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Rules and Regulations

Federal Register

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Thursday, November 3, 2005

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21998; Directorate Identifier 2005–CE–40–AD; Amendment 39–14358; AD 2005–22–14]

RIN 2120–AA64

Airworthiness Directives; GROB–WERKE Model G120A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for all GROB–WERKE Model G120A airplanes. This AD requires you to inspect for signs of any chafing damage to the attachment cables of the switch panels below the left-hand instrument panel, any damaged switch below the switch panels of the left-hand instrument panel, any damaged (that is, sharp) edge of the support tray for the attachment cables of the switch panels below the left-hand instrument panel; correct any damage found during the inspection; and apply a layer of anti-rub (protective padding) strips to the edge of the support tray. This AD results from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. We are issuing this AD to detect, correct, and prevent chafing of the cables against the rear lip of the tray that holds the switch panels. Chafing of the electrical cables could result in smoke or fire in the cockpit.

DATES: This AD becomes effective on December 19, 2005.

As of December 19, 2005, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: To get the service information identified in this AD, contact GROB Luft-und Raumfahrt, Lettenbachstrasse 9, D–86874 Tussenhausen-Mattsies, Federal Republic of Germany; telephone: 011 49 8268 998139; facsimile: 011 49 8268 998200.

To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2005–21998; Directorate Identifier 2005–CE–40–AD.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified FAA that an unsafe condition may exist on all GROB Model G120A airplanes. The LBA reports that GROB received a report of smoke in the cockpit on a Model G120A airplane. The emergency avionic switch on the switch panel below the left-hand instrument panel was identified as the source of the smoke.

Chafing of the cables against the rear lip of the tray that holds the switch panels caused damage of the cable insulation. This damage resulted in arcing and melting of insulation.

What is the potential impact if FAA took no action? Chafing of the electrical cables could result in smoke or fire in the cockpit.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all GROB–WERKE Model G120A airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 26, 2005 (70 FR 50223). The NPRM proposed to require you to inspect for signs of any chafing damage to the attachment cables of the switch panels below the left-hand instrument panel, any damaged switch below the switch panels of the left-hand instrument panel, any damaged (that is, sharp) edge of the support tray for the attachment cables of the switch panels below the left-hand instrument panel; correct any damage found during the inspection; and apply a layer of anti-rub (protective padding) strips to the edge of the support tray.

Comments

Was the public invited to comment? We provided the public the opportunity to participate in developing this AD. We received no comments on the proposal or on the determination of the cost to the public.

Conclusion

What is FAA's final determination on this issue? We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Changes to 14 CFR Part 39—Effect on the AD

How does the revision to 14 CFR part 39 affect this AD? On July 10, 2002, the FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

How many airplanes does this AD impact? We estimate that this AD affects 6 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? We estimate the following costs to do this inspection, replacement of any damaged cable bundle, damaged switch, or grinding off any sharp edge on the support tray, and installation of the protective padding:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work hour × $65 an hour = $65	$20	$85	$85 × 6 = $510.

Authority for This Rulemaking

What authority does FAA have for issuing this rulemaking action? Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. 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.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA 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 Findings

Will this AD impact various entities? We have determined that this AD will not have federalism implications under Executive Order 13132. This AD 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.

Will this AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the 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.

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–21998; Directorate Identifier 2005–CE–40–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under 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. FAA amends § 39.13 by adding a new AD to read as follows:

2005–22–14 GROB–WERKE: Amendment 39–14358; Docket No. FAA–2005–21998; Directorate Identifier 2005–CE–40–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on December 19, 2005.

What Other ADs Are Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

(c) This AD affects Model G120A airplanes, all serial numbers, that are certificated in any category.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified in this AD are intended to detect, correct, and prevent chafing of the cables against the rear lip of the tray that holds the switch panels. Chafing of the electrical cables could result in smoke or fire in the cockpit.

What Must I Do To Address This Problem?

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Inspect for: (i) Any signs of chafing damage to the attachment cables of switches below the switch panels of the left-hand instrument panel; (ii) Any damaged switch on switch panels of the left-hand instrument panel; and (iii) Any damaged (that is, sharp) edge of the support tray for the attachment cables of switches below the switch panels of the left-hand instrument panel..	Within the next 50 hours time-in-service (TIS) after December 19, 2005 (the effective date of this AD), unless already done.	Follow GROB Service Bulletin No. MSB1121–065, dated July 1, 2005
(2) Correct any damage found as a result of the inspection required by paragraph (e)(1) of this AD:. (i) If you find any signs of chafing damage to the attachment cables of switches below the switch panels of the left-hand instrument panel, replace the attachment cables; (ii) If you find any damaged switch below the switch panels of the left-hand instrument panel, replace the switch; and		

Actions	Compliance	Procedures
(iii) If you find any damaged (that is, sharp) edge on the support tray for the attachment cables of switches below the switch panels of the left-hand instrument panel, grind off any sharp edges and clean thoroughly.	Before further flight after the inspection required by paragraph (e)(1) of this AD.	Follow GROB Service Bulletin No. MSB1121–065, dated July 1, 2005.
(3) Apply anti-rub (padding strips to the edge of the support tray for the attachment cables of switches below the switch panels of the left-hand instrument panel..	Before further flight after the inspection required by paragraph (e)(1) of this AD. This modification is required even if damage is not found during the inspections.	Follow GROB Service Bulletin No. MSB1121–065, dated July 1, 2005.

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Standards Office, Small Airplane Directorate, FAA. For information on any already approved alternative methods of compliance, contact Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

Is There Other Information That Relates to This Subject?

(g) German AD Number D–2005–242, effective date: July 1, 2005, also addresses the subject of this AD.

Does This AD Incorporate Any Material by Reference?

(h) You must do the actions required by this AD following the instructions in GROB Service Bulletin No. MSB1121–065, dated July 1, 2005. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get a copy of this service information, contact GROB Luft-und Raumfahrt, Lettenbachstrasse 9, D–86874 Tussenhausen-Mattsies, Federal Republic of Germany; telephone: 011 49 8268 998139; facsimile: 011 49 8268 998200. To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2005–21998; Directorate Identifier 2005–CE–40–AD.

Issued in Kansas City, Missouri, on October 25, 2005.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–21800 Filed 11–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21835; Directorate Identifier 2005–CE–35–AD; Amendment 39–14357; AD 2005–22–13]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA adopts a new airworthiness directive (AD) for certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. This AD requires you to inspect the left and right main landing gear (MLG) assemblies for any part number (P/N) 532.10.12.077 or FAA-approved equivalent part number bolts that do not have white primed and painted heads; and replace any bolt found with new P/N 532.10.12.077F or FAA-approved equivalent part number bolts in all MLG assemblies. This AD results from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. We are issuing this AD to detect and correct any P/N 532.10.12.077 or FAA-approved equivalent part number bolts that do not have white primed and painted heads, which could result in corrosion of the bolt and consequent failure of the bolt. This failure could lead to MLG collapse during airplane landing and take-off operations with consequent loss of airplane control.

DATES: This AD becomes effective on December 19, 2005.

As of December 19, 2005, the Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulation.

ADDRESSES: To get the service information identified in this AD, contact Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6208; facsimile: +41 41 619 7311; e-mail: *SupportPC12@pilatus-aircraft.com* or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040.

To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001 or on the Internet at *http://dms.dot.gov.* The docket number is FAA–2005–21835; Directorate Identifier 2005–CE–35–AD.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA that an unsafe condition may exist on certain Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA reports part number (P/N) 532.10.12.077 bolts that do not have white primed and painted heads are subject to corrosion. These bolts attach the hydraulic actuators to the left and right main landing gear (MLG) assemblies. The FOCA further reports the separation of a bolt head in an MLG assembly has occurred due to corrosion. The corrosion occurred because the bolt head was not primed and painted.

Pilatus has designed and produced a new bolt (P/N 532.10.12.077F) as part of Modification Kit No. 500.50.12.299 to replace the subject bolt. Pilatus recommends the replacement of bolts in pairs.

What is the potential impact if FAA took no action? Corrosion of the bolt could lead to MLG collapse during airplane landing and take-off operations with consequent loss of airplane control.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 2, 2005 (70 FR 44297). The NPRM proposed to require you to inspect the left and right main landing gear (MLG) assemblies for any part number (P/N) 532.10.12.077 bolts that do not have white primed and painted heads; and replace any bolt found with new P/N 532.10.12.077F bolts in all MLG assemblies.

Comments

Was the public invited to comment? We provided the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue: Include Parts Manufacture Approval (PMA) Parts Approved by Identicality in Both the Parts Replaced and the Replacement Parts

What is the commenters' concern? Two commenters specifically ask that the FAA address PMA parts approved by identicality in both the parts replaced (unsafe condition) and the replacement parts (correction of condition). Specifically, the commenters state:

1. One commenter believes FAA should add the phrase ''or FAA-approved equivalent part number'' to the replacement part as it did with the parts replaced; and

2. Another commenter states that restricting parts to be replaced and parts installed to just those cited in the manufacturer service bulletin is not good form and might establish a dangerous precedent. The commenter believes that installed PMA parts could have the same unsafe condition and that the owner/operator should have the option of installing equivalent parts without applying for an alternative method of compliance (AMOC). The commenter also believes that the phrase ''or FAA-approved equivalent part number'' is inadequate for replacement parts and proposes language to clarify that phrase.

What is FAA's response to the concern? The FAA concurs with all the comments above. The FAA will add information to further clarify the phrase ''or FAA-approved equivalent part number'', and add the phrase to cover the PMA replacement parts.

Conclusion

What is FAA's final determination on this issue? We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed except for the changes discussed above and minor editorial corrections. We have determined that these changes and minor corrections:

—Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Docket Information

Where can I go to view the docket information? You may view the AD docket that contains information relating to this subject in person at the DMS Docket Offices between 9:00 a.m. and 5:00 p.m. (eastern time), Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5227) is located on the plaza level of the Department of Transportation NASSIF Building at the street address stated in **ADDRESSES.** You may also view the AD docket on the Internet at *http://dms.dot.gov.*

Changes to 14 CFR Part 39—Effect on the AD

How does the revision to 14 CFR part 39 affect this AD? On July 10, 2002, the FAA published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

How many airplanes does this AD impact? We estimate that this AD affects 350 airplanes in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplanes? We estimate the following costs to do the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 work hour × $65 per hour = $65	Not applicable	$65	$22,750

We estimate the following costs to do any necessary single bolt replacement (using Modification Kit No. 500.50.12.299) that would be required based on the results of this inspection. We have no way of determining the number of airplanes that may need this bolt replacement:

Labor cost	Parts cost	Total cost per airplane
3 work hours × $65 per hour = $195	$1,000 estimate for each Modification Kit No. 500.50.12.299	$1,195

Pilatus will provide warranty credit for inspecting and replacing the specified bolts to the extent stated in the service information.

Authority for This Rulemaking

What authority does FAA have for issuing this rulemaking action? Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. 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.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA 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 Findings

Will this AD impact various entities? We have determined that this AD will not have federalism implications under Executive Order 13132. This AD 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.

Will this AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the 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.

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–21835; Directorate Identifier 2005–CE–35–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under 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. FAA amends § 39.13 by adding a new AD to read as follows:

2005–22–13 Pilatus Aircraft Ltd.: Amendment 39–14357; Docket No. FAA–2005–21835; Directorate Identifier 2005–CE–35–AD.

When Does This AD Become Effective?

(a) This AD becomes effective on December 19, 2005.

What Other ADs Are Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

(c) This AD affects Models PC–12 and PC–12/45 airplanes, Manufacturers Serial Numbers (MSN) 101 through 620, that are certificated in any category.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified in this AD are intended to detect and correct any part number (P/N) 532.10.12.077 or FAA-approved equivalent part number bolts that do not have white primed and painted heads, which could result in corrosion of the bolt and consequent failure of the bolt. This failure of the bolt could lead to main landing gear (MLG) collapse during airplane landing and take-off operations with consequent loss of airplane control.

What Must I Do To Address This Problem?

(e) To address this problem, you must do the following:

Actions	Compliance	Procedures
(1) Inspect the main landing gear (MLG) assemblies, part number (P/N) 532.10.12.049 and P/N 532.10.12.050 or FAA-approved equivalent part number, for any P/N 532.10.12.077 or FAA-approved equivalent part number bolts that do not have white primed and painted heads.	Within the next 100 hours time-in-service (TIS) or 90 days after December 19, 2005 (the effective date of this AD), whichever occurs first, unless already done.	Follow Pilatus PC12 Service Bulletin No. 32–018, dated May 2, 2005.
(2) Replace any P/N 532.10.12.077 bolts that do not have white primed and painted heads found as a result of the inspection required by paragraph (e)(1) of this AD. Replace with new bolts (new P/N 532.10.12.077F or FAA-approved equivalent part number) in both MLG assemblies.	Before further flight after inspection required by paragraph (e)(1) of this AD.	Follow Pilatus PC12 Service Bulletin No. 32–018, dated May 2, 2005.
(3) 14 CFR 21.303 allows for replacement parts through parts manufacturer approval (PMA). The phrase ''or FAA-approved equivalent part number'' in this AD is intended to signify those parts that are PMA parts approved through identicality to the design of the part under the type certificate and replacement parts to correct the unsafe condition under PMA (other than identicality). If parts are installed that are identical to the unsafe parts, then the corrective actions of the AD affect these parts also. In addition, equivalent replacement parts to correct the unsafe condition under PMA (other than identicality) may also be installed provided they meet current airworthiness standards, which include those actions cited in this AD.	Not Applicable	Not Applicable.

Actions	Compliance	Procedures
(4) Do not install: (i) Any P/N 532.10.12.077 (or FAA-approved equivalent part number) bolt that does not have a white primed and painted head in any MLG assembly (P/N 532.10.12.049, P/N 532.10.12.050, or FAA-approved equivalent part number); and (ii) Any MLG assembly (P/N 532.10.12.049, P/N 532.10.12.050 or FAA-approved equivalent part number) that does not have P/N 532.10.12.077F (or FAA-approved equivalent part number) bolts with white primed and painted heads.	As of December 19, 2005 (the effective date of this AD).	Not Applicable.

Note: The FAA recommends that you return any removed bolts to Pilatus.

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Standards Office, Small Airplane Directorate, FAA. For information on any already approved alternative methods of compliance, contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

Is There Other Information That Relates to This Subject?

(g) Swiss AD Number HB–2005–288, dated June 29, 2005, also addresses the subject of this AD.

Does This AD Incorporate Any Material by Reference?

(h) You must do the actions required by this AD following the instructions in Pilatus PC12 Service Bulletin No. 32–018, dated May 2, 2005. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To get a copy of this service information, contact Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6208; facsimile: +41 41 619 7311; e-mail: *SupportPC12@pilatus-aircraft.com* or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. To review copies of this service information, go to the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html* or call (202) 741–6030. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001 or on the Internet at *http://dms.dot.gov*. The docket number is FAA–2005–21835; Directorate Identifier 2005–CE–35–AD.

Issued in Kansas City, Missouri, on October 25, 2005.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–21803 Filed 11–2–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 523

[BOP–1112–F]

RIN 1120–AB12

Good Conduct Time: Aliens With Confirmed Orders of Deportation, Exclusion, or Removal

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) amends its rules on Good Conduct Time (GCT). The purpose of this rule is to more effectively reduce the lengthy General Educational Development (GED) waiting lists and to reevaluate the ''satisfactory progress in a literacy program'' provision of the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA) and/or the Prison Litigation Reform Act of 1995 (PLRA) for aliens with confirmed orders of deportation, exclusion, or removal. This rule will increase the proportion of our literacy funds and resources that go to inmates who will remain in the U.S. after release. This rule will exempt inmate aliens with confirmed orders of deportation, exclusion, or removal from the ''satisfactory progress in a literacy program'' provision of the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA) and/or the Prison Litigation Reform Act of 1995 (PLRA). The Bureau's Literacy Program rules formerly comprised only GED attainment. This means that inmate aliens who have confirmed orders of deportation, exclusion, or removal, but do not have a high school diploma or GED, will not need to demonstrate satisfactory progress toward earning a GED credential to be considered for the full benefits of GCT. When considering GCT, we will allow 54 days GCT for each year served if the inmate is an alien with a confirmed order of deportation, exclusion, or removal from the Executive Office for Immigration Review (EOIR).

In this document, we also reorganize the rule for clarity and accuracy. Other than the substantive change regarding sentenced deportable aliens, we make no further substantive changes.

DATES: This rule is effective December 5, 2005.

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

SUPPLEMENTARY INFORMATION: We published this change as a proposed rule on June 25, 2003 (68 FR 37776).

What Is the Purpose of This Rule Change?

The purpose of this rule is to more effectively reduce the lengthy General Educational Development (GED) waiting lists and to reevaluate the ''satisfactory progress in a literacy program'' provision of VCCLEA/PLRA for aliens with confirmed orders of deportation, exclusion, or removal. This rule will increase the proportion of our literacy funds and resources that go to inmates who will remain in the U.S. after release.

VCCLEA/PLRA requires that inmates lacking a high school diploma or GED

must participate satisfactorily in the literacy program to receive full benefits of GCT.

In November 1997, the Bureau's education staff implemented the literacy provision of VCCLEA and PLRA (see 28 CFR 544.70–544.75). Inmates sentenced under either of these two laws must enroll or re-enroll in a literacy program and make satisfactory progress towards earning a GED credential. If they do not do this, inmates may suffer negative consequences to their GCT credit. For PLRA inmates, this would mean not being eligible for the maximum, 54 days, of GCT (see 28 CFR 523.20(a)(1)). For VCCLEA inmates, this would result in their GCT not vesting.

Although we made extensive efforts to enroll as many inmates in literacy programs as possible, the waiting lists for enrollment in these programs grew from no appreciable waitlist in August 1997 to 12,829 in January 2004. Aliens with confirmed deportation orders represent a small fraction of all VCCLEA/PLRA sentenced inmates without a verified GED. On January 7, 2004, six percent of all VCCLEA/PLRA sentenced inmates without a verified GED were aliens with confirmed deportation orders (2,383 out of 41,892).

18 U.S.C. 3624(b)(4) gives the Director authority to make exemptions to the GED requirements as he deems appropriate. Through our literacy program, we help inmates compete for available jobs and cope with post-release community, family, and other responsibilities. Because we must concentrate resources on inmates who will be released into U.S. communities, we will not require inmates with confirmed orders of deportation, exclusion, or removal to participate in the literacy program.

In this rule, we make an exemption to the GED requirements to provide relief to the growing demand for literacy programs by amending 28 CFR 523.20 to allow the full benefit of GCT provisions for aliens with confirmed orders of deportation, exclusion, or removal. These inmates may still participate in the literacy program, even though it will not affect their GCT.

Comments

We received eight comments. Six were identical form letters in support of the rule change. We respond to the remaining two comments below.

One commenter recommended that the Director provide an exemption for any inmate currently subject to a detainer for later determination of deportability. The commenter states that this would allow inmates who know that they will be found deportable to request the exemption, thus freeing space in the GED program for inmates who will be released within the U.S.

We considered this option and decided against creating an exemption for inmates subject to a detainer pending a hearing to determine deportability. If the Bureau of Prisons allows such an exception for inmates with detainers, but the Department of Homeland Security (DHS), Bureau of Immigration and Customs Enforcement (ICE) determines that the inmate *cannot be removed* to the country of origin, there are two possible consequences for that inmate: (1) The inmate may have to be on a GED waiting list for an indeterminate amount of time, possibly not getting into the program until close to the expiration of his/her sentence; and/or (2) Any good conduct time earned by the inmate under the exception would have to be forfeited to the extent that it exceeded the good conduct time that inmate would have earned had his/her immigration status been known earlier.

In both situations, the inmate faces potentially negative consequences. We determined that it would more likely benefit alien inmates in this situation to accumulate good conduct time and move up in the waitlist or possibly even have the opportunity to benefit from the GED program, while his/her hearing is pending.

Another commenter wanted to know how the rule would affect inmates who are of Cuban citizenship, whose removal from the U.S. cannot be executed, and who, therefore, will be released into the community. We intend this rule to operate as follows: Any inmate who is subject to an EOIR order of removal, deportation, or exclusion does not need to participate in the GED program to earn the full amount of good conduct time. Therefore, regardless of whether or not that order can actually be executed, the fact of the EOIR order triggers the effect of this rule. However, if DHS re-evaluates the inmate's situation and makes a formal determination that the inmate is no longer subject to an order of removal, deportation, or exclusion, that inmate will then be required to participate in the GED program or be placed on the waitlist to earn the full amount of good conduct time.

For the aforementioned reasons, we finalize the proposed rule without change.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'', section 1(b), Principles of Regulation. The Director of the Bureau of Prisons has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

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

Regulatory Flexibility Act

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

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1995

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1995. This rule will not result in an annual effect on the economy of $1000,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-b ased companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 523

Prisoners.

Harley G. Lappin,

Director, Bureau of Prisons.

■ Under the rulemaking authority vested in the Attorney General in 5

U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we amend 28 CFR part 523 as follows.

Subchapter B—Inmate Admission, Classification, and Transfer

PART 523—COMPUTATION OF SENTENCE

■ 1. The authority citation for 28 CFR part 523 is revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3568 (repealed November 1, 1987 as to offenses committed on or after that date), 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987), 4161–4166 (repealed October 12, 1984 as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 28 U.S.C. 509, 510.

■ 2. Revise § 523.20 to read as follows:

§ 523.20 Good conduct time.

(a) For inmates serving a sentence for offenses committed on or after November 1, 1987, but before September 13, 1994, the Bureau will award 54 days credit toward service of sentence (good conduct time credit) for each year served. This amount is prorated when the time served by the inmate for the sentence during the year is less than a full year.

(b) For inmates serving a sentence for offenses committed on or after September 13, 1994, but before April 26, 1996, all yearly awards of good conduct time will vest for inmates who have earned, or are making satisfactory progress (see § 544.73(b) of this chapter) toward earning a General Educational Development (GED) credential.

(c) For inmates serving a sentence for an offense committed on or after April 26, 1996, the Bureau will award

(1) 54 days credit for each year served (prorated when the time served by the inmate for the sentence during the year is less than a full year) if the inmate has earned or is making satisfactory progress toward earning a GED credential or high school diploma; or

(2) 42 days credit for each year served (prorated when the time served by the inmate for the sentence during the year is less than a full year) if the inmate has not earned or is not making satisfactory progress toward earning a GED credential or high school diploma.

(d) Notwithstanding the requirements of paragraphs (b) and (c) of this section, an alien who is subject to a final order of removal, deportation, or exclusion is eligible for, but is not required to, participate in a literacy program, or to be making satisfactory progress toward earning a General Educational Development (GED) credential, to be eligible for a yearly award of good conduct time.

(e) The amount of good conduct time awarded for the year is also subject to disciplinary disallowance (see tables 3 through 6 in § 541.13 of this chapter).

[FR Doc. 05–21969 Filed 11–2–05; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA70

Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Anti-Money Laundering Programs for Insurance Companies

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Final rule.

SUMMARY: The Financial Crimes Enforcement Network is issuing this final rule to prescribe minimum standards applicable to insurance companies pursuant to the provision in the Bank Secrecy Act that requires financial institutions to establish anti-money laundering programs and to define the companies and insurance products that are subject to that requirement.

DATES: *Effective Date:* December 5, 2005.

Applicability Date: May 2, 2006. *See* 31 CFR 103.137(b) of the final rule contained in this document.

FOR FURTHER INFORMATION CONTACT: Financial Crimes Enforcement Network, Regulatory Policy and Programs Division on (202) 354–6400 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Provisions

The Bank Secrecy Act, Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–14, 5316–5332, authorizes the Secretary of the Treasury to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, including analysis, to protect against international terrorism, and to implement anti-money laundering programs and compliance procedures.[1] Regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of the Financial Crimes Enforcement Network.

On October 26, 2001, the President signed into law the USA PATRIOT Act. Section 352 of the USA PATRIOT Act, which became effective on April 24, 2002, amended 31 U.S.C. 5318(h) to require anti-money laundering programs for all financial institutions defined in 31 U.S.C. 5312(a)(2). At a minimum, the anti-money laundering programs are required to include:

> (A) The development of internal policies, procedures, and controls; (B) the designation of a compliance officer; (C) an ongoing employee training program; and (D) an independent audit function to test programs. 31 U.S.C. 5318(h)(1).

Section 352(c) of the USA PATRIOT Act directs the Secretary to prescribe regulations for anti-money laundering programs that are ''commensurate with the size, location, and activities'' of the financial institutions to which such regulations apply. Section 5318(h)(2) permits the Secretary to exempt from this anti-money laundering program requirement those financial institutions not currently subject to the Financial Crimes Enforcement Network's regulations implementing the Bank Secrecy Act. Section 5318(a)(6) further provides that the Secretary may exempt any financial institution from any Bank Secrecy Act requirement. Taken together, these provisions authorize the issuance of anti-money laundering program regulations that may differ with respect to certain kinds of financial institutions, and that may exempt certain financial institutions from the requirements of section 5318(h)(1).

Although insurance companies have long been defined as financial institutions under the Bank Secrecy Act (*see* 31 U.S.C. 5312(a)(2)(M)), we, prior to the notice of proposed rulemaking preceding this final rule,[2] had neither defined ''insurance companies'' for purposes of the Bank Secrecy Act nor issued regulations regarding insurance companies. In April 2002, we deferred the anti-money laundering program requirement contained in 31 U.S.C. 5318(h) that would have applied to the insurance industry.[3] The deferral

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[1] Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities, including analysis, to protect against international terrorism was added by section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the USA PATRIOT Act), Public Law 107–56.

[2] *See* 67 FR 60625 (Sept. 26, 2002).

[3] *See* 31 CFR 103.170, as codified by interim final rule published at 67 FR 21110 (Apr. 29, 2002), as

allowed us time to study the insurance industry and to consider how anti-money laundering controls could best be applied to that industry, considering differences in size, location, and services within the industry.

Published elsewhere in a separate part of the **Federal Register** is a final rule requiring insurance companies to file Suspicious Activity Reports. That final rule applies to the same universe of insurance companies and covered products as this final rule.[4]

B. Insurance Company Regulation and Money Laundering

The statutory mandate that all financial institutions establish anti-money laundering programs is a key element in the national effort to prevent and detect money laundering and the financing of terrorism. The mandate recognizes that financial institutions other than depository institutions, which have long been subject to Bank Secrecy Act requirements, are also vulnerable to money laundering.

The application of anti-money laundering measures to non-depository institutions generally, and to insurance companies in particular, also has been emphasized by the international regulatory community as a key element in combating money laundering. One of the central recommendations of the Financial Action Task Force,[5] of which the United States is a member, is that financial institutions, including insurance companies, establish anti-money laundering programs. See Financial Action Task Force Forty Recommendations (Recommendation 15 and Glossary).

This final rule applies only to insurance companies offering covered products, as defined in the rule. Insurance companies offer a variety of products aimed at transferring the financial risk of a certain event, from the insured to the insurer. These products include life insurance policies, annuity contracts, property and casualty insurance policies, and health insurance policies. These products are offered through a number of different distribution channels. Some insurance companies sell their products through direct marketing in which the insurance company sells a policy directly to the insured. Other companies employ agents, who may either be captive or independent. Captive agents generally represent only one insurer or one group of affiliated insurance companies; independent agents may represent a variety of insurance carriers. A customer also may employ a broker (*i.e.*, a person who searches the marketplace for insurance in the interest of the customer) to obtain insurance.

This final rule focuses on those covered insurance products possessing features that make them susceptible to being used for money laundering or the financing of terrorism. For example, life insurance policies that have a cash surrender value are potential money laundering vehicles. Cash value can be redeemed by a money launderer or can be used as a source of further investment of tainted funds'for example, by taking out loans against such cash value. Similarly, annuity contracts also pose a money laundering risk because they allow a money launderer to exchange illicit funds for an immediate or deferred income stream or to purchase a deferred annuity and obtain clean funds upon redemption.[6] These risks do not exist to the same degree in term life insurance products, group life insurance products, group annuities, or in insurance products offered by property and casualty insurers or by title or health insurers.

The international community has focused on life insurance policies and those insurance products with investment features as the appropriate subjects of anti-money laundering programs for insurance companies. In defining the kinds of insurance companies that should establish anti-money laundering programs, the Financial Action Task Force Forty Recommendations focuses on those businesses involved in the ''[u]nderwriting and placement of life insurance and other investment related insurance.'' See Glossary and Recommendation 15.

A 2002 federal grand jury indictment illustrates the money laundering risks associated with insurance products and the corresponding need for vigilance in the insurance industry.[7] That indictment charged five Colombian nationals with conspiring to launder millions of dollars originating from the illicit sale of cocaine. The scheme involved the purchase and subsequent redemption of life insurance policies.

According to court documents and interviews related to that indictment, federal law enforcement officials have discovered that in recent years Colombian drug cartels bought life insurance policies in continental Europe, the United Kingdom, and in smaller jurisdictions such as the Isle of Man, to launder the proceeds of drug trafficking. Using narcotics proceeds from the United States and Mexico, the traffickers purchased 250 life insurance policies in the Isle of Man alone. The insurance policies, worth as much as $1.9 million each, were sometimes taken out in the names of cartel associates and members of their families. The traffickers would typically cash out all or part of the Isle of Man policies prematurely, in some cases after only a year, paying penalties of 25 percent or more. The penalties, however, merely represented a ''business cost'' of using the insurance products to launder the illicit narcotics proceeds. Thus far, federal law enforcement officials have seized more than $9.5 million in Florida in connection with the investigation. If the insurance companies in the relevant jurisdictions had been subject to anti-money laundering controls, they might have detected the money laundering scheme because the policyholders were authorizing unrelated third parties to withdraw money from the cash value of their policies or were frequently cashing out their policies early.

A review of the Suspicious Activity Reports filed with the Financial Crimes Enforcement Network also reveals instances in which financial institutions have reported the suspected use of insurance products for the purpose of laundering the proceeds of criminal activity. During the past five years, a number of Suspicious Activity Reports were filed that reference the use of an insurance product in suspected money laundering activity. For example, several reports describe as suspicious the large, lump-sum purchase of annuity contracts, followed almost immediately

amended at 67 FR 67547 (Nov. 6, 2002) and corrected at 67 FR 68935 (Nov. 14, 2002).

[4] The limited definition of insurance company for purposes of this rule, as well as the final rule requiring insurance companies to file Suspicious Activity Reports, is not intended to limit the kinds of financial institutions that may voluntarily report suspicious activity under the protection of the safe harbor from liability contained in 31 U.S.C. 5318(g)(3).

[5] The Financial Action Task Force is an inter-governmental body whose purpose is the development and promotion of policies to combat money laundering. Originally created by the G–7 nations, its membership now includes Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, the Kingdom of the Netherlands, New Zealand, Norway, Portugal, Russia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States, as well as the European Commission and the Gulf Cooperation Council.

[6] For an example of money laundering involving the fraudulent conversion of money in an insurance premium trust account, see *U.S.* v. *Boscarino, Aulenta,* and Mangurten, No. 02 CR 0086 (N.D. Ill. ED 2002) (Superseding Indictment).

[7] *United States of America* v. *Rodrigo Jose Murillo, Alexander Murillo, Jaime Eduardo Rey Albornoz, Arturo Delgado, and Esperanza Romero*, Mag. Docket No. 02–21007 (S.D. FL. 2002) (Grand Jury Indictment).

by several withdrawals of those funds. In some cases, the entire balance of the annuity contract was withdrawn shortly after the purchase of the contract. Other reports detail suspicious loans taken out against an annuity contract and life insurance premiums being paid by unrelated third parties.

II. Notice of Proposed Rulemaking

On September 26, 2002, we published a notice of proposed rulemaking, 67 FR 60625, that would extend the requirement to establish an anti-money laundering program to insurance companies. The comment period for the proposed rule ended on November 25, 2002. We received over 50 comments from insurance companies and agents, banks, trade associations, attorneys, and a government agency addressing issues raised by either the proposed rule or by a related proposed rule, 67 FR 64067 (October 17, 2002), that would require insurance companies to report suspicious transactions.

III. Summary of Comments

Most of the comments focused on the following matters: (1) The potential application of an anti-money laundering program requirement to agents and brokers of insurance companies, rather than just their insurance company principals; (2) the training of agents and brokers concerning their responsibilities under an insurance company's anti-money laundering program; and (3) the appropriate scope of the products that cause an entity to be defined as an insurance company for purposes of the rule. These comments are discussed below. Other significant comments are discussed in the section-by-section analysis.

A. Treatment of Agents and Brokers

In the proposed rule, we proposed that an insurance company, but not its agents or brokers, establish an anti-money laundering program. Under the proposed rule, an insurance company would be responsible for obtaining customer information from all relevant sources, including from its agents and brokers, necessary to make its anti-money laundering program effective. We specifically sought comments on whether an insurance company's agents and brokers should be subject to a direct obligation to establish anti-money laundering programs. Commenters were almost evenly divided on this issue. Several agreed with the approach taken in the proposed rule, stating that the benefit of requiring tens of thousands of insurance agents and brokers to independently establish an anti-money laundering program would be outweighed by the costs. Other commenters argued that a direct obligation is necessary because insurance companies lack sufficient control over their distribution channels to integrate these elements into an adequate anti-money laundering compliance program.

After careful consideration of all the views expressed, we are adopting the approach set forth in the proposed rule. Under the terms of the final rule, the obligation to establish an anti-money laundering program applies to an insurance company, and not its agents or brokers.[8] Nevertheless, because insurance agents and brokers are an integral part of the insurance industry due to their direct contact with customers, the final rule requires each insurance company to establish and implement policies, procedures, and internal controls reasonably designed to integrate its agents and brokers into its anti-money laundering program and to monitor their compliance with its program. An insurance company's anti-money laundering program also must include procedures for obtaining all relevant customer-related information necessary for an effective program, either from its agents and brokers or from other sources.

The final rule imposes a direct obligation only on insurance companies, and not their agents or brokers, for a number of reasons. First, whether an insurance company sells its products directly or through agents, we believe that it is appropriate to place on the insurance company, which develops and bears the risks of its products, the responsibility for guarding against such products being used to launder unlawfully derived funds or to finance terrorist acts. Second, insurance companies, due to their much larger size relative to that of their numerous agents and brokers, are better able to bear the costs of compliance connected with the sale of their products.[9] Finally, numerous insurers already have in place compliance programs and best practices guidelines for their agents and brokers to prevent and detect fraud. We believe that insurance companies largely will be able to integrate their anti-money laundering programs into their existing compliance programs and best practices guidelines.

Insurance agents and brokers will play an important role in the effective operation of an insurance company's anti-money laundering program. By not placing an independent regulatory obligation on agents and brokers, we do not intend to minimize their role and we intend to assess the effectiveness of the rule on an ongoing basis. If it appears that the effectiveness of the rule is being undermined by the failure of agents and brokers to cooperate with their insurance company principals, we will consider proposing appropriate amendments to the rule. We also expect that an insurance company, when faced with a non-compliant agent or broker, will take the necessary actions to secure such compliance, including, when appropriate, terminating its business relationship with such an agent or broker.

B. Training of Agents and Brokers

Several commenters requested that the final rule incorporate some flexibility regarding an insurance company's training of its agents and brokers. At least one commenter suggested that we add language to the rule to avoid the duplicative training of independent agents that sell products on behalf of more than one insurance company.

We agree with these comments. Consequently, the final rule gives an insurance company the flexibility of directly training its agents and brokers. Alternatively, an insurance company may satisfy its training obligation by verifying that its agents and brokers have received the training required by the rule from another insurance company or from a competent third party with respect to the covered products offered by the company. Such training courses are already being developed and offered. A competent third party can include another financial institution that is required to establish an anti-money laundering program.[10] It is left to the discretion of an insurance company to determine whether the training of its agents by

[8] Certain agents of insurance companies are required under separate rules to establish anti-money laundering programs. *See infra* note 10.

[9] Although some agents work within large structures, only a small fraction of agencies employ more than a handful of people. According to one commenter, there are ''independent agents who operate on their own or in offices with just a few of their independent agent colleagues and thus comprise the quintessential notion of a small business operation.'' *Letter from the American Council of Life Insurers,* Nov. 25, 2002, at 4.

[10] For example, variable life insurance contracts and variable annuities (variable insurance products) are securities under the Securities Exchange Act of 1934 and therefore may be sold only by registered broker-dealers, who are required to have anti-money laundering programs pursuant to rules issued by the Financial Crimes Enforcement Network and the National Association of Securities Dealers and the New York Stock Exchange, two of the securities industry's self-regulatory organizations. In addition, other covered products, including fixed annuities, are sold by banks, which are also subject to anti-money laundering program requirements. *See infra* note 19.

another party is adequate. We do not intend to certify, license, or otherwise prospectively approve training programs.

C. Covered Products

Under the proposed rule, the issuing, underwriting, or reinsuring of a life insurance policy, an annuity contract, or any product with investment or cash value features, would have caused an insurance company to fall within the scope of the rule. A company that offered exclusively other kinds of insurance products, such as a property and casualty insurance policy, would not have been required to establish an anti-money laundering program. The overwhelming majority of commenters agreed with the distinction that we made between higher-risk and lower-risk insurance products.[11] Some of those commenters requested that we take the additional step of further excluding other kinds of insurance contracts and products relating to life insurance and annuities, such as reinsurance, group life insurance policies, group annuities, and term life insurance policies.

We, not having been informed or otherwise having learned of examples to the contrary, agree that some of these contracts and products pose little or no risk of being used for money laundering. For example, reinsurance and retrocession contracts and treaties are arrangements between insurance companies by which they reallocate risks within the insurance industry and do not involve transactions with customers. Similarly, group life insurance policies and group annuities are typically issued to a company, financial institution, or association, and generally restrict the ability of an individual insured or participant to manipulate their investment. These products pose low money laundering risks. Consequently, the final rule does not include in its coverage reinsurance or retrocession contracts or treaties, group life insurance, or group annuities.

After careful consideration of the comments, we also have decided to exclude term life (which includes credit life) insurance policies at this time. Given the operating characteristics of these products—e.g., the absence of a cash surrender value and the underwriting scrutiny given to term policies, especially those with large face amounts—we believe that it would be impractical to launder money through term life insurance policies, and that the corresponding money laundering risks associated with such products are not significant. Nevertheless, as with all new exclusions, we will reconsider this position if circumstances warrant.

While some insurance companies that offer a diversity of insurance products may decide to adopt company-wide anti-money laundering programs, regardless of the kinds of products they offer, we wish to emphasize that the final rule does not require that an insurance company adopt a company-wide anti-money laundering program applicable to all of its insurance products. The anti-money laundering program requirement applies only to covered products, as defined in the final rule, offered by the insurance company.

IV. Section-by-Section Analysis

A. 103.137(a)—Definitions

Section 103.137(a) defines the key terms used in the final rule. In response to comments seeking clarification of certain terms used in the proposed rule, the final rule includes definitions of the terms ''annuity contract,'' ''bank,'' ''broker-dealer in securities,'' ''covered product,'' ''group annuity contract,'' ''group life insurance policy,'' ''insurance agent,'' ''insurance broker,'' and ''permanent life insurance policy.''

The final rule defines an annuity contract as ''any agreement between the insurer and the contract owner whereby the insurer promises to pay out a fixed or variable income stream for a period of time.'' For purposes of the rule, contracts of indemnity, as well as workers compensation insurance and structured settlements, are not annuity contracts.

The definition of an insurance company reflects our determination that an anti-money laundering program should be imposed only on those products that pose a significant risk of money laundering or terrorist financing. Thus, an ''insurance company'' includes any person engaged within the United States as a business in the issuing or underwriting of a covered product. The term ''as a business'' is intended to exclude those persons that offer annuities or another covered product as an incidental part of their non-insurance business.[12] At this time, we believe that such persons present a much lower risk of being used for money laundering or terrorist financing than those persons that offer a covered product as an integral part of their business. We leave open the possibility of revisiting this issue in a future rulemaking if circumstances warrant.

The final rule contains an explicit exception to the definition of an insurance company. That exception clarifies that insurance agents and insurance brokers are not required under the final rule to establish an anti-money laundering program. However, as explained below, an insurance company is responsible for integrating its agents and brokers into its anti-money laundering program and for monitoring their compliance with the requirements of its program. In addition, the definition of an insurance company refers only to the business of issuing or underwriting certain kinds of insurance products, and therefore does not cover the reinsuring or retrocession of insurance products.

The term ''covered product'' is defined to mean: (i) A permanent life insurance policy, other than a group life insurance policy; (ii) any annuity contract, other than a group annuity contract; and (iii) any other insurance product with features of cash value or investment. Permanent life insurance and annuity products are covered products, with the exception of group life insurance and group annuities. The definition also incorporates a functional approach, and encompasses any insurance product having the same kinds of features that make permanent life insurance and annuity products more at risk of being used for money laundering. To the extent that term life insurance, property and casualty insurance, health insurance, and other kinds of insurance do not exhibit these features, they are not products covered by the rule.

Some commenters suggested that we should adopt a dollar threshold exemption for life insurance policies, particularly in the context of term life insurance policies. For example, commenters requested that we exempt from the scope of the anti-money laundering program requirement, term life insurance policies with face values below $10,000. As stated above, term life insurance is not covered by this final rule. In addition, we expect, as we do with all of anti-money laundering rules, that an insurance company will take a risk-based approach when developing its anti-money laundering

[11] *See, e.g., Joint Letter from the Independent Insurance Agents and Brokers of America and the National Association of Professional Insurance Agents,* Nov. 25, 2002, at 1 (''This distinction [between life insurance and property and casualty insurance] is legitimate and provides relief from the administrative and regulatory burdens of the proposed rule for the segments of the insurance industry that are at very low risk of money laundering.'').

[12] For example, a tax-exempt organization that offers charitable gift annuities (as defined in section 501(m)(5) of the Internal Revenue Code, 26 U.S.C. 501(m)(5)) as a vehicle for planned charitable giving to the tax-exempt organization, and that would not otherwise fall within the definition of an insurance company, generally would not be considered an insurance company under the final rule.

program. Such an approach should consider a number of factors, including, but not limited to, the dollar amount involved in the issuing or underwriting of certain products. Consequently, we believe that a dollar threshold exemption for purposes of establishing an anti-money laundering program is not warranted.

B. 103.137(b)—Anti-Money Laundering Program Requirements for Insurance Companies

Section 103.137(b) requires that, not later than May 2, 2006, each insurance company issuing or underwriting a covered product develop and implement an anti-money laundering program reasonably designed to prevent the insurance company from being used to facilitate money laundering or the financing of terrorist activities. In response to comments requesting that we clarify the breadth of the program requirement, language has been added to clarify that the anti-money laundering program is only required with respect to covered products issued or underwritten by an insurance company. The anti-money laundering program must be in writing and must be approved by senior management. An insurance company's written program also must be made available to the Department of the Treasury, the Financial Crimes Enforcement Network, or their designee upon request. Minimum requirements for the anti-money laundering program are set forth in section 103.137(c). Beyond these minimum requirements, however, the final rule is intended to give insurance companies the flexibility to design their programs to meet the specific risks associated with their particular business.

C. 103.137(c)—Minimum Requirements

Section 103.137(c) sets forth the minimum requirements of an insurance company's anti-money laundering program. Section 103.137(c)(1) requires the anti-money laundering program to incorporate policies, procedures, and internal controls based upon the insurance company's assessment of the money laundering and terrorist financing risks associated with its covered products. As noted above, an insurance company's assessment of customer-related information, including methods of payment, is a key component of an effective anti-money laundering program. Thus, an insurance company is responsible for integrating its agents and brokers into its anti-money laundering program, for obtaining relevant customer-related information from them, and for using that information to assess the money laundering risks presented by its business and to identify any ''red flags''.[13] The specific procedures for conducting such a program are left to the discretion of the insurance company. Insurance companies must use the expertise that they possess about their industry and their particular lines of business to develop a program that meets the requirements of the rule.

In developing a risk-based anti-money laundering program, an insurance company must consider all relevant factors affecting the risks inherent in its covered products. For example, an insurance company should consider the extent and circumstances under which its customers use cash or cash equivalents to purchase a covered product, and whether the insurance company issues or underwrites covered products to persons in a jurisdiction: (1) Whose government has been identified by the State Department as a sponsor of international terrorism under 22 U.S.C. 2371;[14] (2) that has been designated by the Financial Action Task Force as non-cooperative with international anti-money laundering principles;[15] or (3) that has been found by the Secretary of the Treasury or the Director of the Financial Crimes Enforcement Network as warranting special measures due to money laundering concerns.[16]

When assessing risks associated with particular distribution channels for its covered products, an insurance company should consider, among other things, whether an agent or broker is required to establish its own anti-money laundering program pursuant to another requirement in 31 CFR Part 103. Some commenters suggested excluding from an insurer's anti-money laundering program covered products sold by, for example, broker-dealers in securities or banks because they are already subject to an anti-money laundering program requirement. Although we do not believe that a complete exclusion is appropriate, the insurance company could generally rely on the agent's own program requirements to address issues at the time of the sale if reasonable (i.e., the insurer knows of no defect in the agent's program), while the insurer's program should focus on the ongoing administration of the covered product.

Policies, procedures, and internal controls also must be reasonably designed to ensure compliance with applicable Bank Secrecy Act requirements. The only Bank Secrecy Act regulatory requirement currently applicable to insurance companies is the obligation to report on Form 8300 the receipt of cash or certain non-cash instruments totaling more than $10,000 in one transaction or in two or more related transactions. As noted above, we today are also publishing a final rule requiring insurance companies to file Suspicious Activity Reports, which will apply to transactions occurring after May 2, 2006.[17] If insurance companies become subject to additional Bank Secrecy Act requirements, their anti-money laundering programs will need to be updated accordingly.

Insurance companies typically conduct their sales operations through agents. Some elements of the compliance program will be best performed by these agents, in which case it is permissible for an insurance company to make appropriate arrangements with an agent to perform those aspects of its anti-money laundering program. Any insurance company that arranges for its agent to perform aspects of its anti-money laundering program, however, remains responsible for the effectiveness of the program, as well as for ensuring that the appropriate examiners have access to information and records relating to the anti-money laundering program and are able to inspect the agent or the third party for purposes of the program. An insurance company's compliance with this regulation includes: Taking reasonable steps to identify the aspects of its operations that may give rise to applicable Bank Secrecy Act regulatory requirements or that are vulnerable to money laundering or terrorist financing activity; developing and implementing a program reasonably designed to achieve compliance with such regulatory requirements and to prevent such activity; and monitoring the effectiveness of its program. For example, it would not be sufficient for an insurance company simply to obtain a certification from its delegee that the company ''has a satisfactory anti-money laundering program.''

Section 103.137(c)(2) requires that an insurance company designate a compliance officer to be responsible for administering the anti-money laundering program. An insurance

[13] *See infra* note 18 and accompanying text.

[14] See *http://www.state.gov/s/ct/rls/pgtrpt/*.

[15] See *http://www1.oecd.org/fatf/NCCT_en.htm*.

[16] Information about such jurisdictions can be found at *http://www.ustreas.gov/*.

[17] When voluntarily filing reports of suspicious transactions, insurance companies should use the Suspicious Activity Report by Insurance Companies (SAR–IC) form being developed specifically for use by the insurance industry. This form will be made available on the Financial Crimes Enforcement Network website at *http://www.fincen.gov*. In the interim, insurance companies should use the Suspicious Activity Report by Securities and Futures Industries.

company may designate a single person or committee to be responsible for compliance. The person or persons should be competent and knowledgeable regarding applicable Bank Secrecy Act requirements and money laundering risks, and should be empowered with full responsibility and authority to develop and enforce appropriate policies and procedures. The role of the compliance officer is to ensure that: (1) The program is being implemented effectively, including monitoring compliance by the company's insurance agents and insurance brokers with their obligations under the program; (2) the program is updated as necessary; and (3) appropriate persons are trained in accordance with section 103.137(c)(3). The compliance officer also should ensure that employees of the insurance company have appropriate resources to which they can address questions regarding the application of the program in light of specific facts.

Section 103.137(c)(3) requires that an insurance company provide training for appropriate persons. Training is an integral part of any anti-money laundering program. In order for the anti-money laundering program to be effective, employees of an insurance company with responsibility under the program must be trained in the requirements of the program and money laundering risks generally so that ''red flags'' associated with covered products can be identified.[18] Such training could be conducted by outside or in-house seminars, and could include computer-based training. The nature, scope, and frequency of the training will depend upon the functions performed. However, those persons with obligations under the anti-money laundering program must be sufficiently trained to carry out their responsibilities effectively and should receive periodic updates and refreshers regarding the anti-money laundering program.

An insurance company also must provide for the training of its insurance agents and brokers concerning their responsibilities under the company's anti-money laundering program. An insurance company may satisfy this requirement by directly training its agents and brokers or by verifying that its agents and brokers have received the required training by another insurance company or by a competent third party with respect to covered products offered by the company. For purposes of the rule, a competent third party can include a third-party vendor as well as another financial institution that is subject to an anti-money laundering program requirement, such as a broker-dealer in securities or a bank. Some commenters suggested that we establish and maintain a central registry for certifications of agent training. Although we would not object to the establishment of a privately maintained registry, we will not establish such a registry for a number of reasons, including the fact that it could be interpreted as an endorsement of the adequacy of such training.

Section 103.137(c)(4) requires that an insurance company provide for independent testing of the program on a periodic basis to ensure that it complies with the requirements of the rule and that the program functions as designed.[19] An outside consultant or accountant need not perform the test. A single employee of the insurance company, or a committee comprised of more than one employee, may perform the independent testing, as long as the tester is not the compliance officer or otherwise involved in administering the program. The frequency of the independent testing will depend upon the insurance company's assessment of the risks associated with its covered products. Any recommendations resulting from such testing should be implemented promptly or submitted to senior management for consideration.

D. 103.137(d)—Insurance Companies That Are Registered Broker-Dealers in Securities

The proposed rule contained a provision stating that an insurance companythat is required to register with the Securities and Exchange Commission shall be deemed to have satisfied the requirements of this section for those activities regulated by the Securities and Exchange Commission to the extent that the company complies with the anti-money laundering program requirements applicable to such activities that are imposed by the Securities and Exchange Commission or by a self-regulatory organization registered with the Securities and Exchange Commission. This provision, which was intended to avoid an insurance company being subject to two different anti-money laundering rules regarding the same activities, has been retained in simplified form in the final rule. It would apply to an insurance company that is registered (or is required to register) with the Securities and Exchange Commission as a broker-dealer in securities. To the extent such a company already is required to establish and has established an anti-money laundering program pursuant to 31 CFR 103.120, it shall be deemed to be in compliance with this final rule. However, to the extent that this final rule imposes requirements with respect to activities not covered by 31 CFR 103.120 and the registered broker-dealer insurance company has adopted an anti-money laundering program that addresses only its broker-dealer activities, the company would not be deemed in compliance with this rule. In addition, this provision applies only to an insurance company that is itself registered or required to register with the Securities and Exchange Commission as a broker-dealer in securities,[20] and not to a registered broker-dealer that distributes an insurance company's products as agent.[21]

E. 103.137(e)—Compliance

A new subsection (e) has been added to specifically state that the Financial Crimes Enforcement Network or its delegee shall examine the insurance company for compliance with this regulation, and that failure to comply may violate the Bank Secrecy Act and the final rule.

V. Executive Order 12866

The final rule contained in this document is not a significant regulatory action for purposes of Executive Order

[18] Some examples of ''red flags'' include, but are not limited to, the following: The purchase of an insurance product inconsistent with the customer's needs; unusual payment methods, such as cash, cash equivalents (when such a usage of cash or cash equivalents is, in fact, unusual), or structured monetary instruments; early termination of a product, especially at a cost to the customer, or where payment is made by, or the refund check is directed to, an apparently unrelated third party; the transfer of the benefit of a product to an apparently unrelated third party; a customer who shows little concern for the investment performance of a product, but much concern about the early termination features of the product; a customer who is reluctant to provide identifying information when purchasing a product, or who provides minimal or seemingly fictitious information; and a customer who borrows the maximum amount available soon after purchasing the product.

[19] As noted above, an employee or agent of an insurance company who also is a registered representative of a broker-dealer in securities or an employee of a bank would be subject to the broker-dealer's or bank's anti-money laundering program, including its testing. In such a case, the insurance company would not have to independently test those relevant parts of the broker-dealer's or bank's program, as long as it confirms that such testing has occurred and the insurance company reviews the relevant portion of any report produced.

[20] We are currently aware of only one such insurance company, although there may be others.

[21] We have not expanded this provision to also apply to broker-dealers with anti-money laundering programs distributing an insurance company's products as agent, as requested by a commenter. The final rule's application to such broker-dealers is discussed in Part IV.C. above.

12866. Accordingly, a regulatory impact analysis is not required.

VI. Regulatory Flexibility Act

It is hereby certified, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that the final rule contained in this document is not likely to have a significant economic impact on a substantial number of small entities. Most insurance companies are not small businesses. In addition, the costs associated with the establishment and implementation of anti-money laundering programs are attributable to the mandatory nature of 31 U.S.C. 5318(h)(1). The final rule provides for substantial flexibility in how each insurance company may comply with that statutory mandate. This flexibility is designed to account for differences among insurance companies, including size. In this regard, the costs associated with developing and implementing an anti-money laundering program will be commensurate with the size of an insurance company. If a company is small, the burden of complying with the final rule should be correspondingly small. Consistent with the principles of the Regulatory Flexibility Act, we did consider exempting small insurance companies from some or all of the requirements of the final rule. We do not believe that such an exemption is appropriate, given the flexibility provided in the final rule to account for, among other things, differences in size and resources, and that money laundering can also occur through small insurance companies.

