01.74′ N. lat., 117°19.23′ W. long.;
(203) 32°56.44′ N. lat., 117°18.08′ W. long.;
(204) 32°54.63′ N. lat., 117°16.94′ W. long.;
(205) 32°51.67′ N. lat., 117°16.21′ W. long.;
(206) 32°52.16′ N. lat., 117°19.41′ W. long.;
(207) 32°46.91′ N. lat., 117°20.43′ W. long.;
(208) 32°43.49′ N. lat., 117°18.12′ W. long.; and
(209) 32°33.00′ N. lat., 117°16.39′ W. long.

(i) The 40 fm (73 m) depth contour around the northern Channel Islands off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 34°07.88′ N. lat., 120°27.79′ W. long.;
(2) 34°07.45′ N. lat., 120°28.26′ W. long.;
(3) 34°07.03′ N. lat., 120°27.29′ W. long.;
(4) 34°06.19′ N. lat., 120°28.81′ W. long.;
(5) 34°06.44′ N. lat., 120°31.17′ W. long.;
(6) 34°05.81′ N. lat., 120°31.97′ W. long.;
(7) 34°03.51′ N. lat., 120°29.61′ W. long.;
(8) 34°01.56′ N. lat., 120°28.83′ W. long.;
(9) 34°00.81′ N. lat., 120°27.94′ W. long.;
(10) 33°59.26′ N. lat., 120°17.95′ W. long.;
(11) 33°54.71′ N. lat., 120°12.72′ W. long.;
(12) 33°51.61′ N. lat., 120°02.49′ W. long.;
(13) 33°51.68′ N. lat., 119°59.41′ W. long.;
(14) 33°52.71′ N. lat., 119°57.25′ W. long.;
(15) 33°55.83′ N. lat., 119°55.92′ W. long.;
(16) 33°59.64′ N. lat., 119°56.03′ W. long.;
(17) 33°56.30′ N. lat., 119°48.63′ W. long.;
(18) 33°56.77′ N. lat., 119°41.87′ W. long.;
(19) 33°58.54′ N. lat., 119°34.98′ W. long.;
(20) 33°59.52′ N. lat., 119°24.69′ W. long.;
(21) 34°00.24′ N. lat., 119°21.00′ W. long.;
(22) 34°02.00′ N. lat., 119°19.57′ W. long.;
(23) 34°01.29′ N. lat., 119°23.92′ W. long.;
(24) 34°01.95′ N. lat., 119°28.94′ W. long.;
(25) 34°03.90′ N. lat., 119°33.43′ W. long.;
(26) 34°03.31′ N. lat., 119°36.51′ W. long.;
(27) 34°02.13′ N. lat., 119°37.99′ W. long.;
(28) 34°01.96′ N. lat., 119°40.35′ W. long.;
(29) 34°03.52′ N. lat., 119°43.22′ W. long.;
(30) 34°04.03′ N. lat., 119°45.66′ W. long.;
(31) 34°04.03′ N. lat., 119°48.13′ W. long.;
(32) 34°05.15′ N. lat., 119°52.97′ W. long.;
(33) 34°05.47′ N. lat., 119°57.55′ W. long.;
(34) 34°04.43′ N. lat., 120°02.29′ W. long.;
(35) 34°05.64′ N. lat., 120°04.05′ W. long.;
(36) 34°04.16′ N. lat., 120°07.60′ W. long.;
(37) 34°05.04′ N. lat., 120°12.78′ W. long.;
(38) 34°04.45′ N. lat., 120°17.78′ W. long.;
(39) 34°07.37′ N. lat., 120°24.14′ W. long.; and
(40) 34°07.88′ N. lat., 120°27.79′ W. long.

(j) The 40 fm (73 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°02.94′ N. lat., 118°38.42′ W. long.;
(2) 33°01.79′ N. lat., 118°37.67′ W. long.;
(3) 33°00.47′ N. lat., 118°37.65′ W. long.;
(4) 32°59.64′ N. lat., 118°37.04′ W. long.;
(5) 32°59.81′ N. lat., 118°36.37′ W. long.;
(6) 32°57.84′ N. lat., 118°35.67′ W. long.;
(7) 32°55.89′ N. lat., 118°33.88′ W. long.;
(8) 32°54.75′ N. lat., 118°33.57′ W. long.;
(9) 32°53.75′ N. lat., 118°32.47′ W. long.;
(10) 32°50.36′ N. lat., 118°30.50′ W. long.;
(11) 32°49.78′ N. lat., 118°29.65′ W. long.;
(12) 32°49.70′ N. lat., 118°28.96′ W. long.;
(13) 32°46.79′ N. lat., 118°25.60′ W. long.;
(14) 32°45.24′ N. lat., 118°24.55′ W. long.;
(15) 32°45.94′ N. lat., 118°24.12′ W. long.;
(16) 32°46.85′ N. lat., 118°24.79′ W. long.;
(17) 32°48.49′ N. lat., 118°23.25′ W. long.;
(18) 32°48.80′ N. lat., 118°20.52′ W. long.;
(19) 32°49.76′ N. lat., 118°20.98′ W. long.;
(20) 32°55.04′ N. lat., 118°27.97′ W. long.;
(21) 32°55.48′ N. lat., 118°29.01′ W. long.;
(22) 33°00.35′ N. lat., 118°32.61′ W. long.;
(23) 33°01.79′ N. lat., 118°33.66′ W. long.;
(24) 33°02.98′ N. lat., 118°35.40′ W. long.; and
(25) 33°02.94′ N. lat., 118°38.42′ W. long.

(k) The 40 fm (73 m) depth contour around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°28.90′ N. lat., 118°36.43′ W. long.;
(2) 33°28.49′ N. lat., 118°36.70′ W. long.;
(3) 33°28.02′ N. lat., 118°36.70′ W. long.;
(4) 33°25.81′ N. lat., 118°33.95′ W. long.;
(5) 33°25.78′ N. lat., 118°32.94′ W. long.;
(6) 33°24.77′ N. lat., 118°29.99′ W. long.;
(7) 33°23.19′ N. lat., 118°29.61′ W. long.;
(8) 33°20.81′ N. lat., 118°30.52′ W. long.;

(9) 33°21.06′ N. lat., 118°31.52′ W. long.;
(10) 33°20.43′ N. lat., 118°31.62′ W. long.;
(11) 33°20.45′ N. lat., 118°30.46′ W. long.;
(12) 33°18.71′ N. lat., 118°27.64′ W. long.;
(13) 33°17.36′ N. lat., 118°18.75′ W. long.;
(14) 33°19.17′ N. lat., 118°17.56′ W. long.;
(15) 33°22.20′ N. lat., 118°20.11′ W. long.;
(16) 33°23.31′ N. lat., 118°20.45′ W. long.;
(17) 33°24.71′ N. lat., 118°22.13′ W. long.;
(18) 33°25.27′ N. lat., 118°23.30′ W. long.;
(19) 33°26.73′ N. lat., 118°28.00′ W. long.;
(20) 33°27.85′ N. lat., 118°29.33′ W. long.;
(21) 33°27.91′ N. lat., 118°29.93′ W. long.;
(22) 33°28.79′ N. lat., 118°32.16′ W. long.; and
(23) 33°28.90′ N. lat., 118°36.40′ W. long.

■ 21. Section 660.392 is added to read as follows:

§ 660.392 Latitude/longitude coordinates defining the 50 fm (91 m) through 75 fm (137 m) depth contours.

Boundaries for RCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 50 fm (91 m) through 75 fm (137 m) depth contours.

(a) The 50 fm (91 m) depth contour between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:

(1) 48°22.15′ N. lat., 124°43.15′ W. long.;
(2) 48°22.15′ N. lat., 124°49.10′ W. long.;
(3) 48°20.03′ N. lat., 124°51.18′ W. long.;
(4) 48°16.61′ N. lat., 124°53.72′ W. long.;
(5) 48°14.68′ N. lat., 124°54.50′ W. long.;
(6) 48°12.02′ N. lat., 124°55.29′ W. long.;
(7) 48°03.14′ N. lat., 124°57.02′ W. long.;
(8) 47°56.05′ N. lat., 124°55.60′ W. long.;
(9) 47°52.58′ N. lat., 124°54.00′ W. long.;
(10) 47°50.18′ N. lat., 124°52.36′ W. long.;
(11) 47°45.34′ N. lat., 124°51.07′ W. long.;
(12) 47°40.96′ N. lat., 124°48.84′ W. long.;
(13) 47°34.59′ N. lat., 124°46.24′ W. long.;
(14) 47°27.86′ N. lat., 124°42.12′ W. long.;
(15) 47°22.34′ N. lat., 124°39.43′ W. long.;
(16) 47°17.66′ N. lat., 124°38.75′ W. long.;
(17) 47°06.25′ N. lat., 124°39.74′ W. long.;
(18) 47°00.43′ N. lat., 124°38.01′ W. long.;
(19) 46°52.00′ N. lat., 124°32.44′ W. long.;
(20) 46°35.41′ N. lat., 124°25.51′ W. long.;
(21) 46°25.43′ N. lat., 124°23.46′ W. long.;
(22) 46°16.00′ N. lat., 124°17.32′ W. long.;
(23) 45°50.88′ N. lat., 124°09.68′ W. long.;
(24) 45°46.00′ N. lat., 124°09.39′ W. long.;
(25) 45°20.25′ N. lat., 124°07.34′ W. long.;
(26) 45°12.99′ N. lat., 124°06.71′ W. long.;
(27) 45°03.83′ N. lat., 124°09.17′ W. long.;
(28) 44°52.48′ N. lat., 124°11.22′ W. long.;
(29) 44°42.41′ N. lat., 124°19.70′ W. long.;
(30) 44°38.80′ N. lat., 124°26.58′ W. long.;
(31) 44°24.99′ N. lat., 124°31.22′ W. long.;
(32) 44°18.11′ N. lat., 124°43.74′ W. long.;
(33) 44°15.23′ N. lat., 124°40.47′ W. long.;
(34) 44°18.80′ N. lat., 124°35.48′ W. long.;
(35) 44°19.62′ N. lat., 124°27.18′ W. long.;
(36) 44°08.30′ N. lat., 124°22.17′ W. long.;
(37) 43°56.65′ N. lat., 124°16.86′ W. long.;
(38) 43°34.95′ N. lat., 124°17.47′ W. long.;
(39) 43°20.83′ N. lat., 124°29.11′ W. long.;
(40) 43°12.60′ N. lat., 124°35.80′ W. long.;
(41) 43°08.96′ N. lat., 124°33.77′ W. long.;
(42) 42°59.66′ N. lat., 124°34.79′ W. long.;
(43) 42°54.29′ N. lat., 124°39.46′ W. long.;
(44) 42°50.00′ N. lat., 124°39.84′ W. long.;
(45) 42°46.50′ N. lat., 124°39.99′ W. long.;
(46) 42°41.00′ N. lat., 124°34.92′ W. long.;
(47) 42°40.50′ N. lat., 124°34.98′ W. long.;
(48) 42°36.29′ N. lat., 124°34.70′ W. long.;
(49) 42°28.36′ N. lat., 124°37.90′ W. long.;
(50) 42°25.53′ N. lat., 124°37.68′ W. long.;
(51) 42°18.64′ N. lat., 124°29.47′ W. long.;
(52) 42°12.95′ N. lat., 124°27.34′ W. long.;
(53) 42°13.67′ N. lat., 124°27.67′ W. long.;
(54) 42°03.04′ N. lat., 124°25.81′ W. long.;
(55) 42°00.00′ N. lat., 124°26.21′ W. long.;
(56) 41°57.60′ N. lat., 124°27.35′ W. long.;
(57) 41°52.53′ N. lat., 124°26.51′ W. long.;
(58) 41°50.17′ N. lat., 124°25.63′ W. long.;
(59) 41°46.01′ N. lat., 124°22.16′ W. long.;
(60) 41°26.50′ N. lat., 124°21.78′ W. long.;
(61) 41°15.66′ N. lat., 124°16.42′ W. long.;
(62) 41°05.45′ N. lat., 124°16.89′ W. long.;
(63) 40°54.55′ N. lat., 124°19.53′ W. long.;
(64) 40°42.22′ N. lat., 124°28.29′ W. long.;
(65) 40°39.68′ N. lat., 124°28.37′ W. long.;
(66) 40°36.76′ N. lat., 124°27.39′ W. long.;
(67) 40°34.44′ N. lat., 124°28.89′ W. long.;
(68) 40°32.57′ N. lat., 124°32.43′ W. long.;
(69) 40°30.95′ N. lat., 124°33.87′ W. long.;
(70) 40°30.00′ N. lat., 124°34.18′ W. long.;
(71) 40°28.90′ N. lat., 124°34.59′ W. long.;
(72) 40°24.36′ N. lat., 124°31.42′ W. long.;
(73) 40°23.66′ N. lat., 124°28.35′ W. long.;
(74) 40°22.54′ N. lat., 124°24.71′ W. long.;
(75) 40°21.52′ N. lat., 124°24.86′ W. long.;
(76) 40°21.25′ N. lat., 124°25.59′ W. long.;
(77) 40°20.63′ N. lat., 124°26.47′ W. long.;
(78) 40°19.18′ N. lat., 124°25.98′ W. long.;
(79) 40°18.42′ N. lat., 124°24.77′ W. long.;
(80) 40°18.64′ N. lat., 124°22.81′ W. long.;
(81) 40°15.31′ N. lat., 124°25.28′ W. long.;

(82) 40°15.37′ N. lat., 124°26.82′ W. long.;
(83) 40°11.91′ N. lat., 124°22.68′ W. long.;
(84) 40°10.01′ N. lat., 124°19.97′ W. long.;
(85) 40°10.00′ N. lat., 124°19.97′ W. long.;
(86) 40°09.20′ N. lat., 124°15.81′ W. long.;
(87) 40°07.51′ N. lat., 124°15.29′ W. long.;
(88) 40°05.22′ N. lat., 124°10.06′ W. long.;
(89) 40°06.51′ N. lat., 124°08.01′ W. long.;
(90) 40°00.72′ N. lat., 124°08.45′ W. long.;
(91) 39°56.60′ N. lat., 124°07.12′ W. long.;
(92) 39°52.58′ N. lat., 124°03.57′ W. long.;
(93) 39°50.65′ N. lat., 123°57.98′ W. long.;
(94) 39°40.16′ N. lat., 123°52.41′ W. long.;
(95) 39°30.12′ N. lat., 123°52.92′ W. long.;
(96) 39°24.53′ N. lat., 123°55.16′ W. long.;
(97) 39°11.58′ N. lat., 123°50.93′ W. long.;
(98) 38°57.50′ N. lat., 123°51.10′ W. long.;
(99) 38°55.13′ N. lat., 123°51.14′ W. long.;
(100) 38°28.58′ N. lat., 123°22.84′ W. long.;
(101) 38°14.60′ N. lat., 123°09.92′ W. long.;
(102) 38°01.84′ N. lat., 123°09.75′ W. long.;
(103) 38°00.00′ N. lat., 123°09.25′ W. long.;
(104) 37°55.24′ N. lat., 123°08.30′ W. long.;
(105) 37°52.06′ N. lat., 123°09.19′ W. long.;
(106) 37°50.21′ N. lat., 123°14.90′ W. long.;
(107) 37°35.67′ N. lat., 122°55.43′ W. long.;
(108) 37°11.00′ N. lat., 122°31.67′ W. long.;
(109) 37°07.00′ N. lat., 122°28.00′ W. long.;
(110) 37°03.06′ N. lat., 122°24.22′ W. long.;
(111) 36°50.20′ N. lat., 122°03.58′ W. long.;
(112) 36°51.46′ N. lat., 121°57.54′ W. long.;
(113) 36°44.14′ N. lat., 121°58.10′ W. long.;
(114) 36°36.76′ N. lat., 122°01.16′ W. long.;
(115) 36°15.62′ N. lat., 121°57.13′ W. long.;
(116) 36°10.41′ N. lat., 121°42.92′ W. long.;
(117) 36°02.56′ N. lat., 121°36.37′ W. long.;
(118) 36°00.00′ N. lat., 121°35.15′ W. long.;
(119) 35°58.26′ N. lat., 121°32.88′ W. long.;
(120) 35°40.38′ N. lat., 121°22.59′ W. long.;
(121) 35°24.35′ N. lat., 121°02.53′ W. long.;
(122) 35°02.66′ N. lat., 120°51.63′ W. long.;
(123) 34°39.52′ N. lat., 120°48.72′ W. long.;
(124) 34°31.26′ N. lat., 120°44.12′ W. long.;
(125) 34°27.00′ N. lat., 120°33.31′ W. long.;
(126) 34°23.47′ N. lat., 120°24.76′ W. long.;
(127) 34°25.83′ N. lat., 120°17.26′ W. long.;
(128) 34°24.65′ N. lat., 120°04.83′ W. long.;
(129) 34°23.18′ N. lat., 119°56.18′ W. long.;
(130) 34°19.20′ N. lat., 119°41.64′ W. long.;
(131) 34°16.82′ N. lat., 119°35.32′ W. long.;
(132) 34°13.43′ N. lat., 119°32.29′ W. long.;
(133) 34°05.39′ N. lat., 119°15.13′ W. long.;
(134) 34°08.22′ N. lat., 119°13.64′ W. long.;
(135) 34°07.64′ N. lat., 119°13.10′ W. long.;
(136) 34°04.56′ N. lat., 119°13.73′ W. long.;
(137) 34°03.90′ N. lat., 119°12.66′ W. long.;
(138) 34°03.66′ N. lat., 119°06.82′ W. long.;
(139) 34°04.58′ N. lat., 119°04.91′ W. long.;
(140) 34°01.35′ N. lat., 119°00.30′ W. long.;
(141) 34°00.24′ N. lat., 119°03.18′ W. long.;
(142) 33°59.63′ N. lat., 119°03.20′ W. long.;
(143) 33°59.54′ N. lat., 119°00.88′ W. long.;
(144) 34°00.82′ N. lat., 118°59.03′ W. long.;
(145) 33°59.11′ N. lat., 118°47.52′ W. long.;
(146) 33°59.07′ N. lat., 118°36.33′ W. long.;
(147) 33°55.06′ N. lat., 118°32.86′ W. long.;
(148) 33°53.56′ N. lat., 118°37.75′ W. long.;
(149) 33°51.22′ N. lat., 118°36.14′ W. long.;
(150) 33°50.48′ N. lat., 118°32.16′ W. long.;
(151) 33°51.86′ N. lat., 118°28.71′ W. long.;
(152) 33°50.09′ N. lat., 118°27.88′ W. long.;
(153) 33°49.95′ N. lat., 118°26.38′ W. long.;
(154) 33°50.73′ N. lat., 118°26.17′ W. long.;
(155) 33°49.86′ N. lat., 118°24.25′ W. long.;
(156) 33°48.10′ N. lat., 118°26.87′ W. long.;
(157) 33°47.54′ N. lat., 118°29.66′ W. long.;
(158) 33°44.10′ N. lat., 118°25.25′ W. long.;
(159) 33°41.78′ N. lat., 118°20.28′ W. long.;
(160) 33°38.18′ N. lat., 118°15.69′ W. long.;
(161) 33°37.50′ N. lat., 118°16.71′ W. long.;
(162) 33°35.98′ N. lat., 118°16.54′ W. long.;
(163) 33°34.15′ N. lat., 118°11.22′ W. long.;
(164) 33°34.29′ N. lat., 118°08.35′ W. long.;
(165) 33°35.85′ N. lat., 118°07.00′ W. long.;
(166) 33°36.12′ N. lat., 118°04.15′ W. long.;
(167) 33°34.97′ N. lat., 118°02.91′ W. long.;
(168) 33°34.00′ N. lat., 117°59.53′ W. long.;
(169) 33°35.44′ N. lat., 117°55.67′ W. long.;
(170) 33°35.15′ N. lat., 117°53.55′ W. long.;
(171) 33°31.12′ N. lat., 117°47.40′ W. long.;
(172) 33°27.99′ N. lat., 117°45.19′ W. long.;
(173) 33°26.88′ N. lat., 117°43.87′ W. long.;
(174) 33°25.44′ N. lat., 117°41.63′ W. long.;
(175) 33°19.50′ N. lat., 117°36.08′ W. long.;
(176) 33°12.74′ N. lat., 117°28.53′ W. long.;
(177) 33°10.29′ N. lat., 117°25.68′ W. long.;
(178) 33°07.36′ N. lat., 117°21.23′ W. long.;
(179) 32°59.39′ N. lat., 117°18.56′ W. long.;
(180) 32°56.10′ N. lat., 117°18.37′ W. long.;
(181) 32°54.43′ N. lat., 117°16.93′ W. long.;
(182) 32°51.89′ N. lat., 117°16.42′ W. long.;
(183) 32°52.24′ N. lat., 117°19.36′ W. long.;
(184) 32°47.06′ N. lat., 117°21.92′ W. long.;
(185) 32°45.09′ N. lat., 117°20.68′ W. long.;
(186) 32°43.62′ N. lat., 117°18.68′ W. long.; and

(187) 32°33.43′ N. lat., 117°17.00′ W. long.

(b) The 50 fm (91 m) depth contour between the U.S. border with Canada and the Swiftsure Bank is defined by straight lines connecting all of the following points in the order stated:

(1) 48°30.15′ N. lat., 124°56.12′ W. long.;

(2) 48°28.29′ N. lat., 124°56.30′ W. long.;

(3) 48°29.23′ N. lat., 124°53.63′ W. long.; and

(4) 48°30.31′ N. lat., 124°51.73′ W. long.

(c) The 50 fm (91 m) depth contour around the northern Channel Islands off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 34°08.40′ N. lat., 120°33.78′ W. long.;

(2) 34°07.80′ N. lat., 120°30.99′ W. long.;

(3) 34°08.68′ N. lat., 120°26.61′ W. long.;

(4) 34°05.85′ N. lat., 120°17.13′ W. long.;

(5) 34°05.57′ N. lat., 119°51.35′ W. long.;

(6) 34°07.08′ N. lat., 119°52.43′ W. long.;

(7) 34°04.49′ N. lat., 119°35.55′ W. long.;

(8) 34°04.73′ N. lat., 119°32.77′ W. long.;

(9) 34°02.02′ N. lat., 119°19.18′ W. long.;

(10) 34°01.03′ N. lat., 119°19.50′ W. long.;

(11) 33°59.45′ N. lat., 119°22.38′ W. long.;

(12) 33°58.68′ N. lat., 119°32.36′ W. long.;

(13) 33°56.43′ N. lat., 119°41.13′ W. long.;

(14) 33°56.04′ N. lat., 119°48.20′ W. long.;

(15) 33°57.32′ N. lat., 119°51.96′ W. long.;

(16) 33°59.32′ N. lat., 119°55.59′ W. long.;

(17) 33°57.52′ N. lat., 119°55.19′ W. long.;

(18) 33°56.26′ N. lat., 119°54.29′ W. long.;

(19) 33°54.30′ N. lat., 119°54.83′ W. long.;

(20) 33°50.97′ N. lat., 119°57.03′ W. long.;

(21) 33°50.03′ N. lat., 120°03.00′ W. long.;

(22) 33°51.14′ N. lat., 120°03.65′ W. long.;

(23) 33°54.49′ N. lat., 120°12.85′ W. long.;

(24) 33°58.48′ N. lat., 120°18.50′ W. long.;

(25) 34°00.71′ N. lat., 120°28.21′ W. long.;

(26) 34°03.60′ N. lat., 120°30.60′ W. long.;

(27) 34°06.96′ N. lat., 120°34.22′ W. long.;

(28) 34°08.01′ N. lat., 120°35.24′ W. long.; and

(29) 34°08.40′ N. lat., 120°33.78′ W. long.

(d) The 50 fm (91 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°03.73′ N. lat., 118°36.98′ W. long.;

(2) 33°02.56′ N. lat., 118°34.12′ W. long.;

(3) 32°55.54′ N. lat., 118°28.87′ W. long.;

(4) 32°55.02′ N. lat., 118°27.69′ W. long.;

(5) 32°49.73′ N. lat., 118°20.99′ W. long.;

(6) 32°48.55′ N. lat., 118°20.24′ W. long.;

(7) 32°47.92′ N. lat., 118°22.45′ W. long.;

(8) 32°45.25′ N. lat., 118°24.59′ W. long.;

(9) 32°50.23′ N. lat., 118°30.80′ W. long.;

(10) 32°55.28′ N. lat., 118°33.83′ W. long.;

(11) 33°00.45′ N. lat., 118°37.88′ W. long.;

(12) 33°03.27′ N. lat., 118°38.56′ W. long.; and

(13) 33°03.73′ N. lat., 118°36.98′ W. long.

(e) The 50 fm (91 m) depth contour around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°28.01′ N. lat., 118°37.42′ W. long.;

(2) 33°29.02′ N. lat., 118°36.33′ W. long.;

(3) 33°28.97′ N. lat., 118°33.16′ W. long.;

(4) 33°28.71′ N. lat., 118°31.22′ W. long.;

(5) 33°26.66′ N. lat., 118°27.48′ W. long.;

(6) 33°25.35′ N. lat., 118°22.83′ W. long.;

(7) 33°22.61′ N. lat., 118°19.18′ W. long.;

(8) 33°20.06′ N. lat., 118°17.35′ W. long.;

(9) 33°17.58′ N. lat., 118°17.42′ W. long.;

(10) 33°17.05′ N. lat., 118°18.72′ W. long.;

(11) 33°17.87′ N. lat., 118°24.47′ W. long.;

(12) 33°18.63′ N. lat., 118°28.16′ W. long.;

(13) 33°20.17′ N. lat., 118°31.69′ W. long.;

(14) 33°20.85′ N. lat., 118°31.82′ W. long.;

(15) 33°23.19′ N. lat., 118°29.78′ W. long.;

(16) 33°24.85′ N. lat., 118°31.22′ W. long.;

(17) 33°25.65′ N. lat., 118°34.11′ W. long.; and

(18) 33°28.01′ N. lat., 118°37.42′ W. long.

(f) The 60 fm (110 m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:

(1) 48°26.70′ N. lat., 125°09.43′ W. long.;

(2) 48°23.76′ N. lat., 125°06.77′ W. long.;

(3) 48°23.01′ N. lat., 125°03.48′ W. long.;

(4) 48°22.42′ N. lat., 124°57.84′ W. long.;

(5) 48°22.62′ N. lat., 124°48.97′ W. long.;

(6) 48°18.61′ N. lat., 124°52.52′ W. long.;

(7) 48°16.62′ N. lat., 124°54.03′ W. long.;

(8) 48°15.39′ N. lat., 124°54.79′ W. long.;

(9) 48°13.81′ N. lat., 124°55.45′ W. long.;

(10) 48°10.51′ N. lat., 124°56.56′ W. long.;

(11) 48°06.90′ N. lat., 124°57.72′ W. long.;

(12) 48°02.23′ N. lat., 125°00.20′ W. long.;

(13) 48°00.87′ N. lat., 125°00.37′ W. long.;

(14) 47°56.30′ N. lat., 124°59.51′ W. long.;

(15) 47°46.84′ N. lat., 124°57.34′ W. long.;

(16) 47°36.49′ N. lat., 124°50.93′ W. long.;

(17) 47°32.01′ N. lat., 124°48.45′ W. long.;

(18) 47°27.19′ N. lat., 124°46.47′ W. long.;

(19) 47°21.76′ N. lat., 124°43.29′ W. long.;

(20) 47°17.82′ N. lat., 124°42.12′ W. long.;

(21) 47°08.87′ N. lat., 124°43.10′ W. long.;

(22) 47°03.16′ N. lat., 124°42.61′ W. long.;

(23) 46°49.70′ N. lat., 124°36.80′ W. long.;

(24) 46°42.91′ N. lat., 124°33.20′ W. long.;

(25) 46°39.67′ N. lat., 124°30.59′ W. long.;

(26) 46°32.47′ N. lat., 124°26.34′ W. long.;

(27) 46°23.69′ N. lat., 124°25.41′ W. long.;

(28) 46°20.84′ N. lat., 124°24.24′ W. long.;
(29) 46°16.00′ N. lat., 124°19.10′ W. long.;
(30) 46°15.97′ N. lat., 124°18.81′ W. long.;
(31) 46°11.23′ N. lat., 124°19.96′ W. long.;
(32) 46°02.51′ N. lat., 124°19.84′ W. long.;
(33) 45°59.05′ N. lat., 124°16.52′ W. long.;
(34) 45°51.00′ N. lat., 124°12.83′ W. long.;
(35) 45°45.85′ N. lat., 124°11.54′ W. long.;
(36) 45°38.53′ N. lat., 124°11.91′ W. long.;
(37) 45°30.90′ N. lat., 124°10.94′ W. long.;
(38) 45°21.20′ N. lat., 124°09.12′ W. long.;
(39) 45°12.43′ N. lat., 124°08.74′ W. long.;
(40) 44°59.89′ N. lat., 124°11.95′ W. long.;
(41) 44°51.96′ N. lat., 124°15.15′ W. long.;
(42) 44°44.64′ N. lat., 124°20.07′ W. long.;
(43) 44°39.24′ N. lat., 124°28.09′ W. long.;
(44) 44°30.61′ N. lat., 124°31.66′ W. long.;
(45) 44°26.19′ N. lat., 124°35.88′ W. long.;
(46) 44°18.88′ N. lat., 124°45.16′ W. long.;
(47) 44°14.69′ N. lat., 124°45.51′ W. long.;
(48) 44°10.97′ N. lat., 124°38.78′ W. long.;
(49) 44°08.71′ N. lat., 124°33.54′ W. long.;
(50) 44°04.92′ N. lat., 124°24.55′ W. long.;
(51) 43°57.49′ N. lat., 124°20.05′ W. long.;
(52) 43°50.26′ N. lat., 124°21.84′ W. long.;
(53) 43°41.69′ N. lat., 124°21.94′ W. long.;
(54) 43°35.52′ N. lat., 124°21.51′ W. long.;
(55) 43°25.77′ N. lat., 124°28.47′ W. long.;
(56) 43°20.25′ N. lat., 124°31.59′ W. long.;
(57) 43°12.73′ N. lat., 124°36.69′ W. long.;
(58) 43°08.08′ N. lat., 124°36.10′ W. long.;
(59) 43°00.33′ N. lat., 124°37.57′ W. long.;
(60) 42°53.99′ N. lat., 124°41.04′ W. long.;
(61) 42°46.66′ N. lat., 124°41.13′ W. long.;
(62) 42°41.74′ N. lat., 124°37.46′ W. long.;
(63) 42°37.42′ N. lat., 124°37.22′ W. long.;
(64) 42°27.35′ N. lat., 124°39.90′ W. long.;
(65) 42°23.94′ N. lat., 124°38.28′ W. long.;
(66) 42°17.72′ N. lat., 124°31.10′ W. long.;
(67) 42°10.35′ N. lat., 124°29.11′ W. long.;
(68) 42°00.00′ N. lat., 124°28.00′ W. long.;
(69) 41°54.87′ N. lat., 124°28.50′ W. long.;
(70) 41°45.80′ N. lat., 124°23.89′ W. long.;
(71) 41°34.40′ N. lat., 124°24.03′ W. long.;
(72) 41°28.33′ N. lat., 124°25.46′ W. long.;
(73) 41°15.80′ N. lat., 124°18.90′ W. long.;
(74) 41°09.77′ N. lat., 124°17.99′ W. long.;
(75) 41°02.26′ N. lat., 124°18.71′ W. long.;
(76) 40°53.54′ N. lat., 124°21.18′ W. long.;
(77) 40°49.93′ N. lat., 124°23.02′ W. long.;
(78) 40°43.15′ N. lat., 124°28.74′ W. long.;
(79) 40°40.19′ N. lat., 124°29.07′ W. long.;
(80) 40°36.77′ N. lat., 124°27.61′ W. long.;
(81) 40°34.13′ N. lat., 124°29.39′ W. long.;
(82) 40°33.15′ N. lat., 124°33.46′ W. long.;
(83) 40°30.00′ N. lat., 124°35.84′ W. long.;
(84) 40°24.72′ N. lat., 124°33.06′ W. long.;
(85) 40°23.91′ N. lat., 124°31.28′ W. long.;
(86) 40°23.67′ N. lat., 124°28.35′ W. long.;
(87) 40°22.53′ N. lat., 124°24.72′ W. long.;
(88) 40°21.51′ N. lat., 124°24.86′ W. long.;
(89) 40°21.02′ N. lat., 124°27.70′ W. long.;
(90) 40°19.75′ N. lat., 124°27.06′ W. long.;
(91) 40°18.23′ N. lat., 124°25.30′ W. long.;
(92) 40°18.60′ N. lat., 124°22.86′ W. long.;
(93) 40°15.43′ N. lat., 124°25.37′ W. long.;
(94) 40°15.55′ N. lat., 124°28.16′ W. long.;
(95) 40°11.27′ N. lat., 124°22.56′ W. long.;
(96) 40°10.00′ N. lat., 124°19.97′ W. long.;
(97) 40°09.20′ N. lat., 124°15.81′ W. long.;
(98) 40°07.51′ N. lat., 124°15.29′ W. long.;
(99) 40°05.22′ N. lat., 124°10.06′ W. long.;
(100) 40°06.51′ N. lat., 124°08.01′ W. long.;
(101) 40°00.72′ N. lat., 124°08.45′ W. long.;
(102) 39°56.60′ N. lat., 124°07.12′ W. long.;
(103) 39°52.58′ N. lat., 124°03.57′ W. long.;
(104) 39°50.65′ N. lat., 123°57.98′ W. long.;
(105) 39°40.16′ N. lat., 123°52.41′ W. long.;
(106) 39°30.12′ N. lat., 123°52.92′ W. long.;
(107) 39°24.53′ N. lat., 123°55.16′ W. long.;
(108) 39°11.58′ N. lat., 123°50.93′ W. long.;
(109) 38°57.50′ N. lat., 123°51.14′ W. long.;
(110) 38°55.13′ N. lat., 123°51.14′ W. long.;
(111) 38°28.58′ N. lat., 123°22.84′ W. long.;
(112) 38°08.57′ N. lat., 123°14.74′ W. long.;
(113) 38°00.00′ N. lat., 123°15.61′ W. long.;
(114) 37°56.98′ N. lat., 123°21.82′ W. long.;
(115) 37°48.01′ N. lat., 123°15.90′ W. long.;
(116) 37°35.67′ N. lat., 122°58.48′ W. long.;
(117) 37°11.00′ N. lat., 122°40.22′ W. long.;
(118) 37°07.00′ N. lat., 122°37.64′ W. long.;
(119) 37°02.08′ N. lat., 122°25.49′ W. long.;
(120) 36°48.20′ N. lat., 122°03.32′ W. long.;
(121) 36°51.46′ N. lat., 121°57.54′ W. long.;
(122) 36°44.14′ N. lat., 121°58.10′ W. long.;
(123) 36°36.76′ N. lat., 122°01.16′ W. long.;
(124) 36°15.62′ N. lat., 121°57.13′ W. long.;
(125) 36°10.42′ N. lat., 121°42.90′ W. long.;
(126) 36°02.55′ N. lat., 121°36.35′ W. long.;
(127) 36°00.00′ N. lat., 121°35.15′ W. long.;
(128) 35°58.25′ N. lat., 121°32.88′ W. long.;
(129) 35°40.38′ N. lat., 121°22.59′ W. long.;
(130) 35°24.35′ N. lat., 121°02.53′ W. long.;
(131) 35°02.66′ N. lat., 120°51.63′ W. long.;
(132) 34°39.52′ N. lat., 120°48.72′ W. long.;

(133) 34°31.26′ N. lat., 120°44.12′ W. long.;
(134) 34°27.00′ N. lat., 120°36.00′ W. long.;
(135) 34°23.00′ N. lat., 120°25.32′ W. long.;
(136) 34°25.68′ N. lat., 120°17.46′ W. long.;
(137) 34°23.18′ N. lat., 119°56.17′ W. long.;
(138) 34°18.73′ N. lat., 119°41.89′ W. long.;
(139) 34°11.18′ N. lat., 119°31.21′ W. long.;
(140) 34°10.01′ N. lat., 119°25.84′ W. long.;
(141) 34°03.88′ N. lat., 119°12.46′ W. long.;
(142) 34°03.58′ N. lat., 119°06.71′ W. long.;
(143) 34°04.52′ N. lat., 119°04.89′ W. long.;
(144) 34°01.28′ N. lat., 119°00.27′ W. long.;
(145) 34°00.20′ N. lat., 119°03.18′ W. long.;
(146) 33°59.60′ N. lat., 119°03.14′ W. long.;
(147) 33°59.45′ N. lat., 119°00.87′ W. long.;
(148) 34°00.71′ N. lat., 118°59.07′ W. long.;
(149) 33°59.05′ N. lat., 118°47.34′ W. long.;
(150) 33°59.06′ N. lat., 118°36.30′ W. long.;
(151) 33°55.05′ N. lat., 118°32.85′ W. long.;
(152) 33°53.56′ N. lat., 118°37.73′ W. long.;
(153) 33°51.22′ N. lat., 118°36.13′ W. long.;
(154) 33°50.19′ N. lat., 118°32.19′ W. long.;
(155) 33°51.28′ N. lat., 118°29.12′ W. long.;
(156) 33°49.89′ N. lat., 118°28.04′ W. long.;
(157) 33°49.95′ N. lat., 118°26.38′ W. long.;
(158) 33°50.73′ N. lat., 118°26.16′ W. long.;
(159) 33°49.87′ N. lat., 118°24.37′ W. long.;
(160) 33°47.54′ N. lat., 118°29.65′ W. long.;
(161) 33°44.10′ N. lat., 118°25.25′ W. long.;
(162) 33°41.77′ N. lat., 118°20.32′ W. long.;
(163) 33°38.17′ N. lat., 118°15.69′ W. long.;
(164) 33°37.48′ N. lat., 118°16.72′ W. long.;
(165) 33°35.98′ N. lat., 118°16.54′ W. long.;
(166) 33°34.15′ N. lat., 118°11.22′ W. long.;
(167) 33°34.09′ N. lat., 118°08.15′ W. long.;
(168) 33°35.73′ N. lat., 118°05.01′ W. long.;
(169) 33°33.75′ N. lat., 117°59.82′ W. long.;
(170) 33°35.44′ N. lat., 117°55.65′ W. long.;
(171) 33°35.15′ N. lat., 117°53.54′ W. long.;
(172) 33°31.12′ N. lat., 117°47.39′ W. long.;
(173) 33°27.49′ N. lat., 117°44.85′ W. long.;
(174) 33°16.42′ N. lat., 117°32.92′ W. long.;
(175) 33°06.66′ N. lat., 117°21.59′ W. long.;
(176) 33°00.08′ N. lat., 117°19.02′ W. long.;
(177) 32°56.11′ N. lat., 117°18.41′ W. long.;
(178) 32°54.43′ N. lat., 117°16.93′ W. long.;
(179) 32°51.89′ N. lat., 117°16.42′ W. long.;
(180) 32°52.61′ N. lat., 117°19.50′ W. long.;
(181) 32°46.96′ N. lat., 117°22.69′ W. long.;
(182) 32°44.98′ N. lat., 117°21.87′ W. long.;
(183) 32°43.52′ N. lat., 117°19.32′ W. long.; and
(184) 32°33.56′ N. lat., 117°17.72′ W. long.

(g) The 60 fm (110 m) depth contour around the northernChannel Islands off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 120°26.31′ N. lat., 34°09.16′ W. long.;
(2) 120°16.43′ N. lat., 34°06.69′ W. long.;
(3) 120°04.00′ N. lat., 34°06.38′ W. long.;
(4) 119°52.06′ N. lat., 34°07.36′ W. long.;
(5) 119°36.94′ N. lat., 34°04.84′ W. long.;
(6) 119°35.50′ N. lat., 34°04.84′ W. long.;
(7) 119°32.80′ N. lat., 34°05.04′ W. long.;
(8) 119°26.70′ N. lat., 34°04.00′ W. long.;
(9) 119°21.40′ N. lat., 34°02.80′ W. long.;
(10) 119°18.97′ N. lat., 34°02.36′ W. long.;
(11) 119°19.42′ N. lat., 34°00.65′ W. long.;
(12) 119°22.38′ N. lat., 33°59.45′ W. long.;
(13) 119°32.36′ N. lat., 33°58.68′ W. long.;
(14) 119°41.09′ N. lat., 33°56.14′ W. long.;
(15) 119°48.00′ N. lat., 33°55.84′ W. long.;
(16) 119°52.09′ N. lat., 33°57.22′ W. long.;
(17) 119°55.59′ N. lat., 33°59.32′ W. long.;
(18) 119°55.19′ N. lat., 33°57.52′ W. long.;
(19) 119°54.25′ N. lat., 33°56.10′ W. long.;
(20) 119°56.02′ N. lat., 33°50.28′ W. long.;
(21) 119°59.67′ N. lat., 33°48.51′ W. long.;
(22) 120°03.58′ N. lat., 33°49.14′ W. long.;
(23) 120°06.50′ N. lat., 33°51.93′ W. long.;
(24) 120°13.06′ N. lat., 33°54.36′ W. long.;
(25) 120°20.46′ N. lat., 33°58.53′ W. long.;
(26) 120°28.12′ N. lat., 34°00.12′ W. long.;
(27) 120°35.85′ N. lat., 34°08.09′ W. long.;
(28) 120°34.58′ N. lat., 34°08.80′ W. long.; and
(29) 120°26.31′ N. lat., 34°09.16′ W. long.;

(h) The 60 fm (110 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°04.06′ N. lat., 118°37.32′ W. long.;
(2) 33°02.56′ N. lat., 118°34.12′ W. long.;
(3) 32°55.54′ N. lat., 118°28.87′ W. long.;
(4) 32°55.02′ N. lat., 118°27.69′ W. long.;
(5) 32°49.78′ N. lat., 118°20.88′ W. long.;
(6) 32°48.32′ N. lat., 118°19.89′ W. long.;
(7) 32°47.60′ N. lat., 118°22.00′ W. long.;
(8) 32°44.59′ N. lat., 118°24.52′ W. long.;
(9) 32°49.97′ N. lat., 118°31.52′ W. long.;
(10) 32°53.62′ N. lat., 118°32.94′ W. long.;
(11) 32°55.63′ N. lat., 118°34.82′ W. long.;
(12) 33°00.71′ N. lat., 118°38.42′ W. long.;
(13) 33°03.31′ N. lat., 118°38.74′ W. long.; and
(14) 33°04.06′ N. lat., 118°37.32′ W. long.

(i) The 60 fm (110 m) depth contour around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°28.15′ N. lat., 118°37.85′ W. long.;
(2) 33°29.23′ N. lat., 118°36.27′ W. long.;

(3) 33°28.85′ N. lat., 118°30.85′ W. long.;
(4) 33°26.69′ N. lat., 118°27.37′ W. long.;
(5) 33°25.35′ N. lat., 118°22.83′ W. long.;
(6) 33°22.60′ N. lat., 118°18.82′ W. long.;
(7) 33°19.49′ N. lat., 118°16.91′ W. long.;
(8) 33°17.13′ N. lat., 118°16.58′ W. long.;
(9) 33°16.72′ N. lat., 118°18.07′ W. long.;
(10) 33°18.35′ N. lat., 118°27.86′ W. long.;
(11) 33°20.03′ N. lat., 118°32.04′ W. long.;
(12) 33°21.86′ N. lat., 118°31.72′ W. long.;
(13) 33°23.15′ N. lat., 118°29.89′ W. long.;
(14) 33°25.13′ N. lat., 118°32.16′ W. long.;
(15) 33°25.73′ N. lat., 118°34.88′ W. long.; and
(16) 33°28.15′ N. lat., 118°37.85′ W. long.