VII. Paperwork Reduction Act

The collection of information contained in the final rule has been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and assigned Office of Management and Budget Control Number 1506–0035. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

The only requirement in the final rule that is subject to the Paperwork Reduction Act is the requirement that an insurance company keep a written record of its anti-money laundering program. The estimated annual average burden associated with this collection of information is one hour per recordkeeper. We received one comment on this recordkeeping burden estimate, suggesting that the estimate was too low. Consistent with each of the prior rules that we have issued implementing 31 U.S.C. 5318(h)(1), we believe that our original estimate is accurate.

Comments concerning the accuracy of this recordkeeping burden estimate and suggestions for reducing this burden should be sent (preferably by fax on (202) 395–6974) to Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (or by the Internet to *jlackeyj@omb.eop.gov*), with a copy by paper mail to Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183, ''ATTN: Section 352—Insurance Company AML Regulation'' or by electronic mail to *regcomments@fincen.treas.gov* with the caption ''ATTN: Section 352—Insurance Company AML Regulation'' in the body of the text.

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Insurance companies, Currency, Investigations, Law Enforcement, Reporting and recordkeeping requirements.

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 FINANCIAL TRANSACTIONS

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

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316–5332; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307.

■ 2. Subpart I of part 103 is amended by adding new § 103.137 to read as follows:

§ 103.137 Anti-money laundering programs for insurance companies.

(a) *Definitions.* For purposes of this section:

(1) *Annuity contract* means any agreement between the insurer and the contract owner whereby the insurer promises to pay out a fixed or variable income stream for a period of time.

(2) *Bank* has the same meaning as provided in § 103.11(c).

(3) *Broker-dealer in securities* has the same meaning as provided in § 103.11(f).

(4) *Covered product* means:

(i) A permanent life insurance policy, other than a group life insurance policy;

(ii) An annuity contract, other than a group annuity contract; and

(iii) Any other insurance product with features of cash value or investment.

(5) *Group annuity contract* means a master contract providing annuities to a group of persons under a single contract.

(6) *Group life insurance policy* means any life insurance policy under which a number of persons and their dependents, if appropriate, are insured under a single policy.

(7) *Insurance agent* means a sales and/or service representative of an insurance company. The term ''insurance agent'' encompasses any person that sells, markets, distributes, or services an insurance company's covered products, including, but not limited to, a person who represents only one insurance company, a person who represents more than one insurance company, and a bank or broker-dealer in securities that sells any covered product of an insurance company.

(8) *Insurance broker* means a person who, by acting as the customer's representative, arranges and/or services covered products on behalf of the customer.

(9) *Insurance company or insurer.* (i) Except as provided in paragraph (a)(9)(ii) of this section, the term ''insurance company'' or ''insurer'' means any person engaged within the United States as a business in the issuing or underwriting of any covered product.

(ii) The term ''insurance company'' or ''insurer'' does not include an insurance agent or insurance broker.

(10) *Permanent life insurance policy* means an agreement that contains a cash value or investment element and that obligates the insurer to indemnify or to confer a benefit upon the insured or beneficiary to the agreement contingent upon the death of the insured.

(11) *Person* has the same meaning as provided in § 103.11(z).

(12) *United States* has the same meaning as provided in § 103.11(nn).

(b) *Anti-money laundering program requirements for insurance companies.* Not later than May 2, 2006, each insurance company shall develop and implement a written anti-money laundering program applicable to its covered products that is reasonably designed to prevent the insurance company from being used to facilitate money laundering or the financing of terrorist activities. The program must be approved by senior management. An insurance company shall make a copy of its anti-money laundering program available to the Department of the Treasury, the Financial Crimes Enforcement Network, or their designee upon request.

(c) *Minimum requirements.* At a minimum, the program required by paragraph (b) of this section shall:

(1) Incorporate policies, procedures, and internal controls based upon the insurance company's assessment of the money laundering and terrorist financing risks associated with its covered products. Policies, procedures, and internal controls developed and implemented by an insurance company under this section shall include provisions for complying with the applicable requirements of subchapter II of chapter 53 of title 31, United States Code and this part, integrating the company's insurance agents and insurance brokers into its anti-money laundering program, and obtaining all relevant customer-related information necessary for an effective anti-money laundering program.

(2) Designate a compliance officer who will be responsible for ensuring that:

(i) The anti-money laundering program is implemented effectively, including monitoring compliance by the company's insurance agents and insurance brokers with their obligations under the program;

(ii) The anti-money laundering program is updated as necessary; and

(iii) Appropriate persons are educated and trained in accordance with paragraph (c)(3) of this section.

(3) Provide for on-going training of appropriate persons concerning their responsibilities under the program. An insurance company may satisfy this requirement with respect to its employees, insurance agents, and insurance brokers by directly training such persons or verifying that persons have received training by another insurance company or by a competent third party with respect to the covered products offered by the insurance company.

(4) Provide for independent testing to monitor and maintain an adequate program, including testing to determine compliance of the company's insurance agents and insurance brokers with their obligations under the program. The scope and frequency of the testing shall be commensurate with the risks posed by the insurance company's covered products. Such testing may be conducted by a third party or by any officer or employee of the insurance company, other than the person designated in paragraph (c)(2) of this section.

(d) *Anti-money laundering program requirements for insurance companies registered or required to register with the Securities and Exchange Commission as broker-dealers in securities.* An insurance company that is registered or required to register with the Securities and Exchange Commission as a broker-dealer in securities shall be deemed to have satisfied the requirements of this section for its broker-dealer activities to the extent that the company is required to establish and has established an anti-money laundering program pursuant to § 103.120 and complies with such program.

(e) *Compliance.* Compliance with this section shall be examined by the Department of the Treasury, through the Financial Crimes Enforcement Network or its delegees, under the terms of the Bank Secrecy Act. Failure to comply with the requirements of this section may constitute a violation of the Bank Secrecy Act and of this part.

Dated: October 28, 2005.

William J. Fox,

Director, Financial Crimes Enforcement Network.

[FR Doc. 05–21917 Filed 11–2–05; 8:45 am]

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DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA36

Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Requirement That Insurance Companies Report Suspicious Transactions

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Final rule.

SUMMARY: This document contains an amendment to the regulations implementing the statute generally referred to as the Bank Secrecy Act. The amendment requires insurance companies to report suspicious transactions to the Financial Crimes Enforcement Network. The amendment constitutes a further step in the creation of a comprehensive system for the reporting of suspicious transactions by the major categories of financial institutions operating in the United States.

DATES: *Effective Date:* December 5, 2005.

Applicability Date: This rule applies to transactions occurring after May 2, 2006. *See* 31 CFR 103.16(h) of the final rule contained in this document.

FOR FURTHER INFORMATION CONTACT: Financial Crimes Enforcement Network, Office of Regulatory Programs on (202) 354–6400 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Provisions

The Bank Secrecy Act, Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–14, 5316–5332, authorizes the Secretary of the Treasury to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, including analysis, to protect against international terrorism, and to implement anti-money laundering programs and compliance procedures.[1] Regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of the Financial Crimes Enforcement Network.

With the enactment of 31 U.S.C. 5318(g) in 1992,[2] Congress authorized the Secretary of the Treasury to require financial institutions to report suspicious transactions. As amended by the USA PATRIOT Act, subsection (g)(1) states generally:

> The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

Subsection (g)(2)(A) provides further that:

> [i]f a financial institution or any director, officer, employee, or agent of any financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to a government agency—
>
> (i) The financial institution, director, officer, employee, or agent may not notify any person involved in the transaction that the transaction has been reported; and
>
> (ii) No officer or employee of the Federal Government or of any State, local, tribal, or territorial government within the United

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[1] Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities, including analysis, to protect against international terrorism was added by section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the USA PATRIOT Act), Public Law 107–56.

[2] 31 U.S.C. 5318(g) was added to the Bank Secrecy Act by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act, Title XV of the Housing and Community Development Act of 1992, Public Law 102–550; it was expanded by section 403 of the Money Laundering Suppression Act of 1994 (the Money Laundering Suppression Act), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325, to require designation of a single government recipient for reports of suspicious transactions.

States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

Subsection (g)(3)(A) provides that neither a financial institution, nor any director, officer, employee, or agent of any financial institution:

That makes a voluntary disclosure of any possible violation of law or regulation to a government agency or makes a disclosure pursuant to this subsection or any other authority * * * shall * * * be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure or any other person identified in the disclosure.

Finally, subsection (g)(4) requires the Secretary of the Treasury, ''to the extent practicable and appropriate,'' to designate ''a single officer or agency of the United States to whom such reports shall be made.'' [3] The designated agency is in turn responsible for referring any report of a suspicious transaction to ''any appropriate law enforcement, supervisory agency, or United States intelligence agency for use in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.'' *Id.* at subsection (g)(4)(B).

Published elsewhere in this separate part of the **Federal Register** is a final rule prescribing minimum standards applicable to insurance companies regarding the establishment of anti-money laundering programs pursuant to section 5318(h) of the Bank Secrecy Act, as amended by section 352 of the USA PATRIOT Act. That final rule applies to the same universe of insurance companies and covered products as this final rule. The requirement to detect and report suspicious activity is an integral part of an insurance company's anti-money laundering program.

B. Importance of Suspicious Transaction Reporting

The Congressional authorization for requiring the reporting of suspicious transactions recognizes two basic principles. First, money launderers must go to financial institutions, either initially, to conceal their unlawful funds, or eventually, to recycle those funds back into the economy. Second, the employees and officers of those institutions are often more likely than government officials to have a sense as to which transactions appear to lack commercial justification or that otherwise cannot be explained as constituting a legitimate use of the institution's financial products and services.

The importance of extending suspicious transaction reporting to all relevant financial institutions, including non-bank financial institutions, relates to the concentrated scrutiny to which banks have been subject with respect to money laundering. This attention, combined with the cooperation that banks have given to government agencies responsible for detecting and investigating money laundering and other financial crime, has made it more difficult for criminals to pass large amounts of cash directly into the nation's banks unnoticed. As it has become increasingly difficult to launder large amounts of cash through banks, criminals have turned to non-bank financial institutions, including insurance companies in attempts to launder funds. Indeed, many non-bank financial institutions have already recognized the increased pressure that money launderers have come to place upon their operations and the need for innovative programs of training and monitoring necessary to counter that pressure.

The reporting of suspicious activity is recognized in the international community as essential to an effective anti-money laundering regime. One of the central recommendations of the Financial Action Task Force [4] is that ''[i]f a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of criminal activity, or are related to terrorist financing, it should be required * * * to report promptly its suspicions * * *.'' Financial Action Task Force Forty Recommendations (Recommendation 13). The recommendation applies equally to banks and non-bank financial institutions, including insurance companies.

Moreover, on October 31, 2001, the Financial Action Task Force issued its Special Recommendations on Terrorist Financing. Special Recommendation Four provides that:

If financial institutions, or other businesses or entities subject to anti-money laundering obligations, suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organisations, they should be required to report promptly their suspicions to the competent authorities.

For purposes of the Financial Action Task Force's Special Recommendation Four, the term ''financial institutions'' is intended to refer to both banks and non-bank financial institutions including, among other non-bank financial institutions, insurance companies.[5]

C. Insurance Company Regulation and Money Laundering

This final rule applies only to insurance companies offering covered products, as defined in the rule. The limited definition of insurance company for purposes of this rule, as well as the final rule requiring insurance companies to establish anti-money laundering programs, is not intended to limit the kinds of financial institutions that may voluntarily report suspicious activity under the protection of the safe harbor from liability contained in 31 U.S.C. 5318(g)(3). Insurance companies offer a variety of products aimed at transferring the financial risk of a certain event, such as personal injury or damage to property, from the insured to the insurer. These products include life insurance policies, annuity contracts, property and casualty insurance policies, and health insurance policies. These products are offered through a number of different distribution channels. Some insurance companies sell their products through direct marketing in which the insurance company sells a policy directly to the insured. Other companies employ agents, who may either be captive or independent. Captive agents generally represent only one insurance company or group of affiliated companies; independent agents may represent a variety of insurance carriers. A customer also may employ a broker (*e.g.*, a person who searches the marketplace for insurance in the interest of the customer

[3] This designation does not preclude any supervisory agency for any financial institutions from requiring such financial institutions to submit other reports to the same agency or another agency ''pursuant to any other applicable provision of law.'' 31 U.S.C. 5318(g)(4)(C).

[4] The Financial Action Task Force is an inter-governmental body whose purpose is the development and promotion of policies to combat money laundering. Originally created by the G–7 nations, its membership now includes Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, the Kingdom of the Netherlands, New Zealand, Norway, Portugal, Russia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States, as well as the European Commission and the Gulf Cooperation Council.

[5] *See Guidance Notes for the Special Recommendations on Terrorist Financing and the Self-Assessment Questionnaire*, Special Recommendation Four, paragraph 19 (March 27, 2002).

rather than the insurer) to obtain insurance.

This final rule focuses on those insurance products possessing features that make them susceptible to being used for money laundering or the financing of terrorism. For example, life insurance policies that have a cash surrender value are potential money laundering vehicles. Cash value can be redeemed by a money launderer or can be used as a source of further investment of tainted funds—for example, by taking out loans against such cash value. Similarly, annuity contracts also pose a money laundering risk because they allow a money launderer to exchange illicit funds for an immediate or deferred income stream or to purchase a deferred annuity and obtain clean funds upon redemption.[6] These risks do not exist to the same degree in term life insurance products, group life insurance products, group annuities, or in insurance products offered by property and casualty insurers or by title or health insurers.

A 2002 federal grand jury indictment illustrates the money laundering risks associated with insurance products and the corresponding need for vigilance in the insurance industry.[7] That indictment charged five Colombian nationals with conspiring to launder millions of dollars originating from the illicit sale of cocaine. The scheme involved the purchase and subsequent redemption of life insurance policies.

According to court documents and interviews related to that indictment, federal law enforcement officials have discovered that Colombian drug cartels bought life insurance policies in continental Europe, the United Kingdom, and in smaller jurisdictions such as the Isle of Man, to launder the proceeds of drug trafficking. Using narcotics proceeds from the United States and Mexico, the traffickers purchased 250 life insurance policies in the Isle of Man alone. The insurance policies, worth as much as $1.9 million each, were sometimes taken out in the names of cartel associates and members of their families. The traffickers would typically cash out all or part of the Isle of Man policies prematurely, in some cases after only a year, paying penalties of 25 percent or more. The penalties, however, merely represented a ''business cost'' of using the insurance policies to launder the illicit narcotics proceeds. Thus far, federal law enforcement officials have seized more than $9.5 million in Florida in connection with the investigation. If the insurance companies in the relevant jurisdictions had been subject to anti-money laundering controls, they might have detected the money laundering scheme because the policyholders were authorizing unrelated third parties to withdraw money from the cash value of their policies or were frequently cashing out their policies early.

A review of Suspicious Activity Reports filed with the Financial Crimes Enforcement Network also reveals instances in which financial institutions have reported the suspected use of insurance products for the purpose of laundering the proceeds of criminal activity. During the past five years, a number of Suspicious Activity Reports were filed that reference the use of an insurance product in suspected money laundering activity. For example, several reports describe as suspicious the large, lump-sum purchase of annuity contracts, followed almost immediately by several withdrawals of those funds. In some cases, the entire balance of the annuity contract was withdrawn shortly after the purchase of the contract. Other reports detail suspicious loans taken out against an annuity contract and life insurance premiums being paid by unrelated third parties.

II. Notice of Proposed Rulemaking

On October 17, 2002, we published a notice of proposed rulemaking, 67 FR 64067, that would extend the requirement to report suspicious transactions to insurance companies. The comment period for the proposed rule ended on December 16, 2002. We received over 50 comments from insurance companies and agents, banks, trade associations, attorneys, and a government agency addressing issues raised by either the proposed rule, or by the related proposed rule, 67 FR 60625 (September 26, 2002), that would require insurance companies to establish anti-money laundering programs.

III. Summary of Comments

Most of the comments focused on the following matters: (1) The potential application of a suspicious transaction reporting requirement to agents and brokers of insurance companies, rather than just their insurance company principals; and (2) the appropriate scope of the products that cause an entity to be considered an insurance company for purposes of the rule. These comments are discussed below. Other significant comments are discussed in the section-by-section analysis.

A. Treatment of Agents and Brokers

The proposed rule posited that an insurance company, but not its agents or brokers, should be required to report suspicious transactions. Under the proposed rule, an insurance company would be responsible for obtaining customer information from all relevant sources, including from its agents and brokers, necessary to properly report suspicious activity involving the purchase of any of its covered products. We specifically sought comments on whether an insurance company's agents and brokers should be subject to a separate obligation to report suspicious transactions. Commenters were almost evenly divided on this issue. Several agreed with the approach taken in the proposed rule, stating that the benefit of requiring tens of thousands of insurance agents and brokers to independently report suspicious transactions would be outweighed by the costs. Other commenters disagreed, arguing that a direct obligation is necessary because insurance companies lack sufficient control over their distribution channels to ensure the adequate reporting of suspicious customer activity.

After careful consideration of all the views expressed, we are adopting the approach set forth in the proposed rule. Under the terms of the final rule, the obligation to identify and report suspicious transactions applies only to an insurance company, and not its agents or brokers.[8] Nevertheless, because insurance agents and brokers are an integral part of the insurance industry due to their direct contact with customers, the final rule requires an insurance company to establish and implement policies and procedures reasonably designed to obtain customer information necessary to detect suspicious activity from all relevant sources, including from its agents and brokers, and to report suspicious activity based on such information.

The final rule imposes a direct obligation only on insurance companies, and not their agents or brokers, for a number of reasons. First, whether an insurance company sells its products directly or through agents, we believe that it is appropriate to place on the insurance company, which develops and bears the risks of its products, the responsibility for guarding against such

[6] For an example of money laundering involving the fraudulent conversion of money in an insurance premium trust account, see *U.S.* v. *Boscarino, Aulenta, and Mangurten*, No. 02 CR 0086 (N.D. Ill. ED 2002) (Superseding Indictment).

[7] *United States of America* v. *Rodrigo Jose Murillo, Alexander Murillo, Jaime Eduardo Rey Albornoz, Arturo Delgado, and Esperanza Romero*, Mag. Docket No. 02 CR 21007 (S.D. FL. 2002) (Grand Jury Indictment).

[8] Certain insurance agents may be required under separate rules to report suspicious transactions. *See infra* note 14.

products being used to launder illegally derived funds or to finance terrorist acts. Second, insurance companies, due to their much larger size relative to that of their numerous agents and brokers, are in a much better position to shoulder the costs of compliance connected with the sale of their products.[9] Finally, numerous insurers already have in place compliance programs and best practices guidelines for their agents and brokers to prevent and detect fraud. We believe that insurance companies largely will be able integrate their obligation to report suspicious transactions into their existing compliance programs and best practices guidelines.

Insurance agents and brokers will play an important role in the effective operation of an insurance company's obligation to report suspicious transactions. By not placing an independent reporting obligation on agents and brokers, we do not intend to minimize their role and also intend to assess the effectiveness of the rule on an ongoing basis. If it appears that the effectiveness of the rule is being undermined by the failure of agents and brokers to cooperate with their insurance company principals, we will consider proposing appropriate amendments to the rule. We also expect that an insurance company faced with a non-compliant agent or broker will take the necessary actions to secure such compliance, including, when appropriate, terminating its business relationship with such an agent or broker.

B. Covered Products

Under the proposed rule, the issuing, underwriting, or reinsuring of a life insurance policy, an annuity product, or any product with investment or cash value features, would have caused an insurance company to fall within the scope of the rule. A company that offered exclusively other kinds of insurance products, such as a property and casualty insurance policy, would not have been required to report suspicious transactions. The overwhelming majority of commenters agreed with the distinction that we made between higher-risk and lower-risk insurance products.[10] Some of those commenters requested that we take the additional step of further excluding other kinds of insurance contracts and products relating to life insurance and annuities, such as reinsurance, group life insurance policies, group annuities, and term life insurance policies.

We, not having been informed or otherwise having learned of examples proving otherwise, agree that some of these contracts and products pose little or no risk of being used for money laundering. For example, reinsurance and retrocession contracts and treaties are arrangements between insurance companies by which they reallocate risks within the insurance industry and do not involve transactions with customers. Similarly, group life insurance policies and group annuities are typically issued to a company, financial institution, or association, and generally do not allow an individual insured or participant to manipulate their investment. These products pose low money laundering risks. Consequently, the final rule does not include in its coverage reinsurance or retrocession contracts or treaties, group life insurance, or group annuities.

After careful consideration of the comments, we also have decided not to cover term life (which includes credit life) insurance policies at this time. Given the operating characteristics of these products—e.g., the absence of a cash surrender value and the underwriting scrutiny given to term policies, especially those with large face amounts—we believe that it would be impractical to launder money through term life insurance policies, and that the corresponding money laundering risks associated with such products are not significant. Nevertheless, as with all new exclusions, we will reconsider this position if circumstances warrant.

IV. Section-by-Section Analysis

A. 103.16(a)—Definitions

Section 103.16(a) defines the key terms used in the final rule. In response to comments seeking clarification of certain terms used in the proposed rule, the final rule includes definitions of the terms ''annuity contract,'' ''bank,'' ''broker-dealer in securities,'' ''covered product,'' ''group annuity contract,'' ''group life insurance policy,'' ''insurance agent,'' ''insurance broker,'' and ''permanent life insurance policy.''

The final rule defines an annuity contract as ''any agreement between the insurer and the contract owner whereby the insurer promises to pay out a fixed or variable income stream for a period of time.'' For purposes of the rule, contracts of indemnity, as well as workers compensation insurance and structured settlements, are not annuity contracts.

The definition of an insurance company reflects our determination that a suspicious activity reporting requirement should be imposed only on those sectors of the insurance industry that offer products that pose a significant risk of money laundering or terrorist financing. Thus, an ''insurance company'' includes any person engaged within the United States as a business in the issuing or underwriting of a covered product. The term ''as a business'' is intended to exclude those persons that offer annuities or another covered product as an incidental part of their non-insurance business.[11] At this time, we believe that such persons present a much lower risk of being used for money laundering or terrorist financing than those persons that offer a covered product as an integral part of their business. We leave open the possibility of revisiting this issue in a future rulemaking if circumstances warrant.

There is an explicit exception to the definition of an insurance company. That exception clarifies that insurance agents and insurance brokers are not required under the final rule to report suspicious transactions. However, as explained below, an insurance company is responsible for obtaining customer information from all relevant sources, including its agents and brokers, necessary for the purpose of detecting and reporting suspicious transactions. In addition, the definition of an insurance company refers only to the business of issuing or underwriting certain kinds of insurance products and, therefore, does not cover the reinsuring or retrocession of insurance products.

The term ''covered product'' is defined to mean: (i) A permanent life insurance policy, other than a group life insurance policy; (ii) any annuity contract, other than a group annuity contract; and (iii) any other insurance product with features of cash value or investment. Permanent life insurance

[9] Although some agents work within large structures, only a small fraction of agencies employ more than a handful of people. According to one commenter, there are ''independent agents who operate on their own or in offices with just a few of their independent agent colleagues and thus comprise the quintessential notion of a small business operation.'' *Letter from the American Council of Life Insurers*, Nov. 25, 2002, at 4.

[10] *See, e.g., Joint Letter from the Independent Insurance Agents and Brokers of America and the National Association of Professional Insurance Agents*, Nov. 25, 2002, at 1 (''This distinction [between life insurance and property and casualty insurance] is legitimate and provides relief from the administrative and regulatory burdens of the proposed rule for the segments of the insurance industry that are at very low risk of money laundering.'').

[11] For example, a tax-exempt organization that offers charitable gift annuities (as defined in section 501(m)(5) of the Internal Revenue Code) as a vehicle for planned charitable giving to the tax-exempt organization, and that would not otherwise fall within the definition of an insurance company, generally would not be considered an insurance company under the final rule.

and annuity products are all covered by the definition of a covered product, with the exception of group life insurance and group annuities. The definition also incorporates a functional approach, and encompasses any insurance product having the same kinds of features that make permanent life insurance and annuity products more at risk of being used for money laundering. To the extent that term life insurance, property and casualty insurance, health insurance, and other kinds of insurance do not exhibit these features, they are not products covered by the rule.

B. 103.16(b)—General

Section 103.16(b) contains the rules setting forth the obligation of insurance companies to report suspicious transactions that are conducted or attempted by, at, or through an insurance company and involve or aggregate at least $5,000 in funds or other assets. This threshold amount is not limited to insurance policies whose premiums meet or exceed $5,000; but rather, includes a policy in which either the premium or maximum potential payout meets the threshold. It is important to recognize that transactions are reportable under this rule and 31 U.S.C. 5318(g) whether or not they involve currency.[12]

Section 103.16(b)(1) contains the general statement of the obligation to file reports of suspicious transactions. The obligation extends to transactions involving a covered product conducted or attempted by, at, or through the insurance company. The phrase ''involving a covered product'' was added to the final rule to clarify that the reporting requirement extends only to transactions involving those products that we have determined pose a significant risk of money laundering. The second sentence of this section is designed to encourage the reporting of transactions that appear relevant to violations of law or regulation, even in cases in which the rule does not explicitly so require, for example in the case of a suspicious transaction falling below the $5,000 threshold in the rule.

Section 103.16(b)(2) specifically describes the four categories of transactions that require reporting. An insurance company is required to report a transaction if it knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part): (i) Involves funds derived from illegal activity or is intended or conducted to hide or disguise funds or assets derived from illegal activity; (ii) is designed, whether through structuring or other means, to evade the requirements of the Bank Secrecy Act; (iii) has no business or apparent lawful purpose, and the insurance company knows of no reasonable explanation for the transaction after examining the available facts; or (iv) involves the use of the insurance company to facilitate criminal activity. The final category of reportable transactions is intended to ensure that transactions involving legally-derived funds that the insurance company suspects are being used for a criminal purpose, such as terrorist financing, are reported under the rule.[13]

A determination as to whether a report should be filed must be based on all the facts and circumstances relating to the transaction and customer (*e.g.*, purchaser). Different fact patterns will require different judgments. Some examples of ''red flags'' associated with existing or potential customers include, but are not limited to, the following:

- The purchase of an insurance product that appears to be inconsistent with a customer's needs;
- Any unusual method of payment, particularly by cash or cash equivalents (when such method is, in fact, unusual);
- The purchase of an insurance product with monetary instruments in structured amounts;
- The early termination of an insurance product, especially at a cost to the customer, or where cash was tendered and/or the refund check is directed to an apparently unrelated third party;
- The transfer of the benefit of an insurance product to an apparently unrelated third party;
- Little or no concern by a customer for the investment performance of an insurance product, but much concern about the early termination features of the product;
- The reluctance by a customer to provide identifying information when purchasing an insurance product, or the provision of minimal or seemingly fictitious information; and
- The borrowing of the maximum amount available soon after purchasing the product.

The techniques of money laundering are continually evolving, and there is no way to provide an exhaustive list of suspicious transactions.

Section 103.16(b)(3) provides that an insurance company is responsible for reporting suspicious transactions conducted through its insurance agents and insurance brokers. Suspicious activity that occurs at the time of sale of the covered product is most likely to be observed by the agent or broker, while suspicious activity that occurs following the issuance of a policy and during the ongoing administration of the product would most likely be observed by the insurance company.

Insurance agents and insurance brokers are not independently required to report suspicious transactions under the final rule. Accordingly, section 103.16(b)(3) also states that an insurance company shall have procedures in place reasonably designed to obtain customer-related information (which includes observations and assessments) from its insurance agents and insurance brokers necessary to detect suspicious activity, and is responsible for reporting suspicious activity based on such information. The specific means to obtain such information are left to the discretion of the insurance company, although we anticipate that the insurance company may need to amend existing agreements with its agents and brokers to ensure that the company receives necessary customer information.

Section 103.16(b)(3) acknowledges that certain insurance agents and insurance brokers, such as broker-dealers in securities with respect to the sale of variable insurance products, may have a separate obligation to report suspicious activity under another Bank Secrecy Act regulation.[14] In those instances, the filing of a joint suspicious activity report is permissible. In all such joint filings, only one of the filing institutions should be identified as the ''filer'' in the filer identification section of the form. The narrative of the Suspicious Activity Report must include the words ''joint filing'' and must identify the other financial institution or institutions on whose behalf the report is being filed. As set forth in section 103.16(e), an insurance company must keep a copy of any joint Suspicious Activity Report filed. To

[12] Many currency transactions are not indicative of money laundering or other violations of law, a fact recognized both by Congress, in authorizing reform of the currency transaction reporting system, and by FinCEN in issuing rules to implement that system (*See* 31 U.S.C. 5313(d) and 31 CFR 103.22(d), 63 FR 50147 (September 21, 1998)). But many non-currency transactions, (for example, funds transfers) *can* indicate illicit activity, especially in light of the breadth of the statutes that make money laundering a crime. *See* 18 U.S.C. 1956 and 1957.

[13] The fourth reporting category has been added to the suspicious activity reporting rules promulgated since the passage of the USA PATRIOT Act to make it clear that the requirement to report suspicious activity encompasses the reporting of transactions in which legally-derived funds are used for criminal activity, such as the financing of terrorism.

[14] Variable insurance products that are deemed securities under the Securities Exchange Act of 1934 must be sold by registered broker-dealers, which are themselves subject to a suspicious activity reporting obligation. *See* 31 CFR 103.19.

avoid the filing of duplicative reports on the same suspicious transaction or transactions, all insurance companies, insurance agents, insurance brokers, and other financial institutions involved in the same suspicious transaction may share information with one another pertaining to that transaction, so long as such sharing does not notify the subject of the transaction that the transaction has been reported. Conforming language has been added to the retention and confidentiality provisions set forth at sections 103.16(e) and (f).

In addition, some insurance companies issue variable insurance products funded by separate accounts, some of which meet the definition of a mutual fund,[15] and therefore may be obligated to report suspicious activities relating to those products under any final rule that may be adopted requiring mutual funds to report suspicious activity. To avoid a duplicate filing requirement, we intend to amend this rule to require filing in such cases under the rule for mutual funds when a final rule is adopted.

In order to evaluate customer activity and relationships for money laundering and terrorism risks, we expect that insurance companies will incorporate into their anti-money laundering programs a suspicious transaction monitoring program that is appropriate for the particular insurance company and its covered products in light of such risks. The design and implementation of such a program, rather than isolated instances of failing to report suspicious transactions, will be more important when assessing an insurance company's compliance with the requirements of the rule.

C. 103.16(c)—Filing Procedures

Section 103.16(c) sets forth the filing procedures to be followed by insurance companies making reports of suspicious transactions. Within 30 days after an insurance company becomes aware of a reportable suspicious transaction, the business must report the transaction by completing a Suspicious Activity Report by Insurance Companies (SAR–IC) and filing it in a central location to be determined by the Financial Crimes Enforcement Network. The SAR–IC will resemble the Suspicious Activity Report forms used by depository institutions to report suspicious transactions, and a draft form will be made available for comment in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and the Office of Management and Budget's implementing regulations (5 CFR part 1320).[16]

Supporting documentation relating to each SAR–IC is to be collected and maintained separately by the insurance company and made available to appropriate law enforcement and supervisory agencies upon request. Special provision is made for situations requiring immediate attention, in which case insurance companies are to telephone the appropriate law enforcement authority in addition to filing a SAR–IC.

D. 103.16(d)—Exception

Section 103.16(d) provides an exception to the reporting requirement for false information submitted to the insurance company to obtain a policy or support a claim. Language has been added to the final rule to make clear that an insurance company is not required to report instances of suspected insurance fraud unless the company has reason to believe that the false or fraudulent submission of information relates to money laundering or terrorist financing. For example, we do not expect an insurance company to report the submission of false medical records by a customer seeking life insurance coverage unless the company has a reason to believe that the purchase of the covered product is related to money laundering or terrorist financing. Some of the fact patterns that are associated with potential money laundering or terrorist financing are described above.

E. 103.16(e)—Retention of Records

Section 103.16(e) provides that insurance companies must maintain copies of SAR–ICs and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing. This provision has been modified to require an insurance company to retain copies of reports (and supporting documentation) provided to it by its agents that are required to make reports by another provision in 31 CFR part 103 when the agents and the company file a joint report regarding a transaction involving both entities. As indicated above, all supporting documentation is to be made available to the Financial Crimes Enforcement Network and other appropriate law enforcement and supervisory authorities, on request.

F. 103.16(f)—Confidentiality of Reports; Limitation on Liability

Section 103.16(f) reflects the statutory prohibition against the disclosure of information filed in, or the fact of filing, a Suspicious Activity Report (whether the report is required by the final rule or is filed voluntarily). *See* 31 U.S.C. 5318(g)(2). Thus, the paragraph specifically prohibits insurance companies filing SAR-ICs (or receiving a copy of filed joint Suspicious Activity Reports from another financial institution involved in the same transaction) from making any disclosure of a Suspicious Activity Report or the information contained therein, except to appropriate law enforcement and supervisory agencies. As amended by the USA PATRIOT Act, 31 U.S.C. 5318(g)(3) provides a safe harbor from liability to any financial institution that makes a voluntary disclosure of any possible violation of law or regulation to a government agency and to any financial institution that reports suspicious activity pursuant to section 5318(g) or pursuant to any other authority. Section 5318(g)(3) further provides protection from liability for the non-disclosure of the fact of such reporting. Section 103.16(f) does not prohibit insurance companies from obtaining customer information from its agents and brokers necessary to detect and report suspicious activity, as required by section 103.16(b)(3). This section also does not prohibit insurance companies from discussing with their agents and brokers, for purposes of section 103.16(b)(3), information pertaining to a suspicious transaction with which each institution is involved, and the determination of which institution will file the Suspicious Activity Report in such a case.

G. 103.16(g)—Compliance

Section 103.16(g) states that compliance with the obligation to report suspicious transactions will be examined, and failure to comply with the rule may constitute a violation of the Bank Secrecy Act and its implementing regulations.

H. 103.16(h)—Insurance Companies That Are Registered Broker-Dealers in Securities.

The proposed rule provided in section 103.16(i) that an insurance company that is registered or required to register with the Securities and Exchange Commission shall be deemed to have

[15] *See* 31 CFR 103.130(a) (anti-money laundering program requirement for mutual funds).

[16] The only Bank Secrecy Act regulatory requirement currently applicable to insurance companies is the obligation to report on Form 8300 the receipt of cash or certain non-cash instruments totaling more than $10,000 in one transaction or in two or more related transactions. We understand that many insurance companies have used the Form 8300 to voluntarily report suspicious transactions. Once the SAR–IC becomes effective, insurance companies should use the SAR–IC, rather than the Form 8300, to report suspicious transactions. In the interim, insurance companies may use the Suspicious Activity Report by Securities and Futures Industries form.

satisfied the requirements of this section for those activities regulated by the Securities and Exchange Commission, to the extent that the company complies with the reporting requirements applicable to such activities that are imposed under section 103.19. [17] The purpose of this provision is to provide that an insurance company that is also registered with the Securities and Exchange Commission as a broker-dealer in securities, and is therefore required to report suspicious activities under section 103.19, would not be subject to duplicate reporting requirements under this final rule as well.[18] To the extent that any such insurance company would be required to report suspicious activities under this final rule that would not be reportable under section 103.19, it would be required to report under this final rule. The provision has been retained in the final rule with non-substantive changes.

I. 103.16(i)—Applicability Date

Section 103.16(i) provides that the new suspicious activity reporting rule applies to transactions occurring after May 2, 2006.

V. Executive Order 12866

This final rule is not a significant regulatory action for purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

VI. Regulatory Flexibility Act

It is hereby certified, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this final rule is not likely to have a significant economic impact on a substantial number of small entities. The Bank Secrecy Act anticipates that we will require financial institutions to report suspicious activities. Moreover, the final rule requires insurance companies, rather than their agents or brokers, to file reports of suspicious transactions, and most insurance companies are larger businesses. In addition, all insurance companies, in order to remain viable, have in place policies and procedures to prevent and detect fraud. Such anti-fraud measures should assist insurance companies in reporting suspicious transactions. We anticipate that insurance companies will be readily able to incorporate the suspicious reporting requirements of this rule into those anti-fraud measures. In addition, the costs associated with suspicious activity reporting will be commensurate with the size of an insurance company. If a company is small, the burden of complying with the final rule should be correspondingly small.

Consistent with the principles of the Regulatory Flexibility Act, we considered exempting small insurance companies from some or all of the requirements of the final rule. We do not believe that such an exemption is appropriate, given that money laundering can also be conducted through small insurance companies.

VII. Paperwork Reduction Act

The collection of information contained in the final rule has been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and assigned Office of Management and Budget Control Number 1506–0029. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

The only requirement in the final rule that is subject to the Paperwork Reduction Act is the recordkeeping requirement in section 103.16(e). The estimated annual average burden associated with this collection of information is three hours per recordkeeper. We received no comments concerning this burden estimate.

Comments concerning the accuracy of this recordkeeping burden estimate and suggestions for reducing this burden should be sent (preferably by fax on 202–395–6974) to Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (or by the Internet to *jlackeyj@omb.eop.gov*), with a copy by paper mail to Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183, ''ATTN: Insurance Company SAR Regulation'' or by electronic mail to *regcomments@fincen.treas.gov* with the caption ''ATTN: Insurance Company SAR Regulation'' in the body of the text.

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Insurance companies, Currency, Investigations, Law Enforcement, Reporting and recordkeeping requirements.

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 FINANCIAL 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, 5316–5332; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307.

■ 2. Subpart B of part 103 is amended by adding new § 103.16 to read as follows:

§ 103.16 Reports by insurance companies of suspicious transactions.

(a) *Definitions.* For purposes of this section:

(1) *Annuity contract* means any agreement between the insurer and the contract owner whereby the insurer promises to pay out a fixed or variable income stream for a period of time.

(2) *Bank* has the same meaning as provided in § 103.11(c).

(3) *Broker-dealer in securities* has the same meaning as provided in § 103.11(f).

(4) *Covered product* means:

(i) A permanent life insurance policy, other than a group life insurance policy;

(ii) An annuity contract, other than a group annuity contract; or

(iii) Any other insurance product with features of cash value or investment.

(5) *Group annuity contract* means a master contract providing annuities to a group of persons under a single contract.

(6) *Group life insurance policy* means any life insurance policy under which a number of persons and their dependents, if appropriate, are insured under a single policy.

(7) *Insurance agent* means a sales and/or service representative of an insurance company. The term ''insurance agent'' encompasses any person that sells, markets, distributes, or services an insurance company's covered products, including, but not limited to, a person who represents only one insurance company, a person who represents more than one insurance company, and a bank or broker-dealer in securities that sells any covered product of an insurance company.

(8) *Insurance broker* means a person who, by acting as the customer's representative, arranges and/or services covered products on behalf of the customer.

[17] 17 We are aware of only one such insurance company, although there may be others.

[18] This is to be distinguished from a broker-dealer in securities acting as agent for an insurance company reporting under section 103.19, where a joint Suspicious Activity Report is permissible under subsection (b)(3)(ii) of the final rule.

(9) *Insurance company or insurer.* (i) Except as provided in paragraph (a)(9)(ii) of this section, the term ''insurance company'' or ''insurer'' means any person engaged within the United States as a business in the issuing or underwriting of any covered product.

(ii) The term ''insurance company'' or ''insurer'' does not include an insurance agent or insurance broker.

(10) *Permanent life insurance policy* means an agreement that contains a cash value or investment element and that obligates the insurer to indemnify or to confer a benefit upon the insured or beneficiary to the agreement contingent upon the death of the insured.

(11) *Person* has the same meaning as provided in § 103.11(z).

(12) *United States* has the same meaning as provided in § 103.11(nn).

(b) *General.* (1) Each insurance company shall file with the Financial Crimes Enforcement Network, to the extent and in the manner required by this section, a report of any suspicious transaction involving a covered product that is relevant to a possible violation of law or regulation. An insurance company may also file with the Financial Crimes Enforcement Network by using the form specified in paragraph (c)(1) of this section or otherwise, a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but the reporting of which is not required by this section.

(2) A transaction requires reporting under this section if it is conducted or attempted by, at, or through an insurance company, and involves or aggregates at least $5,000 in funds or other assets, and the insurance company knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law or regulation;

(ii) Is designed, whether through structuring or other means, to evade any requirements of this part or of any other regulations promulgated under the Bank Secrecy Act, Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314; 5316–5332;

(iii) Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the insurance company knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or

(iv) Involves use of the insurance company to facilitate criminal activity.

(3) (i) An insurance company is responsible for reporting suspicious transactions conducted through its insurance agents and insurance brokers. Accordingly, an insurance company shall establish and implement policies and procedures reasonably designed to obtain customer-related information necessary to detect suspicious activity from all relevant sources, including from its insurance agents and insurance brokers, and shall report suspicious activity based on such information.

(ii) Certain insurance agents may have a separate obligation to report suspicious activity pursuant to other provisions of this part. In those instances, no more than one report is required to be filed by the financial institutions involved in the transaction, as long as the report filed contains all relevant facts, including the names of both institutions and the words ''joint filing'' in the narrative section, and both institutions maintain a copy of the report filed, along with any supporting documentation.

(c) *Filing procedures*—(1) *What to file.* A suspicious transaction shall be reported by completing a Suspicious Activity Report by Insurance Companies (SAR–IC), and collecting and maintaining supporting documentation as required by paragraph (e) of this section.

(2) *Where to file.* The SAR–IC shall be filed with the Financial Crimes Enforcement Network as indicated in the instructions to the SAR–IC.

(3) *When to file.* A SAR–IC shall be filed no later than 30 calendar days after the date of the initial detection by the insurance company of facts that may constitute a basis for filing a SAR–IC under this section. If no suspect is identified on the date of such initial detection, an insurance company may delay filing a SAR–IC for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection. In situations that require immediate attention, such as terrorist financing or ongoing money laundering schemes, the insurance company shall immediately notify by telephone an appropriate law enforcement authority in addition to filing timely a SAR–IC. Insurance companies wishing voluntarily to report suspicious transactions that may relate to terrorist activity may call the Financial Crimes Enforcement Network's Financial Institutions Hotline at 1–866–556–3974 in addition to filing timely a SAR–IC if required by this section.

(d) *Exception.* An insurance company is not required to file a SAR–IC to report the submission to it of false or fraudulent information to obtain a policy or make a claim, unless the company has reason to believe that the false or fraudulent submission relates to money laundering or terrorist financing.

(e) *Retention of records.* An insurance company shall maintain a copy of any SAR–IC filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the SAR–IC. Supporting documentation shall be identified as such and maintained by the insurance company and shall be deemed to have been filed with the SAR–IC. When an insurance company has filed or is identified as a filer in a joint Suspicious Activity Report, the insurance company shall maintain a copy of such joint report (together with copies of any supporting documentation) for a period of five years from the date of filing. An insurance company shall make all supporting documentation available to the Financial Crimes Enforcement Network and any other appropriate law enforcement agencies or supervisory agencies upon request.

(f) *Confidentiality of reports; limitation of liability.* No insurance company, and no director, officer, employee, agent, or broker of any insurance company, who reports a suspicious transaction under this part (whether such a report is required by this section or made voluntarily), may notify any person involved in the transaction that the transaction has been reported, except to the extent permitted by paragraph (b)(3) of this section. Thus, any insurance company subpoenaed or otherwise requested to disclose a SAR–IC or the information contained in a SAR–IC (or a copy of a joint Suspicious Activity Report filed with another financial institution involved in the same transaction, including an insurance agent), except where such disclosure is requested by the Financial Crimes Enforcement Network or another appropriate law enforcement or supervisory agency, shall decline to produce the Suspicious Activity Report or to provide any information that would disclose that a Suspicious Activity Report has been prepared or

filed, citing as authority 31 CFR 103.16 and 31 U.S.C. 5318(g)(2), and shall notify the Financial Crimes Enforcement Network of any such request and its response thereto. An insurance company, and any director, officer, employee, agent, or broker of such insurance company, that makes a report pursuant to this section, including a joint report (whether such report is required by this section or made voluntarily) shall be protected from liability for any disclosure contained in, or for failure to disclose the fact of, such report, or both, to the extent provided by 31 U.S.C. 5318(g)(3).

(g) *Compliance.* Compliance with this section shall be examined by the Department of the Treasury, through the Financial Crimes Enforcement Network or its delegees, under the terms of the Bank Secrecy Act. Failure to comply with the requirements of this section may constitute a violation of the reporting rules of the Bank Secrecy Act and of this part.

(h) *Suspicious transaction reporting requirements for insurance companies registered or required to register with the Securities and Exchange Commission as broker-dealers in securities.* An insurance company that is registered or required to register with the Securities and Exchange Commission as a broker-dealer in securities shall be deemed to have satisfied the requirements of this section for its broker-dealer activities to the extent that the company complies with the reporting requirements applicable to such activities pursuant to § 103.19.

(i) *Applicability date.* This section applies to transactions occurring after May 2, 2006.

Dated: October 28, 2005.

William J. Fox,

Director, Financial Crimes Enforcement Network.

[FR Doc. 05–21918 Filed 11–2–05; 8:45 am]

BILLING CODE 4810–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA200–5100; FRL–7985–6]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Notice of administrative change.

SUMMARY: EPA is updating the materials submitted by The Commonwealth of Virginia that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this update have been previously submitted by the State agency, the Virginia Department of Environmental Quality, and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the Regional Office.

EFFECTIVE DATE: This action is effective November 3, 2005.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; or 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: Harold A. Frankford, (215) 814–2108 or by e-mail at *frankford.harold@epa.gov.*

SUPPLEMENTARY INFORMATION: The SIP is a living document which the State can revise as necessary to address the unique air pollution problems. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally-approved SIPs, as a result of consultations between EPA and the Office of the **Federal Register** (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register** document. On April 21, 2000 (65 FR 21315), EPA published a **Federal Register** beginning the new IBR procedure for Virginia. On September 8, 2004 (69 FR 54216), EPA published an update to the IBR material for Virginia. In this document, EPA is doing the following:

1. Announcing the second update to the IBR material.

2. Making corrections to the charts listed in paragraphs 52.2420(c) and (d), as described below:

a. Chapter 20, the two entries for Section 5–20–206 are combined into a single entry, with two separate **Federal Register** date and page citations and expanded text in the ''Explanation [former SIP citation]'' column.

b. Chapter 40, entries for Articles 42 (Emissions Standards for Portable Fuel Container Spillage in the Northern Virginia Volatile Organic Compound Emissions Control Area), 47 (Emission Standards for Solvent Metal Cleaning Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area), and 48 (Emission Standards for Mobile Equipment Repair and Refinishing Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area)—the text in the ''Explanation [former SIP citation]'' column is removed.

c. Chapter 40, entry 5–40–120—the text in the ''Title/subject'' column is revised.

d. Chapter 50, entry 5–50–120—the text in the ''Title/subject'' column is revised.

e. Code of Virginia, entry 10.1–1316.1.A.—the text in the ''EPA approval date'' column is revised by adding a **Federal Register** page citation.

f. Prince William County Landfill—the text in the ''40 CFR part 52 citation'' column is revised.

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation, and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect chart entries.

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 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.*). 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 rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 99 (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

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Virginia SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for these ''Identification of plan'' reorganization update actions for Virginia.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 5, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart VV—Virginia

■ 2. Section 52.2420 is amended by revising paragraphs (b), (c) and (d) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(b) Incorporation by reference.

(1) Material listed as incorporated by reference in paragraphs (c) and (d) was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates on or after September 1, 2005, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region III certifies that the rules/regulations provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of September 1, 2005.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region III Office at 1650 Arch Street, Philadelphia, PA 19103; the EPA, Air and Radiation Docket and Information Center, Air Docket (6102), 1301Constitution Avenue, NW., Room B108, Washington, DC. 20460; 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.*

(c) *EPA-Approved regulations.*

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Chapter 10 General Definitions [Part I]				
5–10–10	General	8/1/02	3/15/04, 69 FR 12074	Revised paragraphs A, B, C.
5–10–20	Terms Defined—Definitions of Administrator, Federally Enforceable, Implementation Plan, Potential to Emit, State Enforceable, Volatile Organic Compound.	4/1/96	3/12/97, 62 FR 11334	§ 52.2465(c) (113)(i)(B)(*1*).
5–10–20	Terms Defined—Added Terms—Department, Virginia Register Act. Revised Terms—Administrative Process Act, Director (replaces Executive Director), Virginia Air Pollution Control Law.	4/17/95	4/21/00, 65 FR 21315.	
5–10–20	Terms Defined [all other SIP-approved terms not listed above].	4/17/95	4/21/00, 65 FR 21315	120–01–02.
5–10–20	Terms Defined	1/1/98	1/7/03, 68 FR 663	Terms Added—Public hearing; Regulations for the Control and Abatement of Air Pollution, Regulation of the Board, . . . These regulations. Terms Revised—Good Engineering Practice, Person, Volatile organic compound. Terms Deleted (moved to 9 VAC 5–170–20)—Administrative Process Act, Air quality maintenance area, Confidential information, Consent agreement, Consent order, Emergency special order, Order, Special order, Variance.
5–10–20	Terms Defined	8/1/02	3/15/04, 69 FR 12074	Terms Added: EPA, Initial emissions test, Initial performance test (as corrected 11/05/03 and effective 01/01/04 in the Commonwealth), Maintenance area. Terms Revised: Affected facility, Delayed compliance order, Excessive concentration, Federally enforceable, Malfunction, Public hearing, Reference method, Reid vapor pressure, Stationary source, True vapor pressure, Vapor pressure, Volatile organic compounds. Terms Removed: Air Quality Maintenance Area.
5–10–30	Abbreviations	7/1/97	4/21/00, 65 FR 21315	Appendix A.
Chapter 20 General Provisions				
Part I Administrative				
5–20–10A.–C.	Applicability	4/17/95	4/21/00, 65 FR 21315	120–02–01.
5–20–70	Circumvention	4/17/95	4/21/00, 65 FR 21315	120–02–07.
5–20–80	Relationship of state regulations to federal regulations.	4/17/95	4/21/00, 65 FR 21315	120–02–08.
5–20–121	Air Quality Program Policies and Procedures.	7/1/97	4/21/00, 65 FR 21315	Appendix S.
Part II Air Quality Programs				
5–20–160	Registration	4/17/95	4/21/00, 65 FR 21315	120–02–31.
5–20–170	Control Programs	4/17/95	4/21/00, 65 FR 21315	120–02–32.
5–20–180	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–02–34.
5–20–200	Air Quality Control Regions (AQCR)	7/1/97	4/21/00, 65 FR 21315	Appendix B.
5–20–202	Metropolitan Statistical Areas	7/1/97	4/21/00, 65 FR 21315	Appendix G.
5–20–203	Air Quality Maintenance Areas (AQMA).	7/1/97	4/21/00, 65 FR 21315	Appendix H.
5–20–204	Nonattainment Areas	7/1/97	4/21/00, 65 FR 21315	Appendix K.
5–20–205	Prevention of Significant Deterioration Areas.	1/1/97	3/23/98, 63 FR 13795	Former Appendix L—Effective 2/1/92.

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–20–206	Volatile Organic Compound and Nitrogen Oxides Emissions Control Areas.	3/24/04	4/27/05, 70 FR 21625	New 5–20–206.1.e. applicable to the Western Virginia VOC Emissions Control Area.
			6/20/05, 70 FR 35379	Revised 5–20–206.1.c. applicable to the Hampton Roads VOC Emissions Control Area.
5–20–220	Shutdown of a stationary source	4/1/98	6/27/03, 68 FR 38191	
5–20–230	Certification of Documents	4/1/98	6/27/03, 68 FR 38191	
VR120, Part II General Provisions				
VR120–02–02	Establishment of Regulations and Orders.	2/1/85	2/25/93, 58 FR 11373	EPA has informed VA that except for the Appeals rule, these provisions no longer need to be part of the SIP. VA has withdrawn 2/93 and 2/98 revisions to the Appeals rule from SIP review. Last substantive SIP change became State-effective on 8/6/79 [§ 52.2465(c)(55)].
VR120–02–04		2/1/85	2/25/93, 58 FR 11373	
VR120–02–05A	Hearings and Proceedings	2/1/85	2/25/93, 58 FR 11373	
VR 2.05(b)	Variances—General	8/14/75	10/8/80, 45 FR 66792	
VR120–02–09	Variances—Fuel Emergency	2/1/85	2/25/93, 58 FR 11373	
VR120–02–12	Appeals	2/1/85	2/25/93, 58 FR 11373	
Appendix E	Procedural information and guidance	2/1/85	2/25/93, 58 FR 11373	
Appendix F	Public Participation Guidelines	2/1/85	2/25/93, 58 FR 11373	
	Delegation of Authority			
Chapter 30 Ambient Air Quality Standards [Part III]				
5–30–10	General	4/17/95	4/21/00, 65 FR 21315	120–03–01.
5–30–30	Sulfur Oxides (Sulfur Dioxide)	4/17/95	4/21/00, 65 FR 21315	120–03–03.
5–30–40	Carbon Monoxide	4/17/95	4/21/00, 65 FR 21315	120–03–04.
5–30–50	Ozone	4/17/95	4/21/00, 65 FR 21315	120–03–05.
5–30–60	Particulate Matter (PM_{10})	4/17/95	4/21/00, 65 FR 21315	120–03–06.
5–30–70	Nitrogen Dioxide	4/17/95	4/21/00, 65 FR 21315	120–03–07.
5–30–80	Lead	4/17/95	4/21/00, 65 FR 21315	120–03–08.
Chapter 40 Existing Stationary Sources [Part IV]				
Part I Special Provisions				
5–40–10	Applicability	8/1/02	3/15/04, 69 FR 12074	Revised paragraphs A, B, and C; added paragraph D.
5–40–20 (except paragraph A.4.)	Compliance	8/1/02	3/15/04, 69 FR 12074	Added new paragraph A.2 and revised renumbered paragraph A.3; added new paragraph G, revised paragraphs H, H.1, H.1.b through e; revised paragraphs I, I.2, I.3 and I.4; added new paragraph J. **Note:** New paragraph A.4. is not included in the SIP revision.
5–40–21	Compliance Schedules	7/1/97	4/21/00, 69 FR 21315	Appendix N.
5–40–22	Interpretation of Emissions Standards Based on Process Weight-Rate Tables.	7/1/97	4/21/00, 65 FR 21315	Appendix Q.
5–40–30	Emission Testing	8/1/02	3/15/04, 69 FR 12074	Revised Paragraphs A and F.1; **Note:** Revisions to paragraph C are not included in SIP revision.
5–40–40	Monitoring	8/1/02	3/15/04, 69 FR 12074	Revised paragraph B, and E.1; added paragraph E.12.
5–40–41	Emission Monitoring Procedures for Existing Sources.	7/1/97	4/21/00, 65 FR 21315	Appendix J.
5–40–50	Notification, Records and Reporting	8/1/02	3/15/04, 69 FR 12074	Added new paragraph A.3; revised paragraphs C, C.1, C.2 and C.3., D, E and F.
Part II Emission Standards				
Article 1 Visible Emissions and Fugitive Dust/Emissions (Rule 4–1)				
5–40–60	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0101.
5–40–70	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0102.
5–40–80	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0103.
5–40–90	Standard for Fugitive Dust/Emissions	2/1/03	4/29/05, 70 FR 22263.	
5–40–100	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0105.
5–40–110	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0106.

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–120	Waivers	2/1/03	4/29/05, 70 FR 22263.	
Article 4 Emission Standards for General Process Operations (Rule 4–4)				
5–40–240	Applicability and Designation of Affected Facility.	3/24/04	4/27/05, 70 FR 21625	
5–40–250	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0402.
5–40–260	Standard for Particulate Matter (AQCR 1–6).	4/17/95	4/21/00, 65 FR 21315	120–04–0403.
5–40–270	Standard for Particulate Matter (AQCR 7).	4/17/95	4/21/00, 65 FR 21315	120–04–0404.
5–40–280	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–0405.
5–40–300	Standard for Volatile Organic Compounds.	4/1/96	3/12/97, 62 FR 11332.	
5–40–310A.–E.	Standard for Nitrogen Oxides	3/24/04	4/27/05, 70 FR 21625.	
5–40–311	Reasonably available control technology guidelines for stationary sources of nitrogen dioxide.	7/1/97	4/28/99, 64 FR 22792	52.2420(c)(132) **Exceptions:** 311C.3.a, C.3.c, D.
5–40–320	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0409.
5–40–330	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0410.
5–40–360	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0413.
5–40–370	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0414.
5–40–380	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0415.
5–40–390	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–0416.
5–40–400	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0417.
5–40–410	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0418.
5–40–420	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–0419.
Article 5 Emission Standards for Synthesized Pharmaceutical Products Manufacturing Operations (Rule 4–5)				
5–40–430	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0501.
5–40–440	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0502.
4–40–450	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–0503.
5–40–460	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–0504.
5–40–470	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0505.
5–40–480	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0506.
5–40–510	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0509.
5–40–520	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0510.
5–40–530	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0511.
5–40–540	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–0512.
5–40–550	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0513.
5–40–560	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0514.
5–40–570	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–0515.
Article 6 Emission Standards for Rubber Tire Manufacturing Operations (Rule 4–6)				
5–40–580	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0601.
5–40–590	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0602.
5–40–600	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–0603.
5–40–610	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–0604.
5–40–620	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0605.
5–40–660	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0609.
5–40–670	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0610.
5–40–680	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0611.
5–40–690	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–0612.
5–40–700	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0613.
5–40–710	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0614.
5–40–720	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–0615.
Article 7 Emission Standards for Incinerators (Rule 4–7)				
5–40–730	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0701.
5–40–740	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0702.

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5–40–750	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–0703.
5–40–760	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0704.
5–40–770	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0705.
5–40–800	Prohibition of Flue-Fed Incinerators	4/17/95	4/21/00, 65 FR 21315	120–04–0708.
5–40–810	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0709.
5–40–820	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0710.
5–40–830	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0711.
5–40–840	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–0712.
5–40–850	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0713.
5–40–860	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0714.
5–40–870	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–0715.
Article 8 Emission Standards for Fuel Burning Equipment (Rule 4–8)				
5–40–880	Applicability and Designation of Affected Facility.	4/1/99	5/31/01, 66 FR 29495.	
5–40–890	Definitions	4/1/99	5/31/01, 66 FR 29495.	
5–40–900	Standard for Particulate Matter	4/1/99	5/31/01, 66 FR 29495.	
5–40–910	Emission Allocation System	4/17/95	4/21/00, 65 FR 21315	120–04–0804.
5–40–920	Determination of Collection Equipment Efficiency Factor.	4/17/95	4/21/00, 65 FR 21315	120–04–0805.
5–40–930	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–0806.
5–40–940	Standard for Visible Emissions	4/1/99	5/31/01, 66 FR 29495	
5–40–950	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0808.
5–40–980	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0811.
5–40–990	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0812.
5–40–1000	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0813.
5–40–1010	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–0814.
5–40–1020	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0815.
5–40–1030	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0816.
5–40–1040	Permits	4/1/99	5/31/01, 66 FR 29495.	
Article 9 Emission Standards for Coke Ovens (Rule 4–9)				
5–40–1050	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0901.
5–40–1060	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0902.
5–40–1070	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–0903.
5–40–1080	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–0904.
5–40–1090	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0905.
5–40–1100	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0906.
5–40–1130	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0909.
5–40–1140	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0910.
5–40–1150	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0911.
5–40–1160	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–0912.
5–40–1170	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0913.
5–40–1180	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0914.
5–40–1190	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–0915.
Article 10 Emission Standards for Asphalt Concrete Plants (Rule 4–10)				
5–40–1200	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1001.
5–40–1210	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1002.
5–40–1220	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1003.
5–40–1230	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1004.
5–40–1240	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1005.
5–40–1270	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1008.
5–40–1280	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1009.
5–40–1290	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1010.
5–40–1300	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–1011.
5–40–1310	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1012.
5–40–1320	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1013.
5–40–1330	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1014.

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Article 11 Emission Standards for Petroleum Refinery Operations (Rule 4–11)				
5–40–1340	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1101.
5–40–1350	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1102.
5–40–1360	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1103.
5–40–1370	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–1104.
5–40–1390	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–1106.
5–40–1400	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–1107.
5–40–1410	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1108.
5–40–1420	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1109.
5–40–1450	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1112.
5–40–1460	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1113.
5–40–1470	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1114.
5–40–1480	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–1115.
5–40–1490	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1116.
5–40–1500	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1117.
5–40–1510	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1118.
Article 12 Emission Standards for Chemical Fertilizer Manufacturing Operations (Rule 4–12)				
5–40–1520	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1201.
5–40–1530	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1202.
5–40–1540	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1203.
5–40–1550	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1204.
5–40–1560	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1205.
5–40–1590	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1208.
5–40–1600	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1209.
5–40–1610	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1210.
5–40–1620	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–1211.
5–40–1630	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1212.
5–40–1640	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1213.
5–40–1650	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1214.
Article 13 Emission Standards for Kraft Pulp Mills (Rule 4–13)				
5–40–1660	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1301.
5–40–1670	Definitions of cross recovery furnace, kraft pulp mill, lime kiln, recovery furnace, smelt dissolving tank.	4/17/95	4/21/00, 65 FR 21315	120–04–1302 Remaining definitions are federally enforceable as part of the Section 111(d) plan for kraft pulp mills (*see*, § 62.11610).
5–40–1680	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1303.
5–40–1700	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–1305.
5–40–1710	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1306.
5–40–1720	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1307.
5–40–1750A.	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1310A. **Note:** Sections 5–40–1750B. through D. are federally enforceable as part of the Section 111(d) plan for kraft pulp mills (*see*, § 62.11610).
5–40–1760	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1311.
5–40–1770A.	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1312A. **Note:** Sections 5–40–1770B. and C. are federally enforceable as part of the Section 111(d) plan for kraft pulp mills (*see*, § 62.11610).
5–40–1780A.	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–1313A. **Note:** Sections 5–40–1780B. through D. are federally enforceable as part of the Section 111(d) plan for kraft pulp mills (*see*, § 62.11610).
5–40–1790	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1314.
5–40–1800	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1315.
5–40–1810	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1316.

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Article 14 Emission Standards for Sand and Gravel Processing Operations and Stone Quarrying and Processing Operations (Rule 4–14)				
5–40–1820	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1401.
5–40–1830	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1402.
5–40–1840	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1403.
5–40–1850	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1404.
5–40–1860	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1405.
5–40–1890	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1408.
5–40–1900	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1409.
5–40–1910	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1410.
5–40–1920	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–1411.
5–40–1930	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1412.
5–40–1940	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1413.
5–40–1950	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1414.
Article 15 Emission Standards for Coal Preparation Plants (Rule 5–15)				
5–40–1960	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1501.
5–40–1970	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1502.
5–40–1980	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1503.
5–40–1990	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1504.
5–40–2000	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1505.
5–40–2030	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1508.
5–40–2040	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1509.
5–40–2050	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1510.
5–40–2060	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–1511.
5–40–2070	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1512.
5–40–2080	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1513.
5–40–2090	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1514.
Article 16 Emission Standards for Portland Cement Plants (Rule 4–16)				
5–40–2100	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1601.
5–40–2110	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1602.
5–40–2120	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1603.
5–40–2130	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–1604.
5–40–2140	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1605.
5–40–2150	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1606.
5–40–2180	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1609.
5–40–2190	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1610.
5–40–2200	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1611.
5–40–2210	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–1612.
5–40–2220	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1613.
5–40–2230	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1614.
5–40–2240	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1615.
Article 17 Emission Standards for Woodworking Operations (Rule 4–17)				
5–40–2250	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1701.
5–40–2260	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1702.
5–40–2270	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1703.
5–40–2280	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1704.
5–40–2290	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1705.
5–40–2320	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1708.
5–40–2330	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1709.
5–40–2340	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1710.
5–40–2350	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–1711.
5–40–2360	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1712.
5–40–2370	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1713.
5–40–2380	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1714.

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Article 18 Emission Standards for Primary and Secondary Metal Operations (Rule 4–18)				
5–40–2390	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1801.
5–40–2400	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1802.
5–40–2410	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1803.
5–40–2420	Standard for Sulfur Oxides	4/17/95	4/21/00, 65 FR 21315	120–04–1804.
5–40–2430	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1805.
5–40–2440	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1806.
5–40–2470	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1809.
5–40–2480	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1810.
5–40–2490	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1811.
5–40–2500	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–1812.
5–40–2510	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1813.
5–40–2520	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1814.
5–40–2530	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1815.
Article 19 Emission Standards for Lightweight Aggregate Process Operations (Rule 4–19)				
5–40–2540	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1901.
5–40–2550	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1902.
5–40–2560	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1903.
5–40–2570	Standard for Sulfur Oxides	4/17/95	4/21/00, 65 FR 21315	120–04–1904.
5–40–2580	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1905.
5–40–2590	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1906.
5–40–2620	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1909.
5–40–2630	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1910.
5–40–2640	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1911.
5–40–2650	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–1912.
5–40–2660	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1913.
5–40–2670	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1914.
5–40–2680	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1915.
Article 20 Emission Standards for Feed Manufacturing Operations (Rule 4–20)				
5–40–2690	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2001.
5–40–2700	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2002.
5–40–2710	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–2003.
5–40–2720	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2004.
5–40–2730	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2005.
5–40–2760	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2008.
5–40–2770	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2009.
5–40–2780	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2010.
5–40–2790	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–2011.
5–40–2800	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2012.
5–40–2810	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2013.
5–40–2820	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2014.
Article 21 Emission Standards for Sulfuric Acid Production Plants (Rule 4–21)				
5–40–2830	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2101.
5–40–2840	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2102.
5–40–2850	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–2103.
5–40–2870	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2105.
5–40–2880	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2106.
5–40–2910	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2109.
5–40–2920	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2110.
5–40–2930	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2111.
5–40–2940	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–2112.
5–40–2950	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2113.
5–40–2960	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2114.
5–40–2970	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2115.

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Article 22 Emission Standards for Sulfur Recovery Operations (Rule 4–22)				
5–40–2980	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2201.
5–40–2990	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2202.
5–40–3000	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–2203.
5–40–3010	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2204.
5–40–3020	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2205.
5–40–3050	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2208.
5–40–3060	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2209.
5–40–3070	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2210.
5–40–3080	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–2211.
5–40–3090	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2212.
5–40–3100	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2213.
5–40–3110	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2214.
Article 23 Emission Standards for Nitric Acid Production Units (Rule 4–23)				
5–40–3120	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2301.
5–40–3130	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2302.
5–40–3140	Standard for Nitrogen Oxides	4/17/95	4/21/00, 65 FR 21315	120–04–2303.
5–40–3150	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2304.
5–40–3160	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2305.
5–40–3190	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2308.
5–40–3200	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2309.
5–40–3210	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2310.
5–40–3220	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–2311.
5–40–3230	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2312.
5–40–3240	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2313.
5–40–3250	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2314.
Article 24 Emission Standards for Solvent Metal Cleaning Operations Using Non-Halogenated Solvents (Rule 4–24)				
5–40–3260	Applicability and Designation of Affected Facility.	3/24/04	5/17/05, 70 FR 28215.	
5–40–3270	Definitions	4/1/97	11/3/99, 64 FR 59635.	
5–40–3280	Standard for Volatile Organic Compounds.	4/1/97	11/3/99, 64 FR 59635.	
5–40–3290	Control Technology Guidelines	4/1/97	11/3/99, 64 FR 59635.	
5–40–3300	Standard for Visible Emissions	4/1/97	11/3/99, 64 FR 59635.	
5–40–3310	Standard for Fugitive Dust/Emissions	4/1/97	11/3/99, 64 FR 59635.	
5–40–3340	Compliance	4/1/97	11/3/99, 64 FR 59635.	
5–40–3350	Test Methods and Procedures	4/1/97	11/3/99, 64 FR 59635.	
5–40–3360	Monitoring	4/1/97	11/3/99, 64 FR 59635.	
5–40–3370	Notification, Records and Reporting	4/1/97	11/3/99, 64 FR 59635.	
5–40–3380	Registration	4/1/97	11/3/99, 64 FR 59635.	
5–40–3390	Facility and Control Equipment Maintenance or Malfunction.	4/1/97	11/3/99, 64 FR 59635.	
5–40–3400	Permits	4/1/97	11/3/99, 64 FR 59635.	
Article 25 Emission Standards for Volatile Organic Compound Storage and Transfer Operations (Rule 4–25)				
5–40–3410	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2501.
5–40–3420	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2502.
5–40–3430	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–2503.
5–40–3440	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–2504.
5–40–3450	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2505.
5–40–3460	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2506.
5–40–3490	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2509.
5–40–3500	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2510.
5–40–3510	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2511.
5–40–3520	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–2512.
5–40–3530	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2513.
5–40–3540	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2514.

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5–40–3550	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2515.
Article 26 Emission Standards for Large Coating Application Systems (Rule 4–26)				
5–40–3560	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2601.
5–40–3570	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2602.
5–40–3580	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–2603.
5–40–3590	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–2604.
5–40–3600	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2605.
5–40–3610	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2606.
5–40–3640	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2609.
5–40–3650	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2610.
5–40–3660	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2611.
5–40–3670	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–2612.
5–40–3680	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2613.
5–40–3690	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2614.
5–40–3700	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2615.
Article 27 Emission Standards for Magnet Wire Coating Application Systems (Rule 4–27)				
5–40–3710	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2701.
5–40–3720	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2702.
5–40–3730	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–2703.
5–40–3740	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–2704.
5–40–3750	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2705.
5–40–3760	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2706.
5–40–3790	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2709.
5–40–3800	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2710.
5–40–3810	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2711.
5–40–3820	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–2712.
5–40–3830	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2713.
5–40–3840	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2714.
5–40–3850	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2715.
Article 28 Emission Standards for Automobile and Light Duty Truck Coating Application Systems (Rule 4–28)				
5–40–3860	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2801.
5–40–3870	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2802
5–40–3880	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–2803.
5–40–3890	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–2804.
5–40–3900	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2805.
5–40–3910	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2806.
5–40–3940	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2809.
5–40–3950	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2810.
5–40–3960	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2811.
5–40–3970	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–2812.
5–40–3980	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2813.
5–40–3990	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2814.
5–40–4000	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2815.
Article 29 Emission Standards for Can Coating Application Systems (Rule 4–29)				
5–40–4010	Applicability and Designation Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2901.
5–40–4020	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2902.
5–40–4030	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–2903.
5–40–4040	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–2904.
5–40–4050	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2905.
5–40–4060	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2906.
5–40–4090	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2909.
5–40–4100	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2910.

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5–40–4110	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2911.
5–40–4120	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–2912.
5–40–4130	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2913.
5–40–4140	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2914.
5–40–4150	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2915.
Article 30 Emission Standards for Metal Coil Coating Application Systems (Rule 4–30)				
5–40–4160	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3001.
5–40–4170	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3002.
5–40–4180	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3003.
5–40–4190	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3004.
5–40–4200	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3005.
5–40–4210	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3006.
5–40–4240	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3009.
5–40–4250	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3010.
5–40–4260	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3011.
5–40–4270	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–3012.
5–40–4280	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3013.
5–40–4290	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3014.
5–40–4300	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3015.
Article 31 Emission Standards for Paper and Fabric Coating Application Systems (Rule 4–31)				
5–40–4310	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3101.
5–40–4320	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3102.
5–40–4330	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3103.
5–40–4340	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3104.
5–40–4350	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3105.
5–40–4360	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3106.
5–40–4390	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3109.
5–40–4400	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3110.
5–40–4410	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3111.
5–40–4420	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–3112.
5–40–4430	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3113.
5–40–4440	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3114.
5–40–4450	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3115.
Article 32 Emission Standards for Vinyl Coating Application Systems (Rule 4–32)				
5–40–4460	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3201.
5–40–4470	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3202.
5–40–4480	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3203.
5–40–4490	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3204.
5–40–4500	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3205.
5–40–4510	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3206.
5–40–4540	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3209.
5–40–4550	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3210.
5–40–4560	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3211.
5–40–4570	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–3212.
5–40–4580	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3213.
5–40–4590	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3214.
5–40–4600	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3215.
Article 33 Emission Standards for Metal Furniture Coating Application Systems (Rule 4–33)				
5–40–4610	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3301.
5–40–4620	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3302.
5–40–4630	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3303.

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–4640	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3304.
5–40–4650	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3305.
5–40–4660	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3306.
5–40–4690	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3309.
5–40–4700	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3310.
5–40–4710	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3311.
5–40–4720	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–3312.
5–40–4730	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3313.
5–40–4740	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3314.
5–40–4750	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3315.
Article 34 Emission Standards for Miscellaneous Metal Parts and Products Coating Application Systems (Rule 4–34)				
5–40–4760	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3401.
5–40–4770	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3402.
5–40–4780	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3403.
5–40–4790	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3404.
5–40–4800	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3405.
5–40–4810	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3406.
5–40–4840	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3409.
5–40–4850	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3410.
5–40–4860	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3411.
5–40–4870	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–3412.
5–40–4880	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3413.
5–40–4890	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3414.
5–40–4900	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3415.
Article 35 Emission Standards for Flatwood Paneling Coating Application Systems (Rule 4–35)				
5–40–4910	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3501.
5–40–4920	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3502.
5–40–4930	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3503.
5–40–4940	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3504.
5–40–4950	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3505.
5–40–4960	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3506.
5–40–4990	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3509.
5–40–5000	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3510.
5–40–5010	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3511.
5–40–5020	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–3512.
5–40–5030	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3513.
5–40–5040	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3514.
5–40–5050	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3515.
Article 36 Flexographic, Packaging Rotogravure, and Publication Rotogravure Printing Lines (Rule 4–36)				
5–40–5060	Applicability and Designation of Affected Facility.	4/1/96	3/12/97, 62 FR 11334	§ 52.2465(c)(113)(i)(B)(*4*).
5–40–5070	Definitions	4/1/96	3/12/97, 62 FR 11334.	
5–40–5080	Standard for Volatile Organic Compounds.	4/1/96	3/12/97, 62 FR 11334.	
5–40–5090	Standard for Visible Emissions	4/1/96	3/12/97, 62 FR 11334.	
5–40–5100	Standard for Fugitive Dust/Emissions	4/1/96	3/12/97, 62 FR 11334.	
5–40–5130	Compliance	4/1/96	3/12/97, 62 FR 11334.	
5–40–5140	Test Methods and Procedures	4/1/96	3/12/97, 62 FR 11334.	
5–40–5150	Monitoring	4/1/96	3/12/97, 62 FR 11334.	
5–40–5160	Notification, Records and Reporting	4/1/96	3/12/97, 62 FR 11334.	
5–40–5170	Registration	4/1/96	3/12/97, 62 FR 11334.	
5–40–5180	Facility and Control Equipment Maintenance or Malfunction.	4/1/96	3/12/97, 62 FR 11334.	
5–40–5190	Permits	4/1/96	3/12/97, 62 FR 11334.	

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Article 37 Emission Standards for Petroleum Liquid Storage and Transfer Operations (Rule 4–37)				
5–40–5200	Applicability and Designation of Affected Facility.	3/24/04	4/27/05, 70 FR 21625.	
5–40–5210	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3702.
5–40–5220	Standard for Volatile Organic Compounds.	3/24/04	4/27/05, 70 FR 21625.	
5–40–5230	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3704.
5–40–5240	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3705.
5–40–5250	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3706.
5–40–5280	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3709.
5–40–5290	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3710.
5–40–5300	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3711.
5–40–5310	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–3712.
5–40–5320	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3713.
5–40–5330	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3714.
5–40–5340	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3715.
Article 39 Emission Standards for Asphalt Paving Operations (Rule 4–39)				
5–40–5490	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3901.
5–40–5500	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3902.
5–40–5510	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3903.
5–40–5520	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3904.
5–40–5530	Standard for Fugitive Dust/Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3905.
5–40–5560	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3908.
5–40–5570	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3909.
5–40–5580	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3910.
5–40–5590	Notification, Records and Reporting	4/17/95	4/21/00, 65 FR 21315	120–04–3911.
Article 40 Emission Standards for Open Burning (Rule 4–40)				
5–40–5600	Applicability	4/1/96	3/12/97, 62 FR 11332	Provisions of Article 40 are applicable only in the Northern Va and Richmond Emissions Control Areas as defined in 9 VAC 5–20–206.
5–40–5610	Definitions of "refuse", "household refuse", "clean burning waste", "landfill", "local landfill", "sanitary landfill", "special incineration devise";.	4/1/96	3/12/97, 62 FR 11332.	
5–40–5610	All definitions not listed above	4/17/95	4/21/00, 65 FR 21315	120–04–4002.
5–40–5620	Open Burning Prohibitions	4/1/96	3/12/97, 62 FR 11332.	
5–40–5630	Permissible Open Burning	4/1/96	3/12/97, 62 FR 11332.	
5–40–5631	Forest Management Agricultural Practices.	7/1/97	3/12/97, 62 FR 11332	Former Appendix D, effective 4/1/96.
Article 41 Emission Standards for Mobile Sources (Rule 4–41)				
5–40–5650	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–4101.
5–40–5660	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–4102.
5–40–5670	Motor Vehicles	4/17/95	4/21/00, 65 FR 21315	120–04–4103.
5–40–5680	Other Mobile Sources	4/17/95	4/21/00, 65 FR 21315	120–04–4104.
5–40–5690	Export/Import of Motor Vehicles	4/17/95	4/21/00, 65 FR 21315	120–04–4105.
Article 42 Emissions Standards for Portable Fuel Container Spillage in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4–42)				
5–40–5700	Applicability	3/24/2004	6/8/04, 69 FR 31893.	
5–40–5710	Definitions	3/24/2004	6/8/04, 69 FR 31893.	
5–40–5720	Standard for volatile organic compounds.	3/24/2004	6/8/04, 69 FR 31893.	
5–40–5730	Administrative requirements	3/24/2004	6/8/04, 69 FR 31893.	
5–40–5740	Compliance	3/24/2004	6/8/04, 69 FR 31893.	
5–40–5750	Compliance Schedules	3/24/2004	6/8/04, 69 FR 31893.	
5–40–5760	Test methods and procedures	3/24/2004	6/8/04, 69 FR 31893.	

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5–40–5770	Notification, records and reporting	3/24/2004	6/8/04, 69 FR 31893.	
Article 43 Municipal Solid Waste Landfills (Rule 4–43)				
5–40–5800	Applicability and Designation of Affected Facility.	1/29/04	12/29/04, 69 FR 77900.	
5–40–5810	Definitions	1/29/04	12/29/04, 69 FR 77900.	
5–40–5820	Standards for Air Emissions	1/29/04	12/29/04, 69 FR 77900.	
5–40–5822	Operational standards for collection and control systems.	1/29/04	12/29/04, 69 FR 77900.	
5–40–5824	Specifications for active collection systems.	1/29/04	12/29/04, 69 FR 77900.	
5–40–5850	Compliance	1/29/04	12/29/04, 69 FR 77900.	
5–40–5855	Compliance schedule	1/29/04	12/29/04, 69 FR 77900.	
5–40–5860	Test methods and procedures	1/29/04	12/29/04, 69 FR 77900.	
5–40–5870	Monitoring	1/29/04	12/29/04, 69 FR 77900.	
5–40–5880	Reporting	1/29/04	12/29/04, 69 FR 77900.	
5–40–5890	Recordkeeping	1/29/04	12/29/04, 69 FR 77900.	
5–40–5900	Registration	1/29/04	12/29/04, 69 FR 77900.	
5–40–5910	Facility and control equipment maintenance or malfunction.	1/29/04	12/29/04, 69 FR 77900.	
5–40–5920	Permits	1/29/04	12/29/04, 69 FR 77900.	
Article 45 Emission Standards for Lithographic Printing Processes (Rule 4–45)				
5–40–7800	Applicability and Designation of Affected Facility.	4/1/96	3/12/97, 62 FR 11334.	
5–40–7810	Definitions of ''alcohol'', ''cleaning solution'', ''fountain solution'', ''lithographic printing'', ''printing'', ''printing process''.	4/1/96	3/12/97, 62 FR 11334.	
5–40–7820	Standard for Volatile Organic Compounds.	4/1/96	3/12/97, 62 FR 11334.	
5–40–7840	Standard for Visible Emissions	4/1/96	3/12/97, 62 FR 11334.	
5–40–7850	Standard for Fugitive Dust Emissions	4/1/96	3/12/97, 62 FR 11334.	
5–40–7880	Compliance	4/1/96	3/12/97, 62 FR 11334.	
5–40–7890	Test Methods and Procedures	4/1/96	3/12/97, 62 FR 11334.	
5–40–7900	Monitoring	4/1/96	3/12/97, 62 FR 11334.	
5–40–7910	Notification, Records and Reporting	4/1/96	3/12/97, 62 FR 11334.	
5–40–7920	Registration	4/1/96	3/12/97, 62 FR 11334.	
5–40–7930	Facility and Control Equipment Maintenance and Malfunction.	4/1/96	3/12/97, 62 FR 11334.	
5–40–7940	Permits	4/1/96	3/12/97, 62 FR 11334.	
Article 47 Emission Standards for Solvent Metal Cleaning Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4–47)				
5–40–6820	Applicability	3/24/04	6/9/04, 69 FR 32277.	
5–40–6830	Definitions	3/24/04	6/9/04, 69 FR 32277.	
5–40–6840	Standards for volatile organic compounds.	3/24/04	6/9/04, 69 FR 32277.	
5–40–6850	Standard for visible emissions	3/24/04	6/9/04, 69 FR 32277.	
5–40–6860	Standard for fugitive dust/emissions	3/24/04	6/9/04, 69 FR 32277.	
5–40–6890	Compliance	3/24/04	6/9/04, 69 FR 32277.	
5–40–6900	Compliance schedules	3/24/04	6/9/04, 69 FR 32277.	
5–40–6910	Test methods and procedures	3/24/04	6/9/04, 69 FR 32277.	
5–40–6920	Monitoring	3/24/04	6/9/04, 69 FR 32277.	
5–40–6930	Notification, records and reporting	3/24/04	6/9/04, 69 FR 32277.	
5–40–6940	Registration	3/24/04	6/9/04, 69 FR 32277.	
5–40–6950	Facility and control equipment maintenance or malfunction.	3/24/04	6/9/04, 69 FR 32277.	
5–40–6960	Permits	3/24/04	6/9/04, 69 FR 32277.	
Article 48 Emission Standards for Mobile Equipment Repair and Refinishing Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4–48)				
5–40–6970	Applicability and designation of affected facility.	3/24/04	6/24/04, 69 FR 35253.	
5–40–6980	Definitions	3/24/04	6/24/04, 69 FR 35253.	
5–40–6990	Standards for volatile organic compounds.	3/24/04	6/24/04, 69 FR 35253.	

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–7000	Standard for visible emissions	3/24/04	6/24/04, 69 FR 35253.	
5–40–7010	Standard for fugitive dust/emissions	3/24/04	6/24/04, 69 FR 35253.	
5–40–7040	Compliance	3/24/04	6/24/04, 69 FR 35253.	
5–40–7050	Compliance schedule	3/24/04	6/24/04, 69 FR 35253.	
5–40–7060	Test methods and procedures	3/24/04	6/24/04, 69 FR 35253.	
5–40–7070	Monitoring	3/24/04	6/24/04, 69 FR 35253.	
5–40–7080	Notification, records and reporting	3/24/04	6/24/04, 69 FR 35253.	
5–40–7090	Registration	3/24/04	6/24/04, 69 FR 35253.	
5–40–7100	Facility and control equipment maintenance or malfunction.	3/24/04	6/24/04, 69 FR 35253.	
5–40–7110	Permits	3/24/04	6/24/04, 69 FR 35253.	
Article 49 Architectural and Industrial Maintenance Coatings (Rule 4–49)				
5–40–7120	Applicability and designation of affected facility.	3/24/04	5/12/05, 70 FR 24970.	
5–40–7130	Definitions	3/24/04	5/12/05, 70 FR 24970.	
5–40–7140	Standard for volatile organic compounds.	3/24/04	5/12/05, 70 FR 24970.	
5–40–7150	Container labeling requirements	3/24/04	5/12/05, 70 FR 24970.	
5–40–7160	Standard for visible emissions	3/24/04	5/12/05, 70 FR 24970.	
5–40–7170	Standard for fugitive dust/emissions	3/24/04	5/12/05, 70 FR 24970.	
5–40–7200	Compliance	3/24/04	5/12/05, 70 FR 24970.	
5–40–7210	Compliance schedules	3/24/04	5/12/05, 70 FR 24970.	
5–40–7220	Test methods and procedures	3/24/04	5/12/05, 70 FR 24970.	
5–40–7230	Notification, records and reporting	3/24/04	5/12/05, 70 FR 24970.	
Chapter 50 New and Modified Stationary Sources [Part V]				
Part I Special Provisions				
5–50–10	Applicability	8/1/02	3/15/04, 69 FR 12074	Revised paragraphs B and C, added paragraph F.
5–50–20	Compliance	8/1/02	3/15/04, 69 FR 12074	Added new paragraph A.2, renumbered paragraphs A.3 through A.5, and revised paragraph A.3; Added new paragraph G; revised paragraphs H, H.2, H.2a, H.3 and H.4; added new paragraph I.
5–50–30	Performance testing	8/1/02	3/15/04, 69 FR 12074	Revised paragraphs A and F.1; Note: Revisions to paragraph C are not included in SIP revision.
5–50–40	Monitoring	8/1/02	3/15/04, 69 FR 12074	Revised paragraphs C, and E.1 through E.8; Added new paragraph E.10.
5–50–50	Notification, records and reporting	8/1/02	3/15/04, 69 FR 12074	Revised paragraphs A.1 through A.4, C, C.1 through C.3, D, E and F.
Part II Emission Standards				
Article 1 Standards of Performance for Visible Emissions and Fugitive Dust/Emissions (Rule 5–1)				
5–50–60	Applicability and designation of affected facility.	4/17/95	4/21/00, 65 FR 21315	120–05–0101.
5–50–70	Definitions	4/17/95	4/21/00, 65 FR 21315	120–05–0102.
5–50–80	Standard for visible emissions	4/17/95,	4/21/00, 65 FR 21315	120–05–0103.
5–50–90	Standard for fugitive dust/emissions	2/1/03	4/29/05, 70 FR 22263.	
5–50–100	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–05–0105.
5–50–110	Test methods and procedures	4/17/95	4/21/00, 65 FR 21315	120–05–0106.
5–50–120	Waivers	2/1/03	4/29/05, 70 FR 22263.	
Article 4 Standards of Performance for Stationary Sources (Rule 5–4)				
5–50–240	Applicability and designation of affected facility.	4/17/95	4/21/00, 65 FR 21315	120–05–0401.
5–50–250	Definitions	4/17/95	4/21/00, 65 FR 21315	120–05–0402.
5–50–260	Standard for stationary sources	4/17/95	4/21/00, 65 FR 21315	120–05–0403.
5–50–270	Standard for major stationary sources (nonattainment areas).	4/17/95	4/21/00, 65 FR 21315	120–05–0404.

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–50–280	Standard for major stationary sources (prevention of significant deterioration areas).	4/17/95	4/21/00, 65 FR 21315	120–05–0405.
5–50–290	Standard for visible emissions	4/17/95	4/21/00, 65 FR 21315	120–05–0406.
5–50–300	Standard for fugitive dust/emissions	4/17/95	4/21/00, 65 FR 21315	120–05–0407.
5–50–330	Compliance	4/17/95	4/21/00, 65 FR 21315	120–05–0410.
5–50–340	Test methods and procedures	4/17/95	4/21/00, 65 FR 21315	120–05–0411.
5–50–350	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–05–0412.
5–50–360	Notification, records and reporting	4/17/95	4/21/00, 65 FR 21315	120–05–0413.
5–50–370	Registration	4/17/95	4/21/00, 65 FR 21315	120–05–0414.
5–50–380	Facility and control equipment maintenance or malfunction.	4/17/95	4/21/00, 65 FR 21315	120–05–0415.
5–50–390	Permits	4/17/95	4/21/00, 65 FR 21315	120–05–0416.
Chapter 70 Air Pollution Episode Prevention [Part VII]				
5–70–10	Applicability	4/17/95	4/21/00, 65 FR 21315	120–07–01.
5–70–20	Definitions	4/17/95	4/21/00, 65 FR 21315	120–07–02.
5–70–30	General	4/17/95	4/21/00, 65 FR 21315	120–07–03.
5–70–40	Episode determination	4/1/99	10/19/00, 65 FR 62626	References to "TSP" have been removed.
5–70–50	Standby emission reduction plans	4/17/95	4/21/00, 65 FR 21315	120–07–05.
5–70–60	Control requirements	4/17/95	4/21/00, 65 FR 21315	120–07–06.
5–70–70	Local air pollution control agency participation.	4/17/95	4/21/00, 65 FR 21315	120–07–07.
Chapter 80 Permits for Stationary Sources [Part VIII]				
5–80–10	New and modified stationary sources	4/17/95	4/21/00, 65 FR 21315	120–08–01.
10A	Applicability	4/17/95	4/21/00, 65 FR 21315	01A.
10B	Definitions	4/17/95	4/21/00, 65 FR 21315	01B.
10C (Exc.C.1.b)	General	4/17/95	4/21/00, 65 FR 21315	01C. (Exc.C.1.b).
10D	Applications	4/17/95	4/21/00, 65 FR 21315	01D.
10E	Information required	4/17/95	4/21/00, 65 FR 21315	01E.
10F	Action on permit application	4/17/95	4/21/00, 65 FR 21315	01F.
10G	Public participation	4/17/95	4/21/00, 65 FR 21315	01G.; Exceptions: 10.G.1 and .10G.4.b.
VR120–08–01C.4.b., c.	Public Participation—public hearing requirements for major modifications.	7/31/81; recodified 2/1/85	5/4/82 47 FR 19134; recodified 2/25/93, 58 FR 11373.	See § 52.2423(o).
10H.2. and 10H.3	Standards for granting permits	4/17/95	4/21/00, 65 FR 21315	01H.2. and 01H.3.
10I.1. and 10I.3	Application review and analysis	4/17/95	4/21/00, 65 FR 21315	01I.1. and 01I.3.
10J	Compliance determination and verification by performance testing.	4/17/95	4/21/00, 65 FR 21315	01J.
10K	Permit invalidation, revocation and enforcement.	4/17/95	4/21/00, 65 FR 21315	01K.
10L	Existence of permit no defense	4/17/95	4/21/00, 65 FR 21315	01L.
10M	Compliance with local zoning requirements.	4/17/95	4/21/00, 65 FR 21315	01M.
10N	Reactivation and permanent shutdown	4/17/95	4/21/00, 65 FR 21315	01N.
10O	Transfer of permits	4/17/95	4/21/00, 65 FR 21315	01O.
10P	Circumvention	4/17/95	4/21/00, 65 FR 21315	01P.
5–80–11	Stationary source permit exemption levels.	7/1/97	4/21/00, 65 FR 21315	Appendix R.
Article 5 State Operating Permits				
5–80–800	Applicability	4/1/98	6/27/03, 68 FR 38191.	
5–80–810	Definitions	4/1/98	6/27/03, 68 FR 38191.	
5–80–820	General	4/1/98	6/27/03, 68 FR 38191.	
5–80–830	Applications	4/1/98	6/27/03, 68 FR 38191.	
5–80–840	Application information required	4/1/98	6/27/03, 68 FR 38191.	
5–80–850	Standards and conditions for granting permits.	4/1/98	6/27/03, 68 FR 38191.	
5–80–860	Action on permit application	4/1/98	6/27/03, 68 FR 38191.	
5–80–870	Application review and analysis	4/1/98	6/27/03, 68 FR 38191.	
5–80–880	Compliance determination and verification by testing.	4/1/98	6/27/03, 68 FR 38191.	
5–80–890	Monitoring requirements	4/1/98	6/27/03, 68 FR 38191.	
5–80–900	Reporting requirements	4/1/98	6/27/03, 68 FR 38191.	
5–80–910	Existence of permits no defense	4/1/98	6/27/03, 68 FR 38191.	

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–80–920	Circumvention	4/1/98	6/27/03, 68 FR 38191.	
5–80–930	Compliance with local zoning requirements.	4/1/98	6/27/03 68, FR 38191.	
5–80–940	Transfer of permits	4/1/98	6/27/03, 68 FR 38191.	
5–80–950	Termination of permits	4/1/98	6/27/03, 68 FR 38191.	
5–80–960	Changes to permits	4/1/98	6/27/03, 68 FR 38191.	
5–80–970	Administrative permit amendments	4/1/98	6/27/03, 68 FR 38191.	
5–80–980	Minor permit amendments	4/1/98	6/27/03, 68 FR 38191.	
5–80–990	Significant permit amendments	4/1/98	6/27/03, 68 FR 38191.	
5–80–1000	Reopening for cause	4/1/98	6/27/03, 68 FR 38191.	
5–80–1010	Enforcement	4/1/98	6/27/03, 68 FR 38191.	
5–80–1020	Public participation	4/1/98	6/27/03, 68 FR 38191.	
5–80–1030	General permits	4/1/98	6/27/03, 68 FR 38191.	
5–80–1040	Review and evaluation of article	4/1/98	6/27/03, 68 FR 38191.	
Article 8 Permits-Major Stationary Sources and Major Modifications Located in Prevention of Significant Deterioration Areas				
5–80–1700	Applicability	1/1/97	3/23/98, 63 FR 13795.	
5–80–1710	Definitions	1/1/97	3/23/98, 63 FR 13795.	
5–80–1720	General	1/1/97	3/23/98, 63 FR 13795.	
5–80–1730	Ambient Air Increments	1/1/97	3/23/98, 63 FR 13795.	
5–80–1740	Ambient Air Ceilings	1/1/97	3/23/98, 63 FR 13795.	
5–80–1750	Applications	1/1/97	3/23/98, 63 FR 13795.	
5–80–1760	Compliance with Local Zoning Requirements.	1/1/97	3/23/98, 63 FR 13795.	
5–80–1770	Compliance Determination and Verification by Performance Testing.	1/1/97	3/23/98, 63 FR 13795.	
5–80–1780	Stack Heights	1/1/97	3/23/98, 63 FR 13795.	
5–80–1790	Review of Major Stationary Sources and Major Modifications—Source Applicability and Exemptions.	1/1/97	3/23/98, 63 FR 13795.	
5–80–1800	Control Technology Review	1/1/97	3/23/98, 63 FR 13795.	
5–80–1810	Source Impact Analysis	1/1/97	3/23/98, 63 FR 13795.	
5–80–1820	Air Quality Models	1/1/97	3/23/98, 63 FR 13795.	
5–80–1830	Air Quality Analysis	1/1/97	3/23/98, 63 FR 13795.	
5–80–1840	Source Information	1/1/97	3/23/98, 63 FR 13795.	
5–80–1850	Additional Impact Analyses	1/1/97	3/23/98, 63 FR 13795.	
5–80–1860	Sources Impacting Federal Class I Areas—Additional Requirements.	1/1/97	3/23/98, 63 FR 13795.	
5–80–1870	Public Participation	1/1/97	3/23/98, 63 FR 13795.	
5–80–1880	Source Obligation	1/1/97	3/23/98, 63 FR 13795.	
5–80–1890	Environmental Impact Statements	1/1/97	3/23/98, 63 FR 13795.	
5–80–1900	Disputed Permits	1/1/97	3/23/98, 63 FR 13795.	
5–80–1910	Interstate Pollution Abatement	1/1/97	3/23/98, 63 FR 13795.	
5–80–1920	Innovative Control Technology	1/1/97	3/23/98, 63 FR 13795.	
5–80–1930	Reactivation and Permanent Shutdown.	1/1/97	3/23/98, 63 FR 13795.	
5–80–1940	Transfer of Permits	1/1/97	3/23/98, 63 FR 13795.	
5–80–1950	Permit Invalidation, Revocation, and Enforcement.	1/1/97	3/23/98, 63 FR 13795.	
5–80–1960	Circumvention	1/1/97	3/23/98, 63 FR 13795.	
5–80–1970	Review and Confirmation of this Chapter by Board.	1/1/97	3/23/98, 63 FR 13795.	
Article 9 Permits—Major Stationary Sources and Major Modifications Located in Nonattainment Areas [120–08–03]				
5–80–2000	Applicability	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03A (9/21/99, 64 FR 51047).
5–80–2010	Definitions	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03B (9/21/99, 64 FR 51047).
5–80–2020	General	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03C (9/21/99, 64 FR 51047).
5–80–2030	Applications	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03D (9/21/99, 64 FR 51047).
5–80–2040	Information required	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03E (9/21/99, 64 FR 51047).
5–80–2050	Standards/conditions for granting permits..	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03F (9/21/99, 64 FR 51047).
5–80–2060	Action on permit application	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03G (9/21/99, 64 FR 51047).
5–80–2070	Public Participation	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03H (9/21/99, 64 FR 51047).
5–80–2080	Compliance determination and verification by performance testing.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03I (9/21/99, 64 FR 51047).
5–80–2090	Application review and analysis	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03J (9/21/99, 64 FR 51047).
5–80–2100	Circumvention	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03K (9/21/99, 64 FR 51047).
5–80–2110	Interstate pollution abatement	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03L (9/21/99, 64 FR 51047).

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–80–2120	Offsets.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03M (9/21/99, 64 FR 51047).
5–80–2130	De minimis increases and stationary source modification alternatives for ozone nonattainment areas classified as serious or severe in 9 VAC 5–20–204.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03N (9/21/99, 64 FR 51047).
5–80–2140	Exception	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03O (9/21/99, 64 FR 51047).
5–80–2150	Compliance with local zoning requirements.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03P (9/21/99, 64 FR 51047).
5–80–2160	Reactivation and Permit Shutdown	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03Q (9/21/99, 64 FR 51047).
5–80–2170	Transfer of Permits	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03R (9/21/99, 64 FR 51047).
5–80–2180	Revocation of permit	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03S (9/21/99, 64 FR 51047).
5–80–2190	Existence of permit no defense	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03T (9/21/99, 64 FR 51047).
Chapter 91 Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area				
Part I Definitions				
5–91–10	General	1/24/97	9/1/99, 64 FR 47670.	
5–91–20	Terms Defined	1/24/97	9/1/99, 64 FR 47670	Exception—"Northern Virginia program area" does not include Fauquier County, Effective 1/1/98.
Part II General Provisions				
5–91–30	Applicability and authority of the department.	1/24/97	9/1/99, 64 FR 47670.	
5–91–40	Establishment of Regulations and Orders.	1/24/97	9/1/99, 64 FR 47670.	
5–91–50	Documents Incorporated by Reference.	1/24/97	9/1/99, 64 FR 47670.	
5–91–60	Hearings and Proceedings	1/24/97	9/1/99, 64 FR 47670.	
5–91–70	Appeal of Case Decisions	1/24/97	9/1/99, 64 FR 47670.	
5–91–80	Variances	1/24/97	9/1/99, 64 FR 47670.	
5–91–90	Right of entry	1/24/97	9/1/99, 64 FR 47670.	
5–91–100	Conditions on approvals	1/24/97	9/1/99, 64 FR 47670.	
5–91–110	Procedural information and guidance	1/24/97	9/1/99, 64 FR 47670.	
5–91–120	Export and import of motor vehicles	1/24/97	9/1/99, 64 FR 47670.	
5–91–130	Relationship of state regulations to federal regulations.	1/24/97	9/1/99, 64 FR 47670.	
5–91–140	Delegation of authority	1/24/97	9/1/99, 64 FR 47670.	
5–91–150	Availability of information	1/24/97	9/1/99, 64 FR 47670.	
Part III Emission Standards for Motor Vehicle Air Pollution				
5–91–160	Exhaust emission standards for two-speed idle testing in enhanced emissions inspection programs.	1/24/97	9/1/99, 64 FR 47670.	
5–91–170	Exhaust emission standards for ASM testing in enhanced emissions inspection programs.	1/24/97	9/1/99, 64 FR 47670.	
5–91–180	Exhaust emission standards for on-road testing through remote sensing.	1/24/97	9/1/99, 64 FR 47670.	
5–91–190	Emissions control systems standards	1/24/97	9/1/99, 64 FR 47670.	
5–91–200	Evaporative emissions standards	1/24/97	9/1/99 64, FR 47670.	
5–91–210	Visible emissions standards	1/24/97	9/1/99, 64 FR 47670.	
Part IV Permitting and Operation of Emissions Inspection Stations				
5–91–220	General provisions	1/24/97	9/1/99, 64 FR 47670.	
5–91–230	Applications	1/24/97	9/1/99, 64 FR 47670.	
5–91–240	Standards and conditions for permits	1/24/97	9/1/99, 64 FR 47670.	
5–91–250	Action on permit application	1/27/97	9/1/99, 64 FR 47670.	
5–91–260	Emissions inspection station permits, categories.	1/24/97	9/1/99, 64 FR 47670.	
5–91–270	Permit renewals	1/24/97	9/1/99, 64 FR 47670.	
5–91–280	Permit revocation, surrender of materials.	1/24/97	9/1/99, 64 FR 47670.	
5–91–290	Emission inspection station operations	1/24/97	9/1/99, 64 FR 47670.	
5–91–300	Emissions inspection station records	1/24/97	9/1/99, 64 FR 47670.	
5–91–310	Sign and permit posting	1/24/97	9/1/99, 64 FR 47670.	

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–91–320	Equipment and facility requirements	1/24/97	9/1/99, 64 FR 47670.	
5–91–330	Analyzer system operation	1/24/97	9/1/99, 64 FR 47670.	
5–91–340	Motor vehicle inspection report; certificate of emission inspection.	1/24/97	9/1/99, 64 FR 47670.	
5–91–350	Data media	1/24/97	9/1/99, 64 FR 47670.	
5–91–360	Inspector number and access code usage.	1/24/97	9/1/99, 64 FR 47670.	
5–91–370	Fleet emissions inspection stations; mobile fleet emissions inspection stations.	1/24/97	9/1/99, 64 FR 47670.	
Part V Emissions Inspector Testing and Licensing				
5–91–380	Emissions inspector licences and renewals.	1/24/97	9/1/99, 64 FR 47670.	
5–91–390	Qualification requirements for emissions inspector licenses.	1/24/97	9/1/99, 64 FR 47670.	
5–91–400	Conduct of emissions inspectors	1/24/97	9/1/99, 64 FR 47670.	
Part VI Inspection Procedures				
5–91–410	General	1/24/97	9/1/99, 64 FR 47670.	
5–91–420	Inspection procedure; rejection, pass, fail, waiver.	1/24/97	9/1/99, 64 FR 47670.	
5–91–430	ASM test procedure	1/24/97	9/1/99, 64 FR 47670.	
5–91–440	Two-speed idle test procedure	1/24/97	9/1/99, 64 FR 47670.	
4–91–450	Fuel system evaporative pressure test and gas cap pressure test procedure.	1/24/97	9/1/99, 64 FR 47670.	
4–91–460	Fuel system evaporative purge test procedure.	1/24/97	9/1/99, 64 FR 47670.	
5–91–470	Short test standards for warranty eligibility.	1/24/97	9/1/99, 64 FR 47670.	
5–91–480	Emissions related repairs	1/24/97	9/1/99, 64 FR 47670.	
5–91–490	Engine and fuel changes	1/24/97	9/1/99, 64 FR 47670.	
Part VII Vehicle Emissions Repair Facility Certification				
5–91–500	Applicability and Authority	1/24/97	9/1/99, 64 FR 47670.	
5–91–510	Certification Qualifications	1/24/97	9/1/99, 64 FR 47670.	
5–91–520	Expiration, reinstatement, renewal, and requalification.	1/24/97	9/1/99, 64 FR 47670.	
5–91–530	Emissions repair facility operations	1/24/97	9/1/99, 64 FR 47670.	
5–91–540	Sign Posting	1/24/97	9/1/99, 64 FR 47670.	
Part VIII Emissions Repair Technician Certification and Responsibilities				
5–91–550	Applicability and authority	1/24/97	9/1/99, 64 FR 47670.	
5–91–560	Certification qualifications for emissions repair technicians.	1/24/97	9/1/99, 64 FR 47670.	
5–91–570	Expiration, reinstatement, renewal and requalification.	1/24/97	9/1/99, 64 FR 47670.	
5–91–580	Certified emissions repair technician responsibilities.	1/24/97	9/1/99, 64 FR 47670.	
Part IX Enforcement Procedures				
5–91–590	Enforcement of regulations, permits, licenses, certifications and orders.	4/2/97	9/1/99, 64 FR 47670.	
5–91–600	General enforcement process	4/2/97	9/1/99, 64 FR 47670.	
5–91–610	Consent orders and penalties for violations.	4/2/97	9/1/99, 64 FR 47670.	
5–91–620	Major violations	4/2/97	9/1/99, 64 FR 47670.	
5–91–630	Minor violations	4/2/97	9/1/99, 64 FR 47670.	
Part X Analyzer System Certification and Specifications for Enhanced Emissions Inspections Programs				
5–91–640	Applicability	1/24/97	9/1/99, 64 FR 47670.	
5–91–650	Design goals	1/24/97	9/1/99, 64 FR 47670.	
5–91–660	Warranty; service contract	1/24/97	9/1/99, 64 FR 47670.	
5–91–670	Owner provided services	1/24/97	9/1/99, 64 FR 47670.	

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–91–680	Certification of analyzer systems	1/24/97	9/1/99, 64 FR 47670.	
5–91–690	Span gases; gases for calibration purposes.	1/24/97	9/1/99, 64 FR 47670.	
5–91–700	Calibration of exhaust gas analyzers	1/24/97	9/1/99, 64 FR 47670.	
5–91–710	Upgrade of analyzer system	1/24/97	9/1/99, 64 FR 47670.	
Part XI Manufacturer Recall				
5–91–720	Vehicle manufacturer recall	1/24/97	9/1/99, 64 FR 47670.	
5–91–730	Exemptions; temporary extensions	1/24/97	9/1/99, 64 FR 47670.	
Part XII On-Road Testing				
5–91–740	General Requirements	1/24/97	9/1/99, 64 FR 47670.	
5–91–750	Operating Procedures; violation of standards.	1/24/97	9/1/99, 64 FR 47670.	
5–91–760	Schedule of civil charges	1/24/97	9/1/99, 64 FR 47670.	
Part XIII Federal Facilities				
5–91–770	General requirements	1/24/97	9/1/99, 64 FR 47670.	
5–91–780	Proof of compliance	1/24/97	9/1/99, 64 FR 47670.	
Part XIV ASM Exhaust Emission Standards				
5–91–790	ASM start-up standards	1/24/97	9/1/99, 64 FR 47670.	
5–91–800	ASM final standards	1/24/97	9/1/99, 64 FR 47670.	
Chapter 140 Regulation for Emissions Trading				
Part I NO_X Budget Trading Program				
Article 1 NO_X Budget Trading Program General Provisions				
5–140–10	Purpose	7/17/02	7/8/03, 68 FR 40520.	
5–140–20	Definitions	7/17/02	7/8/03, 68 FR 40520.	
5–140–30	Measurements, abbreviations, and acronyms.	7/17/02	7/8/03, 68 FR 40520.	
5–140–31	Federal Regulations Incorporated by reference.	7/17/02	7/8/03, 68 FR 40520.	
5–140–40	Applicability	7/17/02	7/8/03, 68 FR 40520.	
5–140–50	Retired unit exemption	7/17/02	7/8/03, 68 FR 40520.	
5–140–60	Standard requirements	7/17/02	7/8/03, 68 FR 40520.	
5–140–70	Computation of time	7/17/02	7/8/03, 68 FR 40520.	
Article 2 NO_X Authorized Account Representative for NO_X Budget Sources				
5–140–100	Authorization and responsibilities of the NO_X authorized account representative.	7/17/02	7/8/03, 68 FR 40520.	
5–140–110	Alternate NO_X authorized account representative.	7/17/02	7/8/03, 68 FR 40520.	
5–140–120	Changing the NO_X authorized account representative and alternate NO_X authorized account representative; changes in the owners and operators.	7/17/02	7/8/03, 68 FR 40520.	
5–140–130	Account certificate of representation	7/17/02	7/8/03, 68 FR 40520.	
5–140–140	Objections concerning the NO_X authorized account representative.	7/17/02	7/8/03, 68 FR 40520.	
Article 3 Permits				
5–140–200	General NO_X Budget permit requirements.	7/17/02	7/8/03, 68 FR 40520.	
5–140–210	Submission of NO_X Budget permit applications.	7/17/02	7/8/03, 68 FR 40520.	
5–140–220	Information requirements for NO_X Budget permit applications.	7/17/02	7/8/03, 68 FR 40520.	
5–140–230	NO_X Budget permit contents	7/17/02	7/8/03, 68 FR 40520.	