(j) The 75 fm (137 m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:

(1) 48°16.80′ N. lat., 125°34.90′ W. long.;
(2) 48°14.50′ N. lat., 125°29.50′ W. long.;
(3) 48°12.08′ N. lat., 125°28.00′ W. long.;
(4) 48°09.00′ N. lat., 125°28.00′ W. long.;
(5) 48°07.80′ N. lat., 125°31.70′ W. long.;
(6) 48°04.28′ N. lat., 125°29.00′ W. long.;
(7) 48°02.50′ N. lat., 125°25.70′ W. long.;
(8) 48°10.00′ N. lat., 125°20.19′ W. long.;
(9) 48°21.70′ N. lat., 125°17.56′ W. long.;
(10) 48°23.12′ N. lat., 125°10.25′ W. long.;
(11) 48°21.99′ N. lat., 125°02.59′ W. long.;
(12) 48°23.05′ N. lat., 124°48.80′ W. long.;
(13) 48°17.10′ N. lat., 124°54.82′ W. long.;
(14) 48°05.10′ N. lat., 124°59.40′ W. long.;
(15) 48°04.50′ N. lat., 125°02.00′ W. long.;
(16) 48°04.70′ N. lat., 125°04.08′ W. long.;
(17) 48°05.20′ N. lat., 125°04.90′ W. long.;
(18) 48°06.80′ N. lat., 125°06.15′ W. long.;
(19) 48°05.91′ N. lat., 125°08.30′ W. long.;
(20) 48°07.00′ N. lat., 125°09.80′ W. long.;
(21) 48°06.93′ N. lat., 125°11.48′ W. long.;
(22) 48°04.98′ N. lat., 125°10.02′ W. long.;
(23) 47°54.00′ N. lat., 125°04.98′ W. long.;
(24) 47°44.52′ N. lat., 125°00.00′ W. long.;
(25) 47°42.00′ N. lat., 124°58.98′ W. long.;
(26) 47°35.52′ N. lat., 124°55.50′ W. long.;
(27) 47°22.02′ N. lat., 124°44.40′ W. long.;
(28) 47°16.98′ N. lat., 124°45.48′ W. long.;
(29) 47°10.98′ N. lat., 124°48.48′ W. long.;
(30) 47°04.98′ N. lat., 124°49.02′ W. long.;
(31) 46°57.98′ N. lat., 124°46.50′ W. long.;
(32) 46°54.00′ N. lat., 124°45.00′ W. long.;
(33) 46°48.48′ N. lat., 124°44.52′ W. long.;
(34) 46°40.02′ N. lat., 124°36.00′ W. long.;
(35) 46°34.09′ N. lat., 124°27.03′ W. long.;
(36) 46°24.64′ N. lat., 124°30.33′ W. long.;
(37) 46°19.98′ N. lat., 124°36.00′ W. long.;
(38) 46°18.14′ N. lat., 124°34.26′ W. long.;
(39) 46°18.72′ N. lat., 124°22.68′ W. long.;
(40) 46°16.00′ N. lat., 124°19.49′ W. long.;
(41) 46°14.64′ N. lat., 124°22.54′ W. long.;
(42) 46°11.08′ N. lat., 124°30.74′ W. long.;
(43) 46°04.28′ N. lat., 124°31.49′ W. long.;
(44) 45°55.97′ N. lat., 124°19.95′ W. long.;
(45) 45°46.00′ N. lat., 124°16.41′ W. long.;
(46) 45°44.97′ N. lat., 124°15.96′ W. long.;
(47) 45°43.14′ N. lat., 124°21.86′ W. long.;
(48) 45°34.44′ N. lat., 124°14.44′ W. long.;
(49) 45°20.25′ N. lat., 124°12.23′ W. long.;
(50) 45°15.49′ N. lat., 124°11.49′ W. long.;
(51) 45°03.83′ N. lat., 124°13.75′ W. long.;
(52) 44°57.31′ N. lat., 124°15.03′ W. long.;
(53) 44°43.90′ N. lat., 124°28.88′ W. long.;
(54) 44°28.64′ N. lat., 124°35.67′ W. long.;
(55) 44°25.31′ N. lat., 124°43.08′ W. long.;
(56) 44°17.15′ N. lat., 124°47.98′ W. long.;
(57) 44°13.67′ N. lat., 124°54.41′ W. long.;
(58) 44°08.30′ N. lat., 124°54.75′ W. long.;
(59) 43°56.85′ N. lat., 124°55.32′ W. long.;
(60) 43°57.50′ N. lat., 124°41.23′ W. long.;
(61) 44°01.79′ N. lat., 124°38.00′ W. long.;
(62) 44°02.16′ N. lat., 124°32.62′ W. long.;
(63) 43°58.15′ N. lat., 124°30.39′ W. long.;
(64) 43°53.25′ N. lat., 124°31.39′ W. long.;
(65) 43°35.56′ N. lat., 124°28.17′ W. long.;
(66) 43°21.84′ N. lat., 124°36.07′ W. long.;
(67) 43°20.83′ N. lat., 124°35.49′ W. long.;
(68) 43°19.73′ N. lat., 124°34.86′ W. long.;
(69) 43°09.38′ N. lat., 124°39.30′ W. long.;
(70) 43°07.11′ N. lat., 124°37.66′ W. long.;
(71) 42°56.27′ N. lat., 124°43.29′ W. long.;
(72) 42°50.00′ N. lat., 124°42.30′ W. long.;
(73) 42°45.00′ N. lat., 124°41.50′ W. long.;
(74) 42°40.50′ N. lat., 124°39.46′ W. long.;
(75) 42°39.72′ N. lat., 124°39.11′ W. long.;
(76) 42°32.88′ N. lat., 124°40.13′ W. long.;
(77) 42°32.30′ N. lat., 124°39.04′ W. long.;
(78) 42°26.96′ N. lat., 124°44.31′ W. long.;
(79) 42°24.11′ N. lat., 124°42.16′ W. long.;
(80) 42°21.10′ N. lat., 124°35.46′ W. long.;
(81) 42°14.72′ N. lat., 124°32.30′ W. long.;
(82) 42°13.67′ N. lat., 124°32.29′ W. long.;
(83) 42°09.24′ N. lat., 124°32.04′ W. long.;
(84) 42°01.89′ N. lat., 124°32.70′ W. long.;
(85) 42°00.00′ N. lat., 124°32.02′ W. long.;
(86) 41°46.18′ N. lat., 124°26.60′ W. long.;
(87) 41°29.22′ N. lat., 124°28.04′ W. long.;
(88) 41°09.62′ N. lat., 124°19.75′ W. long.;

(89) 40°50.71′ N. lat., 124°23.80′ W. long.;
(90) 40°43.35′ N. lat., 124°29.30′ W. long.;
(91) 40°40.24′ N. lat., 124°29.86′ W. long.;
(92) 40°37.50′ N. lat., 124°28.68′ W. long.;
(93) 40°34.42′ N. lat., 124°29.65′ W. long.;
(94) 40°34.74′ N. lat., 124°34.61′ W. long.;
(95) 40°31.70′ N. lat., 124°37.13′ W. long.;
(96) 40°30.00′ N. lat., 124°36.50′ W. long.;
(97) 40°25.03′ N. lat., 124°34.77′ W. long.;
(98) 40°23.58′ N. lat., 124°31.49′ W. long.;
(99) 40°23.64′ N. lat., 124°28.35′ W. long.;
(100) 40°22.53′ N. lat., 124°24.76′ W. long.;
(101) 40°21.46′ N. lat., 124°24.86′ W. long.;
(102) 40°21.74′ N. lat., 124°27.63′ W. long.;
(103) 40°19.76′ N. lat., 124°28.15′ W. long.;
(104) 40°18.00′ N. lat., 124°25.38′ W. long.;
(105) 40°18.54′ N. lat., 124°22.94′ W. long.;
(106) 40°15.55′ N. lat., 124°25.75′ W. long.;
(107) 40°16.06′ N. lat., 124°30.48′ W. long.;
(108) 40°15.75′ N. lat., 124°31.69′ W. long.;
(109) 40°10.00′ N. lat., 124°21.28′ W. long.;
(110) 40°08.37′ N. lat., 124°17.99′ W. long.;
(111) 40°09.00′ N. lat., 124°15.77′ W. long.;
(112) 40°06.93′ N. lat., 124°16.49′ W. long.;
(113) 40°03.60′ N. lat., 124°11.60′ W. long.;
(114) 40°06.20′ N. lat., 124°08.23′ W. long.;
(115) 40°00.94′ N. lat., 124°08.57′ W. long.;
(116) 40°00.01′ N. lat., 124°09.84′ W. long.;
(117) 39°57.75′ N. lat., 124°09.53′ W. long.;
(118) 39°55.56′ N. lat., 124°07.67′ W. long.;
(119) 39°52.21′ N. lat., 124°05.54′ W. long.;
(120) 39°48.07′ N. lat., 123°57.48′ W. long.;
(121) 39°41.60′ N. lat., 123°55.12′ W. long.;
(122) 39°30.39′ N. lat., 123°55.03′ W. long.;
(123) 39°29.48′ N. lat., 123°56.12′ W. long.;
(124) 39°13.76′ N. lat., 123°54.65′ W. long.;
(125) 39°05.21′ N. lat., 123°55.38′ W. long.;
(126) 38°57.50′ N. lat., 123°54.50′ W. long.;
(127) 38°55.90′ N. lat., 123°54.35′ W. long.;
(128) 38°48.59′ N. lat., 123°49.61′ W. long.;
(129) 38°28.82′ N. lat., 123°27.44′ W. long.;
(130) 38°09.70′ N. lat., 123°18.66′ W. long.;
(131) 38°01.81′ N. lat., 123°19.22′ W. long.;
(132) 38°00.00′ N. lat., 123°22.19′ W. long.;
(133) 37°57.70′ N. lat., 123°25.98′ W. long.;
(134) 37°56.73′ N. lat., 123°25.22′ W. long.;
(135) 37°55.59′ N. lat., 123°25.62′ W. long.;
(136) 37°52.79′ N. lat., 123°23.85′ W. long.;
(137) 37°49.13′ N. lat., 123°18.83′ W. long.;
(138) 37°46.01′ N. lat., 123°12.28′ W. long.;
(139) 37°35.67′ N. lat., 123°00.33′ W. long.;
(140) 37°24.16′ N. lat., 122°51.96′ W. long.;
(141) 37°23.32′ N. lat., 122°52.38′ W. long.;
(142) 37°11.00′ N. lat., 122°45.48′ W. long.;
(143) 37°07.00′ N. lat., 122°41.60′ W. long.;
(144) 37°04.12′ N. lat., 122°38.94′ W. long.;
(145) 37°00.64′ N. lat., 122°33.26′ W. long.;
(146) 36°59.15′ N. lat., 122°27.84′ W. long.;
(147) 37°01.41′ N. lat., 122°24.41′ W. long.;
(148) 36°58.75′ N. lat., 122°23.81′ W. long.;
(149) 36°59.17′ N. lat., 122°21.44′ W. long.;
(150) 36°57.51′ N. lat., 122°20.69′ W. long.;
(151) 36°51.46′ N. lat., 122°10.01′ W. long.;
(152) 36°48.43′ N. lat., 122°06.47′ W. long.;
(153) 36°48.66′ N. lat., 122°04.99′ W. long.;
(154) 36°47.75′ N. lat., 122°03.33′ W. long.;
(155) 36°51.23′ N. lat., 121°57.79′ W. long.;
(156) 36°49.72′ N. lat., 121°57.87′ W. long.;
(157) 36°48.84′ N. lat., 121°58.68′ W. long.;
(158) 36°47.89′ N. lat., 121°58.53′ W. long.;
(159) 36°48.66′ N. lat., 121°50.49′ W. long.;
(160) 36°45.56′ N. lat., 121°54.11′ W. long.;
(161) 36°45.30′ N. lat., 121°57.62′ W. long.;
(162) 36°38.54′ N. lat., 122°01.13′ W. long.;
(163) 36°35.76′ N. lat., 122°00.87′ W. long.;
(164) 36°32.58′ N. lat., 121°59.12′ W. long.;
(165) 36°32.95′ N. lat., 121°57.62′ W. long.;
(166) 36°31.96′ N. lat., 121°56.27′ W. long.;
(167) 36°31.74′ N. lat., 121°58.24′ W. long.;
(168) 36°30.57′ N. lat., 121°59.66′ W. long.;
(169) 36°27.80′ N. lat., 121°59.30′ W. long.;
(170) 36°26.52′ N. lat., 121°58.09′ W. long.;
(171) 36°23.65′ N. lat., 121°58.94′ W. long.;
(172) 36°20.93′ N. lat., 122°00.28′ W. long.;
(173) 36°18.23′ N. lat., 122°03.10′ W. long.;
(174) 36°14.21′ N. lat., 121°57.73′ W. long.;
(175) 36°14.68′ N. lat., 121°55.43′ W. long.;
(176) 36°10.42′ N. lat., 121°42.90′ W. long.;
(177) 36°02.55′ N. lat., 121°36.35′ W. long.;
(178) 36°01.04′ N. lat., 121°36.47′ W. long.;
(179) 36°00.00′ N. lat., 121°35.15′ W. long.;
(180) 35°58.25′ N. lat., 121°32.88′ W. long.;
(181) 35°39.35′ N. lat., 121°22.63′ W. long.;
(182) 35°24.44′ N. lat., 121°02.23′ W. long.;
(183) 35°10.84′ N. lat., 120°55.90′ W. long.;
(184) 35°04.35′ N. lat., 120°51.62′ W. long.;
(185) 34°55.25′ N. lat., 120°49.36′ W. long.;
(186) 34°47.95′ N. lat., 120°50.76′ W. long.;
(187) 34°39.27′ N. lat., 120°49.16′ W. long.;
(188) 34°31.05′ N. lat., 120°44.71′ W. long.;
(189) 34°27.00′ N. lat., 120°36.54′ W. long.;
(190) 34°22.60′ N. lat., 120°25.41′ W. long.;
(191) 34°25.45′ N. lat., 120°17.41′ W. long.;
(192) 34°22.94′ N. lat., 119°56.40′ W. long.;
(193) 34°18.37′ N. lat., 119°42.01′ W. long.;

(194) 34°11.22′ N. lat., 119°32.47′ W. long.;
(195) 34°09.58′ N. lat., 119°25.94′ W. long.;
(196) 34°03.89′ N. lat., 119°12.47′ W. long.;
(197) 34°03.57′ N. lat., 119°06.72′ W. long.;
(198) 34°04.53′ N. lat., 119°04.90′ W. long.;
(199) 34°02.84′ N. lat., 119°02.37′ W. long.;
(200) 34°01.30′ N. lat., 119°00.26′ W. long.;
(201) 34°00.22′ N. lat., 119°03.20′ W. long.;
(202) 33°59.60′ N. lat., 119°03.16′ W. long.;
(203) 33°59.46′ N. lat., 119°00.88′ W. long.;
(204) 34°00.49′ N. lat., 118°59.08′ W. long.;
(205) 33°59.07′ N. lat., 118°47.34′ W. long.;
(206) 33°58.73′ N. lat., 118°36.45′ W. long.;
(207) 33°55.24′ N. lat., 118°33.42′ W. long.;
(208) 33°53.71′ N. lat., 118°38.01′ W. long.;
(209) 33°51.22′ N. lat., 118°36.17′ W. long.;
(210) 33°49.85′ N. lat., 118°32.31′ W. long.;
(211) 33°49.61′ N. lat., 118°28.07′ W. long.;
(212) 33°49.95′ N. lat., 118°26.38′ W. long.;
(213) 33°50.36′ N. lat., 118°25.84′ W. long.;
(214) 33°49.84′ N. lat., 118°24.78′ W. long.;
(215) 33°47.53′ N. lat., 118°30.12′ W. long.;
(216) 33°44.11′ N. lat., 118°25.25′ W. long.;
(217) 33°41.77′ N. lat., 118°20.32′ W. long.;
(218) 33°38.17′ N. lat., 118°15.70′ W. long.;
(219) 33°37.48′ N. lat., 118°16.73′ W. long.;
(220) 33°36.01′ N. lat., 118°16.55′ W. long.;
(221) 33°33.76′ N. lat., 118°11.37′ W. long.;
(222) 33°33.76′ N. lat., 118°07.94′ W. long.;
(223) 33°35.59′ N. lat., 118°05.05′ W. long.;
(224) 33°33.75′ N. lat., 117°59.82′ W. long.;
(225) 33°35.10′ N. lat., 117°55.68′ W. long.;
(226) 33°34.91′ N. lat., 117°53.76′ W. long.;
(227) 33°30.77′ N. lat., 117°47.56′ W. long.;
(228) 33°27.50′ N. lat., 117°44.87′ W. long.;
(229) 33°16.89′ N. lat., 117°34.37′ W. long.;
(230) 33°06.66′ N. lat., 117°21.59′ W. long.;
(231) 33°03.35′ N. lat., 117°20.92′ W. long.;
(232) 33°00.07′ N. lat., 117°19.02′ W. long.;
(233) 32°55.99′ N. lat., 117°18.60′ W. long.;
(234) 32°54.43′ N. lat., 117°16.93′ W. long.;
(235) 32°52.13′ N. lat., 117°16.55′ W. long.;
(236) 32°52.61′ N. lat., 117°19.50′ W. long.;
(237) 32°46.95′ N. lat., 117°22.81′ W. long.;
(238) 32°45.01′ N. lat., 117°22.07′ W. long.;
(239) 32°43.40′ N. lat., 117°19.80′ W. long.; and
(240) 32°33.74′ N. lat., 117°18.67′ W. long.

(k) The 75 fm (137 m) depth contour around the northern Channel Islands off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 34°09.12′ N. lat., 120°35.03′ W. long.;
(2) 34°09.99′ N. lat., 120°27.85′ W. long.;
(3) 34°07.19′ N. lat., 120°16.28′ W. long.;
(4) 34°06.56′ N. lat., 120°04.00′ W. long.;
(5) 34°07.27′ N. lat., 119°57.76′ W. long.;
(6) 34°07.48′ N. lat., 119°52.08′ W. long.;
(7) 34°05.18′ N. lat., 119°37.94′ W. long.;
(8) 34°05.22′ N. lat., 119°35.52′ W. long.;
(9) 34°05.12′ N. lat., 119°32.74′ W. long.;
(10) 34°04.32′ N. lat., 119°27.32′ W. long.;
(11) 34°03.00′ N. lat., 119°21.36′ W. long.;
(12) 34°02.32′ N. lat., 119°18.46′ W. long.;
(13) 34°00.65′ N. lat., 119°19.42′ W. long.;
(14) 33°59.45′ N. lat., 119°22.38′ W. long.;
(15) 33°58.68′ N. lat., 119°32.36′ W. long.;
(16) 33°56.12′ N. lat., 119°41.10′ W. long.;
(17) 33°55.74′ N. lat., 119°48.00′ W. long.;
(18) 33°57.78′ N. lat., 119°53.04′ W. long.;
(19) 33°59.06′ N. lat., 119°55.38′ W. long.;
(20) 33°57.57′ N. lat., 119°54.93′ W. long.;
(21) 33°56.35′ N. lat., 119°53.91′ W. long.;
(22) 33°54.43′ N. lat., 119°54.07′ W. long.;
(23) 33°52.67′ N. lat., 119°54.78′ W. long.;
(24) 33°48.33′ N. lat., 119°55.09′ W. long.;
(25) 33°47.28′ N. lat., 119°57.30′ W. long.;
(26) 33°47.36′ N. lat., 120°00.39′ W. long.;
(27) 33°49.16′ N. lat., 120°05.06′ W. long.;
(28) 33°51.41′ N. lat., 120°06.49′ W. long.;
(29) 33°52.99′ N. lat., 120°10.01′ W. long.;
(30) 33°56.64′ N. lat., 120°18.88′ W. long.;
(31) 33°58.02′ N. lat., 120°21.41′ W. long.;
(32) 33°58.73′ N. lat., 120°25.22′ W. long.;
(33) 33°59.08′ N. lat., 120°26.58′ W. long.;
(34) 33°59.95′ N. lat., 120°28.21′ W. long.;
(35) 34°03.54′ N. lat., 120°32.23′ W. long.;
(36) 34°05.57′ N. lat., 120°34.23′ W. long.;
(37) 34°08.13′ N. lat., 120°36.05′ W. long.; and
(38) 34°09.12′ N. lat., 120°35.03′ W. long.

(l) The 75 fm (137 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°04.54′ N. lat., 118°37.54′ W. long.;
(2) 33°02.56′ N. lat., 118°34.12′ W. long.;
(3) 32°55.54′ N. lat., 118°28.87′ W. long.;
(4) 32°55.02′ N. lat., 118°27.69′ W. long.;
(5) 32°49.78′ N. lat., 118°20.88′ W. long.;
(6) 32°48.32′ N. lat., 118°19.89′ W. long.;
(7) 32°47.41′ N. lat., 118°21.98′ W. long.;
(8) 32°44.39′ N. lat., 118°24.49′ W. long.;
(9) 32°47.93′ N. lat., 118°29.90′ W. long.;
(10) 32°49.69′ N. lat., 118°31.52′ W. long.;
(11) 32°53.57′ N. lat., 118°33.09′ W. long.;
(12) 32°55.42′ N. lat., 118°35.17′ W. long.;
(13) 33°00.49′ N. lat., 118°38.56′ W. long.;
(14) 33°03.23′ N. lat., 118°39.16′ W. long.; and

(15) 33°04.54′ N. lat., 118°37.54′ W. long.

(m) The 75 fm (137 m) depth contour around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°28.17′ N. lat., 118°38.16′ W. long.;

(2) 33°29.35′ N. lat., 118°36.23′ W. long.;

(3) 33°28.85′ N. lat., 118°30.85′ W. long.;

(4) 33°26.69′ N. lat., 118°27.37′ W. long.;

(5) 33°26.31′ N. lat., 118°25.14′ W. long.;

(6) 33°25.35′ N. lat., 118°22.83′ W. long.;

(7) 33°22.47′ N. lat., 118°18.53′ W. long.;

(8) 33°19.51′ N. lat., 118°16.82′ W. long.;

(9) 33°17.07′ N. lat., 118°16.38′ W. long.;

(10) 33°16.58′ N. lat., 118°17.61′ W. long.;

(11) 33°18.35′ N. lat., 118°27.86′ W. long.;

(12) 33°20.07′ N. lat., 118°32.12′ W. long.;

(13) 33°21.77′ N. lat., 118°31.85′ W. long.;

(14) 33°23.15′ N. lat., 118°29.99′ W. long.;

(15) 33°24.96′ N. lat., 118°32.21′ W. long.;

(16) 33°25.67′ N. lat., 118°34.88′ W. long.;

(17) 33°27.80′ N. lat., 118°37.90′ W. long.; and

(18) 33°28.17′ N. lat., 118°38.16′ W. long.

■ 22. Section 660.393 is added to read as follows:

§ 660.393 Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours.

Boundaries for RCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 100 fm (183 m) through 150 fm (274 m) depth contours.

(a) The 100 fm (183 m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:

(1) 48°15.00′ N. lat., 125°41.00′ W. long.;

(2) 48°14.00′ N. lat., 125°36.00′ W. long.;

(3) 48°09.50′ N. lat., 125°40.50′ W. long.;

(4) 48°08.00′ N. lat., 125°38.00′ W. long.;

(5) 48°05.00′ N. lat., 125°37.25′ W. long.;

(6) 48°02.60′ N. lat., 125°34.70′ W. long.;

(7) 47°59.00′ N. lat., 125°34.00′ W. long.;

(8) 47°57.26′ N. lat., 125°29.82′ W. long.;

(9) 47°59.87′ N. lat., 125°25.81′ W. long.;

(10) 48°01.80′ N. lat., 125°24.53′ W. long.;

(11) 48°02.08′ N. lat., 125°22.98′ W. long.;

(12) 48°02.97′ N. lat., 125°22.89′ W. long.;

(13) 48°04.47′ N. lat., 125°21.75′ W. long.;

(14) 48°06.11′ N. lat., 125°19.33′ W. long.;

(15) 48°07.95′ N. lat., 125°18.55′ W. long.;

(16) 48°09.00′ N. lat., 125°18.00′ W. long.;

(17) 48°11.31′ N. lat., 125°17.55′ W. long.;

(18) 48°14.60′ N. lat., 125°13.46′ W. long.;

(19) 48°16.67′ N. lat., 125°14.34′ W. long.;

(20) 48°18.73′ N. lat., 125°14.41′ W. long.;

(21) 48°19.67′ N. lat., 125°13.70′ W. long.;

(22) 48°19.70′ N. lat., 125°11.13′ W. long.;

(23) 48°22.95′ N. lat., 125°10.79′ W. long.;

(24) 48°21.61′ N. lat., 125°02.54′ W. long.;

(25) 48°23.00′ N. lat., 124°49.34′ W. long.;

(26) 48°17.00′ N. lat., 124°56.50′ W. long.;

(27) 48°06.00′ N. lat., 125°00.00′ W. long.;

(28) 48°04.62′ N. lat., 125°01.73′ W. long.;

(29) 48°04.84′ N. lat., 125°04.03′ W. long.;

(30) 48°06.41′ N. lat., 125°06.51′ W. long.;

(31) 48°06.00′ N. lat., 125°08.00′ W. long.;

(32) 48°07.08′ N. lat., 125°09.34′ W. long.;

(33) 48°07.28′ N. lat., 125°11.14′ W. long.;

(34) 48°03.45′ N. lat., 125°16.66′ W. long.;

(35) 47°59.50′ N. lat., 125°18.88′ W. long.;

(36) 47°58.68′ N. lat., 125°16.19′ W. long.;

(37) 47°56.62′ N. lat., 125°13.50′ W. long.;

(38) 47°53.71′ N. lat., 125°11.96′ W. long.;

(39) 47°51.70′ N. lat., 125°09.38′ W. long.;

(40) 47°49.95′ N. lat., 125°06.07′ W. long.;

(41) 47°49.00′ N. lat., 125°03.00′ W. long.;

(42) 47°46.95′ N. lat., 125°04.00′ W. long.;

(43) 47°46.58′ N. lat., 125°03.15′ W. long.;

(44) 47°44.07′ N. lat., 125°04.28′ W. long.;

(45) 47°43.32′ N. lat., 125°04.41′ W. long.;

(46) 47°40.95′ N. lat., 125°04.14′ W. long.;

(47) 47°39.58′ N. lat., 125°04.97′ W. long.;

(48) 47°36.23′ N. lat., 125°02.77′ W. long.;

(49) 47°34.28′ N. lat., 124°58.66′ W. long.;

(50) 47°32.17′ N. lat., 124°57.77′ W. long.;

(51) 47°30.27′ N. lat., 124°56.16′ W. long.;

(52) 47°30.60′ N. lat., 124°54.80′ W. long.;

(53) 47°29.26′ N. lat., 124°52.21′ W. long.;

(54) 47°28.21′ N. lat., 124°50.65′ W. long.;

(55) 47°27.38′ N. lat., 124°49.34′ W. long.;

(56) 47°25.61′ N. lat., 124°48.26′ W. long.;

(57) 47°23.54′ N. lat., 124°46.42′ W. long.;

(58) 47°20.64′ N. lat., 124°45.91′ W. long.;

(59) 47°17.99′ N. lat., 124°45.59′ W. long.;

(60) 47°18.20′ N. lat., 124°49.12′ W. long.;

(61) 47°15.01′ N. lat., 124°51.09′ W. long.;

(62) 47°12.61′ N. lat., 124°54.89′ W. long.;

(63) 47°08.22′ N. lat., 124°56.53′ W. long.;

(64) 47°08.50′ N. lat., 124°57.74′ W. long.;

(65) 47°01.92′ N. lat., 124°54.95′ W. long.;

(66) 47°01.14′ N. lat., 124°59.35′ W. long.;

(67) 46°58.48′ N. lat., 124°57.81′ W. long.;

(68) 46°56.79′ N. lat., 124°56.03′ W. long.;

(69) 46°58.01′ N. lat., 124°55.09′ W. long.;

(70) 46°55.07′ N. lat., 124°54.14′ W. long.;

(71) 46°59.60′ N. lat., 124°49.79′ W. long.;

(72) 46°58.72′ N. lat., 124°48.78′ W. long.;

(73) 46°54.45′ N. lat., 124°48.36′ W. long.;

(74) 46°53.99′ N. lat., 124°49.95′ W. long.;

(75) 46°54.38′ N. lat., 124°52.73′ W. long.;
(76) 46°52.38′ N. lat., 124°52.02′ W. long.;
(77) 46°48.93′ N. lat., 124°49.17′ W. long.;
(78) 46°41.50′ N. lat., 124°43.00′ W. long.;
(79) 46°34.50′ N. lat., 124°28.50′ W. long.;
(80) 46°29.00′ N. lat., 124°30.00′ W. long.;
(81) 46°20.00′ N. lat., 124°36.50′ W. long.;
(82) 46°18.00′ N. lat., 124°38.00′ W. long.;
(83) 46°17.52′ N. lat., 124°35.35′ W. long.;
(84) 46°17.00′ N. lat., 124°22.50′ W. long.;
(85) 46°16.00′ N. lat., 124°20.62′ W. long.;
(86) 46°13.52′ N. lat., 124°25.49′ W. long.;
(87) 46°12.17′ N. lat., 124°30.75′ W. long.;
(88) 46°10.63′ N. lat., 124°37.95′ W. long.;
(89) 46°09.29′ N. lat., 124°39.01′ W. long.;
(90) 46°02.40′ N. lat., 124°40.37′ W. long.;
(91) 45°56.45′ N. lat., 124°38.00′ W. long.;
(92) 45°51.92′ N. lat., 124°38.49′ W. long.;
(93) 45°47.19′ N. lat., 124°35.58′ W. long.;
(94) 45°46.41′ N. lat., 124°32.36′ W. long.;
(95) 45°46.00′ N. lat., 124°32.10′ W. long.;
(96) 45°41.75′ N. lat., 124°28.12′ W. long.;
(97) 45°36.96′ N. lat., 124°24.48′ W. long.;
(98) 45°31.84′ N. lat., 124°22.04′ W. long.;
(99) 45°27.10′ N. lat., 124°21.74′ W. long.;
(100) 45°20.25′ N. lat., 124°18.54′ W. long.;
(101) 45°18.14′ N. lat., 124°17.59′ W. long.;
(102) 45°11.08′ N. lat., 124°16.97′ W. long.;
(103) 45°04.38′ N. lat., 124°18.36′ W. long.;
(104) 45°03.83′ N. lat., 124°18.60′ W. long.;
(105) 44°58.05′ N. lat., 124°21.58′ W. long.;
(106) 44°47.67′ N. lat., 124°31.41′ W. long.;
(107) 44°44.55′ N. lat., 124°33.58′ W. long.;
(108) 44°39.88′ N. lat., 124°35.01′ W. long.;
(109) 44°32.90′ N. lat., 124°36.81′ W. long.;
(110) 44°30.33′ N. lat., 124°38.56′ W. long.;
(111) 44°30.04′ N. lat., 124°42.31′ W. long.;
(112) 44°26.84′ N. lat., 124°44.91′ W. long.;
(113) 44°17.99′ N. lat., 124°51.03′ W. long.;
(114) 44°13.68′ N. lat., 124°56.38′ W. long.;
(115) 44°08.30′ N. lat., 124°55.99′ W. long.;
(116) 43°56.67′ N. lat., 124°55.45′ W. long.;
(117) 43°56.47′ N. lat., 124°34.61′ W. long.;
(118) 43°42.73′ N. lat., 124°32.41′ W. long.;
(119) 43°30.93′ N. lat., 124°34.43′ W. long.;
(120) 43°20.83′ N. lat., 124°39.39′ W. long.;
(121) 43°17.45′ N. lat., 124°41.16′ W. long.;
(122) 43°07.04′ N. lat., 124°41.25′ W. long.;
(123) 43°03.45′ N. lat., 124°44.36′ W. long.;
(124) 43°03.90′ N. lat., 124°50.81′ W. long.;
(125) 42°55.70′ N. lat., 124°52.79′ W. long.;
(126) 42°54.12′ N. lat., 124°47.36′ W. long.;
(127) 42°50.00′ N. lat., 124°45.33′ W. long.;
(128) 42°44.00′ N. lat., 124°42.38′ W. long.;
(129) 42°40.50′ N. lat., 124°41.71′ W. long.;
(130) 42°38.23′ N. lat., 124°41.25′ W. long.;
(131) 42°33.03′ N. lat., 124°42.38′ W. long.;
(132) 42°31.89′ N. lat., 124°42.04′ W. long.;
(133) 42°30.09′ N. lat., 124°42.67′ W. long.;
(134) 42°28.28′ N. lat., 124°47.08′ W. long.;
(135) 42°25.22′ N. lat., 124°43.51′ W. long.;
(136) 42°19.23′ N. lat., 124°37.92′ W. long.;
(137) 42°16.29′ N. lat., 124°36.11′ W. long.;
(138) 42°13.67′ N. lat., 124°35.81′ W. long.;
(139) 42°05.66′ N. lat., 124°34.92′ W. long.;
(140) 42°00.00′ N. lat., 124°35.27′ W. long.;
(141) 41°47.04′ N. lat., 124°27.64′ W. long.;
(142) 41°32.92′ N. lat., 124°28.79′ W. long.;
(143) 41°24.17′ N. lat., 124°28.46′ W. long.;
(144) 41°10.12′ N. lat., 124°20.50′ W. long.;
(145) 40°51.41′ N. lat., 124°24.38′ W. long.;
(146) 40°43.71′ N. lat., 124°29.89′ W. long.;
(147) 40°40.14′ N. lat., 124°30.90′ W. long.;
(148) 40°37.35′ N. lat., 124°29.05′ W. long.;
(149) 40°34.76′ N. lat., 124°29.82′ W. long.;
(150) 40°36.78′ N. lat., 124°37.06′ W. long.;
(151) 40°32.44′ N. lat., 124°39.58′ W. long.;
(152) 40°30.00′ N. lat., 124°38.13′ W. long.;
(153) 40°24.82′ N. lat., 124°35.12′ W. long.;
(154) 40°23.30′ N. lat., 124°31.60′ W. long.;
(155) 40°23.52′ N. lat., 124°28.78′ W. long.;
(156) 40°22.43′ N. lat., 124°25.00′ W. long.;
(157) 40°21.72′ N. lat., 124°24.94′ W. long.;
(158) 40°21.87′ N. lat., 124°27.96′ W. long.;
(159) 40°21.40′ N. lat., 124°28.74′ W. long.;
(160) 40°19.68′ N. lat., 124°28.49′ W. long.;
(161) 40°17.73′ N. lat., 124°25.43′ W. long.;
(162) 40°18.37′ N. lat., 124°23.35′ W. long.;
(163) 40°15.75′ N. lat., 124°26.05′ W. long.;
(164) 40°16.75′ N. lat., 124°33.71′ W. long.;
(165) 40°16.29′ N. lat., 124°34.36′ W. long.;
(166) 40°10.00′ N. lat., 124°21.12′ W. long.;
(167) 40°07.70′ N. lat., 124°18.44′ W. long.;
(168) 40°08.84′ N. lat., 124°15.86′ W. long.;
(169) 40°06.53′ N. lat., 124°17.39′ W. long.;
(170) 40°03.15′ N. lat., 124°14.43′ W. long.;
(171) 40°02.19′ N. lat., 124°12.85′ W. long.;
(172) 40°02.89′ N. lat., 124°11.78′ W. long.;
(173) 40°02.78′ N. lat., 124°10.70′ W. long.;
(174) 40°04.57′ N. lat., 124°10.08′ W. long.;
(175) 40°06.06′ N. lat., 124°08.30′ W. long.;
(176) 40°04.05′ N. lat., 124°08.93′ W. long.;
(177) 40°01.17′ N. lat., 124°08.80′ W. long.;
(179) 40°01.03′ N. lat., 124°10.06′ W. long.;
(179) 39°58.07′ N. lat., 124°11.89′ W. long.;

(180) 39°56.39′ N. lat., 124°08.71′ W. long.;
(181) 39°54.64′ N. lat., 124°07.30′ W. long.;
(182) 39°53.86′ N. lat., 124°07.95′ W. long.;
(183) 39°51.95′ N. lat., 124°07.63′ W. long.;
(184) 39°48.78′ N. lat., 124°03.29′ W. long.;
(185) 39°47.36′ N. lat., 124°03.31′ W. long.;
(186) 39°40.08′ N. lat., 123°58.37′ W. long.;
(187) 39°36.16′ N. lat., 123°56.90′ W. long.;
(188) 39°30.75′ N. lat., 123°55.86′ W. long.;
(189) 39°31.62′ N. lat., 123°57.33′ W. long.;
(190) 39°30.91′ N. lat., 123°57.88′ W. long.;
(191) 39°01.79′ N. lat., 123°56.59′ W. long.;
(192) 38°59.42′ N. lat., 123°55.67′ W. long.;
(193) 38°58.89′ N. lat., 123°56.28′ W. long.;
(194) 38°57.50′ N. lat., 123°56.28′ W. long.;
(195) 38°54.72′ N. lat., 123°55.68′ W. long.;
(196) 38°48.95′ N. lat., 123°51.85′ W. long.;
(197) 38°36.67′ N. lat., 123°40.20′ W. long.;
(198) 38°33.82′ N. lat., 123°39.23′ W. long.;
(199) 38°29.02′ N. lat., 123°33.52′ W. long.;
(200) 38°18.88′ N. lat., 123°25.93′ W. long.;
(201) 38°14.12′ N. lat., 123°23.26′ W. long.;
(202) 38°11.07′ N. lat., 123°22.07′ W. long.;
(203) 38°03.19′ N. lat., 123°20.70′ W. long.;
(204) 38°00.00′ N. lat., 123°23.08′ W. long.;
(205) 37°55.07′ N. lat., 123°26.81′ W. long.;
(206) 37°50.66′ N. lat., 123°23.06′ W. long.;
(207) 37°45.18′ N. lat., 123°11.88′ W. long.;
(208) 37°35.67′ N. lat., 123°01.20′ W. long.;
(209) 37°15.58′ N. lat., 122°48.36′ W. long.;
(210) 37°11.00′ N. lat., 122°44.50′ W. long.;
(211) 37°07.00′ N. lat., 122°41.25′ W. long.;
(212) 37°03.18′ N. lat., 122°38.15′ W. long.;
(213) 37°00.48′ N. lat., 122°33.93′ W. long.;
(214) 36°58.70′ N. lat., 122°27.22′ W. long.;
(215) 37°00.85′ N. lat., 122°24.70′ W. long.;
(216) 36°58.00′ N. lat., 122°24.14′ W. long.;
(217) 36°58.74′ N. lat., 122°21.51′ W. long.;
(218) 36°56.97′ N. lat., 122°21.32′ W. long.;
(219) 36°51.52′ N. lat., 122°10.68′ W. long.;
(220) 36°48.39′ N. lat., 122°07.60′ W. long.;
(221) 36°47.43′ N. lat., 122°03.22′ W. long.;
(222) 36°50.95′ N. lat., 121°58.03′ W. long.;
(223) 36°49.92′ N. lat., 121°58.01′ W. long.;
(224) 36°48.88′ N. lat., 121°58.90′ W. long.;
(225) 36°47.70′ N. lat., 121°58.75′ W. long.;
(226) 36°48.37′ N. lat., 121°51.14′ W. long.;
(227) 36°45.74′ N. lat., 121°54.17′ W. long.;
(228) 36°45.51′ N. lat., 121°57.72′ W. long.;
(229) 36°38.84′ N. lat., 122°01.32′ W. long.;
(230) 36°35.62′ N. lat., 122°00.98′ W. long.;
(231) 36°32.46′ N. lat., 121°59.15′ W. long.;
(232) 36°32.79′ N. lat., 121°57.67′ W. long.;
(233) 36°31.98′ N. lat., 121°56.55′ W. long.;
(234) 36°31.79′ N. lat., 121°58.40′ W. long.;
(235) 36°30.73′ N. lat., 121°59.70′ W. long.;
(236) 36°30.31′ N. lat., 122°00.22′ W. long.;
(237) 36°29.35′ N. lat., 122°00.36′ W. long.;
(238) 36°27.66′ N. lat., 121°59.80′ W. long.;
(239) 36°26.22′ N. lat., 121°58.35′ W. long.;
(240) 36°21.20′ N. lat., 122°00.72′ W. long.;
(241) 36°20.47′ N. lat., 122°02.92′ W. long.;
(242) 36°18.46′ N. lat., 122°04.51′ W. long.;
(243) 36°15.92′ N. lat., 122°01.33′ W. long.;
(244) 36°13.76′ N. lat., 121°57.27′ W. long.;
(245) 36°14.43′ N. lat., 121°55.43′ W. long.;
(246) 36°10.24′ N. lat., 121°43.08′ W. long.;
(247) 36°07.66′ N. lat., 121°40.91′ W. long.;
(248) 36°02.49′ N. lat., 121°36.51′ W. long.;
(249) 36°01.07′ N. lat., 121°36.82′ W. long.;
(250) 36°00.00′ N. lat., 121°35.15′ W. long.;
(251) 35°57.84′ N. lat., 121°33.10′ W. long.;
(252) 35°50.36′ N. lat., 121°29.32′ W. long.;
(253) 35°39.03′ N. lat., 121°22.86′ W. long.;
(254) 35°24.30′ N. lat., 121°02.56′ W. long.;
(255) 35°16.53′ N. lat., 121°00.39′ W. long.;
(256) 35°04.82′ N. lat., 120°53.96′ W. long.;
(257) 34°52.51′ N. lat., 120°51.62′ W. long.;
(258) 34°43.36′ N. lat., 120°52.12′ W. long.;
(259) 34°37.64′ N. lat., 120°49.99′ W. long.;
(260) 34°30.80′ N. lat., 120°45.02′ W. long.;
(261) 34°27.00′ N. lat., 120°39.00′ W. long.;
(262) 34°21.90′ N. lat., 120°25.25′ W. long.;
(263) 34°24.86′ N. lat., 120°16.81′ W. long.;
(264) 34°22.80′ N. lat., 119°57.06′ W. long.;
(265) 34°18.59′ N. lat., 119°44.84′ W. long.;
(266) 34°15.04′ N. lat., 119°40.34′ W. long.;
(267) 34°14.40′ N. lat., 119°45.39′ W. long.;
(268) 34°12.32′ N. lat., 119°42.41′ W. long.;
(269) 34°09.71′ N. lat., 119°28.85′ W. long.;
(270) 34°04.70′ N. lat., 119°15.38′ W. long.;
(271) 34°03.33′ N. lat., 119°12.93′ W. long.;
(272) 34°02.72′ N. lat., 119°07.01′ W. long.;
(273) 34°03.90′ N. lat., 119°04.64′ W. long.;
(274) 34°01.80′ N. lat., 119°03.23′ W. long.;
(275) 33°59.32′ N. lat., 119°03.50′ W. long.;
(276) 33°59.00′ N. lat., 118°59.55′ W. long.;
(277) 33°59.51′ N. lat., 118°57.25′ W. long.;
(278) 33°58.82′ N. lat., 118°52.47′ W. long.;
(279) 33°58.54′ N. lat., 118°41.86′ W. long.;
(280) 33°55.07′ N. lat., 118°34.25′ W. long.;
(281) 33°54.28′ N. lat., 118°38.68′ W. long.;
(282) 33°51.00′ N. lat., 118°36.66′ W. long.;
(283) 33°39.77′ N. lat., 118°18.41′ W. long.;
(284) 33°35.50′ N. lat., 118°16.85′ W. long.;

(285) 33°32.68′ N. lat., 118°09.82′ W. long.;
(286) 33°34.09′ N. lat., 117°54.06′ W. long.;
(287) 33°31.60′ N. lat., 117°49.28′ W. long.;
(288) 33°16.07′ N. lat., 117°34.74′ W. long.;
(289) 33°07.06′ N. lat., 117°22.71′ W. long.;
(290) 32°59.28′ N. lat., 117°19.69′ W. long.;
(291) 32°55.36′ N. lat., 117°19.54′ W. long.;
(292) 32°53.35′ N. lat., 117°17.05′ W. long.;
(293) 32°53.34′ N. lat., 117°19.13′ W. long.;
(294) 32°46.39′ N. lat., 117°23.45′ W. long.;
(295) 32°42.79′ N. lat., 117°21.16′ W. long.; and
(296) 32°34.22′ N. lat., 117°21.20′ W. long.

(b) The 100 fm (183 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°04.73′ N. lat., 118°37.98′ W. long.;
(2) 33°02.67′ N. lat., 118°34.06′ W. long.;
(3) 32°55.80′ N. lat., 118°28.92′ W. long.;
(4) 32°49.78′ N. lat., 118°20.88′ W. long.;
(5) 32°48.01′ N. lat., 118°19.49′ W. long.;
(6) 32°47.53′ N. lat., 118°21.76′ W. long.;
(7) 32°44.03′ N. lat., 118°24.70′ W. long.;
(8) 32°49.75′ N. lat., 118°32.10′ W. long.;
(9) 32°53.36′ N. lat., 118°33.23′ W. long.;
(10) 32°55.17′ N. lat., 118°34.64′ W. long.;
(11) 32°55.13′ N. lat., 118°35.31′ W. long.;
(12) 33°00.22′ N. lat., 118°38.68′ W. long.;
(13) 33°03.13′ N. lat., 118°39.59′ W. long.; and
(14) 33°04.73′ N. lat., 118°37.98′ W. long.

(c) The 100 fm (183 m) depth contour around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°28.23′ N. lat., 118°39.38′ W. long.;
(2) 33°29.60′ N. lat., 118°36.11′ W. long.;
(3) 33°29.14′ N. lat., 118°30.81′ W. long.;
(4) 33°26.97′ N. lat., 118°27.57′ W. long.;
(5) 33°25.68′ N. lat., 118°23.00′ W. long.;
(6) 33°22.67′ N. lat., 118°18.41′ W. long.;
(7) 33°19.72′ N. lat., 118°16.25′ W. long.;
(8) 33°17.14′ N. lat., 118°14.96′ W. long.;
(9) 33°16.09′ N. lat., 118°15.46′ W. long.;
(10) 33°18.10′ N. lat., 118°27.95′ W. long.;
(11) 33°19.84′ N. lat., 118°32.16′ W. long.;
(12) 33°20.83′ N. lat., 118°32.83′ W. long.;
(13) 33°21.91′ N. lat., 118°31.98′ W. long.;
(14) 33°23.05′ N. lat., 118°30.11′ W. long.;
(15) 33°24.87′ N. lat., 118°32.45′ W. long.;
(16) 33°25.30′ N. lat., 118°34.32′ W. long.; and
(17) 33°28.23′ N. lat., 118°39.38′ W. long.

(d) The 125 fm (229 m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:
(1) 48°15.00′ N. lat., 125°41.13′ W. long.;
(2) 48°13.05′ N. lat., 125°37.43′ W. long.;
(3) 48°08.62′ N. lat., 125°41.68′ W. long.;
(4) 48°07.42′ N. lat., 125°42.38′ W. long.;
(5) 48°04.20′ N. lat., 125°36.57′ W. long.;
(6) 48°02.79′ N. lat., 125°35.55′ W. long.;
(7) 48°00.48′ N. lat., 125°37.84′ W. long.;
(8) 47°54.90′ N. lat., 125°34.79′ W. long.;
(9) 47°58.37′ N. lat., 125°26.58′ W. long.;
(10) 47°59.84′ N. lat., 125°25.20′ W. long.;
(11) 48°01.85′ N. lat., 125°24.12′ W. long.;
(12) 48°02.13′ N. lat., 125°22.80′ W. long.;
(13) 48°03.31′ N. lat., 125°22.46′ W. long.;
(14) 48°06.83′ N. lat., 125°17.73′ W. long.;
(15) 48°10.08′ N. lat., 125°15.56′ W. long.;
(16) 48°11.24′ N. lat., 125°13.72′ W. long.;
(17) 48°12.41′ N. lat., 125°14.48′ W. long.;
(18) 48°13.01′ N. lat., 125°13.77′ W. long.;
(19) 48°13.59′ N. lat., 125°12.83′ W. long.;
(20) 48°12.22′ N. lat., 125°12.28′ W. long.;
(21) 48°11.15′ N. lat., 125°12.26′ W. long.;
(22) 48°10.18′ N. lat., 125°10.44′ W. long.;
(23) 48°10.18′ N. lat., 125°06.32′ W. long.;
(24) 48°15.39′ N. lat., 125°02.83′ W. long.;
(25) 48°18.32′ N. lat., 125°01.00′ W. long.;
(26) 48°21.67′ N. lat., 125°01.86′ W. long.;
(27) 48°25.70′ N. lat., 125°00.10′ W. long.;
(28) 48°26.43′ N. lat., 124°56.65′ W. long.;
(29) 48°24.28′ N. lat., 124°56.48′ W. long.;
(30) 48°23.27′ N. lat., 124°59.12′ W. long.;
(31) 48°21.79′ N. lat., 124°59.30′ W. long.;
(32) 48°20.71′ N. lat., 124°58.74′ W. long.;
(33) 48°19.84′ N. lat., 124°57.09′ W. long.;
(34) 48°22.06′ N. lat., 124°54.78′ W. long.;
(35) 48°22.45′ N. lat., 124°53.35′ W. long.;
(36) 48°22.74′ N. lat., 124°50.96′ W. long.;
(37) 48°21.04′ N. lat., 124°52.60′ W. long.;
(38) 48°18.07′ N. lat., 124°55.85′ W. long.;
(39) 48°15.03′ N. lat., 124°58.16′ W. long.;
(40) 48°11.31′ N. lat., 124°58.53′ W. long.;
(41) 48°06.25′ N. lat., 125°00.06′ W. long.;
(42) 48°04.70′ N. lat., 125°01.80′ W. long.;
(43) 48°04.93′ N. lat., 125°03.92′ W. long.;
(44) 48°06.44′ N. lat., 125°06.50′ W. long.;
(45) 48°07.34′ N. lat., 125°09.35′ W. long.;
(46) 48°07.62′ N. lat., 125°11.37′ W. long.;
(47) 48°03.71′ N. lat., 125°17.63′ W. long.;
(48) 48°01.35′ N. lat., 125°18.66′ W. long.;
(49) 48°00.05′ N. lat., 125°19.66′ W. long.;
(50) 47°59.51′ N. lat., 125°18.90′ W. long.;
(51) 47°58.29′ N. lat., 125°16.64′ W. long.;
(52) 47°54.67′ N. lat., 125°13.20′ W. long.;
(53) 47°53.15′ N. lat., 125°12.53′ W. long.;
(54) 47°48.46′ N. lat., 125°04.72′ W. long.;

(55) 47°46.10′ N. lat., 125°04.00′ W. long.;
(56) 47°44.60′ N. lat., 125°04.49′ W. long.;
(57) 47°42.90′ N. lat., 125°04.72′ W. long.;
(58) 47°40.71′ N. lat., 125°04.68′ W. long.;
(59) 47°39.02′ N. lat., 125°05.63′ W. long.;
(60) 47°34.86′ N. lat., 125°02.11′ W. long.;
(61) 47°31.64′ N. lat., 124°58.11′ W. long.;
(62) 47°29.69′ N. lat., 124°55.71′ W. long.;
(63) 47°29.35′ N. lat., 124°53.23′ W. long.;
(64) 47°28.56′ N. lat., 124°51.34′ W. long.;
(65) 47°25.31′ N. lat., 124°48.20′ W. long.;
(66) 47°23.92′ N. lat., 124°47.15′ W. long.;
(67) 47°18.09′ N. lat., 124°45.74′ W. long.;
(68) 47°18.65′ N. lat., 124°51.51′ W. long.;
(69) 47°18.12′ N. lat., 124°52.58′ W. long.;
(70) 47°17.64′ N. lat., 124°50.45′ W. long.;
(71) 47°16.31′ N. lat., 124°50.92′ W. long.;
(72) 47°15.60′ N. lat., 124°52.62′ W. long.;
(73) 47°14.25′ N. lat., 124°52.49′ W. long.;
(74) 47°11.32′ N. lat., 124°57.19′ W. long.;
(75) 47°09.14′ N. lat., 124°57.46′ W. long.;
(76) 47°08.83′ N. lat., 124°58.47′ W. long.;
(77) 47°05.88′ N. lat., 124°58.26′ W. long.;
(78) 47°03.60′ N. lat., 124°55.84′ W. long.;
(79) 47°02.91′ N. lat., 124°56.15′ W. long.;
(80) 47°01.08′ N. lat., 124°59.46′ W. long.;
(81) 46°58.13′ N. lat., 124°58.83′ W. long.;
(82) 46°57.44′ N. lat., 124°57.78′ W. long.;
(83) 46°55.98′ N. lat., 124°54.60′ W. long.;
(84) 46°54.90′ N. lat., 124°54.14′ W. long.;
(85) 46°58.47′ N. lat., 124°49.65′ W. long.;
(86) 46°54.44′ N. lat., 124°48.79′ W. long.;
(87) 46°54.41′ N. lat., 124°52.87′ W. long.;
(88) 46°49.36′ N. lat., 124°52.77′ W. long.;
(89) 46°40.06′ N. lat., 124°45.34′ W. long.;
(90) 46°39.64′ N. lat., 124°42.21′ W. long.;
(91) 46°34.27′ N. lat., 124°34.63′ W. long.;
(92) 46°33.58′ N. lat., 124°29.10′ W. long.;
(93) 46°25.64′ N. lat., 124°32.57′ W. long.;
(94) 46°21.33′ N. lat., 124°36.36′ W. long.;
(95) 46°20.59′ N. lat., 124°36.15′ W. long.;
(96) 46°19.38′ N. lat., 124°38.21′ W. long.;
(97) 46°17.94′ N. lat., 124°38.10′ W. long.;
(98) 46°16.00′ N. lat., 124°22.17′ W. long.;
(99) 46°13.37′ N. lat., 124°30.70′ W. long.;
(100) 46°12.20′ N. lat., 124°36.04′ W. long.;
(101) 46°11.01′ N. lat., 124°38.68′ W. long.;
(102) 46°09.73′ N. lat., 124°39.91′ W. long.;
(103) 46°03.23′ N. lat., 124°42.03′ W. long.;
(104) 46°01.17′ N. lat., 124°42.06′ W. long.;
(105) 46°00.35′ N. lat., 124°42.26′ W. long.;
(106) 45°52.81′ N. lat., 124°41.62′ W. long.;
(107) 45°49.70′ N. lat., 124°41.14′ W. long.;
(108) 45°46.00′ N. lat., 124°38.92′ W. long.;
(109) 45°45.18′ N. lat., 124°38.39′ W. long.;
(110) 45°43.24′ N. lat., 124°37.77′ W. long.;
(111) 45°34.75′ N. lat., 124°28.59′ W. long.;
(112) 45°20.25′ N. lat., 124°21.52′ W. long.;
(113) 45°19.90′ N. lat., 124°21.34′ W. long.;
(114) 45°12.44′ N. lat., 124°19.35′ W. long.;
(115) 45°07.48′ N. lat., 124°19.73′ W. long.;
(116) 45°03.83′ N. lat., 124°21.20′ W. long.;
(117) 44°59.96′ N. lat., 124°22.91′ W. long.;
(118) 44°54.72′ N. lat., 124°26.84′ W. long.;
(119) 44°51.15′ N. lat., 124°31.41′ W. long.;
(120) 44°49.97′ N. lat., 124°32.37′ W. long.;
(121) 44°47.06′ N. lat., 124°34.43′ W. long.;
(122) 44°41.37′ N. lat., 124°36.51′ W. long.;
(123) 44°32.78′ N. lat., 124°37.86′ W. long.;
(124) 44°29.44′ N. lat., 124°44.25′ W. long.;
(125) 44°27.95′ N. lat., 124°45.13′ W. long.;
(126) 44°24.73′ N. lat., 124°47.42′ W. long.;
(127) 44°19.67′ N. lat., 124°51.17′ W. long.;
(128) 44°17.96′ N. lat., 124°52.53′ W. long.;
(129) 44°13.70′ N. lat., 124°56.45′ W. long.;
(130) 44°12.26′ N. lat., 124°57.53′ W. long.;
(131) 44°08.30′ N. lat., 124°57.17′ W. long.;
(132) 44°07.57′ N. lat., 124°57.19′ W. long.;
(133) 44°04.78′ N. lat., 124°56.31′ W. long.;
(134) 44°01.14′ N. lat., 124°56.07′ W. long.;
(135) 43°57.39′ N. lat., 124°57.01′ W. long.;
(136) 43°54.58′ N. lat., 124°52.18′ W. long.;
(137) 43°53.18′ N. lat., 124°47.41′ W. long.;
(138) 43°53.60′ N. lat., 124°37.45′ W. long.;
(139) 43°53.04′ N. lat., 124°36.00′ W. long.;
(140) 43°47.93′ N. lat., 124°35.18′ W. long.;
(141) 43°39.32′ N. lat., 124°35.14′ W. long.;
(142) 43°32.38′ N. lat., 124°35.26′ W. long.;
(143) 43°30.32′ N. lat., 124°36.79′ W. long.;
(144) 43°27.81′ N. lat., 124°36.42′ W. long.;
(145) 43°23.73′ N. lat., 124°39.66′ W. long.;
(146) 43°20.83′ N. lat., 124°41.18′ W. long.;
(147) 43°10.48′ N. lat., 124°43.54′ W. long.;
(148) 43°04.77′ N. lat., 124°45.51′ W. long.;
(149) 43°05.94′ N. lat., 124°49.77′ W. long.;
(150) 43°03.38′ N. lat., 124°51.86′ W. long.;
(151) 42°59.32′ N. lat., 124°51.93′ W. long.;
(152) 42°56.80′ N. lat., 124°53.38′ W. long.;
(153) 42°54.54′ N. lat., 124°52.72′ W. long.;
(154) 42°52.89′ N. lat., 124°47.45′ W. long.;
(155) 42°50.00′ N. lat., 124°47.03′ W. long.;
(156) 42°48.10′ N. lat., 124°46.75′ W. long.;
(157) 42°46.34′ N. lat., 124°43.53′ W. long.;
(158) 42°41.66′ N. lat., 124°42.70′ W. long.;
(159) 42°40.50′ N. lat., 124°42.69′ W. long.;