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–140–240	Effective date of initial NO_X Budget permit.	7/17/02	7/8/03, 68 FR 40520.	
5–140–250	NO_X Budget permit revisions	7/17/02	7/8/03, 68 FR 40520.	
Article 4 Compliance Certification				
5–140–300	Compliance certification report	7/17/02	7/8/03, 68 FR 40520.	
5–140–310	Permitting authority's and administrator's action on compliance certifications.	7/17/02	7/8/03, 68 FR 40520.	
Article 5 NO_X Allowance Allocations				
5–140–400	State trading program budget	7/17/02	7/8/03, 68 FR 40520.	
5–140–410	Timing requirements for NO_X allowance allocations.	7/17/02	7/8/03, 68 FR 40520.	
5–140–420	NO_X allowance allocations	7/17/02	7/8/03, 68 FR 40520.	
5–140–430	Compliance Supplement Pool	7/17/02	7/8/03, 68 FR 40520.	
Article 6 NO_X Allowance Tracking System				
5–140–500	NO_X Allowance Tracking System accounts.	7/17/02	7/8/03, 68 FR 40520..	
5–140–510	Establishment of accounts	7/17/02	7/8/03, 68 FR 40520.	
5–140–520	NO_X Allowance Tracking System responsibilities of NO_X authorized account representative.	7/17/02	7/8/03, 68 FR 40520.	
5–140–530	Recordation of NO_X allowance allocations.	7/17/02	7/8/03, 68 FR 40520.	
5–140–540	Compliance	7/17/02	7/8/03, 68 FR 40520.	
5–140–550	Banking	3/24/04	8/25/04, 69 FR 52174.	
5–140–560	Account error	7/17/02	7/8/03, 68 FR 40520.	
5–140–570	Closing of general accounts	7/17/02	7/8/03, 68 FR 40520.	
Article 7 NO_X Allowance Transfers				
5–140–600	Scope and submission of NO_X allowance transfers.	7/17/02	7/8/03, 68 FR 40520.	
5–140–610	EPA recordation	7/17/02	7/8/03, 68 FR 40520.	
5–140–620	Notification	7/17/02	7/8/03, 68 FR 40520.	
Article 8 Monitoring and Reporting				
5–140–700	General Requirements	7/17/02	7/8/03, 68 FR 40520.	
5–140–710	Initial certification and recertification procedures.	7/17/02	7/8/03, 68 FR 40520.	
5–140–720	Out of control periods	7/17/02	7/8/03, 68 FR 40520.	
5–140–730	Notifications	7/17/02	7/8/03, 68 FR 40520.	
5–140–740	Recordkeeping and reporting	7/17/02	7/8/03, 68 FR 40520.	
5–140–750	Petitions	7/17/02	7/8/03, 68 FR 40520.	
5–140–760	Additional requirements to provide heat input data for allocation purposes.	7/17/02	7/8/03, 68 FR 40520.	
Article 9 Individual Unit Opt-ins				
5–140–800	Applicability	7/17/02	7/8/03, 68 FR 40520.	
5–140–810	General	7/17/02	7/8/03, 68 FR 40520.	
5–140–820	NO_X authorized account representative.	7/17/02	7/8/03, 68 FR 40520.	
5–140–830	Applying for NO_X Budget opt-in permit	7/17/02	7/8/03, 68 FR 40520.	
5–140–840	Opt-in process	7/17/02	7/8/03, 68 FR 40520.	
5–140–850	NO_X Budget opt-in permit contents	7/17/02	7/8/03, 68 FR 40520.	
5–140–860	Withdrawal from NO_X Budget Trading Program.	7/17/02	7/8/03, 68 FR 40520.	
5–140–870	Change in regulatory status	7/17/02	7/8/03, 68 FR 40520.	
5–140–880	NO_X allowance allocations to opt-in units.	7/17/02	7/8/03, 68 FR 40520.	

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Article 10 State Trading Program Budget and Compliance Pool				
5–140–900	State trading program budget	7/17/02	7/8/03, 68 FR 40520.	
5–140–910	Compliance supplement pool budget	7/17/02	7/8/03, 68 FR 40520.	
5–140–920	Total electric generating unit allocations.	7/17/02	7/8/03, 68 FR 40520.	
5–140–930	Total non-electric generating unit allocations.	7/17/02	7/8/03, 68 FR 40520.	
Chapter 160 Regulation for General Conformity				
Part I General Definitions				
5–160–10	General	1/1/98	1/7/03, 68 FR 663.	
5–160–20	Terms Defined	1/1/97	10/21/97, 62 FR 54585.	
5–160–20	Terms Defined	1/1/97 1/1/98	1/7/03, 68 FR 663	Terms revised-Emergency Terms deleted-Administrative Process Act, Confidential information, Consent agreement, Consent order, Emergency special order, Formal hearing, Order, Party, Public hearing, Special order, Variance, Virginia Register Act.
Part II General Provisions				
5–160–30	Applicability	1/1/97	10/21/97, 62 FR 54585.	
5–160–40	Authority of board and department	1/1/97	10/21/97, 62 FR 54585.	
5–160–80	Relationship of state regulations to federal regulations.	1/1/97	10/21/97, 62 FR 54585.	
Part III Criteria and Procedures for Making Conformity Determinations				
5–160–110	General	1/1/97	10/21/97, 62 FR 54585	§ 52.2465(c)(118).
5–160–120	Conformity analysis	1/1/97	10/21/97, 62 FR 54585.	
5–160–130	Reporting requirements	1/1/97	10/21/97, 62 FR 54585.	
5–160–140	Public participation	1/1/97	10/21/97, 62 FR 54585.	
5–160–150	Frequency of conformity determinations.	1/1/97	10/21/97, 62 FR 54585.	
5–160–160	Criteria for determining conformity	1/1/97	10/21/97, 62 FR 54585.	
5–160–170	Procedures for conformity determinations.	1/1/97	10/21/97, 62 FR 54585.	
5–160–180	Mitigation of air quality impacts	1/1/97	10/21/97, 62 FR 54585.	
5–160–190	Savings provision	1/1/97	10/21/97, 62 FR 54585.	
5–160–200	Review and confirmation of this chapter by board.	1/1/97	10/21/97, 62 FR 54585.	
Chapter 170 Regulation for General Administration				
Part I Definitions				
5–170–10	Use of Terms	1/1/98	1/7/03, 68 FR 663	Split out from 9 VAC 5–10–10.
5–170–20	Terms Defined	1/1/98	1/7/03, 68 FR 663	Split out from 9 VAC 5–10–20 and 5–160–20 Terms Added-Public hearing, Regulation of the Board Terms Revised from 4/17/95 version-Consent agreement, Consent order, Emergency special order, Order, Owner, Person, Pollutant, Special Order, Source.
Part II General Provisions				
5–170–30	Applicability	1/1/98	1/7/03, 68 FR 663	Split out from 9 VAC 5–20–10.
5–170–60	Availability of Information	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–150 and 5–160–100.
Part V Enforcement				
5–170–120A.–C.	Enforcement of Regulations, Permits and Orders.	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–30A.–D. and 5–160–60.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–170–130A.	Right of Entry	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–100.
Part VI Board Actions				
5–170–150	Local Ordinances	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–60.
5–170–160	Conditions on Approvals	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–110.
5–170–170	Considerations for Approval Actions	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–140.
Chapter 200 National Low Emission Vehicle Program				
5–200–10	Definitions	4/14/99	12/28/99, 64 FR 72564.	
5–200–20	Participation in national LEV	4/14/99	12/28/99, 64 FR 72564.	
5–200–30	Transition from national LEV requirements to a Virginia Sec. 177 program.	4/14/99	12/28/99, 64 FR 72564.	
2 VAC 5 Chapter 480 Regulation Governing the Oxygenation of Gasoline				
5–480–10	Definitions	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 1.
5–480–20	Applicability	11/1/96	2/17/00, 65 FR 8051.	
5–480–30	Minimum oxygenate content	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 3.
5–480–40	Nature of oxygenates	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 4.
5–480–50	Record keeping and transfer requirements.	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 5.
5–480–60	Gasoline pump labeling	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 6.
5–480–70	Sampling, testing and oxygen content calculations.	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 7.
5–480–80	Compliance and enforcement	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 8.
Code of Virginia				
Section 10.1–1316.1A. Through D.	Severe ozone nonattainment areas; fees.	7/1/04	12/29/04, 69 FR 77909	Provision authorizes the Department of Environmental Quality (DEQ) to collect Federal penalty fees from major stationary sources if the nonattainment area does not attain the ozone standard by the statutory attainment date.

(d) *EPA-Approved State Source Specific Requirements*

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS

Source name	Permit/order or registration number	State effective date	EPA approval date	40 CFR part 52 citation
Norfolk Naval Base-Exchange Service Station.	[NONE]	8/6/79	8/17/81, 46 FR 41499	52.2465(c)(41).
Reynolds Metal Co.—Rolling Mill	DSE–597–87	9/30/87	8/20/90, 55 FR 33904	52.2465(c)(92).
Aqualon (Hercules) Company	50363	9/26/90	11/1/91, 56 FR 56159	52.2465(c)(93).
Nabisco Brands, Inc.	DTE–179–91	4/24/91	3/6/92, 57 FR 8080	52.2465(c)(95).
Burlington Industries	30401	11/19/91	3/18/92, 57 FR 9388	52.2465(c)(96).
Reynolds Metals. Co.—Bellwood	DSE–413A–86	10/31/86	6/13/96, 61 FR 29963	52.2465(c)(110).
Reynolds Metal Co.—Richmond Foil Plant.	DSE–412A–86	10/31/86	6/13/96, 61 FR 29963	52.2465(c)(110).
Philip Morris, Inc.—Blended Leaf Facility.	50080	2/27/86	10/14/97, 62 FR 53277	52.2465(c)(120).
Philip Morris, Inc.—Park 500 Facility	50722	3/26/97	10/14/97, 62 FR 53277	52.2465(c)(120).
Philip Morris, Inc.—Richmond Manufacturing Center.	50076	7/13/96	10/14/97, 62 FR 53277	52.2465(c)(120).
Virginia Electric and Power Co.—Innsbrook Technical Center.	50396	5/30/96	10/14/97, 62 FR 53277	52.2465(c)(120).
Hercules, Inc.—Aqualon Division	V–0163–96	7/12/96	10/14/97, 62 FR 53277	52.2465(c)(120).
City of Hopewell—Regional Wastewater Treatment Facility.	50735	5/30/96	10/14/97, 62 FR 53277	52.2465(c)(120).
Allied Signal, Inc.—Hopewell Plant	50232	3/26/97	10/14/97, 62 FR 53277	52.2465(c)(121).

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS—Continued

Source name	Permit/order or registration number	State effective date	EPA approval date	40 CFR part 52 citation
Allied Signal, Inc.—Chesterfield Plant	V–0114–96	5/20/96	10/14/97, 62 FR 53277	52.2465(c)(121).
Bear Island Paper Co. L.P.	V–0135–96	7/12/96	10/14/97, 62 FR 53277	52.2465(c)(121).
Stone Container Corp.—Hopewell Mill	50370	5/30/96	10/14/97, 62 FR 53277	52.2465(c)(121).
E.I. Dupont de Nemours and Co.—Spruance Plant.	V–0117–96	5/30/96	10/14/97, 62 FR 53277	52.2465(c)(121).
ICI Americas Inc.—Films Division-Hopewell Site.	50418	5/30/96	10/14/97, 62 FR 53277	52.2465(c)(121).
Tuscarora, Inc.	71814	6/5/96	1/22/99, 64 FR 3425	52.2465(c)(128).
Potomac Electric Power Company (PEPCO)—Potomac River Generation Station [Permit to Operate].	Registration No. 70228; County-Plant No. 510–0003.	9/18/00	12/14/00, 65 FR 78100	52.2420(d)(2).
Virginia Power (VP)—Possum Point Generating Station [Permit to Operate].	Registration No. 70225; County-Plant No. 153–0002.	9/26/00	12/14/00, 65 FR 78100	52.2420(d)(2).
Cellofoam North America, Inc.—Falmouth Plant [Consent Agreement].	Registration No. 40696 FSO–193–98.	8/10/98	1/02/01, 66 FR 8	52.2420(d)(3).
CNG Transmission Corporation—Leesburg Compressor Station [Permit to Operate].	Registration No. 71978 County-Plant No. 107–0101.	5/22/00	1/02/01, 66 FR 8	52.2420(d)(3).
Columbia Gas Transmission Company—Loudoun County Compressor Station [Permit to Operate].	Registration No. 72265 County-Plant No. 107–0125.	5/23/00	1/02/01, 66 FR 8	52.2420(d)(3).
District of Columbia's Department of Corrections—Lorton Correctional Facility [Permit to Operate].	Registration NO. 70028 County-Plant No. 0059–0024.	12/10/99	1/02/01, 66 FR 8	52.2420(d)(3).
Michigan Cogeneration Systems, Inc.—Fairfax County I–95 Landfill [Permit to Operate].	Registration No. 71961 County-Plant No. 0059–0575.	5/10/00	1/02/01, 66 FR 8	52.2420(d)(3).
Metropolitan Washington Airports Authority—Ronald Reagan Washington National Airport [Permit to Operate].	Registration No. 70005 County-Plant No. 0013–0015.	5/22/00	1/02/01, 66 FR 8	52.2420(d)(3).
Norman M. Cole, Jr., Pollution Control Plant [Consent Agreement].	Registration No. 70714.	12/13/99	1/02/01, 66 FR 8	52.2420(d)(3).
Ogden Martin Systems of Alexandria/Arlington, Inc. [Consent Agreement].	Registration No. 71895 NVRO–041–98.	7/31/98	1/02/01, 66 FR 8	52.2420(d)(3).
Ogden Martin Systems of Fairfax, Inc. [Consent Agreement].	Registration No. 71920.	4/3/98	1/02/01, 66 FR 8	52.2420(d)(3).
U.S. Department of Defense—Pentagon Reservation [Permit to Operate].	Registration No. 70030 County-Plant No. 0013–0188.	5/17/00	1/02/01, 66 FR 8	52.2420(d)(3).
Potomac Electric Power Company (PEPCO)—Potomac River Generating Station [Consent Agreement].	Registration No. 70228 NVRO–106–98.	7/31/98	1/02/01, 66 FR 8	52.2420(d)(3) NO_X RACT requirements.
Potomac Electric Power Company (PEPCO)—Potomac River Generating Station.	Registration No. 70228; County Plant No. 510–0003.	5/8/00	1/02/01, 66 FR 8	52.2420(d)(3) VOC RACT requirements.
United States Marine Corps.—Quantico Base [Permit to Operate].	Registration No. 70267 County-Plant No. 153–0010.	5/24/00	1/02/01, 66 FR 8	52.2420(d)(3).
Transcontinental Gas Pipeline Corporation—Compressor Station No. 185 [Consent Agreement].	Registration No. 71598.	9/5/96	1/02/01, 66 FR 8	52.2420(d)(3).
U.S. Army Garrison at Fort Belvoir [Permit to Operate].	Registration No. 70550 County-Plant No. 059–0018.	5/16/00	1/02/01, 66 FR 8	52.2420(d)(3).

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS—Continued

Source name	Permit/order or registration number	State effective date	EPA approval date	40 CFR part 52 citation
Virginia Power (VP)—Possum Point Generating Station [Permit containing NO_X RACT requirements].	Registration No. 70225 County-Plant No. 153–0002.	7/21/00	1/02/01, 66 FR 8	52.2420(d)(3).
Virginia Electric and Power Company—Possum Point Generating Station [Consent Agreement containing VOC RACT requirements].	Registration No. 70225.	6/12/95	1/02/01, 66 FR 8	52.2420(d)(3).
Washington Gas Light Company—Springfield Operations Center [Consent Agreement].	Registration No. 70151 NVRO–031–98.	4/3/98	1/02/01, 66 FR 8	52.2420(d)(3).
Georgia Pacific—Jarratt Softboard Plant.	Registration No. 50253.	9/28/98	3/26/03, 68 FR 14542	40 CFR 52.2420(d)(4); Note: In Section E, Provision 1, the portion of the text which reads "* * *and during periods of start-up, shutdown, and malfunction." is not part of the SIP.
Prince William County Landfill	Registraton No. 72340.	4/16/04	9/9/04, 69 FR 54581 ...	52.2420(d)(5).
Washington Gas Company, Ravensworth Station.	Registration No. 72277.	4/16/04, 8/11/04	10/06/2004, 69 FR 59812.	52.2420(d)(6).
Central Intelligence Agency (CIA), George Bush Center for Intelligence.	Registration No. 71757.	4/16/04	12/13/04, 69 FR 72115	52.2420(d)(6).
National Reconnaissance Office, Boeing Service Center.	Registration No. 71988.	4/16/04	12/13/04, 69 FR 72115	52.2420(d)(6).
Roanoke Electric Steel Corp.	Registration No. 20131.	12/22/04	4/27/05, 70 FR 21621	52.2420(d)(7).
Roanoke Cement Company	Registraton No. 20232.	12/22/04	4/27/05, 70 FR 21621	52.2420(d)(7).
Norfolk Southern Railway Company—East End Shops.	Registration No. 20468.	12/22/04	4/27/05 70 Fr 21621 ...	52.2420(d)(7).
Global Stone Chemstone Corporation	Registration No. 80504.	02/09/05	4/27/05 70 FR 21621 ..	52.2420(d)(7).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[KYN–2005–01; FRL–7993–5]

New Stationary Sources; Supplemental Delegation of Authority to the Commonwealth of Kentucky Department for Environmental Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The Commonwealth of Kentucky Department for Environmental Protection (KYDEP or agency) has requested that EPA delegate authority for implementation and enforcement of existing New Source Performance Standards (NSPS) which have been previously adopted by the agency but have remained undelegated by EPA, and has requested that EPA approve the mechanism for delegation (adopt-by-reference) of future NSPS. The purpose of KYDEP's request for approval of its delegation mechanism is to streamline existing administrative procedures by eliminating any unnecessary steps involved in the Federal delegation process. With this NSPS delegation mechanism in place, a new or revised NSPS promulgated by EPA will become effective in the Commonwealth of Kentucky on the date the NSPS is adopted-by-reference pursuant to a rulemaking of the Commonwealth of Kentucky's Natural Resources and Environmental Protection Cabinet, if the agency adopts the NSPS without change. "Adopt-by-reference" means the EPA promulgated standard has been adopted directly into the State regulations by reference to the Federal law. No further agency requests for delegation will be necessary. Likewise, no further **Federal Register** notices will be published.

In this action, EPA is delegating authority to KYDEP for implementation and enforcement of existing New Source Performance Standards (NSPS) which have been previously adopted by KYDEP and which are identified in the Supplementary Information section below. In addition, EPA is approving KYDEP's "adopt-by-reference" mechanism for delegation of future NSPS.

DATES: The effective date is November 3, 2005.

ADDRESSES: Copies of the request for delegation of authority are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 4, Air Toxics and Monitoring Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601.

Effective immediately, all requests, applications, reports and other correspondence required pursuant to the delegated standards should not be submitted to the Region 4 office, but should instead be submitted to the following address:

Natural Resources and Environmental Protection Cabinet, Department for

Environmental Protection, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Keith Goff, Air Toxics and Monitoring Branch, Environmental Protection Agency, Region 4, 61 Forsyth St. SW., Atlanta, Georgia 30303, 404–562–9137. E-mail: *goff.keith@epa.gov.*

SUPPLEMENTARY INFORMATION: Sections 101, 110, 111(c)(1), and 301 of the Clean Air Act authorize EPA to delegate authority to implement and enforce the standards set out in 40 CFR Part 60, New Source Performance Standards (NSPS). On April 12, 1977, EPA initially delegated the authority for implementation and enforcement of the NSPS program to the KYDEP. This agency has subsequently requested a delegation of authority for implementation and enforcement of the previously adopted, undelegated part 60 NSPS categories listed below.

1. 40 CFR part 60, subpart Ea, adopted September 10, 2003.
2. 40 CFR part 60, subpart Eb, adopted September 10, 2003.
3. 40 CFR part 60, subpart Ec, adopted September 10, 2003.
4. 40 CFR part 60, subpart OOO, adopted July 17, 2000.
5. 40 CFR part 60, subpart WWW, adopted September 10, 2003.
6. 40 CFR part 60, subpart AAAA, adopted September 10, 2003.
7. 40 CFR part 60, subpart CCCC, adopted September 10, 2003.

EPA's review of Kentucky's pertinent laws, rules, and regulations has shown them to be adequate for implementation and enforcement of these existing, previously adopted, undelegated NSPS. Based on this review, EPA has determined that delegation of the above-referenced NSPS is appropriate, with the non-delegable exceptions noted below. All sources subject to the delegable requirements in these NSPS subparts will now be under the jurisdiction of the KYDEP, although EPA reserves the right to implement the Federal NSPS directly and continues to retain concurrent enforcement authority. The NSPS subparts and portions of subparts that may not be delegated, and are therefore not delegated by this action are:

1. Subpart A—§ 60.8(b) (2) and (3), § 60.11(e) (7) and (8), § 60.13 (g), (i) and (j)(2)
2. Subpart B—§ 60.22, § 60.27, and § 60.29
3. Subpart Da—§ 60.45a
4. Subpart Db—§ 60.44b(f), § 60.44b(g), § 60.49b(a)(4)
5. Subpart Dc—§ 60.48c(a)(4)
6. Subpart Ec—§ 60.56c(i)
7. Subpart J—§ 60.105(a)(13)(iii), § 60.106(i)(12)
8. Subpart Ka—§ 60.114a
9. Subpart Kb—§ 60.111b(f)(4), § 60.114b, § 60.116b(e)(3) (iii) and (iv), § 60.116b(f)(2)(iii)
10. Subpart O—§ 60.153(e)
11. Subpart EE—§ 60.316(d)
12. Subpart GG—§ 60.334(b)(2), § 60.335(f)(1)
13. Subpart RR—§ 60.446(c)
14. Subpart SS—§ 60.456(d)
15. Subpart TT—§ 60.466(d)
16. Subpart UU—§ 60.474(g)
17. Subpart VV—§ 60.482–1(c)(2) and § 60.484
18. Subpart WW—§ 60.496(c)
19. Subpart XX—§ 60.502(e)(6)
20. Subpart AAA—§ 60.531, § 60.533, § 60.534, § 60.535, § 60.536(i)(2), § 60.537, § 60.538(e), § 60.539
21. Subpart BBB—§ 60.543(c)(2)(ii)(B)
22. Subpart DDD—§ 60.562–2(c)
23. Subpart III—§ 60.613(e)
24. Subpart NNN—§ 60.663(e)
25. Subpart RRR—§ 60.703(e)
26. Subpart SSS—§ 60.711(a)(16), § 60.713(b)(1)(i), § 60.713(b)(1)(ii), § 60.713(b)(5)(i), § 60.713(d), § 60.715(a), § 60.716
27. Subpart TTT—§ 60.723(b)(1), § 60.723(b)(2)(i)(C), § 60.723(b)(2)(iv), § 60.724(e), § 60.725(b)
28. Subpart VVV—§ 60.743(a)(3)(v)(A) and (B), § 60.743(e), § 60.745(a), § 60.746
29. Subpart WWW—§ 60.754(a)(5)

In addition, EPA is approving KYDEP's ''adopt-by-reference'' delegation mechanism for future NSPS. EPA's review of the pertinent laws, rules, and regulations for the agency has shown them to be adequate for implementation and enforcement of existing, previously adopted, undelegated NSPS and future NSPS. Future NSPS regulations will contain a list of sections that cannot be delegated for that subpart. With this NSPS ''adopt-by-reference'' delegation mechanism in place, a new or revised NSPS promulgated by EPA will become effective in the Commonwealth of Kentucky on the date the NSPS is adopted-by-reference pursuant to a rulemaking of the Commonwealth of Kentucky's Natural Resources and Environmental Protection Cabinet, if the agency adopts the NSPS without change. EPA reserves the right to implement the Federal NSPS directly and continues to retain concurrent enforcement authority.

Statutory and Executive Order Reviews

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 imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this action 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 action delegates pre-existing requirements under Federal law and does not impose any additional enforceable duty beyond that required by Federal 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 action 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 delegates the implementation and enforcement of an existing Federal standard and approves a delegation mechanism for future Federal standards, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This action 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. The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, as that term is defined in 5 U.S.C. 804(3).

In reviewing delegation requests and mechanisms for delegation, 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 delegation request or disapprove a proposed delegation mechanism for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a delegation request or proposed delegation mechanism, to use VCS in place of a delegation request or proposed delegation mechanism 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 action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This action granting delegation authority for implementation and enforcement of existing New Source Performance Standards and approving a delegation mechanism for future NSPS is issued under the authority of sections 101, 110, 111, and 301 of the Clean Air Act, 42 U.S.C. 7401, 7410, 7411, and 7601.

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

Dated: October 17, 2005.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 05–21925 Filed 11–2–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 388

[Docket Number: MARAD–2005–21105]

RIN 2133–AB50

Application Fee Increase for Administrative Waivers of the Coastwise Trade Laws

AGENCY: Maritime Administration, Transportation.

ACTION: Final rule.

SUMMARY: This final rule increases the application fee for administrative waivers of the coastwise trade laws from $300 to $500. The increased fee will align the application fee with the actual cost of processing and issuing each waiver.

DATES: This final rule is effective December 5, 2005.

FOR FURTHER INFORMATION CONTACT: Sharon Cassidy, Office of Ports and Domestic Shipping, Maritime Administration, MAR–830, 400 7th St., SW., Rm. 7201 Washington, DC 20590; telephone: (202) 366–5506.

SUPPLEMENTARY INFORMATION: Title V of the Independent Offices Appropriations Act of 1952 (''IOAA''; 31 U.S.C. 9701) authorizes Federal agencies to establish and collect user fees. The statute provides that each service or thing of value provided by an agency should be self-sustaining to the extent possible, and that each charge shall be fair and based on the costs to the Government, the value of the service or thing to the recipient, the policy or interest served, and other relevant factors. 31 U.S.C. 9701.

The primary guidance for implementation of the IOAA is Office of Management and Budget (OMB) Circular No. A–25 (''User Charges,'' July 8, 1993). Circular A–25 directs agencies to assess user charges against identifiable recipients for special benefits derived from Federal activities beyond those received by the general public. Circular A–25, section 6. Circular A–25 further directs agencies, with limited exceptions, to recover the full cost of providing a Government service from the direct recipients of special benefits. Section 6(d) of Circular A–25 defines ''full cost'' as including ''all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service.''

Pursuant to these directives, MARAD is proposing to increase the application fee for administrative waivers of the coastwise trade laws under 46 CFR part 388 for eligible small vessels. Under 46 CFR part 388, owners of small passenger vessels may apply for waivers of the U.S.-build requirements of the Passenger Vessel Services Act and section 27 of the Merchant Marine Act, 1920, to allow the carriage of no more than 12 passengers for hire in the coastwise trade. Because waivers under part 388 represent special benefits to identifiable recipients (i.e., vessel owners) that are beyond the benefits and services normally received by the general public, the IOAA and Circular A–25 direct MARAD to assess user fees for providing this service. The current application fee for a waiver is $300. MARAD proposes to increase this fee to $500 as set forth below.

Following the principles embodied in Circular A–25, MARAD examined the costs associated with processing and issuing waivers under part 388 to determine if the current $300 fee recovers the full costs of administering the program. The main cost components of the program include direct and indirect personnel costs and **Federal Register** publication costs. Our review of the program determined that average personnel costs for processing each uncontested application are $204.50 and $1118.50 for each contested application (on average, 7% of all waiver applications are contested, based on the 236 applications sampled for our analysis). Thus, the total average personnel costs are $268.48 for processing each application. The second main cost component of the program is the cost of publishing notices of waiver applications in the **Federal Register**. The current **Federal Register** publication cost is $155 per column and the average length of a public notice published for this program is 1.5 columns. Thus, the total average publication cost is $232.50. The sum total of personnel costs and **Federal Register** publication costs is $500.98. Therefore, MARAD is proposing to raise the application fee from $300 to $500 in order to recover these costs.

On May 12, 2005, MARAD published a notice of proposed rulemaking in the **Federal Register** (70 FR 25010) that sought comments on the proposed fee increase. No comments were received.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not likely to result in an annual effect on the economy of $100 million or more. This rule is also not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034, February 26, 1979). The costs and economic impact associated with this rulemaking are considered to be so minimal that no further analysis is necessary.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Maritime Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. While this rule will affect businesses that qualify as small entities under Small Business Administration guidelines, MARAD does not believe that the modest increase in this one-time, non-recurring fee (unless an applicant must reapply due to a revocation) will result in a significant economic impact on small entities. Further, MARAD is required under Federal directives to assess recipients of special governmental services reasonable charges to recover the costs of providing such services.

Federalism

We have analyzed this rule in accordance with the principles and criteria contained in Executive Order 13132 (Federalism) and have determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. These regulations have no substantial effects on the States, the current Federal-State relationship, or the current distribution of power and responsibilities among local officials. Therefore, consultation with State and local officials is not necessary.

Executive Order 13175

MARAD does not believe that this rulemaking will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). Therefore, the funding and consultation requirements of this Executive Order do not apply.

Environmental Impact Statement

We have analyzed this rule for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have concluded that under the categorical exclusions in section 4.05 of Maritime Administrative Order (MAO) 600–1, ''Procedures for Considering Environmental Impacts,'' 50 FR 11606 (March 22, 1985), neither the preparation of an Environmental Assessment, an Environmental Impact Statement, nor a Finding of No Significant Impact for this rulemaking is required.

Unfunded Mandates Reform Act of 1995

This rule does not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This rule is the least burdensome alternative that achieves this objective of U.S. policy.

Paperwork Reduction Act

This rule contains information collection requirements covered by the Office of Management and Budget approval number 2133–0529. The changes have no impact on the reporting burden.

List of Subjects in 46 CFR 388

Administrative practice and procedure, Maritime carriers, Passenger vessels, Reporting and recordkeeping requirements.

■ Accordingly, the Maritime Administration amends 46 CFR chapter II, subchapter J, by amending part 388 as follows.

PART 388—ADMINISTRATIVE WAIVERS OF THE COASTWISE TRADE LAWS

■ 1. The authority citation for part 388 continues to read as follows:

Authority: 46 App. U.S.C. 1114(b); Pub. L. 105–383, 112 Stat. 3445 (46 U.S.C. 12106 note); 49 CFR 1.66.

■ 2. Amend § 388.3 by revising paragraph (a)(1) and the introductory text of paragraph (a)(2) to read as follows:

§ 388.3 Application and fee.

(a) * * *

(1) The application form contained on MARAD's Web site at *http://www.marad.dot.gov* may be submitted electronically with credit card or Automated Clearinghouse (ACH) payment of the $500 application fee.

(2) Alternatively, applicants may send written applications to Small Vessel Waiver Applications, Office of Ports and Domestic Shipping, MAR–830, Room 7201, 400 7th St., SW., Washington, DC 20590. Written applications need not be in any particular format, but must be signed, be accompanied by a check for $500 made out to the order of ''Maritime Administration'', and contain the following information:

* * * * *

Dated: October 31, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05–21924 Filed 11–2–05; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 051028281–5281–01; I.D. 101705C]

RIN 0648–AT99

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery

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

ACTION: Final rule.

SUMMARY: This final rule amends current regulatory text regarding boundaries for the essential fish habitat (EFH) closures that were established by Framework 16 to the Atlantic Sea Scallop (Scallop) Fishery Management Plan (FMP) and Framework 39 to the Northeast Multispecies (NE Multispecies) FMP (Joint Frameworks 16/39) in order to reflect recent court orders in *Oceana* v. *Evans*, vacating such text and reinstating boundaries for EFH closures established by Amendment 10 to the Scallop FMP (Amendment 10). This final rule also revises the Scallop Access Area boundaries to be consistent with the redefined EFH closed areas.

DATES: Effective November 3, 2005.

ADDRESSES: Copies of Amendment 13 to the NE Multispecies FMP, Amendment 10, Joint Frameworks 16/39, their Regulatory Impact Reviews (RIR), including the Initial Regulatory Flexibility Analyses (IRFA), and the Environmental Assessment and Environmental Impact Statements are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at *http://www.nefmc.org*.

FOR FURTHER INFORMATION CONTACT: Peter W. Christopher, Fishery Policy Analyst, (978) 281–9288; fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: On May 1, 2004, NMFS implemented approved measures in Amendment 13 to the NE Multispecies FMP (Amendment 13), which was developed and recommended by the New England Fishery Management Council (NEFMC) (69 FR 22906, April 27, 2004). Among the implemented measures was a description of boundaries of certain areas of the ocean closed to all mobile fishing gear for the protection of NE multispecies EFH (§ 648.81(h)). Subsequent to the implementation of Amendment 13, on July 23, 2004, NMFS implemented approved measures in Amendment 10, which was also developed and recommended by the NEFMC (69 FR 35194, June 23, 2004). Amendment 10 also included a description of boundaries of certain areas of the ocean closed to scallop fishing for the protection of NE multispecies, and EFH for other species, from the effects of scallop fishing gear (§ 648.61). The Amendment 10 EFH

closures were defined by somewhat different boundaries than the EFH closures implemented by Amendment 13. Because the EFH closures under Amendment 10 were designed primarily to protect multispecies EFH, the NEMFC, through Joint Frameworks 16/39, recommended that the Amendment 10 EFH closed area boundaries be identical to the Amendment 13 EFH closed area boundaries. On November 2, 2004, NMFS implemented the recommended Joint Frameworks 16/39 EFH closed area boundaries, thereby replacing the boundaries contained in regulations implementing Amendment 10 (69 FR 63460, November 2, 2004).

Oceana, Inc., challenged Amendment 10 and Joint Frameworks 16/39 in *Oceana* v. *Evans*, et al., (Civil Action No. 04–810, D.D.C., August 2, 2005, and October 6, 2005), on several grounds, including the validity of changing the Amendment 10 EFH closed area boundaries through a framework procedure, namely Joint Frameworks 16/39. On August 2, 2005, the court ruled that Amendment 10 EFH closed area boundaries could not be changed through a framework procedure. Based on this finding, the Court ordered the vacatur of Joint Frameworks 16/39 regulations, which changed the EFH closed area boundaries and stated that the ''practical result of the Court's holding is that, for the time being, both the habitat closures in Amendment 10 and the habitat closure in Amendment 13 will remain in place.'' (*Oceana* v. *Evans*, (Order #73, August 2, 2005) p. 87). NMFS subsequently asked the Court for clarification on whether this statement meant that Amendment 10 EFH closures are automatically reinstated by the Court's order. On October 6, 2005, the Court issued another order in response to the request for clarification stating '' the Court's August 2, 2005 Order [#73] is clarified to the extent that it reinstates the habitat area closures established by Amendment 10 so it is not necessary for defendants to repromulgate those closures . . . . '' (*Oceana* v. *Evans*, (Order #83, October 6, 2005) p. 1).

This final rule is necessary to ensure that the **Federal Register** and Code of Federal Regulations accurately reflects the Court's order reinstating Amendment 10 EFH closures and to make the Scallop Access Area boundaries specified in § 648.59 consistent with the redefined EFH closed areas. This rule provides sufficient notice to the scallop industry and the public of the effect of the Court's order. As a result, it is more likely the scallop industry will come into immediate compliance with the Amendment 10 EFH closures and NMFS's ability to enforce violations of this rule effectively will be enhanced.

Classification

The Regional Administrator previously determined that Amendment 10 is necessary for the conservation and management of the Atlantic sea scallop fishery and is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law. This action does not change that determination.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

The requirement for notice and comment rulemaking is waived for good cause pursuant to 5 U.S.C. 553(b)(B) because it would be unnecessary and impracticable. Notice and comment rulemaking for this rule is unnecessary and impracticable because the agency must act immediately in order to bring regulations into compliance with the court order in *Oceana* v. *Evans*. The agency, therefore, has no discretion as to the substance or timing of this rule. Accordingly, notice and comment rulemaking would serve no purpose and would inappropriately delay amending regulations necessary to reflect the court order. Because the agency must act immediately to bring regulations into compliance with the court order, it has no discretion to delay the rule's effectiveness. Therefore, there is good cause to waive the requirement to delay effectiveness of the rule pursuant to 5 U.S.C. 553(d)(3).

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

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: October 28, 2005.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons stated in the preamble, 50 CFR, part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.59, paragraphs (b)(3), and (d)(3) are revised to read as follows:

§ 648.59 Sea Scallop Access Areas.

* * * * *

(b) * * *

(3) The Closed Area I Access Area is defined the straight lines connecting the points in the order stated in the following table (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
CAIA1	41°26′ N.	68°30′ W.
CAIA2	41°09′ N.	68°30′ W.
CAIA3	41°4.54′ N.	69°0.9′ W.
CAIA1	41°26′ N.	68°30′ W.

* * * * *

(d) * * *

(3) The Nantucket Lightship Sea Scallop Access Area is defined by straight lines connecting the points in the order stated in the following table (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
NLSA1	40°50′ N.	69°00′ W.
NLSA2	40°30′ N.	69.00′ W.
NLSA3	40°30′ N.	69°14.5′ W.
NLSA4	40°50′ N.	69°29.5′ W.
NLSA1	40°50′ N.	69°00′ W.

* * * * *

■ 3. Section 648.61 is revised to read as follows:

§ 648.61 EFH closed areas.

Notwithstanding any other provision of this part, the following areas identified in paragraphs (a) through (e) of this section are closed to scallop fishing to protect EFH from adverse effects of scallop fishing (copies of charts depicting these areas are available from the Regional Administrator upon request):

(a) *Closed Area I EFH Closure.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Closed Area I EFH Closure. No vessel may possess scallops in the Closed Area I EFH Closure, unless such vessel is only transiting the area as provided in paragraph (e) of this section. The Closed Area I EFH Closure consists of two sections, defined by straight lines connecting the points in the order stated in the following table:

SECTION 1

Point	Latitude	Longitude
CAIE1	41°30′ N.	69°23′ W.
CAIE2	41°30′ N.	68°35′ W.
CAIE3	41°08′ N.	69°4.2′ W.
CAIE4	41°30′ N.	69°23′ W.

SECTION 2

Point	Latitude	Longitude
CAIE5	41°04.5′ N.	69°1.2′ W.
CAIE6	41°09′ N.	68°30′ W.
CAIE7	40°45′ N.	68°30′ W.
CAIE8	40°45′ N.	68°45′ W.
CAIE5	41°04.5′ N.	69°1.2′ W.

(b) *Closed Area II EFH Closure.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Closed Area II EFH Closure. No vessel may possess scallops in the Closed Area II EFH Closure, unless such vessel is only transiting the area as provided in paragraph (e) of this section. The Closed Area II EFH Closure is defined by straight lines connecting the points in the order stated in the following table:

Point	Latitude	Longitude
CAIIE1	42°22′ N.	67°20′ W.[1]
CAIIE2	41°30′ N.	66°34.8′ W.[1]
CAIIE3	41°30′ N.	67°20′ W.
CAIIE1	42°22′ N.	67°20′ W.[1]

[1] The U.S/Canada Maritime Boundary

(c) *Nantucket Lightship Closed Area EFH Closure.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Nantucket Lightship Closed Area EFH Closure. No vessel may possess scallops in the Nantucket Lightship Closed Area EFH Closure, unless such vessel is only transiting the area as provided in paragraph (e) of this section. The Nantucket Lightship Closed Area EFH Closure is defined by straight lines connecting the points in the order stated in the following table:

Point	Latitude	Longitude
NLSE1	40°50′ N.	70°20′ W.
NLSE2	40°50′ N.	69°29.5′ W.
NLSE3	40°30′ N.	69°14.5′ W.
NLSE4	40°30′ N.	69°00′ W.
NLSE5	40°20′ N.	69°00′ W.
NLSE6	40°20′ N.	70°20′ W.
NLSE1	40°50′ N.	70°20′ W.

(d) *Western Gulf of Maine EFH Closure.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Western Gulf of Maine EFH Closure. No vessel may possess scallops in the Western Gulf of Maine EFH Closure, unless such vessel is only transiting the area as provided in paragraph (e) of this section. The Western Gulf of Maine EFH Closure is defined by straight lines connecting the points in the order stated in the following table:

Point	Latitude	Longitude
WGOM1	43°15′ N.	70°15′ W.
WGOM2	43°15′ N.	69°55′ W.
WGOM3	42°15′ N.	69°55′ W.
WGOM4	42°15′ N.	70°15′ W.
WGOM1	43°15′ N.	70°15′ W.

(e) *Transiting.* A vessel may transit the area(s) specified in paragraphs (a), (c), and (d) of this section, provided that its gear is stowed in accordance with the provisions of § 648.23(b). A vessel may transit the area specified in paragraph (b) of this section, in accordance with § 648.81(b)(2)(iv).

[FR Doc. 05–21953 Filed 10–31–05; 2:09 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 212
Thursday, November 3, 2005

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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

RIN 3245–AE83

Business Loans and Development Company Loans; Liquidation and Litigation Procedures

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule: Establishes procedures for Certified Development Companies (CDCs) that are eligible for, and that request, authority from SBA to handle liquidation and litigation of loans that are funded with the proceeds of debentures guaranteed by the SBA under the 504 business loan program, and rights of appeal from denied applications; provides for new liquidation and debt collection litigation procedures for authorized CDCs and for lenders participating in the 7(a) business loan program (Lenders); establishes procedures for, and restrictions on, the payment by SBA of legal fees and expenses to CDCs and Lenders; requires Lenders to complete all cost-effective debt recovery actions prior to requesting guaranty purchase by SBA; limits to 120 days the number of days of interest that SBA will pay Lenders on 7(a) loans that have gone into default; revises SBA regulations pertaining to loan servicing actions; states that for 7(a) loans approved after the effective date of this rule, a Lender's consent to SBA's sale of certain 7(a) loans after guaranty purchase is granted; and clarifies existing regulations regarding the applicability of SBA regulations and loan program requirements, and regarding SBA purchases of guaranties.

DATES: Comments must be received on or before January 3, 2006.

ADDRESSES: You may submit written comments, identified by agency name and RIN number for this rulemaking, by any of the following methods: Follow instructions for submitting electronic comments through the Federal eRulemaking Portal: *http://www.regulations.gov*; E-mail: *james.hammersley@sba.gov*, Include RIN number in the subject line of the message; Fax: (202) 481–2381; Mail or Hand Delivery/Courier: James Hammersley, Acting Assistant Administrator, Office of Portfolio Management, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Walter C. Intlekofer, Director, Portfolio Management Division, Office of Financial Assistance, (202) 205–7543, *walter.intlekofer@sba.gov*.

SUPPLEMENTARY INFORMATION: Section 7(a) of the Small Business Act (''Act''), 15 U.S.C. 636(a), authorizes SBA to guarantee loans made by Lenders to eligible small businesses (''7(a) loans''). Under the 504 business loan program, as authorized by Title V of the Small Business Investment Act (''SBI Act''), 15 U.S.C. 695–697g, SBA guarantees the repayment of debentures issued by CDCs for purchase by investors. The proceeds from the sale of 504 debentures are loaned to eligible small businesses to finance up to 40% of the cost of long-term fixed assets (''504 loans''). If the borrower defaults on the repayment of a 504 or 7(a) loan, liquidation of the collateral securing the loan and debt collection litigation generally take place to recover as much of the loan balance as possible.

Historically, SBA approval was needed for many servicing actions by Lenders and CDCs, and Agency personnel handled most liquidation and debt collection litigation on defaulted loans. In the past decade, however, Congress and SBA have delegated increased responsibilities to certain Lenders and CDCs to perform liquidation and debt collection litigation of 7(a) and 504 loans. SBA has now implemented a transformation initiative to streamline its small business loan assistance programs by delegating greater servicing and liquidation responsibilities to Lenders and CDCs, thereby reducing the SBA personnel needed to manage these programs and simplifying procedures for Lenders and CDCs through reducing their need to seek the prior approval of SBA for various actions.

This proposed rule implements § 307(b) of Pub. L. 106–554, which requires SBA to promulgate regulations to carry out § 510 of the SBI Act. Publication of the rule has been delayed because of a need to modify program responsibilities in the face of reduced Agency staffing. In addition, SBA's increased reliance on Lenders and CDCs to perform servicing, liquidation and debt collection litigation has led the Agency to conclude that other revisions are necessary to SBA's liquidation and debt collection litigation regulations. These proposed regulations will promote better understanding of Agency requirements and better oversight and management by SBA of Lender and CDC liquidation and debt collection litigation.

The proposed regulations would, among other things: (1) Establish procedures for CDCs to request authority for and to conduct liquidation and debt collection litigation; (2) eliminate the current requirement for the submission of liquidation plans by Lenders, other than Certified Lender Program (CLP) Lenders which are required to submit plans by § 7(a)(19) of the Act (15 U.S.C. 636(a)(19)(C)), and revise the current requirements for the submission of litigation plans by Lenders and CDCs; (3) provide for rights of appeal from adverse decisions by SBA offices regarding liquidation plans or litigation plans; (4) establish procedures for, and restrictions on, the payment of legal fees and other costs of liquidation or debt collection litigation incurred by Lenders and CDCs; and (5) impose performance standards for servicing and liquidation efforts by Lenders and CDCs.

With regard to the proposed regulations concerning performance by CDCs of liquidation and debt collection litigation activities with respect to their 504 loans, the proposed rule contemplates that SBA will not reimburse CDCs for their internal administrative costs associated with such activities, whether such activities are performed by a CDC or a CDC's contractor. SBA recognizes, however, that this decision may adversely affect the ability of some CDCs to liquidate and litigate their 504 loans and, therefore, is soliciting comments on this topic. However, subject to the provisions of proposed new § 120.542, SBA would reimburse CDCs for their reasonable, customary and necessary expense disbursements related to liquidation activities on particular

loans, which would include title reports and title insurance on real estate collateral; appraisals; costs for the care and preservation of collateral; fees for lien recordings, filings and lien searches; and fees for legal services provided by outside counsel in litigating on a particular loan account.

As part of its transformation initiative, SBA is also proposing to revise current procedures which allow a Lender to request that SBA purchase its guaranteed portion of a 7(a) loan prior to the completion of liquidation efforts. Under current practices, SBA personnel may be required, for a single loan, to review a liquidation plan, various requests for approval of liquidation actions, liquidation status updates, and a liquidation wrap-up report. In addition, under existing practices, Lenders that are paid the guaranty prior to liquidation must then remit to SBA its guaranteed share of any moneys obtained through liquidation and debt collection litigation, and seek SBA's payment of the Agency's pro rata share of expenses they incur throughout the liquidation and litigation process. In addition, payment of a guaranty to Lenders prior to completion of liquidation gives lenders less incentive to diligently liquidate their loans.

Proposed § 120.520 would preclude Lenders from requesting purchase of a loan guaranty until after liquidation is completed for all loans approved after the effective date of these regulations, except for earlier purchases as permitted by SBA in certain protracted liquidation situations. SBA would consider liquidation to be completed when the Lender has exhausted all prudent and commercially reasonable efforts to collect the debt. This will allow SBA personnel in most cases to review a Lender's complete administration of a loan only once at the completion of liquidation efforts. Deferring a guaranty purchase review until after liquidation is completed will also limit the need for ongoing payments of expenses because SBA would normally make only one payment at the conclusion of liquidation. This proposed revision also would require lenders to conduct liquidation and debt collection litigation in a prompt and cost-effective manner.

SBA is also proposing to revise current regulations regarding the Agency's payment of interest to Lenders on defaulted 7(a) loans. Under current regulations, Lenders in certain loan programs that submit a complete guaranty purchase request to SBA within 120 days of an uncured payment default are entitled to the payment of SBA's pro rata share of the interest on the loan from the interest paid-to-date until the date of purchase by SBA. Lenders that do not submit a purchase request within 120 days of default are only entitled to 120 days of interest. Payment of more than 120 days of interest has served as a disincentive for Lenders to liquidate prior to requesting purchase. Consequently, and also to increase consistency among SBA's loan programs, SBA is proposing to limit payment of interest after default to 120 days on all 7(a) loans approved after the effective date of the regulations except for those loans where the guaranteed portion has been sold in the SBA Secondary Market (as described in 13 CFR part 120, subpart F). Nothing in the proposed rule would change the payment of interest and principal to Secondary Market investors.

Finally, SBA is proposing another regulatory revision to facilitate SBA's transformation initiative through the sale of groups of 7(a) and 504 loans in asset sales. SBA has determined that regulatory revisions are needed to address the issue of a Lender's consent to the sale of 7(a) loans whose guaranteed portions Lender had sold in the Secondary Market and that SBA subsequently purchased from the Secondary Market investor after loan default, as well as those loans whose guaranteed portions SBA purchased prior to the completion of recovery efforts because of protracted liquidation proceedings. Accordingly, SBA is proposing to require, for all 7(a) loans approved after the effective date of the regulations, that Lenders which do not exercise their option to purchase the guaranteed portion of a defaulted 7(a) loan from a Registered Holder in the Secondary Market, as well as Lenders with respect to any loan whose guaranteed portion SBA has purchased prior to the completion of liquidation, will be deemed to have consented to the sale of that loan in an asset sale. In addition, SBA is proposing that after SBA has purchased a debenture as the result of a default of a 504 loan (other than a 504 loan made by a PCLP CDC), SBA may in its sole discretion place such loan in an asset sale conducted or overseen by SBA. For PCLP loans, SBA proposes that prior to including such loans in an asset sale, it will provide advance notice to the PCLP CDCs that made such loans, as required by § 508(d)(1) of the SBI Act (15 U.S.C. 697e(d)(1)).

Section-by-Section Analysis

Section 120.10—Definitions of Authorized CDC Liquidator, Loan Program Requirements and SOPs. SBA proposes to add a new definition in § 120.10, ''Authorized CDC Liquidator'' to describe CDCs that have been delegated authority to perform liquidation and debt collection litigation pursuant to § 120.975. This term is used on numerous occasions throughout these proposed regulations.

SBA also proposes to add a definition for the term ''Loan Program Requirements'' which include requirements imposed upon Lenders or CDCs by statute, SBA regulations, any agreement the Lender or CDC has executed with SBA, SBA Standard Operating Procedures (SOP), official SBA notices and forms applicable to the 7(a) and 504 loan programs, and loan authorizations. For CDCs, this term also includes requirements imposed by Debentures, as that term is defined in § 120.802. SBA proposes to make several conforming amendments to the following sections in order to use this new defined term consistently throughout part 120: §§ 120.826; 120.841(c); 120.845(c)(1); 120.846(a)(3); 120.848(a); 120.854(a)(2); and 120.970(a).

The proposed regulations also modify the definition of the term ''SOPs'' to provide notice of availability of Agency SOPs on SBA's Web site, *http://www.sba.gov*.

Section 120.180—Compliance with Loan Program Requirements. SBA proposes to revise current § 120.180 to clarify that Loan Program Requirements in effect when a Lender or CDC undertook a particular action with respect to a specific 7(a) or 504 loan will govern that action, and that any subsequent changes in program requirements will govern actions by a Lender or CDC that occur after the revision of the requirement had been implemented. For example, if a Lender closed a 7(a) loan in 2003, the Loan Program Requirements in effect at that time would govern the Lender's closing of the loan. However, if SBA subsequently revised the requirements for liquidation in 2004, the Lender would be subject to the 2004 liquidation requirements to the extent that the Lender's liquidation actions occur after the time of the revision. The proposed regulation also codifies longstanding Agency, Lender and CDC practice that Lenders and CDCs must comply with Agency Loan Program Requirements including SOPs and official notices.

Section 120.181—SBA control over Lenders and CDCs. Proposed § 120.181 would clarify that Lenders or CDCs, and their contractors, are independent contractors and that SBA is not responsible or liable for actions taken by Lenders, CDCs or their contractors.

Section 120.197—Notifying SBA's Office of Inspector General of suspected

fraud. SBA proposes to add this new section regarding notification to SBA's Office of Inspector General (OIG) of fraud. The OIG's mission includes investigating potential fraud for criminal prosecution. This provision is designed to ensure that Lenders, CDCs and others who may have knowledge of suspected fraud in the 7(a) and 504 loan programs provide this information to the OIG.

Section 120.440—Minor Revision to Certified Lenders Program (CLP). Under the CLP, designated Lenders process, close, service and liquidate SBA guaranteed loans. The proposed revision of this section deletes the word ''may'' so that it is clear that CLP lenders must liquidate their 7(a) loans as do all other 7(a) Lenders.

Section 120.453—Revisions to Preferred Lender Program (PLP) responsibilities. SBA proposes to revise § 120.453, which addresses servicing and liquidation by participants in the PLP. The revised regulation would delete the requirement that PLP Lenders submit liquidation plans to SBA, the performance standards for PLP Lender liquidation, and the need to obtain SBA consent to certain actions. Under the proposed rule, PLP Lenders will be treated the same as all 7(a) Lenders with respect to servicing and liquidation performance standards, the exemption from liquidation plan submission requirements, and the need to obtain SBA consent for non-delegated actions.

Section 120.500—Loan servicing. The title for Subpart E is being revised to read Servicing and Liquidation. Therefore, SBA proposes to delete current § 120.500 because it would be rendered obsolete by these regulations.

Section 120.510—Servicing Direct and Immediate Participation Loans. SBA no longer makes direct loans under the 7(a) program and proposed § 120.520(b) requires that Lenders perform loan servicing. Therefore, SBA proposes to delete this section because it is no longer needed.

Section 120.511—Servicing guaranteed loans. Under proposed § 120.536, Lenders are required to service 7(a) loans. Therefore, SBA proposes to delete this section because it is no longer needed.

Section 120.512—Servicing a loan after SBA honors the guarantee. Under proposed § 120.520, Lenders normally would not be able to request purchase until after completion of liquidation efforts on a loan. Further, the last sentence in current § 120.512 regarding SBA discretion to take over loan servicing has been incorporated into proposed § 120.536(d). Therefore, SBA proposes to delete this section because it is no longer needed.

Section 120.513—Servicing actions that require prior written consent of SBA. SBA is amending these requirements and promulgating the revised regulations under new § 120.536. Therefore, SBA proposes to delete this section because it is no longer needed.

Section 120.520—Servicing and SBA honoring of its guarantee. SBA proposes to revise this section to implement the requirement, for all loans approved after the effective date of the regulations, that Lenders normally must perform liquidation before requesting purchase, as discussed above. In addition, proposed paragraph (b) would also codify existing SBA policy that SBA will not purchase a guaranty unless the Lender has provided sufficient documentation, as described by SBA in its SOPs, which includes a listing of the documents in Lender's possession that Lender must copy and submit to SBA with Lender's purchase request, to allow the Agency to perform a guaranty purchase review. SBA's ability to enforce Lender compliance with the requirements of the 7(a) program requires that Lenders provide adequate documentation to allow the Agency to review the Lender's administration of a particular loan. The proposed paragraph also would retain the existing regulatory provision that SBA may purchase a 7(a) guaranty at any time in its discretion.

Proposed paragraph (c) would clarify purchase requirements in the event that a Lender sells the guaranteed portion of a loan in the Secondary Market as permitted by Subpart F of Part 120. Consistent with existing SBA policy, this provision would make clear that a Lender's failure to provide adequate documentation to SBA regarding a guaranty that has been sold in the Secondary Market may be considered a material failure to comply with SBA loan program requirements, and may lead to an enforcement action under § 120.524. As noted above, it is critical to SBA's oversight responsibility that Lenders provide adequate documentation to allow the Agency to conduct a guaranty purchase review, including those that take place subsequent to a Secondary Market purchase made by SBA.

Proposed paragraph (d) would largely incorporate and clarify language that currently exists in § 120.520(b). The proposed paragraph would also refer to the guaranty purchase standards in § 120.524(a).

Section 120.522—Payment of interest. The proposed revision of this regulation would eliminate the current regulatory provision which provides that SBA may pay more than 120 days of interest depending upon when the Lender submits a complete purchase request to SBA. As discussed above, SBA's proposed regulation would require that Lenders normally complete liquidation prior to requesting purchase. Therefore, the proposed regulation would limit interest purchased to 120 days to prevent SBA from having to pay excessive interest on defaulted loans. This provision does not affect the payment of interest to Secondary Market investors.

Section 120.524—Guaranty purchase standards and procedures. SBA is proposing to revise paragraph (a)(1) to codify SBA policy that a Lender's material failure to comply with a Loan Program Requirement, as defined in § 120.10, discussed above, can constitute a basis for the denial of a guaranty. The Agency is proposing additional minor clarifications of § 120.524 to amend paragraph (a)(8) because the existing provision would be rendered obsolete by the proposed requirement that Lenders normally complete liquidation prior to requesting purchase of a guaranty. Currently, Lenders can lose a guaranty if they do not request purchase within 120 days after a note has matured. Under the proposed regulations, it is possible that liquidation could be ongoing at that time. Inasmuch as proposed § 120.520 precludes Lenders from requesting purchase prior to the completion of liquidation except in certain protracted liquidation situations, § 120.524(a)(8) could cause confusion for Lenders as to whether they would potentially lose an SBA guaranty if they didn't request guaranty purchase prior to the completion of liquidation. Therefore, SBA proposes to amend this provision to address this situation and also to increase the time limit to 180 days. SBA is also proposing to revise paragraphs (b), (c), and (d) to incorporate minor clarifications of the Agency's guaranty purchase rights.

Section 120.535—Servicing and liquidation performance standards. SBA is proposing to add paragraphs (a) and (b) to include standards of performance for loan servicing and loan liquidation, which include the requirements that Lenders and CDCs service and liquidate their SBA loans using prudent lending standards and do so with no less diligence than their practice on their non-SBA loans. These standards would codify long standing SBA policy and are necessary so that SBA can effectively enforce Lender and CDC performance in the 7(a) and 504 Programs. Paragraph (c) would incorporate language set forth in

§ 510(c)(3) of the SBI Act (15 U.S.C. 697g(c)(3)). Paragraph (d) would incorporate existing language in current § 120.512, which, as noted above, is being deleted. However, paragraph (d) would expand the existing language in that section to cover 504 loans as well as 7(a) loans. SBA must retain this authority in order to be able to assume loan servicing or liquidation of either a 7(a) or 504 loan if it is in the Agency's interest to do so.

Section 120.536—Servicing and liquidation actions that require the prior written consent of SBA. This proposed provision would incorporate and revise regulations currently set forth at § 120.513, but would expand the existing regulations to include additional limitations on servicing and liquidation actions by CDCs that previously had been imposed by SBA policy as set forth in Agency SOPs.

Section 120.540—Uniform Liquidation and Debt Collection Procedures. Pursuant to § 510 of the SBI Act (15 U.S.C. 697g), and the broad authority to manage the 7(a) loan guaranty program which § 5(b)(7) of the Act (15 U.S.C. 634(b)(7)) confers upon SBA, SBA proposes to add new regulations establishing uniform procedures for the performance of liquidation and debt collection litigation actions by Lenders and CDCs. These proposed regulations revise the requirements for submission of liquidation and litigation plans for SBA's prior review by Lenders and those CDCs that are authorized to conduct liquidation and debt collection litigation (which SBA has defined in these proposed regulations as Authorized CDC Liquidators, see proposed § 120.10 above.) The proposed regulations also clarify the types of liquidation actions that require prior written consent from SBA, and establish rights of appeal for Lenders or Authorized CDC Liquidators from decisions by SBA offices regarding liquidation or litigation plans.

Under current regulations and procedures, many Lenders are required to submit liquidation plans to SBA for review prior to conducting liquidation efforts and to provide SBA with liquidation wrap-up reports at the conclusion of liquidation. These requirements are contained in the current version of § 120.512, and SBA SOP 50 51, Loan Liquidation and Acquired Property, and SOP 70 50, Legal Responsibilities. (SBA SOPs are available on SBA's Web site, *http://www.sba.gov,* in the online library.)

SBA proposes to redesignate the existing § 120.540 as § 120.545 and to add a new § 120.540 regarding the submission of liquidation and litigation plans. Proposed § 120.540 would delete the liquidation plan submission requirement for Lenders, except for loans made by Lenders under the Certified Lender Program (CLP) as required by § 7(a)(19)(C) of the Act (15 U.S.C. 636(a)(19)(C)). Instead, Lenders (other than CLP Lenders) would only need to submit liquidation wrap-up reports to SBA at the conclusion of liquidation. Other than the elimination of the requirement for the submission of liquidation plans by Lenders (other than CLP Lenders), SBA does not intend that these proposed regulations significantly alter current procedures for the performance of liquidation by Lenders.

SBA has retained the requirement that CLP Lenders and Authorized CDC Liquidators submit liquidation plans to SBA in accordance with the requirements of § 7(a)(19)(C) of the Act (15 U.S.C. 636(a)(19)(C)), and § 510 of the SBI Act (15 U.S.C. 697g). In addition to the fact that the SBI Act requires Authorized CDC Liquidators to submit liquidation plans, SBA believes that differences between the 7(a) and 504 loan programs also warrant continued submission of liquidation plans by CDCs. Although CDCs are responsible for their actions taken in connection with 504 loans, most CDCs do not have a direct financial interest in 504 loans funded by the issuance of SBA-guaranteed debentures. SBA, therefore, believes that it is in the Agency's interest to require additional oversight of Authorized CDC Liquidator efforts.

Section 120.540 of the proposed regulations would also modify the existing requirement that Lenders and Authorized CDC Liquidators submit litigation plans to SBA for review of certain debt collection litigation. Current Agency procedures require Lenders to submit litigation plans for litigation defined as ''Non-Routine Litigation,'' which includes contested litigation or litigation with expected or actual costs in excess of $5,000. Litigation can be very costly and, because SBA is required to pay its pro rata share of certain of these expenses, the Agency believes that there is considerable need to review and approve Non-Routine Litigation prior to its initiation to prevent payment of excessive fees. SBA is also concerned that debt collection litigation by Lenders and Authorized CDC Liquidators, unlike the liquidation of collateral, raises the prospect of adverse judicial decisions that could serve as harmful precedent restricting future debt collection litigation by SBA or other governmental agencies. Accordingly, the proposed regulations would codify the existing litigation plan requirement. However, in order to reduce the burden on SBA personnel and delegate greater responsibilities to Lenders and Authorized CDC Liquidators, the proposed regulations raise the dollar threshold for what is considered Non-Routine Litigation from litigation costing $5,000 to $10,000, thereby reducing the frequency of plan submissions for Agency review.

Proposed § 120.540 also would:

(1) Require submission of an amended liquidation or litigation plan for SBA approval if material changes occur during the course of liquidation or litigation, such as when Routine Litigation changes to Non-Routine Litigation;

(2) Provide for emergency situations by allowing a Lender or Authorized CDC Liquidator to undertake urgent liquidation or litigation actions by obtaining SBA's prior written approval where practicable, but without the need to submit a liquidation or litigation plan prior to taking an urgent action;

(3) Provide a right of appeal in the event that a Lender or Authorized CDC Liquidator disagrees with a decision by an SBA field office or servicing center regarding a liquidation or litigation plan; and

(4) Identify when SBA's prior written consent is required for specific liquidation actions.

Section 120.541—Deadlines for SBA approval. Section 510(c)(2) of the SBI Act (15 U.S.C. 697g), imposes deadlines on SBA approval of CDC liquidation plans and other actions that could arise during the servicing or liquidation phase of a loan. So that Authorized CDC Liquidators and Lenders will be treated similarly, SBA is proposing in § 120.541 uniform deadlines for SBA's approval of proposed liquidation plans, litigation plans and other requests. These deadlines will expedite SBA consideration of these requests. At the same time, as recognized in § 510(c)(2) of the SBI Act, SBA will be able to notify a Lender or Authorized CDC Liquidator if it is unable to meet the deadline and request additional information as necessary to be able to process the request. The section also incorporates specific language in § 7(a)(19)(C) of the Act (15 U.S.C. 636(a)(19)(C)) relating to submission of liquidation plans by Lenders which have made a loan under their CLP authority.

Section 120.542—Payment of legal fees and other expenses incurred in liquidation, debt collection litigation and other litigation. SBA is proposing new regulations regarding the reimbursement and payment of legal

fees and other costs to Lenders and CDCs for liquidation, debt collection litigation, and any other litigation. Proposed § 120.542(a) prohibits the reimbursement of legal fees incurred by a Lender or Authorized CDC Liquidator in the following situations: (1) When a Lender or Authorized CDC Liquidator asserts claims against SBA in any type of litigation, unless payment of such fees is otherwise required by federal law; (2) when outside counsel of a Lender or Authorized CDC Liquidator performs non-legal work in connection with liquidation or debt collection litigation without SBA consent; and (3) when a Lender or Authorized CDC Liquidator undertakes actions in connection with liquidation or debt collection litigation which only benefit the Lender or CDC.

Proposed § 120.542(b) also clarifies that SBA will not pay for legal fees or costs incurred by a Lender or CDC in defending against a bad faith lending claim or any other claim brought by a borrower or guarantor against a Lender or CDC, or for the settlement of, or adverse judgment incurred in, any such suit unless SBA specifically directed the Lender or CDC to take the allegedly wrongful action in question.

In order to ensure that Lenders and Authorized CDC Liquidators comply with the SBA requirements for liquidation and debt collection litigation, proposed § 120.542(c) allows SBA to deny legal fees and other costs incurred during the liquidation or debt collection litigation in connection with a 7(a) or 504 loan if a Lender or Authorized CDC Liquidator: (1) Fails to act in accordance with commercially reasonable lending standards, in a prudent manner, or in compliance with SBA requirements; (2) fails to obtain SBA prior written approval (using procedures described in Agency SOPs) of a liquidation and/or litigation plan, or an amended plan, when such approval is required by these regulations; or (3) fails to obtain prior SBA approval (using procedures described in Agency SOPs) of other servicing or liquidation actions if approval is required by § 120.536. To limit the expense of unnecessary or unreasonable legal expenses, SBA also proposes to be able to deny legal fees and other litigation or liquidation expenses that SBA had not previously approved if such fees or expenses are not reasonable, customary or necessary in the locality where the Lender or Authorized CDC Liquidator is conducting the liquidation or litigation. Proposed §§ 120.542(d) and (e) also provide rights of appeal to specific officials in SBA's Headquarters if a Lender or Authorized CDC Liquidator disagrees with an SBA determination to deny reimbursement of liquidation or litigation fees or costs.

Section 120.546—Loan asset sales. As discussed above, SBA wants to facilitate its transformation initiative by proposing certain changes to its loan asset sale program. The proposed section would impose a requirement, for all 7(a) loans made after the effective date of the regulations, that Lenders will be deemed to have consented to the sale of a loan in an asset sale under the specified circumstances. This provision is needed to facilitate an effective asset sales program by SBA. The proposed section also addresses 504 loans to be sold in asset sales.

Section 120.848—PCLP CDC servicing and liquidation actions. SBA is proposing a minor revision of this section to include a cross-reference to the proposed servicing regulations in subpart E of part 120.

Section 120.970—CDC servicing actions. SBA is proposing a minor revision of this section to include a cross-reference to the proposed servicing regulations in subpart E of part 120.

Section 120.975—CDC Authority to Perform Liquidation and Debt collection Litigation. Section 510(c) of the SBI Act (15 U.S.C. 697g) authorizes certain CDCs to perform liquidation and debt collection litigation with respect to 504 loans. SBA proposes adding a new regulation, § 120.975, to establish criteria for CDCs that request authority to become an Authorized CDC Liquidator, with authority delegated from SBA to conduct foreclosure and other liquidation actions, and debt collection litigation, on behalf of SBA. Section 510(b)(1) of the SBI Act (15 U.S.C. 697g(b)(1)) provides that CDCs qualified to receive such delegated authority are those that participated in the loan liquidation pilot program established by the Small Business Programs Improvement Act of 1996; are participating in the Premier Certified Lenders Program (PCLP); or have made an average of at least ten 504 loans per year during the three fiscal years immediately prior to the date on which the CDC requests this authority to liquidate and litigate, as well as show that it has trained employees, or has engaged contractors satisfactory to SBA, to perform these actions.

PCLP CDCs are already required to perform liquidation and debt collection litigation on their PCLP loans, pursuant to § 508(e)(1) of the SBI Act (15 U.S.C. 697e(e)(1)) and the existing § 120.848(f). This proposed rule would require PCLP CDCs that meet the statutory test, consisting of having either trained employees or having engaged contractors satisfactory to SBA, as determined by SBA, to exercise their delegated authority to perform liquidation and debt collection litigation on their other 504 loans as well, upon receiving written notice from SBA that the CDC has met the statutory test and without the CDC first having to apply for SBA approval to exercise such delegated authority. All other CDCs would be required to apply for SBA approval.

In accordance with § 510(b)(2) of the SBI Act (15 U.S.C. 697g(b)(2)), a qualified non-PCLP CDC requesting to handle liquidation and debt collection litigation must submit an application to SBA. The proposed regulations also provide for rights of appeal from the denial by SBA of applications from non-PCLP CDCs.

Compliance With Executive Orders 12866, 12988, and 13132, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C., Ch. 35)

Executive Order 12866

The Office of Management and Budget has determined that this rule constitutes a ''significant regulatory action'' under Executive Order 12866 thus requiring Regulatory Impact Analysis, as set forth below.

A. Regulatory Objective of Proposed Rule

The objective of the proposed rule is to clarify and make uniform SBA's existing regulations governing lenders participating in the 7(a) business loan program (Lenders) and Certified Development Companies (CDCs) that are performing loan servicing, liquidation and debt collection litigation. The proposed rule will promote better understanding of Agency requirements by Lenders and CDCs, and improve oversight and management by SBA of Lender and CDC liquidation and debt collection litigation.

B. Baseline Costs of Existing Regulatory Framework

SBA 7(a) loan programs presently require Lenders to submit liquidation plans for most defaulted loans, except for those made pursuant to the SBAExpress program. SBA estimates that these requirements currently result in the submission of about 4,000 liquidation plans per year. The approximate time needed for lenders to complete a liquidation plan is two hours at an average cost of $30 per hour, resulting in a total annual cost to Lenders of $240,000.

Presently, CDCs that are authorized to perform liquidation activities on 504 loans submit about 100 liquidation plans per year. The approximate time needed for CDCs to complete a liquidation plan is two hours at an average cost of $30 per hour, resulting in a total annual cost to CDCs of $6,000.

SBA's 7(a) loan programs also presently require Lenders to submit litigation plans to SBA for approval. Lenders currently submit to SBA approximately 3,000 litigation plans per year. Preparation of each plan takes about one hour, at an average cost of $150 per hour for private counsel time, for a total annual cost to Lenders of $450,000. SBA reimburses Lenders for their share of reasonable, customary and necessary attorney fees, including those incurred for the preparation of litigation plans. CDCs submit to SBA only a small number of litigation plans presently, because SBA currently handles most litigation involving 504 loans.

SBA takes an average of one hour to review and respond to each liquidation and litigation plan submitted by Lenders and CDCs. This equates to 4,000 hours for Lender liquidation plans at an average cost of $30 per hour, for a total of $120,000. For review of CDC liquidation plans by SBA, 100 hours is required at an average cost of $30 per hour, for a total of $3,000. For Lender litigation plans, 3,000 hours of SBA review time is required at an average cost of $30 per hour, for a total of $90,000. SBA processes approximately 54,000 servicing and liquidation actions per year for Lenders and CDCs. The average action takes one-half hour for SBA to process, for a total of 27,000 hours processing time. At $30 per hour, this equates to a total cost to SBA of $810,000. Therefore, the total administrative cost to SBA under the current regulatory framework for these activities is approximately $1,023,000.

C. Potential Benefits and Costs of the Proposed Rule

1. Potential Benefits and Costs to Lenders. The proposed rule would provide benefits for Lenders because it reduces the costs for those institutions to participate in the 7(a) program by eliminating the need to submit liquidation plans to SBA (except for lenders under the Certified Lenders Program which are required to submit liquidation plans by statute). Submission of liquidation plans is currently required in most lending programs by SBA procedures and regulations. SBA estimates that ending this requirement will enable Lenders to eliminate the preparation and submission to SBA of at least 4,000 liquidation plans a year. The approximate time to complete and submit a plan to SBA is about two hours at an average cost of $30 per hour. Consequently, eliminating the requirement to submit liquidation plans will save Lenders about $240,000 per year.

Other benefits for Lenders would result from the proposal to raise the dollar threshold for non-routine litigation (for which submission to SBA for pre-approval is required) from $5,000 to $10,000. Because fewer cases would rise above that higher threshold, Lenders would be required to submit fewer litigation plans to SBA. The Agency anticipates that approximately 500 fewer plans annually would be required to be submitted to the Agency as a result of this change. Because preparation of each plan takes about one hour at an average cost of $150 per hour, SBA estimates that the proposed rule would result in a cost savings of $75,000.

Lenders also would benefit under a provision of the proposed rule which defers, until after liquidation is complete, SBA's guaranty purchase on loans whose guaranteed portions have not been sold in the Secondary Market. Currently, Lenders whose loans SBA has purchased are required to process paperwork (SBA Form 172, Transaction Report on Loan Serviced by Lender) in connection with the remittance to SBA of the Agency's portion of any collections the Lender receives subsequent to guaranty purchase. Under the proposed rule, Lenders that are required to complete liquidation prior to purchase would not remit any payments to SBA along with a Form 172 unless collections are obtained by the Lenders subsequent to guaranty purchase.

Finally, the proposed rule would reduce the number of loan servicing and liquidation actions taken by Lenders that require prior SBA approval as compared with existing SBA requirements, and make remaining SBA prior approval requirements similar among the various SBA loan programs. These changes would simplify and reduce the costs of loan servicing and liquidation processes for Lenders.

SBA does not know of any specific costs that would be imposed on Lenders as a result of this proposed rule except for the loss of income that would result from the proposed limitation on interest on guarantees purchased by SBA to 120 days. However, such a limitation would affect only a small percentage (estimated at around 10%) of SBA guaranty purchases, and Lenders typically place loans on interest non-accrual after 90 days delinquency. SBA is requesting comments from the public on any monetized, quantitative or qualitative costs of Lenders' compliance with this rule. Please send comments to the SBA official referenced in the **ADDRESSES** section of the preamble.

2. Potential Benefits and Costs to CDCs. As provided by statute, this proposed rule would enable qualified CDCs to seek authority to perform liquidation and debt collection litigation, and by doing so, qualified CDCs would be determining that the benefits of conducting their own recovery on defaulted loans would outweigh any burdens associated with the preparation and submission to SBA of liquidation and litigation plans as set forth in these proposed regulations. Such benefits would include the ability to pursue quicker liquidations and possibly achieve higher recoveries as a result.

SBA expects that CDCs would incur some additional costs as a result of this proposed rule. SBA anticipates that CDCs would be required to submit to the Agency for approval about 300 liquidation plans per year, an increase of 200 from the approximately 100 liquidation plans CDCs currently submit annually. SBA estimates that the average time for completion of each plan would consist of two hours at an average cost of $30 per hour. Therefore, the annual cost of submitting the plans under the proposed rule would be $18,000 per year, for an overall cost increase of $12,000 from the $6,000 annual cost under the current regulatory framework. CDCs that receive delegated liquidation authority under the proposed rule would also incur added costs through acquiring resources and creating the necessary internal structures to engage in liquidation and litigation activities. SBA is requesting comments from the public on any other monetized, quantitative or qualitative costs of CDCs' compliance with this rule. Please send comments to the SBA official referenced in the **ADDRESSES** section of the preamble.

3. Potential Benefits and Costs for SBA and the Federal Government. The proposed rule would benefit SBA because it would eliminate the need for most Lenders to submit liquidation plans to SBA (the exception is for Lenders under the Certified Lenders Program, which are required to submit liquidation plans by statute; the number of liquidation plans submitted by such Lenders currently is minimal, and SBA expects even further reduction under the proposed rule). SBA estimates that ending this requirement would eliminate the need for SBA to review about 4,000 liquidation plans a year.

The approximate time required for SBA to review a liquidation plan is one hour at an average cost of $30 per hour. Consequently, there would be a cost savings to SBA of $120,000 per year.

Another benefit for SBA would result from the proposal to raise the dollar threshold for non-routine litigation (for which submission to SBA for pre-approval is required) from $5,000 to $10,000. SBA anticipates that approximately 500 fewer plans annually would be required to be submitted to the Agency as a result of this change. Because review of each plan takes about one hour at an average cost of $30 per hour, SBA estimates that the proposed rule would result in a cost savings of $15,000. In addition, SBA would not be required to reimburse Lenders for the Agency's proportionate share of the costs incurred by Lenders in connection with the preparation of these litigation plans, resulting in a further savings of approximately $50,000.

SBA would also benefit under a provision of the proposed rule which defers, until after Lender liquidation is complete, SBA's guaranty purchase on loans whose guaranteed portion has not been sold in the Secondary Market (except for earlier purchases as permitted by SBA in certain protracted liquidation situations). This would allow SBA personnel, in most cases, to review a Lender's complete administration of a loan, including liquidation expenses incurred and recoveries received, only once at the completion of liquidation efforts. Currently, Lenders whose loans SBA has purchased are required to submit SBA Form 172 (Transaction Report on Loan Serviced by Lender) in connection with the remittance to SBA of the Agency's portion of any collections the Lender receives subsequent to guaranty purchase. Under the proposed rule, Lenders that are required to complete liquidation prior to purchase would not remit any payments to SBA along with a Form 172 unless collections are obtained by the Lenders subsequent to guaranty purchase. Consequently, SBA would be relieved of the administrative burden of reviewing and processing a large number of lender payments under the proposed rule.

Although under the proposed rule SBA would be required to review liquidation plans submitted by qualified CDCs (estimated at 300 liquidation plans per year), this would not represent a significant increase in SBA administrative costs because currently SBA reviews approximately 100 such plans per year as well as provides assistance to CDCs on the preparation of such plans.

The proposed rule would also reduce SBA administrative costs associated with oversight of the Agency's business loan assistance programs by delegating greater servicing and liquidation responsibilities to Lenders and CDCs, and reducing their need to seek the prior approval of SBA for their proposed recovery activities and for various specific liquidation actions. This would decrease the amount of time required for SBA personnel to manage these programs. It is estimated that reviews of at least 30% (16,200) of the approximately 54,000 servicing and liquidation actions SBA currently processes annually would be eliminated. This would save an average of one-half hour processing time per action for a total time savings of 8,100 hours at $30 per hour, or $243,000.

In addition to increasing consistency among SBA's loan programs and creating more uniformity in processing of guaranty purchase requests, the proposed rule would save taxpayer dollars by limiting payment of interest to Lenders on purchased loans to 120 days, except for loans where the guaranteed portion has been sold in the Secondary Market. This change would not be a burden on Lenders because Lenders typically place loans on interest non-accrual after 90 days of delinquency and SBA already limits interest purchased to 120 days in two of the existing 7(a) loan programs, including the fastest growing program (SBAExpress). However, it is estimated that such a limitation in the proposed rule would affect only a small percentage (estimated at around 10%) of future SBA guaranty purchases.

Finally, the proposed rule would facilitate SBA's transformation initiative through enabling the sale of groups of 7(a) and 504 loans in asset sales. To this end, the rule provides that Lenders that do not exercise their option to purchase the guaranteed portion of a defaulted 7(a) loan from a Registered Holder in the Secondary Market, as well as Lenders with respect to any loan whose guaranteed portion SBA has purchased prior to the completion of liquidation, would be deemed to have consented to the sale of that loan in an asset sale. In addition, SBA is proposing that after SBA has purchased a debenture as the result of a default of a 504 loan, SBA may place such loan in an asset sale conducted or overseen by the Agency.

Costs imposed on SBA as a result of the proposed rules would include personnel and administrative costs associated with implementing appeals processes to which Lenders and Authorized CDC Liquidators may be entitled under the proposed rule when they disagree with a decision by an SBA field office or servicing center regarding a liquidation or litigation plan, when they disagree with an SBA determination to deny reimbursement of liquidation or litigation fees or costs, or when SBA denies applications from non-PCLP CDCs requesting authority to handle liquidation and debt collection litigation.

D. Proposed Rule Is the Best Available Means To Reach the Regulatory Objective

This proposed rule is SBA's best available means for achieving its regulatory objective of clarifying and making uniform existing SBA regulations and policy, which currently only partially address liquidation and debt collection litigation and vary across Agency lending programs. SBA is requesting comments from the public on any potentially effective and reasonably feasible alternatives to this rule as it applies to Lenders, and the costs and benefits of those alternatives. Please send comments to the SBA official referenced in the **ADDRESSES** section of the preamble.

With respect to CDCs that are eligible for and request liquidations and debt collection authority from SBA, the proposed rule merely implement § 307(b) of Pub. L. 106–554, which requires SBA to promulgate regulations to carry out § 510 of the SBI Act, 15 U.S.C. 697g, regarding CDC liquidation and debt collection litigation authority. SBA considers those statutory provisions applicable to CDCs to be mandatory, and SBA has not identified any reasonable alternative to this proposed rule implementing the statutory mandate.

Executive Order 12988

This proposed action meets applicable standards set forth in §§ 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. In particular, the proposed regulations provide for rights of appeal to Lenders and CDCs in the event they are aggrieved by an Agency decision, thereby limiting the possibility of litigation by these entities. The proposed action does not have retroactive or preemptive effect.

Executive Order 13132

This proposed rule would not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, for the

purposes of Executive Order 13132, SBA has determined that this proposed rule has no federalism implications warranting preparation of a federalism assessment.

Regulatory Flexibility Act

Based on the following analysis, SBA certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*

This proposed rule directly affects only those CDCs that are eligible for, and that request, authority from SBA to conduct liquidation and debt collection litigation, of which SBA estimates that there are approximately 80 out of about 270 active CDCs, and an unknown number of small lending institutions. SBA assumes, therefore, that this proposed rule may have an impact on a substantial number of small entities. However, the proposed rule merely implements statutory mandates and, further, SBA has determined that the impact on entities affected by the proposed rule will not be significant for the reasons set forth below.

The proposed rule would not impose a significant economic impact on small lending institutions because it in fact reduces the costs for those institutions to participate in the 7(a) program by eliminating the need to submit liquidation plans to SBA (except for Lenders under the Certified Lenders Program which are required to submit liquidation plans by statute), which is currently required by SBA procedures and regulations. SBA estimates that ending this requirement will enable Lenders to eliminate the preparation and submission to SBA of at least 4,000 liquidation plans a year. The approximate time to complete and submit these plans to SBA is about two hours at an average cost of $30 per hour. The average cost is based on a mid-level professional salary level of $60,000 per year. Consequently, eliminating the requirement to submit liquidation plans will save Lenders about $240,000 per year. The proposed rule also reduces the number of loan servicing and liquidation actions taken by Lenders that require prior SBA approval as compared with existing SBA requirements, and makes the remaining prior approval requirements similar among the various SBA loan programs, thereby simplifying the loan servicing and liquidation process for SBA participating Lenders. In addition, as pointed out above, small lending institutions will be required to submit fewer litigation plans since the proposed rule raises the dollar threshold for Non-Routine Litigation from $5,000 to $10,000. SBA anticipates that approximately 500 fewer plans will be required to be submitted to the Agency as a result of this change. Since preparation of each plan takes about one hour at an average cost of $150 per hour, which is based on a nationwide estimate of the billing level for attorneys qualified to perform this type of work, SBA estimates that the proposed rule will result in a cost savings of $75,000.

The proposed rule also would not have a significant economic impact on CDCs, which are entities that are licensed and regulated by SBA. As provided by statute, the rule would enable qualified CDCs to seek authority to perform liquidation and debt collection litigation, and by doing so, qualified CDCs would be determining that the benefits of conducting their own recovery on defaulted loans would outweigh any burdens associated with the preparation and submission to SBA of liquidation and litigation plans as set forth in these proposed regulations. Such benefits include the ability to pursue quicker liquidations and possibly achieve higher recoveries. In the loan liquidation pilot program established by the Small Business Programs Improvement Act of 1996, CDCs that conducted their own liquidation achieved a slightly higher overall recovery rate than did SBA in the comparison group of cases handled directly by the Agency. Subject to the provisions of proposed new § 120.542, SBA would reimburse CDCs for their reasonable, customary and necessary expense disbursements related to liquidation activities on particular loans, which would include title reports and title insurance on real estate collateral; appraisals; costs for the care and preservation of collateral; fees for lien recordings, filings and lien searches; and fees for legal services provided by outside counsel in litigating on a particular loan account.

SBA anticipates that CDCs will be required to submit to the Agency for approval, as required by statute, about 300 liquidation plans per year. SBA estimates that the average time for completion of each plan will necessitate two hours at an average cost of $30 per hour, which is based on a mid-level professional salary level of $60,000 per year. Therefore, the total annual cost for all plans would be $18,000 per year.

CDCs participating in the Premier Certified Lenders Program (PCLP) would not be required to seek authority to conduct liquidation and debt collection litigation on their PCLP loans since they are already required to do so by statute and regulation. PCLPs will be also be required to liquidate and litigate their non-PCLP loans by this rule in order to have one consistent standard for all their loans.

In addition, this regulation merely codifies the existing SBA practice of requiring the submission of liquidation and litigation plans by Lenders and CDCs, but reduces any burden from this requirement as to litigation plans by raising the dollar threshold for Non-Routine Litigation from $5,000 to $10,000, as noted above. Further, the performance standards for 7(a) and 504 loan servicing and liquidation contained in these proposed regulations merely codifies existing SBA policy as set forth in SOPs and currently existing lending standards. In addition, it is a prudent lending practice for Lenders to prepare plans prior to undertaking liquidation and debt collection litigation. Therefore, this rule does not impose any new or unnecessary requirements on these small entities.

Accordingly, SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities. SBA invites comments from members of the public who believe there will be significant impact either on CDCs, small lending institutions, or small businesses that receive funding from, or with the assistance of, CDCS or such institutions.

Paperwork Reduction Act

SBA has determined that this proposed rule imposes additional reporting or recordkeeping requirements under the Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501–3520. This collection of information, as defined by the PRA, includes four different reporting requirements which are (1) the application for CDCs to apply for liquidation and debt collection litigation authority on 504 loans, (2) a liquidation plan describing proposed collection activities for defaulted 504 loans, (3) a litigation plan describing proposed debt collection litigation for defaulted 7(a) or 504 loans, and (4) a request for a waiver of the need for a written liquidation or litigation plan. The titles, descriptions and respondent descriptions of the information collections are discussed below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

SBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of SBA's functions,

including whether the information will have a practical utility; (2) the accuracy of SBA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used; (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 the use of automated collection techniques, when appropriate, and other forms of information technology.

Please send comments by the closing date for comment for this proposed rule to David Rostker, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503 and to James Hammersley, Acting Assistant Administrator, Office of Portfolio Management, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

A. Application for Liquidation Authority

Title: CDC Application for Authority to Perform Liquidation and Debt Collection Litigation on 504 Loans [No SBA Form Number].

Summary: As described in proposed § 120.975, certain CDCs that seek authority from SBA to perform liquidation and debt collection litigation in connection with defaulted loans will submit the application to the Agency. SBA will review the application to determine whether the CDC has participated in the CDC loan liquidation pilot program, is participating in the PCLP, or has made sufficient loans in the past three years, as specified in the SBI Act and the proposed rule, and has trained employees or contractors, satisfactory to SBA, to perform liquidation and litigation in a manner that will reduce the risk of loss to the Agency. Recoveries from these liquidation efforts and debt collection litigation will be remitted to SBA to reduce the Agency's loss on the loan.

Need and Purpose: Section 510 of the SBI Act (15 U.S.C. 697g) authorizes certain CDCs to conduct liquidation and debt collection litigation in connection with section 504 loans that have gone into default, and specifies the criteria that CDCs must meet to apply for this authority. The proposed regulation incorporates the statutory criteria. SBA will use the information CDCs submit to determine whether the CDC meets the qualifications.

Description of Respondents: CDCs that have requested authority to handle liquidation and litigation and which meet the specified criteria. SBA estimates that approximately 40 CDCs annually will apply for the liquidation authority.

SBA estimates the burden of this collection of information as follows: An applicant will complete this collection normally only once. SBA estimates that the time needed to complete this collection will average one hour. SBA estimates that the cost to complete this collection will be approximately $30 per hour. Therefore, SBA estimates that the total annual burden for the 40 applications per year is 40 hours per year and the total cost is $1,200 per year.

B. The Liquidation Plan

Title: SBA Liquidation Plan [SBA Form 1979].

Summary: The liquidation plan will describe the specific steps that CDCs anticipate using to recover through liquidation of collateral and other actions, debts owed on their defaulted 504 loans.

Need and Purpose: This plan is required under proposed § 120.540(a), and is needed for SBA to oversee recovery actions of CDCs because SBA, as guarantor on CDC debentures, may incur financial losses of 100% on defaulted 504 loans funded by these debentures. Thus, SBA must oversee and manage the liquidation actions of CDCs to ensure that they will take action to maximize recovery, minimize risks, and limit unnecessary and excessive costs. SBA is authorized to require submission of this plan under several statutory provisions: sections 5(b)(7), 7(a)(2)(C), and 7(a)(19) of the Act (15 U.S.C. 634(b)(7), 636(a)(2)(C) and (a)(19)), and section 510 of the SBI Act (15 U.S.C. 697g).

Description of Respondents: The respondents are CDCs that have made 504 loans funded by SBA guaranteed debentures and that are authorized to conduct liquidation (Authorized CDC Liquidation). SBA estimates that such CDCs would submit approximately 300 liquidation plans each year.

SBA estimates that the average amount of time for an Authorized CDC Liquidator to complete this collection is two hours. SBA estimates that the cost to complete this collection will be approximately $30 per hour. Therefore, we estimate that the total annual burden for all CDCs affected by this requirement is 600 hours and the total cost is $18,000 per year.

C. The Litigation Plan

Title: SBA Litigation Plan [No SBA Form Number].

Summary: The litigation plan will describe the proposed conduct of debt collection litigation that Lenders/CDCs anticipate using to recover debts owed on their defaulted 7(a) and 504 loans where litigation is not anticipated to be Non-Routine Litigation.

Need and Purpose: This plan is required under proposed § 120.540(b), and is needed for SBA to oversee and manage debt collection litigation by Lenders and CDCs because SBA, as guarantor on 7(a) loans and 504 debentures, may incur financial losses of up to 90% on defaulted 7(a) loans and 100% on defaulted 504 loans. Thus, SBA must oversee the liquidation actions of Lender/CDCs to ensure that they will take action to maximize recovery, minimize risks, and limit unnecessary and excessive costs. SBA is authorized to require submission of this plan under several statutory provisions: sections 5(b)(7), 7(a)(2)(C), and 7(a)(19) of the Act (15 U.S.C. 634(b)(7), 636(a)(2)(C) and (a)(19)), and section 510 of the SBI Act (15 U.S.C. 697g).

Description of Respondents: Respondents include Lenders that have made 7(a) guaranteed loans and CDCs that have made 504 loans funded by SBA guaranteed debentures. A Litigation plan will only be needed if litigation falls within the definition of Non-Routine Litigation. However, SBA has not maintained data on how many debt collection actions are initiated in connection with defaulted 7(a) or 504 loans or the average litigation costs or contested nature of such litigation. Therefore, SBA is calculating that an applicant will complete this collection once per defaulted loan. SBA estimates that such Lenders and CDCs will submit approximately 3,000 litigation plans each year.

SBA estimates that the average amount of time needed to complete this collection is one hour. SBA anticipates that the work will be done largely by private sector attorneys and estimates that this will cost approximately $150 per hour. Therefore, we estimate that the total annual burden for all entities affected by this requirement is 3,000 hours per year and the total cost is $450,000 per year.

D. Request for Emergency Waiver

Title: Request for waiver of need for written liquidation or litigation plan [No SBA Form Number].

Summary: As described in proposed § 120.540(f), Lenders and Authorized CDC Liquidators who are required to submit written liquidation or litigation plans to SBA for advance approval, may request a waiver of such requirement under urgent circumstances (for example, when an immediate response to litigation is required). Such Lenders

and Authorized CDC Liquidators would be required to apply for and obtain SBA's consent to such a waiver before taking the urgent action.

Need and Purpose: SBA must oversee Lenders' and CDCs' liquidation and litigation actions for the reasons described above. However, SBA recognizes that circumstances may arise in which obtaining prior SBA approval may be impracticable and potentially delay urgently-needed liquidation or litigation action. Therefore, SBA proposes to create a limited waiver to address such circumstances.

Description of Respondents: The respondents are Lenders and CDCs who are subject to the requirement to submit liquidation or litigation plans. SBA estimates that SBA will receive 500 waiver requests each year.

SBA estimates that the average amount of time for a Lender or CDC to complete this collection is one-half hour. SBA anticipates that this work will be done largely by private sector attorneys and expects will cost approximately $150 per hour. Therefore, SBA estimates that the total annual burden for Lenders and CDCs affected by this requirement is 250 hours and the total cost is $37,500 per year.

List of Subjects in 13 CFR Part 120

Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth above, SBA proposes to amend 13 CFR part 120 as follows:

PART 120—BUSINESS LOANS

1. The authority citation for part 120 is revised to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(a) and (h), 696(3), 697(a)(2), and 697(g).

2. Amend § 120.10 by adding the definitions of ''Authorized CDC Liquidator'' and ''Loan Program Requirements'' and by adding a sentence to the end of the definition of ''SOPs'' to read as follows:

§ 120.10 Definitions.

* * * * *

Authorized CDC Liquidator: A CDC in good standing with authority under the Act and SBA regulations to conduct liquidation and certain debt collection litigation in connection with 504 loans, as authorized by § 120.975.

* * * * *

Loan Program Requirements: Requirements imposed upon Lenders or CDCs by statute, SBA regulations, any agreement the Lender or CDC has executed with SBA, SBA SOPs, official SBA notices and forms applicable to the 7(a) and 504 loan programs, and loan authorizations, as such requirements are issued and revised by SBA from time to time. For CDCs, this term also includes requirements imposed by Debentures, as that term is defined in § 120.802.

* * * * *

SOPs * * * SOPs are publicly available on SBA's Web site at *http://www.sba.gov* in the online library.

* * * * *

Subpart A—Policies Applying to All Business Loans

3–4. Revise the undesignated center heading immediately preceding § 120.180 and revise § 120.180 to read as follows:

Applicability and Enforceability of Loan Program Requirements

§ 120.180 Lender and CDC Compliance with Loan Program Requirements.

Lenders must comply and maintain familiarity with Loan Program Requirements for the 7(a) program, as such requirements are revised from time to time. CDCs must comply and maintain familiarity with Loan Program Requirements for the 504 program, as such requirements are revised from time to time. Loan Program Requirements in effect at the time that a Lender or CDC takes an action in connection with a particular loan govern that specific action. For example, although loan closing requirements in effect when a Lender or CDC closes a loan will govern the closing actions, a Lender or CDC's liquidation actions on the same loan are subject to the liquidation requirements in effect at the time that a liquidation action is taken.

5. Add § 120.181 to read as follows:

§ 120.181 Status of Lenders and CDCs.

Lenders, CDCs and their contractors are independent contractors that are responsible for their own actions with respect to a 7(a) or 504 loan. SBA has no responsibility or liability for any claim by a borrower, guarantor or other party alleging injury as a result of any allegedly wrongful action taken by a Lender, CDC or an employee, agent, or contractor of a Lender or CDC.

6. Revise the undesignated center heading immediately preceding § 120.195 to read as follows:

Reporting

7. Add new § 120.197 to read as follows:

§ 120.197 Notifying SBA's Office of Inspector General of suspected fraud.

Lenders, CDCs, Borrowers, and others must notify the SBA Office of Inspector General of any information which indicates that fraud may have occurred in connection with a 7(a) or 504 loan. Send the notification to the Assistant Inspector General for Investigations, Office of Inspector General, U.S. Small Business Administration, 409 3rd Street SW., Washington DC 20416.

Subpart D—Lenders

8. Amend § 120.440 by revising the heading and the first sentence to read as follows:

§ 120.440 The Certified Lenders Program.

Under the Certified Lenders Program (CLP), designated Lenders process and close 7(a) loans and service and liquidate such loans in accordance with subpart E of this part. * * *

9. Amend § 120.453 by revising the heading and the section to read as follows:

§ 120.453 Responsibilities of PLP Lenders for servicing and liquidating 7(a) loans.

Servicing and Liquidation responsibilities for PLP Lenders are set forth in subpart E of this part.

9a. Revise the heading of subpart E to read as follows:

Subpart E—Servicing, Liquidation, and Debt Collection Litigation of 7(a) and 504 Loans

§§ 120.500, 120.510, 120.511, 120.512, and 120.513 [Removed]

10. Remove §§ 120.500, 120.510, 120.511, 120.512, and 120.513, and the undesignated center heading immediately preceding § 120.510 entitled ''Servicing''.

11. Amend § 120.520 by revising the heading and the section to read as follows:

§ 120.520 Purchase of 7(a) Loan Guarantees.

(a) *When SBA will purchase.* (1) *For loans approved on or after the effective date of this regulation.* A Lender must not make demand on SBA to purchase a guaranteed portion of a loan until after the Lender has completed liquidation for that loan. SBA considers liquidation to be completed when a Lender has exhausted all prudent and commercially reasonable efforts to collect upon the debt. However, a Lender may request in writing that SBA purchase the guaranteed portion of a loan prior to completion of liquidation, if a debt collection judicial or other similar proceeding involving that loan (including but not limited to foreclosure and bankruptcy proceedings) has been underway for more than eighteen (18) months. In addition, SBA, in its sole discretion, may purchase the guaranteed

portion of a loan at any time with or without a request from a Lender.

(2) *For loans approved before the effective date of this regulation.* The regulations applicable to the time that a Lender may demand purchase that were in effect immediately prior to this date will govern such loans.

(b) *Documentation for purchase.* SBA will not purchase its guaranteed portion of a loan from a Lender unless the Lender has submitted to SBA documentation that SBA deems sufficient to allow SBA to determine whether purchase of the guarantee is warranted under § 120.524.

(c) *Purchase of loans sold in Secondary Market.* When the Lender has sold the guaranteed portion of a loan in the Secondary Market, pursuant to subpart F of this part, Lenders must perform all necessary servicing and liquidation actions for such loan even after SBA has purchased the guaranteed portion of such loan from a Registered Holder (as that term is defined in § 120.600(i)). In the event that SBA purchases its guaranteed portion of such a loan from the Registered Holder, Lenders must provide documentation upon request by SBA that SBA deems sufficient to be able to review the Lender's administration of the loan under § 120.524. A Lender's failure to provide sufficient documentation may constitute a material failure to comply with SBA requirements under § 120.524(a)(1), and may lead to initiation of an action for recovery from the Lender of all or some of the moneys SBA paid to a Registered Holder on a guarantee.

(d) *No waiver of SBA's rights.* Purchase by SBA of the guaranteed portion of a loan, or of a portion of SBA's guarantee of a loan, either through a negotiated agreement with a Lender or otherwise, does not waive any of SBA's rights to recover from the responsible Lender any money paid on the guarantee based upon the occurrence of any of the events set forth in § 120.524(a) in connection with that loan.

12. Amend § 120.522 by revising the section heading and paragraph (b), and by deleting paragraph (d), to read as follows:

§ 120.522 Payment of accrued interest to the Lender or Registered Holder when SBA purchases the guaranteed portion.

* * * * *

(b) *Payment to Lender.* (1) *For loans approved on or after the effective date of this regulation.* SBA will pay up to a maximum of 120 days interest to a Lender at the time of guarantee purchase.

(2) *For loans approved before the effective date of this regulation.* The regulations applicable to the amount of interest that SBA will pay to a Lender upon loan default that were in effect immediately prior to this date will govern such loans.

* * * * *

13. Amend § 120.524 by revising paragraphs (a)(1), (a)(8), and (b) through (d) to read as follows:

§ 120.524 When is SBA released from liability on its guarantee on loans?

(a) * * *

(1) The Lender has failed to comply materially with any Loan Program Requirement for 7(a) loans.

* * * * *

(8) The Lender has failed to request that SBA purchase a guarantee within 180 days after maturity of the loan. However, if the Lender is conducting liquidation or debt collection litigation in connection with a loan that has matured, SBA will be released from its guarantee only if the Lender fails to request that SBA purchase the guarantee within 180 days after the completion of the liquidation or debt collection litigation;

* * * * *

(b) If SBA determines, at any time, that any of the events set forth in paragraph (a) of this section occurred in connection with that loan, SBA is entitled to recover any moneys paid on the guarantee plus interest from the Lender responsible for those events.

(c) If the Lender's loan documentation or other information indicates that one or more of the events in paragraph (a) of this section occurred, SBA may undertake such investigation as it deems necessary to determine whether to honor or deny the guarantee, and may withhold a decision on whether to honor the guarantee until the completion of such investigation.

(d) Any information provided to SBA by a Lender or other party will not prejudice, or be construed as effecting any waiver of, SBA's right to deny liability for a guarantee if one or more of the events listed in paragraph (a) of this section occur.

* * * * *

14–15. Add the following new § 120.535 and § 120.536 to read as follows:

§ 120.535. Standards for Lender and CDC loan servicing, loan liquidation and debt collection litigation.

(a) Lenders and CDCs must service 7(a) and 504 loans in their portfolio no less diligently than their non-SBA portfolio, and in a commercially reasonable manner, consistent with prudent lending standards, and in accordance with Loan Program Requirements.

(b) Lenders and Authorized CDC Liquidators must liquidate and conduct debt collection litigation for 7(a) and 504 loans in their portfolio no less diligently than for their non-SBA portfolio, and in a prompt, cost-effective and commercially reasonable manner, consistent with prudent lending standards, and in accordance with Loan Program Requirements and with any SBA approval of either a liquidation or litigation plan or any amendment of such a plan.

(c) A CDC must not take any action in the liquidation or debt collection litigation of a 504 loan that would result in an actual or apparent conflict of interest between the CDC (or any employee of the CDC) and any Third Party Lender, associate of a Third Party Lender, or any person participating in a liquidation, foreclosure or loss mitigation action.

(d) SBA may, in its discretion, undertake the servicing or liquidation of any 7(a) or 504 loan. If SBA elects to service or liquidate a loan, it will notify the relevant Lender or CDC in writing, and, upon receiving such notice, the Lender or CDC must assign the Loan Instruments to SBA and provide any needed assistance to allow SBA to service and liquidate the loan. SBA will notify the Borrower of the change in servicing. SBA may use contractors to perform these actions.

§ 120.536 Servicing and liquidation actions that require the prior written consent of SBA.

(a) *Actions by Lenders and CDCs.* Except as otherwise provided in a Supplemental Guarantee Agreement with a Lender or an Agreement with a CDC, SBA must give its prior written consent before a Lender or CDC takes any of the following actions:

(1) Increases the principal amount of a loan above that authorized by SBA at loan origination.

(2) Confers a Preference on the Lender or CDC or engages in an activity that creates a conflict of interest.

(3) Compromises the principal balance of a loan.

(4) Takes title to any property in the name of SBA.

(5) Takes title to environmentally contaminated property, or takes over operation and control of a business that handles hazardous substances or hazardous wastes.

(6) Transfers, sells or pledges more than 90% of a loan.

(7) Takes any action for which prior written consent is required by a Loan Program Requirement.

(b) *Actions by CDCs only (other than PCLP CDCs).* SBA must give its prior written consent before a CDC, other than a PCLP CDC, takes any of the following actions with respect to a 504 loan:

(1) Alters substantially the terms or conditions of any Loan Instrument.

(2) Releases collateral having a cumulative market value in excess of 10 percent of the Debenture amount or $10,000, whichever is less.

(3) Accelerates the maturity of the note.

(4) Compromises or releases any claim against any Borrower or obligor, or against any guarantor, standby creditor, or any other person that is contingently liable for moneys owed on the loan.

(5) Purchases or pays off any indebtedness secured by the property that serves as collateral for a defaulted 504 loan, such as payment of the debt(s) owed to a lien holder or lien holders with priority over the lien securing the loan.

(6) Accepts a workout plan to restructure the material terms and conditions of a loan that is in default or liquidation.

(7) Takes any action for which prior written consent is required by a Loan Program Requirement.

(c) *Documentation requirements.* For all servicing/liquidation actions not requiring SBA's prior written consent, Lenders and CDCs must document the justifications for their decisions and retain these and supporting documents in their file for future SBA review to determine if the actions taken by the Lender or CDC were prudent and commercially reasonable.

16. Remove the undesignated center heading before § 120.540 entitled ''Liquidation of Collateral.''

§ 120.540 [Redesignated as § 120.545]

17. Redesignate § 120.540 as § 120.545.

18. Add new § 120.540 through § 120.542 to read as follows:

§ 120.540 Liquidation and litigation plans.

(a) *SBA oversight.* SBA may monitor or review liquidation through the review of liquidation plans which all Authorized CDC Liquidators and certain Lenders must submit to SBA for approval prior to undertaking liquidation, and through liquidation wrap-up reports which Lenders must submit to SBA at the completion of liquidation. SBA will monitor debt collection litigation, such as judicial foreclosures, bankruptcy proceedings and other State and Federal insolvency proceedings, through the review of litigation plans, as set forth in this section.

(b) *Liquidation plan.* An Authorized CDC Liquidator and a Lender for a loan made under its authority as a CLP Lender must, prior to undertaking any liquidation, submit a written proposed liquidation plan to SBA and receive SBA's written approval of that plan.

(c) *Litigation plan.* An Authorized CDC Liquidator and a Lender must obtain SBA's prior approval of a litigation plan before proceeding with any Non-Routine Litigation, as defined in paragraph (c)(1) of this section. SBA's prior approval is not required for Routine Litigation, as defined in paragraph (c)(2) of this section.

(1) Non-Routine Litigation includes:

(i) All litigation where factual or legal issues are in dispute and require resolution through adjudication;

(ii) Any litigation where legal fees and costs are estimated to exceed $10,000;

(iii) Any litigation involving a loan where a Lender or Authorized CDC Liquidator has an actual or potential conflict of interest with SBA; and

(iv) Any litigation involving a 7(a) or 504 loan where the Lender or CDC has made a separate loan to the same borrower which is not a 7(a) or 504 loan.

(2) Routine Litigation means uncontested litigation, such as non-adversarial matters in bankruptcy and undisputed foreclosure actions, having estimated legal fees and costs not exceeding $10,000.

(d) *Decision by SBA to take over litigation.* If a Lender or Authorized CDC Liquidator is conducting, or proposes to conduct, debt collection litigation on a 7(a) loan or 504 loan, SBA may take over the litigation if SBA determines that the outcome of the litigation could adversely affect SBA's administration of the loan program or that the Government is entitled to legal remedies that are not available to the Lender or Authorized CDC Liquidator. Examples of cases that could adversely affect SBA's administration of a loan program include, but are not limited to, situations where SBA determines that:

(1) The litigation involves important governmental policy or program issues.