(160) 42°32.53′ N. lat., 124°42.77′ W. long.;
(161) 42°29.74′ N. lat., 124°43.81′ W. long.;
(162) 42°28.07′ N. lat., 124°47.65′ W. long.;
(163) 42°21.58′ N. lat., 124°41.41′ W. long.;
(164) 42°15.17′ N. lat., 124°36.25′ W. long.;
(165) 42°13.67′ N. lat., 124°36.20′ W. long.;
(166) 42°08.28′ N. lat., 124°36.08′ W. long.;
(167) 42°00.00′ N. lat., 124°35.46′ W. long.;
(168) 41°47.67′ N. lat., 124°28.67′ W. long.;
(169) 41°32.91′ N. lat., 124°29.01′ W. long.;
(170) 41°22.57′ N. lat., 124°28.66′ W. long.;
(171) 41°13.38′ N. lat., 124°22.88′ W. long.;
(172) 41°06.42′ N. lat., 124°22.02′ W. long.;
(173) 40°50.19′ N. lat., 124°25.58′ W. long.;
(174) 40°44.08′ N. lat., 124°30.43′ W. long.;
(175) 40°40.54′ N. lat., 124°31.75′ W. long.;
(176) 40°37.36′ N. lat., 124°29.17′ W. long.;
(177) 40°35.30′ N. lat., 124°30.03′ W. long.;
(178) 40°37.02′ N. lat., 124°37.10′ W. long.;
(179) 40°35.82′ N. lat., 124°39.58′ W. long.;
(180) 40°31.70′ N. lat., 124°39.97′ W. long.;
(181) 40°30.00′ N. lat., 124°38.50′ W. long.;
(182) 40°24.77′ N. lat., 124°35.39′ W. long.;
(183) 40°23.22′ N. lat., 124°31.87′ W. long.;
(184) 40°23.40′ N. lat., 124°28.65′ W. long.;
(185) 40°22.30′ N. lat., 124°25.27′ W. long.;
(186) 40°21.91′ N. lat., 124°25.18′ W. long.;
(187) 40°21.91′ N. lat., 124°27.97′ W. long.;
(188) 40°21.37′ N. lat., 124°29.03′ W. long.;
(189) 40°19.74′ N. lat., 124°28.71′ W. long.;
(190) 40°18.52′ N. lat., 124°27.26′ W. long.;
(191) 40°17.57′ N. lat., 124°25.49′ W. long.;
(192) 40°18.20′ N. lat., 124°23.63′ W. long.;
(193) 40°15.89′ N. lat., 124°26.00′ W. long.;
(194) 40°17.00′ N. lat., 124°35.01′ W. long.;
(195) 40°15.97′ N. lat., 124°35.91′ W. long.;
(196) 40°10.00′ N. lat., 124°22.00′ W. long.;
(197) 40°07.35′ N. lat., 124°18.64′ W. long.;
(198) 40°08.46′ N. lat., 124°16.24′ W. long.;
(199) 40°06.26′ N. lat., 124°17.54′ W. long.;
(200) 40°03.26′ N. lat., 124°15.30′ W. long.;
(201) 40°02.00′ N. lat., 124°12.97′ W. long.;
(202) 40°02.60′ N. lat., 124°10.61′ W. long.;
(203) 40°03.63′ N. lat., 124°09.12′ W. long.;
(204) 40°02.18′ N. lat., 124°09.07′ W. long.;
(205) 40°01.26′ N. lat., 124°09.86′ W. long.;
(206) 39°58.05′ N. lat., 124°11.87′ W. long.;
(207) 39°56.39′ N. lat., 124°08.70′ W. long.;
(208) 39°54.64′ N. lat., 124°07.31′ W. long.;
(209) 39°53.87′ N. lat., 124°07.95′ W. long.;
(210) 39°52.42′ N. lat., 124°08.18′ W. long.;
(211) 39°42.50′ N. lat., 124°00.60′ W. long.;
(212) 39°34.23′ N. lat., 123°56.82′ W. long.;
(213) 39°33.00′ N. lat., 123°56.44′ W. long.;
(214) 39°30.96′ N. lat., 123°56.00′ W. long.;
(215) 39°32.03′ N. lat., 123°57.44′ W. long.;
(216) 39°31.43′ N. lat., 123°58.16′ W. long.;
(217) 39°05.56′ N. lat., 123°57.24′ W. long.;
(218) 39°01.75′ N. lat., 123°56.83′ W. long.;
(219) 38°59.52′ N. lat., 123°55.95′ W. long.;
(220) 38°58.98′ N. lat., 123°56.57′ W. long.;
(221) 38°57.50′ N. lat., 123°56.57′ W. long.;
(222) 38°53.91′ N. lat., 123°56.00′ W. long.;
(223) 38°42.57′ N. lat., 123°46.60′ W. long.;
(224) 38°28.72′ N. lat., 123°35.61′ W. long.;
(225) 38°28.01′ N. lat., 123°36.47′ W. long.;
(226) 38°20.94′ N. lat., 123°31.26′ W. long.;
(227) 38°15.94′ N. lat., 123°25.33′ W. long.;
(228) 38°10.95′ N. lat., 123°23.19′ W. long.;
(229) 38°05.52′ N. lat., 123°22.90′ W. long.;
(230) 38°08.46′ N. lat., 123°26.23′ W. long.;
(231) 38°06.95′ N. lat., 123°28.03′ W. long.;
(232) 38°06.34′ N. lat., 123°29.80′ W. long.;
(233) 38°04.57′ N. lat., 123°31.24′ W. long.;
(234) 38°02.33′ N. lat., 123°31.02′ W. long.;
(235) 38°00.00′ N. lat., 123°28.23′ W. long.;
(236) 37°58.10′ N. lat., 123°26.69′ W. long.;
(237) 37°55.46′ N. lat., 123°27.05′ W. long.;
(238) 37°51.51′ N. lat., 123°24.86′ W. long.;
(239) 37°45.01′ N. lat., 123°12.09′ W. long.;
(240) 37°35.67′ N. lat., 123°01.56′ W. long.;
(241) 37°26.62′ N. lat., 122°56.21′ W. long.;
(242) 37°14.41′ N. lat., 122°49.07′ W. long.;
(243) 37°11.00′ N. lat., 122°45.87′ W. long.;
(244) 37°07.00′ N. lat., 122°41.97′ W. long.;
(245) 37°03.19′ N. lat., 122°38.31′ W. long.;
(246) 37°00.99′ N. lat., 122°35.51′ W. long.;
(247) 36°58.23′ N. lat., 122°27.36′ W. long.;
(248) 37°00.54′ N. lat., 122°24.74′ W. long.;
(249) 36°57.81′ N. lat., 122°24.65′ W. long.;
(250) 36°58.54′ N. lat., 122°21.67′ W. long.;
(251) 36°56.52′ N. lat., 122°21.70′ W. long.;
(252) 36°55.37′ N. lat., 122°18.45′ W. long.;
(253) 36°52.16′ N. lat., 122°12.17′ W. long.;
(244) 36°51.53′ N. lat., 122°10.67′ W. long.;
(255) 36°48.05′ N. lat., 122°07.59′ W. long.;
(256) 36°47.35′ N. lat., 122°03.27′ W. long.;
(257) 36°50.71′ N. lat., 121°58.17′ W. long.;
(258) 36°48.89′ N. lat., 121°58.90′ W. long.;
(259) 36°47.70′ N. lat., 121°58.76′ W. long.;
(260) 36°48.37′ N. lat., 121°51.15′ W. long.;
(261) 36°45.74′ N. lat., 121°54.18′ W. long.;
(262) 36°45.50′ N. lat., 121°57.73′ W. long.;
(263) 36°44.02′ N. lat., 121°58.55′ W. long.;
(264) 36°38.84′ N. lat., 122°01.32′ W. long.;

(265) 36°35.63′ N. lat., 122°00.98′ W. long.;
(266) 36°32.47′ N. lat., 121°59.17′ W. long.;
(267) 36°32.52′ N. lat., 121°57.62′ W. long.;
(268) 36°30.16′ N. lat., 122°00.55′ W. long.;
(269) 36°24.56′ N. lat., 121°59.19′ W. long.;
(270) 36°22.19′ N. lat., 122°00.30′ W. long.;
(271) 36°20.62′ N. lat., 122°02.93′ W. long.;
(272) 36°18.89′ N. lat., 122°05.18′ W. long.;
(273) 36°14.45′ N. lat., 121°59.44′ W. long.;
(274) 36°13.73′ N. lat., 121°57.38′ W. long.;
(275) 36°14.41′ N. lat., 121°55.45′ W. long.;
(276) 36°10.25′ N. lat., 121°43.08′ W. long.;
(277) 36°07.67′ N. lat., 121°40.92′ W. long.;
(278) 36°02.51′ N. lat., 121°36.76′ W. long.;
(279) 36°00.00′ N. lat., 121°35.15′ W. long.;
(280) 35°57.84′ N. lat., 121°33.10′ W. long.;
(281) 35°45.57′ N. lat., 121°27.26′ W. long.;
(282) 35°39.02′ N. lat., 121°22.86′ W. long.;
(283) 35°25.92′ N. lat., 121°05.52′ W. long.;
(284) 35°16.26′ N. lat., 121°01.50′ W. long.;
(285) 35°07.60′ N. lat., 120°56.49′ W. long.;
(286) 34°57.77′ N. lat., 120°53.87′ W. long.;
(287) 34°42.30′ N. lat., 120°53.42′ W. long.;
(288) 34°37.69′ N. lat., 120°50.04′ W. long.;
(289) 34°30.13′ N. lat., 120°44.45′ W. long.;
(290) 34°27.00′ N. lat., 120°39.24′ W. long.;
(291) 34°24.71′ N. lat., 120°35.37′ W. long.;
(292) 34°21.63′ N. lat., 120°24.86′ W. long.;
(293) 34°24.39′ N. lat., 120°16.65′ W. long.;
(294) 34°22.48′ N. lat., 119°56.42′ W. long.;
(295) 34°18.54′ N. lat., 119°46.26′ W. long.;
(296) 34°16.37′ N. lat., 119°45.12′ W. long.;
(297) 34°15.91′ N. lat., 119°47.29′ W. long.;
(298) 34°13.80′ N. lat., 119°45.40′ W. long.;
(299) 34°11.69′ N. lat., 119°41.80′ W. long.;
(300) 34°09.98′ N. lat., 119°31.87′ W. long.;
(301) 34°08.12′ N. lat., 119°27.71′ W. long.;
(302) 34°06.35′ N. lat., 119°32.65′ W. long.;
(303) 34°06.80′ N. lat., 119°40.08′ W. long.;
(304) 34°07.48′ N. lat., 119°47.54′ W. long.;
(305) 34°08.21′ N. lat., 119°54.90′ W. long.;
(306) 34°06.85′ N. lat., 120°05.60′ W. long.;
(307) 34°06.99′ N. lat., 120°10.37′ W. long.;
(308) 34°08.53′ N. lat., 120°17.89′ W. long.;
(309) 34°10.00′ N. lat., 120°23.05′ W. long.;
(310) 34°12.53′ N. lat., 120°29.82′ W. long.;
(311) 34°09.02′ N. lat., 120°37.47′ W. long.;
(312) 34°01.01′ N. lat., 120°31.17′ W. long.;
(313) 33°58.07′ N. lat., 120°28.33′ W. long.;
(314) 33°53.37′ N. lat., 120°14.43′ W. long.;
(315) 33°50.53′ N. lat., 120°07.20′ W. long.;
(316) 33°45.88′ N. lat., 120°04.26′ W. long.;
(317) 33°38.19′ N. lat., 119°57.85′ W. long.;
(318) 33°38.19′ N. lat., 119°50.42′ W. long.;
(319) 33°42.36′ N. lat., 119°49.60′ W. long.;
(320) 33°53.95′ N. lat., 119°53.81′ W. long.;
(321) 33°55.85′ N. lat., 119°43.34′ W. long.;
(322) 33°58.48′ N. lat., 119°27.90′ W. long.;
(323) 34°00.34′ N. lat., 119°19.22′ W. long.;
(324) 34°04.48′ N. lat., 119°15.32′ W. long.;
(325) 34°02.80′ N. lat., 119°12.95′ W. long.;
(326) 34°02.39′ N. lat., 119°07.17′ W. long.;
(327) 34°03.75′ N. lat., 119°04.72′ W. long.;
(328) 34°01.82′ N. lat., 119°03.24′ W. long.;
(329) 33°59.33′ N. lat., 119°03.49′ W. long.;
(330) 33°59.01′ N. lat., 118°59.56′ W. long.;
(331) 33°59.51′ N. lat., 118°57.25′ W. long.;
(332) 33°58.83′ N. lat., 118°52.50′ W. long.;
(333) 33°58.55′ N. lat., 118°41.86′ W. long.;
(334) 33°55.10′ N. lat., 118°34.25′ W. long.;
(335) 33°54.30′ N. lat., 118°38.71′ W. long.;
(336) 33°50.88′ N. lat., 118°37.02′ W. long.;
(337) 33°39.78′ N. lat., 118°18.40′ W. long.;
(338) 33°35.50′ N. lat., 118°16.85′ W. long.;
(339) 33°32.46′ N. lat., 118°10.90′ W. long.;
(340) 33°34.11′ N. lat., 117°54.07′ W. long.;
(341) 33°31.61′ N. lat., 117°49.30′ W. long.;
(342) 33°16.36′ N. lat., 117°35.48′ W. long.;
(343) 33°06.81′ N. lat., 117°22.93′ W. long.;
(344) 32°59.28′ N. lat., 117°19.69′ W. long.;
(345) 32°55.37′ N. lat., 117°19.55′ W. long.;
(346) 32°53.35′ N. lat., 117°17.05′ W. long.;
(347) 32°53.36′ N. lat., 117°19.12′ W. long.;
(348) 32°46.42′ N. lat., 117°23.45′ W. long.;
(349) 32°42.71′ N. lat., 117°21.45′ W. long.; and
(350) 32°34.54′ N. lat., 117°23.04′ W. long.

(e) The 125 fm (229 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°04.73′ N. lat., 118°37.99′ W. long.;
(2) 33°02.67′ N. lat., 118°34.07′ W. long.;
(3) 32°55.97′ N. lat., 118°28.95′ W. long.;
(4) 32°49.79′ N. lat., 118°20.89′ W. long.;
(5) 32°48.02′ N. lat., 118°19.49′ W. long.;
(6) 32°47.37′ N. lat., 118°21.72′ W. long.;
(7) 32°43.58′ N. lat., 118°24.54′ W. long.;
(8) 32°49.74′ N. lat., 118°32.11′ W. long.;
(9) 32°53.36′ N. lat., 118°33.44′ W. long.;
(10) 32°55.03′ N. lat., 118°34.64′ W. long.;
(11) 32°54.89′ N. lat., 118°35.37′ W. long.;
(12) 33°00.20′ N. lat., 118°38.72′ W. long.;
(13) 33°03.15′ N. lat., 118°39.80′ W. long.; and
(14) 33°04.73′ N. lat., 118°37.99′ W. long.

(f) The 125 fm (229 m) depth contour around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°28.42′ N. lat., 118°39.85′ W. long.;
(2) 33°29.99′ N. lat., 118°36.14′ W. long.;
(3) 33°29.47′ N. lat., 118°33.66′ W. long.;
(4) 33°29.31′ N. lat., 118°30.53′ W. long.;
(5) 33°27.24′ N. lat., 118°27.71′ W. long.;
(6) 33°25.77′ N. lat., 118°22.57′ W. long.;
(7) 33°23.76′ N. lat., 118°19.27′ W. long.;
(8) 33°17.61′ N. lat., 118°13.61′ W. long.;
(9) 33°16.16′ N. lat., 118°13.98′ W. long.;
(10) 33°15.86′ N. lat., 118°15.27′ W. long.;
(11) 33°18.11′ N. lat., 118°27.96′ W. long.;
(12) 33°19.83′ N. lat., 118°32.16′ W. long.;
(13) 33°20.81′ N. lat., 118°32.94′ W. long.;
(14) 33°21.99′ N. lat., 118°32.04′ W. long.;
(15) 33°23.09′ N. lat., 118°30.37′ W. long.;
(16) 33°24.78′ N. lat., 118°32.46′ W. long.;
(17) 33°25.43′ N. lat., 118°34.93′ W. long.; and
(18) 33°28.42′ N. lat., 118°39.85′ W. long.

(g) The 125 fm (229 m) depth contour around Lasuen Knoll off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°24.57′ N. lat., 118°00.15′ W. long.;
(2) 33°23.42′ N. lat., 117°59.43′ W. long.;
(3) 33°23.69′ N. lat., 117°58.72′ W. long.;
(4) 33°24.72′ N. lat., 117°59.51′ W. long.; and
(5) 33°24.57′ N. lat., 118°00.15′ W. long.

(h) The 150 fm (274 m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:
(1) 48°14.96′ N. lat., 125°41.24′ W. long.;
(2) 48°12.89′ N. lat., 125°37.83′ W. long.;
(3) 48°11.49′ N. lat., 125°39.27′ W. long.;
(4) 48°08.72′ N. lat., 125°41.84′ W. long.;
(5) 48°07.00′ N. lat., 125°45.00′ W. long.;
(6) 48°06.13′ N. lat., 125°41.57′ W. long.;
(7) 48°05.00′ N. lat., 125°39.00′ W. long.;
(8) 48°04.15′ N. lat., 125°36.71′ W. long.;
(9) 48°03.00′ N. lat., 125°36.00′ W. long.;
(10) 48°01.65′ N. lat., 125°36.96′ W. long.;
(11) 48°01.00′ N. lat., 125°38.50′ W. long.;
(12) 47°57.50′ N. lat., 125°36.50′ W. long.;
(13) 47°56.53′ N. lat., 125°30.33′ W. long.;
(14) 47°57.28′ N. lat., 125°27.89′ W. long.;
(15) 47°59.00′ N. lat., 125°25.50′ W. long.;
(16) 48°01.77′ N. lat., 125°24.05′ W. long.;
(17) 48°02.08′ N. lat., 125°22.98′ W. long.;
(18) 48°03.00′ N. lat., 125°22.50′ W. long.;
(19) 48°03.46′ N. lat., 125°22.10′ W. long.;
(20) 48°04.29′ N. lat., 125°20.37′ W. long.;
(21) 48°02.00′ N. lat., 125°18.50′ W. long.;
(22) 48°00.01′ N. lat., 125°19.90′ W. long.;
(23) 47°58.75′ N. lat., 125°17.54′ W. long.;
(24) 47°53.50′ N. lat., 125°13.50′ W. long.;
(25) 47°48.88′ N. lat., 125°05.91′ W. long.;
(26) 47°48.50′ N. lat., 125°05.00′ W. long.;
(27) 47°45.98′ N. lat., 125°04.26′ W. long.;
(28) 47°45.00′ N. lat., 125°05.50′ W. long.;
(29) 47°42.11′ N. lat., 125°04.74′ W. long.;
(30) 47°39.00′ N. lat., 125°06.00′ W. long.;
(31) 47°35.53′ N. lat., 125°04.55′ W. long.;
(32) 47°30.90′ N. lat., 124°57.31′ W. long.;
(33) 47°29.54′ N. lat., 124°56.50′ W. long.;
(34) 47°29.50′ N. lat., 124°54.50′ W. long.;
(35) 47°28.57′ N. lat., 124°51.50′ W. long.;
(36) 47°25.00′ N. lat., 124°48.00′ W. long.;
(37) 47°23.95′ N. lat., 124°47.24′ W. long.;
(38) 47°23.00′ N. lat., 124°47.00′ W. long.;
(39) 47°21.00′ N. lat., 124°46.50′ W. long.;
(40) 47°18.20′ N. lat., 124°45.84′ W. long.;
(41) 47°18.50′ N. lat., 124°49.00′ W. long.;
(42) 47°19.17′ N. lat., 124°50.86′ W. long.;
(43) 47°18.07′ N. lat., 124°53.29′ W. long.;
(44) 47°17.78′ N. lat., 124°51.39′ W. long.;
(45) 47°16.81′ N. lat., 124°50.85′ W. long.;
(46) 47°15.96′ N. lat., 124°53.15′ W. long.;
(47) 47°14.31′ N. lat., 124°52.62′ W. long.;
(48) 47°11.87′ N. lat., 124°56.90′ W. long.;
(49) 47°12.39′ N. lat., 124°58.09′ W. long.;
(50) 47°09.50′ N. lat., 124°57.50′ W. long.;
(51) 47°09.00′ N. lat., 124°59.00′ W. long.;
(52) 47°06.06′ N. lat., 124°58.80′ W. long.;
(53) 47°03.62′ N. lat., 124°55.96′ W. long.;
(54) 47°02.89′ N. lat., 124°56.89′ W. long.;
(55) 47°01.04′ N. lat., 124°59.54′ W. long.;
(56) 46°58.47′ N. lat., 124°59.08′ W. long.;
(57) 46°58.29′ N. lat., 125°00.28′ W. long.;
(58) 46°56.30′ N. lat., 125°00.75′ W. long.;
(59) 46°57.09′ N. lat., 124°58.86′ W. long.;
(60) 46°55.95′ N. lat., 124°54.88′ W. long.;
(61) 46°54.79′ N. lat., 124°54.14′ W. long.;
(62) 46°58.00′ N. lat., 124°50.00′ W. long.;
(63) 46°54.50′ N. lat., 124°49.00′ W. long.;
(64) 46°54.53′ N. lat., 124°52.94′ W. long.;
(65) 46°49.52′ N. lat., 124°53.41′ W. long.;
(66) 46°42.24′ N. lat., 124°47.86′ W. long.;
(67) 46°39.50′ N. lat., 124°42.50′ W. long.;
(68) 46°37.50′ N. lat., 124°41.00′ W. long.;
(69) 46°36.50′ N. lat., 124°38.00′ W. long.;
(70) 46°33.85′ N. lat., 124°36.99′ W. long.;
(71) 46°33.50′ N. lat., 124°29.50′ W. long.;
(72) 46°32.00′ N. lat., 124°31.00′ W. long.;
(73) 46°30.53′ N. lat., 124°30.55′ W. long.;
(74) 46°25.50′ N. lat., 124°33.00′ W. long.;
(75) 46°23.00′ N. lat., 124°35.00′ W. long.;
(76) 46°21.05′ N. lat., 124°37.00′ W. long.;

(77) 46°20.64′ N. lat., 124°36.21′ W. long.;
(78) 46°20.36′ N. lat., 124°37.85′ W. long.;
(79) 46°19.48′ N. lat., 124°38.35′ W. long.;
(80) 46°17.87′ N. lat., 124°38.54′ W. long.;
(81) 46°16.15′ N. lat., 124°25.20′ W. long.;
(82) 46°16.00′ N. lat., 124°23.00′ W. long.;
(83) 46°14.87′ N. lat., 124°26.15′ W. long.;
(84) 46°13.38′ N. lat., 124°31.36′ W. long.;
(85) 46°12.09′ N. lat., 124°38.39′ W. long.;
(86) 46°09.46′ N. lat., 124°40.64′ W. long.;
(87) 46°07.30′ N. lat., 124°40.68′ W. long.;
(88) 46°02.76′ N. lat., 124°44.01′ W. long.;
(89) 46°01.22′ N. lat., 124°43.47′ W. long.;
(90) 45°51.82′ N. lat., 124°42.89′ W. long.;
(91) 45°46.00′ N. lat., 124°40.88′ W. long.;
(92) 45°45.95′ N. lat., 124°40.72′ W. long.;
(93) 45°44.11′ N. lat., 124°43.09′ W. long.;
(94) 45°34.50′ N. lat., 124°30.27′ W. long.;
(95) 45°21.10′ N. lat., 124°23.11′ W. long.;
(96) 45°20.25′ N. lat., 124°22.92′ W. long.;
(97) 45°09.69′ N. lat., 124°20.45′ W. long.;
(98) 45°03.83′ N. lat., 124°23.30′ W. long.;
(99) 44°56.25′ N. lat., 124°27.03′ W. long.;
(100) 44°44.47′ N. lat., 124°37.85′ W. long.;
(101) 44°31.81′ N. lat., 124°39.60′ W. long.;
(102) 44°31.48′ N. lat., 124°43.30′ W. long.;
(103) 44°12.04′ N. lat., 124°58.16′ W. long.;
(104) 44°08.30′ N. lat., 124°57.84′ W. long.;
(105) 44°07.38′ N. lat., 124°57.87′ W. long.;
(106) 43°57.06′ N. lat., 124°57.20′ W. long.;
(107) 43°52.52′ N. lat., 124°49.00′ W. long.;
(108) 43°51.55′ N. lat., 124°37.49′ W. long.;
(109) 43°47.83′ N. lat., 124°36.43′ W. long.;
(110) 43°31.79′ N. lat., 124°36.80′ W. long.;
(111) 43°29.34′ N. lat., 124°36.77′ W. long.;
(112) 43°26.46′ N. lat., 124°40.02′ W. long.;
(113) 43°20.83′ N. lat., 124°42.39′ W. long.;
(114) 43°16.15′ N. lat., 124°44.37′ W. long.;
(115) 43°09.33′ N. lat., 124°45.35′ W. long.;
(116) 43°08.85′ N. lat., 124°48.92′ W. long.;
(117) 43°03.23′ N. lat., 124°52.41′ W. long.;
(118) 43°00.25′ N. lat., 124°51.93′ W. long.;
(119) 42°56.62′ N. lat., 124°53.93′ W. long.;
(120) 42°54.84′ N. lat., 124°54.01′ W. long.;
(121) 42°52.31′ N. lat., 124°50.76′ W. long.;
(122) 42°50.00′ N. lat., 124°48.97′ W. long.;
(123) 42°47.78′ N. lat., 124°47.27′ W. long.;
(124) 42°46.32′ N. lat., 124°43.59′ W. long.;
(125) 42°41.63′ N. lat., 124°44.07′ W. long.;
(126) 42°40.50′ N. lat., 124°43.52′ W. long.;
(127) 42°38.83′ N. lat., 124°42.77′ W. long.;
(128) 42°35.37′ N. lat., 124°43.22′ W. long.;
(129) 42°32.78′ N. lat., 124°44.68′ W. long.;
(130) 42°32.19′ N. lat., 124°42.40′ W. long.;
(131) 42°30.28′ N. lat., 124°44.30′ W. long.;
(132) 42°28.16′ N. lat., 124°48.38′ W. long.;
(133) 42°18.34′ N. lat., 124°38.77′ W. long.;
(134) 42°13.67′ N. lat., 124°36.80′ W. long.;
(135) 42°13.65′ N. lat., 124°36.82′ W. long.;
(136) 42°00.00′ N. lat., 124°35.99′ W. long.;
(137) 41°47.80′ N. lat., 124°29.41′ W. long.;
(138) 41°23.51′ N. lat., 124°29.50′ W. long.;
(139) 41°13.29′ N. lat., 124°23.31′ W. long.;
(140) 41°06.23′ N. lat., 124°22.62′ W. long.;
(141) 40°55.60′ N. lat., 124°26.04′ W. long.;
(142) 40°49.62′ N. lat., 124°26.57′ W. long.;
(143) 40°45.72′ N. lat., 124°30.00′ W. long.;
(144) 40°40.56′ N. lat., 124°32.11′ W. long.;
(145) 40°37.33′ N. lat., 124°29.27′ W. long.;
(146) 40°35.60′ N. lat., 124°30.49′ W. long.;
(147) 40°37.38′ N. lat., 124°37.14′ W. long.;
(148) 40°36.03′ N. lat., 124°39.97′ W. long.;
(149) 40°31.58′ N. lat., 124°40.74′ W. long.;
(150) 40°30.00′ N. lat., 124°38.50′ W. long.;
(151) 40°29.76′ N. lat., 124°38.13′ W. long.;
(152) 40°28.22′ N. lat., 124°37.23′ W. long.;
(153) 40°24.86′ N. lat., 124°35.71′ W. long.;
(154) 40°23.01′ N. lat., 124°31.94′ W. long.;
(155) 40°23.39′ N. lat., 124°28.64′ W. long.;
(156) 40°22.29′ N. lat., 124°25.25′ W. long.;
(157) 40°21.90′ N. lat., 125°25.18′ W. long.;
(158) 40°22.02′ N. lat., 124°28.00′ W. long.;
(159) 40°21.34′ N. lat., 124°29.53′ W. long.;
(160) 40°19.74′ N. lat., 124°28.95′ W. long.;
(161) 40°18.13′ N. lat., 124°27.08′ W. long.;
(162) 40°17.45′ N. lat., 124°25.53′ W. long.;
(163) 40°17.97′ N. lat., 124°24.12′ W. long.;
(164) 40°15.96′ N. lat., 124°26.05′ W. long.;
(165) 40°17.00′ N. lat., 124°35.01′ W. long.;
(166) 40°15.97′ N. lat., 124°35.90′ W. long.;
(167) 40°10.00′ N. lat., 124°22.96′ W. long.;
(168) 40°07.00′ N. lat., 124°19.00′ W. long.;
(169) 40°08.10′ N. lat., 124°16.70′ W. long.;
(170) 40°05.90′ N. lat., 124°17.77′ W. long.;
(171) 40°02.99′ N. lat., 124°15.55′ W. long.;
(172) 40°02.00′ N. lat., 124°12.97′ W. long.;
(173) 40°02.60′ N. lat., 124°10.61′ W. long.;
(174) 40°03.63′ N. lat., 124°09.12′ W. long.;
(175) 40°02.18′ N. lat., 124°09.07′ W. long.;
(176) 39°58.25′ N. lat., 124°12.56′ W. long.;
(177) 39°57.03′ N. lat., 124°11.34′ W. long.;
(178) 39°56.30′ N. lat., 124°08.96′ W. long.;
(179) 39°54.82′ N. lat., 124°07.66′ W. long.;
(180) 39°52.57′ N. lat., 124°08.55′ W. long.;
(181) 39°45.34′ N. lat., 124°03.30′ W. long.;

(182) 39°34.75′ N. lat., 123°58.50′ W. long.;
(183) 39°34.22′ N. lat., 123°56.82′ W. long.;
(184) 39°32.98′ N. lat., 123°56.43′ W. long.;
(185) 39°31.47′ N. lat., 123°58.73′ W. long.;
(186) 39°05.68′ N. lat., 123°57.81′ W. long.;
(187) 39°00.24′ N. lat., 123°56.74′ W. long.;
(188) 38°57.50′ N. lat., 123°56.74′ W. long.;
(189) 38°54.31′ N. lat., 123°56.73′ W. long.;
(190) 38°41.42′ N. lat., 123°46.75′ W. long.;
(191) 38°39.61′ N. lat., 123°46.48′ W. long.;
(192) 38°37.52′ N. lat., 123°43.78′ W. long.;
(193) 38°35.25′ N. lat., 123°42.00′ W. long.;
(194) 38°28.79′ N. lat., 123°37.07′ W. long.;
(195) 38°19.88′ N. lat., 123°32.54′ W. long.;
(196) 38°14.43′ N. lat., 123°25.56′ W. long.;
(197) 38°08.75′ N. lat., 123°24.48′ W. long.;
(198) 38°10.10′ N. lat., 123°27.20′ W. long.;
(199) 38°07.16′ N. lat., 123°28.18′ W. long.;
(200) 38°06.42′ N. lat., 123°30.18′ W. long.;
(201) 38°04.28′ N. lat., 123°31.70′ W. long.;
(202) 38°01.88′ N. lat., 123°30.98′ W. long.;
(203) 38°00.75′ N. lat., 123°29.72′ W. long.;
(204) 38°00.00′ N. lat., 123°28.60′ W. long.;
(205) 37°58.23′ N. lat., 123°26.90′ W. long.;
(206) 37°55.32′ N. lat., 123°27.19′ W. long.;
(207) 37°51.47′ N. lat., 123°24.92′ W. long.;
(208) 37°44.47′ N. lat., 123°11.57′ W. long.;
(209) 37°35.67′ N. lat., 123°01.76′ W. long.;
(210) 37°15.16′ N. lat., 122°51.64′ W. long.;
(211) 37°11.00′ N. lat., 122°47.20′ W. long.;
(212) 37°07.00′ N. lat., 122°42.90′ W. long.;
(213) 37°01.68′ N. lat., 122°37.28′ W. long.;
(214) 36°59.70′ N. lat., 122°33.71′ W. long.;
(215) 36°58.00′ N. lat., 122°27.80′ W. long.;
(216) 37°00.25′ N. lat., 122°24.85′ W. long.;
(217) 36°57.50′ N. lat., 122°24.98′ W. long.;
(218) 36°58.38′ N. lat., 122°21.85′ W. long.;
(219) 36°55.85′ N. lat., 122°21.95′ W. long.;
(220) 36°52.02′ N. lat., 122°12.10′ W. long.;
(221) 36°47.63′ N. lat., 122°07.37′ W. long.;
(222) 36°47.26′ N. lat., 122°03.22′ W. long.;
(223) 36°50.34′ N. lat., 121°58.40′ W. long.;
(224) 36°48.83′ N. lat., 121°59.14′ W. long.;
(225) 36°44.81′ N. lat., 121°58.28′ W. long.;
(226) 36°39.00′ N. lat., 122°01.71′ W. long.;
(227) 36°29.60′ N. lat., 122°00.49′ W. long.;
(228) 36°23.43′ N. lat., 121°59.76′ W. long.;
(229) 36°18.90′ N. lat., 122°05.32′ W. long.;
(230) 36°15.38′ N. lat., 122°01.40′ W. long.;
(231) 36°13.79′ N. lat., 121°58.12′ W. long.;
(232) 36°10.12′ N. lat., 121°43.33′ W. long.;
(233) 36°02.57′ N. lat., 121°37.02′ W. long.;
(234) 36°00.00′ N. lat., 121°35.15′ W. long.;
(235) 35°57.74′ N. lat., 121°33.45′ W. long.;
(236) 35°51.32′ N. lat., 121°30.08′ W. long.;
(237) 35°45.84′ N. lat., 121°28.84′ W. long.;
(238) 35°38.94′ N. lat., 121°23.16′ W. long.;
(239) 35°26.00′ N. lat., 121°08.00′ W. long.;
(240) 35°07.42′ N. lat., 120°57.08′ W. long.;
(241) 34°42.76′ N. lat., 120°55.09′ W. long.;
(242) 34°37.75′ N. lat., 120°51.96′ W. long.;
(243) 34°29.29′ N. lat., 120°44.19′ W. long.;
(244) 34°27.00′ N. lat., 120°40.42′ W. long.;
(245) 34°21.89′ N. lat., 120°31.36′ W. long.;
(246) 34°20.79′ N. lat., 120°21.58′ W. long.;
(247) 34°23.97′ N. lat., 120°15.25′ W. long.;
(248) 34°22.11′ N. lat., 119°56.63′ W. long.;
(249) 34°19.00′ N. lat., 119°48.00′ W. long.;
(250) 34°15.00′ N. lat., 119°48.00′ W. long.;
(251) 34°08.00′ N. lat., 119°37.00′ W. long.;
(252) 34°08.39′ N. lat., 119°54.78′ W. long.;
(253) 34°07.10′ N. lat., 120°10.37′ W. long.;
(254) 34°10.08′ N. lat., 120°22.98′ W. long.;
(255) 34°13.16′ N. lat., 120°29.40′ W. long.;
(256) 34°09.41′ N. lat., 120°37.75′ W. long.;
(257) 34°03.15′ N. lat., 120°34.71′ W. long.;
(258) 33°57.09′ N. lat., 120°27.76′ W. long.;
(260) 33°51.00′ N. lat., 120°09.00′ W. long.;
(261) 33°38.16′ N. lat., 119°59.23′ W. long.;
(262) 33°37.04′ N. lat., 119°50.17′ W. long.;
(263) 33°42.28′ N. lat., 119°48.85′ W. long.;
(264) 33°53.96′ N. lat., 119°53.77′ W. long.;
(265) 33°59.94′ N. lat., 119°19.57′ W. long.;
(266) 34°03.12′ N. lat., 119°15.51′ W. long.;
(267) 34°01.97′ N. lat., 119°07.28′ W. long.;
(268) 34°03.60′ N. lat., 119°04.71′ W. long.;
(269) 33°59.30′ N. lat., 119°03.73′ W. long.;
(270) 33°58.87′ N. lat., 118°59.37′ W. long.;
(271) 33°58.08′ N. lat., 118°41.14′ W. long.;
(272) 33°50.93′ N. lat., 118°37.65′ W. long.;
(273) 33°39.54′ N. lat., 118°18.70′ W. long.;
(274) 33°35.42′ N. lat., 118°17.14′ W. long.;
(275) 33°32.15′ N. lat., 118°10.84′ W. long.;
(276) 33°33.71′ N. lat., 117°53.72′ W. long.;
(277) 33°31.17′ N. lat., 117°49.11′ W. long.;
(278) 33°16.53′ N. lat., 117°36.13′ W. long.;
(279) 33°06.77′ N. lat., 117°22.92′ W. long.;
(280) 32°58.94′ N. lat., 117°20.05′ W. long.;
(281) 32°55.83′ N. lat., 117°20.15′ W. long.;
(282) 32°46.29′ N. lat., 117°23.89′ W. long.;
(283) 32°42.00′ N. lat., 117°22.16′ W. long.;
(284) 32°39.47′ N. lat., 117°27.78′ W. long.; and
(285) 32°34.83′ N. lat., 117°24.69′ W. long.

(h) The 150 fm (274 m) depth contour used around San Clemente Island off the state of California is defined by straight

lines connecting all of the following points in the order stated:
(1) 32°47.95′ N. lat., 118°19.31′ W. long.;
(2) 32°49.79′ N. lat., 118°20.82′ W. long.;
(3) 32°55.99′ N. lat., 118°28.80′ W. long.;
(4) 33°03.00′ N. lat., 118°34.00′ W. long.;
(5) 33°05.00′ N. lat., 118°38.00′ W. long.;
(6) 33°03.21′ N. lat., 118°39.85′ W. long.;
(7) 33°01.93′ N. lat., 118°39.85′ W. long.;
(8) 32°54.69′ N. lat., 118°35.45′ W. long.;
(9) 32°53.28′ N. lat., 118°33.58′ W. long.;
(10) 32°48.26′ N. lat., 118°31.62′ W. long.;
(11) 32°43.03′ N. lat., 118°24.21′ W. long.;
(12) 32°47.15′ N. lat., 118°21.53′ W. long.; and
(13) 32°47.95′ N. lat., 118°19.31′ W. long.

(i) The 150 fm (274 m) depth contour used around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°17.24′ N. lat., 118°12.94′ W. long.;
(2) 33°23.60′ N. lat., 118°18.79′ W. long.;
(3) 33°26.00′ N. lat., 118°22.00′ W. long.;
(4) 33°27.57′ N. lat., 118°27.69′ W. long.;
(5) 33°29.78′ N. lat., 118°31.01′ W. long.;
(6) 33°30.46′ N. lat., 118°36.52′ W. long.;
(7) 33°28.65′ N. lat., 118°41.07′ W. long.;
(8) 33°23.23′ N. lat., 118°30.69′ W. long.;
(9) 33°20.97′ N. lat., 118°33.29′ W. long.;
(10) 33°19.81′ N. lat., 118°32.24′ W. long.;
(11) 33°18.00′ N. lat., 118°28.00′ W. long.;
(12) 33°15.62′ N. lat., 118°14.74′ W. long.;
(13) 33°16.00′ N. lat., 118°13.00′ W. long.; and
(14) 33°17.24′ N. lat., 118°12.94′ W. long.

(j) The 150 fm (274 m) depth contour used around Lasuen Knoll off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°24.99′ N. lat., 117°59.32′ W. long.;
(2) 33°23.66′ N. lat., 117°58.28′ W. long.;
(3) 33°23.21′ N. lat., 117°59.55′ W. long.;
(4) 33°24.74′ N. lat., 118°00.61′ W. long.; and
(5) 33°24.99′ N. lat., 117°59.32′ W. long.

■ 23. Section 660.394 is added to read as follows:

§ 660.394 Latitude/longitude coordinates defining the 180 fm (329 m) through 250 fm (457 m) depth contours.

Boundaries for RCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 180 fm (329 m) through 250 fm (457 m) depth contours.