(2) The case is potentially of great precedential value or there is a risk of adverse precedent to the Government.

(3) The Lender or Authorized CDC Liquidator has an actual or potential conflict of interest with SBA.

(4) The legal fees of the Lender or Authorized CDC Liquidator's outside counsel are unnecessary, unreasonable or not customary in the locality.

(e) *Amendments to a liquidation or litigation plan.* Lenders and Authorized CDC Liquidators must submit an amended liquidation or litigation plan to address any material changes arising during the course of the liquidation or litigation that were not addressed in the original plan or an amended plan. Lenders and Authorized CDC Liquidators must obtain SBA's written approval of the amended plan prior to taking any further liquidation or litigation action. Examples of such material changes that would require the approval of an amended plan include, but are not limited to:

(1) Changes arising during the course of Routine Litigation that transform the litigation into Non-Routine Litigation, such as when the debtor contests a foreclosure or when the actual legal fees incurred exceed $10,000.

(2) If SBA has approved a litigation plan where anticipated costs of conducting the litigation exceed $10,000, or has approved an amended plan, and thereafter the anticipated or actual costs of conducting the litigation increase by more than 15 percent.

(3) If SBA has approved a liquidation plan, or an amended plan, and thereafter the anticipated or actual costs of conducting the liquidation increase by more than 15 percent.

(f) *Limited waiver of need for a written liquidation or litigation plan.* SBA may, in its discretion, and upon request by a Lender or Authorized CDC Liquidator, waive the requirements of paragraphs (b), (c) or (e) of this section, if one of the following circumstances (Emergency) warrant such a waiver: the need for expeditious action to avoid the potential risk of loss on the loan or dissipation of collateral exists; an immediate response is required to litigation by a borrower, guarantor or third party; or another urgent reason arises. The Lender or Authorized CDC Liquidator must obtain SBA's written consent to such waiver before undertaking the Emergency action, if at all practicable. SBA's waiver will apply only to the specific action(s) which the Lender or Authorized CDC Liquidator has identified to SBA as being necessary to address the Emergency. The Lender or Authorized CDC Liquidator must, as soon after the Emergency as is practicable, submit a written liquidation or litigation plan to SBA or, if appropriate, a written amended plan, and may not take further liquidation or litigation action without written approval of such plan or amendment by SBA.

(g) *Appeals.* A Lender for loans made under its authority as a CLP Lender or an Authorized CDC Liquidator that disagrees with an SBA office's decision pertaining to an original or amended liquidation plan, other than such portions of the plan that address litigation matters, may submit a written appeal to the AA/FA within 30 days of

the decision. The AA/FA or designee will make the final Agency decision in consultation with the Associate General Counsel for Litigation. A Lender or Authorized CDC Liquidator that disagrees with an SBA office's decision pertaining to an original or amended litigation plan, or the portion of a liquidation plan addressing litigation matters, may submit a written appeal to the Associate General Counsel for Litigation within 30 days of the decision. The Associate General Counsel for Litigation will make the final Agency decision in consultation with the AA/FA.

§ 120.541 Time for approval by SBA.

(a) Except as set forth in paragraph (c) of this section, in responding to a request for approval under §§ 120.540(b), 120.540(c), 120.537(c)(5) or 120.537(c)(6), SBA will approve or deny the request within 15 business days of the date when SBA receives the request. If SBA is unable to approve or deny the request within this 15-day period, SBA will provide a written notice of no decision to the Lender or Authorized CDC Liquidator, stating the reason for SBA's inability to act; an estimate of the additional time required to act on the plan or request; and, if SBA deems appropriate, requesting additional information.

(b) Except as set forth in paragraph (c) of this section, unless SBA gives its written consent to a proposed liquidation or litigation plan, or a proposed amendment of a plan, or any of the actions set forth in § 120.536(b)(5) or § 120.536(b)(6), SBA will not be deemed to have approved the proposed action.

(c) If a Lender seeks to perform liquidation on a loan made under its authority as a CLP Lender by submitting a liquidation plan to SBA for approval, SBA will approve or deny such plan within ten business days. If SBA fails to approve or deny the plan within ten business days, SBA will be deemed to have approved such plan.

§ 120.542 Payment by SBA of legal fees and other expenses.

(a) *Legal fees SBA will not pay.* (1) SBA will not pay legal fees or other costs that a Lender or Authorized CDC Liquidator incurs:

(i) In asserting a claim, cross claim, counterclaim, or third-party claim against SBA or in defense of an action brought by SBA, unless payment of such fees or costs is otherwise required by federal law.

(ii) In connection with actions of a Lender or Authorized CDC Liquidator's outside counsel for performing non-legal liquidation services, unless authorized by SBA prior to the action.

(iii) In taking actions which solely benefit a Lender or Authorized CDC Liquidator and which do not benefit SBA, as determined by SBA.

(2) SBA will not pay legal fees or other costs a Lender or CDC incurs in the defense of, or pay for any settlement or adverse judgment resulting from, a suit, counterclaim or other claim by a borrower, guarantor, or other party that seeks damages based upon a claim that the Lender or CDC breached any duty or engaged in any wrongful actions, unless SBA expressly directed the Lender or CDC to undertake the allegedly wrongful action that is the subject of the suit, counterclaim or other claim.

(b) *Legal fees SBA may decline to pay.* In addition to any right or authority SBA may have under law or contract, SBA may, in its discretion, decline to pay a Lender or Authorized CDC Liquidator for all, or a portion, of legal fees and/or other costs incurred in connection with the liquidation and/or litigation of a 7(a) loan or 504 loan under any of the following circumstances:

(1) SBA determines that the Lender or Authorized CDC Liquidator failed to perform liquidation or litigation promptly and in accordance with commercially reasonable standards, in a prudent manner, or in accordance with any Loan Program Requirement or SBA approvals of either a liquidation or litigation plan or any amendment of such a plan.

(2) A Lender or Authorized CDC Liquidator fails to obtain prior written approval from SBA for any liquidation or litigation plan, or for any amended liquidation or litigation plan, or for any action set forth in § 120.536, when such approval is required by these regulations or a Loan Program Requirement.

(3) If SBA has not specifically approved fees or costs identified in an original or amended liquidation or litigation plan under § 120.540, and SBA determines that such fees or costs are not reasonable, customary or necessary in the locality in question. In such cases, SBA will pay only such fees as it deems are necessary, customary and reasonable in the locality in question.

(c) *Appeals—liquidation costs.* A Lender or Authorized CDC Liquidator that disagrees with a decision by an SBA office to decline to reimburse all, or a portion, of the fees and/or costs incurred in conducting liquidation may appeal this decision in writing to the AA/FA within 30 days of the decision. The decision of the AA/FA or designee will be made in consultation with the Associate General Counsel for Litigation, and will be the final Agency decision.

(d) *Appeals—litigation costs.* A Lender or Authorized CDC Liquidator that disagrees with a decision by SBA to decline to reimburse all, or a portion, of the legal fees and/or costs incurred in conducting debt collection litigation may appeal this decision in writing to the Associate General Counsel for Litigation within 30 days of the decision. The decision of the Associate General Counsel for Litigation will be made in consultation with the AA/FA, and will be the final Agency decision.

19. Add a new § 120.546 to read as follows:

§ 120.546 Loan asset sales.

(a) *General.* Loan asset sales are governed by § 120.845(b)(4) and by this section.

(b) *7(a) loans.* (1) *For loans approved on or after the effective date of this regulation.* The Lender will be deemed to have consented to SBA's sale of the loan (guaranteed and unguaranteed portions) in an asset sale conducted or overseen by SBA if:

(i) For a loan where the guaranteed portion has been sold in the Secondary Market pursuant to subpart F of this part and the loan subsequently goes into default, and the Lender does not exercise its option to purchase the guaranteed portion of the loan from the Registered Holder and instead SBA purchases the guaranteed portion of the loan from the Registered Holder; or

(ii) SBA has purchased the guaranteed portion of a loan prior to completion of liquidation as provided in § 120.520(a)(1).

(2) *For loans approved before the effective date of this regulation.* SBA must obtain written consent from the Lender for the sale of such loans in an asset sale.

(c) *504 loans.* (1) *PCLP Loans.* After SBA's purchase of a Debenture, SBA may at its sole discretion sell a defaulted PCLP Loan in an asset sale conducted or overseen by SBA, after providing to the PCLP CDC that made the loan advance notice of not less than 90 days before the date upon which SBA first makes its records concerning such loan available to prospective purchasers for examination.

(2) *All other 504 loans.* After SBA's purchase of a Debenture, SBA may at its sole discretion sell a defaulted 504 loan in an asset sale conducted or overseen by SBA.

20. Revise § 120.826 to read as follows:

§ 120.826 Basic requirements for operating a CDC.

A CDC must operate in accordance with all Loan Program Requirements. In its Area of Operations, a CDC must market the 504 program, package and process 504 loan applications, close and service 504 loans, and if authorized by SBA, liquidate and litigate 504 loans. It must supply to SBA current and accurate information about all certification and operational requirements, and maintain the records and submit the reports required by SBA.

21. Revise § 120.841(c) to read as follows:

§ 120.841 Qualifications for the ALP.

* * * * *

(c) Current reviews in compliance. SBA-conducted oversight reviews must be current (within past 12 months) for applicants for ALP status, and these reviews must have found the CDC to be in compliance with Loan Program Requirements.

* * * * *

22. Revise § 120.845(c)(1) to read as follows:

§ 120.845 Premier Certified Lenders Program (PCLP).

* * * * *

(c) * * *

(1) The CDC must be an ALP CDC in substantial compliance with Loan Program Requirements or meet the criteria to be an ALP CDC set forth in § 120.841(a) through (h).

* * * * *

23. Revise § 120.846(a)(3) to read as follows:

§ 120.846 Requirements for maintaining and reviewing PCLP Status.

(a) * * *

(3) Substantially comply with all Loan Program Requirements.

* * * * *

Subpart H—Development Company Loan Program (504)

24. Amend § 120.848 by revising paragraphs (a) and (f) to read as follows:

§ 120.848 Requirements for 504 loan processing, closing, servicing, liquidating and litigating by PCLP CDCs.

(a) *General.* In processing closing, servicing, liquidating and litigating 504 loans under the PCLP (''PCLP Loans''), the PCLP CDC must comply with Loan Program Requirements and conduct such activities in accordance with prudent and commercially reasonable lending standards.

* * * * *

(f) *Servicing, liquidation and litigation responsibilities.* The PCLP CDC generally must service, liquidate and litigate its entire portfolio of PCLP Loans, although SBA may in certain circumstances elect to handle such duties with respect to a particular PCLP Loan or Loans. Additional servicing and liquidation requirements are set forth in Subpart E.

* * * * *

25. Revise § 120.854(a)(2) to read as follows:

§ 120.854 Grounds for taking enforcement action against a CDC.

(a) * * *

(2) The CDC has failed to comply materially with any Loan Program Requirement.

* * * * *

24. Amend § 120.970 by revising paragraphs (a) and (h) to read as follows:

120.970 Servicing of 504 Loans and Debentures.

(a) In servicing 504 loans, CDCs must comply with Loan Program Requirements and in accordance with prudent and commercially reasonable lending standards.

* * * * *

(h) Additional servicing requirements are set forth in Subpart E.

26. Add a new undesignated center heading after § 120.972 to read as follows: Authority of CDCs to Perform Liquidation and Debt Collection Litigation.

27. Add § 120.975 to read as follows:

§ 120.975 CDC Liquidation of Loans and Debt Collection Litigation.

(a) *PCLP CDCs.* If a CDC is designated as a PCLP CDC under § 120.845, the CDC must liquidate and handle debt collection litigation with respect to all PCLP Loans in its portfolio on behalf of SBA as required by § 120.848(f), in accordance with subpart E of this part. With respect to all other 504 loans that a PCLP CDC makes, the PCLP CDC is an Authorized CDC Liquidator and must exercise its delegated authority to liquidate and handle debt-collection litigation in accordance with subpart E of this part for such loans, if the PCLP CDC is notified by SBA that it meets either of the following requirements to be an Authorized CDC Liquidator, as determined by SBA:

(1) The PCLP CDC has one or more employees who have not less than two years of substantive, decision-making experience in administering the liquidation and workout of defaulted or problem loans secured in a manner substantially similar to loans funded with 504 loan program debentures, and who have completed a training program on loan liquidation developed by the Agency in conjunction with qualified CDCs that meet the requirements of this section; or

(2) The PCLP CDC has entered into a contract with a qualified third party for the performance of its liquidation responsibilities and obtains the approval of SBA with respect to the qualifications of the contractor and the terms and conditions of the contract.

(b) *All other CDCs.* A CDC that is not authorized under paragraph (a) of this section may apply to become an Authorized CDC Liquidator with authority to liquidate and handle debt collection litigation with respect to 504 loans on behalf of SBA, in accordance with subpart E of this part, if the CDC meets the following requirements:

(1) The CDC meets either of the following criteria:

(i) The CDC participated in the loan liquidation pilot program established by the Small Business Programs Improvement Act of 1996 prior to the effective date of this regulation; or

(ii) During the three fiscal years immediately prior to seeking such authority, the CDC made an average of not less than ten 504 loans per year; and

(2) The CDC meets either of the following requirements:

(i) The CDC has one or more employees who have not less than two years of substantive, decision-making experience in administering the liquidation and workout of defaulted or problem loans secured in a manner substantially similar to loans funded with 504 loan program debentures, and who have completed a training program on loan liquidation developed by the Agency in conjunction with qualified CDCs that meet the requirements of this section; or

(ii) The CDC has entered into a contract with a qualified third party for the performance of its liquidation responsibilities and obtains the approval of SBA with respect to the qualifications of the contractor and the terms and conditions of the contract.

(c) *CDC counsel.* To perform debt collection litigation under paragraphs (a) or (b) of this section, a CDC must also have either in-house counsel with adequate experience as approved by SBA or entered into a contract for the performance of debt collection litigation with an experienced attorney or law firm as approved by SBA.

(d) *Application for authority to liquidate and litigate.* To seek authority to perform liquidation and debt collection litigation under paragraphs (b) and (c) of this section, a CDC other than a PCLP CDC must submit a written application to SBA and include documentation demonstrating that the

CDC meets the requirements of paragraph (b) and (c) of this section. If a CDC intends to use a contractor to perform liquidation, it must obtain approval from SBA of both the qualifications of the contractor and the terms and conditions in the contract covering the CDC's retention of the contractor. SBA will notify a CDC in writing when the CDC can begin to perform liquidation and/or debt collection litigation under this section.

Hector V. Barreto,

Administrator.

[FR Doc. 05–21681 Filed 11–2–05; 8:45 am]

BILLING CODE 8025–01–P

LEGAL SERVICES CORPORATION

45 CFR Part 1631

Expenditure of Grant Funds

AGENCY: Legal Services Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to delete in its entirety of the Legal Services Corporation's regulation at 45 CFR part 1631, Expenditure of Grant Funds. The proposed deletion is warranted because the statutory authority for part 1631 is no longer the prevailing rule of law.

DATES: Comments on this NPRM are due on December 5, 2005.

ADDRESSES: Written comments may be submitted by mail, fax or e-mail to Mattie C. Condray at the addresses listed below.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 3333 K Street, NW., Washington DC 20007; 202–295–1624 (ph); 202–337–6519 (fax); *mcondray@lsc.gov.*

SUPPLEMENTARY INFORMATION: Part 1631 provides that LSC grant recipients may not expend LSC funds except as in accordance with the restrictions and provisions contained in the Corporation's Fiscal Year 1986 appropriations measure (Pub. L. 99–180, 99 Stat. 1136), unless such funds are expended pursuant to a waiver from the Corporation. Part 1631 was promulgated in 1986 in response to Congressional concerns that some pre-1982 funds were being held by recipients and spent on activities which were not prohibited at the time the funds were appropriated, but which were later prohibited (and on which recipients could not spend currently appropriated funds). 51 FR 24826 (July 9, 1986).

In 2005, there is no longer any concern that recipients have any pre-1982 funds to spend. In addition, in 1996, Congress adopted new restrictions and provisions applicable to recipients of LSC funds which supersede the restrictions in Public Law 99–180. Public Law 104–134, 110 Stat. 1321. These restrictions have been incorporated by reference in each subsequent appropriation, including the current appropriation. Public Law 108–447, 118 Stat. 2809. These restrictions have been separately incorporated into LSC's regulations and removal of part 1631 will have no effect on the later restrictions and provisions imposed by Pub. L. 104–134. See, *e.g.*, 45 CFR part 1610.

As part 1631 is now obsolete, LSC believes it is appropriate at this time to delete part 1631 in its entirety. LSC believes this action will streamline LSC's regulations and avoid any potential confusion the continued existence of part 1631 might create. Accordingly, LSC proposes to remove and reserve part 1631 from Chapter XVI of Title 45 of the Code of Federal Regulations.

PART 1631—[REMOVED AND RESERVED]

For reasons set forth above, and under the authority of 42 U.S.C. 2996g(e), LSC proposes to remove and reserve 45 CFR Part 1631.

Victor M. Fortuno,

General Counsel and Vice President for Legal Affairs.

[FR Doc. 05–21942 Filed 11–2–05; 8:45 am]

BILLING CODE 7050–01–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 524

[BOP–1131–P]

RIN 1120–AB32

Classification and Program Review

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed Rule.

SUMMARY: In this document, the Bureau of Prisons (Bureau) proposes to revise its regulations on classification and program review to remove unnecessary regulations and to ensure that classification and program review procedures adequately address inmate needs.

DATES: Comments due by January 3, 2006.

ADDRESSES: Our e-mail address is *BOPRULES@BOP.GOV.* Comments should be submitted to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. You may view an electronic version of this rule at *http://www.regulations.gov.* You may also comment via the Internet to BOP at *BOPRULES@BOP.GOV* or by using the *http://www.regulations.gov* comment form for this regulation. When submitting comments electronically you must include the BOP Docket No. in the subject box.

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

SUPPLEMENTARY INFORMATION: In this document, we revise and streamline the regulations which set forth the classification and program review rules, which currently describe procedure, practice, and general statements of policy, to remove an unnecessary level of operational details with regard to the classification and program review process.

Details removed from the regulations will be addressed in our corresponding policy statement on the classification and review program. We do not, by this rule, intend to make any substantive changes to the current rules or to the classification and program review system. We merely intend to clarify and streamline the existing rules.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'', section 1(b), Principles of Regulation. The Director, Bureau of Prisons has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, we determine that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation

and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

List of Subjects in 28 CFR Part 524

Prisoners.

Harley G. Lappin,

Director, Bureau of Prisons.

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 301; 28 U.S.C. 509, 510 and delegated to the Director, Bureau of Prisons in 28 CFR 0.96, we propose to amend 28 CFR part 524 as set forth below.

Subchapter B—Inmate Admission, Classification, and Transfer

PART 524—CLASSIFICATION OF INMATES

1. Revise the authority citation for 28 CFR part 524 to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3521–3528, 3621, 3622, 3624, 4001, 4042, 4046, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 21 U.S.C. 848; 28 U.S.C. 509, 510.

2. Revise subpart B to read as follows:

Subpart B—Classification and Program Review of Inmates

Sec.
524.10 Purpose.
524.11 Process for classification and program reviews.

Subpart B—Classification and Program Review

§ 524.10 Purpose.

The purpose of this subpart is to explain the Bureau of Prisons (Bureau) process for classifying newly committed inmates and conducting program reviews for all inmates except:

(a) Pretrial inmates, covered in § 551.107 of this chapter; and

(b) Inmates committed for study and observation.

§ 524.11 Process for classification and program reviews.

(a) *When:*

(1) Newly committed inmates will be classified within 28 calendar days of arrival at the institution designated for service of sentence.

(2) Inmates will receive a program review at least once every 180 calendar days. When an inmate is within twelve months of the projected release date, staff will conduct a program review at least once every 90 calendar days.

(b) *Inmate appearance before classification team:*

(1) Inmates will be notified at least 48 hours before that inmate's scheduled appearance before the classification team (whether for the initial classification or later program reviews).

(2) Inmates may submit a written waiver of the 48-hour notice requirement.

(3) The inmate is expected to attend the initial classification and all later program reviews. If the inmate refuses to appear at a scheduled meeting, staff must document on the Program Review Report the inmate's refusal and, if known, the reasons for refusal, and give a copy of this report to the inmate.

(c) *Program Review Report:* Staff must complete a Program Review Report at the inmate's initial classification. This report ordinarily includes information on the inmate's apparent needs and offers a correctional program designed to meet those needs. The Unit Manager and the inmate must sign the Program Review Report, and a copy must be given to the inmate.

(d) *Work Programs:* Each sentenced inmate who is physically and mentally able is assigned to a work program at initial classification. The inmate may choose not to participate in the offered program unless the program is a work assignment or required by Bureau policy, court order, or statute.

[FR Doc. 05–21967 Filed 11–2–05; 8:45 am]

BILLING CODE 4410–05–P

Notices

Federal Register

Vol. 70, No. 212

Thursday, November 3, 2005

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 31, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Voluntary Recalls of Meat and Poultry Products.

OMB Control Number: 0583–NEW.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. A firm that has produced or imported meat or poultry that is adulterated or misbranded and is being distributed in commerce, may voluntarily recall the product in question. When a firm voluntarily recalls a product, FSIS will conduct a recall effectiveness check.

Need and Use of the Information: In conducting a recall, the establishment will be asks to provide FSIS with some basic information, including the identity of the recalled product, the reason for the recall, and information about the distributors and customers of the product. FSIS will check on the effectiveness of the recall to ensure that all products subject to recall are accounted for. FSIS field personnel will use FSIS form 8400–4 A to determine (1) if the retail consignee received notification of the recall and (2) the amount of recalled products received. FSIS field personnel will also use FSIS form 8400–4 B to verify that product held by the retail consignee was properly disposed.

Description of Respondents: Business or other for-profit.

Number of Respondents: 3.060.

Frequency of Responses: Reporting: On Occasion.

Total Burden Hours: 3,100.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–21934 Filed 11–2–05; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 31, 2005.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Office of the Chief Information Officer

Title: USDA eAuthentication Service Customer Registration.

OMB Control Number: 0503–0014.

Summary Of Collection: The USDA Office of the Chief Information Officer (OCIO) developed the eAuthentication

system as a management and technical process that addresses user authentication and authorization prerequisites for providing services electronically. The eAuthentication Service provides an electronic alternative to traditional ink signatures. The process requires a voluntary one-time electronic self-registration to obtain an eAuthentication account for each USDA Agency customer desiring access to USDA online services and applications protected by eAuthentication. The information collected through the electronic self-registration process is necessary to enable the electronic authentication of users and grant them access to only those resources for which they are authorized.

Need And Use of the Information: The voluntary self-registration process applies to USDA customers and employees who request access to online USDA services and applications that are protected by eAuthentication. Users can register directly from the eAuthentication Web site located at www.eauth.egov.usda.gov. The information collected through the online self-registration process will be used to provide an eAuthentication account that will enable the electronic authentication of users. The user will then have access to authorized resources without needing to reauthenticate within the context of a single Internet session.

Description of Respondents: Farms; individuals or households; business or other for-profit; not-for-profit institutions; federal government; State, Local or Tribal Government.

Number of Respondents: 38,604.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 25,453.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 05–21935 Filed 11–2–05; 8:45 am]

BILLING CODE 3410–KR–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. TM–06–01]

Notice of Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) is announcing a forthcoming meeting of the National Organic Standards Board (NOSB).

DATES: The meeting dates are Wednesday, November 16, 2005, 9 a.m. to 4:45 p.m.; and Thursday, November 17, 2005, 9 a.m. to 5:15 p.m. Requests from individuals and organizations wishing to make an oral presentation at the meeting are due by the close of business on November 11, 2005.

ADDRESSES: The meeting will take place at the Channel Inn Hotel, The Captain's Room, 650 Water Street, SW., Washington, DC 20024. Requests for copies of the NOSB meeting agenda, requests to make an oral presentation at the meeting, or written comments may be sent to Ms. Katherine Benham at USDA–AMS–TMD–NOP, 1400 Independence Avenue, SW., Room 4008–So., Ag Stop 0268, Washington, DC 20250–0200. Requests to make an oral presentation at the meeting may also be sent via facsimile to Ms. Katherine Benham at (202) 205–7808 or electronically to Ms. Katherine Benham at *Katherine.benham@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Katherine E. Benham, Advisory Board Specialist, National Organic Program, (202) 205–7806.

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518) of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501 *et seq.*) requires the establishment of the NOSB. The purpose of the NOSB is to make recommendations about whether a substance should be allowed or prohibited in organic production or handling, to assist in the development of standards for substances to be used in organic production, and to advise the Secretary on other aspects of the implementation of the OFPA. The NOSB met for the first time in Washington, DC, in March 1992, and currently has six committees working on various aspects of the organic program. The committees are: Compliance, Accreditation, and Certification; Crops; Livestock; Materials; Handling; and Policy Development.

In August of 1994, the NOSB provided its initial recommendations for the National Organic Program (NOP) to the Secretary of Agriculture. Since that time, the NOSB has submitted 77 addenda to its recommendations and reviewed more than 269 substances for inclusion on the National List of Allowed and Prohibited Substances. The last meeting of the NOSB was held on August 15–17, 2005, in Washington, DC.

The Department of Agriculture (USDA) published its final National Organic Program regulation in the **Federal Register** on December 21, 2000 (65 FR 80548). The rule became effective April 21, 2001.

The principal purposes of the meeting are to provide an opportunity for the NOSB to receive an update from the USDA/NOP and hear progress reports from NOSB committees regarding work plan items and proposed action items. The NOSB subcommittees (Crops, Livestock, and Handling Committees) will also present and propose, to the full NOSB, recommendations concerning the continued use or prohibition of substances being reviewed under the OFPA's sunset provisions for the National List. The NOSB will vote on these recommendations.

The OFPA authorized a National List of Allowed and Prohibited Substances. The Act also provides that no allowed or prohibited substance would remain on the National List for a period exceeding 5 years unless the exemption or prohibition is reviewed and recommended for renewal by the NOSB and adopted by the Secretary of Agriculture. This expiration is commonly referred to as sunset of the National List. The National List was implemented on October 21, 2002 contained over 170 substances. This first sunset of the National List triggers a review process that must be concluded no later than October 21, 2007. If renewal is not concluded by that date, the use or prohibition of hundreds of materials will no longer be valid for the organic industry, causing most if not all of the organic industry to be in noncompliance with the National Organic Standards. Because this first sunset process involves Federal rulemaking, the NOSB and the NOP has issued guidance and begun work on the National List Sunset process in order to avoid expiration of the National List on October 21, 2007.

For further information, see *http://www.ams.usda.gov/nop.* Copies of the NOSB meeting agenda can be requested from Ms. Katherine Benham by telephone at (202) 205–7806; or by accessing the NOP Web site at *http://www.ams.usda.gov/nop.*

The meeting is open to the public. The NOSB has scheduled time for public input for Sunset Review on Wednesday, November 16, 2005, from 9:40 a.m. to 11:45 a.m., and time for public input on Pasture for Organic Livestock on Thursday, November 17, 2005, from 3 p.m. to 5 p.m. Individuals and organizations wishing to make an oral presentation at the meeting may forward their request by mail, facsimile, or e-

mail to Katherine Benham at addresses listed in **ADDRESSES** above. While persons wishing to make a presentation for Sunset Review and/or Pasture for Organic Livestock may sign up at the door, advance registration will ensure that a person has the opportunity to speak during the allotted time and will help the NOSB to better manage the meeting and to accomplish its agenda. Individuals or organizations will be given approximately 5 minutes to present their views. All persons making an oral presentation are requested to provide their comments in writing. Written submissions may contain information other than that presented at the oral presentation.

Written comments may also be submitted at the meeting. Persons submitting written comments at the meeting are asked to provide 30 copies.

Interested persons may visit the NOSB portion of the NOP Web site *http://www.ams.usda.gov/nop* to view available documents prior to the meeting. Approximately 6 weeks following the meeting interested persons will be able to visit the NOSB portion of the NOP Web site to view documents from the meeting.

Dated: October 31, 2005.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 05–22045 Filed 11–2–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 05–026N]

Nominations for the Howard E. Bauman Award

AGENCY: Food Safety and Inspection Service (FSIS), USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS), a public health regulatory agency committed to ensuring that the nation's commercial supply of meat, poultry, and egg products is safe, wholesome, and correctly labeled and packaged, is soliciting nominations for the Howard E. Bauman Award. The award was created to recognize one or more persons who have shown longstanding commitment, leadership, and service to improving food safety. The Agency is interested in receiving nominations of persons who have positively affected food safety and public health.

DATES: Submit nominations by December 5, 2005.

ADDRESSES: The nomination form is available at: *http://www.fsis.usda.gov/FSISForms/4450–1.pdf.* Send nominations to Ms. Faye Smith, Special Assistant to the Deputy Administrator, FSIS, Room 331–E, 1400 Independence Avenue, SW., Washington, DC 20250–3700. Mailed nominations must be postmarked no later than December 5, 2005. You may also fax nominations to Ms. Smith at (202) 690–0550.

FOR FURTHER INFORMATION CONTACT: Ms. Smith at the address above or by telephone at (202) 720–7025.

SUPPLEMENTARY INFORMATION:

Background

The Howard E. Bauman Award is named to honor Dr. Howard E. Bauman, who was widely recognized for his pioneering efforts to develop the Hazard Analysis and Critical Control Point (HACCP) food safety system. HACCP is a preventative system that is designed to reduce the occurrence and numbers of pathogenic microorganisms on foods, particularly meat and poultry products, reduce the incidence of foodborne illness associated with consumption of those products, and provide a framework for modernization of the meat and poultry inspection system.

Since its full implementation in 2000, HACCP has been the foundation of the inspections that are performed daily by FSIS inspection program personnel at approximately 6,300 Federal meat and poultry establishments in the United States. The Howard E. Bauman Award is the highest food safety honor presented by FSIS. The non-monetary award was first presented posthumously in 2002 to Dr. Bauman. His daughter accepted the award on his behalf. In 2004, the award was presented to Dr. Dell Allen of Cargill, Incorporated, for his innovations and contributions to the meat and poultry industry in the area of food safety.

Eligibility Criteria

To be eligible for nomination, the candidate must meet the following criteria:

- *Citizenship.* Any U.S. citizen or citizens may be nominated.
- *Improving Food Safety.* The nominee's contribution must have significantly improved food safety and public health or have advanced the state of science toward that goal. The improvement need not be limited to the arena of meat, poultry, and egg products. The achievement may be of service to all citizens and should be described in terms meaningful to the lay person.
- *Longstanding Commitment, Leadership, and Service.* The nominee overcame challenges or collaborated with others to achieve the food safety improvement described above.
- *Length.* The narrative portion of the submitted nomination should not exceed two typed, single-spaced pages on standard 8.5x11 size paper using a font size of at least 12, in a style similar to Times New Roman style, and a one-inch margin. No bibliographies, news releases, or other documentation should be submitted with the completed form.
- *Nominator.* Any person or organization may nominate a person or persons for the award. Nominations submitted anonymously will not be considered. Nominations for the award will be reviewed by the Nomination Review Committee appointed by the Under Secretary for Food Safety and the Administrator of FSIS. The committee will rank all nominations that meet the basic criteria and forward its recommendations to the Under Secretary and Administrator. They will make the final determination of the recipient of the 2005 Howard E. Bauman Award, who will then be notified in writing. A ceremony will be held to present the 2005 award.

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/regulations/2005 Notices_Index/.*

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 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.

In addition, FSIS offers an electronic mail subscription service that provides an automatic and customized notification when popular pages are updated, including **Federal Register** publications and related documents.

This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/* and allows FSIS Customers to sign up for subscription options in eight categories. Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to protect their accounts with passwords.

Done at Washington, DC on October 31, 2005.

Barbara J. Masters,

Administrator.

[FR Doc. 05–21936 Filed 11–2–05; 8:45 am]

BILLING CODE 3410–DM–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, DC from Monday through Wednesday, November 7–9, 2005, at the times and location noted below.

DATES: The schedule of events is as follows:

Monday, November 7, 2005

10:30 a.m.–Noon—Committee of the Whole on Board Expenditures (Closed Session)
1:30–3:30 p.m.—Ad Hoc Committee on Bylaws (Closed Session)
3:30–5—Ad Hoc Committee on Public Rights-of-Way (Closed Session)

Tuesday, November 8, 2005

9 a.m.——Noon Ad Hoc Committee on Bylaws (Closed Session)
1:30–4 p.m.—Committee of the Whole on Rulemaking Plan (Closed Session)
4–5—Ad Hoc Committee on Passenger Vessels (Closed Session)

Wednesday, November 9, 2005

9–10:30 a.m.—Technical Programs Committee
10:30–Noon—Planning and Budget Committee
1:30–3 p.m.—Board Meeting

ADDRESSES: On Monday and Tuesday, November 7–8, 2005, the meetings will be held at the Marriott at Metro Center Hotel, 775 12th Street, NW., Washington, DC 20005. On Wednesday, November 9, 2005, the meetings will be held at the Hamilton Crowne Plaza Hotel, 1001 14th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–0001 (voice) and (202) 272–0082 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items:

- Approval of the May 11, 2005 Board Meeting Minutes.
- Ad Hoc Committee on Bylaws Report.
- Ad Hoc Committee on Public Rights-of-Way Report.
- Committee of the Whole on Rulemaking Report.
- Ad Hoc Committee on Passenger Vessels Report.
- Technical Programs Committee Report.
- Planning and Budget Committee Report.

All meetings are accessible to persons with disabilities. An assistive listening system will be available at the Board meetings. Members of the general public who require sign language interpreters must contact the Access Board by November 4, 2005. Persons attending Board meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 05–21905 Filed 11–2–05; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102805C]

Mid-Atlantic Fishery Management Council (MAFMC); Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Summer Flounder Monitoring Committee, Scup Monitoring Committee, and Black Sea Bass Monitoring Committee, The Joint Mid-Atlantic Fishery Management Council (MAFMC) and the Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder, Scup, and Black Sea Bass Industry Advisory Panels will hold public meetings.

DATES: Tuesday, November 22, 2005 (see **SUPPLEMENTARY INFORMATION** for meeting times).

ADDRESSES: Sheraton Four Points, 4101 Island Avenue, Philadelphia, PA 19153; telephone 1–215–492–0400.

Council Address: Mid-Atlantic Fishery Management Council, Room 2115, 300 S. New Street, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION:

Meeting Times and Agenda

9 a.m.—The Mid-Atlantic Fishery Management Council's (Council) Summer Flounder Monitoring Committee, Scup Monitoring Committee, and Black Sea Bass Monitoring Committee.

1:30 p.m.—The Joint Mid-Atlantic Fishery Management Council (MAFMC) and the Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder, Scup, and Black Sea Bass Industry Advisory Panels.

The purpose of these meetings is to discuss the proposed 2006 recreational management measures for summer flounder, scup, and black sea bass.

Although other non-emergency issues not contained in this agenda may come before the Council for discussion, those issues may not be the subject of formal action during these meetings. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jan Saunders (302–674–2331 ext: 18) at the Council Office at least five days prior to the meeting date.

Dated: October 31, 2005.

Tracey L. Thompson,

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

[FR Doc. E5–6089 Filed 11–2–05; 8:45 am]

BILLING CODE 3510–22–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation'') has submitted a public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Ms. Angela Roberts, at (202) 606–6822, (*aroberts@cns.gov*); (TTY/TDD) at (202) 606–5256 between the hours of 9 a.m. and 4 p.m. eastern time, Monday through Friday.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by December 5, 2005.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, by either of the following two methods:

(1) By fax to: (202) 395–6974, Attention: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service; and

(2) Electronically by e-mail to: *Katherine_T._Astrich@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Type of Review: Extension of a currently approved collection.

Agency: Corporation for National and Community Service.

Title: Senior Corps ''Join Senior Service Now'' Senior Corps web-based recruitment system.

OMB Number: 3045–0078.

Agency Number: None.

Affected Public: (1) Prospective volunteers age 55 and over and (2) organizations electing to post opportunities for volunteers age 55 and over on the system.

Total Respondents: 452,526: 152,526 registered users and 300,000 unregistered users.

Frequency: Annual.

Average Time Per Respondent: 7 minutes for individuals.

25 minutes for organizations posting opportunities.

Estimated Total Burden Hours: 30,000.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): $0.

Description: The Corporation requests approval with no changes to its existing Web-based recruitment system known as ''JASON.''

Comments: A 60-day public comment Notice, regarding modification of the Senior Corps Web-based recruitment system was published in the **Federal Register** on June 28, 2005. A total of 28 written responses were received. All of the written responses were submitted by Senior Corps project directors. Each written response contained numerous separate comments or statements.

(a) Twenty comments were received about the overall effectiveness of recruiting volunteers ages 55 and over using the JASON system. Nine indicated that the system is not effective at all; with five also commenting that low-income seniors are not computer literate, and six indicated that the JASON system is effective for recruiting current seniors as well as volunteers too young for the Senior Corps programs. The Corporation believes that these comments reflect the demographic shift underway in our society. In contrast to individuals age 65 and over, mid to late Baby Boomers and younger Americans are generally indistinguishable in their use of computers. The Corporation projects that the JASON system is an investment that will pay off in the near future, as more computer savvy individuals become eligible for Senior Corps.

(b) Nine comments were received about the user-friendliness of the JASON system. Six indicated that the system is easy to use; and three indicated that using online forms can be confusing. The Corporation will more prominently post the ''step-by-step'' guides for users on the site.

(c) Eight comments focused on the Federal cost of the system. Five comments indicated that the system is too expensive for the return on investment, and recommended that JASON be discontinued. Two stated that the cost should be lowered. One comment said that JASON is already cost effective. The Corporation agrees that the JASON cost going forward will be reduced to approximately ⅓ of the original cost per year. This reduction is due to the inapplicability of start-up costs going forward.

(d) Three comments said that the time demands of JASON are too burdensome for the benefits received. The Corporation believes that the burden is appropriate.

(e) A total of 11 general comments were received that were beyond the scope of this information collection. Comments included four instances where seniors who expressed interest in volunteering did not, in turn, answer the telephone calls or e-mails from project staff seeking more information. Two comments contained pleas to provide more Federal funds to grantees for local recruitment campaigns. Three were general comments about dependence on computers in general.

Dated: October 24, 2005.

Tess Scannell,

Director, Senior Corps.

[FR Doc. 05–21955 Filed 11–2–05; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by December 5, 2005.

Title, Form, and OMB Number: Application and Contract for Establishment of a Junior Reserve Officers' Training Corps Unit; DA Form 3126; OMB Control Number 0702–0021.

Type of Request: Extension.

Number of Respondents: 70.

Responses Per Respondent: 1.
Annual Responses: 70.
Average Burden Per Response: 1 hour.
Annual Burden Hours: 70.
Needs and Uses: Educational institutions which desire to host a Junior ROTC unit may make application using DA Form 3126. The program provides unique educational opportunities for young citizens through their participation in a Federally-sponsored course while pursuing a civilian education. Participating students develop citizenship, leadership and communication skills, knowledge of the role of the U.S. Army in support of national objectives, as well as an appreciation for the importance of physical fitness. The organization of units established by the Department of the Army at public and private secondary schools is provided under 10 U.S.C. 2031 and 32 CFR 542.
Affected Public: Not-for-profit institutions.
Frequency: On occasion.
Respondent's Obligation: Required to obtain or retain benefits.
OMB Desk Officer: Mr. Lewis Oleinick.
Written comments and recommendations on the proposed information collection should be sent to Mr. Oleinick at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.
DOD Clearance Officer: Ms. Patricia Toppings.
Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: October 26, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–21921 Filed 11–02–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: Pursuant to section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS). The purpose of the Committee meeting is to discuss the 2005 DACOWITS Report. The meeting is open to the public, subject to the availability of space.

Interested persons may submit a written statement for consideration by the Committee and make an oral presentation of such. Persons desiring to make an oral presentation or submit a written statement to the Committee must notify the point of contact listed below no later than 5 p.m., 31 October 2005. Oral presentations by members of the public will be permitted only on Monday, 7 November 2005 from 4:45 p.m. to 5 p.m. before the full Committee. Presentations will be limited to two minutes. Number of oral presentations to be made will depend on the number of requests received from members of the public. Each person desiring to make an oral presentation must provide the point of contact listed below with one (1) copy of the presentation by 5 p.m., 31 October 2005 and bring 35 copies of any material that is intended for distribution at the meeting. Persons submitting written statement must submit 35 copies of the statement to the DACOWIS staff by 5 p.m. on 31 October 2005.

DATES: 7 November 2005, 8:30 a.m.–5 p.m., 8 November 2005, 8:30 a.m.–5 p.m.

Location: Embassy Suite Crystal City National Airport, 1300 Jefferson Davis Hwy, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: MAJ Kimberly Venable, USA DACOWITS, 4000 Defense Pentagon, Room 2C548A, Washington, DC 20301–4000. Telephone (703) 697–2122. Fax (703) 614–6233.

SUPPLEMENTARY INFORMATION: Meeting agenda.

Monday, 7 November 2005 8:30 a.m.–5 p.m.

Welcome and Administrative Remarks

Review and Vote on 2005 DACOWITS Report Recommendations

Public Forum

Tuesday, 8 November 2005 8:30 a.m.–5 p.m.

Welcome and Administrative Remarks

Review and Vote on 2005 DACOWITS Report Recommendations

Note: Exact order may vary.

Dated: October 28, 2005.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 05–21919 Filed 11–2–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Headquarters Air Force Recruiting Service.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Air Force Recruiting Service announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms or information technology.

DATES: Consideration will be given to all comments received January 3, 2005.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to Headquarters Air Force Recruiting Service, AFRS/RSIS, 550 D Street West Suite 1, Randolph AFB, TX 78150–4526.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Headquarters Air Force Recruiting Service Information System Division Systems Support Branch at 210–565–0447.

Title And OMB Number: Air Force Recruiting Information Support System (AFRISS); OMB NUMBER 0701–0150.

Needs And Uses: Air Force Recruiting Service requires the collection of specific information on prospective Air Force enlistees (prospective Air Force enlistees include Active, Guard, and Reserve) entering the Air Force. The information is used to create the initial

personnel record, prescreen and qualify enlistees fit for service and ultimately induction. The information is also collected to process security clearances and to record metrics to be used for demographics/market research and system performance.

Affected Public: Individuals 16 years and older interested in pursuing a career in the Air Force be it Active, Guard, and Reserve in the U.S. and abroad.

Annual Burden Hours: 3,900,000 hours.

Number of Respondents: 1,300,000.

Responses Per Respondent: 1.

Average Burden Per Response: 3 hours.

Frequency: As needed. Contact is based on prospective interest in becoming an Air Force member.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

To furnish Active, Guard, and Reserve field recruiters an automated tool to create prospective Air Force enlistee application files for all recruiting accessions in officer, enlisted, and health professions. AFRISS provides comprehensive integration, interface, and standardization of all programs that manage personnel resources in support of Air Force recruiting. The system extends automated capabilities out to the individual recruiter, flight, squadron, and groups. It provides an automated interface to the Military Entrance Processing Center Station (MEPS) where applicants undergo physical, testing, verification interviews, and tentative job reservation. It will provide an automated interface to the Modernized Military Personnel System (MilMod) where only pertinent and required applicant information is placed in a permanent military system of record. It also provides reporting capabilities at all levels of Air Force Recruiting management to make informed decisions on recruiting business rules and practices to increase the number of accessions.

Dated: October 26, 2005.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 05–21922 Filed 11–2–05; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 5, 2005.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: October 31, 2005.

Angela C. Arrington,

Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: Reinstatement.

Title: Early Childhood Longitudinal Study (ECLS)—Kindergarten Cohort, Eighth Grade Followup.

Frequency: One time.

Affected Public: Individuals or household; businesses or other for-profit; not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,600.

Burden Hours: 552.

Abstract: Starting in the fall and spring of the 1998–99 school year with a cohort of kindergartners, this cohort was contacted again in the fall and in the spring of their first grade year and in their third grade and fifth grade years. This clearance is to conduct a field test and a full scale data collection for the eighth grade assessment and background questionnaires.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2865. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

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

[FR Doc. 05–21972 Filed 11–2–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, November 30, 2005, 1 p.m.–8:30 p.m.

ADDRESSES: Jemez Complex, Santa Fe Community College, 6401 Richards Avenue, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board, 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995–0393; Fax (505) 989–1752 or E-mail: *msantistevan@doeal.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1 p.m. Call to Order by Deputy Designated Federal Officer (DDFO), Christina Houston
Establishment of a Quorum
Welcome and Introductions by Chair, J. D. Campbell
Approval of Agenda
Approval of Minutes of September 28, 2005
1:15 p.m. Board Business
A. Report from Chair, J. D. Campbell
B. Report from Department of Energy, DDFO, Christina Houston
C. Consideration and Action on Fiscal Year 2006 Northern New Mexico Citizens' Advisory Board Budget
D. New Business
2:45 p.m. Break
3 p.m. Reports
A. Community Involvement Committee, Grace Perez
B. Waste Management Committee
C. Environmental Monitoring, Surveillance and Remediation Committee, Chris Timm
D. Reports from Ex-Officio Members
U.S. Environmental Protection Agency (EPA)—Rich Mayer
U.S. Department of Energy—Mat Johansen
University of California/Los Alamos National Laboratory—Ken Hargis
New Mexico Environment Department—James Bearzi
5 p.m. Dinner Break
6 p.m. Public Comment
6:15 p.m. Consideration of Recommendations
6:30 p.m. Presentation from EPA, Region 6—Impacts of Well Construction Practices at Los Alamos National Laboratory
8 p.m. Comments from Board and Ex-Officio Members
8:20 p.m. Recap of Meeting: Issuance of Press Releases, Editorials, etc.
8:30 p.m. Adjourn

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1660 Old Pecos Trail, Suite B, Santa Fe, NM. Hours of operation for the Public Reading Room are 9 a.m.–4 p.m. on Monday through Friday.

Minutes will also be made available by writing or calling Menice Santistevan at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.org.*

Issued at Washington, DC on October 27, 2005.

Carol Matthews,

Acting Advisory Committee Management Officer.

[FR Doc. 05–21946 Filed 11–2–05; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EMSSAB), Paducah. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, November 17, 2005; 5:30 p.m.–9 p.m.

ADDRESSES: 111 Memorial Drive, Barkley Centre, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: William E. Murphie, Deputy Designated Federal Officer, Department of Energy Portsmouth/Paducah Project Office, 1017 Majestic Drive, Suite 200, Lexington, Kentucky 40513, (859) 219–4001.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

5:30 p.m.—Informal Discussion.
6 p.m.—Call to Order.
Introductions.
Review of Agenda.
Approval of October Minutes.
6:15 p.m.—Deputy Designated Federal Officer's Comments.
6:35 p.m.—Federal Coordinator's Comments.
6:40 p.m.—Ex-officios' Comments.
6:50 p.m.—Public Comments and Questions.
7 p.m.—Task Forces/Presentations.
- Kentucky Research Consortium for Energy and the Environment.

—Update on Projects.
- Waste Disposition Task Force.
- Water Quality Task Force.
- Long Range Strategy/Stewardship Task Force.

—Site Management Update Plan.
- Community Outreach Task Force.

8 p.m.—Public Comments and Questions.
8:10 p.m.—Break.
8:20 p.m.—Administrative Issues.
- Budget Review.
- Review of Workplan.
- Review of Next Agenda.

8:30 p.m.—Review of Action Items.
8:35 p.m.—Subcommittee Reports.
- Executive Committee.

8:50 p.m.—Final Comments.
9 p.m.—Adjourn.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact David Dollins at the address listed below or by telephone at (270) 441–6819. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and

copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 115 Memorial Drive, Barkley Centre, Paducah, Kentucky between 8 a.m. and 5 p.m., on Monday thru Friday or by writing to David Dollins, Department of Energy, Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling him at (270) 441–6819.

Issued at Washington, DC on October 28, 2005.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 05–21947 Filed 11–2–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP05–681–000 and RP97–391–004]

CenterPoint Energy-Mississippi River Transmission Corporation; Notice To Waive Gas Research Institute Refund

October 27, 2005.

Take notice that on September 28, 2005, CenterPoint Energy-Mississippi River Transmission Corporation (MRT) tendered for filing a request for a waiver from its *de minimis* refund obligation of $815.45 regarding over-collection or the Gas Research Institute surcharge. MRT is requesting approval to donate such amount to the Hurricane Katrina Relief effort.

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.

Comment Date: 5 pm Eastern Time on November 3, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6072 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–46–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 27, 2005.

Take notice that on October 24, 2005, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of November 23, 2005:

Fifth Revised Sheet No. 123
Fifth Revised Sheet No. 124
Third Revised Sheet No. 170
Eighth Revised Sheet No. 171
First Revised Sheet No. 244
First Revised Sheet No. 245
Fourth Revised Sheet No. 390

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 email 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. E5–6077 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–42–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 27, 2005.

Take notice that on October 21, 2005, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of November 1, 2005:

Thirty-ninth Revised Sheet No. 18
Fortieth Revised Sheet No. 19

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. E5–6073 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–49–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 27, 2005.

Take notice that on October 25, 2005, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Seventh Revised Sheet No. 216, with a proposed effective date of November 24, 2005.

Columbia Gulf states it is proposing to revise section 19 of the general terms and conditions (GTC) of its Tariff in order to replace the existing fixed price penalties with penalties based on a daily indexed price.

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 in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). 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 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.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6080 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–48–000]

Crossroads Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 27, 2005.

Take notice that on October 25, 2005, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 231, with a proposed effective date of November 24, 2005.

Crossroads states it is proposing to revise section 19 (Penalties) of the general terms and conditions (GTC) of its Tariff in order to replace the existing fixed price penalties with penalties based on a daily indexed price.

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. E5–6079 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–400–001]

Dominion Transmission, Inc.; Notice Of Compliance Filing

October 26, 2005.

Take notice that on October 20, 2005, Dominion Transmission, Inc. (DTI) submitted a compliance filing pursuant to the Commission's ''Order Approving Abandonment'' issued October 5, 2005 in Docket No. CP05–400–000, which authorized the abandonment of Rate Schedule X–5.

DTI states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

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 in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). 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.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6064 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER05–1469–000 and No. ER05–1470–000]

DTE East China, LLC; DTE Energy Trading, Inc.; Notice of Issuance of Order

October 27, 2005.

DTE East China, LLC (DTE East China) filed an application for market-based rate authority, with an accompanying rate tariff. The proposed rate tariff provides for the sales of capacity and energy at market-based rates. DTE East China also requested waiver of various Commission regulations. In particular, DTE East China requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by DTE East China.

On October 25, 2005, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by DTE East Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is Hereby Given That the Deadline for Filing Motions To Intervene or Protests Is November 25, 2005

Absent a request to be heard in opposition by the deadline above, DTE East China is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of DTE East China, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of DTE East China's issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also 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 filed to access the document. 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 electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6069 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP06–51–000 and RP97–391–004]

Interstate Natural Gas Association of America; Notice of Petition To Waive Disbursement of Gas Research Institute Refund Obligation

October 27, 2005.

Take notice that on October 11, 2005, Interstate Natural Gas Association of America (INGAA), on behalf of its interstate natural gas pipeline company membership, filed a petition requesting that the Commission waive an obligation imposed on pipelines by a 1998 settlement obligation in Docket No. RP97–391 to pass through to customers certain Gas Research Institute (GRI) refunds and, in lieu of that obligation, authorize the pipelines to make payments to certain charitable organizations to assist victims of Hurricanes Katrina and Rita.

INGAA states that the refund amounts are so small that it would be impractical to disburse them to individual customers, and that disbursing the refund to certain charities to aid victims of Hurricanes Katrina and Rita is preferable.

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.

Comment Date: 5 p.m. Eastern Time November 3, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6081 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–43–000]

Iroquois Gas Transmission System, L.P.; Notice of GRI Refund Report

October 27, 2005.

Take notice that on October 21, 2005, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing its refund report relating to amounts received from Gas Research Institute (GRI).

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies and all parties to the proceeding.

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.

Comment Date: 5 p.m. Eastern Time November 3, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6074 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–44–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff ND Filing of Non-Conforming Service Agreement

October 27, 2005.

Take notice that on October 21, 2005, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Eighth Revised Sheet No. 371 to become effective November 21, 2005. Northwest further states that it also tendered for filing a Rate Schedule TF–1 non-conforming service agreement.

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. E5–6075 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–47–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Filing of OFO Penalty Report

October 27, 2005.

Take notice that on October 25, 2005, Southern Star Central Gas Pipeline, Inc. (Southern Star) tendered for filing, pursuant to Article 10.3 of the general terms and conditions of its FERC Gas Tariff, its report of Operational Flow Order (OFO) penalty revenues and refunds.

Southern Star states that copies of the filing were served on all jurisdictional customers and interested state commissions.

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 email 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. E5–6078 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP88–67–081 and RP98–198–008]

Texas Eastern Transmission, LP; Notice of Compliance Filing

October 27, 2005.

Take notice that on October 21, 2005, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 and First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing to become effective December 1, 2005.

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 in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). 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.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6067 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–45–000]

Texas Eastern Transmission, LP; Notice of Proposed Changes in FERC Gas Tariff

October 27, 2005.

Take notice that on October 21, 2005, Texas Eastern Transmission, LP (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1 and First Revised Volume No. 2, revised tariff sheets as listed on Appendix A to the filing, to become effective December 1, 2005. In addition, Texas Eastern submitted its Annual Interruptible Revenue Reconciliation Report.

Texas Eastern states that copies of its filing have been mailed or, if requested, emailed to all affected customers of Texas Eastern and interested state commissions.

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. E5–6076 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP05–683–000]

Trans-Union Interstate Pipeline, L.P.; Notice of Withdrawal

October 25, 2005.