(a) The 180 fm (329 m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:
(1) 48°14.82′ N. lat., 125°41.61′ W. long.;
(2) 48°12.86′ N. lat., 125°37.95′ W. long.;
(3) 48°11.28′ N. lat., 125°39.67′ W. long.;
(4) 48°10.13′ N. lat., 125°42.62′ W. long.;
(5) 48°08.86′ N. lat., 125°41.92′ W. long.;
(6) 48°08.15′ N. lat., 125°44.95′ W. long.;
(7) 48°07.18′ N. lat., 125°45.67′ W. long.;
(8) 48°05.79′ N. lat., 125°44.64′ W. long.;
(9) 48°06.04′ N. lat., 125°41.84′ W. long.;
(10) 48°04.26′ N. lat., 125°40.09′ W. long.;
(11) 48°04.18′ N. lat., 125°36.94′ W. long.;
(12) 48°03.02′ N. lat., 125°36.24′ W. long.;
(13) 48°01.75′ N. lat., 125°37.42′ W. long.;
(14) 48°01.39′ N. lat., 125°39.42′ W. long.;
(15) 47°57.08′ N. lat., 125°36.51′ W. long.;
(16) 47°55.20′ N. lat., 125°36.62′ W. long.;
(17) 47°54.33′ N. lat., 125°34.98′ W. long.;
(18) 47°54.73′ N. lat., 125°31.95′ W. long.;
(19) 47°56.39′ N. lat., 125°30.22′ W. long.;
(20) 47°55.86′ N. lat., 125°28.54′ W. long.;
(21) 47°58.07′ N. lat., 125°25.72′ W. long.;
(22) 48°00.81′ N. lat., 125°24.39′ W. long.;
(23) 48°01.81′ N. lat., 125°23.76′ W. long.;
(24) 48°02.16′ N. lat., 125°22.71′ W. long.;
(25) 48°03.46′ N. lat., 125°22.01′ W. long.;
(26) 48°04.21′ N. lat., 125°20.40′ W. long.;
(27) 48°03.15′ N. lat., 125°19.50′ W. long.;
(28) 48°01.92′ N. lat., 125°18.69′ W. long.;
(29) 48°00.85′ N. lat., 125°20.02′ W. long.;
(30) 48°00.12′ N. lat., 125°20.04′ W. long.;
(31) 47°58.18′ N. lat., 125°18.78′ W. long.;
(32) 47°58.24′ N. lat., 125°17.26′ W. long.;
(33) 47°52.47′ N. lat., 125°15.30′ W. long.;
(34) 47°52.13′ N. lat., 125°12.95′ W. long.;
(35) 47°50.60′ N. lat., 125°10.65′ W. long.;
(36) 47°49.39′ N. lat., 125°10.59′ W. long.;
(37) 47°48.74′ N. lat., 125°06.07′ W. long.;
(38) 47°47.03′ N. lat., 125°06.95′ W. long.;
(39) 47°47.46′ N. lat., 125°05.20′ W. long.;
(40) 47°45.88′ N. lat., 125°04.50′ W. long.;
(41) 47°44.51′ N. lat., 125°06.64′ W. long.;
(42) 47°42.22′ N. lat., 125°04.86′ W. long.;
(43) 47°38.49′ N. lat., 125°06.32′ W. long.;
(44) 47°34.93′ N. lat., 125°04.34′ W. long.;
(45) 47°30.85′ N. lat., 124°57.42′ W. long.;
(46) 47°28.80′ N. lat., 124°56.51′ W. long.;
(47) 47°29.25′ N. lat., 124°53.92′ W. long.;
(48) 47°28.29′ N. lat., 124°51.32′ W. long.;
(49) 47°24.04′ N. lat., 124°47.38′ W. long.;
(50) 47°18.24′ N. lat., 124°45.97′ W. long.;
(51) 47°19.36′ N. lat., 124°50.96′ W. long.;
(52) 47°18.07′ N. lat., 124°53.38′ W. long.;
(53) 47°17.73′ N. lat., 124°52.83′ W. long.;
(54) 47°17.77′ N. lat., 124°51.56′ W. long.;
(55) 47°16.84′ N. lat., 124°50.94′ W. long.;
(56) 47°16.01′ N. lat., 124°53.36′ W. long.;
(57) 47°14.32′ N. lat., 124°52.73′ W. long.;
(58) 47°11.97′ N. lat., 124°56.81′ W. long.;

(59) 47°12.93′ N. lat., 124°58.47′ W. long.;
(60) 47°09.43′ N. lat., 124°57.99′ W. long.;
(61) 47°09.36′ N. lat., 124°59.29′ W. long.;
(62) 47°05.88′ N. lat., 124°59.06′ W. long.;
(63) 47°03.64′ N. lat., 124°56.07′ W. long.;
(64) 47°01.00′ N. lat., 124°59.69′ W. long.;
(65) 46°58.72′ N. lat., 124°59.17′ W. long.;
(66) 46°58.30′ N. lat., 125°00.60′ W. long.;
(67) 46°55.61′ N. lat., 125°01.19′ W. long.;
(68) 46°56.96′ N. lat., 124°58.85′ W. long.;
(69) 46°55.91′ N. lat., 124°54.98′ W. long.;
(70) 46°54.55′ N. lat., 124°54.21′ W. long.;
(71) 46°56.80′ N. lat., 124°50.55′ W. long.;
(72) 46°54.87′ N. lat., 124°49.59′ W. long.;
(73) 46°54.63′ N. lat., 124°53.48′ W. long.;
(74) 46°52.33′ N. lat., 124°54.75′ W. long.;
(75) 46°45.12′ N. lat., 124°51.82′ W. long.;
(76) 46°39.20′ N. lat., 124°47.02′ W. long.;
(77) 46°33.45′ N. lat., 124°36.61′ W. long.;
(78) 46°33.37′ N. lat., 124°30.21′ W. long.;
(79) 46°31.67′ N. lat., 124°31.41′ W. long.;
(80) 46°27.87′ N. lat., 124°32.04′ W. long.;
(81) 46°21.01′ N. lat., 124°37.63′ W. long.;
(82) 46°18.58′ N. lat., 124°38.92′ W. long.;
(83) 46°16.00′ N. lat., 124°23.57′ W. long.;
(84) 46°12.85′ N. lat., 124°35.52′ W. long.;
(85) 46°12.27′ N. lat., 124°38.69′ W. long.;
(86) 46°08.71′ N. lat., 124°41.27′ W. long.;
(87) 46°05.79′ N. lat., 124°42.12′ W. long.;
(88) 46°02.84′ N. lat., 124°48.05′ W. long.;
(89) 46°02.41′ N. lat., 124°48.15′ W. long.;
(90) 45°58.96′ N. lat., 124°43.98′ W. long.;
(91) 45°47.05′ N. lat., 124°43.25′ W. long.;
(92) 45°46.00′ N. lat., 124°43.31′ W. long.;
(93) 45°44.00′ N. lat., 124°45.37′ W. long.;
(94) 45°34.97′ N. lat., 124°31.95′ W. long.;
(95) 45°20.25′ N. lat., 124°25.18′ W. long.;
(96) 45°13.01′ N. lat., 124°21.71′ W. long.;
(97) 45°09.59′ N. lat., 124°22.78′ W. long.;
(98) 45°03.83′ N. lat., 124°26.21′ W. long.;
(99) 45°00.22′ N. lat., 124°28.31′ W. long.;
(100) 44°53.53′ N. lat., 124°32.98′ W. long.;
(101) 44°40.25′ N. lat., 124°46.34′ W. long.;
(102) 44°28.83′ N. lat., 124°47.09′ W. long.;
(103) 44°22.97′ N. lat., 124°49.38′ W. long.;
(104) 44°13.07′ N. lat., 124°58.34′ W. long.;
(105) 44°08.30′ N. lat., 124°58.23′ W. long.;
(106) 43°57.99′ N. lat., 124°57.84′ W. long.;
(107) 43°51.43′ N. lat., 124°52.02′ W. long.;
(108) 43°50.72′ N. lat., 124°39.23′ W. long.;
(109) 43°39.04′ N. lat., 124°37.82′ W. long.;
(110) 43°27.76′ N. lat., 124°39.76′ W. long.;
(111) 43°20.83′ N. lat., 124°42.70′ W. long.;
(112) 43°20.22′ N. lat., 124°42.92′ W. long.;
(113) 43°13.07′ N. lat., 124°46.03′ W. long.;
(114) 43°10.43′ N. lat., 124°50.27′ W. long.;
(115) 43°03.47′ N. lat., 124°52.80′ W. long.;
(116) 42°56.93′ N. lat., 124°53.95′ W. long.;
(117) 42°54.74′ N. lat., 124°54.19′ W. long.;
(118) 42°50.00′ N. lat., 124°52.36′ W. long.;
(119) 42°49.43′ N. lat., 124°52.03′ W. long.;
(120) 42°47.68′ N. lat., 124°47.72′ W. long.;
(121) 42°46.17′ N. lat., 124°44.05′ W. long.;
(122) 42°41.67′ N. lat., 124°44.36′ W. long.;
(123) 42°40.50′ N. lat., 124°43.86′ W. long.;
(124) 42°38.79′ N. lat., 124°42.87′ W. long.;
(125) 42°32.39′ N. lat., 124°45.38′ W. long.;
(126) 42°32.07′ N. lat., 124°43.44′ W. long.;
(127) 42°30.98′ N. lat., 124°43.84′ W. long.;
(128) 42°28.37′ N. lat., 124°48.91′ W. long.;
(129) 42°20.07′ N. lat., 124°41.59′ W. long.;
(130) 42°15.05′ N. lat., 124°38.07′ W. long.;
(131) 42°13.67′ N. lat., 124°37.77′ W. long.;
(132) 42°07.37′ N. lat., 124°37.25′ W. long.;
(133) 42°04.93′ N. lat., 124°36.79′ W. long.;
(134) 42°00.00′ N. lat., 124°36.26′ W. long.;
(135) 41°47.60′ N. lat., 124°29.75′ W. long.;
(136) 41°22.07′ N. lat., 124°29.55′ W. long.;
(137) 41°13.58′ N. lat., 124°24.17′ W. long.;
(138) 41°06.51′ N. lat., 124°23.07′ W. long.;
(139) 40°55.20′ N. lat., 124°27.46′ W. long.;
(140) 40°49.76′ N. lat., 124°27.17′ W. long.;
(141) 40°45.79′ N. lat., 124°30.37′ W. long.;
(142) 40°40.31′ N. lat., 124°32.47′ W. long.;
(143) 40°37.42′ N. lat., 124°37.20′ W. long.;
(144) 40°36.03′ N. lat., 124°39.97′ W. long.;
(145) 40°31.48′ N. lat., 124°40.95′ W. long.;
(146) 40°30.00′ N. lat., 124°38.50′ W. long.;
(147) 40°24.81′ N. lat., 124°35.82′ W. long.;
(148) 40°22.00′ N. lat., 124°30.01′ W. long.;
(149) 40°16.84′ N. lat., 124°29.87′ W. long.;
(150) 40°17.06′ N. lat., 124°35.51′ W. long.;
(151) 40°16.41′ N. lat., 124°39.10′ W. long.;
(152) 40°10.00′ N. lat., 124°23.56′ W. long.;
(153) 40°06.67′ N. lat., 124°19.08′ W. long.;
(154) 40°08.10′ N. lat., 124°16.71′ W. long.;
(155) 40°05.90′ N. lat., 124°17.77′ W. long.;
(156) 40°02.80′ N. lat., 124°16.28′ W. long.;
(157) 40°01.98′ N. lat., 124°12.99′ W. long.;
(158) 40°01.53′ N. lat., 124°09.82′ W. long.;
(159) 39°58.28′ N. lat., 124°12.93′ W. long.;
(160) 39°57.06′ N. lat., 124°12.03′ W. long.;
(161) 39°56.31′ N. lat., 124°08.98′ W. long.;
(162) 39°55.20′ N. lat., 124°07.98′ W. long.;
(163) 39°52.57′ N. lat., 124°09.04′ W. long.;

(164) 39°42.78′ N. lat., 124°02.11′ W. long.;
(165) 39°34.76′ N. lat., 123°58.51′ W. long.;
(166) 39°34.22′ N. lat., 123°56.82′ W. long.;
(167) 39°32.98′ N. lat., 123°56.43′ W. long.;
(168) 39°32.14′ N. lat., 123°58.83′ W. long.;
(169) 39°07.79′ N. lat., 123°58.72′ W. long.;
(170) 39°00.99′ N. lat., 123°57.56′ W. long.;
(171) 39°00.05′ N. lat., 123°56.83′ W. long.;
(172) 38°57.50′ N. lat., 123°57.22′ W. long.;
(173) 38°56.28′ N. lat., 123°57.53′ W. long.;
(174) 38°56.01′ N. lat., 123°58.72′ W. long.;
(175) 38°52.41′ N. lat., 123°56.38′ W. long.;
(176) 38°46.81′ N. lat., 123°51.46′ W. long.;
(177) 38°45.56′ N. lat., 123°51.32′ W. long.;
(178) 38°43.24′ N. lat., 123°49.91′ W. long.;
(179) 38°41.42′ N. lat., 123°47.22′ W. long.;
(180) 38°40.97′ N. lat., 123°47.80′ W. long.;
(181) 38°38.58′ N. lat., 123°46.07′ W. long.;
(182) 38°37.38′ N. lat., 123°43.80′ W. long.;
(183) 38°33.86′ N. lat., 123°41.51′ W. long.;
(184) 38°29.45′ N. lat., 123°38.42′ W. long.;
(185) 38°28.20′ N. lat., 123°38.17′ W. long.;
(186) 38°24.09′ N. lat., 123°35.26′ W. long.;
(187) 38°16.72′ N. lat., 123°31.42′ W. long.;
(188) 38°15.32′ N. lat., 123°29.33′ W. long.;
(189) 38°14.45′ N. lat., 123°26.15′ W. long.;
(190) 38°10.26′ N. lat., 123°25.43′ W. long.;
(191) 38°12.61′ N. lat., 123°28.08′ W. long.;
(192) 38°11.98′ N. lat., 123°29.35′ W. long.;
(193) 38°08.23′ N. lat., 123°28.04′ W. long.;
(194) 38°06.39′ N. lat., 123°30.59′ W. long.;
(195) 38°04.25′ N. lat., 123°31.81′ W. long.;
(196) 38°02.08′ N. lat., 123°31.27′ W. long.;
(197) 38°00.17′ N. lat., 123°29.43′ W. long.;
(198) 38°00.00′ N. lat., 123°28.55′ W. long.;
(199) 37°58.24′ N. lat., 123°26.91′ W. long.;
(200) 37°55.32′ N. lat., 123°27.19′ W. long.;
(201) 37°51.52′ N. lat., 123°25.01′ W. long.;
(202) 37°44.21′ N. lat., 123°11.38′ W. long.;
(203) 37°35.67′ N. lat., 123°01.86′ W. long.;
(204) 37°14.29′ N. lat., 122°52.99′ W. long.;
(205) 37°11.00′ N. lat., 122°49.28′ W. long.;
(206) 37°07.00′ N. lat., 122°44.65′ W. long.;
(207) 37°00.86′ N. lat., 122°37.55′ W. long.;
(208) 36°59.71′ N. lat., 122°33.73′ W. long.;
(209) 36°57.98′ N. lat., 122°27.80′ W. long.;
(210) 36°59.83′ N. lat., 122°25.17′ W. long.;
(211) 36°57.21′ N. lat., 122°25.17′ W. long.;
(212) 36°57.79′ N. lat., 122°22.28′ W. long.;
(213) 36°55.86′ N. lat., 122°21.99′ W. long.;
(214) 36°52.06′ N. lat., 122°12.12′ W. long.;
(215) 36°47.63′ N. lat., 122°07.40′ W. long.;
(216) 36°47.26′ N. lat., 122°03.23′ W. long.;
(217) 36°49.53′ N. lat., 121°59.35′ W. long.;
(218) 36°44.81′ N. lat., 121°58.29′ W. long.;
(219) 36°38.95′ N. lat., 122°02.02′ W. long.;
(220) 36°23.43′ N. lat., 121°59.76′ W. long.;
(221) 36°19.66′ N. lat., 122°06.25′ W. long.;
(222) 36°14.78′ N. lat., 122°01.52′ W. long.;
(223) 36°13.64′ N. lat., 121°57.83′ W. long.;
(224) 36°09.99′ N. lat., 121°43.48′ W. long.;
(225) 36°00.00′ N. lat., 121°36.95′ W. long.;
(226) 35°57.09′ N. lat., 121°34.16′ W. long.;
(227) 35°52.71′ N. lat., 121°32.32′ W. long.;
(228) 35°51.23′ N. lat., 121°30.54′ W. long.;
(229) 35°46.07′ N. lat., 121°29.75′ W. long.;
(230) 35°34.08′ N. lat., 121°19.83′ W. long.;
(231) 35°31.41′ N. lat., 121°14.80′ W. long.;
(232) 35°15.42′ N. lat., 121°03.47′ W. long.;
(233) 35°07.70′ N. lat., 120°59.31′ W. long.;
(234) 34°57.27′ N. lat., 120°56.93′ W. long.;
(235) 34°44.27′ N. lat., 120°57.65′ W. long.;
(236) 34°32.75′ N. lat., 120°50.08′ W. long.;
(237) 34°27.00′ N. lat., 120°41.50′ W. long.;
(238) 34°20.00′ N. lat., 120°30.99′ W. long.;
(239) 34°19.15′ N. lat., 120°19.78′ W. long.;
(240) 34°23.24′ N. lat., 120°14.17′ W. long.;
(241) 34°21.35′ N. lat., 119°54.89′ W. long.;
(242) 34°09.79′ N. lat., 119°44.51′ W. long.;
(243) 34°07.34′ N. lat., 120°06.71′ W. long.;
(244) 34°09.74′ N. lat., 120°19.78′ W. long.;
(245) 34°13.95′ N. lat., 120°29.78′ W. long.;
(246) 34°09.41′ N. lat., 120°37.75′ W. long.;
(247) 34°03.39′ N. lat., 120°35.26′ W. long.;
(248) 33°56.82′ N. lat., 120°28.30′ W. long.;
(249) 33°50.71′ N. lat., 120°09.24′ W. long.;
(250) 33°38.21′ N. lat., 119°59.90′ W. long.;
(251) 33°35.35′ N. lat., 119°51.95′ W. long.;
(252) 33°35.99′ N. lat., 119°49.13′ W. long.;
(253) 33°42.74′ N. lat., 119°47.80′ W. long.;
(254) 33°53.65′ N. lat., 119°53.29′ W. long.;
(255) 33°57.85′ N. lat., 119°31.05′ W. long.;
(256) 33°56.78′ N. lat., 119°27.44′ W. long.;
(257) 33°58.03′ N. lat., 119°27.82′ W. long.;
(258) 33°59.31′ N. lat., 119°20.02′ W. long.;
(259) 34°02.91′ N. lat., 119°15.38′ W. long.;
(260) 33°59.04′ N. lat., 119°03.02′ W. long.;
(261) 33°57.88′ N. lat., 118°41.69′ W. long.;
(262) 33°50.89′ N. lat., 118°37.78′ W. long.;
(263) 33°39.54′ N. lat., 118°18.70′ W. long.;
(264) 33°35.42′ N. lat., 118°17.15′ W. long.;
(265) 33°31.26′ N. lat., 118°10.84′ W. long.;
(266) 33°32.71′ N. lat., 117°52.05′ W. long.;
(267) 32°58.94′ N. lat., 117°20.05′ W. long.;
(268) 32°46.45′ N. lat., 117°24.37′ W. long.;

(269) 32°42.25′ N. lat., 117°22.87′ W. long.;
(270) 32°39.50′ N. lat., 117°27.80′ W. long.; and
(271) 32°34.83′ N. lat., 117°24.67′ W. long.

(b) The 180 fm (329 m) depth contour used around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°01.90′ N. lat., 118°40.17′ W. long.;
(2) 33°03.23′ N. lat., 118°40.05′ W. long.;
(3) 33°05.07′ N. lat., 118°39.01′ W. long.;
(4) 33°05.00′ N. lat., 118°38.01′ W. long.;
(5) 33°03.00′ N. lat., 118°34.00′ W. long.;
(6) 32°55.92′ N. lat., 118°28.39′ W. long.;
(7) 32°49.78′ N. lat., 118°20.82′ W. long.;
(8) 32°47.32′ N. lat., 118°18.30′ W. long.;
(9) 32°47.46′ N. lat., 118°20.29′ W. long.;
(10) 32°46.21′ N. lat., 118°21.96′ W. long.;
(11) 32°42.25′ N. lat., 118°24.07′ W. long.;
(12) 32°47.73′ N. lat., 118°31.74′ W. long.;
(13) 32°53.16′ N. lat., 118°33.85′ W. long.;
(14) 32°54.51′ N. lat., 118°35.56′ W. long.; and
(15) 33°01.90′ N. lat., 118°40.17′ W. long.

(c) The 180 fm (329 m) depth contour used around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°30.00′ N. lat., 118°44.18′ W. long.;
(2) 33°30.65′ N. lat., 118°35.07′ W. long.;
(3) 33°29.88′ N. lat., 118°30.89′ W. long.;
(4) 33°27.54′ N. lat., 118°26.91′ W. long.;
(5) 33°26.11′ N. lat., 118°21.97′ W. long.;
(6) 33°24.20′ N. lat., 118°19.05′ W. long.;
(7) 33°14.58′ N. lat., 118°10.35′ W. long.;
(8) 33°17.91′ N. lat., 118°28.20′ W. long.;
(9) 33°19.14′ N. lat., 118°31.34′ W. long.;
(10) 33°20.79′ N. lat., 118°33.75′ W. long.;
(11) 33°23.14′ N. lat., 118°30.80′ W. long.;and
(12) 33°30.00′ N. lat., 118°44.18′ W. long.

(d) The 180 fm (329 m) depth contour used around Lasuen Knoll off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°25.12′ N. lat., 118°01.09′ W. long.;
(2) 33°25.41′ N. lat., 117°59.36′ W. long.;
(3) 33°23.49′ N. lat., 117°57.47′ W. long.;
(4) 33°23.02′ N. lat., 117°59.58′ W. long.; and
(5) 33°25.12′ N. lat., 118°01.09′ W. long.

(e) The 180 fm (329 m) depth contour used around San Diego Rise off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°49.98′ N. lat., 117°50.19′ W. long.;
(2) 32°44.10′ N. lat., 117°45.34′ W. long.;
(3) 32°42.01′ N. lat., 117°46.01′ W. long.;
(4) 32°44.42′ N. lat., 117°48.69′ W. long.;
(5) 32°49.86′ N. lat., 117°50.50′ W. long.; and
(6) 32°49.98′ N. lat., 117°50.19′ W. long.

(f) The 200 fm (366 m) depth contour between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:
(1) 48°14.75′ N. lat., 125°41.73′ W. long.;
(2) 48°12.85′ N. lat., 125°38.06′ W. long.;
(3) 48°11.52′ N. lat., 125°39.45′ W. long.;
(4) 48°10.14′ N. lat., 125°42.81′ W. long.;
(5) 48°08.96′ N. lat., 125°42.08′ W. long.;
(6) 48°08.33′ N. lat., 125°44.91′ W. long.;
(7) 48°07.19′ N. lat., 125°45.87′ W. long.;
(8) 48°05.66′ N. lat., 125°44.79′ W. long.;
(9) 48°05.91′ N. lat., 125°42.16′ W. long.;
(10) 48°04.11′ N. lat., 125°40.17′ W. long.;
(11) 48°04.07′ N. lat., 125°36.96′ W. long.;
(12) 48°03.05′ N. lat., 125°36.38′ W. long.;
(13) 48°01.98′ N. lat., 125°37.41′ W. long.;
(14) 48°01.46′ N. lat., 125°39.61′ W. long.;
(15) 47°57.28′ N. lat., 125°36.87′ W. long.;
(16) 47°55.11′ N. lat., 125°36.92′ W. long.;
(17) 47°54.09′ N. lat., 125°34.98′ W. long.;
(18) 47°54.50′ N. lat., 125°32.01′ W. long.;
(19) 47°56.07′ N. lat., 125°30.17′ W. long.;
(20) 47°55.65′ N. lat., 125°28.46′ W. long.;
(21) 47°57.88′ N. lat., 125°25.61′ W. long.;
(22) 48°01.63′ N. lat., 125°23.75′ W. long.;
(23) 48°02.21′ N. lat., 125°22.43′ W. long.;
(24) 48°03.60′ N. lat., 125°21.84′ W. long.;
(25) 48°03.98′ N. lat., 125°20.65′ W. long.;
(26) 48°03.26′ N. lat., 125°19.76′ W. long.;
(27) 48°01.49′ N. lat., 125°18.80′ W. long.;
(28) 48°01.03′ N. lat., 125°20.12′ W. long.;
(29) 48°00.04′ N. lat., 125°20.26′ W. long.;
(30) 47°58.10′ N. lat., 125°18.91′ W. long.;
(31) 47°58.17′ N. lat., 125°17.50′ W. long.;
(32) 47°52.28′ N. lat., 125°16.06′ W. long.;
(33) 47°51.92′ N. lat., 125°13.89′ W. long.;
(34) 47°49.20′ N. lat., 125°10.67′ W. long.;
(35) 47°48.69′ N. lat., 125°06.50′ W. long.;
(36) 47°46.54′ N. lat., 125°07.68′ W. long.;
(37) 47°47.24′ N. lat., 125°05.38′ W. long.;
(38) 47°45.95′ N. lat., 125°04.61′ W. long.;
(39) 47°44.58′ N. lat., 125°07.12′ W. long.;
(40) 47°42.24′ N. lat., 125°05.15′ W. long.;
(41) 47°38.54′ N. lat., 125°06.76′ W. long.;
(42) 47°34.86′ N. lat., 125°04.67′ W. long.;
(43) 47°30.75′ N. lat., 124°57.52′ W. long.;
(44) 47°28.51′ N. lat., 124°56.69′ W. long.;
(45) 47°29.15′ N. lat., 124°54.10′ W. long.;
(46) 47°28.43′ N. lat., 124°51.58′ W. long.;
(47) 47°24.13′ N. lat., 124°47.51′ W. long.;
(48) 47°18.31′ N. lat., 124°46.17′ W. long.;
(49) 47°19.57′ N. lat., 124°51.01′ W. long.;
(50) 47°18.12′ N. lat., 124°53.66′ W. long.;
(51) 47°17.59′ N. lat., 124°52.94′ W. long.;

(52) 47°17.71′ N. lat., 124°51.63′ W. long.;
(53) 47°16.90′ N. lat., 124°51.23′ W. long.;
(54) 47°16.10′ N. lat., 124°53.67′ W. long.;
(55) 47°14.24′ N. lat., 124°53.02′ W. long.;
(56) 47°12.16′ N. lat., 124°56.77′ W. long.;
(57) 47°13.35′ N. lat., 124°58.70′ W. long.;
(58) 47°09.53′ N. lat., 124°58.32′ W. long.;
(59) 47°09.54′ N. lat., 124°59.50′ W. long.;
(60) 47°05.87′ N. lat., 124°59.29′ W. long.;
(61) 47°03.65′ N. lat., 124°56.26′ W. long.;
(62) 47°00.91′ N. lat., 124°59.73′ W. long.;
(63) 46°58.74′ N. lat., 124°59.40′ W. long.;
(64) 46°58.55′ N. lat., 125°00.70′ W. long.;
(65) 46°55.57′ N. lat., 125°01.61′ W. long.;
(66) 46°55.77′ N. lat., 124°55.04′ W. long.;
(67) 46°53.16′ N. lat., 124°53.69′ W. long.;
(68) 46°52.39′ N. lat., 124°55.24′ W. long.;
(69) 46°44.88′ N. lat., 124°51.97′ W. long.;
(70) 46°33.28′ N. lat., 124°36.96′ W. long.;
(71) 46°33.20′ N. lat., 124°30.64′ W. long.;
(72) 46°27.85′ N. lat., 124°31.95′ W. long.;
(73) 46°18.16′ N. lat., 124°39.39′ W. long.;
(74) 46°16.48′ N. lat., 124°27.41′ W. long.;
(75) 46°16.73′ N. lat., 124°23.20′ W. long.;
(76) 46°16.00′ N. lat., 124°24.88′ W. long.;
(77) 46°14.22′ N. lat., 124°26.28′ W. long.;
(78) 46°11.53′ N. lat., 124°39.58′ W. long.;
(79) 46°08.77′ N. lat., 124°41.71′ W. long.;
(80) 46°05.86′ N. lat., 124°42.27′ W. long.;
(81) 46°03.85′ N. lat., 124°48.20′ W. long.;
(82) 46°02.34′ N. lat., 124°48.51′ W. long.;
(83) 45°58.99′ N. lat., 124°44.42′ W. long.;
(84) 45°46.90′ N. lat., 124°43.50′ W. long.;
(85) 45°46.00′ N. lat., 124°44.27′ W. long.;
(86) 45°44.98′ N. lat., 124°44.93′ W. long.;
(87) 45°43.47′ N. lat., 124°44.93′ W. long.;
(88) 45°34.88′ N. lat., 124°32.58′ W. long.;
(89) 45°20.25′ N. lat., 124°25.47′ W. long.;
(90) 45°13.04′ N. lat., 124°21.92′ W. long.;
(91) 45°03.83′ N. lat., 124°27.13′ W. long.;
(92) 45°00.17′ N. lat., 124°29.28′ W. long.;
(93) 44°55.41′ N. lat., 124°31.84′ W. long.;
(94) 44°48.25′ N. lat., 124°40.62′ W. long.;
(95) 44°41.34′ N. lat., 124°49.20′ W. long.;
(96) 44°23.30′ N. lat., 124°50.17′ W. long.;
(97) 44°13.19′ N. lat., 124°58.66′ W. long.;
(98) 46°08.30′ N. lat., 124°58.50′ W. long.;
(99) 43°57.89′ N. lat., 124°58.13′ W. long.;
(100) 43°50.59′ N. lat., 124°52.80′ W. long.;
(101) 43°50.10′ N. lat., 124°40.27′ W. long.;
(102) 43°39.06′ N. lat., 124°38.55′ W. long.;
(103) 43°28.85′ N. lat., 124°39.99′ W. long.;
(104) 43°20.83′ N. lat., 124°42.84′ W. long.;
(105) 43°20.22′ N. lat., 124°43.05′ W. long.;
(106) 43°13.29′ N. lat., 124°47.00′ W. long.;
(107) 43°13.14′ N. lat., 124°52.61′ W. long.;
(108) 43°04.26′ N. lat., 124°53.05′ W. long.;
(109) 42°53.93′ N. lat., 124°54.60′ W. long.;
(110) 42°50.00′ N. lat., 124°53.31′ W. long.;
(111) 42°49.52′ N. lat., 124°53.16′ W. long.;
(112) 42°47.46′ N. lat., 124°50.24′ W. long.;
(113) 42°47.57′ N. lat., 124°48.12′ W. long.;
(114) 42°46.19′ N. lat., 124°44.52′ W. long.;
(115) 42°41.75′ N. lat., 124°44.69′ W. long.;
(116) 42°40.50′ N. lat., 124°44.02′ W. long.;
(117) 42°38.81′ N. lat., 124°43.09′ W. long.;
(118) 42°31.83′ N. lat., 124°46.23′ W. long.;
(119) 42°32.08′ N. lat., 124°43.58′ W. long.;
(120) 42°30.96′ N. lat., 124°43.84′ W. long.;
(121) 42°28.41′ N. lat., 124°49.17′ W. long.;
(122) 42°24.80′ N. lat., 124°45.93′ W. long.;
(123) 42°19.71′ N. lat., 124°41.60′ W. long.;
(124) 42°15.12′ N. lat., 124°38.34′ W. long.;
(125) 42°13.67′ N. lat., 124°38.22′ W. long.;
(126) 42°12.35′ N. lat., 124°38.09′ W. long.;
(127) 42°04.38′ N. lat., 124°36.83′ W. long.;
(128) 42°00.00′ N. lat., 124°36.80′ W. long.;
(129) 41°47.85′ N. lat., 124°30.41′ W. long.;
(130) 41°43.34′ N. lat., 124°29.89′ W. long.;
(131) 41°23.47′ N. lat., 124°30.29′ W. long.;
(132) 41°21.30′ N. lat., 124°29.36′ W. long.;
(133) 41°13.53′ N. lat., 124°24.41′ W. long.;
(134) 41°06.72′ N. lat., 124°23.30′ W. long.;
(135) 40°54.67′ N. lat., 124°28.13′ W. long.;
(136) 40°49.02′ N. lat., 124°28.52′ W. long.;
(137) 40°40.45′ N. lat., 124°32.74′ W. long.;
(138) 40°37.11′ N. lat., 124°38.03′ W. long.;
(139) 40°34.22′ N. lat., 124°41.13′ W. long.;
(140) 40°32.90′ N. lat., 124°41.83′ W. long.;
(141) 40°31.30′ N. lat., 124°40.97′ W. long.;
(142) 40°30.00′ N. lat., 124°38.04′ W. long.;
(143) 40°24.99′ N. lat., 124°36.37′ W. long.;
(144) 40°22.23′ N. lat., 124°31.78′ W. long.;
(145) 40°16.95′ N. lat., 124°31.93′ W. long.;
(146) 40°17.59′ N. lat., 124°45.23′ W. long.;
(147) 40°13.25′ N. lat., 124°32.36′ W. long.;
(148) 40°10.16′ N. lat., 124°24.57′ W. long.;
(149) 40°06.43′ N. lat., 124°19.19′ W. long.;
(150) 40°07.07′ N. lat., 124°17.75′ W. long.;
(151) 40°05.53′ N. lat., 124°18.02′ W. long.;
(152) 40°04.71′ N. lat., 124°18.10′ W. long.;
(153) 40°02.35′ N. lat., 124°16.57′ W. long.;
(154) 40°01.53′ N. lat., 124°09.82′ W. long.;
(155) 39°58.28′ N. lat., 124°13.51′ W. long.;
(156) 39°56.60′ N. lat., 124°12.02′ W. long.;

(157) 39°55.20′ N. lat., 124°07.96′ W. long.;
(158) 39°52.55′ N. lat., 124°09.40′ W. long.;
(159) 39°42.68′ N. lat., 124°02.52′ W. long.;
(160) 39°35.96′ N. lat., 123°59.49′ W. long.;
(161) 39°34.62′ N. lat., 123°59.59′ W. long.;
(162) 39°33.78′ N. lat., 123°56.82′ W. long.;
(163) 39°33.02′ N. lat., 123°57.07′ W. long.;
(164) 39°32.21′ N. lat., 123°59.13′ W. long.;
(165) 39°07.85′ N. lat., 123°59.07′ W. long.;
(166) 39°00.90′ N. lat., 123°57.88′ W. long.;
(167) 38°59.95′ N. lat., 123°56.99′ W. long.;
(168) 38°57.50′ N. lat., 123°57.50′ W. long.;
(169) 38°56.82′ N. lat., 123°57.74′ W. long.;
(170) 38°56.40′ N. lat., 123°59.41′ W. long.;
(171) 38°50.23′ N. lat., 123°55.48′ W. long.;
(172) 38°46.77′ N. lat., 123°51.49′ W. long.;
(173) 38°45.28′ N. lat., 123°51.56′ W. long.;
(174) 38°42.76′ N. lat., 123°49.76′ W. long.;
(175) 38°41.54′ N. lat., 123°47.76′ W. long.;
(176) 38°40.98′ N. lat., 123°48.07′ W. long.;
(177) 38°38.03′ N. lat., 123°45.78′ W. long.;
(178) 38°37.20′ N. lat., 123°44.01′ W. long.;
(179) 38°33.44′ N. lat., 123°41.75′ W. long.;
(180) 38°29.45′ N. lat., 123°38.42′ W. long.;
(181) 38°27.89′ N. lat., 123°38.38′ W. long.;
(182) 38°23.68′ N. lat., 123°35.40′ W. long.;
(183) 38°19.63′ N. lat., 123°33.98′ W. long.;
(184) 38°16.23′ N. lat., 123°31.83′ W. long.;
(185) 38°14.79′ N. lat., 123°29.91′ W. long.;
(186) 38°14.12′ N. lat., 123°26.29′ W. long.;
(187) 38°10.85′ N. lat., 123°25.77′ W. long.;
(188) 38°13.15′ N. lat., 123°28.18′ W. long.;
(189) 38°12.28′ N. lat., 123°29.81′ W. long.;
(190) 38°10.19′ N. lat., 123°29.04′ W. long.;
(191) 38°07.94′ N. lat., 123°28.45′ W. long.;
(192) 38°06.51′ N. lat., 123°30.89′ W. long.;
(193) 38°04.21′ N. lat., 123°31.96′ W. long.;
(194) 38°02.07′ N. lat., 123°31.30′ W. long.;
(195) 38°00.00′ N. lat., 123°29.55′ W. long.;
(196) 37°58.13′ N. lat., 123°27.21′ W. long.;
(197) 37°55.01′ N. lat., 123°27.46′ W. long.;
(198) 37°51.40′ N. lat., 123°25.18′ W. long.;
(199) 37°43.97′ N. lat., 123°11.49′ W. long.;
(200) 37°35.67′ N. lat., 123°02.25′ W. long.;
(201) 37°13.65′ N. lat., 122°54.18′ W. long.;
(202) 37°11.00′ N. lat., 122°50.90′ W. long.;
(203) 37°07.00′ N. lat., 122°45.83′ W. long.;
(204) 37°00.66′ N. lat., 122°37.84′ W. long.;
(205) 36°57.40′ N. lat., 122°28.25′ W. long.;
(206) 36°59.25′ N. lat., 122°25.54′ W. long.;
(207) 36°56.88′ N. lat., 122°25.42′ W. long.;
(208) 36°57.40′ N. lat., 122°22.62′ W. long.;
(209) 36°55.43′ N. lat., 122°22.43′ W. long.;
(210) 36°52.29′ N. lat., 122°13.18′ W. long.;
(211) 36°47.12′ N. lat., 122°07.56′ W. long.;
(212) 36°47.10′ N. lat., 122°02.11′ W. long.;
(213) 36°43.76′ N. lat., 121°59.11′ W. long.;
(214) 36°38.85′ N. lat., 122°02.20′ W. long.;
(215) 36°23.41′ N. lat., 122°00.11′ W. long.;
(216) 36°19.68′ N. lat., 122°06.93′ W. long.;
(217) 36°14.75′ N. lat., 122°01.51′ W. long.;
(218) 36°09.74′ N. lat., 121°45.00′ W. long.;
(219) 36°06.67′ N. lat., 121°41.06′ W. long.;
(220) 36°00.00′ N. lat., 121°36.95′ W. long.;
(221) 35°52.31′ N. lat., 121°32.45′ W. long.;
(222) 35°51.21′ N. lat., 121°30.91′ W. long.;
(223) 35°46.32′ N. lat., 121°30.30′ W. long.;
(224) 35°33.74′ N. lat., 121°20.10′ W. long.;
(225) 35°31.37′ N. lat., 121°15.23′ W. long.;
(226) 35°23.32′ N. lat., 121°11.44′ W. long.;
(227) 35°15.28′ N. lat., 121°04.45′ W. long.;
(228) 35°07.08′ N. lat., 121°00.30′ W. long.;
(229) 34°57.46′ N. lat., 120°58.23′ W. long.;
(230) 34°44.25′ N. lat., 120°58.29′ W. long.;
(231) 34°32.30′ N. lat., 120°50.22′ W. long.;
(232) 34°27.00′ N. lat., 120°42.55′ W. long.;
(233) 34°19.08′ N. lat., 120°31.21′ W. long.;
(234) 34°17.72′ N. lat., 120°19.26′ W. long.;
(235) 34°22.45′ N. lat., 120°12.81′ W. long.;
(236) 34°21.36′ N. lat., 119°54.88′ W. long.;
(237) 34°09.95′ N. lat., 119°46.18′ W. long.;
(238) 34°09.08′ N. lat., 119°57.53′ W. long.;
(239) 34°07.53′ N. lat., 120°06.35′ W. long.;
(240) 34°10.54′ N. lat., 120°19.07′ W. long.;
(241) 34°14.68′ N. lat., 120°29.48′ W. long.;
(242) 34°09.51′ N. lat., 120°38.32′ W. long.;
(243) 34°03.06′ N. lat., 120°35.54′ W. long.;
(244) 33°56.39′ N. lat., 120°28.47′ W. long.;
(245) 33°50.25′ N. lat., 120°09.43′ W. long.;
(246) 33°37.96′ N. lat., 120°00.08′ W. long.;
(247) 33°34.52′ N. lat., 119°51.84′ W. long.;
(248) 33°35.51′ N. lat., 119°48.49′ W. long.;
(249) 33°42.76′ N. lat., 119°47.77′ W. long.;
(250) 33°53.62′ N. lat., 119°53.28′ W. long.;
(251) 33°57.61′ N. lat., 119°31.26′ W. long.;
(252) 33°56.34′ N. lat., 119°26.40′ W. long.;
(253) 33°57.79′ N. lat., 119°26.85′ W. long.;
(254) 33°58.88′ N. lat., 119°20.06′ W. long.;
(255) 34°02.65′ N. lat., 119°15.11′ W. long.;
(256) 33°59.02′ N. lat., 119°02.99′ W. long.;
(257) 33°57.61′ N. lat., 118°42.07′ W. long.;
(258) 33°50.76′ N. lat., 118°37.98′ W. long.;
(259) 33°38.41′ N. lat., 118°17.03′ W. long.;
(260) 33°37.14′ N. lat., 118°18.39′ W. long.;
(261) 33°35.51′ N. lat., 118°18.03′ W. long.;

(262) 33°30.68′ N. lat., 118°10.35′ W. long.;
(263) 33°32.49′ N. lat., 117°51.85′ W. long.;
(264) 32°58.87′ N. lat., 117°20.36′ W. long.; and
(265) 32°35.53′ N. lat., 117°29.67′ W. long.

(g) The 200 fm (366 m) depth contour used around San Clemente Island is defined by straight lines connecting all of the following points in the order stated:
(1) 33°05.89′ N. lat., 118°39.45′ W. long.;
(2) 33°02.68′ N. lat., 118°33.14′ W. long.;
(3) 32°57.32′ N. lat., 118°29.12′ W. long.;
(4) 32°47.51′ N. lat., 118°17.88′ W. long.;
(5) 32°41.22′ N. lat., 118°23.78′ W. long.;
(6) 32°46.83′ N. lat., 118°32.10′ W. long.;
(7) 33°01.61′ N. lat., 118°40.64′ W. long.; and
(8) 33°5.89′ N. lat., 118°39.45′ W. long.

(h) The 200 fm (366 m) depth contour used around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°32.06′ N. lat., 118°44.52′ W. long.;
(2) 33°31.36′ N. lat., 118°35.28′ W. long.;
(3) 33°30.10′ N. lat., 118°30.82′ W. long.;
(4) 33°27.91′ N. lat., 118°26.83′ W. long.;
(5) 33°26.27′ N. lat., 118°21.35′ W. long.;
(6) 33°21.34′ N. lat., 118°15.24′ W. long.;
(7) 33°13.66′ N. lat., 118°08.98′ W. long.;
(8) 33°17.15′ N. lat., 118°28.35′ W. long.;
(9) 33°20.94′ N. lat., 118°34.34′ W. long.;
(10) 33°23.32′ N. lat., 118°32.60′ W. long.;
(11) 33°28.68′ N. lat., 118°44.93′ W. long.; and
(12) 33°32.06′ N. lat., 118°44.52′ W. long.

(i) The 200 fm (366 m) depth contour used around Lasuen Knoll off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°25.91′ N. lat., 117°59.44′ W. long.;
(2) 33°23.37′ N. lat., 117°56.97′ W. long.;
(3) 33°22.82′ N. lat., 117°59.50′ W. long.;
(4) 33°25.24′ N. lat., 118°01.68′ W. long.; and
(5) 33°25.91′ N. lat., 117°59.44′ W. long.

(j) The 200 fm (366 m) depth contour used around San Diego Rise off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°50.30′ N. lat., 117°50.18′ W. long.;
(2) 32°44.01′ N. lat., 117°44.46′ W. long.;
(3) 32°41.34′ N. lat., 117°45.86′ W. long.;
(4) 32°45.45′ N. lat., 117°50.09′ W. long.;
(5) 32°50.10′ N. lat., 117°50.76′ W. long.; and
(6) 32°50.30′ N. lat., 117°50.18′ W. long.

(k) The 200 fm (366 m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico, modified to allow fishing in petrale sole areas, is defined by straight lines connecting all of the following points in the order stated:
(1) 48°14.75′ N. lat., 125°41.73′ W. long.;
(2) 48°12.85′ N. lat., 125°38.06′ W. long.;
(3) 48°11.52′ N. lat., 125°39.45′ W. long.;
(4) 48°10.14′ N. lat., 125°42.81′ W. long.;
(5) 48°08.96′ N. lat., 125°42.08′ W. long.;
(6) 48°08.33′ N. lat., 125°44.91′ W. long.;
(7) 48°07.19′ N. lat., 125°45.87′ W. long.;
(8) 48°05.66′ N. lat., 125°44.79′ W. long.;
(9) 48°05.91′ N. lat., 125°42.16′ W. long.;
(10) 48°04.11′ N. lat., 125°40.17′ W. long.;
(11) 48°04.07′ N. lat., 125°36.96′ W. long.;
(12) 48°03.05′ N. lat., 125°36.38′ W. long.;
(13) 48°01.98′ N. lat., 125°37.41′ W. long.;
(14) 48°01.46′ N. lat., 125°39.61′ W. long.;
(15) 47°57.00′ N. lat., 125°37.00′ W. long.;
(16) 47°55.50′ N. lat., 125°28.50′ W. long.;
(17) 47°57.88′ N. lat., 125°25.61′ W. long.;
(18) 48°01.63′ N. lat., 125°23.75′ W. long.;
(19) 48°02.21′ N. lat., 125°22.43′ W. long.;
(20) 48°03.60′ N. lat., 125°21.84′ W. long.;
(21) 48°03.98′ N. lat., 125°20.65′ W. long.;
(22) 48°03.26′ N. lat., 125°19.76′ W. long.;
(23) 48°01.49′ N. lat., 125°18.80′ W. long.;
(24) 48°01.03′ N. lat., 125°20.12′ W. long.;
(25) 48°00.04′ N. lat., 125°20.26′ W. long.;
(26) 47°58.10′ N. lat., 125°18.91′ W. long.;
(27) 47°58.17′ N. lat., 125°17.50′ W. long.;
(28) 47°52.28′ N. lat., 125°16.06′ W. long.;
(29) 47°51.92′ N. lat., 125°13.89′ W. long.;
(30) 47°49.20′ N. lat., 125°10.67′ W. long.;
(31) 47°48.69′ N. lat., 125°06.50′ W. long.;
(32) 47°46.54′ N. lat., 125°07.68′ W. long.;
(33) 47°47.24′ N. lat., 125°05.38′ W. long.;
(34) 47°45.95′ N. lat., 125°04.61′ W. long.;
(35) 47°44.58′ N. lat., 125°07.12′ W. long.;
(36) 47°42.24′ N. lat., 125°05.15′ W. long.;
(37) 47°38.54′ N. lat., 125°06.76′ W. long.;
(38) 47°34.86′ N. lat., 125°04.67′ W. long.;
(39) 47°30.75′ N. lat., 124°57.52′ W. long.;
(40) 47°28.51′ N. lat., 124°56.69′ W. long.;
(41) 47°29.15′ N. lat., 124°54.10′ W. long.;
(42) 47°28.43′ N. lat., 124°51.58′ W. long.;
(43) 47°24.13′ N. lat., 124°47.51′ W. long.;
(44) 47°18.31′ N. lat., 124°46.17′ W. long.;
(45) 47°19.57′ N. lat., 124°51.01′ W. long.;
(46) 47°18.12′ N. lat., 124°53.66′ W. long.;
(47) 47°17.59′ N. lat., 124°52.94′ W. long.;
(48) 47°17.71′ N. lat., 124°51.63′ W. long.;
(49) 47°16.90′ N. lat., 124°51.23′ W. long.;
(50) 47°16.10′ N. lat., 124°53.67′ W. long.;
(51) 47°14.24′ N. lat., 124°53.02′ W. long.;
(52) 47°12.16′ N. lat., 124°56.77′ W. long.;
(53) 47°13.35′ N. lat., 124°58.70′ W. long.;
(54) 47°09.53′ N. lat., 124°58.32′ W. long.;
(55) 47°09.54′ N. lat., 124°59.50′ W. long.;
(56) 47°05.87′ N. lat., 124°59.29′ W. long.;

(57) 47°03.65′ N. lat., 124°56.26′ W. long.;
(58) 47°00.91′ N. lat., 124°59.73′ W. long.;
(59) 46°58.74′ N. lat., 124°59.40′ W. long.;
(60) 46°58.55′ N. lat., 125°00.70′ W. long.;
(61) 46°55.57′ N. lat., 125°01.61′ W. long.;
(62) 46°55.77′ N. lat., 124°55.04′ W. long.;
(63) 46°53.16′ N. lat., 124°53.69′ W. long.;
(64) 46°52.39′ N. lat., 124°55.24′ W. long.;
(65) 46°44.88′ N. lat., 124°51.97′ W. long.;
(66) 46°33.28′ N. lat., 124°36.96′ W. long.;
(67) 46°33.20′ N. lat., 124°30.64′ W. long.;
(68) 46°27.85′ N. lat., 124°31.95′ W. long.;
(69) 46°18.16′ N. lat., 124°39.39′ W. long.;
(70) 46°16.48′ N. lat., 124°27.41′ W. long.;
(71) 46°16.73′ N. lat., 124°23.20′ W. long.;
(72) 46°16.00′ N. lat., 124°24.88′ W. long.;
(73) 46°14.22′ N. lat., 124°26.28′ W. long.;
(74) 46°11.53′ N. lat., 124°39.58′ W. long.;
(75) 46°08.77′ N. lat., 124°41.71′ W. long.;
(76) 46°05.86′ N. lat., 124°42.27′ W. long.;
(77) 46°03.85′ N. lat., 124°48.20′ W. long.;
(78) 46°02.34′ N. lat., 124°48.51′ W. long.;
(79) 45°58.99′ N. lat., 124°44.42′ W. long.;
(80) 45°46.00′ N. lat., 124°41.82′ W. long.;
(81) 45°49.74′ N. lat., 124°43.69′ W. long.;
(82) 45°49.68′ N. lat., 124°42.37′ W. long.;
(83) 45°40.83′ N. lat., 124°40.90′ W. long.;
(84) 45°34.88′ N. lat., 124°32.58′ W. long.;
(85) 45°20.25′ N. lat., 124°25.47′ W. long.;
(86) 45°13.04′ N. lat., 124°21.92′ W. long.;
(87) 45°03.83′ N. lat., 124°27.13′ W. long.;
(88) 45°00.17′ N. lat., 124°29.28′ W. long.;
(89) 44°50.99′ N. lat., 124°35.40′ W. long.;
(90) 44°46.87′ N. lat., 124°38.20′ W. long.;
(91) 44°48.25′ N. lat., 124°40.62′ W. long.;
(92) 44°41.34′ N. lat., 124°49.20′ W. long.;
(93) 44°23.30′ N. lat., 124°50.17′ W. long.;
(94) 44°13.19′ N. lat., 124°58.66′ W. long.;
(95) 44°08.30′ N. lat., 124°58.72′ W. long.;
(96) 43°57.37′ N. lat., 124°58.71′ W. long.;
(97) 43°52.32′ N. lat., 124°49.43′ W. long.;
(98) 43°51.35′ N. lat., 124°37.94′ W. long.;
(99) 43°49.73′ N. lat., 124°40.26′ W. long.;
(100) 43°39.06′ N. lat., 124°38.55′ W. long.;
(101) 43°28.85′ N. lat., 124°39.99′ W. long.;
(102) 43°20.83′ N. lat., 124°42.89′ W. long.;
(103) 43°20.22′ N. lat., 124°43.05′ W. long.;
(104) 43°13.29′ N. lat., 124°47.00′ W. long.;
(105) 43°10.64′ N. lat., 124°49.95′ W. long.;
(106) 43°04.26′ N. lat., 124°53.05′ W. long.;
(107) 42°53.93′ N. lat., 124°54.60′ W. long.;
(108) 42°50.00′ N. lat., 124°50.60′ W. long.;
(109) 42°47.57′ N. lat., 124°48.12′ W. long.;
(110) 42°46.19′ N. lat., 124°44.52′ W. long.;
(111) 42°41.75′ N. lat., 124°44.69′ W. long.;
(112) 42°40.50′ N. lat., 124°44.02′ W. long.;
(113) 42°38.81′ N. lat., 124°43.09′ W. long.;
(114) 42°31.83′ N. lat., 124°46.23′ W. long.;
(115) 42°32.08′ N. lat., 124°43.58′ W. long.;
(116) 42°30.96′ N. lat., 124°43.84′ W. long.;
(117) 42°28.41′ N. lat., 124°49.17′ W. long.;
(118) 42°24.80′ N. lat., 124°45.93′ W. long.;
(119) 42°19.71′ N. lat., 124°41.60′ W. long.;
(120) 42°15.12′ N. lat., 124°38.34′ W. long.;
(121) 42°13.67′ N. lat., 124°38.28′ W. long.;
(122) 42°12.35′ N. lat., 124°38.09′ W. long.;
(123) 42°00.00′ N. lat., 124°36.83′ W. long.;
(124) 41°47.79′ N. lat., 124°29.48′ W. long.;
(125) 41°21.01′ N. lat., 124°29.01′ W. long.;
(126) 41°13.50′ N. lat., 124°24.40′ W. long.;
(127) 41°11.00′ N. lat., 124°22.99′ W. long.;
(128) 41°06.69′ N. lat., 124°23.30′ W. long.;
(129) 40°54.73′ N. lat., 124°28.15′ W. long.;
(130) 40°53.95′ N. lat., 124°26.04′ W. long.;
(131) 40°49.96′ N. lat., 124°26.04′ W. long.;
(132) 40°44.49′ N. lat., 124°30.81′ W. long.;
(133) 40°40.58′ N. lat., 124°32.06′ W. long.;
(134) 40°37.36′ N. lat., 124°29.41′ W. long.;
(135) 40°35.67′ N. lat., 124°30.43′ W. long.;
(136) 40°37.41′ N. lat., 124°37.06′ W. long.;
(137) 40°36.09′ N. lat., 124°40.11′ W. long.;
(138) 40°31.31′ N. lat., 124°40.87′ W. long.;
(139) 40°29.64′ N. lat., 124°36.82′ W. long.;
(140) 40°27.34′ N. lat., 124°37.28′ W. long.;
(141) 40°25.01′ N. lat., 124°36.36′ W. long.;
(142) 40°22.28′ N. lat., 124°31.83′ W. long.;
(143) 40°16.96′ N. lat., 124°31.91′ W. long.;
(144) 40°17.00′ N. lat., 124°34.96′ W. long.;
(145) 40°16.03′ N. lat., 124°36.02′ W. long.;
(146) 40°10.00′ N. lat., 124°24.55′ W. long.;
(147) 40°06.45′ N. lat., 124°19.24′ W. long.;
(148) 40°07.08′ N. lat., 124°17.80′ W. long.;
(149) 40°05.55′ N. lat., 124°18.11′ W. long.;
(150) 40°04.74′ N. lat., 124°18.11′ W. long.;
(151) 40°02.35′ N. lat., 124°16.53′ W. long.;
(152) 40°01.13′ N. lat., 124°12.98′ W. long.;
(153) 40°01.55′ N. lat., 124°09.80′ W. long.;
(154) 39°58.54′ N. lat., 124°12.43′ W. long.;
(155) 39°55.72′ N. lat., 124°07.44′ W. long.;
(156) 39°42.64′ N. lat., 124°02.52′ W. long.;
(157) 39°35.96′ N. lat., 123°59.47′ W. long.;
(158) 39°34.61′ N. lat., 123°59.58′ W. long.;
(159) 39°34.79′ N. lat., 123°58.47′ W. long.;
(160) 39°33.79′ N. lat., 123°56.77′ W. long.;
(161) 39°33.03′ N. lat., 123°57.06′ W. long.;

(162) 39°32.20′ N. lat., 123°59.12′ W. long.;
(163) 39°07.81′ N. lat., 123°59.06′ W. long.;
(164) 39°03.06′ N. lat., 123°57.77′ W. long.;
(165) 38°57.50′ N. lat., 123°57.00′ W. long.;
(166) 38°52.26′ N. lat., 123°56.18′ W. long.;
(167) 38°50.21′ N. lat., 123°55.48′ W. long.;
(168) 38°46.81′ N. lat., 123°51.49′ W. long.;
(169) 38°45.28′ N. lat., 123°51.55′ W. long.;
(170) 38°42.76′ N. lat., 123°49.73′ W. long.;
(171) 38°41.53′ N. lat., 123°47.80′ W. long.;
(172) 38°41.41′ N. lat., 123°46.74′ W. long.;
(173) 38°38.01′ N. lat., 123°45.74′ W. long.;
(174) 38°37.19′ N. lat., 123°43.98′ W. long.;
(175) 38°35.26′ N. lat., 123°41.99′ W. long.;
(176) 38°33.38′ N. lat., 123°41.76′ W. long.;
(177) 38°19.95′ N. lat., 123°32.90′ W. long.;
(178) 38°14.38′ N. lat., 123°25.51′ W. long.;
(179) 38°09.39′ N. lat., 123°24.39′ W. long.;
(180) 38°10.09′ N. lat., 123°27.21′ W. long.;
(181) 38°03.76′ N. lat., 123°31.90′ W. long.;
(182) 38°02.06′ N. lat., 123°31.26′ W. long.;
(183) 38°00.00′ N. lat., 123°29.56′ W. long.;
(184) 37°58.07′ N. lat., 123°27.21′ W. long.;
(185) 37°55.02′ N. lat., 123°27.44′ W. long.;
(186) 37°51.39′ N. lat., 123°25.22′ W. long.;
(187) 37°43.94′ N. lat., 123°11.49′ W. long.;
(188) 37°35.67′ N. lat., 123°02.23′ W. long.;
(189) 37°23.48′ N. lat., 122°57.76′ W. long.;
(190) 37°23.23′ N. lat., 122°53.78′ W. long.;
(191) 37°13.97′ N. lat., 122°49.91′ W. long.;
(192) 37°11.00′ N. lat., 122°45.61′ W. long.;
(193) 37°07.00′ N. lat., 122°46.38′ W. long.;
(194) 37°00.64′ N. lat., 122°37.70′ W. long.;
(195) 36°57.40′ N. lat., 122°28.36′ W. long.;
(196) 36°59.21′ N. lat., 122°25.64′ W. long.;
(197) 36°56.90′ N. lat., 122°25.42′ W. long.;
(198) 36°57.43′ N. lat., 122°22.55′ W. long.;
(199) 36°55.43′ N. lat., 122°22.43′ W. long.;
(200) 36°52.27′ N. lat., 122°13.16′ W. long.;
(201) 36°47.10′ N. lat., 122°07.53′ W. long.;
(202) 36°47.10′ N. lat., 122°02.08′ W. long.;
(203) 36°43.76′ N. lat., 121°59.15′ W. long.;
(204) 36°38.84′ N. lat., 122°02.20′ W. long.;
(205) 36°30.82′ N. lat., 122°01.13′ W. long.;
(206) 36°30.94′ N. lat., 122°00.54′ W. long.;
(207) 36°25.99′ N. lat., 121°59.50′ W. long.;
(208) 36°26.43′ N. lat., 121°59.76′ W. long.;
(209) 36°22.00′ N. lat., 122°01.02′ W. long.;
(210) 36°19.01′ N. lat., 122°05.01′ W. long.;
(211) 36°14.73′ N. lat., 122°01.55′ W. long.;
(212) 36°14.03′ N. lat., 121°58.09′ W. long.;
(213) 36°09.74′ N. lat., 121°45.01′ W. long.;
(214) 36°06.75′ N. lat., 121°40.73′ W. long.;
(215) 36°00.00′ N. lat., 121°35.96′ W. long.;
(216) 35°58.19′ N. lat., 121°34.63′ W. long.;
(217) 35°52.21′ N. lat., 121°32.46′ W. long.;
(218) 35°51.21′ N. lat., 121°30.94′ W. long.;
(219) 35°46.28′ N. lat., 121°30.29′ W. long.;
(220) 35°33.67′ N. lat., 121°20.09′ W. long.;
(221) 35°31.33′ N. lat., 121°15.22′ W. long.;
(222) 35°23.29′ N. lat., 121°11.41′ W. long.;
(223) 35°15.26′ N. lat., 121°04.49′ W. long.;
(224) 35°07.05′ N. lat., 121°00.26′ W. long.;
(225) 35°07.46′ N. lat., 120°57.10′ W. long.;
(226) 34°44.29′ N. lat., 120°54.28′ W. long.;
(227) 34°44.23′ N. lat., 120°58.27′ W. long.;
(228) 34°32.33′ N. lat., 120°50.23′ W. long.;
(229) 34°27.00′ N. lat., 120°42.55′ W. long.;
(230) 34°19.08′ N. lat., 120°31.21′ W. long.;
(231) 34°17.72′ N. lat., 120°19.26′ W. long.;
(232) 34°22.45′ N. lat., 120°12.81′ W. long.;
(233) 34°21.36′ N. lat., 119°54.88′ W. long.;
(234) 34°09.95′ N. lat., 119°46.18′ W. long.;
(235) 34°09.08′ N. lat., 119°57.53′ W. long.;
(236) 34°07.53′ N. lat., 120°06.35′ W. long.;
(237) 34°10.54′ N. lat., 120°19.07′ W. long.;
(238) 34°14.68′ N. lat., 120°29.48′ W. long.;
(239) 34°09.51′ N. lat., 120°38.32′ W. long.;
(240) 34°03.06′ N. lat., 120°35.54′ W. long.;
(241) 33°56.39′ N. lat., 120°28.47′ W. long.;
(242) 33°50.25′ N. lat., 120°09.43′ W. long.;
(243) 33°37.96′ N. lat., 120°00.08′ W. long.;
(244) 33°34.52′ N. lat., 119°51.84′ W. long.;
(245) 33°35.51′ N. lat., 119°48.49′ W. long.;
(246) 33°42.76′ N. lat., 119°47.77′ W. long.;
(247) 33°53.62′ N. lat., 119°53.28′ W. long.;
(248) 33°57.61′ N. lat., 119°31.26′ W. long.;
(249) 33°56.34′ N. lat., 119°26.40′ W. long.;
(250) 33°57.79′ N. lat., 119°26.85′ W. long.;
(251) 33°58.88′ N. lat., 119°20.06′ W. long.;
(252) 34°02.65′ N. lat., 119°15.11′ W. long.;
(253) 33°59.02′ N. lat., 119°02.99′ W. long.;
(254) 33°57.61′ N. lat., 118°42.07′ W. long.;
(255) 33°50.76′ N. lat., 118°37.98′ W. long.;
(256) 33°39.54′ N. lat., 118°18.70′ W. long.;
(257) 33°37.14′ N. lat., 118°18.39′ W. long.;
(258) 33°35.51′ N. lat., 118°18.03′ W. long.;
(259) 33°30.68′ N. lat., 118°10.35′ W. long.;
(260) 33°32.49′ N. lat., 117°51.85′ W. long.;
(261) 32°58.87′ N. lat., 117°20.36′ W. long.; and
(262) 32°35.53′ N. lat., 117°29.67′ W. long.

(l) The 250 fm (457 m) depth contour used between the U.S. border with Canada and 38° N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 48°14.68′ N. lat., 125°42.10′ W. long.;

(2) 48°13.00′ N. lat., 125°39.00′ W. long.;
(3) 48°12.73′ N. lat., 125°38.87′ W. long.;
(4) 48°12.43′ N. lat., 125°39.12′ W. long.;
(5) 48°11.83′ N. lat., 125°40.01′ W. long.;
(6) 48°11.78′ N. lat., 125°41.70′ W. long.;
(7) 48°10.62′ N. lat., 125°43.41′ W. long.;
(8) 48°09.23′ N. lat., 125°42.80′ W. long.;
(9) 48°08.79′ N. lat., 125°43.79′ W. long.;
(10) 48°08.50′ N. lat., 125°45.00′ W. long.;
(11) 48°07.43′ N. lat., 125°46.36′ W. long.;
(12) 48°06.00′ N. lat., 125°46.50′ W. long.;
(13) 48°05.38′ N. lat., 125°42.82′ W. long.;
(14) 48°04.19′ N. lat., 125°40.40′ W. long.;
(15) 48°03.50′ N. lat., 125°37.00′ W. long.;
(16) 48°01.50′ N. lat., 125°40.00′ W. long.;
(17) 47°57.00′ N. lat., 125°37.00′ W. long.;
(18) 47°55.21′ N. lat., 125°37.22′ W. long.;
(19) 47°54.02′ N. lat., 125°36.57′ W. long.;
(20) 47°53.67′ N. lat., 125°35.06′ W. long.;
(21) 47°54.14′ N. lat., 125°32.35′ W. long.;
(22) 47°55.50′ N. lat., 125°28.56′ W. long.;
(23) 47°57.03′ N. lat., 125°26.52′ W. long.;
(24) 47°57.98′ N. lat., 125°25.08′ W. long.;
(25) 48°00.54′ N. lat., 125°24.38′ W. long.;
(26) 48°01.45′ N. lat., 125°23.70′ W. long.;
(27) 48°01.97′ N. lat., 125°22.34′ W. long.;
(28) 48°03.68′ N. lat., 125°21.20′ W. long.;
(29) 48°01.96′ N. lat., 125°19.56′ W. long.;
(30) 48°00.98′ N. lat., 125°20.43′ W. long.;
(31) 48°00.00′ N. lat., 125°20.68′ W. long.;
(32) 47°58.00′ N. lat., 125°19.50′ W. long.;
(33) 47°57.65′ N. lat., 125°19.18′ W. long.;
(34) 47°58.00′ N. lat., 125°18.00′ W. long.;
(35) 47°56.59′ N. lat., 125°18.15′ W. long.;
(36) 47°51.30′ N. lat., 125°18.32′ W. long.;
(37) 47°49.88′ N. lat., 125°14.49′ W. long.;
(38) 47°49.00′ N. lat., 125°11.00′ W. long.;
(39) 47°47.99′ N. lat., 125°07.31′ W. long.;
(40) 47°46.47′ N. lat., 125°08.63′ W. long.;
(41) 47°46.00′ N. lat., 125°06.00′ W. long.;
(42) 47°44.50′ N. lat., 125°07.50′ W. long.;
(43) 47°43.39′ N. lat., 125°06.57′ W. long.;
(44) 47°42.37′ N. lat., 125°05.74′ W. long.;
(45) 47°40.61′ N. lat., 125°06.48′ W. long.;
(46) 47°37.43′ N. lat., 125°07.33′ W. long.;
(47) 47°33.68′ N. lat., 125°04.80′ W. long.;
(48) 47°30.00′ N. lat., 125°00.00′ W. long.;
(49) 47°28.00′ N. lat., 124°58.50′ W. long.;
(50) 47°28.88′ N. lat., 124°54.71′ W. long.;
(51) 47°27.70′ N. lat., 124°51.87′ W. long.;
(52) 47°24.84′ N. lat., 124°48.45′ W. long.;
(53) 47°21.76′ N. lat., 124°47.42′ W. long.;
(54) 47°18.84′ N. lat., 124°46.75′ W. long.;
(55) 47°19.82′ N. lat., 124°51.43′ W. long.;
(56) 47°18.13′ N. lat., 124°54.25′ W. long.;
(57) 47°13.50′ N. lat., 124°54.69′ W. long.;
(58) 47°15.00′ N. lat., 125°00.00′ W. long.;
(59) 47°08.00′ N. lat., 124°59.83′ W. long.;
(60) 47°05.79′ N. lat., 125°01.00′ W. long.;
(61) 47°03.34′ N. lat., 124°57.49′ W. long.;
(62) 47°01.00′ N. lat., 125°00.00′ W. long.;
(63) 46°55.00′ N. lat., 125°02.00′ W. long.;
(64) 46°51.00′ N. lat., 124°57.00′ W. long.;
(65) 46°47.00′ N. lat., 124°55.00′ W. long.;
(66) 46°34.00′ N. lat., 124°38.00′ W. long.;
(67) 46°30.50′ N. lat., 124°41.00′ W. long.;
(68) 46°33.00′ N. lat., 124°32.00′ W. long.;
(69) 46°29.00′ N. lat., 124°32.00′ W. long.;
(70) 46°20.00′ N. lat., 124°39.00′ W. long.;
(71) 46°18.16′ N. lat., 124°40.00′ W. long.;
(72) 46°16.00′ N. lat., 124°27.01′ W. long.;
(73) 46°15.00′ N. lat., 124°30.96′ W. long.;
(74) 46°13.17′ N. lat., 124°37.87′ W. long.;
(75) 46°13.17′ N. lat., 124°38.75′ W. long.;
(76) 46°10.50′ N. lat., 124°42.00′ W. long.;
(77) 46°06.21′ N. lat., 124°41.85′ W. long.;
(78) 46°03.02′ N. lat., 124°50.27′ W. long.;
(79) 45°57.00′ N. lat., 124°45.52′ W. long.;
(80) 45°46.85′ N. lat., 124°45.91′ W. long.;
(81) 45°45.81′ N. lat., 124°47.05′ W. long.;
(82) 45°44.87′ N. lat., 124°45.98′ W. long.;
(83) 45°43.44′ N. lat., 124°46.03′ W. long.;
(84) 45°35.82′ N. lat., 124°45.72′ W. long.;
(85) 45°35.70′ N. lat., 124°42.89′ W. long.;
(86) 45°24.45′ N. lat., 124°38.21′ W. long.;
(87) 45°11.68′ N. lat., 124°39.38′ W. long.;
(88) 44°57.94′ N. lat., 124°37.02′ W. long.;
(89) 44°44.28′ N. lat., 124°50.79′ W. long.;
(90) 44°32.63′ N. lat., 124°54.21′ W. long.;
(91) 44°23.20′ N. lat., 124°49.87′ W. long.;
(92) 44°13.17′ N. lat., 124°58.81′ W. long.;
(93) 43°57.92′ N. lat., 124°58.29′ W. long.;
(94) 43°50.12′ N. lat., 124°53.36′ W. long.;
(95) 43°49.53′ N. lat., 124°43.96′ W. long.;
(96) 43°42.76′ N. lat., 124°41.40′ W. long.;
(97) 43°24.00′ N. lat., 124°42.61′ W. long.;
(98) 43°19.74′ N. lat., 124°45.12′ W. long.;
(99) 43°19.62′ N. lat., 124°52.95′ W. long.;
(100) 43°17.41′ N. lat., 124°53.02′ W. long.;
(101) 42°49.15′ N. lat., 124°54.93′ W. long.;
(102) 42°46.74′ N. lat., 124°53.39′ W. long.;
(103) 42°43.76′ N. lat., 124°51.64′ W. long.;
(104) 42°45.41′ N. lat., 124°49.35′ W. long.;
(105) 42°43.92′ N. lat., 124°45.92′ W. long.;
(106) 42°38.87′ N. lat., 124°43.38′ W. long.;

(107) 42°34.78′ N. lat., 124°46.56′ W. long.;
(108) 42°31.47′ N. lat., 124°46.89′ W. long.;
(109) 42°31.00′ N. lat., 124°44.28′ W. long.;
(110) 42°29.22′ N. lat., 124°46.93′ W. long.;
(111) 42°28.39′ N. lat., 124°49.94′ W. long.;
(112) 42°26.28′ N. lat., 124°47.60′ W. long.;
(113) 42°19.58′ N. lat., 124°43.21′ W. long.;
(114) 42°13.75′ N. lat., 124°40.06′ W. long.;
(115) 42°05.12′ N. lat., 124°39.06′ W. long.;
(116) 42°00.00′ N. lat., 124°37.76′ W. long.;
(117) 41°47.93′ N. lat., 124°31.79′ W. long.;
(118) 41°21.35′ N. lat., 124°30.35′ W. long.;
(119) 41°07.11′ N. lat., 124°25.25′ W. long.;
(120) 40°57.37′ N. lat., 124°30.25′ W. long.;
(121) 40°48.77′ N. lat., 124°30.69′ W. long.;
(122) 40°41.03′ N. lat., 124°33.21′ W. long.;
(123) 40°37.40′ N. lat., 124°38.96′ W. long.;
(124) 40°33.70′ N. lat., 124°42.50′ W. long.;
(125) 40°31.31′ N. lat., 124°41.59′ W. long.;
(126) 40°30.00′ N. lat., 124°40.50′ W. long.;
(127) 40°25.00′ N. lat., 124°36.65′ W. long.;
(128) 40°22.42′ N. lat., 124°32.19′ W. long.;
(129) 40°17.17′ N. lat., 124°32.21′ W. long.;
(130) 40°18.68′ N. lat., 124°50.44′ W. long.;
(131) 40°13.55′ N. lat.,124°34.26′ W. long.;
(132) 40°10.00′ N. lat., 124°28.25′ W. long.;
(133) 40°06.72′ N. lat.,124°21.40′ W. long.;
(134) 40°01.63′ N. lat.,124°17.25′ W. long.;
(135) 40°00.68′ N. lat.,124°11.19′ W. long.;
(136) 39°59.09′ N. lat., 124°14.92′ W. long.;
(137) 39°51.85′ N. lat.,124°10.33′ W. long.;
(138) 39°36.90′ N. lat.,124°00.63′ W. long.;
(139) 39°32.41′ N. lat.,124°00.01′ W. long.;
(140) 39°05.40′ N. lat.,124°00.52′ W. long.;
(141) 39°04.32′ N. lat.,123°59.00′ W. long.;
(142) 38°58.02′ N. lat.,123°58.18′ W. long.;
(143) 38°57.50′ N. lat., 124°01.90′ W. long.;
(144) 38°50.27′ N. lat.,123°56.26′ W. long.;
(145) 38°46.73′ N. lat.,123°51.93′ W. long.;
(146) 38°44.64′ N. lat.,123°51.77′ W. long.;
(147) 38°32.97′ N. lat.,123°41.84′ W. long.;
(148) 38°14.56′ N. lat.,123°32.18′ W. long.;
(149) 38°13.85′ N. lat.,123°29.94′ W. long.;
(150) 38°11.88′ N. lat.,123°30.57′ W. long.;
(151) 38°08.72′ N. lat.,123°29.56′ W. long.;
(152) 38°05.62′ N. lat.,123°32.38′ W. long.;
(153) 38°01.90′ N. lat.,123°32.00′ W. long.; and
(154) 38°00.00′ N. lat., 123°30.00′ W. long.

(m) The 250 fm (457 m) depth contour used between the U.S. border with Canada and 38° N. lat., modified to allow fishing in petrale sole areas, is defined by straight lines connecting all of the following points in the order stated:
(1) 48°14.71′ N. lat., 125°41.95′ W. long.;
(2) 48°13.00′ N. lat., 125°39.00′ W. long.;
(3) 48°08.50′ N. lat., 125°45.00′ W. long.;
(4) 48°06.00′ N. lat., 125°46.50′ W. long.;
(5) 48°03.50′ N. lat., 125°37.00′ W. long.;
(6) 48°01.50′ N. lat., 125°40.00′ W. long.;
(7) 47°57.00′ N. lat., 125°37.00′ W. long.;
(8) 47°55.50′ N. lat., 125°28.50′ W. long.;
(9) 47°58.00′ N. lat., 125°25.00′ W. long.;
(10) 48°00.50′ N. lat., 125°24.50′ W. long.;
(11) 48°03.50′ N. lat., 125°21.00′ W. long.;
(12) 48°02.00′ N. lat., 125°19.50′ W. long.;
(13) 48°00.00′ N. lat., 125°21.00′ W. long.;
(14) 47°58.00′ N. lat., 125°20.00′ W. long.;
(15) 47°58.00′ N. lat., 125°18.00′ W. long.;
(16) 47°52.00′ N. lat., 125°16.50′ W. long.;
(17) 47°49.00′ N. lat., 125°11.00′ W. long.;
(18) 47°46.00′ N. lat., 125°06.00′ W. long.;
(19) 47°44.50′ N. lat., 125°07.50′ W. long.;
(20) 47°42.00′ N. lat., 125°06.00′ W. long.;
(21) 47°38.00′ N. lat., 125°07.00′ W. long.;
(22) 47°30.00′ N. lat., 125°00.00′ W. long.;
(23) 47°28.00′ N. lat., 124°58.50′ W. long.;
(24) 47°28.88′ N. lat., 124°54.71′ W. long.;
(25) 47°27.70′ N. lat., 124°51.87′ W. long.;
(26) 47°24.84′ N. lat., 124°48.45′ W. long.;
(27) 47°21.76′ N. lat., 124°47.42′ W. long.;
(28) 47°18.84′ N. lat., 124°46.75′ W. long.;
(29) 47°19.82′ N. lat., 124°51.43′ W. long.;
(30) 47°18.13′ N. lat., 124°54.25′ W. long.;
(31) 47°13.50′ N. lat., 124°54.69′ W. long.;
(32) 47°15.00′ N. lat., 125°00.00′ W. long.;
(33) 47°08.00′ N. lat., 124°59.82′ W. long.;
(34) 47°05.79′ N. lat., 125°01.00′ W. long.;
(35) 47°03.34′ N. lat., 124°57.49′ W. long.;
(36) 47°01.00′ N. lat., 125°00.00′ W. long.;
(37) 46°55.00′ N. lat., 125°02.00′ W. long.;
(38) 46°51.00′ N. lat., 124°57.00′ W. long.;
(39) 46°47.00′ N. lat., 124°55.00′ W. long.;
(40) 46°34.00′ N. lat., 124°38.00′ W. long.;
(41) 46°30.50′ N. lat., 124°41.00′ W. long.;
(42) 46°33.00′ N. lat., 124°32.00′ W. long.;
(43) 46°29.00′ N. lat., 124°32.00′ W. long.;
(44) 46°20.00′ N. lat., 124°39.00′ W. long.;
(45) 46°18.16′ N. lat., 124°40.00′ W. long.;
(46) 46°16.00′ N. lat., 124°27.01′ W. long.;
(47) 46°15.00′ N. lat., 124°30.96′ W. long.;
(48) 46°13.17′ N. lat., 124°38.76′ W. long.;
(49) 46°10.51′ N. lat., 124°41.99′ W. long.;
(50) 46°06.24′ N. lat., 124°41.81′ W. long.;
(51) 46°03.04′ N. lat., 124°50.26′ W. long.;
(52) 45°56.99′ N. lat., 124°45.45′ W. long.;
(53) 45°49.94′ N. lat., 124°45.75′ W. long.;

(54) 45°49.94′ N. lat., 124°42.33′ W. long.;
(55) 45°45.73′ N. lat., 124°42.18′ W. long.;
(56) 45°45.73′ N. lat., 124°43.82′ W. long.;
(57) 45°41.94′ N. lat., 124°43.61′ W. long.;
(58) 45°41.58′ N. lat., 124°39.86′ W. long.;
(59) 45°38.45′ N. lat., 124°39.94′ W. long.;
(60) 45°35.75′ N. lat., 124°42.91′ W. long.;
(61) 45°24.49′ N. lat., 124°38.20′ W. long.;
(62) 45°14.43′ N. lat., 124°39.05′ W. long.;
(63) 45°14.30′ N. lat., 124°34.19′ W. long.;
(64) 45°08.98′ N. lat., 124°34.26′ W. long.;
(65) 45°09.02′ N. lat., 124°38.81′ W. long.;
(66) 44°57.98′ N. lat., 124°36.98′ W. long.;
(67) 44°56.62′ N. lat., 124°38.32′ W. long.;
(68) 44°50.82′ N. lat., 124°35.52′ W. long.;
(69) 44°46.89′ N. lat., 124°38.32′ W. long.;
(70) 44°50.78′ N. lat., 124°44.24′ W. long.;
(71) 44°44.27′ N. lat., 124°50.78′ W. long.;
(72) 44°32.63′ N. lat., 124°54.24′ W. long.;
(73) 44°23.25′ N. lat., 124°49.78′ W. long.;
(74) 44°13.16′ N. lat., 124°58.81′ W. long.;
(75) 43°57.88′ N. lat., 124°58.25′ W. long.;
(76) 43°56.89′ N. lat., 124°57.33′ W. long.;
(77) 43°53.41′ N. lat., 124°51.95′ W. long.;
(78) 43°51.56′ N. lat., 124°47.38′ W. long.;
(79) 43°51.49′ N. lat., 124°37.77′ W. long.;
(80) 43°48.02′ N. lat., 124°43.31′ W. long.;
(81) 43°42.77′ N. lat., 124°41.39′ W. long.;
(82) 43°24.09′ N. lat., 124°42.57′ W. long.;
(83) 43°19.73′ N. lat., 124°45.09′ W. long.;
(84) 43°15.98′ N. lat., 124°47.76′ W. long.;
(85) 43°04.14′ N. lat., 124°52.55′ W. long.;
(86) 43°04.00′ N. lat., 124°53.88′ W. long.;
(87) 42°54.69′ N. lat., 124°54.54′ W. long.;
(88) 42°45.46′ N. lat., 124°49.37′ W. long.;
(89) 42°43.91′ N. lat., 124°45.90′ W. long.;
(90) 42°38.84′ N. lat., 124°43.36′ W. long.;
(91) 42°34.82′ N. lat., 124°46.56′ W. long.;
(92) 42°31.57′ N. lat., 124°46.86′ W. long.;
(93) 42°30.98′ N. lat., 124°44.27′ W. long.;
(94) 42°29.21′ N. lat., 124°46.93′ W. long.;
(95) 42°28.52′ N. lat., 124°49.40′ W. long.;
(96) 42°26.06′ N. lat., 124°46.61′ W. long.;
(97) 42°21.82′ N. lat., 124°43.76′ W. long.;
(98) 42°17.47′ N. lat., 124°38.89′ W. long.;
(99) 42°13.67′ N. lat., 124°37.51′ W. long.;
(100) 42°13.76′ N. lat., 124°40.03′ W. long.;
(101) 42°05.12′ N. lat., 124°39.06′ W. long.;
(102) 42°02.67′ N. lat., 124°38.41′ W. long.;
(103) 42°02.67′ N. lat., 124°35.95′ W. long.;
(104) 42°00.00′ N. lat., 124°36.83′ W. long.;
(105) 41°47.79′ N. lat., 124°29.48′ W. long.;
(106) 41°21.01′ N. lat., 124°29.01′ W. long.;
(107) 41°13.50′ N. lat., 124°24.40′ W. long.;
(108) 41°11.00′ N. lat., 124°22.99′ W. long.;
(109) 41°06.69′ N. lat., 124°23.30′ W. long.;
(110) 40°54.73′ N. lat., 124°28.15′ W. long.;
(111) 40°53.95′ N. lat., 124°26.04′ W. long.;
(112) 40°49.96′ N. lat., 124°26.04′ W. long.;
(113) 40°44.49′ N. lat., 124°30.81′ W. long.;
(114) 40°40.58′ N. lat., 124°32.06′ W. long.;
(115) 40°37.36′ N. lat., 124°29.41′ W. long.;
(116) 40°35.67′ N. lat., 124°30.43′ W. long.;
(117) 40°37.41′ N. lat., 124°37.06′ W. long.;
(118) 40°36.09′ N. lat., 124°40.11′ W. long.;
(119) 40°31.31′ N. lat., 124°40.87′ W. long.;
(120) 40°29.64′ N. lat., 124°36.82′ W. long.;
(121) 40°27.34′ N. lat., 124°37.28′ W. long.;
(122) 40°25.01′ N. lat., 124°36.36′ W. long.;
(123) 40°22.28′ N. lat., 124°31.83′ W. long.;
(124) 40°16.96′ N. lat., 124°31.91′ W. long.;
(125) 40°17.00′ N. lat., 124°34.96′ W. long.;
(126) 40°16.03′ N. lat., 124°36.02′ W. long.;
(127) 40°10.00′ N. lat., 124°24.55′ W. long.;
(128) 40°06.45′ N. lat., 124°19.24′ W. long.;
(129) 40°07.08′ N. lat., 124°17.80′ W. long.;
(130) 40°05.55′ N. lat., 124°18.11′ W. long.;
(131) 40°04.74′ N. lat., 124°18.11′ W. long.;
(132) 40°02.35′ N. lat., 124°16.53′ W. long.;
(133) 40°01.13′ N. lat., 124°12.98′ W. long.;
(134) 40°01.55′ N. lat., 124°09.80′ W. long.;
(135) 39°58.54′ N. lat., 124°12.43′ W. long.;
(136) 39°55.72′ N. lat., 124°07.44′ W. long.;
(137) 39°42.64′ N. lat., 124°02.52′ W. long.;
(138) 39°35.96′ N. lat., 123°59.47′ W. long.;
(139) 39°34.61′ N. lat., 123°59.58′ W. long.;
(140) 39°34.79′ N. lat., 123°58.47′ W. long.;,.;
(141) 39°33.79′ N. lat., 123°56.77′ W. long.;
(142) 39°33.03′ N. lat., 123°57.06′ W. long.;
(143) 39°33.20′ N. lat., 123°59.12′ W. long.;
(144) 39°07.81′ N. lat., 123°59.06′ W. long.;
(145) 39°03.06′ N. lat., 123°57.77′ W. long.;
(146) 38°57.50′ N. lat., 123°57.00′ W. long.;
(147) 38°52.26′ N. lat., 123°56.18′ W. long.;
(148) 38°50.21′ N. lat., 123°55.48′ W. long.;
(149) 38°46.81′ N. lat., 123°51.49′ W. long.; and
(150) 38°45.28′ N. lat., 123°51.55′ W. long.
(151) 38°42.76′ N. lat., 123°49.73′ W. long.
(152) 38°41.53′ N. lat., 123°47.80′ W. long.
(153) 38°41.41′ N. lat., 123°46.74′ W. long.
(154) 38°38.01′ N. lat., 123°45.74′ W. long.
(155) 38°37.19′ N. lat., 123°43.98′ W. long.
(156) 38°35.26′ N. lat., 123°41.99′ W. long.
(157) 38°33.38′ N. lat., 123°41.76′ W. long.
(158) 38°19.95′ N. lat., 123°32.90′ W. long.

(159) 38°14.38′ N. lat., 123°25.51′ W. long.
(160) 38°09.39′ N. lat., 123°24.39′ W. long.
(161) 38°10.09′ N. lat., 123°27.21′ W. long.
(162) 38°03.76′ N. lat., 123°31.90′ W. long.
(163) 38°02.06′ N. lat., 123°31.26′ W. long.
(164) 38°00.00′ N. lat., 123°29.56′ W. long.

24. In part 660, subpart G, Tables 1-5 are added to read as follows:

BILLING CODE 3510–22–S

Table 1a. to Part 660, Subpart G--2005 Specifications of Acceptable Biological Catch (ABC), Optimum Yields (OYs), Harvest Guidelines (HGs), and Limited Entry and Open Access Allocations, by management Area (weights in metric tons).

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial Harvest guidelines (Total Catch)	Allocations total catch			
	Vancouver a/	Columbia	Eureka	Monterey	Conception	Total Catch			Limited Entry		Open Access	
									Mt	%	Mt	%
ROUNDFISH												
Lingcod b/ north of 42°N. lat.	1,874	1,048				2,922	1,801	274.2	--	81.0	--	19.0
Lingcod south of 42°N. lat.							612					
Pacific Cod d/	3,200	c/				3,200	1,600	1,600	--	--	--	--
Pacific Whiting e/	181,287 - 725,146					181,287-725,146	181,287-725,146		--	--	--	--
Sablefish f/ north of 36°	8,368					8,368	7,486	6670	6,043	90.6	627	9.4
Sablefish g/ south of 36°							275	275	--	--	--	--
Cabezon h/ south of 42°N. lat.	c/	103				103	69	--	--	--	--	--
FLATFISH												
Dover sole i/	8,522					8,522	7,476	7,445	--	--	--	-
English sole j/	2,000	1,100				3,100	3,100	-	-	-	-	-
Petrale sole k/	1,262	500	800	200		2,762	2,762	-	-	-	-	-
Arrowtooth flounder l/	5,800					5,800	5,800	-	-	-	-	-
Other flatfish m/	6,781					6,781	4,090		-	-	-	-

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial Harvest guidelines (Total Catch)	Allocations total catch			
	Vancouver	Columbia	Eureka	Monterey	Conception	ABC			Limited Entry		Open Access	
									Mt	%	Mt	%
ROCKFISH:												
Pacific Ocean Perch n/	966					966	447	129.1	--	--	--	--
Shortbelly o/	13,900					13,900	13,900	13,894	--	--	--	--
Widow p/	3,218					3,218	285	281.7	--	97.0	--	3.0
Canary q/	270					270	46.8	24.8	--	87.7	--	12.3
Chilipepper r/	c/			2,700		2,700	2,000	1,973	1099	55.7	874	44.3
Bocaccio s/	c/			566		566	307	85.2	--	52.7	--	44.3
Splitnose t/	c/			615		615	461	461	--	--	--	--
Yellowtail u/	3,896			c/		3,896	3,896	3,871	3,550	91.7	321	8.3
Shortspine thornyhead v/ north of 34°27'	1,055					1,055	999	995	992	99.7	3	0.27
Longspine thornyhead w/ north of 36°	2,461				--	2,461	2,461		--	--	--	--
south of 36° x/	--				390	390	195	195	--	--	--	--
Cowcod y/	c/		19	--		19	2.1	0	--	--	--	--
	c/		--	5		5	2.1	0	--	--	--	--
Darkblotched z/	269					269	269	122.1		--		--
Yelloweye aa/	54					54	26	8.5		--		--
Black bb/ north of 46°16' N. lat.	540					540	540		--	--	--	--
Black bb/ south of 46°16' N. lat.	753					753	753					

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial Harvest guidelines (Total Catch)	Allocations total catch			
	Vancouver	Columbia	Eureka	Monterey	Conception	Total Catch			Limited Entry		Open Access	
									Mt	%	Mt	%
Minor Rockfish north cc/	3,680			--		3,680	2,250	2,172	1,992	91.7	180	8.3
Minor Rockfish south dd/	--			3,412		3,412	1,968	1,525	849	55.7	676	44.3
Remaining Rockfish	1,612			854		--	--	--	--	--	--	--
bank ee/	c/			350		350	--	--	--	--	--	-
blackgill ff/	c/			75	268	343	--	--	--	--	--	--
bocaccio north	318					318	--	--	--	--	--	--
chilipepper north	32					32	--	--	--	--	--	--
redstripe	576			c/		576	--	--	--	--	--	--
sharpchin	307			45		352	--	--	--	--	--	--
silvergrey	38			c/		38	--	--	--	--	--	-
splitnose	242			c/		242	--	--	--	--	--	--
yellowmouth	99			c/		99	--	--	--	--	--	--
yellowtail south				116		116	--	--	--	--	--	--
Other rockfish gg/	2,068			2,558		--	--	--	--	--	--	--
SHARKS/SKATES/RATFISH/MORIDS/GRENADIERS/KELP GREENLING:												
Other fish hh/	2,500	7,000	1,200	3,900		14,600	7,300	--	--	--	--	--

Table 1b. to Part 660, Subpart G--2005 OYs for minor rockfish by depth sub-groups (weights in metric tons).

Species	Total Catch ABC	OY (Total Catch)			Harvest Guidelines (total catch)			
		Total Catch OY	Recreational Estimate	Commercial HG for minor rockfish and depth sub-groups	Limited Entry		Open Access	
					Mt	%	Mt	%
Minor Rockfish North cc/	3,680	2,250	78	2,172	1,992	91.7	180	8.3
Nearshore		122	68	54				
Shelf		968	10	958				
Slope		1,160	0	1,160				
Minor Rockfish South dd/	3,412	1,968	443	1,390	774	55.7	616	44.3
Nearshore ii/		615	383	97				
Shelf		714	60	654				
Slope		639	0	639				

a/ ABCs apply to the U.S. portion of the Vancouver area, except as noted under individual species.

b/ Lingcod was declared overfished on March 3, 1999. A coastwide stock assessment was prepared in 2003. Lingcod was believed to be at 25 percent of its unfished biomass coastwide in 2002, 31 percent in the north and 19 percent in the south. The ABC projection for 2005 is 2,922 mt and was calculated using an F_{MSY} proxy of F45%. The total catch OY of 2,414 mt (the sum of 1,891 mt in the north and 612 mt in the south) was based on the rebuilding plan with a 70 percent probability of rebuilding the stock to B_{MSY} by the year 2009 (T_{MAX}) then adjusted downward slightly (by 174 mt) to be equal to the 2006 OY value. The harvest control rule will be F=0.17 in the north and F=0.15 in the south. Out of the OY, it is estimated that 656 mt will be taken in the recreational fishery, 4.5 mt will be taken during research activity, and 2.8 mt will be taken in non-groundfish fisheries. Under the proposed regulations, it is currently anticipated that 274.2 mt will be taken in the commercial fisheries (which is being set as a commercial HG), leaving a residual amount of 1,476.5 mt to be used as necessary during the fishing year. There is a recreational harvest guideline of 234 mt for the area north of 42° N. Lat. and a recreational harvest guideline of 422 mt for the area south of 42° N. Lat. The tribes do not have a specific allocation at this time but are expected to take 25.1 mt of the commercial HG.

c/ "Other species", these are neither common nor important to the commercial and recreational fisheries in the areas footnoted. Accordingly, Pacific cod is included in the non-commercial HG of "other fish" and rockfish species are included in either "other rockfish" or "remaining rockfish" for the areas footnoted.

d/ Pacific Cod - The 3,200 mt ABC is based on historical landings data and is set at the same level as it was in 2004. The 1,600 mt OY is the ABC reduced by 50 percent as a precautionary adjustment

e/ Pacific whiting - The most recent stock assessment was prepared in early 2004, and the whiting biomass was estimated to be above 40 percent of its unfished biomass in 2003. A range is presented for the ABC and OY values because final adoption of the ABC and OY have been deferred until the Council's March 2005 meeting. It is anticipated that an assessment update will be available in early 2005 and the results of the new assessment will be used to set the 2005 ABC and OY.

f/ Sablefish north of 36° N. lat. - A coastwide sablefish stock assessment was prepared in 2001 and updated for 2002. Following the 2002 stock assessment update, the sablefish biomass north of 34° 27'N. lat. was believed to be between 31 percent and 38 percent of its unfished biomass. The coastwide ABC of 8,368 mt is based on environmentally driven projections with the F_{MSY} proxy of F45%. The ABC for the management area north of 36° N. lat. is 8,071 mt (96.45 percent of the coastwide ABC). The coastwide OY of 7,761 mt is based on the density-dependent model and the application of the 40-10 harvest policy. The total catch OY for the area north of 36° N. lat is 7,486 mt and is 96.45 percent of the coastwide OY. The OY is reduced by 10 percent (749 mt) for the tribal allocation. Out of the remaining OY, 48 mt will be taken during research activity, and 19 mt will be taken in non-groundfish fisheries, resulting in a commercial HG of 6,670 mt. The open access allocation is 9.4 percent (627 mt) of the commercial HG and the limited entry allocation is 90.6 percent (6,043 mt) of the commercial HG. The limited entry allocation is further divided with 58 percent (3,505 mt) allocated to the trawl fishery and 42 percent (2,538 mt) allocated to the fixed-gear fishery. To provide for bycatch in the at-sea whiting fishery, 15 mt of the limited entry trawl allocation will be set aside.

g/ Sablefish south of 36° N. lat. - The ABC of 297 mt is 3.55 percent of the ABC from the 2002 coastwide stock assessment update. The total catch OY of 275 mt is 3.55 percent of the OY from the 2002 coastwide stock assessment update. There are no limited entry or open access allocations in the Conception area at this time.

h/ Cabezon was first assessed in 2003 and was believed to be at 34.7 percent of its unfished biomass. The ABC of 103 mt is based on a harvest rate proxy of $F_{45\%}$. The OY of 69 mt is based on a constant harvest level for 2005 and 2006.

i/ Dover sole north of 34° 27' N. lat. was assessed in 2001 and was believed to be at 29 percent of its unfished biomass. The ABC of 8,522 mt is the 2005 projection from the 2001 assessment with an F_{MSY} proxy of F40%. Because the biomass is estimated to be in the precautionary zone, the 40-10 harvest rate policy was applied, resulting in a total catch OY of 7,476 mt. The OY is reduced by 31 mt for the amount estimated to be taken as research catch, resulting in a commercial HG of 7,445 mt.

j/ English sole - Research catch is estimated to be 4.4 mt.

k/ Petrale sole was believed to be at 42 percent of its unfished biomass following a 1999 stock assessment. For 2005, the ABC for the Vancouver-Columbia area (1,262 mt) is based on a four year average projection from 2000-2003 with a F40% F_{MSY} proxy. The ABCs for the Eureka, Monterey, and Conception areas (1,500 mt) are based on historical landings data and continue at the same level as 2004. Management measures to constrain the harvest of overfished species have reduced the availability of these stocks to the fishery during the past several years. Because the harvest

assumptions (from the most recent stock assessment for the Vancouver-Columbia area) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2005 was considered to be conservative and based on the best available data. Research catch is estimated to be 1.7 mt and will be taken out of the OY.

l/ Arrowtooth flounder was last assessed in 1993 and was believed to be above 40 percent of its unfished biomass. Research catch is estimated to be 6.7 mt and will be taken out of the OY.

m/ Other flatfish are those species that do not have individual ABC/OYs and include butter sole, curlfin sole, flathead sole, Pacific sand dab, rex sole, rock sole, sand sole, and starry flounder. The ABC is based on historical catch levels. The ABC of 6,781 mt is based on the highest landings for sanddabs (1995) and rex sole (1982) for the 1981-2003 period and on the average landings from the 1994-1998 period for the remaining other flatfish species. The OY of 4,909 mt is based on the ABC with a 25 percent precautionary adjustment for sanddabs and rex sole and a 50 percent precautionary adjustment for the remaining species. Research catch is estimated to be 7.6 mt and will be taken out of the OY.

n/ Pacific ocean perch (POP) was declared overfished on March 3, 1999. A stock assessment was prepared in 2003 and POP was determined to be at 25 percent of its unfished biomass. The ABC of 966 mt was projected from the 2003 stock assessment and is based on an F_{MSY} proxy of F50%. The OY of 447 mt is based on a 70 percent probability of rebuilding the stock to B_{MSY} by the year 2042 (T_{MAX}). The harvest control rule will be F=0.0257. Out of the OY it is anticipated that 3.6 mt will be taken during research activity and 129.1 mt in the commercial fishery (which is being set as a commercial HG), leaving a residual amount of 314.3 mt to be used as necessary during the fishing year.

o/ Shortbelly rockfish remains as an unexploited stock and is difficult to assess quantitatively. A 1989 stock assessment provided 2 alternative yield calculations of 13,900 mt and 47,000 mt. NMFS surveys have shown poor recruitment in most years since 1989, indicating low recent productivity and a naturally declining population in spite of low fishing pressure. The ABC and OY therefore are set at 13,900 mt, the low end of the range in the stock assessment. The OY is reduced by 6.0 mt for the amount expected to be taken during research activity, resulting in a commercial HG of 13,894.

p/ The widow rockfish stock was declared overfished on January 11, 2001 (66 FR 2338). The most recent stock assessment was prepared for widow rockfish in 2003. The spawning stock biomass is believed to be at 22.4 percent of its unfished biomass in 2002. The ABC of 3,218 mt is based an F50% F_{MSY} proxy. The 285 mt OY is based on a 60 percent probability of rebuilding the stock to B_{MSY} by the year 2042 (T_{MAX}). The harvest control rule is F=0.0093. Out of the OY, it is anticipated that 0.9 mt will be taken during research activity, 2.3 mt will be taken in the recreational fishery, 0.1 mt will be taken in non-groundfish fisheries, and 281.7 mt will be taken in the commercial fishery (which is being set as the commercial HG). Specific open access/limited entry allocations have been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks. Tribal vessels are estimated to land about 40 mt of widow rockfish in 2005, but do not have a specific allocation at this time. The set asides of widow rockfish taken in the Pacific whiting fisheries will likely be limited to 231.8 mt.

q/ Canary rockfish was declared overfished on January 4, 2000 (65 FR 221). A stock assessment was completed in 2002 for canary rockfish and the stock was believed to be at 8 percent of its unfished biomass coastwide in 2001. The coastwide ABC of 270 mt is based on a F_{MSY} proxy of F50%. The coastwide OY of

46.8 mt is based on the rebuilding plan, which has a 60 percent probability of rebuilding the stock to B_{MSY} by the year 2076 (T_{MAX}) and a catch sharing arrangement which has 58 percent of the OY going to the commercial fisheries and 42 percent going to the recreational fishery. The harvest control rule will be F=0.0220. Out of the OY, it is anticipated that 1.7 mt will be taken during the research activity, 17.8 mt will be taken in the recreational fishery, 2.1 mt will be taken in non-groundfish fisheries, and 22.7 mt will be taken in the commercial fishery (which is being set as the commercial HG), leaving a residual amount of 2.5 mt. The residual amount, will be further divided with 1.25 mt being available as needed for the recreational and 1.25 mt being available as needed for the commercial fisheries. The recreational HG for the area north of 42° N. lat. will be 8.5 mt. For the area south of 42° N. lat., the recreational HG will be 9.3 mt. Specific open access/limited entry allocations have been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks. Tribal vessels are estimated to land about 2.6 mt of canary rockfish under the commercial HG, but do not have a specific allocation at this time.

r/ Chilipepper rockfish - the ABC (2,700 mt) for the Monterey-Conception area is based on a three year average projection from 1999-2001 with a F50% F_{MSY} proxy. Because the unfished biomass is believed to be above 40 percent the default OY could be set equal to the ABC. However, the OY is set at 2,000 mt to discourage effort on chilipepper, which is taken with bocaccio. Management measures to constrain the harvest of overfished species have reduced the availability of these stocks to the fishery during the past several years. Because the harvest assumptions (from the most recent stock assessment) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2005 was considered to be conservative and based on the best available data. The OY is reduced by 15 mt for the amount estimated to be taken in the recreational fishery and 12 mt for the amount expected to be taken during research activity, resulting in a commercial HG of 1,973 mt. Open access is allocated 44.3 percent (874 mt) of the commercial HG and limited entry is allocated 55.7 percent (1,099 mt) of the commercial HG.

s/ Bocaccio was declared overfished on March 3, 1999. A new stock assessment and a new rebuilding analysis were prepared for bocaccio in 2003. The bocaccio stock was believed to be at 7.4 percent of its unfished biomass in 2002. The ABC of 566 mt is based on a F50% F_{MSY} proxy. The OY of 307 mt is based on the rebuilding analysis and has a 70 percent probability of rebuilding the stock to B_{MSY} by the year 2032 (T_{MAX}). The harvest control rule is F=0.0498. Out of the OY, it is anticipated that 0.4 mt will be taken during the research activity, 43 mt will be taken in the recreational fishery, 1.3 mt will be taken in non-groundfish fisheries, and 85.2 mt will be taken in the commercial fishery (which is being set as the commercial HG), leaving a residual amount of 177.1 mt to be used as necessary during the fishing year.

t/ Splitnose rockfish - The ABC is 615 mt in the southern area (Monterey-Conception). The 461 mt OY for the southern area reflects a 25 percent precautionary adjustment because of the less rigorous stock assessment for this stock. In the north, splitnose is included in the minor slope rockfish OY. Because the harvest assumptions used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2005 was considered to be conservative and based on the best available data.

u/ Yellowtail rockfish - A yellowtail rockfish stock assessment was prepared in 2003 for the Vancouver-Columbia-Eureka areas. Yellowtail rockfish was believed to be at 46 percent of its unfished biomass in 2002. The ABC of 3,896 mt is based on the 2003 stock assessment with the F_{MSY} proxy of F50%. The OY of 3,896 mt was set equal to the ABC, because the stock is above the precautionary threshold. The OY is reduced by 15 mt for the amount estimated to be taken in the recreational fishery, 4.3 mt for the amount estimated to be taken during research activity, and 5.8 mt for the amount taken in non-groundfish fisheries,

resulting in a commercial HG of 3,871 mt. The open access allocation (321 mt) is 8.3 percent of the commercial HG. The limited entry allocation (3,550 mt) is 91.7 percent the commercial HG. Tribal vessels are estimated to land about 506 mt of yellowtail rockfish in 2005, but do not have a specific allocation at this time.

v/ Shortspine thornyhead was last assessed in 2001 and the stock was believed to be between 25 and 50 percent of its unfished biomass. The ABC (1,030 mt) for the area north of Pt. Conception (34° 27' N. lat.) is based on a F50% F_{MSY} proxy. The OY of 999 mt is based on the 2001 survey with the application of the 40-10 harvest policy. The OY is reduced by 4 mt for the amount estimated to be taken during research activity, resulting in a commercial HG of 995 mt. Open access is allocated 0.27 percent (3 mt) of the commercial HG and limited entry is allocated 99.73 percent (992 mt) of the commercial HG. There is no ABC or OY for the southern Conception area. Tribal vessels are estimated to land about 6.7 mt of shortspine thornyhead in 2005, but do not have a specific allocation at this time.