Take notice that on October 20, 2005, Trans-Union Interstate Pipeline, L.P. tendered for filing a withdrawal of the rate filing submitted September 30, 2005.

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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.

Comment Date: 5 p.m. Eastern Time on November 2, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6061 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–8–000]

Trunkline Gas Company, LLC; Notice of Application

October 26, 2005.

Take notice that Trunkline Gas Company (Trunkline), LLC, P.O. Box 4967, Houston, Texas 77210–4967, filed in Docket No. CP06–8–000 on October 19, 2005, an application pursuant to section 7(b) of the Natural Gas Act (NGA), for authorization to abandon, by sale, its 33⅓ percent ownership interest in a lateral consisting of approximately 4,607 feet of 8-inch pipeline located in Brazos A–47, Offshore Texas. Trunkline requests a Commission determination that following abandonment, the facilities will be non-jurisdictional gathering facilities pursuant to section 1(b) of the NGA, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the Web 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, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to William W. Grygar, Vice President, Rates and Regulatory Affairs, at (713) 989–7000, Trunkline Gas Company, LLC, 5444 Westheimer Road, Houston, Texas 77056.

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, on or before the comment date stated below, 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). 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.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

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.

Comment Date: November 16, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6062 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–12–000]

American Municipal Power-Ohio, Inc., Complainant, v. PJM Interconnection, L.L.C., Respondent; Notice of Complaint

October 27, 2005.

Take notice that on October 26, 2005, American Municipal Power-Ohio, Inc. (AMP-Ohio) pursuant to sections 206 and 306 of the Federal Power Act and Rule 206 of the Commission's Rules of Practice and Procedures, tendered for filing a complaint against PJM Interconnection, L.L.C. (PJM) on behalf of twelve of AMP-Ohio's member municipal utilities. AMP-Ohio requests that the Commission enforce the Amended and Restated Operating Agreement of PJM and the PJM West Reliability Assurance Agreement and require PJM to recognize and honor the transfer Unforced Capacity Credits from Dayton Power & Light Company to AMP-Ohio.

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 the Applicant and all parties to 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 email 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 November 15, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6068 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

October 26, 2005.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER01–3117–004.

Applicants: Wellhead Power Panoche, LLC.

Description: Wellhead Power Panoche, LLC submits Second Revised Sheet No.1 et al to FERC Electric Tariff, Original Volume No. 1, to the amended market-base rate tariff and request an effective date of 10/21/05.

Filed Date: 10/20/2005.

Accession Number: 20051024–0232.

Comment Date: 5 p.m. Eastern Time on Thursday, November 10, 2005.

Docket Numbers: ER01–3118–004.

Applicants: Wellhead Power Gates, LLC.

Description: Wellhead Power Gates, LLC submits Second Revised Sheet No. 1 et al to FERC Electric tariff, Original Volume No. 1 to the amended market-based rate tariff and requests an effective date of 10/21/05.

Filed Date: 10/20/2005.

Accession Number: 20051024–0231.

Comment Date: 5 p.m. Eastern Time on Thursday, November 10, 2005.

Docket Numbers: ER01–388–004.

Applicants: WFEC Genco, L.L.C.

Description: WFEC GENCO, LLC submits Substitute First Revised Sheet No. 1, Substitute Original Sheet No. 6 and Substitute Original Sheet No. 7 to FERC Electric Tariff, First Revised Volume No. 1, pursuant to FERC's 10/17/05 Order.

Filed Date: 10/20/2005.

Accession Number: 20051024–0240.

Comment Date: 5 p.m. Eastern Time on Thursday, November 10, 2005.

Docket Numbers: ER01–642–004; ER01–1335–006; ER01–1011–008.

Applicants: Cottonwood Energy Company LP; Magnolia Energy LP; Redbud Energy LP.

Description: Cottonwood Energy Company LP, Magnolia Energy LP, and Redbud Energy LP notifies FERC that certain changes in the characteristics relied upon to grant market-based rate authority to the project.

Filed Date: 10/20/2005.

Accession Number: 20051024–0238.

Comment Date: 5 p.m. Eastern Time on Thursday, November 10, 2005.

Docket Numbers: ER03–1079–006; EL05–83–001.

Applicants: Aquila, Inc.

Description: Aquila, Inc on behalf of itself and Aquila Networks-MPS et al submits Substitute First Revised Sheet No. 2 et al to FERC Electric Tariff, Original Volume No. 30, Third Revised Volume No. 28, in compliance with FERC's 9/19/05 Order.

Filed Date: 10/19/2005.

Accession Number: 20051020–0271.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 9, 2005.

Docket Numbers: ER05–1258–001.

Applicants: Interstate Power and Light Company.

Description: Interstate Power & Light Co & Midwest Independent Transmission System Operator, Inc submit revised Large Generator Interconnection Agreement relating to the Duane Arnold Energy Center.

Filed Date: 10/18/2005.

Accession Number: 20051020–0283.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 2, 2005.

Docket Numbers: ER05–1485–001.

Applicants: Alcoa Power Generating Inc.

Description: Alcoa Power Generating Inc submits substitute tariff sheet in Attachment C to the open access transmission tariff of their Yadkin Division.

Filed Date: 10/20/2005.

Accession Number: 20051024–0239.

Comment Date: 5 p.m. Eastern Time on Thursday, November 10, 2005.

Docket Numbers: ER05–428–005.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc proposes to amend the first full paragraph on Revised Sheet No. 157 Services Tariff to comply with FERC's 4/21/05 Order.

Filed Date: 10/18/2005.

Accession Number: 20051019–0263.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 8, 2005.

Docket Numbers: ER05–652–004; RT04–1–016; ER04–48–016; ER05–109–003.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits a compliance filing revising and clarifying various portions of its Open Access Transmission Tariff.

Filed Date: 10/20/2005.
Accession Number: 20051025–0134.
Comment Date: 5 p.m. Eastern Time on Thursday, November 10, 2005.

Docket Numbers: ER05–856–003.
Applicants: Virginia Electric and Power Company.
Description: Virginia Electric and Power Co. submits the Substitute First Revised Service Agreement No. 21 for the Purchase of Electricity for Resale with the Town of Windsor.
Filed Date: 10/20/2005.
Accession Number: 20051024–0225.
Comment Date: 5 p.m. Eastern Time on Thursday, November 10, 2005.

Docket Numbers: ER06–50–000.
Applicants: San Diego Gas & Electric Co.
Description: San Diego Gas and Electric Co submits informational filing intended to provide notice regarding the revised ISO Transmission Access Charges effective 1/1/05.
Filed Date: 10/18/2005.
Accession Number: 20051020–0267.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 8, 2005.

Docket Numbers: ER06–51–000.
Applicants: Soyland Power Cooperative, Inc.
Description: Soyland Power Cooperative, Inc advises that due to amendments to section 201(f) of the Federal Power Act (FPA), they are not a public utility and no longer subject to FERC's jurisdiction.
Filed Date: 10/19/2005.
Accession Number: 20051020–0263.
Comment Date: 5 p.m. Eastern Time on Wednesday, November 9, 2005.

Docket Numbers: ER06–52–000.
Applicants: Southern Company Services, Inc.
Description: Southern Company Services, Inc on behalf of Southern Companies submits Revision No. 1 to the Agreement for Network Integration Transmission Service for Southern Company Generation and Energy Marketing etc.
Filed Date: 10/19/2005.
Accession Number:20051020–0262.
Comment Date: 5 p.m. Eastern Time on Wednesday, November 9, 2005.

Docket Numbers: ER06–53–000.
Applicants: Alabama Power Company.
Description: Alabama Power Co forwards the Delivery Point Specification Sheet under the Agreement for Partial Requirements Service and Complementary Services with Alabama Municipal Electric Authority.
Filed Date: 10/19/2005.
Accession Number: 20051020–0264.
*Comment Date:*5 p.m. Eastern Time on Wednesday, November 9, 2005.

Docket Numbers: ER06–54–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corp submits an Interconnected Control Area Operating Agreement with the Turlock Irrigation District pursuant to section 205 of the Federal Power Act.
Filed Date: 10/19/2005.
Accession Number: 20051020–0281.
Comment Date: 5 p.m. Eastern Time on Wednesday, November 9, 2005.

Docket Numbers: ER06–55–000.
Applicants: Mid-Continent Area Power Pool.
Description: Mid-Continent Area Power Pool submits its revisions to Attachment C of the MAPP Schedule F which governs Available Transmission Capability calculations.
Filed Date: 10/20/2005.
Accession Number: 20051021–0011.
Comment Date: 5 p.m. Eastern Time on Thursday, November 10, 2005.

Docket Numbers: ER06–56–000.
Applicants: Michigan Electric Transmission Co, LLC.
Description: Michigan Electric Transmission Co, LLC and Midwest Independent Transmission System Operator, Inc requests authorization to utilize the proposed Attachment O METC formula rate.
Filed Date: 10/20/2005.
Accession Number: 20051021–0067.
Comment Date: 5 p.m. Eastern Time on Thursday, November 10, 2005.

Docket Numbers: ER06–57–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corp submits a Dynamic Scheduling Host Control Area Operating Agreement with Portland General Electric Co as a non-conforming service agreement.
Filed Date: 10/20/2005.
Accession Number: 20051024–0259.
Comment Date: 5 p.m. Eastern Time on Thursday, November 10, 2005.

Docket Numbers: ER06–58–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corp submits the Pseudo Participating Generator Agreement with Calpine Construction Finance Co, LP.
Filed Date: 10/20/2005.
Accession Number: 20051024–0233.
Comment Date: 5 p.m. Eastern Time on Thursday, November 10, 2005.

Docket Numbers: ER06–59–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corp submits Non-Conforming Service Agreement No. 629.
Filed Date: 10/20/2005.
Accession Number: 20051024–0234.
Comment Date: 5 p.m. Eastern Time on Thursday, November 10, 2005.

Docket Numbers: ER06–60–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corp submits a notice of cancellation of ISO Rate Schedule FERC No. 58, the Interim Operations Agreement with Turlock Irrigation District.
Filed Date: 10/19/2005.
Accession Number: 20051024–0216.
Comment Date: 5 p.m. Eastern Time on Wednesday, November 9, 2005.

Any person desiring to intervene or to protest in any of the above proceedings 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) on or before 5 p.m. Eastern Time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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 dockets(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. E5–6065 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

October 27, 2005.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER04–435–017; ER05–612–002.

Applicants: Southern California Edison Company.

Description: Southern California Edison Co submits revised rate sheets to its wholesale distribution access tariff large generator interconnection procedures in compliance with FERC's October 3, 2005 Order.

Filed Date: October 21, 2005.

Accession Number: 20051026–0009.

Comment Date: 5 p.m. Eastern Time on Friday, November 11, 2005.

Docket Numbers: ER05–1025–002.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corp in compliance with FERC's September 23, 2005 Order, submits an amended Small Utility Distribution Company Operating Agreement.

Filed Date: October 21, 2005.

Accession Number: 20051025–0135.

Comment Date: 5 p.m. Eastern Time on Friday, November 11, 2005.

Docket Numbers: ER05–1249–001.

Applicants: National Grid USA.

Description: National Grid USA on behalf of its subsidiaries, Massachusetts Electric Co et al. submits additional information with respect to its July 26, 2005 filing.

Filed Date: October 21, 2005.

Accession Number: 20051026–0013.

Comment Date: 5 p.m. Eastern Time on Friday, November 11, 2005.

Docket Numbers: ER06–61–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corp submits a Metered Subsystem Agreement with the City of Vernon, CA in addition to providing a notice of cancellation of Service Agreement No. 364.

Filed Date: October 21, 2005.

Accession Number: 20051025–0087.

Comment Date: 5 p.m. Eastern Time on Friday, November 11, 2005.

Any person desiring to intervene or to protest in any of the above proceedings 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) on or before 5 p.m. Eastern Time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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 dockets(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. E5–6066 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

October 27, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license to revise Article 401 of the license.

b. *Project No.:* 1975–040.

c. *Date Filed:* October 13, 2005.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* Bliss Project.

f. *Location:* The Project is located on the Snake River in Gooding, Twin Falls, and Elmore Counties in Idaho. The project occupies federal lands managed by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Nathaniel F. Gardener, Idaho Power Company, PO Box 70, Boise, Idaho 83707. Tel: (208) 388–2550.

i. *FERC Contact:* Any questions on this notice should be addressed to Vedula Sarma at (202) 502–6190 or *vedula.sarma@ferc.gov.*

j. *Deadline for filing comments and/or motions:* November 28, 2005.

k. *Description of Filing:* Idaho Power Company proposes to amend Article 401 by deleting the following paragraph:

''When operating in a run-of-river mode, the licensee shall at all times maintain the project reservoir at full pool while acting to minimize the fluctuation of the reservoir surface elevation by maintaining a discharge from the project so that at any point in time, flows as measured immediately downstream from the project tailrace approximate the sum of inflows to the project reservoir.''

Idaho Power Company proposes to replace the deleted paragraph with the following:

In operating in a run-of-river mode, the licensee shall use a headwater control scheme that shall at all times maintain the project reservoir surface elevation at or above an elevation of 2652.5 feet mean sea level (msl), 1.5 feet below the normal full pool

elevation of 2654.0 feet msl, as measured at the dam. The intent of the headwater control scheme shall be to ensure that the flows as measured immediately downstream from the project tailrace approximate the flows into the project reservoir, as well as minimize large tailwater elevation fluctuations that can occur with trying to maintain a precise headwater elevation.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also 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. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

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, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

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. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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. E5–6070 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

October 27, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license to revise Article 401 of the license.

b. *Project No.:* 2061–030.

c. *Date Filed:* October 13, 2005.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* Lower Salmon Falls Project.

f. *Location:* The Project is located on the Snake River in Gooding, and Twin Falls Counties in Idaho. The project occupies Federal lands managed by the Bureau of Land Management and lands within the Hagerman Fossil Beds National Monument managed by National Park Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Nathaniel F. Gardener, Idaho Power Company, P.O. Box 70, Boise, Idaho 83707. Tel: (208) 388–2550.

i. *FERC Contact:* Any questions on this notice should be addressed to Vedula Sarma at (202) 502–6190 or *vedula.sarma@ferc.gov*.

j. *Deadline for filing comments and/or motions:* November 28, 2005.

k. *Description of Filing:* Idaho Power Company proposes to amend Article 401 by deleting the following paragraph:

''When operating in a run-of-river mode, the licensee shall at all times maintain the project reservoir at full pool while acting to minimize the fluctuation of the reservoir surface elevation by maintaining a discharge from the project so that at any point in time, flows as measured immediately downstream from the project tailrace approximate the sum of inflows to the project reservoir.''

Idaho Power proposes to replace the deleted paragraph with the following paragraph:

''In operating in a run-of-river mode, the licensee shall use a headwater control scheme that shall at all times maintain the project reservoir surface elevation at or above an elevation of 2797.0 feet mean sea level (msl), one foot feet below the normal full pool elevation of 2798.0 feet msl, as measured at the dam. The intent of the headwater control scheme shall be to ensure that the flows as measured immediately downstream from the project tailrace approximate the flows into the project reservoir, as well as minimize large tailwater elevation fluctuations that can occur with trying to maintain a precise headwater elevation.''

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also 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. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

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, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the

Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

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. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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. E5–6071 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD05–13–000]

Joint Boards on Security, Constrained Economic Dispatch; Third Notice on the Initial Joint Board Meetings

October 27, 2005.

A notice [1] announcing the location of the initial joint board meetings [2] was issued on October 14, 2005. At that time, the Commission noted that it would provide further details on the meetings as they became available. The locations and times for the PJM/MISO and the Northeast joint board meetings are provided below.

Region	Date	Time	Location
PJM/MISO	November 21, 2005	10 a.m. to 4 p.m.	Doubletree Hotel O'Hare—Rosemont, 5460 N. River Road, Rosemont, IL 60018.
Northeast	November 29, 2005	10 a.m. to 4 p.m.	The Colonnade, 120 Huntington Avenue, Boston, Massachusetts 02116.

The September 30 Order invited the Canadian provinces, Canada and Mexico to participate as observers on the appropriate joint boards. The Province of Manitoba, Canada, wishes to participate on the PJM/MISO joint board. We note that Mr. Garry Hastings of the Department of Energy, Science and Technology will represent Manitoba on the PJM/MISO joint board.

For more information about the conference, please contact Sarah McKinley at 202–502–8004 or *sarah.mckinley@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6082 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the Record Communications; Public Notice

October 26, 2005.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

[1] The initial notice was issued in accordance with the Commission's order on Joint Boards on Security Constrained Economic Dispatch, 112 FERC ¶ 61,353 (2005) (September 30 Order). A subsequent notice was issued on October 21, 2005, listing the members of each joint board.

[2] These joint board meetings are being held pursuant to section 1298 of the Energy Policy Act of 2005, Pub. L. 109–58, section 1298, 119 Stat. 594, 986 (2005), which added section 223 to the Federal Power Act, 16 U.S.C. 824 *et seq.* (2000). FPA section 223 requires the Commission to convene joint boards on a regional basis pursuant to FPA section 209 ''to study the issue of security constrained economic dispatch for the various market regions,'' ''to consider issues relevant to what constitutes 'security constrained economic dispatch' and how such a mode of operating * * * affects or enhances the reliability and affordability of service,'' and ''to make recommendations to the Commission.''

The following is a list of off-the-record communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary (FERRIS) 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 at (866)208–3676, or for TTY, contact (202)502–8659.

Docket No.	Date received	Presenter or requester
Prohibited:		
1. CP04–58–000	10–14–05	Marti Holland.[1]
Exempt:		
1. ER03–563–000	10–19–05	Hon. Paul G. Afonso, Hon. James Connelly, Hon. W. Robert Keating, Hon. Judith F. Judson, Hon. Brian Paul Golden.
2. ER05–1190–000	10–6–05	Hon. Dianne Feinstein.
3. Project No. 405–000	10–21–05	Kerry Stoudt.
4. Project No. 10395–000	10–17–05	Hon. Leslie L. Newman.

[1] One of seven postcard "form" submittals in Docket No. CP04–58–000.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6063 Filed 11–2–05; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[E-Docket No. ORD–2005–0026; FRL–7993–4]

Draft All-Ages Lead Model

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of public comment period.

SUMMARY: The EPA Office of Research and Development's National Center for Environmental Assessment (NCEA) is extending the public comment period by 45 days for an external review draft of the newly developed *All-Ages Lead Model (AALM) Version 1.05.*

On September 27, 2005, EPA published a **Federal Register** notice (70 FR 56447) announcing: (1) the public availability of the draft model and (2) the beginning of a 30-day public comment period. EPA is extending the public comment period to December 12, 2005, in response to requests for extension of the comment period. As previously stated in 70 FR 56447, EPA is releasing this draft model solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This model has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

DATES: The period for submission of comments on the external review draft of the AALM now ends on December 12, 2005. Technical comments should be in writing and must be received by EPA by close of business December 12, 2005.

ADDRESSES: The draft AALM is available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.* The EPA numbers are: EPA/600/C–05/013 for the model and EPA/600/R–05/102 for the user's guide. A limited number of CD–ROM copies are available. For information on copies of the draft documents, contact Ms. Diane Ray by phone (919–541–3637), facsimile (919–541–1818), or e-mail (*ray.diane@epa.gov*) to request a CD–ROM copy. Please provide the draft's title, All-Ages Lead Model (AALM) Version 1.05, the EPA numbers, EPA/600/C–05/013 and EPA/600/R–05/102, and your name and address to facilitate processing of your request. Public comments on the external review draft of the AALM may be submitted electronically, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions as provided in the section of this notice entitled **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: For details on the period for submission of comments from the public, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.*

For technical information, contact Robert Elias, PhD., NCEA, facsimile: 919–541–1818, or e-mail: *elias.robert@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About the Document

As discussed in the September 27, 2005, **Federal Register** notice, the AALM represents EPA's latest efforts to develop tools to model human lead exposure, and it builds on EPA's prior experience in lead modeling. See that notice for further background information.

As announced in a **Federal Register** notice on October 14, 2005 (70 FR 60077), EPA will present the external review draft of the *All-Ages Lead Model (AALM) Version 1.05*, at a public meeting for review by EPA's Science Advisory Board (SAB) Ad Hoc All-Ages Lead Model (AALM) Review Panel. Public comments received during the external review comment period will be provided to the SAB review panel.

II. How To Submit Technical Comments to EPA's E-Docket

EPA has established an official public docket for information pertaining to the external review draft of the AALM, Docket ID No. ORD–2005–0026. The official public docket is the collection of materials, excluding Confidential Business Information (CBI) or other information whose disclosure is restricted by statute that is available for public viewing at the Office of Environmental Information (OEI) Docket in the Headquarters EPA Docket Center, EPA West Building, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744, and the telephone number for the OEI Docket is 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.*

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

those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in E-Docket. Information claimed as CBI and other information with disclosure restricted by statute, also not included in the official public docket, will not be available for public viewing in E-Docket. Copyrighted material also will not be placed in E-Docket but will be referenced there and available as printed material in the official public docket.

Persons submitting public comments should note that EPA's policy makes the information available as received and at no charge for public viewing at the EPA Docket Center or in E-Docket. This policy applies to information submitted electronically or in paper form, except where restricted by copyright, CBI, or statute.

Unless restricted as above, public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to E-Docket. Physical objects will be photographed, where practical, and the photograph will be placed in E-Docket along with a brief description written by the docket staff.

You may submit public comments electronically, by mail, by facsimile, or by hand delivery/courier. To ensure proper receipt by EPA, include the appropriate docket identification number with your submission. Please adhere to the specified submitting period. Public comments received or submitted past the closing date will be marked ''late'' and may only be considered if time permits.

If you submit public comments electronically, EPA recommends that you include your name, mailing address, and an e-mail address or other details for contacting you. Also include these contact details 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 person submitting the public comments and allows EPA to contact you in case the Agency cannot read what you submit due to technical difficulties or needs to clarify issues raised by what you submit. If EPA cannot read what you submit due to technical difficulties and cannot contact you for clarification, it may delay or prohibit the Agency's consideration of the public comments.

To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and key in Docket ID No. ORD–2005–0026. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact details unless you provide it in the body of your comment.

Public comments may be sent by electronic mail (e-mail) to *ORD.Docket@epa.gov,* Attention Docket ID No. ORD–2005–0026. 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 directly to the docket without going through EPA's E-Docket, EPA's e-mail system automatically captures your e-mail address, and it becomes part of the information in the official public docket and is made available in EPA's E-Docket.

You may submit public comments on a disk or CD–ROM mailed to the OEI Docket mailing address. Files will be accepted in WordPerfect, Word, or PDF file format. Avoid the use of special characters and any form of encryption.

If you provide public comments in writing, please submit one unbound original, with pages numbered consecutively, and three copies. For attachments, provide an index, number pages consecutively with the main text, and submit an unbound original and three copies.

Dated: October 28, 2005.

George Alapas,

Director, National Center for Environmental Assessment

[FR Doc. 05–21939 Filed 11–2–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the Citizens' Health Care Working Group

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Citizens' Health Care Working Group (the Working Group) mandated by section 1014 of the Medicare Modernization Act.

DATES: The Business meeting of the Working Group will be held on Tuesday, November 15, 2005 from 2:30 a.m. to 5 p.m. and continue on Wednesday, November 16, 2005 from 8:30 a.m. to 2 p.m.

ADDRESSES: The meeting will take place at the Tremont Park Hotel in Baltimore, Maryland. The Tremont Park Hotel is located at 8 East Pleasant Street.

The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Caroline Taplin, Citizens' Health Care Working Group, at (301) 443–1514 or *ctaplin@ahrq.gov*. If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Mr. Donald L. Inniss, Director, Office of Equal Employment Opportunity Program, Program Support Center, on (301) 443–1144.

The agenda for this Working Group meeting will be available on the Citizens' Working Group Web site, *www.citizenshealthcare.gov*. Also available at that site is a roster of Working Group members. When transcripts of the Group's November 15th–16th meeting is completed, it will also be available on the Web site.

SUPPLEMENTARY INFORMATION: Section 1014 of Public Law 108–173, (known as the Medicare Modernization Act) directs the Secretary of the Department of Health and Human Services (DHHS), acting through the Agency for Healthcare Research and Quality, to establish a Citizens' Health Care Working Group (Citizen Group). This statutory provision, codified at 42 U.S.C. 299 n., directs the Working Group to: (1) Identify options for changing our health care system so that every American has the ability to obtain quality, affordable health care coverage; (2) provide for a nationwide public debate about improving the health care system; and (3) submit its recommendations to the President and the Congress.

The Citizens' Health Care Working Group is composed of 15 members: the Secretary of DHHS is designated as a member by statute and the Comptroller General of the U.S. Government Accountability Office (GAO) was directed to name the remaining 14 members whose appointments were announced on February 28, 2005.

Working Group Meeting Agenda

The Working Group business meeting on November 15th and 16th will be devoted to ongoing Working Group business. Topics to be addressed are expected to include: Working Group partners, plans for community meetings and other activities to engage the public, questions to be asked in public engagement activities, and the process for developing recommendations.

Submission of Written Information

The Working Group invites written submissions on those topics to be addressed at the Working Group business meeting listed above. In general, individuals or organizations wishing to provide written information for consideration by the Citizens' Health Care Working Group should submit information electronically to *citizenshealth@ahrq.gov*. Since all electronic submissions will be posted on the Working Group Web site, separate submissions by topic will facilitate review of ideas submitted on each topic by the Working Group and the public.

Carolyn M. Clancy,

Director.

[FR Doc. 05–21863 Filed 11–1–05; 11:42 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–06–0334]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–4766 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

National Survey of Ambulatory Surgery—Reinstatement—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

The National Survey of Ambulatory Surgery (NSAS) was previously conducted by the CDC National Center for Health Statistics from 1994 through 1996. It is the principal source of data on ambulatory surgery center (ASC) services in the United States. It complements surgery data obtained in the NCHS National Hospital Discharge Survey (NHDS) (OMB No. 0920–0212), which provides annual data concerning the nation's use of inpatient medical and surgical care provided in short-stay, non-Federal hospitals. The NSAS is a national probability sample survey of ambulatory surgery visits in hospitals and freestanding ambulatory surgery centers. It has been the benchmark against which special programmatic data sources are compared.

Data for the NSAS will be collected annually beginning in 2006 from a nationally representative sample of hospitals and freestanding ambulatory surgery centers. The hospital universe includes noninstitutional hospitals exclusive of Federal, military, and Department of Veterans Affairs hospitals located in the 50 States and the District of Columbia. The universe of freestanding facilities includes the freestanding ambulatory surgery centers licensed by states and/or certified as ambulatory surgery centers for Medicare reimbursement. As in the earlier survey, facilities specializing in dentistry, podiatry, abortion, family planning, or birthing will be excluded. As with previous years, the data items which will be abstracted from medical records are the basic core variables from the Uniform Hospital Discharge Data Set (UHDDS) as well as surgery times, total charges and information on anesthesia, complications from surgery and anesthesia. Since the publication of the 60-day notice in the **Federal Register** on March 10, 2005 (FR 70 No. 46. p. 11985), changes made to the conduct of the NSAS include collecting data from fewer medical records and collecting more information from each participating facility, such as the use of electronic medical records, facility hours of operation, physician specialty and board certification, complications from surgery and anesthesia, plans to handle unexpected emergencies, and post-surgical follow-up. There is no cost to respondents other than their time. The annualized burden hours are 11,231.

ESTIMATES OF ANNUALIZED BURDEN HOURS

Data collection forms and type of respondents	Number of respondents	Number of responses/ respondent	Averge burden response (in hrs.)
Induction	227	1	105/60
Out-of-scope verification	150	1	4/60
Sample Listing Sheet:			
ASC Personnel	224	12	30/60
Census Personnel	264	12	0
Medical Abstract:			
ASC Personnel	324	132	12/60
Census Personnel	164	132	2/60
Annual Update	488	1	5/60
Quality Control	245	20	2/60

Dated: October 27, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–21910 Filed 11–2–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–06–0604]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–4766 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

School Associated Violent Death Surveillance System (0920–0604)—Reinstatement without change—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Division of Violence Prevention (DVP), National Center for Injury Prevention and Control (NCIPC) proposes to maintain a system for the surveillance of school-associated homicides and suicides. The system will rely on existing public records and interviews with law enforcement officials and school officials. The purpose of the system is to (1) estimate the rate of school-associated violent death in the United States and (2) identify common features of school-associated violent deaths. The system will contribute to the understanding of fatal violence associated with schools, guide further research in the area, and help direct ongoing and future prevention programs.

Violence is the leading cause of death among young people, and increasingly recognized as an important public health and social issue. In 1998, over 3,500 school aged children (5 to 18 years old) in the United States died violent deaths due to suicide, homicide, and unintentional firearm injuries. The vast majority of these fatal injuries were not school associated. However, whenever a homicide or suicide occurs in or around school, it becomes a matter of particularly intense public interest and concern. NCIPC conducted the first scientific study of school-associated violent deaths during the 1992–99 academic years to establish the true extent of this highly visible problem. Despite the important role of schools as a setting for violence research and prevention interventions, relatively little scientific or systematic work has been done to describe the nature and level of fatal violence associated with schools. Until NCIPC conducted the first nationwide investigation of violent deaths associated with schools, public health and education officials had to rely on limited local studies and estimated numbers to describe the extent of school-associated violent death.

The system will draw cases from the entire United States in attempting to capture all cases of school-associated violent deaths that have occurred. Investigators will review public records and published press reports concerning each school-associated violent death. For each identified case, investigators will also interview an investigating law enforcement official (defined as a police officer, police chief, or district attorney), and a school official (defined as a school principal, school superintendent, school counselor, school teacher, or school support staff) who are knowledgeable about the case in question. Researchers will request information on both the victim and alleged offender(s)—including demographic data, their academic and criminal records, and their relationship to one another. They will also collect data on the time and location of the death; the circumstances, motive, and method of the fatal injury; and the security and violence prevention activities in the school and community where the death occurred, before and after the fatal injury event. There are no costs to the respondents other than their time.

ESTIMATE OF ANNUALIZED BURDEN TABLE

Respondents	Number of respondents	Number of responses/ respondents	Average burden/response (in hours)	Total annual burden (in hours)
School Officials	35	1	60/60	35
Policy Officials	35	1	60/60	35
Total	70			70

Dated: October 28, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–21913 Filed 11–2–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–06–0607]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–4766 and send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

The National Violent Death Reporting System-Revision-National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Violence is an important public health problem. In the United States, homicide and suicide are the second and third leading causes of death, respectively, in the 1–34 year old age group. Unfortunately, public health agencies do not know much more about the problem than the numbers and the sex, race, and age of the victims—all information obtainable from the standard death certificate. Death certificates, however, carry no information about key factors necessary for prevention such as the victim-suspect relationship or the circumstances of the deaths. This makes it impossible to discern anything but the gross contours of the problem. Furthermore, death certificates are typically not available until 20 months after the completion of a calendar year. Official publications of national violent death rates, e.g., those in the Morbidity and Mortality Weekly Report, rarely use data that are more than two years old. Public health interventions aimed at a moving target last seen two years ago may well miss the mark.

Local and Federal criminal justice agencies such as the Federal Bureau of Investigation (FBI) provide slightly more information about homicides, but they do not routinely collect standardized data about suicides, which are much more common within all age groups than homicides. The FBI's Supplemental Homicide Report System (SHRS) does collect basic information about the victim-suspect relationship and circumstances. But, as with death certificates, SHRS does not link violent deaths that are part of one incident such as homicides-suicides. Because it is a voluntary system, approximately 10–20 percent of police departments nationwide do not participate. The FBI's National Incident Based Reporting System (NIBRS) addresses some of these deficiencies, but covers less of the country than SHRS, includes only homicides, and collects only police information. Also, the Bureau of Justice Statistics Reports do not use data that are more than two years old.

CDC therefore proposes to continue a state-based surveillance system for violent deaths that will provide more detailed and timely information. It taps into the case records held by medical examiners/coroners, police, and crime labs. Data are collected centrally by each state in the system, stripped of identifiers, and then sent to the CDC. Information is collected from these records about the characteristics of the victims and suspects, the circumstances of the deaths, and the weapons involved. States use standardized data elements and software designed by CDC. Ultimately, this information is intended to guide states in designing programs that reduce multiple forms of violence.

Neither victim families nor suspects are contacted to collect information for The National Violent Death Reporting System. Data come from existing records and are collected by state health department staff or their subcontractors. Health departments incur an average of 2.5 hours per death in identifying the deaths from death certificates, contacting the police and medical examiners to get copies of or to view the relevant records, abstracting the records, various data processing tasks, various administrative tasks, etc.

The number of state health departments to be funded may be as high as 22 by 2009. Seventeen states are currently funded. NCIPC hopes to eventually fund all 50 states. Violent deaths include all homicides, suicides, legal interventions, deaths from undetermined causes, and unintentional firearm deaths. There are 50,000 such deaths annually among U.S. residents; thus the average state will experience approximately 1,000 such deaths each year.

ESTIMATE OF ANNUALIZED BURDEN TABLE

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)	Total burden (in hours)
State Health Departments	22	1,000	2.5	
Total				55,000

Dated: October 28, 2005.

Betsey Dunaway,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 05–21914 Filed 11–2–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panels (SEP): Epi-Centers for Prevention of Healthcare-Associated Infections, Request for Application CI06–001

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Epi-Centers for Prevention of Healthcare-Associated Infections, Request for Application CI06–001.

Times and Dates: 9 a.m.–4:30 p.m., December 9, 2005 (Closed).

Place: Renaissance Concourse Hotel, One Hartsfield Centre Parkway, Atlanta, GA 30354, Telephone Number (404) 209–9999.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to: Epi-Centers for Prevention of Healthcare-Associated Infections, Request for Application CI06–001.

Contact Person for more Information: Trudy Messmer, PhD, Scientific Review Administrator, National Center for Infectious Diseases, CDC, 1600 Clifton Road, NE., Mailstop C–19, Atlanta, GA 30333, Telephone Number (404) 639–3770.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: October 28, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–21908 Filed 11–2–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Centers for Excellence to Promote a Healthier Workforce, Request for Application OH–05–006

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Centers for Excellence to Promote a Healthier Workforce, Request for Application OH–05–006.

Times and Dates: 8:30 a.m.–5 p.m., December 15, 2005 (Closed). 8:30 a.m.–5 p.m., December 16, 2005 (Closed).

Place: The Ritz Carlton Philadelphia, 10 Avenue of the Arts, Philadelphia, PA 19102, Telephone (215) 523–8000.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Centers for Excellence to Promote a Healthier Workforce, Request for Application OH–05–006.

Contact Person For More Information: Pamela J. Wilkerson, MPA, Scientific Review Administrator, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Road, NE., MS E–74, Atlanta, GA 30333, Telephone 404–498–2556.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: October 28, 2005.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 05–21909 Filed 11–2–05; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

National Infrastructure Protection Plan

AGENCY: Office of the Assistant Secretary for Infrastructure Protection, Department of Homeland Security.

ACTION: Notice of availability.

SUMMARY: The purpose of this notice is to inform the public and interested security partners that the draft National Infrastructure Protection Plan (NIPP) Base Plan is available for review and comment. The Department of Homeland Security (DHS) is responsible for developing this comprehensive, integrated national plan for the protection of the Nation's critical infrastructure and key resources under the authority of Homeland Security Presidential Directive-7 (HSPD–7), *Critical Infrastructure Identification, Prioritization, and Protection.*

ADDRESSES: If you would like to review the draft NIPP Base Plan and provide comments, please submit a request to DHS via one of the following methods:

- E-mail to: *NIPP@dhs.gov.*
- Mail: NIPP Program Management Office, Department of Homeland Security, Preparedness Directorate/IP/IPD, Mail Stop 8560, Washington, DC 20528–8560.

Please include your name, organization, mailing address, and e-mail address when submitting your request.

FOR FURTHER INFORMATION CONTACT: *National Infrastructure Protection Plan:* Charles Davis, NIPP Program Management Office, Preparedness Directorate/IP/IPD, Department of Homeland Security, Washington, DC 20528, 703–235–5338 or *Charles.H.Davis@dhs.gov.*

DATES: The draft National Infrastructure Protection Plan will become available on November 2, 2005. All requests for copies must be made within 15 days of this notice. Comments on the document should be submitted to DHS by December 5, 2005.

SUPPLEMENTARY INFORMATION: Protecting critical infrastructures and key resources from attack is vital to the Nation. Through HSPD–7, the President directed the Secretary of Homeland Security to produce a comprehensive, integrated national plan for the protection of critical infrastructures and key resources. On February 9, 2005, DHS released an interim version of the NIPP Base Plan. Since that time, DHS has been working to revise the NIPP

Base Plan to provide further detail regarding the framework for protecting the Nation's infrastructure and setting the direction for implementing a coordinated, national effort. At this time, DHS is seeking comments from the public on the draft NIPP Base Plan. Anyone interested in reviewing the draft NIPP Base Plan can obtain a copy by forwarding a request to DHS following the steps described under **ADDRESSES** above. All such requests must be received within 15 days of the date of publication of this notice in the **Federal Register**. Following receipt of your request for review, DHS will forward a copy of the draft NIPP Base Plan along with instructions on how to submit comments.

Bob Stephan,

Assistant Secretary for Infrastructure Protection.

[FR Doc. 05–21984 Filed 11–2–05; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Sent to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; 1018–0127; Horseshoe Crab Tagging Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) have sent a request to OMB for approval of our information collection associated with the horseshoe crab tagging program. The OMB control number for this collection is 1018–0127, which expires on November 30, 2005. We have requested that OMB approve this information collection for a 3-year term.

DATES: You must submit comments on or before December 5, 2005.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–6566 (fax) or *OIRA_DOCKET@OMB.eop.gov* (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 N. Fairfax Drive, Arlington, VA 22203 (mail); *Hope_Grey@fws.gov* (e-mail); or (703) 358–2269 (fax).

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection, related forms, or explanatory material, contact Hope Grey, Information Collection Clearance Officer, at the addresses above or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION: On June 10, 2005, OMB approved our emergency request for information collection associated with the horseshoe crab tagging program. The supporting statement for our emergency request is available online at *http://www.fws.gov/pdm/0127SupCurrent.pdf.* OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), require that interested members of the public and affected agencies have the opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). Federal agencies 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.

On August 3, 2005, we published in the **Federal Register** (70 FR 44677) a notice of our intent to request information collection authority from OMB. In that notice, we solicited comments for 60 days, ending on October 3, 2005. We received comments from one individual. The commenter did not address the necessity, clarity, or accuracy of the information collection, but did oppose the use of horseshoe crabs by biomedical companies and proposed a ban on the use of horseshoe crabs for any purpose. We have not made any changes to our information collection as a result of the comment.

Horseshoe crabs are among the world's oldest creatures. People have used this evolutionary survivor for centuries. It plays an important role in the ecology of the coastal ecosystem, while over time also providing the opportunity for commercial, recreational, medical, scientific, and educational uses.

In 1998, the Atlantic States Marine Fisheries Commission (ASMFC), a management organization with representatives from each State on the Atlantic Coast, developed a horseshoe crab management plan. The ASMFC plan and its subsequent addenda established mandatory State-by-State harvest quotas, and created the 1,500 square mile Carl N. Shuster, Jr. Horseshoe Crab Sanctuary off the mouth of the Delaware Bay. Active management and innovative techniques used by fishermen to conserve bait have successfully reduced commercial horseshoe crab landings in recent years. Conch and eel fishermen have been using bait bags in their traps, so they can only use a portion of one crab per trap, compared to using a whole crab in each trap. The bait bags have reduced the demand for bait by 50 to 75 percent in recent years.

Although restrictive measures have been taken in recent years, populations are not showing immediate increases. Because horseshoe crabs do not breed until they reach 9 or more years of age, it may take some time before the population measurably increases. Recently a Horseshoe Crab Cooperative Tagging Program was established to monitor this species. Horseshoe crabs are tagged and released by cooperating Federal and State agencies, universities, and biomedical companies. Agencies that tag and release horseshoe crabs complete the Horseshoe Crab Tagging Release Form (FWS Form 3–2311) and provide the following data to the Service: organization name, contact person name, tag number, sex of crab, prosomal width, capture site, latitude, longitude, waterbody, State, and date.

Through public participants who recover tagged crabs, we collect the following information using FWS Form 3–2310 (Horseshoe Crab Recapture Report): tag number, whether or not tag was removed, whether or not the tag was circular or square, condition of crab, date captured/found, crab fate, finder type, capture method, capture location, reporter information, and comments. If the public participant who reports the tagged crab requests information, we send data pertaining to the tagging program, and tag and release information on the horseshoe crab he/she found or captured. The information collected is stored at the Maryland Fishery Resources Office, Fish and Wildlife Service, and used to evaluate migratory patterns, survival, and abundance of horseshoe crabs.

Title: Horseshoe Crab Tag Tagging Program.

OMB Control Number: 1018–0127.

Form Number: FWS Forms 3–2310 and 3–2311.

Frequency: When horseshoe crabs are tagged and when horseshoe crabs are found or captured.

Description of Respondents: Tagging agencies include Federal and State agencies, universities, and biomedical companies. Members of the general public provide recapture information.

Total Annual Responses: Approximately 1,510.

Total Annual Burden Hours: 980 hours.

We again invite comments concerning this submission on: (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including

whether or not the information will have practical utility; (2) the accuracy of our estimate of the burden of 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.

Dated: October 18, 2005.

Hope G. Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. 05–21945 Filed 11–2–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 5-Year Review

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of comment period.

Endangered and Threatened Wildlife and Plants; Extension of Comment Period for the Valley Elderberry Longhorn Beetle, Smith's Blue Butterfly, Delhi Sands Flower-Loving Fly, Morro Shoulderband Snail, Giant Garter Snake, San Francisco Garter Snake, Island Night Lizard, California Least Tern, Least Bell's Vireo, Chinese Camp Brodiaea, Mariposa Pussypaws, San Clemente Island Indian Paintbrush, Spring-Loving Centaury, Springville Clarkia, San Clemente Island Larkspur, Santa Barbara Island Dudleya, Ash Meadows Gumplant, San Clemente Island Woodland Star, San Clemente Island Lotus, San Clemente Island Bush Mallow, Amargosa Niterwort, Eureka Valley Evening Primrose, Yreka Phlox, Hartweg's Golden Sunburst, San Joaquin Adobe Sunburst, Santa Cruz Island Rock-Cress, Keck's Checker-mallow, Eureka Dune Grass, Kneeland Prairie Pennycress, Hidden Lake Bluecurls, and Red Hills Vervain 5-Year Reviews.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce an extension of the comment period for the 5-year reviews of 31 listed species in Table 1 below, under section 4(c)(2)(A) of the Endangered Species Act (Act). The first request for information closed September 6, 2005. The purpose of a 5-year review is to ensure that the classification of a species as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants is accurate and based on the best scientific and commercial data available at the time of the review. We are requesting submission of any such information that has become available since the original listing of each of these 31 species. Based on the results of these 5-year reviews, we will make the requisite findings under section 4(c)(2)(B) of the Act.

TABLE 1.—SUMMARY OF THE LISTING INFORMATION FOR THE FOLLOWING 31 SPECIES

Common name	Scientific name	Status	Where listed	Final listing rule
Valley elderberry longhorn beetle	*Desmocerus californicus dimorphus*	Threatened	U.S.A. (CA)	45 FR 52803 (8–AUG–80).
Smith's blue butterfly	*Euphilotes enoptes smithi*	Endangered	U.S.A. (CA)	41 FR 22041 (1–JUN–76).
Delhi Sands flower-loving fly	*Rhaphiomidas terminatus abdominalis*	Endangered	U.S.A. (CA)	58 FR 49881 (23–SEP–93).
Morro shoulderband snail	*Helminthoglypta walkeriana*	Endangered	U.S.A. (CA)	59 FR 64613 (15–DEC–94).
Giant garter snake	*Thamnophis gigas*	Threatened	U.S.A. (CA)	58 FR 54053 (20–OCT–93).
San Francisco garter snake	*Thamnophis sirtalis tetrataenia*	Endangered	U.S.A. (CA)	32 FR 4001 (11–MAR–67).
Island night lizard	*Xantusia riversiana*	Threatened	U.S.A. (CA)	42 FR 40682 (11–AUG–77).
California least tern	*Sterna antillarum browni*	Endangered	U.S.A. (CA) Mexico	35 FR 8491 (2–JUN–70).
Least Bell's vireo	*Vireo bellii pusillus*	Endangered	U.S.A. (CA) Mexico	1 FR 16474 (2–MAY–86).
Chinese Camp brodiaea	*Brodiaea pallida*	Threatened	U.S.A. (CA)	63 FR 49022 (14–SEP–98).
Mariposa pussypaws	*Calyptridium pulchellum*	Threatened	U.S.A. (CA)	63 FR 49022 (14–SEP–98).
San Clemente Island Indian paintbrush	*Castilleja grisea*	Endangered	U.S.A. (CA)	42 FR 40682 (11–AUG–77).
Spring-loving centaury	*Centaurium namophilum*	Threatened	U.S.A. (CA, NV)	50 FR 20777 (20–MAY–85).
Springville clarkia	*Clarkia springvillensis*	Threatened	U.S.A. (CA)	63 FR 49022 (14–SEP–98).
San Clemente Island larkspur	*Delphinium variegatum* var. *kinkiense*	Endangered	U.S.A. (CA)	42 FR 40682 (11–AUG–77).
Santa Barbara Island dudleya	*Dudleya traskiae*	Endangered	U.S.A. (CA)	43 FR 17910 (26–APR–78).
Ash meadows gumplant	*Grindelia fraxino-pratensis*	Threatened	U.S.A. (CA, NV)	50 FR 20777 (20–MAY–85).
San Clemente Island woodland star	*Lithophragma maximum*	Endangered	U.S.A. (CA)	62 FR 42692 (8–AUG–97).
San Clemente Island lotus	*Lotus dendroideus* var. *traskiae*	Endangered	U.S.A. (CA)	42 FR 40682 (11–AUG–77).
San Clemente Island bush mallow	*Malacothamnus clementinus*	Endangered	U.S.A. (CA)	42 FR 40682 (11–AUG–77).
Amargosa niterwort	*Nitrophila mohavensis*	Endangered	U.S.A. (CA, NV)	50 FR 20777 (20–MAY–85).

TABLE 1.—SUMMARY OF THE LISTING INFORMATION FOR THE FOLLOWING 31 SPECIES—Continued

Common name	Scientific name	Status	Where listed	Final listing rule
Eureka Valley evening primrose	*Oenothera californica* ssp. *eurekensis*	Endangered	U.S.A. (CA)	43 FR 17910 (26–APR–78).
Yreka phlox	*Phlox hirsuta*	Endangered	U.S.A. (CA)	65 FR 5268 (3–FEB–00).
Hartweg's golden sunburst	*Pseudobahia bahiifolia*	Endangered	U.S.A. (CA)	62 FR 5542 (6–FEB–97).
San Joaquin adobe sunburst	*Pseudobahia peirsonii*	Threatened	U.S.A. (CA)	62 FR 5542 (6–FEB–97).
Santa Cruz Island rock-cress	*Sibara filifolia*	Endangered	U.S.A. (CA)	62 FR 42692 (8–AUG–97).
Keck's checker-mallow	*Sidalcea keckii*	Endangered	U.S.A. (CA)	65 FR 7757 (16–FEB–00).
Eureka Dune grass	*Swallenia alexandrae*	Endangered	U.S.A. (CA)	43 FR 17910 (26–APR–78).
Kneeland Prairie pennycress	*Thlaspi californicum*	Endangered	U.S.A. (CA)	65 FR 6332 (9–SEP–00).
Hidden Lake bluecurls	*Trichostema austromontanum* ssp. *compactum.*	Threatened	U.S.A. (CA)	63 FR 49006 (14–SEP–98).
Red Hills vervain	*Verbena californica*	Threatened	U.S.A. (CA)	63 FR 49022 (14–SEP–98).

DATES: To allow us adequate time to conduct these reviews, we must receive your information no later than January 3, 2006.

ADDRESSES: Information may be submitted to the following U.S. Fish and Wildlife Service's Fish and Wildlife Offices:

For the Delhi Sands flower-loving fly, island night lizard, California least tern, least Bell's vireo, San Clemente Island Indian paintbrush, San Clemente Island larkspur, San Clemente Island woodland star, San Clemente Island lotus, San Clemente Island bush mallow, Santa Cruz Island rock-cress, and Hidden Lake bluecurls, submit comments to the Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California 92009. Information may also be submitted electronically at *fw1cfwo_5yr@fws.gov.*

For the Smith's blue butterfly, Morro shoulderband snail, Santa Barbara Island dudleya, Eureka Valley evening primrose, and Eureka Dune grass, submit comments to the Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003. Information may also be submitted electronically at *fw1vfwo5year@fws.gov.*

For the Valley elderberry longhorn beetle, giant garter snake, San Francisco garter snake, Chinese Camp brodiaea, Mariposa pussypaws, Springville clarkia, Hartweg's golden sunburst, San Joaquin adobe sunburst, Keck's checker-mallow, and Red Hills vervain, submit comments to the Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, California 95825. Information may also be submitted electronically at *fw1sfo5year@fws.gov.*

For Ash Meadows gumplant, spring-loving centaury, and Amargosa niterwort, submit comments to the Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Blvd., Suite 234, Reno, NV 89502. Information may also be submitted electronically at *fw1nfwo_5yr@fws.gov.*

For Kneeland Prairie pennycress, submit comments to the Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Arctata Fish and Wildlife Office, 11655 Heindon Road, Arcata, California 95521. Information may also be submitted electronically at *fw8kneelandpennycress@fws.gov.* Please note that this electronic mail address is different than the address given in the July 7, 2005, notice opening the first comment period.

For Yreka phlox, submit comments to the Field Supervisor, Attention: 5-Year Review, U.S. Fish and Wildlife Service, Yreka Fish and Wildlife Office, 1829 S. Oregon Street, Yreka, California 96097. Information may also be submitted electronically at *fw1yrekaphlox@fws.gov.*

Information received in response to this notice and these reviews will be available for public inspection, by appointment, during normal business hours, at the appropriate above addresses.

FOR FURTHER INFORMATION CONTACT: For the Delhi Sands flower-loving fly, island night lizard, California least tern, least Bell's vireo, San Clemente Island Indian paintbrush, San Clemente Island larkspur, San Clemente Island woodland star, San Clemente Island lotus, San Clemente Island bush mallow, Santa Cruz Island rock-cress, or Hidden Lake bluecurls, contact Tannika Engelhard at the Carlsbad Fish and Wildlife Office at (760) 431–9440. For the Smith's blue butterfly, Morro shoulderband snail, Santa Barbara Island dudleya, Eureka Valley evening primrose, or Eureka Dune grass, contact Mike McCrary at the Ventura Fish and Wildlife Office at (805) 644–1766. For the Valley elderberry longhorn beetle, giant garter snake, San Francisco garter snake, Chinese Camp brodiaea, Mariposa pussypaws, Springville clarkia, Hartweg's golden sunburst, San Joaquin adobe sunburst, Keck's checker-mallow, and Red Hills vervain, contact Craig Aubrey at the Sacramento Fish and Wildlife Office at (916) 414–6600. For Ash Meadows gumplant, spring-loving centaury, Amargosa niterwort, contact Steve Caicco at the Nevada Fish and Wildlife Office at (775) 861–6300. For Kneeland Prairie pennycress, contact Dave Imper at the Arcata Fish and Wildlife Office at (707) 822–7201. For Yreka phlox, contact Nadine Kanim at the Yreka Fish and Wildlife Office at (530) 842–5763.

SUPPLEMENTARY INFORMATION: Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. The purpose of a 5-year review is to ensure that the classification of a species as threatened or endangered on the List is accurate.

The 5-year review is an assessment of the best scientific and commercial data available at the time of the review that has become available since the species' original listing or its most recent status or 5-year review.

On July 7, 2005, we announced in a **Federal Register** notice (70 FR 39327) that we are commencing a 5-year review of the 31 species listed in Table 1 of this notice. The public comment period for the July 7, 2005, notice ended September 6, 2005.

The 5-year reviews for these species will assess: (a) Whether new information suggests that the species' populations are increasing, declining, or stable; (b) whether existing threats are increasing, the same, reduced, or eliminated; (c) if there are any new threats; and (d) if new information or analysis calls into question any of the conclusions in the original listing determinations as to the species' status. The review will also apply this new information to consideration of the appropriate application of the Policy Regarding the Recognition of Distinct Vertebrate Population Segments (61 FR 4722) to the listed entity, if applicable.

If there is no new information concerning the species in Table 1, no changes will be made to their classifications. However, if we find that there is new information indicating a change in classification is warranted for any of these species, we may propose a new rule that could either: (a) Reclassify the species from endangered to threatened; (b) reclassify the species from threatened to endangered or (c) remove the species from the List.

Public Solicitation of New Information

We are publishing this second request for any new information relating to the current status of the species listed in Table 1 that has become available since their original listings. In particular, we are seeking information such as:

A. Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics;

B. Habitat conditions including, but not limited to, amount, distribution, and suitability;

C. Conservation measures that have been implemented that benefit the species;

D. Threat status and trends; and

E. Other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, or improved analytical methods.

Information submitted should be supported by documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources. Information submitted between the close of the first comment period on September 6, 2005, and today's date shall be considered in the reviews, along with information submitted within the timeframes established by the July 7, 2005, notice and this notice.

Authority: This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: October 27, 2005.

Paul Henson,

Acting Manager, California/Nevada Operations Office, U.S. Fish and Wildlife Service.

[FR Doc. 05–21912 Filed 11–2–05; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Lake Ophelia National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

AGENCY: Notice of availability of the Final Comprehensive Conservation Plan for Lake Ophelia National Wildlife Refuge in Avoyelles Parish, Louisiana.