w/ Longspine thornyhead north of 36° is believed to be above 40 percent of its unfished biomass. The ABC (2,461 mt) in the north (Vancouver-Columbia-Eureka-Monterey) is based on a F50% F_{MSY} proxy. Because the harvest assumptions (from the most recent stock assessment) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2005 was considered to be conservative and based on the best available data. The total catch OY (2,461 mt) is set equal to the ABC. The OY is reduced by 11.2 mt for the amount estimated to be taken during research activity, resulting in a commercial HG of 2,449.8 mt.

x/ Longspine thornyhead south of 36° - A separate ABC (390 mt) is established for the Conception area and is based on historical catch for the portion of the Conception area north of 34°27' N. lat. (Point Conception). To address uncertainty in the stock assessment due to limited information, the ABC was reduced by 50 percent to obtain the OY, 195 mt. There is no ABC or OY for the southern Conception Area.

y/ Cowcod in the Conception area was assessed in 1999 and was believed to be less than 10 percent of its unfished biomass. Cowcod was declared as overfished on January 4, 2000 (65 FR 221). The ABC in the Conception area (5 mt) is based on the 1999 stock assessment, while the ABC for the Monterey area (19 mt) is based on average landings from 1993-1997. The OY of 4.2 mt (2.1 mt in each area) is based on the rebuilding plan adopted under Amendment 16-3, which has a 60 percent probability of rebuilding the stock to B_{MSY} by the year 2099 (T_{MAX}). The harvest control rule is F=0.009. Cowcod retention will not be permitted in 2005 and 2006. The OY will be used to accommodate discards of cowcod rockfish resulting from incidental take.

z/ Darkblotched rockfish was assessed in 2000 and a stock assessment update was prepared in 2003. The darkblotched rockfish stock was declared overfished on January 11, 2001 (66 FR 2338). Following the 2003 stock assessment update, the stock was believed to be at 11 percent of its unfished biomass. The ABC is projected to be 269 mt and is based on an F_{MSY} proxy of F50%. The OY of 269 mt is based on the rebuilding plan adopted under Amendment 16-2 and has a >80% probability of rebuilding the stock to B_{MSY} by the year 2047 (T_{MAX}). The harvest control rule is F=0.032. Out of the OY, it is anticipated that 3.8 mt will be taken during research activity, and 90.9 mt will be taken in the commercial fishery (which is being set as a commercial HG), leaving a residual amount of 174.3 mt to be used as necessary during the fishing year. For anticipated bycatch in the at-sea whiting fishery, 9 mt is being set aside.

aa/ Yelloweye rockfish was assessed in 2001 and updated for 2002. On January 11, 2002, yelloweye rockfish was declared overfished (67 FR 1555). In 2002 following the stock assessment update, yelloweye rockfish was believed to be at

24.1 percent of its unfished biomass coastwide. The 54 mt coastwide ABC is based on an F_{MSY} proxy of F50%. The OY of 26 mt, based on a revised rebuilding analysis (August 2002) and the rebuilding plan proposed under Amendment 16-3, have a 80 percent probability of rebuilding to B_{MSY} by the year 2071 (T_{MAX}) and a harvest control rule of F=0.0153. Out of the OY, it is anticipated that 10.4 mt will be taken in the recreational fishery, 1.0 mt will be taken during research activity, 0.8 mt will be taken in non-groundfish fisheries and 8.5 mt will be taken in the commercial fishery (which is being set as a commercial HG), leaving a residual amount of 5.3 mt to be used as necessary during the fishing year. Tribal vessels are estimated to land about 2.3 mt of yelloweye rockfish of the commercial HG in 2005, but do not have a specific allocation at this time.

bb/ Black rockfish was last assessed in 2003 for the Columbia and Eureka area and in 2000 for the Vancouver area. The ABC for the area north of 46°16' N. lat. is 540 mt and the ABC for the area south of 46°16' N. lat. is 753 mt. Because of an overlap in the assessed areas between Cape Falcon and the Columbia River, projections from the 2000 stock assessment were adjusted downward by 12 percent to account for the overlap. The ABCs were derived using an F_{MSY} proxy of F50%. Because the unfished biomass is believed to be above 40 percent the OYs were set equal to the ABCs. For the area north of 46°16' N. lat., the OY is 540 mt. A harvest guideline of 30,000 lb (13.6 mt) is set for the tribes. For the area south of 46°16' N. lat the OY is 753 mt. The black rockfish OY in the area south of 46°16' N. lat is subdivided with separate HGs being set for the area north of 42° N. lat (437 mt/58 percent) and for the area south of 42° N. lat (316 mt/42 percent). For the area north of 42° N. lat. 332 mt is estimated to be taken in the recreational fishery, resulting in a commercial HG of 105 mt. Of the 316 mt of black rockfish attributed to the area south of 42° N. lat., a HG of 190 mt (60 percent) will be applied to the area north of 40°10 min N. lat. and a HG of 126 mt (40 percent) will be applied to the area south of 40°10 min N. lat. For the area between 42° N. lat. and 40°10' N. lat., 74 mt is estimated to be taken in the recreational fishery, resulting in a commercial HG of 116 mt. For the area south of 40°10 min N. lat., 101 mt is estimated to be taken in the recreational fishery, resulting in a commercial HG of 25 mt. Black rockfish was included in the minor rockfish north and other rockfish south categories until 2004.

cc/ Minor rockfish north includes the "remaining rockfish" and "other rockfish" categories in the Vancouver, Columbia, and Eureka areas combined. These species include "remaining rockfish", which generally includes species that have been assessed by less rigorous methods than stock assessments, and "other rockfish", which includes species that do not have quantifiable stock assessments. The ABC of 3,680 mt is the sum of the individual "remaining rockfish" ABCs plus the "other rockfish" ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain the total catch OY of 2,250 mt, the remaining rockfish ABCs were further reduced by 25 percent and other rockfish ABCs were reduced by 50 percent. This was a precautionary measure to address limited stock assessment information. The OY is reduced by 78 mt for the amount estimated to be taken in the recreational fishery, resulting in a 2,172 mt commercial HG. Open access is allocated 8.3 percent (180 mt) of the commercial HG and limited entry is allocated 91.7 percent (1,992 mt) of the commercial HG. Tribal vessels are estimated to land about 28 mt in 2005, but do not have a specific allocation at this time.

dd/ Minor rockfish south includes the "remaining rockfish" and "other rockfish" categories in the Monterey and Conception areas combined. These species include "remaining rockfish" which generally includes species that have been assessed by less rigorous methods than stock assessment, and "other rockfish" which includes species that do not have quantifiable stock assessments. The ABC of 3,412 mt is the sum of the individual "remaining rockfish" ABCs plus the "other rockfish" ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain a total catch OY of 1,968 mt, the remaining rockfish ABCs are further reduced by 25 percent, with the

exception of blackgill rockfish, the other rockfish ABCs were reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The OY is reduced by 443 mt for the amount estimated to be taken in the recreational fishery, resulting in a 1,525 mt HG for the commercial fishery. Open access is allocated 44.3 percent (676 mt) of the commercial HG and limited entry is allocated 55.7 percent (849 mt) of the commercial HG.

ee/ Bank rockfish -- The ABC is 350 mt which is based on a 2000 stock assessment for the Monterey and Conception areas. This stock contributes 263 mt towards the minor rockfish OY in the south.

ff/ Blackgill rockfish was believed to be at 51 percent of its unfished biomass in 1997. The ABC of 343 mt is the sum of the Conception area ABC of 268 mt, based on the 1998 stock assessment with an F_{MSY} proxy of F50%, and the Monterey area ABC of 75 mt. This stock contributes 306 mt towards minor rockfish south (268 mt for the Conception area ABC and 38 mt for the Monterey area). The OY for the Monterey area is the ABC reduced by 50 percent as a precautionary measure because of the lack of information.

gg/ "Other rockfish" includes rockfish species listed in 50 CFR 660.302 and California scorpionfish. The ABC is based on the 1996 review of commercial Sebastes landings and includes an estimate of recreational landings. These species have never been assessed quantitatively. The amount estimated to be taken as research catch is 18.8 mt.

hh/ "Other fish" includes sharks, skates, rays, ratfish, morids, grenadiers, kelp greenling and other groundfish species noted above in footnote c/. The amount estimated to be taken as research catch is 48.6 mt.

ii/ Minor nearshore rockfish south - The total catch OY is 615 mt. Out of the OY it is anticipated that the recreational fishery will take 383 mt, and 97 mt will be taken by the commercial fishery (which is being set as a commercial HG), leaving a residual amount of 135 mt to be used as necessary during the fishing year.

Table 2a. to Part 660, Subpart G--2006, and Beyond, Specifications of Acceptable Biological Catch (ABC), Optimum Yields (OYs), Harvest Guidelines (HGs), and Limited Entry and Open Access Allocations, by management Area (weights in metric tons).

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial Harvest guidelines (Total Catch)	Allocations total catch			
	Vancouver a/	Columbia	Eureka	Monterey	Conception	Total Catch			Limited Entry		Open Access	
									Mt	%	Mt	%
ROUNDFISH												
Lingcod b/ north of 42° N. lat.	1,694		1,021			2,716	1,801	214.7	--	81.0	--	19.0
Lingcod south of 42° N. lat.							612					
Pacific Cod d/	3,200		c/			3,200	1,600	1,600	--	--	--	--
Pacific Whiting e/	114,297 - 457,186					114,297-457,186	114,297-457,186		--	--	--	--
Sablefish f/ north of 36°	8,175					8,175	7,363	6,522	5,909	90.6	613	9.4
Sablefish g/ south of 36°							271	271	--	--	--	--
Cabezon h/ south of 42°N. lat.	c/		108			108	69	--	--	--	--	--
FLATFISH												

Species	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial Harvest guidelines (Total Catch)	Allocations total catch			
	Vancouver	Columbia	Eureka	Monterey	Conception	ABC			Limited Entry		Open Access	
									Mt	%	Mt	%
Dover sole i/	8,589					8,589	7,564	7,504	--	--	--	--
English sole j/	2,000	1,100				3,100	3,100	-	-	-	-	-
Petrale sole k/	1,262	500	800	200		2,762	2,762	-	-	-	-	-
Arrowtooth flounder l/	5,800					5,800	5,800	-	-	-	-	-
Other flatfish m/	6,781					6,781	4,090	-	-	-	-	-
ROCKFISH:												
Pacific Ocean Perch n/	934					934	447	102.6	--	--	--	--
Shortbelly o/	13,900					13,900	13,900	13,888	--	--	--	--
Widow p/	3,059					3,059	289	285.6	--	97.0	--	3.0
Canary q/	270					270	47.1	22.7	--	87.7	--	12.3
Chilipepper r/	c/	2,700				2,700	2,000	1,964	1,094	55.7	870	44.3
Bocaccio s/	c/	549				549	308	75.2	--	52.7	--	44.3
Splitnose t/	c/	615				615	461	461	--	--	--	--
Yellowtail u/	3,681	c/				3,681	3,681	3655	3,352	91.7	303	8.3
Shortspine thornyhead v/ north of 34°27'	1,077					1,077	1018	1011	984	99.7	27	0.27
Longspine thornyhead w/ north of 36°	2,461				--	2,461	2,461	2449	--	--	--	--
south of 36° x/	--				390	390	195	195	--	--	--	--

Cowcod y/	c/	19	--	19	2.1	0	--	--	--	-
	c/	--	5	5	2.1	0	--	--	--	--
Darkblotched z/	294			294	294	87.4	--	--	--	--
Yelloweye aa/	55			55	27	6.4	--	--	--	--
Black bb/ north of 46°16' N. lat.	540			540	540		-	-	--	--
Black bb/ south of 46°16' N. lat.	736			736	736					

	ACCEPTABLE BIOLOGICAL CATCH (ABC)						OY (Total catch)	Commercial Harvest guidelines (Total Catch)	Allocations total catch			
Species	Vancouver	Columbia	Eureka	Monterey	Conception	Total Catch			Limited Entry		Open Access	
									Mt	%	Mt	%
Minor Rockfish north cc/	3,680			--		3,680	2,250	2,172	1,992	91.7	180	8.3
Minor Rockfish south dd/	--			3,412		3,412	1,968	1,525	849	55.7	676	44.3
Remaining Rockfish	1,612			854		--	--	--	--	--	--	--
bank ee/	c/			350		350	--	--	--	--	--	--
blackgill ff/	c/			75	268	343	--	--	--	--	--	--
bocaccio north	318					318	--	--	--	--	--	--
chilipepper north	32					32	--	--	--	--	--	--
redstripe	576			c/		576	--	--	--	--	--	--
sharpchin	307			45		352	--	--	--	--	--	-
silvergrey	38			c/		38	--	--	--	--	--	--
splitnose	242			c/		242	--	--	--	--	--	--

yellowmouth	99	c/	99	--	--	--	--	--	--
yellowtail south		116	116	--	--	--	--	--	--
Other rockfish gg/	2,068	2,558	--	--	--	--	--	--	--
SHARKS/SKATES/RATFISH/MORIDS/GRENADIERS									
OTHER FISH ee/	2,500	7,000	1,200	3,900	14,600	7,300	--	--	--

Table 2b. to Part 660, Subpart G--2006, and Beyond, OYs for minor rockfish by depth sub-groups (weights in metric tons).

Species	Total Catch ABC	OY (Total Catch)			Harvest Guidelines (total catch)			
		Total Catch OY	Recreational Estimate	Commercial HG for minor rockfish and depth sub-groups	Limited Entry		Open Access	
					Mt	%	Mt	%
Minor Rockfish north cc/	3,680	2,250	78	2,172	1,992	91.7	180	8.3
Nearshore		122	68	54				
Shelf		968	10	958				
Slope		1,160	0	1,160				
Minor Rockfish south dd/	3,412	1,968	443	1,390	774	55.7	616	44.3
Nearshore ii/		615	383	97				
Shelf		714	60	654				
Slope		639	0	639				

a/ ABCs apply to the U.S. portion of the Vancouver area, except as noted under individual species.

b/ Lingcod was declared overfished on March 3, 1999. A coastwide stock assessment was prepared in 2003. Lingcod was believed to be at 25 percent of its unfished biomass coastwide in 2002, 31 percent in the north and 19 percent in the south. The ABC projection for 2006 is 2,716 mt and was calculated using an F_{MSY} proxy of F45%. The total catch OY of 2,414 mt (the sum of 1,891 mt in the north and 612 mt in the south) is based on the rebuilding plan with a 70 percent probability of rebuilding the stock to B_{MSY} by the year 2009 (T_{MAX}). The harvest control rule will be F=0.17 in the north and F=0.15 in the south. Out of the OY, it is estimated that 693 mt will be taken in the recreational fishery, 7.2 mt will be taken during research activity, and 2.8 mt will be taken in non-groundfish fisheries. Under the proposed regulations, it is currently anticipated that 214.7 mt will be taken in the commercial fisheries (which is being set as a commercial HG), leaving a residual amount of 1,496.3 mt to be used as necessary during the fishing year. There is a recreational harvest guideline of 271 mt for the area north of 42° N. Lat. and a recreational harvest guideline of 422 mt for the area south of 42° N. Lat. The tribes do not have a specific allocation at this time, but are expected to take 25.1 mt of the commercial HG.

c/ "Other species", these are neither common nor important to the commercial and recreational fisheries in the areas footnoted. Accordingly, Pacific cod is included in the non-commercial HG of "other fish" and rockfish species are included in either "other rockfish" or "remaining rockfish" for the areas footnoted.

d/ Pacific Cod - The 3,200 mt ABC is based on historical landings data and is set at the same level as it was in 2004. The 1,600 mt OY is the ABC reduced by 50 percent as a precautionary adjustment

e/ Pacific whiting - The most recent stock assessment was prepared in early 2004, and the whiting biomass was estimated to be above 40 percent of its unfished biomass in 2003. A range is presented for the ABC and OY values because final adoption of the ABC and OY have been deferred until the Council's March 2006 meeting. It is anticipated that an assessment update will be available in early 2006 and the results of the new assessment will be used to set the 2006 ABC and OY.

f/ Sablefish north of 36° N. lat. - A coastwide sablefish stock assessment was prepared in 2001 and updated for 2002. Following the 2002 stock assessment update, the sablefish biomass north of 34° 27 'N. lat. was believed to be between 31 percent and 38 percent of its unfished biomass. The coastwide ABC of 8,175 mt is based on environmentally driven projections with the F_{MSY} proxy of F45%. The ABC for the management area north of 36° N. lat. is 7,885 mt (96.45 percent of the coastwide ABC). The coastwide OY of 7,634 mt (the sum of 7,363 mt in the north and 271 mt in the south) is based on the density-dependent model and the application of the 40-10 harvest policy. The total catch OY for the area north of 36° N. lat is 7,363 mt and is 96.45 percent of the coastwide OY. The OY is reduced by 10 percent (736 mt) for the tribal allocation. Out of the remaining OY, 86 mt will be taken during research activity, and 19 mt will be taken in non-groundfish fisheries, resulting in a commercial HG of 6,522 mt. The open access allocation is 9.4 percent (613 mt) of the commercial HG and the limited entry allocation is 90.6 percent (5,909 mt) of the commercial HG. The limited entry allocation is further divided with 58 percent (3,427 mt) allocated to the trawl fishery and 42 percent (2,482 mt) allocated to the fixed-gear fishery. To provide for bycatch in the at-sea whiting fishery, 15 mt of the limited entry trawl allocation will be set aside.

g/ Sablefish south of 36° N. lat. - The ABC of 290 mt is 3.55 percent of the ABC from the 2002 coastwide stock assessment update. The total catch OY of 271 mt is 3.55 percent of the OY from the 2002 coastwide stock assessment update. There are no limited entry or open access allocations in the Conception area at this time.

h/ Cabezon was first assessed in 2003 and was believed to be at 34.7 percent of its unfished biomass. The ABC of 108 mt is based on a harvest rate proxy of $F_{45\%}$. The OY of 69 mt is based on a constant harvest level for 2005 and 2006..

i/ Dover sole north of 34° 27' N. lat. was assessed in 2001 and was believed to be at 29 percent of its unfished biomass. The ABC of 8,589 mt is the 2006 projection from the 2001 assessment with an F_{MSY} proxy of F40%. Because the biomass is estimated to be in the precautionary zone, the 40-10 harvest rate policy was applied, resulting in a total catch OY of 7,564 mt. The OY is reduced by 60 mt for the amount estimated to be taken as research catch, resulting in a commercial HG of 7,504 mt.

j/ English sole - Research catch is estimated to be 9.7 mt.

k/ Petrale Sole was believed to be at 42 percent of its unfished biomass following a 1999 stock assessment. For 2006, the ABC for the Vancouver-Columbia area (1,262 mt) is based on a four year average projection from 2000-2003 with a F40% F_{MSY} proxy. The ABCs for the Eureka, Monterey, and Conception areas (1,500 mt) are based on historical landings data and continue at the same level as 2005. Management measures to constrain the harvest of overfished species, have reduced the availability of these stocks to the fishery during the past several years. Because the harvest assumptions (from the most recent stock assessment in the Vancouver-Columbia area) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2006 was considered to be conservative and based on the best available data. Research catch is estimated to be 2.9 mt and will be taken out of the OY.

l/ Arrowtooth flounder was last assessed in 1993 and was believed to be above 40 percent of its unfished biomass. Research catch is estimated to be 13.6 mt and will be taken out of the OY.

m/ Other flatfish are those species that do not have individual ABC/OYs and include butter sole, curlfin sole, flathead sole, Pacific sand dab, rex sole, rock sole, sand sole, and starry flounder. The ABC is based on historical catch levels. The ABC of 6,781 mt is based on the highest landings for sanddabs (1995) and rex sole (1982) for the 1981-2003 period and on the average landings from the 1994-1998 period for the remaining other flatfish species. The OY of 4,909 mt is based on the ABC with a 25 percent precautionary adjustment for sanddabs and rex sole and a 50 percent precautionary adjustment for the remaining species. Research catch is estimated to be 20.5 mt and will be taken out of the OY.

n/ POP was declared overfished on March 3, 1999. A stock assessment was prepared in 2003 and POP was determined to be at 25 percent of its unfished biomass. The ABC of 934 mt was projected from the 2003 stock assessment and is based on an F_{MSY} proxy of F50%. The OY of 447 mt is based on a 70 percent probability of rebuilding the stock to B_{MSY} by the year 2042 (T_{MAX}). The harvest control rule will be F=0.0257. Out of the OY it is anticipated that 4.6 mt will be taken during research activity and 102.6 mt in the commercial fishery (which is being set as a commercial HG), leaving a residual amount of 339.8 mt to be used as necessary during the fishing year.

o/ Shortbelly rockfish remains as an unexploited stock and is difficult to assess quantitatively. A 1989 stock assessment provided 2 alternative yield calculations of 13,900 mt and 47,000 mt. NMFS surveys have shown poor recruitment in most years since 1989, indicating low recent productivity and a naturally declining population in spite of low fishing pressure. The ABC and OY therefore are set at 13,900 mt, the low end of the range in the stock assessment. The available OY is reduced by 12 mt for the amount estimated to be taken as research catch, resulting in a commercial HG of 13,888 mt.

p/ The widow rockfish stock was declared overfished on January 11, 2001 (66 FR 2338). The most recent stock assessment was prepared for widow rockfish in 2003. The spawning stock biomass is believed to be at 22.4 percent of its unfished biomass in 2002. The ABC of 3,059 mt is based an F50% F_{MSY} proxy. The 289 mt OY is based on a 60 percent probability of rebuilding the stock to B_{MSY} by the year 2042 (T_{MAX}). The harvest control rule is F=0.0093. Out of the OY, it is anticipated that 1.0 mt will be taken during the research activity, 2.3 mt will be taken in the recreational fishery, 0.1 mt will be taken in non-groundfish fisheries, and 285.6 mt will be taken in the commercial fishery (which is being set as the commercial HG). Specific open access/limited entry allocations have been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks. Tribal vessels are estimated to land about 40 mt of widow rockfish in 2006, but do not have a specific allocation at this time. The set asides of widow rockfish taken in the Pacific whiting fisheries will likely be limited to 243.2 mt.

q/ Canary rockfish was declared overfished on January 4, 2000 (65 FR 221). A stock assessment was completed in 2002 for canary rockfish and the stock was believed to be at 8 percent of its unfished biomass coastwide in 2001. The coastwide ABC of 279 mt is based on a F_{MSY} proxy of F50%. The coastwide OY of 47.1 mt is based on the rebuilding plan, which has a 60 percent probability of rebuilding the stock to B_{MSY} by the year 2076 (T_{MAX}) and a catch sharing arrangement which has 58 percent of the OY going to the commercial fisheries and 42 percent going to the recreational fishery. The harvest control rule will be F=0.0220. Out of the OY, it is anticipated that 2.7 mt will be taken during the research activity, 17.8 mt will be taken in the recreational fishery, 2.1 mt will be taken in non-groundfish fisheries, and 22.7 mt will be taken in the commercial fishery (which is being set as the commercial HG), leaving a residual amount of 1.8 mt. The residual amount will be further divided with 0.9 mt being available as needed for the recreational and 0.9 mt being available as needed for the commercial fisheries. A recreational HG for the area north of 42° N. lat. will be 8.5 mt. For the area south of 42° N. lat., the recreational HG will be 9.3 mt. Specific open access/limited entry allocations have been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks. Tribal vessels are estimated to land about 2.6 mt of canary rockfish under the commercial HG, but do not have a specific allocation at this time.

r/ Chilipepper rockfish - the ABC (2,700 mt) for the Monterey-Conception area is based on a three year average projection from 1999-2001 with a F50% F_{MSY} proxy. Because the unfished biomass is believed to be above 40 percent, the default OY could be set equal to the ABC. However, the OY is set at 2,000 mt to discourage effort on chilipepper, which is taken with bocaccio. Management measures to constrain the harvest of overfished species have reduced the availability of these stocks to the fishery during the past several years. Because the harvest assumptions (from the most recent stock assessment) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2006 was considered to be conservative and based on the best available data. The OY is reduced by 15 mt for the amount estimated to be taken in the recreational fishery and 21 mt for the amount estimated to be taken during research activity, resulting in a commercial HG of 1,964 mt. Open access is allocated 44.3 percent (870 mt) of the commercial HG and limited entry is allocated 55.7 percent (1,094 mt) of the commercial HG.

s/ Bocaccio was declared overfished on March 3, 1999. A new stock assessment and a new rebuilding analysis were prepared for bocaccio in 2003. The bocaccio stock was believed to be at 7.4 percent of its unfished biomass in 2002. The ABC of 549 mt is based on a F50% F_{MSY} proxy. The OY of 308 mt is based on the rebuilding analysis and has a 70 percent probability of rebuilding the stock to B_{MSY} by the year 2032 (T_{MAX}). The harvest control rule is F=0.0498. Out of the OY, it is anticipated that 0.6 mt will be taken during the research activity,

43.0 mt will be taken in the recreational fishery, 1.3 mt will be taken in non-groundfish fisheries, and 75.2 mt will be taken in the commercial fishery (which is being set as the commercial HG), leaving a residual amount of 187.9 mt to be used as necessary during the fishing year.

t/ Splitnose rockfish - The ABC is 615 mt in the southern area (Monterey-Conception). The 461 mt OY for the southern area reflects a 25 percent precautionary adjustment because of the less rigorous stock assessment for this stock. In the north, splitnose is included in the minor slope rockfish OY. Because the harvest assumptions (from the most recent stock assessment) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2006 was considered to be conservative and based on the best available data.

u/ Yellowtail rockfish - A yellowtail rockfish stock assessment was prepared in 2003 for the Vancouver-Columbia-Eureka areas. Yellowtail rockfish was believed to be at 46 percent of its unfished biomass in 2002. The ABC of 3,681 mt is based on the 2003 stock assessment with the F_{MSY} proxy of F50%. The OY of 3,681 mt was set equal to the ABC, because the stock is above the precautionary threshold. The OY is reduced by 15 mt for the amount estimated to be taken in the recreational fishery, 5 mt for the amount estimated to be taken during research activity, and 6 mt for the amount taken in non-groundfish fisheries, resulting in a commercial HG of 3,655 mt. The open access allocation (303 mt) is 8.3 percent of the commercial HG. The limited entry allocation (3,352 mt) is 91.7 percent the commercial HG. Tribal vessels are estimated to land about 506 mt of yellowtail rockfish in 2006, but do not have a specific allocation at this time.

v/ Shortspine thornyhead was last assessed in 2001 and the stock was believed to be between 25 and 50 percent of its unfished biomass. The ABC (1,077 mt) for the area north of Pt. Conception (34° 27' N. lat.) is based on a F50% F_{MSY} proxy. The OY of 1,018 mt is based on the 2001 survey with the application of the 40-10 harvest policy. The OY is reduced by 7 mt for the amount estimated to be taken during research activity, resulting in a commercial HG of 1,011 mt. Open access is allocated 0.27 percent (27 mt) of the commercial HG and limited entry is allocated 99.73 percent (984 mt) of the commercial HG. There is no ABC or OY for the southern Conception area. Tribal vessels are estimated to land about 6.6 mt of shortspine thornyhead in 2006, but do not have a specific allocation at this time.

w/ Longspine thornyhead north of 36° is believed to be above 40 percent of its unfished biomass. The ABC (2,461 mt) in the north (Vancouver-Columbia-Eureka-Monterey) is based on a F50% F_{MSY} proxy. Because the harvest assumptions (from the most recent stock assessment) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2006 was considered to be conservative and based on the best available data. The total catch OY (2,461 mt) is set equal to the ABC. The OY is reduced by 12 mt for the amount estimated to be taken during research activity, resulting in a commercial HG of 2,449 mt.

x/ Longspine thornyhead south of 36° - A separate ABC (390 mt) is established for the Conception area and is based on historical catch for the portion of the Conception area north of 34°27' N. lat. (Point Conception). To address uncertainty in the stock assessment due to limited information, the ABC was reduced by 50 percent to obtain the OY, 195 mt. There is no ABC or OY for the southern Conception Area.

y/ Cowcod in the Conception area was assessed in 1999 and was believed to be less than 10 percent of its unfished biomass. Cowcod was declared as overfished on January 4, 2000 (65 FR 221). The ABC in the Conception area (5 mt) is based on the 1999 stock assessment, while the ABC for the Monterey area (19 mt) is based on average landings from 1993-1997. The OY of 4.2 mt (2.1 mt in each

area) is based on the rebuilding plan adopted under Amendment 16-3, which has a 60 percent probability of rebuilding the stock to B_{MSY} by the year 2099 (T_{MAX}). The harvest control rule is F=0.009. Cowcod retention will not be permitted in 2006. The OY will be used to accommodate discards of cowcod rockfish resulting from incidental take.

z/ Darkblotched rockfish was assessed in 2000 and a stock assessment update was prepared in 2003. The darkblotched rockfish stock was declared overfished on January 11, 2001 (66 FR 2338). Following the 2003 stock assessment update, the Darkblotched rockfish stock was believed to be at 11 percent of its unfished biomass. The ABC is projected to be 294 mt and is based on an F_{MSY} proxy of F50%. The OY of 294 mt is based on the rebuilding plan adopted under Amendment 16-2 and has a >80% probability of rebuilding the stock to B_{MSY} by the year 2047 (T_{MAX}). The harvest control rule is F=0.032. Out of the OY, it is anticipated that 5.2 mt will be taken during the research activity, and 87.4 mt will be taken in the commercial fishery (which is being set as the commercial HG), leaving a residual amount of 201.4 mt to be used as necessary during the fishing year. For anticipated bycatch in the at-sea whiting fishery, 9 mt is being set aside.

aa/ Yelloweye rockfish was assessed in 2001 and updated for 2002. On January 11, 2002, yelloweye rockfish was declared overfished (67 FR 1555). In 2002 following the stock assessment update, yelloweye rockfish was believed to be at 24.1 percent of its unfished biomass coastwide. The 55 mt coastwide ABC is based on an F_{MSY} proxy of F50%. The OY of 27 mt, based on a revised rebuilding analysis (August 2002) and the rebuilding plan proposed under Amendment 16-3, have a 80 percent probability of rebuilding to B_{MSY} by the year 2071 (T_{MAX}) and a harvest control rule of F=0.0153. Out of the OY, it is anticipated that 10.4 mt will be taken in the recreational fishery, 1.0 will be taken during research activity, 0.8 mt will be taken in non-groundfish fisheries and 6.4 mt will be taken in the commercial fishery (which is being set as a commercial HG), leaving a residual amount of 8.4 mt to be used as necessary during the fishing year. Tribal vessels are estimated to land about 2.3 mt of yelloweye rockfish of the commercial HG in 2006, but do not have a specific allocation at this time.

bb/ Black rockfish was last assessed in 2003 for the Columbia and Eureka area and in 2000 for the Vancouver area. The ABC for the area north of 46°16' N. lat. is 540 mt and the ABC for the area south of 46°16' N. lat. is 736 mt. Because of an overlap in the assessed areas between Cape Falcon and the Columbia River, projections from the 2000 stock assessment were adjusted downward by 12 percent to account for the overlap. The ABCs were derived using an F_{MSY} proxy of F50%. The unfished biomass is believed to be above 40 percent. Therefore, the OYs were set equal to the ABCs, 540 mt for the area north of 46°16' N. lat. and 736 mt for the area south of 46°16' N. lat. A harvest guideline of 30,000 lb (13.6 mt) is set for the tribes. The black rockfish OY in the area south of 46°16' N. lat is subdivided with separate HGs being set for the area north of 42° N. lat (427 mt/58 percent) and for the area south of 42° N. lat (309 mt/42 percent). For the 427 mt attributed to the area north of 42° N. lat. 290-360 mt is estimated to be taken in the recreational fishery, resulting in a commercial HG of 67-137 mt. A range is being provided because the recreational and commercial shares are not currently available. Of the 309 mt of black rockfish attributed to the area south of 42° N. lat., a HG of 185 mt (60 percent) will be applied to the area north of 40°10' N. lat. and a HG of 124 mt (40 percent) will be applied to the area south of 40°10' N. lat. For the area between 42° N. lat. and 40°10 min N. lat., 74 mt is estimated to be taken in the recreational fishery, resulting in a commercial HG of 111 mt. For the area south of 40°10' N. lat., 101 mt is estimated to be taken in the recreational fishery, resulting in a commercial HG of 23 mt. Black rockfish was included in the minor rockfish north and other rockfish south categories until 2004.

cc/ Minor rockfish north includes the "remaining rockfish" and "other rockfish" categories in the Vancouver, Columbia, and Eureka areas combined. These species

include "remaining rockfish", which generally includes species that have been assessed by less rigorous methods than stock assessments, and "other rockfish", which includes species that do not have quantifiable stock assessments. The ABC of 3,680 mt is the sum of the individual "remaining rockfish" ABCs plus the "other rockfish" ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain the total catch OY of 2,250 mt, the remaining rockfish ABCs were further reduced by 25 percent and other rockfish ABCs were reduced by 50 percent. This was a precautionary measure to address limited stock assessment information. The OY is reduced by 78 mt for the amount estimated to be taken in the recreational fishery, resulting in a 2,172 mt commercial HG. Open access is allocated 8.3 percent (180 mt) of the commercial HG and limited entry is allocated 91.7 percent (1,992 mt) of the commercial HG. Tribal vessels are estimated to land about 28 mt of minor rockfish in 2006, but do not have a specific allocation at this time.

dd/ Minor rockfish south includes the "remaining rockfish" and "other rockfish" categories in the Monterey and Conception areas combined. These species include "remaining rockfish" which generally includes species that have been assessed by less rigorous methods than stock assessment, and "other rockfish" which includes species that do not have quantifiable stock assessments. The ABC of 3,412 mt is the sum of the individual "remaining rockfish" ABCs plus the "other rockfish" ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain a total catch OY of 1,968 mt, the remaining rockfish ABCs are further reduced by 25 percent, with the exception of blackgill rockfish, the other rockfish ABCs were reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The OY is reduced by 443 mt for the amount estimated to be taken in the recreational fishery, resulting in a 1,525 mt HG for the commercial fishery. Open access is allocated 44.3 percent (676 mt) of the commercial HG and limited entry is allocated 55.7 percent (849 mt) of the commercial HG.

ee/ Bank rockfish -- The ABC is 350 mt which is based on a 2000 stock assessment for the Monterey and Conception areas. This stock contributes 263 mt towards the minor rockfish OY in the south.

ff/ Blackgill rockfish was believed to be at 51 percent of its unfished biomass in 1997. The ABC of 343 mt is the sum of the Conception area ABC of 268 mt, based on the 1998 stock assessment with an F_{MSY} proxy of F50%, and the Monterey area ABC of 75 mt. This stock contributes 306 mt towards minor rockfish south (268 mt for the Conception area ABC and 38 mt for the Monterey area). The OY for the Monterey area is the ABC reduced by 50 percent as a precautionary measure because of the lack of information.

gg/ "Other rockfish" includes rockfish species listed in 50 CFR 660.302 and California scorpionfish. The ABC is based on the 1996 review of commercial Sebastes landings and includes an estimate of recreational landings. These species have never been assessed quantitatively. The amount expected to be taken during research activity is reduced by 22.1 mt.

hh/ "Other fish" includes sharks, skates, rays, ratfish, morids, grenadiers, kelp greenling, and other groundfish species noted above in footnote c/. The amount expected to be taken during research activity is 55.7 mt.

ii/ Minor nearshore rockfish south - The total catch OY is 615 mt. Out of the OY it is anticipated that the recreational fishery will take 383 mt, and 97 mt will be taken by the commercial fishery (which is being set as a commercial HG), leaving a residual amount of 135 mt to be used as necessary during the fishing year.

Table 3 (North) to Part 660, Subpart G -- 2005-2006 Trip Limits for Limited Entry Trawl Gear North of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table 122004

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]: North of 40°10' N. lat.	75 fm - modified 200 fm [7/]	100 fm - 200 fm				75 fm - modified 200 fm [7/]
	Selective flatfish trawl gear is required shoreward of the RCA; all trawl gear (large footrope, selective flatfish trawl, and small footrope trawl gear) is permitted seaward of the RCA. Midwater trawl gear is permitted only for vessels participating in the primary whiting season.						
	See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See § 660.390 for Conservation Area Descriptions and Coordinates.						
1	**Minor slope rockfish[2/] & Darkblotched rockfish**	4,000 lb/ 2 months					
2	**Pacific ocean perch**	3,000 lb/ 2 months					
3	**DTS complex**						
4	Sablefish						
5	large & small footrope gear	9,500 lb/ 2 months		17,000 lb/ 2 months			8,000 lb/ 2 months
6	selective flatfish trawl gear	1,500 lb/ 2 months	10,000 lb/ 2 months				1,500 lb/ 2 months
7	Longspine thornyhead						
8	large & small footrope gear	15,000 lb/ 2 months		23,000 lb/ 2 months			15,000 lb/ 2 months
9	selective flatfish trawl gear	1,000 lb/ 2 months					
10	Shortspine thornyhead						
11	large & small footrope gear	3,500 lb/ 2 months		4,900 lb/ 2 months			3,500 lb/ 2 months
12	selective flatfish trawl gear	1,000 lb/ 2 months		3,000 lb/ 2 months			1,000 lb/ 2 months
13	Dover sole						
14	large & small footrope gear	69,000 lb/ 2 months		30,000 lb/ 2 months			69,000 lb/ 2 months
15	selective flatfish trawl gear	20,000 lb/ 2 months	35,000 lb/ 2 months	50,000 lb/ 2 months			20,000 lb/ 2 months
16	**Flatfish** (except Dover sole)						
17	Other flatfish [3/], English sole & Petrale sole						
18	large & small footrope gear for Other flatfish[3/] & English sole	110,000 lb/ 2 months	Other flatfish, English sole, & Petrale sole: 110,000 lb/ 2 months, no more than 42,000 lb/ 2 months of which may be petrale sole.				110,000 lb/ 2 months
19	large & small footrope gear for Petrale sole	Not limited					Not limited
20	selective flatfish trawl gear	100,000 lb/ 2 months, no more than 25,000 lb/ 2 months of which may be petrale sole.	100,000 lb/ 2 months, no more than 35,000 lb/ 2 months of which may be petrale sole.				100,000 lb/ 2 months, no more than 25,000 lb/ 2 months of which may be petrale sole.
21	Arrowtooth flounder						
22	large & small footrope gear	Not limited	150,000 lb/ 2 months				Not limited
23	selective flatfish trawl gear	70,000 lb/ 2 months					

TABLE 3 (North)

Table 3 (North). Continued

24	**Whiting**	Before the primary whiting season: 20,000 lb/trip -- During the primary season: mid-water trawl permitted in the RCA. See §660.373 for season and trip limit details. -- After the primary whiting season: 10,000 lb/trip			TABLE 3 (North) con't
25	**Minor shelf rockfish[1/], Shortbelly, Widow & Yelloweye rockfish**				
26	large & small footrope gear	300 lb/ 2 months			
27	midwater trawl for Widow rockfish	Before the primary whiting season: CLOSED -- During primary whiting season: In trips of at least 10,000 lb of whiting, combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month. Mid-water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED			
28	selective flatfish trawl gear	300 lb/ month	1,000 lb/ month, no more than 200 lb/ month of which may be yelloweye rockfish	300 lb/ month	
29	**Canary rockfish**				
30	large & small footrope gear	CLOSED			
31	selective flatfish trawl gear	100 lb/ month	300 lb/ month	100 lb/ month	
32	**Yellowtail**				
33	large & small footrope gear	300 lb/ 2 months			
34	midwater trawl	Before the primary whiting season: CLOSED -- During primary whiting season: In trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month. Mid-water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED			
35	selective flatfish trawl gear	2,000 lb/ 2 months			
36	**Minor nearshore rockfish & Black rockfish**				
37	large & small footrope gear	CLOSED			
38	selective flatfish trawl gear	300 lb/ month			
39	**Lingcod[4/]**				
40	large & small footrope gear	500 lb/ 2 months			
41	selective flatfish trawl gear	800 lb/ 2 months	1,000 lb/ 2 months	800 lb/ 2 months	
42	**Other Fish [5/] & Pacific cod**	Not limited			

1/ Bocaccio, chilipepper and cowcod are included in the trip limits for minor shelf rockfish.
2/ Splitnose rockfish is included in the trip limits for minor slope rockfish.
3/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.
4/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
5/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.
7/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 3 (South) to Part 660, Subpart G -- 2005-2006 Trip Limits for Limited Entry Trawl Gear South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table 122004

	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[6/]:						
40°10' - 38° N. lat.	75 fm - modified 200 fm [7/]	100 fm - 200 fm				75 fm - modified 200 fm [7/]
38° - 34°27' N. lat.	75 fm - 150 fm	100 fm - 150 fm				75 fm - 150 fm
South of 34°27' N. lat.	75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands	100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands				75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands
Small footrope gear is required shoreward of the RCA; all trawl gear (large footrope, midwater trawl, and small footrope gear) is permitted seaward of the RCA.						
See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See § 660.390 for Conservation Area Descriptions and Coordinates.						
1 **Minor slope rockfish[2/] & Darkblotched rockfish**						
2 40°10' - 38° N. lat.	4,000 lb/ 2 months					
3 South of 38° N. lat.	40,000 lb/ 2 months					
4 **Splitnose**						
5 40°10' - 38° N. lat.	4,000 lb/ 2 months					
6 South of 38° N. lat.	40,000 lb/ 2 months					
7 **DTS complex**						
8 Sablefish	14,000 lb/ 2 months					
9 Longspine thornyhead	19,000 lb / 2 months					
10 Shortspine thornyhead	4,200 lb/ 2 months					
11 Dover sole	50,000 lb/ 2 months					
12 **Flatfish** (except Dover sole)						
13 Other flatfish[3/] & English sole	110,000 lb/ 2 months	Other flatfish, English sole & Petrale sole: 110,000 lb/ 2 months, no more than 42,000 lb/ 2 months of which may be petrale sole				110,000 lb/ 2 months
14 Petrale sole	No limit					No limit
15 Arrowtooth flounder	No limit	10,000 lb/ 2 months				No limit
16 **Whiting**	Before the primary whiting season: 20,000 lb/trip -- During the primary whiting season: mid-water trawl permitted in the RCA. See §660.373 for season and trip limit details. -- After the primary whiting season: 10,000 lb/trip					

TABLE 3 (South)

Table 3 (South). Continued

17	**Minor shelf rockfish[1/], Chilipepper, Shortbelly, Widow, & Yelloweye rockfish**				TABLE 3 (South) con't
18	large footrope or midwater trawl for Minor shelf rockfish & Shortbelly	300 lb/ month			
19	large footrope or midwater trawl for Chilipepper	2,000 lb/ 2 months	12,000 lb/ 2 months	8,000 lb/ 2 months	
20	large footrope or midwater trawl for Widow & Yelloweye	CLOSED			
21	small footrope trawl	300 lb/ month			
22	**Bocaccio**				
23	large footrope or midwater trawl	300 lb/ 2 months			
24	small footrope trawl	CLOSED			
25	**Canary rockfish**				
26	large footrope or midwater trawl	CLOSED			
27	small footrope trawl	100 lb/ month	300 lb/ month	100 lb/ month	
28	**Cowcod**	CLOSED			
29	**Minor nearshore rockfish & Black rockfish**				
30	large footrope or midwater trawl	CLOSED			
31	small footrope trawl	300 lb/ month			
32	**Lingcod[4/]**				
33	large footrope or midwater trawl	500 lb/ 2 months			
34	small footrope trawl	800 lb/ 2 months	1,000 lb/ 2 months	800 lb/ 2 months	
35	**Other Fish[5/] & Cabezon**	Not limited			

1/ Yellowtail is included in the trip limits for minor shelf rockfish.
2/ POP is included in the trip limits for minor slope rockfish
3/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.
4/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
5/ Other fish are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Pacific cod is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.
7/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4 (North) to Part 660, Subpart G -- 2005-2006 Trip Limits for Limited Entry Fixed Gear North of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table 122004

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]:						
	North of 46°16' N. lat.	shoreline - 100 fm					
	46°16' N. lat. - 40°10' N. lat.	30 fm - 100 fm					
	See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See § 660.390 for Conservation Area Descriptions and Coordinates.						
1	**Minor slope rockfish [2/] & Darkblotched rockfish**	4,000 lb/ 2 months					
2	**Pacific ocean perch**	1,800 lb/ 2 months					
3	**Sablefish**	300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 3,600 lb/ 2 months					
4	**Longspine thornyhead**	10,000 lb/ 2 months					
5	**Shortspine thornyhead**	2,000 lb/ 2 months					
6	**Dover sole**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to 1 lb (0.45 kg) of weight per line are not subject to the RCAs.					
7	**Arrowtooth flounder**						
8	**Petrale sole**						
9	**English sole**						
10	**Other flatfish[1/]**						
11	**Whiting**	10,000 lb/ trip					
12	**Minor shelf rockfish[2/], Shortbelly, Widow, & Yellowtail rockfish**	200 lb/ month					
13	**Canary rockfish**	CLOSED					
14	**Yelloweye rockfish**	CLOSED					
15	**Minor nearshore rockfish & Black rockfish**	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish[3/]					
16	**Lingcod[4/]**	CLOSED		800 lb/ 2 months			CLOSED
17	**Other fish[5/] & Pacific cod**	Not limited					

TABLE 4 (North)

1/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.

2/ Bocaccio, chilipepper and cowcod are included in the trip limits for minor shelf rockfish and splitnose rockfish is included in the trip limits for minor slope rockfish.

3/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

4/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

5/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."

6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 4 (South) to Part 660, Subpart G -- 2005-2006 Trip Limits for Limited Entry Fixed Gear South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table 122004

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[5/]:						
	40°10' - 34°27' N. lat.	30 fm - 150 fm		20 fm - 150 fm		30 fm - 150 fm	
	South of 34°27' N. lat.	60 fm - 150 fm					
	See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See § 660.390 for Conservation Area Descriptions and Coordinates.						
1	**Minor slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months					
2	**Splitnose**	40,000 lb/ 2 months					
3	**Sablefish**						
4	40°10' - 36° N. lat.	300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 3,600 lb/ 2 months					
5	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb					
6	**Longspine thornyhead**	10,000 lb / 2 months					
7	**Shortspine thornyhead**	2,000 lb/ 2 months					
8	**Dover sole**	5,000 lb/ month When fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to 1 lb (0.45 kg) of weight per line are not subject to the RCAs.					
9	**Arrowtooth flounder**						
10	**Petrale sole**						
11	**English sole**						
12	**Other flatfish[1/]**						
13	**Whiting**	10,000 lb/ trip					
14	**Minor shelf rockfish[2/], Shortbelly, & Widow rockfish**						
15	40°10' - 34°27' N. lat.	300 lb/ 2 months	CLOSED	200 lb/ 2 months		300 lb/ 2 months	
16	South of 34°27' N. lat.	2,000 lb/ 2 months		2,000 lb/ 2 months			
17	**Chilipepper rockfish**	2,000 lb/ 2 months, this opportunity only available seaward of the nontrawl RCA					
18	**Canary rockfish**	CLOSED					
19	**Yelloweye rockfish**	CLOSED					
20	**Cowcod**	CLOSED					
21	**Bocaccio**						
22	40°10' - 34°27' N. lat.	200 lb/ 2 months	CLOSED	100 lb/ 2 months	300 lb/ 2 months		
23	South of 34°27' N. lat.	300 lb/ 2 months		300 lb/ 2 months			
24	**Minor nearshore rockfish & Black rockfish**						
25	Shallow nearshore	300 lb/ 2 months	CLOSED	500 lb/ 2 months	600 lb/ 2 months	500 lb/ 2 months	300 lb/ 2 months
26	Deeper nearshore						
27	40°10' - 34°27' N. lat.	500 lb/ 2 months	CLOSED	500 lb/ 2 months		400 lb/ 2 months	500 lb/ 2 months
28	South of 34°27' N. lat.			600 lb/ 2 months			400 lb/ 2 months
29	California scorpionfish	300 lb/ 2 months	CLOSED	300 lb/ 2 months	400 lb/ 2 months		300 lb/ 2 months
30	**Lingcod[3/]**	CLOSED		800 lb/ 2 months			CLOSED
31	**Other fish[4/] & Cabezon**	Not limited					

TABLE 4 (South)

1/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.

2/ POP is included in the trip limits for minor slope rockfish. Yellowtail is included in the trip limits for minor shelf rockfish.

3/ The minimum size limit for lingcod is 24 inches (61 cm) total length.

4/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Pacific cod is included in the trip limits for "other fish."

5/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 5 (North) to Part 660, Subpart G -- 2005-2006 Trip Limits for Open Access Gears North of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table 122004

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]:						
	North of 46°16' N. lat.	shoreline - 100 fm					
	46°16' N. lat. - 40°10' N. lat.	30 fm - 100 fm					
	See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See § 660.390 for Conservation Area Descriptions and Coordinates.						
1	**Minor slope rockfish[1/] & Darkblotched rockfish**	Per trip, no more than 25% of weight of the sablefish landed					
2	**Pacific ocean perch**	100 lb/ month					
3	**Sablefish**	300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 3,600 lb/ 2 months					
4	**Thornyheads**	CLOSED					
5	**Dover sole**	3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to 1 lb (0.45 kg) of weight per line are not subject to the RCAs.					
6	**Arrowtooth flounder**						
7	**Petrale sole**						
8	**English sole**						
9	**Other flatfish[2/]**						
10	**Whiting**	300 lb/ month					
11	**Minor shelf rockfish[1/], Shortbelly, Widow, & Yellowtail rockfish**	200 lb/ month					
12	**Canary rockfish**	CLOSED					
13	**Yelloweye rockfish**	CLOSED					
14	**Minor nearshore rockfish & Black rockfish**	5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish [3/]					
15	**Lingcod[4/]**	CLOSED		300 lb/ month			CLOSED
16	**Other Fish[5/] & Pacific cod**	Not limited					
17	**PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)*						
18	North	**Effective April 1 - October 31:** groundfish 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					
19	**SALMON TROLL**						
20	North	Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lbs of salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 200 lb per month combined limit for minor shelf rockfish, widow rockfish and yellowtail rockfish, and not in addition to that limit. All groundfish species are subject to the open access limits, seasons and RCA restrictions listed in the table above.					

TABLE 5 (North)

1/ Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for minor shelf rockfish. Splitnose rockfish is included in the trip limits for minor slope rockfish.

2/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.

3/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.

4/ The size limit for lingcod is 24 inches (61 cm) total length.

5/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."

6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 5 (South) to Part 660, Subpart G -- 2005-2006 Trip Limits for Open Access Gears South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.301 - § 660.390 before using this table 122004

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[5/]:						
	40°10' - 34°27' N. lat.	30 fm - 150 fm		20 fm - 150 fm		30 fm - 150 fm	
	South of 34°27' N. lat.	60 fm - 150 fm					
	See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See § 660.390 for Conservation Area Descriptions and Coordinates.						
1	**Minor slope rockfish[1/] & Darkblotched rockfish**						
2	40°10' - 38° N. lat.	Per trip, no more than 25% of weight of the sablefish landed					
3	South of 38° N. lat.	10,000 lb/ 2 months					
4	**Splitnose**	200 lb/ month					
5	**Sablefish**						
6	40°10' - 36° N. lat.	300 lb/ day, or 1 landing per week of up to 900 lb, not to exceed 3,600 lb/ 2 months					
7	South of 36° N. lat.	350 lb/ day, or 1 landing per week of up to 1,050 lb					
8	**Thornyheads**						
9	40°10' - 34°27' N. lat.	CLOSED					
10	South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
11	**Dover sole**	3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs. When fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to 1 lb of weight per line are not subject to the RCAs.					
12	**Arrowtooth flounder**						
13	**Petrale sole**						
14	**English sole**						
15	**Other flatfish[2/]**						
16	**Whiting**	300 lb/ month					
17	**Minor shelf rockfish[1/], Shortbelly, Widow & Chilipepper rockfish**						
18	40°10' - 34°27' N. lat.	300 lb/ 2 months	CLOSED	200 lb/ 2 months		300 lb/ 2 months	
19	South of 34°27' N. lat.	500 lb/ 2 months		500 lb/ 2 months			
20	**Canary rockfish**	CLOSED					
21	**Yelloweye rockfish**	CLOSED					
22	**Cowcod**	CLOSED					
23	**Bocaccio**						
24	40°10' - 34°27' N. lat.	200 lb/ 2 months	CLOSED	100 lb/ 2 months		200 lb/ 2 months	
25	South of 34°27' N. lat.	100 lb/ 2 months		100 lb/ 2 months			
26	**Minor nearshore rockfish & Black rockfish**						
27	Shallow nearshore	300 lb/ 2 months	CLOSED	500 lb/ 2 months	600 lb/ 2 months	500 lb/ 2 months	300 lb/ 2 months
28	Deeper nearshore						
29	40°10' - 34°27' N. lat.	500 lb/ 2 months	CLOSED	500 lb/ 2 months		400 lb/ 2 months	500 lb/ 2 months
30	South of 34°27' N. lat.			600 lb/ 2 months			400 lb/ 2 months
31	California scorpionfish	300 lb/ 2 months	CLOSED	300 lb/ 2 months	400 lb/ 2 months		300 lb/ 2 months
32	**Lingcod[3/]**	CLOSED		300 lb/ month, when nearshore open			CLOSED
33	**Other Fish[4/] & Cabezon**	Not limited					

TABLE 5 (South)

Table 5 (South). Continued

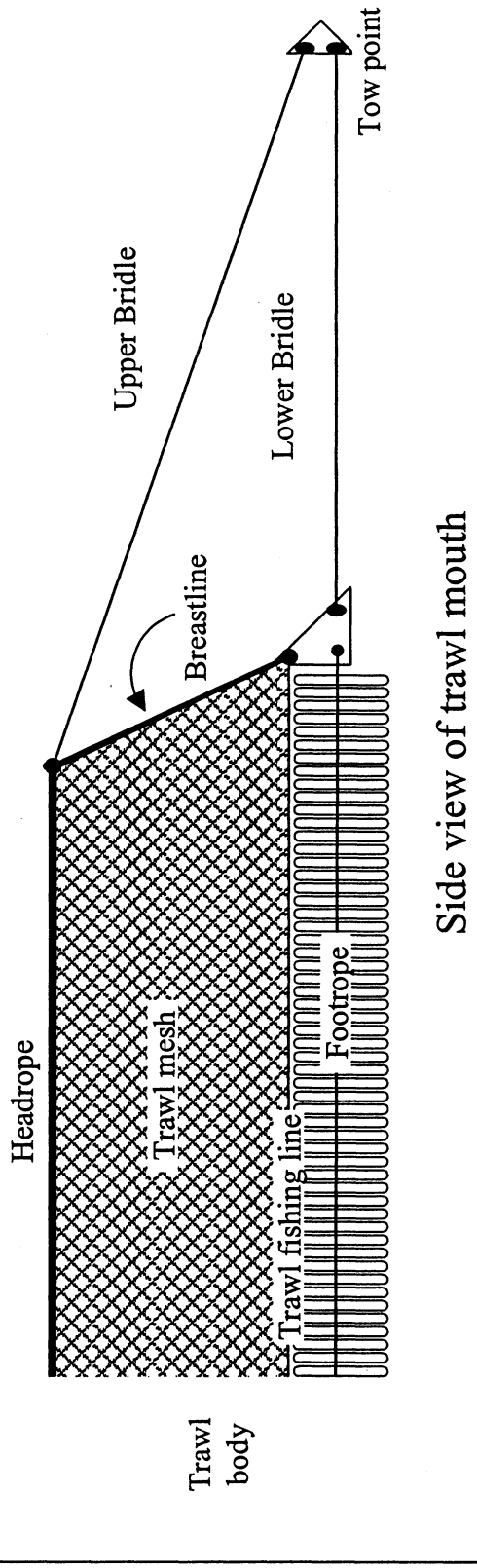
34	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*			
35	South	**Effective April 1 - October 31:** Groundfish 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.		
36	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**			
37	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut and Sea Cucumber:**			
38	40°10' - 38° N. lat.	75 fm - modified 200 fm [7/]	100 fm - 200 fm	75 fm - modified 200 fm [7/]
39	38° - 34°27' N. lat.	75 fm - 150 fm	100 fm - 150 fm	75 fm - 150 fm
40	South of 34°27' N. lat.	75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands	100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands	75 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands
41	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for Ridgeback Prawn:**			
42	40°10' - 38° N. lat.	75 fm - modified 200 fm [7/]	100 fm - 200 fm	75 fm - modified 200 fm [7/]
43	38° - 34°27' N. lat.	75 fm - 150 fm	100 fm - 150 fm	75 fm - 150 fm
44	South of 34°27' N. lat.	100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands		
45		Groundfish 300 lb/trip. Trip limits in this table also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57'30" N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 31).		

TABLE 5 (South) con't

1/ Yellowtail rockfish is included in the trip limits for minor shelf rockfish and POP is included in the trip limits for minor slope rockfish.
2/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder.
3/ The size limit for lingcod is 24 inches (61 cm) total length.
4/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Pacific cod is included in the trip limits for "other fish."
5/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at § 660.390.
6/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

25. In part 660, subpart G, Figure 1, "Diagram of Selective Flatfish Trawl" is added to read as follows:

FIGURE 1 TO SUBPART G OF PART 660 – DIAGRAM OF SELECTIVE FLATFISH TRAWL



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December 23, 2004

Part IV

Department of Housing and Urban Development

24 CFR Part 203

Prohibition of Property Flipping in HUD's Single Family Mortgage Insurance Programs; Additional Exceptions to Time Restriction on Sales; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Doc. No. FR–4911–I–01; HUD–2004–0017]

RIN 2502–AI18

Prohibition of Property Flipping in HUD's Single Family Mortgage Insurance Programs; Additional Exceptions to Time Restriction on Sales

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: HUD's regulations addressing the predatory practice of property ''flipping'' establish certain time restrictions regarding the sale of properties whose purchase is being financed with Federal Housing Administration (FHA) mortgage insurance. The regulations include an exception from the time restrictions for properties acquired and subsequently sold by FHA. This interim rule broadens the exception to include all other federal agencies that acquire properties as a result of a function of their programs and quickly market and sell these acquired properties. The interim rule also clarifies that the time restrictions on sales do not apply to properties that are acquired by inheritance.

DATES: *Effective Date:* January 24, 2005.

Comment Due Date: February 22, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Electronic comments may be submitted through either:

- The Federal eRulemaking Portal: at *http://www.regulations.gov;* or
- The HUD electronic Web site at: *http://www.epa.gov/feddocket.* Follow the link entitled ''View Open HUD Dockets.'' Commenters should follow the instructions provided on that site to submit comments electronically.

Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Copies are also available for inspection and downloading at *http://www.epa.gov/feddocket.*

FOR FURTHER INFORMATION CONTACT: Vance C. Morris, Director, Office of Single Family Program Development, Office of Insured Single Family Housing, Room 9266, 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). Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On May 1, 2003 (68 FR 23370), HUD published a final rule to address property ''flipping,'' a predatory lending practice whereby a property that was acquired is quickly resold for a considerable profit with an artificially inflated value, often abetted by a mortgagee's collusion with the property appraiser and others involved in the mortgage loan transaction. Most property flipping occurs within a matter of days after the initial acquisition. Minor cosmetic improvements, if any, may be made to the property to make it appeal to an unwary homeowner. The final rule, which became effective on June 2, 2003, restricts flipping by establishing new eligibility requirements for properties whose purchase is being financed with FHA mortgage insurance. These eligibility requirements are contained in a new § 203.37a of HUD's single family mortgage insurance regulations at 24 CFR part 203.

Among other requirements, § 203.37a makes properties that have recently been resold ineligible as security for FHA-insured mortgage financing. Specifically, § 203.37a prohibits FHA insured mortgage financing for any property being sold within three months after acquisition by the seller. Properties that are sold between 91 and 180 days after acquisition by the sellers to homebuyers seeking FHA-insured financing are subject to additional documentation requirements to ensure that any increases in the values of the properties are supportable. The regulation provides that the time restrictions on sales do not apply to sales by HUD of its Real Estate-Owned (REO) properties pursuant to 24 CFR part 291, as well as single family assets in revitalization zones that HUD acquires and sells under the provisions of section 204 of the National Housing Act (12 U.S.C. 1710). The time restrictions are also inapplicable to the sale of properties acquired by an employer or relocation agency in connection with the relocation of an employee who needs to sell his/her home in order to relocate.

II. This Interim Rule

This interim rule broadens the exception to the property flipping time restrictions to include all Federal agencies that acquire properties as a result of a function of their programs and quickly market and sell these acquired properties. This interim rule also clarifies that the time restrictions on sales do not apply to properties that have been acquired by inheritance.

HUD is aware that there are other Federal Government agencies that handle quick sales of acquired single family properties where the purchasers of such properties may want to avail themselves of the ability to obtain FHA-insured mortgage financing. These agencies include, but are not limited to, the Rural Housing Service of the Department of Agriculture, the Department of Veterans Affairs, and the Federal Deposit Insurance Corporation. The Federal Government does not engage in the predatory lending practice of inflating sales prices for the sale of acquired properties under its various programs, and thus, Federal agencies should not be subject to the time restrictions contained in § 203.37a.

In addition to the broadened exception for Federal agencies, this interim rule also clarifies that the time restrictions do not apply to sales of inherited properties. As discussed above, the purpose of the time restrictions is to curb fraudulent property ''flips'' whereby a property is deliberately acquired through a sale for the purpose of a quick sale at an artificially inflated value. Although an individual who has inherited a property may turn the property over quickly and at a profit, the property was not acquired through a sale. Accordingly, the sales of inherited properties fall outside the intended scope of the regulatory restrictions established by HUD's May 1, 2003, final rule. Since publication of the final rule, HUD has received questions regarding the applicability of the time restrictions on inherited properties. HUD has taken the opportunity afforded by this interim rule to clarify its regulations by specifying that the sale of an inherited property is not subject to the property flipping time restrictions.

HUD has also received questions as to whether the exception could be extended to situations involving bank foreclosures and incidents where a builder has a program to purchase the

old home of an individual buying one of the builder's new homes. HUD understands that lenders and builders have the incentive to turn over these properties quickly. There is more risk, however, that in some of these sales, predatory lending activities could occur. HUD believes that extending the exception to cover these situations would substantially weaken the regulatory safeguards against property flipping. Accordingly, the scope of this interim rule is limited to Federal Government agencies and inherited properties. The broadened exception does not include sales of such properties by the government sponsored enterprises (Fannie Mae and Freddie Mac) nor by private entities.

Although the scope of this interim rule is limited to the two additional exceptions described above (for Federal agencies and inherited properties), HUD recognizes that there may be other circumstances or categories of sales where an exception to the time restrictions may be appropriate and consistent with the goals of the property flipping restrictions. Accordingly, HUD is issuing these regulatory amendments on an interim basis and is providing the public with a 60-day comment period. HUD welcomes comments on the regulatory amendments made by this interim rule and on whether the regulations should provide for additional exceptions to the time restrictions on sales. The public comments will be addressed in the final rule.

III. Justification for Interim Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advanced notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impractical, unnecessary, or contrary to the public interest'' (see 24 CFR 10.1).

This interim rule broadens the exception to the property flipping time restrictions to include all Federal agencies that acquire properties as a result of a function of their programs and quickly market and sell these acquired properties. Since the effective date of HUD's final rule on property flipping, HUD has become aware of instances where individuals wishing to purchase an REO home from another Federal agency have been unable to obtain FHA financing due to the regulatory time restriction on sales. As noted above in this preamble, the Federal Government does not engage in the predatory lending practice of inflating sales prices for the sale of acquired properties under its various programs. Delaying the effectiveness of this rule to solicit public comment, therefore, would unnecessarily continue to deny FHA mortgage financing to otherwise eligible homebuyers wishing to purchase an REO home from another Federal agency. Accordingly, HUD has determined that it is in the public interest to issue these amendments as an interim rule.

In addition to the broadened exception for Federal agencies, this interim rule also clarifies that the time restrictions do not apply to sales of inherited properties. As explained above in this preamble, transactions involving the sale of inherited properties fall outside the intended scope of the regulatory time restrictions. Since publication of the May 1, 2003, final rule, HUD has received questions regarding the applicability of the time restrictions on inherited properties. HUD has taken the opportunity afforded by this final rule to clarify its regulations by specifying that sales of inherited properties are not subject to the property flipping time restrictions. This amendment does not impose new, nor modify existing, regulatory requirements. Rather, the new regulatory language is designed to clarify the scope of the existing requirements and to assist homebuyers and lenders comply with the HUD requirements. Accordingly, HUD has determined that it is unnecessary to delay the effectiveness of this amendment to solicit prior public comment.

Although HUD believes that good cause exists to publish this rule for effect without prior public comment, HUD recognizes the value of public comment in the development of its regulations. HUD, therefore, is issuing these regulations on an interim basis and is providing the public with a 60-day comment period. HUD welcomes comments on the regulatory amendments made by this interim rule. The public comments will be addressed in the final rule.

IV. Findings and Certifications

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the order (although not an economically significant regulatory action, as provided under section 3(f)(1) of the order). Any changes made to the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the Regulations Division, Room 10276, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made for the May 1, 2003, final rule in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332 *et seq.*). That Finding remains applicable to this interim rule and is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Room 10276, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This interim rule does not impose any new or revised obligations of any kind on mall entities participating in the FHA single family mortgage insurance programs. Rather, the interim rule is exclusively concerned with alleviating a current burden imposed on Federal agencies that operate REO property disposition programs, and clarifying the scope of current regulatory requirements. Specifically, the interim rule broadens the exception to the property flipping time restrictions to include all Federal agencies that acquire properties as a result of a function of their programs and quickly market and sell these acquired properties. In addition, the interim rule clarifies that the time restrictions do not apply to the sale of inherited properties. To the extent the interim rule has any impact on small entities, it will be to benefit those small entities that assist in the sale of federal REO properties and inherited properties by facilitating the sale of additional properties that otherwise would be

deemed ineligible for FHA insured mortgage financing. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the order. This interim rule will not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the order.

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 on the private sector. This interim rule will not impose any Federal mandates on any State, local, or tribal government, or on the private sector, within the meaning of UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Numbers for 24 CFR part 203 are 14.117 and 14.133.

List of Subjects for 24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

■ Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 203 as follows:

PART 203—SINGLE FAMILY HOUSING MORTGAGE INSURANCE

■ 1. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, and 1715u; 42 U.S.C. 3535d.

■ 2. Section 203.37a is amended by revising paragraph (c) to read as follows:

§ 203.37a Sale of property.

* * * * *

(c) *Exceptions to the time restrictions on sales.* The time restrictions on sales described in paragraph (b) of this section do not apply to:

(1) Sales by HUD of Real Estate-Owned (REO) properties under 24 CFR part 291 and of single family assets in revitalization areas pursuant to section 204 of the National Housing Act (12 U.S.C. 1710);

(2) Sales by another agency of the United States Government of REO single family properties pursuant to programs operated by these agencies (this does not include the Government Sponsored Enterprises);

(3) Sales of property that were acquired by the sellers by inheritance; and

(4) Sales of properties purchased by an employer or relocation agency in connection with the relocation of an employee.

* * * * *

Dated: November 22, 2004.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 04–28050 Filed 12–22–04; 8:45 am]

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Federal Register

Thursday,
December 23, 2004

Part V

Department of Housing and Urban Development

24 CFR Part 214
Housing Counseling Program; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 214

[Docket No. FR–4798–P–01; HUD–2004–0020]

RIN 2502–AH99

Housing Counseling Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish regulations for the Department's housing counseling program, as authorized by the Housing and Urban Development Act of 1968, and for which, the past several years, notices of funding availability have been issued on an annual basis. Codification of these requirements would reflect the permanence of this program. This proposed rule would adopt and augment the housing counseling program requirements with which grantees and housing counseling agencies are already familiar.

DATES: *Comments Due Date:* February 22, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Interested persons may also submit comments electronically through either:

- The Federal electronic rulemaking portal at: *http://www.regulations.gov;* or
- The HUD electronic rulemaking website at: *http://www.epa.gov/feddocket.* Follow the link entitled ''View Open HUD Dockets.'' Commenters should follow the instructions provided on that site to submit comments electronically.

Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted will be available, without revision, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Copies are also available for inspection and downloading at *http://www.epa.gov/feddocket.*

FOR FURTHER INFORMATION CONTACT: Loyd LaMois, Office of Housing, Single Family Program Support Division, Department of Housing and Urban Development, Room 9274, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone, (202) 708–0317. (This is not a toll-free number.) Individuals with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION

I. Background

HUD's housing counseling program, authorized under section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x), endeavors to provide housing counseling services, including outreach to potential homebuyers, homeowners, renters, and the homeless. Housing counseling services may include but are not limited to: assisting eligible homebuyers to seek out and purchase homes; helping renters locate and qualify for assisted rental units; helping eligible homebuyers obtain affordable housing; assisting homeowners to avoid foreclosures; assisting renters to avoid evictions; helping the homeless to find temporary or permanent shelter; reporting fair housing or discrimination complaints or both; and addressing housing problems.

Section 106(a) defines housing counseling services as ''counseling and advice to tenants and homeowners with respect to property maintenance, financial management and such other matters as may be appropriate to assist them in improving their housing conditions and in meeting the responsibilities of homeownership.'' Under section 106, HUD may provide counseling directly, or may enter into contracts with, or make grants to, and provide other types of assistance to eligible private or public organizations (including grassroots faith-based and other community-based organizations) with special competence and knowledge in providing housing counseling to low- and moderate-income families for the purposes of providing counseling and advice to tenants and homeowners.

II. This Proposed Rule

This proposed rule would establish regulations for HUD's housing counseling program, as authorized by the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x). To date, the program has been administered through notices of funding availability and related guidance. Establishment of regulations would reflect the permanency of this program. This proposed rule would adopt and augment the housing counseling program requirements with which grantees and housing counseling agencies are already familiar.

This proposed rule is divided into five major subparts under a new part 214.

Subpart A of this proposed rule describes the statutory and program purposes as well as defines major terms used in the housing counseling program. Specifically, this proposed rule would define essential housing counseling terms that are used throughout the program including: ''clients,'' ''housing counseling work plan,'' ''intermediary,'' and ''local housing counseling agency.''

The process by which housing counseling agencies acquire and maintain HUD-approved status is explained in subpart B. In particular, this subpart delineates the criteria that housing counseling agencies are required to meet in order to become HUD-approved housing counseling agencies. Key qualifying criteria for HUD approval include but are not limited to: nonprofit and tax-exempt status; a minimum of one year successful experience in administering a housing counseling program; at least one year operating in the geographic area in which the agency endeavors to serve; and sufficient resources to implement a proposed counseling plan no later than the date of HUD approval. In addition to approval criteria, this subpart also explains the application process for HUD approval. A housing counseling agency must formally apply for HUD-approved status through an application process. If the agency's application meets the requirements of this subpart, HUD will approve the agency. In the event that an application is not approved by HUD, the agency will have an opportunity to revise and resubmit an application, or send a letter of appeal to the Department.

Subpart C sets forth the procedures for termination of HUD-approved status and agency appeal rights. A termination by HUD would be based on HUD's determination that termination is in the best interests of the Department. Such a determination may be based on an agency's failure to or inadequate capacity to comply with, implement, or achieve the outcomes described in its housing counseling work plan. In addition, failure to comply with the program requirements described in these regulations or misuse of grant funds may result in termination of HUD-approved status.

An agency may appeal an adverse decision by HUD through a formal appeals process. HUD must receive the agency's formal, written appeal within 30 days of the date of HUD's decision letter. In addition, HUD may take other actions as outlined in 24 CFR part 24.

Subpart C describes the procedures for reapproval or removal resulting from a performance review by HUD.

Program administration including performance criteria, recordkeeping and reporting requirements, performance reviews, and housing counseling fees are explained in subpart D. In addition, this subpart describes the basic services that HUD-approved housing counseling agencies may provide to clients beyond preliminary client interviews. Approved housing counseling services include, but are not limited to: home buying education; foreclosure prevention; referrals to rental assistance programs; referrals to community resources and homeless services.

This subpart describes the criteria that approved housing counseling agencies must meet in order to maintain HUD-approved status. In addition to minimum workload, staff, and funding levels, this subpart explains conflict of interest measures with which HUD-approved housing counseling agencies must comply. Housing counseling agencies must provide counseling services to at least the minimum number of clients, as determined by HUD, annually. Agencies that provide only Home Equity Conversion Mortgage (HECM) counseling are exempt from the workload requirement. Compliance with these regulations will be monitored through periodic performance review (PR). The PR may determine whether an agency's HUD-approved status will be approved unconditionally, approved with conditions, or terminated.

Subpart D also describes funding and collection of housing counseling fees. This subpart explains that HUD-approval does not guarantee funding from HUD, but that several sources of funding may be available to HUD-approved housing counseling agencies. Agencies may charge reasonable fees, except as otherwise prohibited, on a sliding scale for individual counseling services as long as the fees do not create a financial hardship for the client.

In addition, subpart D explains the recordkeeping and reporting requirements for HUD-approved agencies. HUD-approved agencies must maintain a system of records that HUD may use as part of the PR, and the agency must ensure the confidentiality of these records. On an annual basis, each agency must submit an activity report. This subpart also requires HUD-approved housing counseling agencies to maintain a client management system that allows the agency to compile client-level demographic, financial, and outcomes data.

Subpart E provides for the announcement of competitive grant funding availability. When funds are appropriated by Congress, HUD will publish a Notice of Funding Availability (NOFA) in the **Federal Register** and on Grants.gov.

Current law (12 U.S.C. 1701x) extends eligibility of housing counseling services for virtually all defaulting homeowners and tenants. In addition, section 255(d)(2)(B) of the National Housing Act (12 U.S.C. 1715z–20(d)(2)(B)), which authorizes mortgage insurance of home equity conversion mortgages (HECM) for elderly homeowners, requires that a home equity conversion mortgage (HECM) must be executed by a mortgagor who received ''adequate counseling by a third party (other than the lender).'' Certain other HUD housing programs may require participation in the Housing Counseling Program. Accordingly, the regulations governing individual HUD housing programs should be consulted.

III. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would establish regulations for the Department's housing counseling program, a voluntary program through which housing counseling agencies may obtain HUD-approved status and become eligible for grant funding on a competitive basis. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities. Notwithstanding HUD's determination that this rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866, Regulatory Planning and Review. OMB determined that the rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not economically significant regulatory action under the Order). Any change made to the rule as a result of that review are identified in the docket file, which is available for public inspection in the Regulations Division, Room 10276, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Environmental Impact

This proposed rule would codify the existing housing counseling program. This proposed rule is categorically excluded from environmental review under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). In keeping with the exclusion provided for in 24 CFR 50.19(c)(1), this amendment does not direct, provide for assistance or loan and 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.

Executive Order 13132, Federalism

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 proposed 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.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule does not impose any federal mandates on any state, local, or tribal government, or on the private sector, within the meaning of the UMRA.

Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control

number 2502–0261. 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.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Program number is 14.169.

List of Subjects in 24 CFR Part 214

Administrative practice and procedure; loan program-housing and community development; organization and functions (government agencies); reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD proposes to amend title 24 of the Code of Federal Regulations to add part 214 as follows:

PART 214—HOUSING COUNSELING PROGRAM

Subpart A—General Program Requirements

Sec.
214.1 Purpose.
214.3 Definitions.

Subpart B—Approval and Disapproval of Housing Counseling Agencies

214.100 General.
214.103 Approval criteria.
214.105 Preliminary application process.
214.107 Approval by HUD.
214.109 Disapproval by HUD.

Subpart C—Termination and Appeals

214.200 Termination of HUD-approved status and grant agreements.
214.203 Re-approval or removal as a result of a performance review.
214.205 Appeals.

Subpart D—Program Administration

214.300 Counseling services.
214.303 Performance criteria.
214.305 Agency profile changes.
214.307 Performance review.
214.309 Reapproval and disapproval based on performance review.
214.311 Funding.
214.313 Housing counseling fees.
214.315 Recordkeeping.
214.317 Reporting.
214.319 Client management system.

Subpart E—Grants

214.400 Grants.

Subpart F—Other Federal Requirements

214.500 Financial reports.
214.503 Other requirements.

Authority: 12 U.S.C. 1701(x); 42 U.S.C. 3535(d).

Subpart A—General Program Requirements

§ 214.1 Purpose.

This part implements the Housing Counseling Program authorized by section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x). Section 106 authorizes HUD to provide, make grants to, or contract with public or private organizations to provide a broad range of housing counseling services to homeowners and tenants to assist them in improving their housing conditions and in meeting the responsibilities of tenancy or homeownership. The regulations contained in this part prescribe the procedures and requirements by which the Housing Counseling Program will be administered.

§ 214.3 Definitions.

The following definitions apply, as appropriate, throughout this part:

Affiliate. An organization connected with a regional or national intermediary for purposes of its housing counseling program. An affiliate is: (1) Duly organized and existing as a tax-exempt nonprofit organization; (2) in good standing under the laws of the state of the organization, and (3) authorized to do business in the states where it proposes to provide housing counseling services. An affiliate can be a subgrantee.

Branch or branch office. An organizational and subordinate unit of a local housing counseling agency, regional or national intermediary, or State Housing Finance Agency not separately incorporated or organized. A branch or branch office must be in good standing under the laws of the state where it proposes to provide housing counseling services. A branch or branch office cannot be a subgrantee or affiliate.

HUD-approved housing counseling agencies. Private and public nonprofit organizations that are exempt from taxation under section 501(a) pursuant to section 501(c) of the Internal Revenue Code of 1996, 26 U.S.C. 501(a) and 501(c)) and approved by HUD, in accordance with this part, to provide housing counseling services to clients directly or through their subgrantees, affiliates, or branches and which meet the requirements set forth in these regulations.

Clients. Individuals and families who are homeless, potential renters, renters, potential homebuyers, homebuyers, homeowners who are eligible for and apply for federal, state and local or conventional financed housing or housing assistance, or persons who occupy such housing and seek the assistance of a HUD-approved housing counseling agency to meet a housing need or resolve a housing problem.

Education. Information provided in a group or classroom setting to a number of people and covering topics applicable to groups of people such as, but not limited to: Renter rights; the homebuying process; how to maintain a home; how to set up a budget; fair housing; identifying and reporting predatory lending practices; rights for persons with disabilities; and the importance of good credit.

Counseling. One-on-one assistance provided to an individual or family that addresses unique financial circumstances and focuses on overcoming specific obstacles to achieving a housing goal such as repairing credit, addressing a rental dispute, purchasing a home, locating cash for a down payment, fair housing, finding units accessible to persons with disabilities, avoiding foreclosure, or resolving a financial crisis.

Housing counseling work plan. A housing counseling agency's plan to provide housing counseling activities and services in a specified geographic area to resolve or mitigate identified community needs and problems. The plan will also describe the objectives of the agency and the resources available to meet those objectives. An intermediary's plan includes similar information for the network of affiliated agencies or branches.

Client counseling plan. A plan of action that outlines what the housing counseling agency and the client will do in order to meet the client's housing goals and, when appropriate, addresses the client's housing problem(s).

Housing goal. A potential, realistic objective set by the client with advice from the housing counseling agency and with which the agency's housing counselor concurs. Under HUD programs, a HUD-approved housing counseling agency shall not accept as a client a person whose housing objective is unreasonable and is obviously unattainable.

Intermediary. A HUD-approved Housing Counseling Agency that provides housing counseling services through its branches, subgrantees, or affiliates. The term intermediary can be used as follows:

(1) National intermediary. A national intermediary provides housing counseling services through its branches, subgrantees, and affiliates in a number of states as determined by HUD.

(2) Regional Intermediary. A regional intermediary provides housing counseling services through its branches, subgrantees, and affiliates in a generally recognized region within the United States of America, such as the Southwest, Mid-Atlantic, New England.

Local housing counseling agency. A HUD-approved housing counseling agency that is not a State Housing Finance Agency or a Regional or

National Intermediary. A local housing counseling agency may have only one location or a main office with one or more branch offices within the same state or no more than the number of contiguous states as determined by HUD.

State housing finance agency (SHFA). Any public body, agency or instrumentality created by a specific act of a state legislature empowered to finance the activities designed to provide housing and related facilities through land acquisition, construction or rehabilitation throughout an entire state. A SHFA may participate in HUD's housing counseling grant program without prior approval from HUD. SHFAs may provide direct counseling services or subgrant housing counseling funds to local housing counseling agencies within the SHFA's state. ''State'' includes the several states, Puerto Rico, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa and the U.S. Virgin Islands.

Subgrantee. An organization that receives a subgrant of housing counseling funds provided under a HUD grant.

Subpart B—HUD Approval

§ 214.100 General.

An organization may be approved by HUD as a HUD-approved housing counseling agency upon meeting the requirements enumerated in 24 CFR 214.103 and upon completing the application procedures set forth in this subpart B.

§ 214.103 Approval criteria.

The following criteria for approval apply to all agencies and intermediaries including all local housing counseling agencies, branches, and affiliates that are included in one application:

(a) *Nonprofit and tax-exempt status.* A housing counseling agency must function as private or public nonprofit organization. The agency must submit evidence of nonprofit status and tax-exempt status under section 501(a) pursuant to section 501(c)(3) of the Internal Revenue Code of 1996 (26 U.S.C. 501(a) and 501(c)).

(b) *Experience.* An agency must have successfully administered a housing counseling program for at least one year. An intermediary must have operated in an intermediary capacity for at least one year and must require its branches and affiliates to have administered a housing counseling program for at least one year.

(c) *Ineligible participants.* An agency, including any of the agency's directors, partners, officers, principals, or employees must not:

(1) Be suspended, debarred, or otherwise restricted under the Department's, or any other federal regulations;

(2) Be indicted for, or convicted of, an offense that reflects upon the responsibility, integrity, or ability of the agency to participate in housing counseling activities;

(3) Be subject to unresolved findings as a result of HUD or other government audit or investigations; and

(4) Be engaged in activities that in HUD's opinion do not conform to generally accepted practices of prudent agencies or that demonstrate irresponsibility.

(d) *Community base.* A housing counseling agency and its individual branches and affiliates must have functioned for at least one year in the geographical area(s) the agency set forth in its housing counseling work plan.

(e) *Recordkeeping and reporting.* The agency must have an established system of recordkeeping so that client files can be reviewed and annual activity data for the agency can be verified, reported, and analyzed. This system must meet the requirements of 24 CFR 1.6 and 121.

(f) *Housing counseling resources.* The agency must have the following resources sufficient to implement the proposed housing counseling work plan no later than the date of HUD approval:

(1) *Funding.* The application for approval must provide evidence of funds immediately available, or written commitment for funds to cover the cost of operating the housing counseling work plan during the initial twelve-month period of HUD approval.

(2) *Staff.* The agency must employ staff trained in housing counseling with at least six months experience in the job they will perform in the agency's housing counseling program.

(3) *Language skills.* If the agency intends to serve non-English speaking clients, the housing counselor(s) must be fluent in the language of the clients they serve, the housing counseling agency must use the services of an interpreter, or the agency must refer the client to another agency that can meet the client's needs.

(g) *Knowledge of HUD programs and local housing market.* The agency's housing counseling staff must possess a working knowledge of HUD's housing programs, other state and local housing programs available in the community, consolidated plans, and the local housing market. The staff should be familiar with housing programs offered by conventional mortgage lenders and other housing or related programs that may assist their clients.

(h) *Contracts or agreements to provide eligible housing counseling services.* An agency and its branches, affiliates, and subgrantees must deliver all of the housing counseling activities set forth in the agency's housing counseling work plan. It is not permissible to contract out housing counseling services, except:

(1) In geographic areas where a need for housing counseling services is demonstrated and no HUD-approved housing counseling agency or its branches, affiliates, or subgrantees exists. Under this exception, the contract must delineate the respective housing counseling program responsibilities of the contracting parties, the agency providing services (contractor), must meet the HUD-approval eligibility standards, and the contracting agency must receive prior written approval from HUD.

(2) Intermediaries may enter into agreements with affiliates and subgrantees to provide housing counseling services. The agreements with affiliates may be an exchange of letters that delineate the respective housing counseling program responsibilities of the parties. Agreements with subgrantees must be sufficiently detailed to establish accountability and allow for adequate monitoring in accordance with applicable OMB Circulars and HUD regulations.

(3) With prior approval from HUD, and at HUD's discretion, national organizations may operate a housing counseling program with a network of affiliated counselors, rather than affiliated counseling agencies, if the structure is designed to meet a special housing counseling need identified by HUD.

(i) *Community resources.* The housing counseling agency must have established working relationships with private and public community resources to which it can refer clients who need help the agency cannot offer, including agencies offering similar or related services to non-English speaking clients.

(j) *State and local requirements.* An agency and its branches and affiliates must meet all state and local requirements for its operation.

(k) *Facilities.* All housing counseling facilities of the agency and its branches, affiliates, and subgrantees must meet the following criteria:

(1) Located in the community of the target population;

(2) Have a clearly identified office, with space available for the provision of housing counseling services, located in a space that is separate and apart from

any other entity, except that an agency may share general reception-type entrances, or lobbies with other business entities. The office should operate during normal business hours and offer extended hours when necessary;

(3) Provide privacy for one-on-one counseling and confidentiality of client records;

(4) Provide accessibility features for persons with disabilities and elderly persons, or the agency must arrange to meet with such persons at an alternative accessible location.

(l) *Housing counseling work plan.* The agency must submit a detailed yet concise housing counseling plan that explains the needs and problems of the target population, how the agency will address these needs and problems with its available resources, the type of housing counseling services offered, and the results (outcomes) to be achieved within the two-year period of approval. This plan must be periodically reviewed and when changed or amended the agency must notify and provide a copy to HUD. An agency must deliver at least one of the housing counseling components described in § 214.300. If an agency is to offer education through group sessions, it must also offer one-on-one counseling.

§ 214.105 Application process.

(a) *Submission.* All agencies must complete the forms prescribed by HUD and submit the application and all supporting documentation to HUD. Agencies with branches or affiliates for which the parent entity exercises control over the quality and type of housing counseling services rendered, may submit a single application for approval to include all offices.

(b) *Approval.* If an application package meets all requirements outlined in § 214.103, HUD will inform the agency of its approval, for a period up to two years, and provide a written certification of HUD-approved status.

(c) *Disapproval.* If an application package does not meet all requirements in § 214.103, HUD will provide the agency with the reasons for the denial in writing. Within 30 days of receipt of written notice of denial, the agency may submit a revised application, or appeal HUD's decision in writing to HUD.

§ 214.107 Approval by HUD.

(a) *Notice of approval.* HUD will send notice of approval in the form of an approval letter to the agency's main office.

(b) *Certificate of approval.* HUD will issue a ''Certificate of Approval'' to the approved agency or intermediary. The certificate will show the period of approval.

(c) *Appearance on list of HUD-approved housing counseling agencies.* As a condition of HUD approval, names and contact information for all approved local housing counseling agencies, and affiliates of intermediaries will appear on HUD's Web site for purposes of client referrals. All clients who contact the agency as a result of these referrals must be served. In cases where the agency does not offer the unique services requested by the client, the agency must refer the client to another HUD-approved housing counseling agency in the area. In addition, names and addresses of all HUD-approved housing counseling agencies will be available to the public through HUD's toll-free housing counseling hotline.

§ 214.109 Disapproval by HUD.

HUD will send a letter of disapproval to the agency explaining the application's deficiencies. Within 30 days of the date of a letter of disapproval, the agency may appeal the decision by writing to HUD, as provided in § 214.205, or submit a revised application addressing deficiencies described in the disapproval letter. If an agency decides to submit a revised application, the agency may consult HUD to determine the specific actions needed to resolve the deficiencies.

Subpart C—Termination and Appeals

§ 214.200 Termination of HUD-approved status and grant agreements.

(a) *Cause for termination by HUD.* HUD may terminate an agency's or intermediary's approval, remove the agency and its branches, or an intermediary and its branches and affiliates from the list of HUD-approved agencies, and terminate any grant agreements (if applicable) upon confirmation of any or all of the following reasons:

(1) In the best interest of the Department;

(2) Non-compliance with program requirements, as defined in these regulations;

(3) Failure to implement in whole or in part the agency's approved housing counseling work plan or failure to notify HUD of changes in the agency's housing counseling work plan;

(4) Lack of the capacity to deliver the housing counseling activities described in its approved housing counseling work plan;

(5) Failure to achieve outcomes described in the work plan; and

(6) Misuse of grant funds.

(b) *Agency withdrawal.* The agency may withdraw from the housing counseling program at any time.

(c) *Post-termination, post-withdrawal requirements.* All terminations by HUD, or an agency's withdrawal, must be in writing. When a termination or withdrawal occurs, the agency must return to HUD any unexpired ''Certificate of Approval.'' A terminated or inactive agency cannot continue to display this certificate. If HUD has determined that an agency will be terminated from participating in the Housing Counseling Program, and an agency does not voluntarily withdraw, then HUD may follow the provisions found in 24 CFR part 24.

§ 214.203 Re-approval or removal as a result of a performance review.

HUD may conduct a periodic Performance Review (PR) for all HUD-approved agencies, intermediaries, and SHFAs receiving housing counseling grant funds. The Performance Review and the terms of re-approval or removal of a HUD-approved housing counseling agency are described in § 214.307 of this title.

§ 214.205 Appeals.

An agency making an application for approval, or an approved agency seeking reapproval, shall have the right to appeal any adverse decisions rendered by HUD under this part:

(a) *Appeal must be in writing.* An agency may make a formal written appeal to HUD.

(b) *Timeliness.* HUD must receive an appeal within 30 days of the date of the HUD decision letter to the applicant agency. HUD is not bound to review appeals received after this 30-day period.

(c) *Other action.* Nothing in this section prohibits HUD from taking such other action against an agency as provided in 24 CFR part 24 or from seeking any other remedy against an agency available to HUD by statute or otherwise.

Subpart D—Program Administration

§ 214.300 Counseling services.

(a) *Basic requirements.* Unless exempted by HUD, all counseling must be in-person. For each client, a HUD-approved housing counseling agency shall offer the following basic services:

(1) Housing counseling that enables a client to make informed and reasonable decisions to achieve his or her housing goal.

(2) Referrals to local, State, and Federal resources.

(3) Follow-up communication with the client to assure that the client is

progressing toward his or her housing goal or that the agency should modify or terminate housing counseling.

(b) *Agency's housing counseling work plan.* A HUD-approved housing counseling agency shall deliver housing counseling services consistent with the agency's housing counseling work plan. The work plan should identify housing counseling services needed in targeted communities and geographic areas where the agency and its branches and affiliates provide their housing counseling services. An agency and its branches and affiliates that offer group, educational sessions must also offer one-on-one housing counseling.

(c) *Approved housing counseling activities.* The following are examples of approved areas of housing counseling:

(1) Displacement and relocation;

(2) Homeless services;

(3) Home buying including housing selection/mobility counseling, search assistance, purchase procedures, and closing costs, and homebuyer education programs;

(4) Rental topics including landlord-tenant laws, lease terms, HUD rental programs and rent subsidy programs, qualifying for federal, state, or local governmental assistance, and rent delinquency;

(5) Home financing including budgeting, escrow funds, foreclosure, delinquency and default, FHA-insured financing and other mortgage insurance programs, and the Home Equity Conversion Mortgage Program (HECM);

(6) Marketing and outreach initiatives including providing general information about housing opportunities, conducting informational campaigns, and raising awareness about critical housing topics, such as predatory lending or fair housing issues;

(7) Referrals to community resources;

(8) Rights and responsibilities of persons who own single family housing, including cooperatives and condominiums, as well as housing care and maintenance; and

(9) Any other area of housing counseling that is determined to be appropriate by the agency and approved by the Secretary.

§ 214.303 Performance criteria.

To maintain HUD-approved status, an approved agency must meet the following requirements:

(a) *Workload.* During each 12-month period, the agency must provide housing counseling to at least the minimum number of clients, as determined by HUD. Agencies that offer only housing counseling services limited to HECMs, are exempt from this requirement.

(b) *Reporting.* Every fiscal year, the agency must submit to HUD a complete, accurate and timely activity report as described in 24 CFR 214.317.

(c) *Agency's housing counseling work plan.* The agency must implement the housing counseling work plan and demonstrate reasonable achievement of the outcome objectives approved by HUD as described in 24 CFR 214.103(k).

(d) *Client referrals from HUD and other HUD-approved agencies.* All HUD-approved agencies must accept all clients referred by HUD and referred by other HUD-approved agencies that do not provide the specific housing counseling service or offer this service within a targeted or geographic area that is covered by a HUD-approved agency to which the referral is made. If an agency does not have the expertise or skills to meet the needs of a client, it must refer the client to another HUD-approved agency.

(e) *Conflicts of interest.* No director, employee, officer, contractor, or agent of a HUD-approved housing counseling agency or intermediary shall engage in activities that would involve a real or apparent conflict of interest. Such a conflict would arise when the director, employee, officer, contractor, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein has a direct interest in the client as a tenant, serves as a collection agent for the client's mortgage lender, landlord or creditor, originates, holds, or services a mortgage on the client's property, owns or purchases a property that the client seeks to rent, owns or purchases the property that the client seeks to purchase, steers clients to family or business associates such as particular mortgage lenders and brokers, builders, or real estate sales agents or brokers, acquires the client's property from the trustee in bankruptcy, or any financial or other interest in any matter relating to the client. The agency, its staff, or any member of his or her immediate family shall avoid any action that might result in, or create the appearance of, administering the housing counseling operation for personal or private gain; providing preferential treatment to any organization or person; or undertaking any action that might compromise the agency's ability to ensure compliance with the requirements of this part and to serve the best interests of its clients. HUD may investigate agency practices and may take action to suspend or terminate the agency's approval.

(f) *Disclosure requirements.* A HUD-approved agency must provide to all clients (and potential clients) a disclosure statement that explicitly describes the various types of services provided by the HUD-approved agency and any exclusive relationships between this agency and any other industry partners. The disclosure must clearly state that the client is not obligated to receive any other services offered by the organization or its exclusive partners. Furthermore, the agency must also provide information on alternative services, programs, and products.

(g) *Staff.* The agency must employ experienced or trained housing counselors. Supervisors of the housing counselors must periodically monitor the work of the housing counselors by reviewing client files with the housing counselor to determine the adequacy and effectiveness of the housing counseling. The agency must document these monitoring activities and make the documentation available to HUD upon request.

(h) *Funding.* The agency must maintain a level of funds that enables it to provide housing counseling to at least the required workload of fifty (50) clients every year whether or not the agency receives HUD funding. If the agency charges counseling fees to clients, the agency must comply with its HUD-approved fee structure.

§ 214.305 Agency profile changes.

An approved agency should notify HUD in writing within 15 days when any of the following occurs:

(a) The agency loses or changes its non-profit status.

(b) The agency no longer complies with local and state requirements.

(c) Changes occur in any of the items below:

(1) Address(es) of the agency's main office and the addresses of its branches and affiliates;

(2) Staff personnel responsible for the housing counseling program, such as the housing counselors, and management staff;

(3) Telephone numbers of the main office, affiliates, and branches;

(4) Any other aspect of the agency's purpose or functions that may impair its ability to comply with these regulations or the applicable grant agreement (e.g., lack of qualified housing counselors).

§ 214.307 Performance review.

(a) HUD may conduct periodic Performance Reviews (PR) to determine re-approval of the agency. In addition, HUD may conduct on-site or desk reviews of SHFAs that receive housing counseling grant funding, and intermediaries or local housing counseling agencies to include branches, subgrantees, and affiliates.

(b) The performance review will consist of a review of the agency's or intermediary's compliance with the requirements of this part, the requirements of grant agreements, if applicable, and the agency's level of success in delivering counseling services.

§ 214.309 Re-approval and disapproval based on performance review.

Based on the PR, HUD may determine whether to renew the approval unconditionally, conditionally, or withdraw its approval of the agency.

(a) *Unconditional Re-approval.* If the agency is in full compliance with the performance criteria of this part, HUD may re-approve the agency unconditionally for another two years.

(b) *Conditional Re-approval.* If the agency fails to meet the performance criteria, but the failure does not seriously impair the agency's counseling capability as required in this part, HUD may extend the agency's approval for up to ninety (90) days. HUD may grant this conditional extension only if the agency agrees to attempt to correct its program deficiencies within the period of the extension. Otherwise, HUD must withdraw its approval of the agency, notify the agency by letter and specify the deficiencies.

(c) *Termination of HUD Approval.* When HUD determines that the agency's program deficiencies seriously impair the agency's ability to comply with this part, then HUD must terminate its approval of the agency immediately.

(d) *Reinstatement of HUD Approval.* If HUD receives acceptable information indicating the required corrections of deficiencies, HUD may conduct a follow-up review within ninety (90) days and may reinstate the agency's approval if the deficiencies have been corrected.

(e) *Appeal.* If HUD does not reinstate the approval, the agency may file an appeal, as prescribed under § 214.205.

§ 214.311 Funding.

(a) *HUD approval does not guarantee funding from HUD.* Funding depends upon appropriations by Congress and is awarded competitively under federal and HUD regulations and policies governing assistance programs, including Department of Housing and Urban Development Reform Act of 1989.

(b) *Notice of Funding Availability (NOFA).* If funds become available, HUD will publish a Notice of Funding Availability (NOFA) in the **Federal Register** and on Grants.gov.

(d) *Local funding sources.* HUD recommends approved agencies seek funding from all funding sources such as lending or real estate organizations in addition to units of local government. Agencies must assure that such arrangements do not violate the provisions regarding conflicts of interest described in § 214.303(e).

§ 214.313 Housing counseling fees.

(a) HUD-approved agencies may charge reasonable and customary fees for housing education and counseling services as long as the cost does not create a financial hardship for the client. Agencies must submit fee schedules for HUD approval and post the approved fee schedule in a prominent place, easily viewed by clients.

(b) Agencies must inform clients of the fee structure in advance of providing services. Clients cannot be charged for the initial screening interview.

(c) If any agency chooses to charge fees, the agency must conform to the following guidelines:

(1) Provide counseling without charge to persons who cannot afford the fees;

(2) Charge nominal fees consistent with those of similar agencies for similar services; and

(3) Set approved fees on a sliding scale in relation to the client's income and use that scale for all fee clients.

(d) The agency may also be reimbursed from clients for the direct cost of obtaining copies of clients credit reports from credit reporting bureaus if this does not cause a hardship for the client. In cases where the approved agency receives a discount for the cost of credit reports, this discount must be passed on to the client.

§ 214.315 Recordkeeping.

(a) *Recordkeeping system.* Each HUD-approved housing counseling agency must maintain a recordkeeping system. The system must permit HUD to easily access all information needed for monitoring both when it conducts a PR and when it determines that other reviews of the agency's housing counseling activities are needed.

(b) *File retention requirements.* Financial records, supporting documents, statistical records and all other pertinent records shall be retained for a period of three (3) years from the date the case file was terminated for housing counseling. If the housing counseling agency is a recipient of a HUD housing counseling grant, then the client files for the housing counseling grant year must be retained for three years from the date the final grant invoice was paid by HUD.

(c) *Grant activities.* Recipients of HUD housing counseling grants are required to report activities under the grant in a format acceptable to HUD and within the designated time frames required by the applicable grant agreement.

(d) *Race and ethnicity data.* HUD-approved housing counseling agencies must maintain current and accurate data on the race and ethnicity of their clients.

(e) *Client file.* The housing counseling agency must maintain a separate confidential file for each client to document the services provided to the client as described in § 214.300 of this title. The agency must hold in strict confidence all client information regardless of the source or sources from which it is received. The client file must include:

(1) Details of an intake or screening interview, conducted by a housing counselor or administrative staff person who is trained in requirements of the Privacy Act of 1974 (5 U.S.C. 552a). The interview must be face-to-face, in the office of the HUD-approved housing counseling agency, unless it would be a hardship on the client. During the intake interview and counseling session sufficient information shall be documented including:

(i) Client name, address, and telephone number;

(ii) Client's file number;

(iii) FHA case number for clients with HUD-insured single-family mortgages or project number for HUD-assisted rental units; or a loan or project number if not a HUD-insured mortgage or HUD project;

(iv) Interviewing housing counselor's name;

(v) Interview date;

(vi) Race and ethnicity information;

(vii) Purpose and results of each visit, clearly identifying client need or problem, type of housing counseling provided, and results of housing counseling;

(viii) Income and financial obligations information;

(ix) Client's housing counseling plan, which outlines what the agency and the client will do in order to meet the client's housing goal(s). The housing counselor and client must sign the housing counseling plan. A copy of the signed housing counseling plan must be given to the client and the original placed in the client's file; and

(x) Documentation of any follow-up with the client, as needed, together with copies of pertinent records and correspondence.

(2) [Reserved]

(f) *Confidentiality.* HUD-approved agencies must ensure the confidentiality of each client's personal and financial information, including credit reports, whether the information is received from the client or from another source. Failure to maintain the confidentiality

of, or improper use of, credit reports may subject the agency to penalties under the Fair Credit Reporting Act (14 U.S.C. 1681 *et seq.*).

(g) *Termination of services.* The housing counseling agency must document in the client's file every termination of housing counseling. Termination occurs or may occur under any of these conditions:

(1) The client meets his or her housing need or resolves the housing problem.

(2) The agency determines that further housing counseling will not meet the client's housing need or resolve the client's housing problem.

(3) The client does not follow the agreed upon client housing counseling plan.

(4) The client otherwise terminates housing counseling.

(5) The client fails to appear for housing counseling appointments.

§ 214.317 Reporting.

All HUD-approved housing counseling agencies shall submit to HUD an activity report during each year of approval. The report must be submitted on a form prescribed by the Secretary, on a date and in a manner prescribed by the Secretary. HUD-approved agencies that are also recipients of HUD grants may be required to submit additional reports as described in their grant agreements and prescribed by the Secretary.

§ 214.319 Client management system.

All HUD-approved housing counseling agencies shall utilize an automated housing counseling client management system for the collection of client-level information including, but not limited to, financial and demographic data, counseling services provided, and outcomes data. The system used must meet HUD's standards and must provide the counseling agency with the tools necessary to track and manage all counseling and educational activities associated with each client. HUD may require HUD-approved agencies to use a Departmental Client Management System, based on HUD's determination that such a requirement is in the best interests of the Department.

Subpart E—Grants

§ 214.400 Grants.

When funds are appropriated by Congress, HUD will publish a Notice of Funding Availability (NOFA) in the **Federal Register** and on Grants.gov. HUD will select applications for funding on a competitive basis as provided in the applicable NOFA.

Subpart F—Other Federal Requirements

§ 214.500 Audit.

Housing counseling grant recipients and sub recipients shall be subject to the audit requirements contained in 24 CFR parts 84 and 85, as amended. HUD must be provided a copy of the audit report within thirty days of completion.

§ 214.503 Other requirements.

The housing counseling program is subject to applicable federal requirements in 24 CFR 5.105.

Dated: November 5, 2004.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 04–28049 Filed 12–22–04; 8:45 am]

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Federal Register

Thursday,
December 23, 2004

Part VI

Department of Labor

Office of the Secretary

Bureau of International Labor Affairs; Notice of Renaming the National Administrative Office as the Office of Trade Agreement Implementation; Designation of That Office as the Contact Point for Labor Provisions of Free Trade Agreements; and Request for Comments on Procedural Guidelines; Notice

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs; Notice of Renaming the National Administrative Office as the Office of Trade Agreement Implementation; Designation of That Office as the Contact Point for Labor Provisions of Free Trade Agreements; and Request for Comments on Procedural Guidelines

December 17, 2004.

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of renaming; designation of contact point; and request for comments on procedural guidelines.

SUMMARY: The Secretary of Labor announces that the National Administrative Office (NAO) of the Bureau of International Labor Affairs (ILAB) is renamed as the Office of Trade Agreement Implementation (Office) and will serve as the Contact Point for purposes of administering the labor chapters of the U.S.-Chile and U.S.-Singapore Free Trade Agreements, as well as labor provisions of other free trade agreements to which the United States may become a party to the extent authorized in such agreements, implementing legislation, or accompanying statements of administrative action, and the establishment of procedural guidelines pertaining to the public submission process. The Office will maintain the designation of the NAO and continue its function to administer Departmental responsibilities under the North American Agreement on Labor Cooperation. The address for this office is: Office of Trade Agreement Implementation, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5205, Washington, DC 20210. The telephone numbers are (office) 202–693–4900 and (facsimile) 202–693–4910.

Written comments and suggestions on the procedural guidelines are requested.

DATES: *Effective Date:* The renaming and designation of the functions of the Office are effective on December 17, 2004.

Comment Date: Written comments and suggestions on the procedural guidelines should be submitted by February 22, 2005.

ADDRESSES: Please send comments to *USNAO@dol.gov* or to the Director of the Office of Trade Agreement Implementation, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5205, Washington, DC 20210. Telephone: (202) 693–4900, facsimile (202) 693–4910. Comments provided in electronic format are preferred.

FOR FURTHER INFORMATION CONTACT: Director, Office of Trade Agreement Implementation, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5205, Washington, DC 20210. Telephone: (202) 693–4900 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The U.S.-Chile Free Trade Agreement was signed by the United States of America and the Republic of Chile on June 6, 2003. The Governments of the countries exchanged notes providing for the entry into force of the Agreement on January 1, 2004. *See* Public Law 108–77, 117 Stat. 909 (Sept. 3, 2003), the U.S.-Chile Free Trade Agreement Implementation Act. The U.S.-Singapore Free Trade Agreement was signed by the United States of America and the Republic of Singapore on May 6, 2003. The Governments of the countries exchanged notes providing for the entry into force of the Agreement on January 1, 2004. *See* Public Law 108–78, 117 Stat. 948 (Sept. 3, 2003), the U.S.-Singapore Free Trade Agreement Implementation Act. The North American Agreement on Labor Cooperation (NAALC) was signed by the United States, Mexico, and Canada in September 1993 and became effective January 1, 1994. *See* Public Law 103–182, 107 Stat. 2057 (Dec. 8, 1993), the North American Free Trade Agreement Implementation Act.

Article 15 of the NAALC requires each Party to establish a National Administrative Office. The U.S. NAO was established by the Secretary of Labor on January 1, 1994. See 58 FR 69410 (Dec. 30, 1993) and 59 FR 16660 (Apr. 7, 1994). Article 16 of the NAALC provides that the NAO shall serve as a point of contact with governmental agencies of that Party, NAOs of the other Parties, and the Secretariat of the Commission for Labor Cooperation. Additionally, the NAO is to provide for the submission and receipt of public communications on labor law matters arising in the territory of another Party.

Article 18.4.3 of the U.S.-Chile FTA and Article 17.4.2 of the U.S.-Singapore FTA require each Party to designate an office within its labor ministry to serve as a contact point with the other Party, and with the public, for the purpose of implementing the labor chapters. Each contact point is to provide for the submission, receipt, and consideration of public communications on matters related to the chapters.

Paragraph 2 of Annex 18.5 of the U.S.-Chile FTA and paragraph 2(a) of Annex 17A of the U.S.-Singapore FTA also provide for the establishment of labor ministry contact points to support the work of a Labor Cooperation Mechanism established under each labor chapter. In addition, Article 18.4.6 of the U.S.-Chile FTA and Article 17.4.3 of the U.S.-Singapore FTA provide that each Party may convene an advisory committee to provide views or advice on the implementation of the labor chapters.

The attached notice provides for the renaming of the NAO as the Office of Trade Agreement Implementation and that it shall serve as the Contact Point for the labor provisions of the U.S.-Chile and U.S.-Singapore FTAs. It also provides that the Office shall serve as a contact point for matters under labor chapters of other FTAs to which the United States may become a party to the extent authorized in such agreements, implementing legislation, or accompanying statements of administrative action. The Office will have the responsibility for administering U.S. responsibilities under the labor chapters and the NAALC, including serving as a contact point between the labor ministries of the Parties, serving as a contact point with the public on the labor chapters and the NAALC, providing for the submission, receipt, consideration, and review of public communications on matters related to the labor chapters and the NAALC, providing support to any advisory committees that may be convened or consulted pursuant to the labor chapters or the NAALC, and coordinating work under the mechanisms for labor cooperation established under the labor chapters and the cooperative activities program of the NAALC.

The attached notice provides for an open and transparent process regarding compliance by Chile and Singapore with the obligations of the labor chapter of each FTA, as appropriate, by other parties to labor chapters of other FTAs to which the United States may become a party, and by Mexico and Canada with the obligations of the NAALC. It provides for receipt and review of public submissions on matters related to a labor chapter or the NAALC. Within 60 days of receipt of a submission, the Office will initiate a review of the matter or advise the submitting party and the public that a review is not appropriate. At the conclusion of each review, the Office will publish a public report. The Office will periodically publish a list of public submissions. The Office also may undertake a review on

its own initiative on relevant labor matters.

The Notice of Renaming the National Administrative Office as the Office of Trade Agreement Implementation and Designation of that Office as the Contact Point for Labor Provisions of Free Trade Agreements set forth below replaces the Revised Notice of Establishment published on April 7, 1994 (59 FR 16660).

Signed at Washington, DC on December 17, 2004.

Elaine L. Chao,

Secretary of Labor.

Notice of Renaming of the National Administrative Office as the Office of Trade Agreement Implementation and Designation of That Office as the Contact Point for Labor Provisions of Free Trade Agreements

Section A. Renaming and Designation

1. The National Administrative Office, Bureau of International Labor Affairs, U.S. Department of Labor established January 1, 1994, 59 FR 16660 (Apr. 7, 1994), is renamed as the Office of Trade Agreement Implementation, Bureau of International Labor Affairs, U.S. Department of Labor.

2. The Office of Trade Agreement Implementation is designated as the Contact Point as required by Article 18.4.3 and Annex 18.5 of the U.S.-Chile FTA and Article 17.4.2 and Annex 17A of the U.S.-Singapore FTA.

3. The Office of Trade Agreement Implementation is designated as a contact point for labor chapters of other FTAs to which the United States may become a party to the extent authorized in such agreements, implementing legislation, or accompanying statements of administrative action.

4. The Office of Trade Agreement Implementation retains the functions of, and designation as, the National Administrative Office to administer Departmental responsibilities under the North American Agreement on Labor Cooperation. The Director of the Office of Trade Agreement Implementation retains the functions of, and designation as, the Secretary of the National Administrative Office under Article 15 of the North American Agreement on Labor Cooperation.

Section B. Definitions

As used herein:

''FTA'' means the U.S.-Chile Free Trade Agreement, the U.S.-Singapore Free Trade Agreement, or other free trade agreement to which the United States may become a party;

''another Party'' or ''other Party'' means a country other than the United States that is a Party to an FTA or the NAALC;

''Commission for Labor Cooperation'' means the Commission for Labor Cooperation established pursuant to Article 8 of the NAALC;

''Cooperative Activities Program'' means the program of cooperative activities undertaken by the Parties to the NAALC;

''Labor Affairs Council'' means the Labor Affairs Council established pursuant to Article 18.4.1 of the U.S.-Chile Free Trade Agreement or pursuant to another FTA;

''labor chapter'' means Chapter Eighteen of the U.S.-Chile FTA, Chapter 17 of the U.S.-Singapore FTA, or a labor chapter of another FTA;

''Labor Cooperation Mechanism'' means the mechanism established pursuant to Article 18.5 of the U.S.-Chile FTA or Article 17.5 of the U.S.-Singapore FTA, or a similar mechanism established pursuant to another FTA;

''labor organization'' includes any organization of any kind, including such local, national, and international organizations or federations, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment;

''NAALC'' means the North American Agreement on Labor Cooperation;

''non-governmental organization'' means any scientific, professional, business, non-profit, or public interest organization or association which is neither affiliated with, nor under the direction of, a government;

''Office'' means Office of Trade Agreement Implementation;

''Party'' means a Party to an FTA or the NAALC;

''person'' includes one or more individuals, non-governmental organizations, labor organizations, partnerships, associations, corporations, or legal representatives; and

''Subcommittee'' means a Subcommittee on Labor Affairs that may be established by the Joint Committee pursuant to Article 17.4.1 of the U.S.-Singapore FTA or pursuant to another FTA.

Section C. Functions of the Office of Trade Agreement Implementation

1. The Office shall encourage input and receive communications from the public on any matter related to a labor chapter of an FTA, including its Labor Cooperation Mechanism, and the NAALC, including its Cooperative Activities Program. The Office shall consider the views expressed by the public, consult, as appropriate, with U.S. and foreign government and non-government representatives, and provide appropriate and prompt responses.

2. The Office shall provide assistance to the Secretary of Labor on all matters concerning a labor chapter of an FTA, including the development and implementation of a Labor Cooperation Mechanism, and the NAALC, including the development and implementation of a Cooperative Activities Program.

3. The Office shall serve as a point of contact with agencies of the United States Government, a contact point of another Party, the public, governmental working or expert groups, business representatives, labor organizations, and non-governmental organizations concerning matters under a labor chapter or the NAALC.

4. The Office shall promptly provide publicly available information pursuant to Article 14 of the NAALC as requested by the Secretariat of the Commission for Labor Cooperation, the National Administrative Office of another Party, or an Evaluation Committee of Experts.

5. The Office shall receive, determine whether to accept for review, and review submissions on another Party's commitments and obligations arising under a labor chapter or the NAALC, as set out in Sections F, G, and H.

6. The Office may, at the direction of the Director, initiate a review of any matter arising under a labor chapter or the NAALC.

7. The Office may request, undertake, and participate in consultations with another Party pursuant to Article 18.6 of the U.S.-Chile FTA, Article 17.6 of the U.S.-Singapore FTA, Parts Four and Five of the NAALC, or pursuant to another FTA, regarding any matter arising under a labor chapter or the NAALC, and shall respond to requests for such consultations made by another Party.

8. The Office shall assist a Labor Affairs Council or Subcommittee or the Commission for Labor Cooperation on any relevant matter.

9. The Office shall, as appropriate, establish working or expert groups; consult with and seek advice of non-governmental organizations or persons; prepare and publish reports as set out in Section J and on matters related to the implementation of a labor chapter pursuant to Article 18.4.4 of the U.S.-Chile FTA or Article 17.4.5 of the U.S.-Singapore FTA, or pursuant to another FTA; collect and maintain information on labor law matters involving another Party; and compile materials concerning labor law legislation of another Party.

10. The Office shall consider the views of any advisory committee established or consulted to provide advice in administering a labor chapter or the NAALC.

11. The Office shall consult with the United States Trade Representative, the Department of State, and other appropriate entities of the U.S. Government in carrying out its responsibilities under the labor chapters and the NAALC.

Section D. Cooperation

1. The Office shall conduct at all times its activities in accordance with the principles of cooperation and respect embodied in the FTAs and the NAALC. In its dealings with a contact point of another Party and all persons, the Office shall endeavor to the maximum extent possible to resolve matters through consultation and cooperation.

2. The Office shall consult with the contact point of another Party during the submission and review process set out in Sections F, G and H in order to obtain information and resolve issues that may arise.

3. The Office, on behalf of the Department of Labor and with other appropriate agencies, shall develop and implement cooperative activities under a Labor Cooperation Mechanism of an FTA and the Cooperative Activities Program of the NAALC. The Office may carry out such cooperative activities through any means the Parties deem appropriate, including exchange of government delegations, professionals, and specialists; sharing of information, standards, regulations and procedures, and best practices; organization of conferences, seminars, workshops, meetings, training sessions, and outreach and education programs; development of collaborative projects or demonstrations; joint research projects, studies, and reports; and technical exchanges and cooperation.

4. The Office shall receive and consider views on cooperative activities from worker and employer representatives and from other members of civil society.

Section E. Information

1. The Office shall maintain public files where submissions, transcripts of hearings, **Federal Register** notices, reports, advisory committee information, and other public information shall be available for inspection during normal business hours, subject to the terms and conditions of the Freedom of Information Act, 5 U.S.C. 552.

2. Information submitted by a person or another Party to the Office in confidence shall be treated as exempt from public inspection if the information meets the requirements of 5 U.S.C. 552(b) or as otherwise permitted by law. Each person or Party requesting such treatment shall clearly mark ''submitted in confidence'' on each page or portion of a page so submitted and furnish an explanation as to the need for exemption from public inspection. If the material is not accepted in confidence it will be returned promptly to the submitter with an explanation for the action taken.

3. The Office shall be sensitive to the needs of an individual's confidentiality and shall make every effort to protect such individual's interests.

Section F. Submissions

1. Any person may file a submission with the Office regarding another Party's commitments or obligations arising under a labor chapter or Part Two of the NAALC. Filing may be by electronic transmission, hand delivery, mail delivery, or facsimile transmission. A hard copy submission must be accompanied by an electronic version in a current Word or Word Perfect format, including attachments unless it is not practicable.

2. The submission shall identify clearly the person filing the submission and shall be signed and dated. It shall state with specificity the matters that the submitter requests the Office to consider and include supporting information available to the submitter, including, wherever possible, copies of laws or regulations which are the subject of the submission. As relevant, the submission shall address and explain to the fullest extent possible whether:

(a) the matters referenced in the submission demonstrate action inconsistent with another Party's commitments or obligations under a labor chapter or the NAALC, noting the particular commitment or obligation;

(b) there has been harm to the submitter or other persons, and, if so, to what extent;

(c) the matters referenced in the submission demonstrate a sustained or recurring course of action or inaction of non-enforcement of labor law by the other Party;

(d) the matters referenced in the submission affect trade between the parties;

(e) the course of action or inaction reflects something other than a reasonable exercise of discretion or a bona fide decision regarding the allocation of resources;

(f) relief has been sought under the domestic laws of the other Party, and, if so, the status of any legal proceedings; and

(g) the matters referenced in the submission are pending before an international body.

Section G. Acceptance of Submissions

1. Within 60 days after the filing of a submission, the Office shall determine whether to accept the submission for review. The Office may communicate with the submitter during this period regarding any matter relating to the determination.

2. In determining whether to accept a submission for review, the Office shall consider whether:

(a) the submission raises issues relevant to any matter arising under a labor chapter or the NAALC;

(b) a review would further the objectives of a labor chapter or the NAALC;

(c) the submission clearly identifies the person filing the submission, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review;

(d) the statements contained in the submission, if substantiated, would constitute a failure of the other Party to comply with its obligations under a labor chapter or the NAALC;

(e) the statements contained in the submission or available information demonstrate that appropriate relief has been sought under the domestic laws of the other Party, or that the matter or a related matter is pending before an international body; and

(f) the submission is substantially similar to a recent submission and significant, new information has been furnished that would substantially differentiate the submission from the one previously filed.

3. If the Office accepts a submission for review, it shall promptly provide written notice to the submitter, the relevant Party, and other appropriate persons, and promptly publish in the Federal Register notice of the determination, a statement specifying why review is warranted, and the terms of the review.

4. If the Office declines to accept a submission for review, it shall promptly provide written notice to the submitter stating the reasons for the determination.

Section H. Reviews and Public Reports

1. Following a determination by the Office to accept a submission for review, the Office shall conduct such further examination of the submission as may

be appropriate to assist it to better understand and publicly report on the issues raised. The Office shall keep the submitter apprised of the status of a review.

2. Except for information exempt from public inspection pursuant to Section E, information relevant to a review shall be placed in a public file.

3. The Office shall provide a process for the public to submit information relevant to the review, including holding a public hearing as appropriate.

4. Notice of any such hearing under paragraph 3 shall be published in the Federal Register 30 days in advance. The notice shall contain such information as the Office deems relevant, including information pertaining to requests to present oral testimony and written briefs.

5. Any hearing shall be open to the public. All proceedings shall be conducted in English, with simultaneous interpretation provided as the Office deems necessary.

6. Any hearing shall be conducted by an official of the Office or another Departmental official, assisted by staff and legal counsel, as appropriate. The public file shall be made part of the hearing record at the commencement of the hearing.

7. Within 120 days of the acceptance of a submission for review, unless circumstances as determined by the Office require an extension of time of up to 60 additional days, the Office shall issue a public report.

8. The report shall include a summary of the proceedings and any findings and recommendations.

Section I. Recommendations to the Secretary of Labor

1. The Office may at any time make a recommendation to the Secretary of Labor as to whether the United States should request consultations with another Party pursuant to Article 18.6.1 of the U.S.-Chile FTA or Article 17.6.1 of the U.S.-Singapore FTA, or pursuant to another FTA, or consultations with another Party at the ministerial level pursuant to Article 22 of the NAALC. As relevant and appropriate, the Office shall include any such recommendation in the report prepared in response to a submission.

2. If, following such consultations, the Office determines that the matter has not been resolved satisfactorily, it shall make a recommendation to the Secretary of Labor concerning the convening of a Labor Affairs Council or Subcommittee pursuant to an FTA, or the establishment of an Evaluation Committee of Experts pursuant to Article 23 of the NAALC, as relevant.

3. If the mechanisms referred to in paragraph 2 are invoked and the Office determines that the matter subsequently remains unresolved, and the matter concerns whether a Party is conforming with an obligation under a labor chapter, such as Article 18.2.1.a of the U.S.-Chile FTA or Article 17.2.1.a of the U.S.-Singapore FTA, or Part Two of the NAALC, that is subject to the dispute settlement provisions of an FTA or the NAALC, the Office shall make a recommendation to the Secretary of Labor concerning pursuit of dispute resolution under such provisions.

Section J. Periodic and Special Reports

1. The Office shall publish periodically a list of submissions presented to it, including a summary of the disposition of such submissions.

2. The Office shall obtain and publish periodically information on public communications considered by the other Parties.

3. The Office may undertake reviews and publish special reports on any topics under its purview on its own initiative or upon request from the Secretary of Labor.

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Federal Register

Thursday,
December 23, 2004

Part VII

The President

Proclamation 7857—To Implement the United States-Australia Free Trade Agreement

Federal Register
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Thursday, December 23, 2004

Presidential Documents

Title 3—

The President

Proclamation 7857 of December 20, 2004

To Implement the United States-Australia Free Trade Agreement

By the President of the United States of America

A Proclamation

1. On May 18, 2004, the United States entered into the United States-Australia Free Trade Agreement (USAFTA). The USAFTA was approved by the Congress in section 101(a) of the United States-Australia Free Trade Agreement Implementation Act (the ''USAFTA Act'') (Public Law 108–286, 118 Stat. 919) (19 U.S.C. 3805 note).

2. Section 105(a) of the USAFTA Act authorizes the President to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under Chapter 21 of the USAFTA.

3. Section 201 of the USAFTA Act authorizes the President to proclaim such modifications or continuation of any duty, such continuation of duty-free or excise treatment, or such additional duties, as the President determines to be necessary or appropriate to carry out or apply Articles 2.3, 2.5, and 2.6, and the schedule of reductions with respect to Australia set forth in Annex 2–B, of the USAFTA.

4. Section 203 of the USAFTA Act provides certain rules for determining whether a good is an originating good for the purpose of implementing preferential tariff treatment under the USAFTA. I have decided that it is necessary to include these rules of origin, together with particular rules applicable to certain other goods, in the Harmonized Tariff Schedule of the United States (HTS).

5. Section 206 of the USAFTA Act authorizes the President to take certain enforcement actions relating to trade with Australia in textile and apparel goods.

6. Sections 321–328 of the USAFTA Act authorize the President to take certain actions in response to a request by an interested party for relief from serious damage or actual threat thereof to a domestic industry producing certain textile or apparel articles.

7. Executive Order 11651 of March 3, 1972, as amended, establishes the Committee for the Implementation of Textile Agreements (CITA) to supervise the implementation of textile trade agreements.

8. Section 604 of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2483), as amended, authorizes the President to embody in the HTS the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to sections 105(a), 201, 203, 206, and 321–328 of the USAFTA Act, section 301 of title 3, United States Code, and section 604 of the 1974 Act, do proclaim that:

(1) In order to provide generally for the preferential tariff treatment being accorded under the USAFTA, to set forth rules for determining whether

goods imported into the customs territory of the United States are eligible for preferential tariff treatment under the USAFTA, to provide certain other treatment to originating goods for the purposes of the USAFTA, and to provide tariff-rate quotas with respect to certain originating goods, the HTS is modified as set forth in Annex I of Publication No. 3722 of the United States International Trade Commission, entitled Modifications to the Harmonized Tariff Schedule of the United States Implementing the United States-Australia Free Trade Agreement (Publication 3722), which is incorporated by reference into this proclamation.

(2) In order to implement the initial stage of duty elimination provided for in the USAFTA, to provide tariff-rate quotas with respect to certain originating goods, and to provide for future staged reductions in duties for originating products of Australia for purposes of the USAFTA, the HTS is modified as provided in Annex II of Publication 3722, effective on the dates specified in the relevant sections of such publication and on any subsequent dates set forth for such duty reductions in that publication.

(3) The Secretary of Commerce is authorized to exercise the authority of the President under section 105(a) of the USAFTA Act to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section.

(4) (a) The amendments to the HTS made by paragraphs (1) and (2) of this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the relevant dates indicated in Annex II to Publication 3722.

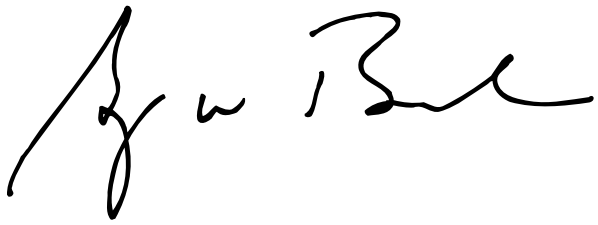
(b) Except as provided in paragraph 4(a) of this proclamation, this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2005.

(5) The CITA is authorized to exercise the authority of the President under section 206 of the USAFTA Act to exclude textile and apparel goods from the customs territory of the United States; to determine whether an enterprise's production of, and capability to produce, goods are consistent with statements by the enterprise; to find that an enterprise has knowingly or willfully engaged in circumvention; and to deny preferential tariff treatment to textile and apparel goods.

(6) The CITA is authorized to exercise the authority of the President under sections 321–328 of the USAFTA Act to review requests, including allegations of critical circumstances, and to determine whether to commence consideration of such requests; to cause to be published in the **Federal Register** a notice of commencement of consideration of a request and notice seeking public comment; to determine whether imports of an Australian textile or apparel article are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article; and to provide relief from imports of an article that is the subject of such a determination; and if critical circumstances are alleged, to determine whether there is clear evidence that imports from Australia have increased as the result of the reduction or elimination of a customs duty under the USAFTA, whether there is clear evidence that such imports are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article, and whether delay in taking action would cause damage to that industry that would be difficult to repair; and to provide provisional relief with respect to imports that are subject to an affirmative determination of critical circumstances that is necessary to remedy or prevent the serious damage.

(7) All provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of December, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred and twenty-ninth.



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Filed 12–22–04; 8:45 am]
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Reader Aids

Federal Register

Vol. 69, No. 246

Thursday, December 23, 2004

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202–741–6000**

Laws **741–6000**

Presidential Documents

Executive orders and proclamations **741–6000**

The United States Government Manual **741–6000**

Other Services

Electronic and on-line services (voice) **741–6020**

Privacy Act Compilation **741–6064**

Public Laws Update Service (numbers, dates, etc.) **741–6043**

TTY for the deaf-and-hard-of-hearing **741–6086**

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FEDERAL REGISTER PAGES AND DATE, DECEMBER

69805–70050 1
70051–70178 2
70179–70350 3
70351–70536 6
70537–70870 7
70871–71338 8
71339–71690 9
71691–72108 10
72109–74404 13
74405–74946 14
74947–75222 15
75223–75450 16
75451–75818 17
75819–76372 20
76373–76594 21
76595–76834 22
76835–77138 23

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7850 70351
7851 70353
7852 71689
7853 74945
7854 74947
7855 76371
7856 76595
7857 77135

Executive Orders:
12473 (Amended by EO 13365) 71333
13286 (See EO 13362) 70173
13289 (See EO 13363) 70175
13303 (Amended by EO 13364) 70177
13315 (See EO 13364) 70177
13350 (See EO 13364) 70177
13362 70173
13363 70175
13364 70177
13365 71333
13366 76591

Administrative Orders:
Memorandums:
Memorandum of October 21, 2004 70349
Memorandum of December 8, 2004 74935
Memorandum of December 8, 2004 74937
Memorandum of December 8, 2004 74939
Memorandum of December 8, 2004 74941
Presidential Determinations:
No. 2005–07 of November 29, 2004 72109
No. 2005–08 of November 29, 2004 74931
No. 2005–09 of December 6, 2004 74933
No. 2005–11 of December 10, 2004 76587

4 CFR

Proposed Rules:
21 ..... 75878, 76979

5 CFR

317 70355
352 70355
359 70355
451 70355
530 70355
531 ..... 70355, 75451
534 70355
575 70355
841 69805
842 69805
843 69805

6 CFR

Proposed Rules:
5 70402

7 CFR

51 76835
56 76373
210 ..... 70871, 70872
220 70872
301 76378
319 71691
354 71660
371 76378
457 74405
784 76836
905 ..... 70874, 76597
920 76379
958 76381
980 76381
982 76385
1005 71697
1006 71697
1007 71697
1464 70367
1775 70877
1806 75454
1822 75454
1902 75454
1925 75454
1930 75454
1940 75454
1942 75454
1944 75454
1951 ..... 70883, 75454
1955 75454
1956 75454
1965 75454
3560 75454
3565 75454

Proposed Rules:
319 71736
500 75880
929 69996
930 71744
945 76884
983 71749
989 71753

9 CFR

166 70179
317 74405
381 74405
430 70051

Proposed Rules:
417 76884

10 CFR

19.....76599
25.....74949
34.....76599
40.....76599
55.....76599
60.....76599
95.....74949

Proposed Rules:

25.....75007
95.....75007

11 CFR

Proposed Rules:

100.....76626
104.....76626
114.....76628
300.....71388

12 CFR

201.....75819
506.....76601
516.....76601
541.....76601
560.....76601
563.....76601
564.....76601
567.....76601
570.....76601

Proposed Rules:

226.....70925

13 CFR

121.....70180
125.....75820

Proposed Rules:

121.....70197

14 CFR

23.....70885, 74407
25.....76389
39 .....69807, 69810, 70368, 70537, 70539, 71339, 71340, 71342, 71344, 71347, 71349, 71351, 71353, 74411, 74412, 75223, 75225, 75228, 75231, 75233, 75236, 75826, 75830, 75833, 76603, 76605, 76610, 76839, 76979
71 .....70053, 70185, 70371, 70372, 70541, 70542, 71701, 71702, 72111, 72112, 74953, 74954, 74955, 75454, 76042, 76391
73.....70887, 72113
91.....74413
95.....74413
97.....74415
119.....76841
121.....75835, 76841
135.....76841

Proposed Rules:

39 .....69829, 69832, 69834, 69836, 69838, 69842, 69844, 70202, 70204, 70564, 70566, 70568, 70571, 70574, 70936, 70938, 72134, 72136, 74461, 74463, 74465, 75267, 75270, 75273, 75275, 75277, 75280, 75282, 76632
61.....74898
63.....74898
65.....74898
67.....74898
71 .....70208, 71756, 75490, 75491, 76421
91.....74898
121.....74898
135.....74898

15 CFR

6.....74416
732.....71356
734.....71356
740.....71356
742.....71356
744.....71356
750.....69814
772.....71356
774.....76842
806.....70543

Proposed Rules:

710.....70754
711.....70754
712.....70754
713.....70754
714.....70754
715.....70754
716.....70754
717.....70754
718.....70754
719.....70754
720.....70754
721.....70754
722.....70754
723.....70754
724.....70754
725.....70754
726.....70754
727.....70754
728.....70754
729.....70754

16 CFR

1.....76611

17 CFR

15.....76392
16.....76392
17.....76392
18.....76392
19.....76392
21.....76392
240.....70852
248.....71322
275.....72054
279.....72054

Proposed Rules:

228.....75774
229.....75774
230.....75774
240 .....71126, 71256, 75774
242.....71126, 75774
249.....71126

18 CFR

11.....71364

Proposed Rules:

Ch. 1 70077

21 CFR

1.....71562, 71655
10.....74418
11.....71562
179.....76401, 76844
510.....70053
520.....70053, 74418
522.....70054, 70055
558.....70056
880.....70702
1310.....74957

Proposed Rules:

165.....70082
1301.....70576

22 CFR

122.....70888
129.....70888

Proposed Rules:

226.....75885

23 CFR

650.....74419
655.....69815

24 CFR

200.....74894
202.....75802
203.....77112
206.....75204
570.....70864

Proposed Rules:

200.....75812
206.....70244
214.....77118
970.....75188
2004.....70868
3280.....70016

25 CFR

Proposed Rules:

542.....69847

26 CFR

1 .....70547, 70550, 75455, 76612, 76614
25.....70547
31 .....69819, 70547, 76404
53.....70547
55.....70547
156.....70547
301.....70547
602 .....70547, 70550, 76614

Proposed Rules:

1 .....70578, 71757, 75492, 76422, 76635
26.....70404
31.....76422
301.....71757

27 CFR

9.....70889, 71372

28 CFR

16.....72114
906.....75243

29 CFR

570.....75382
579.....75382
580.....75382
1926.....70373
2590.....75798
4011.....69820
4022.....69820, 74973
4044.....69821, 74973

Proposed Rules:

1.....75408
4.....75408
1210.....76423
1952.....75436

30 CFR

18.....70752
917.....75835
938.....71528, 71551

31 CFR

10.....75839
103.....74439, 76847
515.....75468
538.....75468
560.....75468

Proposed Rules:

10.....75887

32 CFR

503.....76412
630.....76412
635.....75245

Proposed Rules:

634.....76548
637.....75287

33 CFR

100.....70551, 70552
117 .....70057, 70059, 70373, 71704, 71706, 74441, 74975, 75472, 75845
165 .....70374, 71708, 71709, 74442, 76413, 76415, 76417

Proposed Rules:

100.....70578
110.....71758, 75009
117 .....70091, 70209, 72138, 75011, 75013, 75493
165 .....70211, 71758, 75009

34 CFR

Proposed Rules:

606.....76636
607.....76636
611.....76636
637.....76636
648.....76636
656.....76636
657.....76636
658.....76636
660.....76636
661.....76636
662.....76636
663.....76636
664.....76636
669.....76636

35 CFR

Ch. I 71375

36 CFR

13.....70061
242.....70074
1228.....74976, 76848

Proposed Rules:

242.....70940

37 CFR

201.....70377
253.....69822

38 CFR

21.....74977

40 CFR

9.....70552, 75472
52 .....69823, 70893, 70895, 71375, 71712, 72115, 72118, 75473, 75478, 75847, 76417, 76617, 76848, 76854, 76855
63.....74979, 76859
70.....75478
81.....75847
82.....76982

180 .....70897, 71714, 76619
228.....75256
268.....76863
271.....70898, 74444
300.....74448, 75847
712.....70552

Proposed Rules:
52 .....69863, 70944, 70945, 71390, 71764, 75495, 76886, 76888, 76889
60.....69864, 71472
63 .....69864, 75015, 76642, 76894
70.....75495
82.....76655
93.....72140
141.....76897
271.....70946, 74467
272.....71391
300.....74467, 75891
720.....75496
721.....70404

41 CFR

Proposed Rules:
51-2.....70214
51-3.....70214
51-4.....70214

42 CFR

1003.....74451

Proposed Rules:
1001.....71766

43 CFR

44.....70557
1880.....70557

44 CFR

64.....70377, 75481
65 .....70185, 71718, 72128, 75483
67 .....70191, 70192, 71721, 72131, 75484

Proposed Rules:
67 .....72156, 72158, 75496, 75499

45 CFR

Proposed Rules:
650.....71395

46 CFR

310.....74454
531.....75850

47 CFR

0.....70316
1 .....70378, 72020, 75144
2.....71380, 72020
4.....70316
11.....72020
15.....71380, 72020
18.....70562
21.....72020
22.....75144
24.....75144
27 .....70378, 72020, 75144
54.....74985
63.....70316
64.....71383
73 .....71384, 71385, 71386, 71387, 72020, 74988, 75860, 75861, 76420
74.....70378, 72020
76.....72020
78.....72020
79.....72020
80.....76864
90.....70378, 75144
101.....70378, 72020

Proposed Rules:
1.....72046, 75174
22.....75174
24.....75174
27.....72046, 75174
73 .....71396, 75016, 75017
90.....74174

48 CFR

Ch. 1.....76340, 76358
2 .....76341, 76347, 76350, 76352
4.....76341
9.....76347
11.....76358
12.....76350
13.....76350
14.....76341
15.....76341, 76350
19.....76355
22.....76347, 76352
28.....76347
41.....76358
42.....76356
44.....76347, 76358
51.....76358
52 .....76341, 76347, 76352, 76358
Ch. 2.....74995
203.....74989
206.....74990
209.....74989
212.....74991
213.....74991
217.....74992
219.....74995
225.....74991
236.....75000
237.....75000
252.....74989, 74991
909.....75001
970.....75001
Ch. 35.....75266

Proposed Rules:
619.....76660
625.....76660
628.....76660
652.....76660
901.....75017
970.....75017

49 CFR

171 .....70902, 75208, 76044
172.....75208, 76044
173 .....70902, 75208, 76044
174.....70902
175 .....70902, 75208, 76044
176.....70902, 76044
177.....70902
178.....70902, 76044
180.....76044
219.....72133
571 .....70904, 74848, 75486, 76298, 76865
585.....70904
586.....70904
589.....70904
590.....70904
596.....70904
597.....70904

Proposed Rules:
121.....76423
371.....76664
571.....75020
572.....70947
1507.....71767

50 CFR

14.....70379
17.....70382, 71723
100.....70074
222.....69826
223.....69826
229.....75862
300.....71731
622.....70196
635 .....70396, 71732, 71735
648 .....70919, 70923, 75864
660.....77012
679 .....69828, 70924, 74455, 75004, 75005, 75865, 76870

Proposed Rules:
17 .....69878, 70412, 70580, 70971, 71284, 72161, 74468, 75608, 76428
20.....71770
21.....75892
92.....76362
100.....70940
223.....76673
226.....71880, 74572
229.....70094
635.....71771
648.....70414
660.....70973
679 .....70589, 70605, 70974, 76682

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 23, 2004

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Oranges, grapefruit, tangerines, and tangelos grown in—

Florida; published 12-22-04

Pistachio nuts in shell and shelled; grade standards; correction; published 12-23-04

AGRICULTURE DEPARTMENT

Farm Service Agency

Special programs:

Ewe Lamb Replacement and Retention Payment Program; published 12-23-04

COMMERCE DEPARTMENT

Industry and Security Bureau

Export administration regulations:

Commerce Control List—

Dual-use chemical manufacturing facilities and equipment and related technology; Australia Group classification number conformation; published 12-23-04

License conditions; licensee's responsiblity to communicate; published 11-23-04

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Demersal shelf rockfish; published 11-23-04

Atlantic highly migratory species—

Atlantic swordfish; published 11-23-04

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Pennsylvania; published 11-23-04

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food for human consumption:

Irradiation in production, processing, and handling of food—

Ionizing radiation in treatment of food; x ray maximum permited energy level; published 12-23-04

Human drugs:

Cold, cough, allergy, bronchodilator, and antiasthmatic products (OTC)—

Combination products; final monograph; published 12-23-02

Combination products; final monograph; correction; published 4-14-03

SECURITIES AND EXCHANGE COMMISSION

Securities:

Annual and quarterly reports; acceleration of periodic filing dates and disclosure concerning web site access to reports; published 11-23-04

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Raytheon; published 11-9-04

TREASURY DEPARTMENT

Currency and foreign transactions; financial reporting and recordkeeping requirements:

Suspicious activity and blocking reports; filing requirements; published 12-23-04

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cotton classing, testing and standards:

Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

Irish potatoes grown in—

Washington; comments due by 12-27-04; published 11-26-04 [FR 04-26124]

Olives grown in—

California; comments due by 12-27-04; published 10-28-04 [FR 04-24089]

Walnuts grown in—

California; comments due by 12-28-04; published 10-29-04 [FR 04-24160]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Noxious weeds:

Caulerpa; comments due by 12-27-04; published 10-26-04 [FR 04-23921]

Plant-related quarantine, foreign:

Import regulations; requests for changes; submission requirements; comments due by 12-27-04; published 10-28-04 [FR 04-24150]

AGRICULTURE DEPARTMENT

Farm Service Agency

Multi-family housing programs:

Direct multi-family housing loans and grants; comments due by 12-27-04; published 11-26-04 [FR 04-25599]

AGRICULTURE DEPARTMENT

Rural Business-Cooperative Service

Multi-family housing programs:

Direct multi-family housing loans and grants; comments due by 12-27-04; published 11-26-04 [FR 04-25599]

AGRICULTURE DEPARTMENT

Rural Housing Service

Multi-family housing programs:

Direct multi-family housing loans and grants; comments due by 12-27-04; published 11-26-04 [FR 04-25599]

AGRICULTURE DEPARTMENT

Rural Utilities Service

Multi-family housing programs:

Direct multi-family housing loans and grants; comments due by 12-27-04; published 11-26-04 [FR 04-25599]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands groundfish; comments due by 12-29-04; published 12-15-04 [FR 04-27432]

Western Alaska Community Development Quota Program; comments due by 12-27-04; published 11-26-04 [FR 04-26177]

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

DEFENSE DEPARTMENT

Acquisition regulations:

Pilot Mentor-Protege Program; Open for comments until further notice; published 12-15-04 [FR 04-27351]

ENERGY DEPARTMENT

Meetings:

Environmental Management Site-Specific Advisory Board—

Oak Ridge Reservation, TN; Open for comments until further notice; published 11-19-04 [FR 04-25693]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Commercial and industrial equipment; energy efficiency program:

Test procedures and efficiency standards—

Commercial packaged boilers; Open for comments until further notice; published 10-21-04 [FR 04-17730]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric rate and corporate regulation filings:

Virginia Electric & Power Co. et al.; Open for comments until further notice; published 10-1-03 [FR 03-24818]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Washington; comments due by 12-29-04; published 11-29-04 [FR 04-26295]

Air quality implementation plans; approval and promulgation; various States:
Indiana; comments due by 12-30-04; published 11-30-04 [FR 04-26400]
Environmental statements; availability, etc.:
Coastal nonpoint pollution control program—
Minnesota and Texas; Open for comments until further notice; published 10-16-03 [FR 03-26087]
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Deltamethrin; comments due by 12-27-04; published 10-27-04 [FR 04-24040]
Pyraclostrobin; comments due by 12-28-04; published 10-29-04 [FR 04-24247]
Radiation protection programs:
Transuranic radioactive waste for disposal at Waste Isolation Pilot Plant; waste characterization program documents; availability—
Hanford Site, Plutonium Finishing Plant, WA; comments due by 12-30-04; published 11-30-04 [FR 04-26480]
Water pollution control:
National Pollutant Discharge Elimination System—
Concentrated animal feeding operations in New Mexico and Oklahoma; general permit for discharges; Open for comments until further notice; published 12-7-04 [FR 04-26817]
Water pollution; effluent guidelines for point source categories:
Meat and poultry products processing facilities; Open for comments until further notice; published 9-8-04 [FR 04-12017]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
Interconnection—
Incumbent local exchange carriers; reclassification from competitive local exchange carriers; comments due by 12-30-04; published 11-30-04 [FR 04-26385]
Radio services, special:
Maritime services—
Automatic Identification Systems; electromagnetic frequency identification; comments due by 12-30-04; published 11-15-04 [FR 04-25289]
Radio stations; table of assignments:
New Jersey and Texas; comments due by 12-27-04; published 11-22-04 [FR 04-25808]
Ohio and Kentucky; comments due by 12-27-04; published 11-22-04 [FR 04-25807]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Environmental impact considerations;
Humanitarian device exemption; categorical exclusion; comments due by 12-27-04; published 11-24-04 [FR 04-25974]
Medical devices:
Immunology and microbiology devices—
Hepatitis A virus serological assays; reclassification; comments due by 12-29-04; published 9-30-04 [FR 04-22009]
Reports and guidance documents; availability, etc.:
Evaluating safety of antimicrobial new animal drugs with regard to their microbiological effects on bacteria of human health concern; Open for comments until further notice; published 10-27-03 [FR 03-27113]
Medical devices—
Dental noble metal alloys and base metal alloys; Class II special controls; Open for comments until further notice; published 8-23-04 [FR 04-19179]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Anchorage regulations:
Maryland; Open for comments until further notice; published 1-14-04 [FR 04-00749]
Virginia; comments due by 12-27-04; published 9-27-04 [FR 04-21523]
Drawbridge operations:
Florida; comments due by 12-30-04; published 11-30-04 [FR 04-26339]
New Jersey; comments due by 12-28-04; published 10-29-04 [FR 04-24255]
Ports and waterways safety:
Buzzards Bay, MA; regulated navigation area; comments due by 12-27-04; published 10-26-04 [FR 04-23963]

HOMELAND SECURITY DEPARTMENT

Transportation Security Administration

Maritime and land transportation security:
Commercial drivers licenses; hazardous materials endorsement; security threat assessment; comments due by 12-27-04; published 11-24-04 [FR 04-26066]

HOMELAND SECURITY DEPARTMENT

U.S. Citizenship and Immigration Services

Immigration:
Full costs recovery; appeal and motion fees adjustment; comments due by 12-30-04; published 11-30-04 [FR 04-26370]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species permit applications
Recovery plans—
Paiute cutthroat trout; Open for comments until further notice; published 9-10-04 [FR 04-20517]

LABOR DEPARTMENT

Occupational Safety and Health Administration

Occupational safety and health standards:
National consensus standards and industry standards; clarification and deletion of outdated references; comments due by 12-27-04; published 11-24-04 [FR 04-26045]
National consensus standards; update; comments due by 12-27-04; published 11-24-04 [FR 04-26047]

NUCLEAR REGULATORY COMMISSION

Environmental statements; availability, etc.:
Fort Wayne State Developmental Center; Open for comments until further notice; published 5-10-04 [FR 04-10516]

SMALL BUSINESS ADMINISTRATION

Disaster loan areas:
Maine; Open for comments until further notice; published 2-17-04 [FR 04-03374]

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Trade Representative, Office of United States

Generalized System of Preferences:
2003 Annual Product Review, 2002 Annual Country Practices Review, and previously deferred product decisions; petitions disposition; Open for comments until further notice; published 7-6-04 [FR 04-15361]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
BAE Systems (Operations) Ltd.; comments due by 12-27-04; published 11-24-04 [FR 04-26032]
Boeing; comments due by 12-27-04; published 10-27-04 [FR 04-23924]
Empresa Brasileira de Aeronautica S.A. (EMBRAER); comments due by 12-27-04; published 11-24-04 [FR 04-26030]
General Electric Co.; comments due by 12-27-04; published 10-27-04 [FR 04-24035]
Pacific Aerospace Corp., Ltd.; comments due by 12-27-04; published 11-22-04 [FR 04-25795]
Raytheon; comments due by 12-27-04; published 11-10-04 [FR 04-25033]
Rolls-Royce Ltd.; comments due by 12-28-04; published 10-29-04 [FR 04-24230]
Class E airspace; comments due by 12-27-04; published 11-16-04 [FR 04-25416]

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:
Labor and personal services; source of compensation
Public hearing; comments due by 12-27-04; published 12-7-04 [FR 04-26838]

VETERANS AFFAIRS DEPARTMENT

Adjudication; pensions, compensation, dependency, etc.:
Surviving spouse's rate; compensation payments

for service-connected disability; indemnity compensation for non-service-connected deaths; comments due by 12-27-04; published 10-25-04 [FR 04-23488]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 4012/P.L. 108–457

To amend the District of Columbia College Access Act of 1999 to reauthorize for 2 additional years the public school and private school tuition assistance programs established under the Act. (Dec. 17, 2004; 118 Stat. 3637)

S. 2845/P.L. 108–458

Intelligence Reform and Terrorism Prevention Act of 2004 (Dec. 17, 2004; 118 Stat. 3638)

Last List December 14, 2004

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