SUMMARY: The Fish and Wildlife Service announces that a Final Comprehensive Conservation Plan for Lake Ophelia National Wildlife Refuge is available for distribution. The plan was prepared pursuant to the National Wildlife Refuge System Improvement Act of 1997, and in accordance with the National Environmental Policy Act of 1969, and describes how the refuge will be managed for the next 15 years. The compatibility determinations for hunting, fishing, wildlife observation and photography, environmental education and interpretation, all-terrain vehicle use, trapping of selected furbearers, cooperative farming, forest management, and resource research studies, are also available within the plan.

ADDRESSES: A copy of the plan may be obtained by writing to the Lake Ophelia National Wildlife Refuge, 401 Island Road, Marksville, Louisiana 71351. The plan may also be accessed and downloaded from the Service's Web site *http://southeast.fwa.gov/planning/.*

SUPPLEMENTARY INFORMATION: Lake Ophelia National Wildlife Refuge is located in north Avoyelles Parish, Louisiana, about 15 miles northeast of the city of Marksville and 30 miles southeast of the city of Alexandria. The refuge covers a total of 17,525 acres within the 38,000-acre acquisition boundary and lies approximately 8 miles northwest of where the Red River empties into the Atchafalaya River. This region is part of the Mississippi Alluvial Valley. The refuge consists of a complex of forested wetlands, shrub wetland habitats, recently reforested areas, agricultural lands, moist-soil areas, open waters, and dirt access roads and trails. Annually, more than 10,000 visitors participate in refuge activities.

The availability of the Draft Comprehensive Conservation Plan and Environmental Assessment for a 45-day public review and comment period was announced in the **Federal Register** on April 5, 2005, volume 70, number 64. The plan and environmental assessment identified and evaluated four alternatives for managing the refuge over the next 15 years. Alternative 1, the ''no action'' alternative, would have continued current management of the refuge and all lands within the approved 38,000-acre acquisition boundary would be purchased. Under Alternative 2, the ''preferred alternative,'' 38,000 acres of refuge lands would be protected, maintained, and enhanced by adding more staff, equipment, and facilities in order to restore and manage the refuge's forest, wetland, and moist-soil habitats, and hydrology in support of wildlife, especially waterfowl, neotropical migratory birds, and Louisiana black bears. Alternative 3 would add more staff, equipment, and facilities in order to maximize bottomland hardwood forest restoration in support of migratory birds and other wildlife. Under this alternative, 17,525 acres of refuge lands would be protected, maintained, restored, and enhanced for resident wildlife, waterfowl, neotropical migratory birds, and threatened and endangered species. Additionally, the acquisition boundary would be expanded (77,000 acres) to create forested linkages with the State of Louisiana's Spring Bayou and Grassy Lake wildlife management areas. Alternative 4 would add more staff, equipment, and facilities in order to restore the refuge's wetland hydrology in support of migratory birds, particularly waterfowl and shorebirds.

Based on the environmental assessment and the comments received, the Service adopted Alternative 2 as its preferred alternative. This alternative was considered to be the most effective for meeting the purposes of the refuge by conserving wetlands and reducing forest fragmentation by identifying lands of conservation priority and working with partners to contribute to the 100,000-acre forest block objective

for the Red River/Three Rivers Source Population Objective Area. Alternative 2 best achieves national, ecosystem, and refuge-specific goals and objectives and positively addresses significant issues and concerns expressed by the public.

FOR FURTHER INFORMATION CONTACT: Tina Chouinard, Natural Resource Planner, Central Louisiana National Wildlife Refuge Complex, telephone: (318) 253–4238; fax: (318) 253–7139; e-mail: *tina_chouinard@fws.gov;* or by writing to the Natural Resource Planner at the address in the **ADDRESSES** section.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: July 18, 2005.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. 05–21907 Filed 11–2–05; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

St. Catherine Creek National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of the Draft Comprehensive Conservation Plan and Environmental Assessment for St. Catherine Creek National Wildlife Refuge in Adams and Wilkinson Counties, Mississippi.

SUMMARY: This notice announces that a Draft Comprehensive conservation Plan and environmental Assessment for St. Catherine Creek National Wildlife Refuge is available for review and comment. The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997, requires the Service to develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a comprehensive conservation plan is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, the plan identifies wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

DATES: A meeting will be held to present the plan to the public. Mailings, newspaper articles, and posters will be the avenues to inform the public of the date and time for the meeting. Individuals wishing to comment on the Draft Comprehensive Conservation Plan and Environmental Assessment for St. Catherine Creek National Wildlife Refuge should do so within 45 days following the date of this notice.

ADDRESSES: Requests for copies of the Draft Comprehensive Conservation Plan and Environmental Assessment should be addressed to St. Catherine Creek National Wildlife Refuge, 76 Pintail Lane, Natchez, Mississippi 39120; Telephone 601/442–6696. The plan and environmental assessment may also be accessed and downloaded from the Service's Internet Web site *http://southeast.fws.gov/planning/*. Comments on the draft plan may be submitted to the above address or via electronic mail to *mike_dawson@fws.gov*. Please include your name and return address in your Internet message. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the record, which we will honor to the extent allowable by law. Anonymous comments will not be considered.

SUPPLEMENTARY INFORMATION: Significant issues addressed in the draft plan include: Threatened and endangered species; waterfowl management; neotropical migratory birds; bottomland hardwood restoration; agriculture; visitor services (hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation); funding and staffing; cultural resources; and land acquisition.

The Service developed four alternatives for managing the refuge and chose Alternative D as the preferred alternative.

Alternatives

The Draft Comprehensive Conservation Plan and Environmental Assessment evaluates the four alternatives for managing the refuge over the next 15 years. These alternatives are briefly described as follows:

Alternative A. Existing refuge management and public outreach practices would be favored under this alternative. All refuge management actions would be directed towards achieving the primary purposes including (1) preserving wintering waterfowl habitat (e.g., croplands, moist-soil management units, green-tree reservoirs, and permanent water); (2) providing production habitat for wood ducks; and (3) meeting the habitat conservation goals of the North American Waterfowl Management Plan, all the while contributing to other national, regional, and state goals to protect and restore habitat for shorebirds, wading birds, neotropical breeding birds, woodcock, and threatened and endangered species. Refuge management programs would continue to be developed and implemented with little baseline biological information. Active habitat management would continue to be implemented through water level manipulations, moist-soil and cropland management, and forest management designed to provide a diverse complex of habitats that meet the foraging, resting, and breeding requirements for a variety of species. A summary of the current acreages by habitat type can be found in Table 2, Chapter II, of the Draft Comprehensive Conservation Plan. Refuge staff would continue to manage existing bottomland hardwood and upland hardwood forested and reforested areas, open water and impoundments, croplands, and moist-soil units.

Land would be acquired from willing sellers within the current acquisition boundary. The refuge would continue to emphasize land exchanges of isolated refuge tracts for inholdings within the acquisition boundary.

Hunting and fishing would continue to be the major focuses of the refuge public use program, with no expansion of current opportunities. Current restrictions or prohibitions would remain. While no new trails would be developed, refuge staff would continue to maintain existing trails. Environmental education, wildlife observation, and wildlife photography would be accommodated on a case-by-case basis. Plans would continue to request funding for the construction of a refuge headquarters office/visitor contact area on the Sibley Unit and for the rehabilitation of existing facilities.

Alternative B. Under this alternative, the emphasis would be on improving refuge resources for wildlife, while still maintaining those public use opportunities that presently exist. Primary management efforts would focus on restoring and enhancing habitats and associated plant communities for the benefit of migratory birds, threatened and endangered species, and other federal trust species.

Forest habitat would be managed to develop and enhance vertical structure by manipulating existing timber stands through both commercial and non-commercial harvest methods, and by incorporating greater native tree species in any future reforestation efforts. Conservation and protection efforts would also focus on unique loess bluff habitats by establishing buffer zones around spring seep wetlands at the bottom ridges.

The refuge would continue to administer the cooperative farming program and improve impoundments for moist-soils units for the increased benefit to waterfowl, shorebirds, and wading birds. Baseline data would be collected, standardized surveys implemented, and populations monitored.

The refuge would inventory and more aggressively monitor, control, and where possible, eliminate invasive plants, with particular attention to those having the greatest negative impacts on native habitat and wildlife. Population trend information for nutria, wild hogs, raccoon, and beaver will be developed to better control the detrimental effects of nuisance animals on habitat and wildlife.

Additional staff would include a wildlife biologist and a biological technician to accomplish objectives for establishing baseline data on refuge resources and managing habitats.

The refuge would work closely with partners to identify and acquire land from willing sellers within the current acquisition boundary, with emphasis on those lands that can provide additional habitat for trust species. Non-traditional land protection methods would be developed and employed, including land exchanges of isolated refuge tracts for inholdings within the acquisition boundary.

Public uses would include hunting, fishing, wildlife observation, wildlife photography, and limited interpretation. Under this alternative, outreach and environmental education would occur only as time permits. Hunting and fishing would continue to be the major focuses of the refuge public use program, with no expansion or enhancement of current opportunities. While no new trails would be developed, the refuge staff would continue to maintain the existing trails. All new funding would support wildlife and habitat management programs, with annual maintenance funding to support upkeep of existing public use facilities. This alternative does not address the increased visitation, which has occurred in the past five years and is predicted to continue into the future.

Alternative C. This approach would maintain the current wildlife and habitat management activities, while allowing for significantly more public recreational uses. The refuge would allocate a greater share of the budget to public use. Wildlife-dependent recreation uses, such as hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation, would remain priority uses and would be increased whenever compatible and appropriate. Increased opportunities to hunt waterfowl, mourning doves, deer, and feral hogs would be developed.

Outreach opportunities would be designed to increase public understanding and enjoyment of fish and wildlife and their habitats. Efforts would include increased participation in the local tourism program and in meetings with city, county, and state officials.

Environmental education and interpretation program, both on and off the refuge, would be expanded. Some of these would include environmental internships for local high school students, as well as bird banding demonstrations. Existing interpretive trails would be lengthened, improved, and provided with trail guides. New trails and observation towers would be added. Orientation and information signs would be established at all major refuge entrances, check stations, boat ramps, and parking lots. Public use facilities, such as boat launches and piers, would be added for the disabled.

A new visitor center, with state-of-the-art interactive displays and classrooms, would be needed to accomplish the goals and objectives associated with this alternative. To improve the quality of the visitor experience, the refuge would work with the state and county to widen York Road from U.S. Highway 61 to the refuge. Additional staff needed to implement this alternative includes an outdoor recreation planner, a law enforcement officer, and a seasonal maintenance worker. Additional staff would be used for developing and presenting both on- and off-site outreach and interpretation programs.

Land acquisition within the current acquisition boundary would continue with emphasis on those lands that can provide additional public use opportunities and access.

Alternative D. The Service planning team has identified Alternative D as the preferred alternative. This alternative was developed based on public input and the best professional judgment of the planning team. Strategies presented in the Draft Comprehensive Conservation Plan were developed as a direct result of the selection of Alternative D.

Alternative D represents a combination and/or compromise between Alternative B (Habitat Management Emphasis) and Alternative C (Public Use Emphasis). Whereas these two alternatives seek to maximize either expanded wildlife habitat management or expanded public use opportunities, Alternative D seeks to optimize the benefits of the refuge to wildlife and people, recognizing that tradeoffs may preclude maximizing benefits to both simultaneously. By seeking the best of both Alternatives B and C, Alternative D would promote greater protection of fish, wildlife, and their habitats and more evenly balanced recreational and educational programs for visitors.

Under Alternative D, refuge lands would be more intensely managed than at present to provide high quality habitat for wildlife, particularly migratory birds. This would include creating and maintaining additional moist-soil units for an annual goal of 1,800 acres of quality moist-soil habitat to meet the goals established in the Biological Review, as well as developing methods to maximize use of Mississippi River overflow events to provide water for moist-soil units. The refuge would establish a banding quota for wood ducks to support the objectives of the Mississippi Flyway Council and provide and enhance habitat for woodcock populations to contribute to the objectives of the American Woodcock Management Plan. In addition, the refuge would implement step-down objectives for non-game migratory land birds, as well as for shorebirds and wading birds, to support the goals of the Partners-in-Flight Plan.

Fisheries would be emphasized and, where appropriate, restored for native diversity within the floodplain. Refuge habitats would be managed and restored for natural diversity in support of national and regional plans. Forest management would address the need to enhance and develop vertical structure to provide habitat for a diversity of species, particularly priority migratory birds. Any future reforestation efforts would incorporate greater native species diversity.

This alternative would encourage more public recreational and educational uses, where feasible, while intensifying current habitat management. Hunting and fishing would continue with greater emphasis on the quality of the experience and with more diverse opportunities, including those for youth and disabled hunters/anglers. Education and

interpretation would be promoted by providing programs and partnerships with local schools. Wildlife observation and photography opportunities would be expanded, including construction of photo blinds and observation towers. Information guides and signage that highlight refuge management programs, as well as unique wildlife habitats, would also be developed. The refuge would also undertake efforts to improve road maintenance in order to provide better visitor access.

A visitor center and headquarters office would be constructed on the refuge, with space for interpretation, environmental education, and staff.

Research studies on the refuge would continue to be fostered and partnerships developed with universities and other agencies, with the refuge providing needed resources and study sites. Research on the refuge would also provide benefits to conservation efforts throughout the Lower Mississippi River Valley to preserve, enhance, restore, and manage bottomland hardwood habitat. Inventorying and monitoring of birds, freshwater mussels, reptiles, and amphibians would be continued and expanded in order to assess population trends, correlate with environmental pressures, and provide baseline data to be used in development of appropriate management strategies.

Providing additional staff (e.g., wildlife biologist, biological technician, outdoor recreation planner, seasonal maintenance worker, and full-time law enforcement officer) would enable the Service to fully develop and manage fish and wildlife resources and habitats, an offer environmental educational programs that promote a greater understanding of both natural and cultural resources.

Under this alternative, the refuge would continue to acquire lands within the present acquisition boundary for compatible wildlife-dependent public recreation and environmental education opportunities.

Tracts that provide better-quality habitat and connectivity to existing refuge lands would receive higher priority for acquisition. The refuge would use other important acquisition tools, including land exchanges, partnerships with conservation organizations, conservation easements with adjacent landowners, and leases/cooperative agreements.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: April 29, 2005.

Cynthia K. Dohner,

Acting Regional Director.

Editorial Note: This document was received at the Office of the Federal Register October 31, 2005.

[FR Doc. 05–21906 Filed 11–2–05; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan, Final Environmental Impact Statement, Colorado National Monument, Colorado

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Availability of a Record of Decision on the Final Environmental Impact Statement for the Final Environmental Impact Statement for the General Management Plan, Colorado National Monument.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, 83 Stat. 852, 853, codified as amended at 42 U.S.C. 4332(2)(C), the National Park Service announces the availability of the Record of Decision for the General Management Plan, Final Environmental Impact Statement, Colorado National Monument, Colorado. On August 31, 2005, the Director, Intermountain Region, approved the Record of Decision for the project. As soon as practicable, the National Park Service will begin to implement the Preferred Alternative contained in the FEIS issued on June 6, 2005. The following course of action will occur under the preferred alternative: Weave Colorado National Monument into the regional ecosystem on the northeastern edge of the Colorado Plateau by pursuing common stewardship goals with government agencies, tribes, educational institutions, and communities.

This course of action and 2 alternatives were analyzed in the Draft and Final Environmental Impact Statements. The full range of foreseeable environmental consequences was assessed, and appropriate mitigating measures were identified.

The Record of Decision includes a statement of the decision made, synopses of other alternatives considered, the basis for the decision, a description of the environmentally preferable alternative, a finding on impairment of park resources and values, a listing of measures to minimize environmental harm, an overview of public involvement in the decision-making process, and finding that the alternative selected for implementation will not impair park resources or values and will not violate the NPS Organic Act.

FOR FURTHER INFORMATION CONTACT: Superintendent Bruce Noble, Colorado National Monument, Fruita, CO 81521–0001; Tel: (970) 858–3617, ext. 300; FAX: (970) 858–0372; e-mail: *bruce_noble@nps.gov.*

SUPPLEMENTARY INFORMATION: Copies of the Record of Decision may be obtained from the contact listed above or online at *http://planning.nps.gov/plans.cfm*

Dated: August 30, 2005.

Michael D. Snyder,

Acting Director, Intermountain Region, National Park Service.

[FR Doc. 05–21941 Filed 11–2–05; 8:45 am]

BILLING CODE 4312–CP–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–308–310, 520, and 521 (Second Review)]

Carbon Steel Butt-Weld Pipe Fittings From Brazil, China, Japan, Taiwan, and Thailand

Determinations

On the basis of the record [1] developed in these subject five-year reviews, the United States International Trade Commission (Commission) determines,[2] pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty orders on carbon steel butt-weld pipe fittings from Brazil, China, Japan, Taiwan, and Thailand would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on December 1, 2004 (69 FR 69952) and determined on March 7, 2005 that it would conduct full reviews (70 FR 14713, March 23, 2005). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Shara L. Aranoff did not participate in these reviews.

notice in the **Federal Register** on May 11, 2005 (70 FR 24838). The hearing was held in Washington, DC, on September 7, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on October 31, 2005. The views of the Commission are contained in USITC Publication 3809 (October 2005), entitled *Carbon Steel Butt-Weld Pipe Fittings from Brazil, China, Japan, Taiwan, and Thailand: Investigation Nos. 731–TA–308–310, 520, and 521 (Second Review).*

By order of the Commission.

Issued: October 31, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–21948 Filed 11–2–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–431 (Section 129 Consistency Determination)]

DRAMs and DRAM Modules from Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of a proceeding under section 129(a)(4) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3538(a)(4)).

SUMMARY: The Commission hereby gives notice that it has instituted this proceeding following receipt on October 14, 2005, of a request from the United States Trade Representative (USTR) for a determination under section 129(a)(4) of the URAA that would render the Commission's action in connection with Investigation No. 701–TA–431 not inconsistent with the findings of the dispute settlement panel of the World Trade Organization (WTO) in its report *United States—Countervailing Duty Investigation on Dynamic Random Access Memory Semiconductors (DRAMs) from Korea,* WT/DS296/R. For further information concerning the conduct of this proceeding and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207).

DATES: Effective Date November 3, 2005.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202–205–3160), Office of Investigations, or Marc A. Bernstein (202–205–3087), Office of General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record of Investigation No. 701–TA–431 may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. In August 2003, the Commission determined that an industry in the United States was materially injured by reason of subsidized imports of DRAMs and DRAM modules from Korea. Countervailing duties were then assessed against these products. The Republic of Korea subsequently initiated a dispute settlement proceeding at the WTO concerning the U.S. countervailing duty measure. Korea's action challenged both the Department of Commerce's subsidy determination and the Commission's injury determination.

The WTO dispute resolution panel issued its report on December 21, 2004. The panel evaluated six principal claims that Korea raised against the Commission's injury determination. It ruled in favor of the United States on five of these claims. The sixth claim concerned whether the Commission properly complied with the obligation under Article 15.5 of the WTO Agreement of Subsidies and Countervailing Measures (ASCM) not to attribute to the subject imports injury caused by other factors. The panel concluded that the Commission successfully satisfied the non-attribution obligation with respect to the factors of non-subject imports; capacity increases by DRAMs suppliers other than Hynix, the sole producer of subject merchandise; and the purported technological and production difficulties of U.S. producer Micron. It also concluded, however, that the Commission did not successfully satisfy the non-attribution obligation with respect to the factor of declines in demand. Thus, in this one respect, the Panel concluded that the Commission's determination was inconsistent with the ASCM. The pertinent discussion appears at paragraphs 7.356–7.371 of the Panel Report.

Neither the United States nor Korea appealed the aspects of the Panel Report that addressed the Commission injury determination to the WTO Appellate Body. Both countries did appeal other aspects of the Panel Report, principally concerning Commerce's subsidy determination. On June 27, 2005, the Appellate Body resolved the issues on appeal in favor of the United States.

On July 20, 2005, the WTO Dispute Settlement Body (DSB) adopted the Panel Report as modified by the Appellate Body. Consequently, the DSB's action finalized the panel's conclusions concerning the Commission's determination. On August 3, 2005, the United States informed the DSB that it intends within a reasonable period of time to bring its measure into conformity with the report that the DSB had adopted.

The USTR transmitted his request for this determination following receipt from the Commission on September 22, 2005, of an advisory report under section 129(a)(1) of the URAA stating that the Commission has concluded that Title VII of the Tariff Act of 1930 permits it to take steps in connection with its action in *DRAMs and DRAM Modules from Korea*, Investigation No. 701–TA–431, that would render its action in that proceeding not inconsistent with the findings of the dispute settlement panel.

Participation in the investigation and public service list. Only those persons who were interested parties to the original investigation (*i.e.*, persons listed on the Commission Secretary's service list) may participate in this proceeding. Such persons wishing to participate in this proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to this proceeding.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make business proprietary information (BPI) gathered in the original investigation available under administrative protective order (APO) to authorized applicants that returned or destroyed all BPI received under the APO in the original investigation or were not covered under the original APO, provided that an application is made in this proceeding.

Any such application must be made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to this proceeding. Parties that are currently subject to the APO issued in Investigation No. 701–TA–431 by virtue of their participation in the litigation before the Court of International Trade in *Hynix Semiconductor Inc.* v. *United States*, Ct. No. 03–652, need not file a new APO application in this proceeding. The Secretary will maintain a separate service list for those parties authorized to receive BPI under the APO.

Limitations on the scope of this proceeding. This proceeding is being conducted in order for the Commission to make a determination that would render its action in *DRAMs and DRAM Modules from Korea*, Investigation No. 701–TA–431, not inconsistent with the findings of the WTO dispute settlement panel. Thus, this proceeding only involves issues related to the WTO dispute settlement findings and does not involve issues that were not in dispute in the WTO proceeding or on which the WTO dispute settlement panel found the United States in conformity with its obligations under the WTO. As discussed above, the only issue on which the WTO dispute settlement panel found the Commission's injury determination inconsistent with the ASCM pertained to the question of whether the Commission attributed to the subject imports any injury that may have been caused by declines in demand. Any material in the parties' submissions that contains new factual information or that addresses any issue beyond the scope of this proceeding will be disregarded.

Written Submissions. The Commission is not reopening the record in this proceeding for submission of new factual information. The Commission will, however, permit the parties to file comments and rebuttal comments pertaining to the issue that is within the scope of this proceeding. The deadline for filing comments is December 5, 2005. Comments shall be limited to no more than forty (40) double-spaced and single-sided pages of textual material. The deadline for filing rebuttal comments is December 19, 2005. Rebuttal comments shall be limited to no more than twenty (20) double-spaced and single sided pages of textual material.

Any material in the parties' submissions that contains new factual information or that addresses any issue beyond the scope of this proceeding will be disregarded.

All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

The Commission has concluded that, because it is not reopening the record, conducting a hearing is inappropriate in this proceeding.

Issued: October 31, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–21949 Filed 11–2–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–528]

In the Matter of Certain Foam Masking Tape; Notice of Issuance of General Exclusion Order and Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Having found a violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, notice is hereby given that the U.S. International Trade Commission has issued a general exclusion order and terminated the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3095. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: This patent-based section 337 investigation was instituted by the Commission based on a complaint filed by 3M Company, 3M Innovative Properties Company, and Mr. Jean Silvestre (collectively, ''3M''), which was subsequently amended. 70 FR 386 (Jan. 4, 2005). The complaint, as amended, alleged a violation of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation and/or sale within the United States after importation, of certain foam masking tape by reason of infringement of certain claims of U.S. Patents Nos. 4,996,092 (''the '092 patent'') and 5,260,097 (''the '097 patent''). The notice of investigation named 13 respondents.

On February 10, 2005, 3M filed a motion to amend the complaint and notice of investigation to add two respondents. On March 1, 2005, the administrative law judge (''ALJ'') issued an initial determination (''ID'') (Order No. 14) granting the motion. No party petitioned for review. On March 29, 2005, the Commission issued a notice of its determination not to review the ID.

Between February and June of 2005, the investigation was terminated as to 14 of the 15 respondents on the basis of settlement agreements and consent orders, or based on consent orders alone. With respect to Jevtec, Ltd.—the sole respondent as to which the investigation was not terminated—3M moved on May 17, 2005, for an order directing Jevtec to show cause why it should not be found in default for failure to respond to the amended complaint and notice of investigation. 3M also requested the issuance of an ID finding Jevtec in default if Jevtec failed to show such cause.

On May 26, 2005, 3M moved for a summary determination of a violation of section 337. On June 6, 2005, the Commission investigative attorney (''IA''), filed a response in support of the motion for summary determination.

On June 7, 2005, the ALJ issued Order No. 36, ordering Jevtec to show cause why it should not be held in default no

later than June 14, 2005. Jevtec did not file a response to the order, an answer to the complaint, or a notice of appearance within the time permitted.

On June 15, 2005, the ALJ issued an ID (Order No. 39) finding Jevtec in default. No party petitioned for review of the ID. On July 11, 2005, the Commission determined not to review that initial determination.

On June 21, 2005, the ALJ issued an ID (Order No. 41), granting 3M's motion for a summary determination of a violation of section 337. The ID notes that only the ''097 patent is at issue in the summary determination, because the investigation has been terminated with respect to all respondents charged with infringement of the ''092 patent. No party petitioned for review of the ID.

In Order No. 41, the ALJ recommended the issuance of a general exclusion order. He also recommended that the bond permitting temporary importation during the Presidential review period be set at 100 percent of the value of the infringing imported product.

On July 15, 2005, the Commission determined not to review the ALJ's summary determination that 3M has shown that there is a violation of section 337. It also issued a **Federal Register** notice, inviting written submissions on the ALJ's recommended determination on remedy and bonding as well as submissions on the public interest.

On July 25, 2005, the Commission received comments from complainant 3M and the IA. No reply submissions were received.

Having examined the relevant portions of the record, including ALJ Order No. 41, and the written submissions on remedy, the public interest and bonding, the Commission has determined to issue a general exclusion order prohibiting unlicensed entry for consumption of foam masking tape that is covered by claims 1, 7, 8, 10, 11, 13, 14 or 16 of the '097 patent. In so doing the Commission determined that the public interest factors enumerated in section 337(d) do not preclude the issuance of the aforementioned remedial order and the bond during the Presidential review period shall be 100 percent of the entered value of the article in question. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and §§ 210.42 and 210.50 of the Commission's Rules of Practice and Procedure, 19 CFR 210.42 and 210.50.

By order of the Commission.

Issued: October 31, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–21950 Filed 11–2–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–718 (Second Review)]

Glycine From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty order on glycine from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on June 1, 2005 (70 FR 31534) and determined on September 7, 2005 that it would conduct an expedited review (70 FR 55625, September 22, 2005).

The Commission transmitted its determination in this review to the Secretary of Commerce on October 31, 2005. The views of the Commission are contained in USITC Publication 3810 (October 2005), entitled Glycine from China: Investigation No. 731–TA–718 (Second Review).

By order of the Commission.

Issued: October 31, 2005.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–21951 Filed 11–2–05; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: Identification Markings Placed on Firearms.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 70, Number 146, page 44117 on August 1, 2005, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until December 5, 2005. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Identification Markings Placed on Firearms.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None. Each licensed firearms manufacturer or licensed firearm importer must legibly identify each firearm by engraving, casting, stamping (impressing), or otherwise conspicuously placing on the frame or receiver an individual serial number. Also, ATF requires minimum height and depth requirements for identification markings placed on firearms.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 2,962 respondents will take 5 seconds to mark the firearm.

(6) An estimate of the total public burden (in hours) associated with the collection: It is estimated that 2,962 respondents will take 5 seconds to mark the firearm.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: October 28, 2005.

Brenda E. Dyer,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–21901 Filed 11–2–05; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant To The National Cooperative Research And Production Act of 1993—Institute of Electrical And Electronics Engineers

Notice is hereby given that, on October 4, 2005, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Institute of Electrical and Electronics Engineers (''IEEE'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 23 new standards have been initiated and 9 existing standards are being revised. More detail regarding these changes can be found at *http://standards.ieee.org/standardswire/sba/09–22–05.html*.

On September 17, 2004, IEEE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 3, 2004 (69 FR 64105).

The last notification was filed with the Department on September 8, 2005. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 28, 2005 (70 FR 56736).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 05–21888 Filed 11–2–05; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on October 11, 2005, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PXI Systems Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Mindready Solutions, Inc., Saint Lauarent, Quebec, Canada has been added as a party to this venture. Also, Corelis, Inc., Cerritos, CA; and Kaparel Corporation, Waterloo, Ontario, Canada have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems Alliance, Inc. intends to file additional written notification disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on July 20, 2005. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on August 12, 2005 (70 FR 47232).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 05–21887 Filed 11–2–05; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: Application for Registration (DEA Form 363) and Application for Registration Renewal (DEA Form 363a).

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 70, Number 154, page 46887 on August 11, 2005, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until December 5, 2005. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should

address one or more of the following four points:

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

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Application for Registration (DEA Form 363) and Application for Registration Renewal (DEA Form 363a).

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection: Form Number: DEA Form 363 and 363a; Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit. Other: Not-for-profit institutions; State, local, or tribal government. Practitioners who dispense narcotic drugs to individuals for maintenance or detoxification treatment must register with the DEA under the Narcotic Addiction Treatment Act of 1974. Registration is needed for control measures and is used to prevent diversion.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: It is estimated that 130 persons complete DEA Form 363 on paper, at 30 minutes per form, for an annual burden of 65 hours. It is estimated that 25 persons complete DEA Form 363 electronically, at 8 minutes per form, for an annual burden of 3.3 hours. It is estimated that 691 persons complete DEA Form 363a on paper, at 30 minutes per form, for an annual burden of 345.5 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: It is estimated that this collection will create a burden of 414 annual burden hours.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: October 21, 2005.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–21893 Filed 11–2–05; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: Application for Registration (DEA Form 224); Application for Registration Renewal (DEA Form 224a); and Affidavit for Chain Renewal (DEA Form 224b).

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 70, Number 154, page 46886 on August 11, 2005, allowing for a 60 day comment period.

The purpose of this notice to allow for an additional 30 days for public comment until December 5, 2005. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Application for Registration (DEA Form 224); Application for Registration Renewal (DEA Form 224a); and Affidavit for Chain Renewal (DEA Form 224b).

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection: Form Number: DEA Form 224, 224a and 224B; Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit. Other: Not-for-Profit Institutions; State, Local or Tribal Government. All firms and individuals who distribute or dispense controlled substances must register with the DEA under the Controlled Substances Act. Registration is needed for control measures over legal handlers of controlled substances and is used to monitor their activities.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: It is estimated that 13,510 persons complete DEA Form 224 on paper, at 12 minutes per form, for an annual burden of 2,702 hours. It is estimated that 41,839 persons complete DEA Form 224 electronically, at 8 minutes per form, for an annual burden of 5,579 hours. It is estimated that

159,009 persons complete DEA Form 224a on paper, at 12 minutes per form, for an annual burden of 31,820 hours. It is estimated that 178,884 persons complete DEA Form 224a electronically, at 4 minutes per form, for an annual burden of 11,926 hours. It is estimated that 72 persons complete DEA Form 224b, at 5 hours per form, for an annual burden of 360 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: It is estimated that this collection will create a burden of 52,387 annual burden hours.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: October 26, 2005.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–21896 Filed 11–2–05; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: Application for Registration (DEA Form 224); Application for Registration Renewal (DEA Form 224a); and Affidavit for Chair Renewal (DEA Form 224b).

The Department of Justice (DOJ), Drug Enforcement Administration (DEA) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 70, Number 154, page 46886 on August 11, 2005, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until December 5, 2005. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Overview of This Information Collection

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Application for Registration (DEA Form 224); Application for Registration Renewal (DEA Form 224a); and Affidavit for Chain Renewal (DEA Form 224b).

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection: Form Number: DEA Form 224, 224a and 224B; Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit. Other: Not-for-Profit Institutions; State, Local or Tribal Government. All firms and individuals who distribute or dispense controlled substances must register with the DEA under the Controlled Substances Act. Registration is needed for control measures over legal handlers of controlled substances and is used to monitor their activities.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: It is estimated that 13,510 persons complete DEA Form 224 on paper, at 12 minutes per form, for an annual burden of 2,702 hours. It is estimated that 41,839 persons complete DEA Form 224 electronically, at 8 minutes per form, for an annual burden of 5,579 hours. It is estimated that 159,009 persons complete DEA Form 224a on paper, at 12 minutes per form, for an annual burden of 31,820 hours. It is estimated that 178,884 persons complete DEA Form 224a electronically, at 4 minutes per form, for an annual burden of 11,926 hours. It is estimated that 72 persons complete DEA Form 224b, at 5 hours per form, for an annual burden of 360 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: It is estimated that this collection will create a burden of 52, 387 annual burden hours.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: October 26, 2005.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 05–21900 Filed 11–2–05; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Annual Determination of Average Cost of Incarceration

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice.

SUMMARY: The fee to cover the average cost of incarceration for Federal inmates in 2004 was $23,267.

EFFECTIVE DATE: November 3, 2005.

ADDRESSES: Office of General Counsel, Federal Bureau of Prisons, 320 First St., NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, (202) 307–2105.

SUPPLEMENTARY INFORMATION: 28 CFR part 505 allows for assessment and collection of a fee to cover the average cost of incarceration for Federal inmates. We calculate this fee by dividing the number representing Bureau facilities' monetary obligation

(excluding activation costs) by the number of inmate-days incurred for the preceding fiscal year, and then by multiplying the quotient by 365.

Under § 505.2, the Director of the Bureau of Prisons determined that, based upon fiscal year 2004 data, the fee to cover the average cost of incarceration for Federal inmates in 2004 was $23,267.

Harley G. Lappin,

Director, Bureau of Prisons.

[FR Doc. 05–21965 Filed 11–2–05; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application No. D–11328, et al.]

Proposed Exemptions; George N. Newton, Individual Retirement Account (the IRA)

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via e-mail or fax. Any such comments or requests should be sent either by e-mail to: *''moffitt.betty@dol.gov''*, or by fax to (202) 219–0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

George N. Newton, Individual Retirement Account (the IRA), Located in Waco, Texas, Application No. D–11328

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed arrangement involving the in-kind distributions by the IRA to Mr. George N. Newton (Mr. Newton), a disqualified person with respect to the IRA, in two installments of 50 percent (50%) each, of the IRA's ownership interest in an unencumbered, improved parcel of real property (the Property) located in San Antonio, Texas, in connection with the required minimum distributions rules under the Code; provided the following conditions are satisfied:

(1) The two installments of the in-kind distributions by the IRA occur on December 30, 2005, through January 3, 2006;

(2) The terms and conditions of the transactions are at least as favorable to the IRA, as the terms of similar transactions negotiated at arm's length with unrelated third parties;

(3) The fair market value of the IRA's interest in the Property is determined by an independent, qualified appraiser, as of the date the first of the two installments of the in-kind distributions is made to Mr. Newton; and

(4) The IRA does not pay any commissions, costs, charges, fees, or other expenses in connection with the in-kind distributions.

Summary of Facts and Representations

1. The IRA which is the subject of this exemption is an individual retirement account, as described under section 408(a) of the Code.[1] The approximate aggregate fair market value of the total assets of the IRA is $2,648,113, as of June 30, 2005. The assets of the IRA consist of cash in the amount of $1,011,113 and two parcels of improved real property worth approximately $1,637,000. The custodian of the IRA is Sterling Trust Company of Waco, Texas. As custodian, the Sterling Trust Company is a disqualified person with respect to the IRA, pursuant to section 4975(e)(2)(B) of the Code.

2. Mr. Newton is the owner of the IRA and retains discretion with respect to the investment of the assets in the IRA. As such, Mr. Newton is a fiduciary with regard to the IRA and a disqualified person, pursuant to section 4975(e)(2)(A) of the Code. Mr. Newton was born on August 25, 1934, and on February 25, 2005, attained the age of

[1] Pursuant to the provisions contained in 29 CFR 2510.3–2(d), the IRA is not subject to Title I of the Employee Retirement Income Security Act of 1974 (the Act). However, the IRA is subject to Title II of the Act, pursuant to section 4975 of the Code.

70½. The designated beneficiary under the terms of the IRA is Mr. Newton's wife. As such, Mrs. Newton is a disqualified person with respect to the IRA, pursuant to section 4975(e)(2)(F) of the Code.

3. Mr. Newton is the owner of two other rollover individual retirement accounts at Commonwealth Financial Network in Waltham, Massachusetts with assets of $1,544,401 and $460,787, respectively. These individual retirement accounts are invested in cash and securities. Neither of these individual retirement accounts owns any real property. The combined value of these individual retirement accounts is approximately $2 million dollars.

4. Individual retirement accounts must comply with the minimum distribution rules applicable to defined contribution retirement plans under section 408(a)(6) of the Code. In this regard, the required minimum distributions must commence no later than the first of April following the calendar year in which the owner of an individual retirement account attains the age of 70½. A required minimum distribution must be made for each ''distribution calendar year.'' The first ''distribution calendar year'' is the year such owner of an individual retirement account reaches age 70½. If the owner of an individual retirement account makes the election to receive the first required minimum distribution on the first of April of the year following the year such owner attains the age of 70½, two minimum distributions must be made in that year. If the owner owns two or more individual retirement accounts, the required minimum distributions must be calculated separately for each account. The separately calculated minimum distribution amounts may then be totaled and the total amount may be distributed from any one or more of such individual retirement accounts.

5. The IRA that is the subject of this exemption and the other two individual retirement accounts owned by Mr. Newton must comply with the minimum distribution rules applicable to defined contribution retirement plans under section 408(a)(6) of the Code. As Mr. Newton has attained the age of 70½ in 2005, the first ''distribution calendar year'' is 2005. If Mr. Newton elects to make the first required minimum distribution before April 1, 2006, then two minimum distributions must be made in 2006. As Mr. Newton has three (3) individual retirement accounts, the required minimum distributions for each of these accounts must be calculated separately, but the total amount that is required to be distributed may be paid from the IRA which is the subject of this exemption.

6. Mr. Newton proposes to distribute in-kind 50 percent (50%) of the IRA's interest in the Property in each of two (2) installments which will occur on December 30, 2005, through January 3, 2006. These dates were suggested because they are the banking days just before and just after the New Year. Accordingly, Mr. Newton seeks an exemption from section 4975 of the Code for any violations that may arise in connection with the proposed transactions.

7. The Property which is the subject of this proposed exemption is described as a good quality, historic eight-story office building (the Building) constructed in 1902. The Property is located on approximately .132 acres of land at 314 East Commerce Street in San Antonio, Texas. The Building was formerly known as the old Alamo National Bank Building.

It is represented that the Property is unencumbered by debt, and is managed by Cambridge Realty Group, Inc., an unrelated third party management company.

The Building contains 33,233 square feet of net rentable area. The largest tenant in the Building is River Enterprises which occupies the ground floor space. The second largest tenant is Inuit Services, Inc. which occupies space on the second floor of the Building. It is represented that the occupancy rate of the Building is 92.4 percent (92.4%), as of February 17, 2005. It is further represented that none of the tenants in the Building are disqualified persons with respect to the IRA, as defined in section 4975(e)(2) of the Code.

8. Richard L. Dugger (Mr. Dugger), MAI, CRE, State Certified General Real Estate Appraiser, and Cynthia C. Beard (Ms. Beard), State Certified General Real Estate Appraiser, prepared an appraisal report of the Property, dated March 7, 2005. Mr. Dugger and Ms. Beard are associated with Dugger, Canady, Grafe, Inc., real estate consultants and appraisers. Mr. Dugger and Ms. Beard represent that they are qualified real estate appraisers with approximately thirty-six (36) years and twenty-six (26) years of experience, respectively, in preparing real estate appraisals and are familiar with the Property and with similar properties located in the surrounding area. In addition, Mr. Dugger and Ms. Beard represent that they are independent in that they have no present or prospective interest in the Property and have no personal interest or bias with respect to the parties involved.

Mr. Dugger and Ms. Beard's appraisal estimated the value ''as is'' of a leased fee interest [2] in the Property, subject to various tenant leases, effective February 17, 2005, the most recent date of inspection. Based on their analysis and their inspection of the Property, Mr. Dugger and Ms. Beard concluded that the value ''as is'' of a leased fee interest in the Property was $1,700,000 dollars. It is represented that Mr. Dugger and Ms. Beard will update their appraisal of the value of the leased fee interest in the Property, as of the date the first of the two installments of the in-kind distributions is made to Mr. Newton.

9. The applicant maintains that the proposed transactions are feasible in that the transactions involve a single individual and his IRA and address a need arising because of the minimum distribution provisions, as required by the Code. By making the distributions as close as possible to the end of 2005 and the beginning of 2006, the period of time when Mr. Newton and the IRA share an ownership interest in the Property will be less than five (5) days of which only portions of two (2) days will be business days. In the opinion of the applicant, the risk of a conflict of interest developing between Mr. Newton and the IRA in this short a period of time is curtailed, if not eliminated entirely.

10. The transactions are in the interest of the IRA, in that the IRA will be able to distribute the Property which is an illiquid asset and will avoid a forced sale of the Property. The IRA will not pay any commissions, costs, fees, or other expenses in connection with the subject transactions. Further, Mr. Newton is personally bearing the cost of filing the exemption application and paying the cost of the appraisal of the Property.

11. The transactions are structured to include certain safeguards for the protection of the participant and the designated beneficiary of the IRA. In this regard, the terms of the transactions will be at least as favorable as arm's length terms negotiated with unrelated parties. Further, the fair market value of the Property has been determined by independent, qualified appraisers, and such value will be updated, as of the date the first of the two (2) installments of the in-kind distributions is made to Mr. Newton.

[2] A ''leased fee interest'' is an ownership interest held by a landlord with the rights of use and occupancy conveyed by lease to others. In this regard, the appraisers valued the ''leased fee interest'' in the Property ''as is'' by taking into account the various existing leases on space in the Building.

12. In summary, the applicant represents that the proposed transactions will meet the statutory criteria of section 4975(c)(2) of the Code because: (a) The transactions involve a single individual and his IRA and address a need arising because of the minimum distribution provisions, as required by the Code; (b) there is minimal risk of a conflict of interest developing between Mr. Newton and the IRA in the short period of time that they will share ownership of the Property; (c) the terms and conditions of the transactions are at least as favorable to the IRA as similar terms negotiated at arm's length with unrelated parties; (d) the fair market value of the Property will be determined by independent, qualified appraisers, as of the date the first of the two installments of the in-kind distributions is made to Mr. Newton; and (e) the IRA will not pay any commissions, costs, fees, or other expenses in connection with the transactions.

Notice to Interested Persons

Because Mr. Newton is the only participant in the IRA, it has been determined that there is no need to distribute the notice of proposed exemption (the Notice) to interested persons. Comments and requests for a hearing must be received by the Department within thirty (30) days of the date of publication of the Notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena C. Le Blanc of the Department, telephone (202) 693–8540. (This is not a toll-free number.)

Anchorage Area Pipe Trades 367 Joint Apprenticeship Committee (the Plan), Located in Anchorage, Alaska, [Application No. L–11293]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(2) of the Act, shall not apply to a proposed loan (the Loan) to the Plan, to finance a training facility (the Training Facility) constructed by the Plan, in the amount of $750,000, by the Local No. 367 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada (Local No. 367), a party in interest with respect to Plan. This proposed exemption is subject to the following conditions:

(a) The Plan does not pay any commissions, fees or other expenses with respect to this transaction, except certain specified third party closing costs;

(b) An independent qualified fiduciary (the I/F), after analyzing the relevant terms of the Loan, determines whether such Loan is in the best interest of the Plan and its participants and beneficiaries;

(c) In determining the fair market value of the Training Facility, the I/F obtains a current written appraisal report (the Appraisal) from an independent qualified appraiser at the time of the transaction, and ensures that such Appraisal is consistent with sound principles of valuation;

(d) The Loan is for the duration of 15 years at the prime rate (the Prime Rate) as listed in the Wall Street Journal;

(e) Under the terms of the Loan agreement, the Loan is secured by the Training Facility and in the event of default by the Plan, Local No. 367 has recourse only against such facility and not against the general assets of the Plan;

(f) The terms and conditions of the Loan are at least as favorable to the Plan as those which the Plan could have obtained in an arm's length transaction with an unrelated third party; and

(g) The Loan is repaid by the Plan with the funds the Plan retains after paying all of its operational expenses.

Summary of Facts and Representations

1. The Plan is a collectively bargained, joint labor-management apprenticeship and training trust fund which qualifies as an ''employee welfare benefit plan'' under section 3(1) of ERISA. Currently, there are approximately 481 participants covered by the Plan. As of August 31, 2005, the approximate value of the Plan's assets totaled $2,799,491 and its current liabilities totaled $798,257. The Plan owns an outdated training facility which did not meet the training standards of the Plan. To better address the training needs of the journeymen and apprentices, the Plan constructed the new Training Facility in place of the outdated training facility. To finance this construction, the Plan borrowed funds from a third party bank. In anticipation of the new Training Facility's completion, the Plan was offered permanent financing by Local No. 367 in the amount of $750,000 (*i.e.*, the Loan), which is the remaining balance of the outstanding construction loan with the bank. The Loan from Local No. 367 to the Plan is approximately 44 percent of the Plan's assets. The loan to value ratio equals approximately 0.75 (*i.e.* 75% of the Training Facility's appraised fair market value).

The Plan provides training to journeymen and apprentices represented by Local No. 367 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, which has its offices at 610 West 54th Avenue in Anchorage, Alaska 99518. The Plan is administered by the Joint Apprenticeship and Training Committee (the Trustees) which consists of eight trustees. Four represent the Union, and the remaining four represent the contributing employers. The Trustees are responsible for negotiating the collective bargaining agreement and managing the Plan assets and the Training Facility.

2. The subject property, on which the Training Facility is constructed, is located at 617 West Potter Drive, Anchorage, Alaska. The Plan has access to the Training Facility via a public road. The subject property is a 40,471 square foot land site, zoned I1–Light Industrial and fronting on a medium volume road. The subject property has a 30-year old 3,200 square foot steel frame building on site. The Training Facility is a new recently constructed and completed building, consisting of a two story steel frame structure, with 4,800 square feet per floor, for a total of 9,600 square feet. The first floor will be shop/warehouse type space; the second floor will be partially finished with classroom and office space that will be used as a training center.

The Plan intends to demolish the 30-year old 3,200 square foot building in the near future. The Trustees determined that the old structure could not be renovated or adapted to serve the Plan's training needs. According to the applicant, the old structure is at the end of its useful life, and the usable space is too small to accommodate the number of apprentices and journeymen who will be using the Training Facility. There will be 39 parking spaces on the subject property which will be adequate to satisfy the needs of the Plan. Axpproximately 15 to 20 apprentices and 2 instructors will be using the facility at any one time. Though the project is planned as a training center, the Training Facility's layout could be easily converted to a number of alternative light industrial uses.

3. According to the submission dated September 13, 2005, by the counsel to the Plan, the actual and final cost of construction, which includes contract change orders, architectural and attorney fees, is $1,755,000. The Plan had a process in place to protect itself

from cost over-runs. Cost over-runs incurred during the project for unforeseen building code enforcement were analyzed by the Plan's Building Committee (the Committee) for proper interpretation of the building codes, discussion of alternatives, and then a vote by the Committee for the change order directive. The Plan had some construction change directives that were not foreseen at the time of the construction bid. The total cost of the construction change directives was $76,953.14, which according to the Plan's counsel is well within the usual range for similar types of construction contracts.

4. One of the subcontractors who worked on the Training Facility is a contributing employer to the Plan and was selected by the general contractor, who is not a party in interest, based on competitive bids.[3] Furthermore, Local No. 367 did not lease space in the old facility and will not lease space in the new facility.

5. The original structure (*i.e.,* the old facility) was built in 1971 by the Plan for $38,405. The land, on which the old facility was constructed, was owned by the local union and transferred to the Plan in 1970 (prior to the enactment of ERISA). In July 2001, the Plan purchased two additional adjoining lots for $92,318. The Plan is exempt from paying State property taxes.

6. The Appraisal of the Training Facility was conducted by Mr. Stanley D. Dunagan of Affiliated Appraisers of Alaska (the Appraiser), and is dated March 22, 2004. The Appraiser has been a licensed General Real Estate Appraiser in the State of Alaska since September 23, 1991. The Appraiser prepared his appraisal while the Training Facility was under construction. The Appraiser noted that the estimated replacement value for a new facility that combines warehouse storage space and office space would be approximately $981,000. The Appraiser also opined that the market value of the Training Facility, prospective upon completion, would be $1,000,000. The I/F will obtain a current written appraisal of the Training Facility as of the date of the transaction. The applicant represented that the Appraisal will be sent to the Department soon after its completion but in no event later than 90 days after the transaction is consummated.

7. The I/F, described in section 10 of this summary of facts and representation, requested an analysis of the construction costs of the Training Facility. This analysis was prepared by Mel Morgan, Jr., who is a Member of the Appraisal Institute (MAI) and an employee of the I/F, and it is included in the I/F's report. The I/F stated in its report that the Appraiser based his cost estimate on storage warehouse costs for the first floor and office costs for the second floor. The I/F further stated that it was more appropriate to use cost estimates based on a vocational school category because the occupancy's emphasis is on trade and technical skills with a greater proportion of shops and laboratories.

Therefore, based in part on statistical information, the I/F concluded that regardless of quality considerations, the vocational school costs demonstrate that the Appraiser's cost estimates were low, and the contractor's costs were within a reasonable range. The I/F believes that the $1,000,000 fair market value for the Training Facility is a reasonable and very conservative value for the project due to recent rising valuations in the local real estate market. The I/F also stated that the higher actual costs for construction (compared to the Appraiser's estimated replacement value) reflect specialized tenant improvements (*i.e.*, specialized equipment, work stations and ventilation for various types of training involving medical and other gases, refrigeration systems and a variety of welding techniques and applications) in the building and a more accurate accounting of costs to build such a building. Because construction of the Training Facility is complete, the Plan has no plans for any additional construction and no plans to incur additional construction costs.

8. The Loan amount is $750,000. The Loan is a non-recourse loan amortized over 15 years (180 monthly payments), at the Prime Rate as published in the Wall Street Journal under the section of ''Interest Rates and Bonds.'' The Plan's annual obligation on the Loan totals $77,168.06, which includes principal and interest (the monthly payment is $6,430.67). According to the I/F's report, the current annual market rental rate for leasing a facility similar to the Training Facility, taking into account information from the Appraiser's report, would be approximately $109,440. According to a report submitted to the I/F by Mr. Morgan, the Appraiser's estimate of market rent was based on the assumption that the owner would not be able to find a tenant who would pay for the improvements to the building. According to Mr. Morgan, basing market rent on this scenario results in a more conservative estimate of income and value than basing market rent for a ''build-to-suit'' tenant. The I/F also concluded that, with a 45-year estimated economic life for the Training Facility, the cost of ownership is significantly better than would be the cost of renting such a facility. Furthermore, there are no prepayment penalties, so the Loan may be pre-paid at anytime. The lender's only recourse, in the case of default, is the Training Facility. All closing costs will be paid by the Plan, and are estimated at $30.

9. The I/F also has represented that the Plan currently has adequate excess cash-flow to service the annual loan payment of $77,186.06. The Plan's income exceeded its expenses by $193,780 in 2002, $323,919 in 2003 and $367,439 in 2004. Although, the Plan's income from January through July, 2005 was 6% less than its income for the same period in 2004, the Trustees expect to have a total income of $801,064 for 2005. The Plan's expenses after completion of the Training Facility are expected to be approximately the same as 2004, $484,757. The Plan expects to have a net operating income of $259,139 even with the additional $77,168 per year in payments to service the Loan. Therefore, the I/F stated that the Plan has adequate and available liquid net worth to service the Loan without creating hardship to the Plan.

10. Washington Capital Management, Inc. (*i.e.* the I/F) confirms that it is an independent third party fiduciary and Qualified Professional Asset Manager (''QPAM''), as defined in PTE 84–14 (49 FR 9494, 9506, March 13, 1984). The I/F has been hired as an independent fiduciary to evaluate the Loan provisions and its prudence. The I/F confirms that: (i) It is a registered investment adviser under the Investment Advisers Act of 1940; (ii) It has total client assets in excess of $50.0 million under its management and control; and (iii) The firm has shareholders' equity in excess of $750,000.

The I/F has been providing private pension funds with investment management services in real estate lending since 1988 and in real estate

[3] The provision of services to a plan by a party in interest with respect to the plan is a separate prohibited transaction under section 406(a)(1)(C) of the Act. However, the provision of services to a plan by a party in interest, which are necessary for the operation of the plan, are statutorily exempt under section 408(b)(2) of the Act, if the conditions required therein are met. The Department is expressing no opinion, and is providing no relief beyond that provided by section 408(b)(2) of the Act, for the provision of such services by a subcontractor, who is a contributing employer to the Plan. The regulation promulgated by the Department which defines the scope of the statutory exemption contained in section 408(b)(2) of the Act also states that no relief is provided for any arrangement for services which would violate section 406(b) of the Act (see 29 CFR section 2550.408b–2). Interested persons should review DOL Adv. Op. 99–09A (May 21, 1999) for a discussion of these issues.

equity investing since 1995. It currently manages mortgage portfolios with aggregate assets in excess of $700 million and equity real estate investment portfolios with aggregate assets in excess of $550 million. The I/F currently manages and monitors approximately 50 real estate loans and 36 real estate equity type investments. The I/F and its professionals have experience in underwriting, closing, and monitoring diversified classes of investments.

Its real estate division has fifteen professionals, the majority of whom have over 20 years of real estate lending and investing experience. This assignment is managed by Cory A. Carlson, Director of Equity Real Estate, who has over 25 years of real estate underwriting experience. Additional review and underwriting expertise was provided by Jan Sieberts, Senior Loan Officer and Anchorage Area Manager, with over 30 years of Real Estate Lending experience in Anchorage, Alaska. The I/F estimates gross annual revenues for 2005 to be approximately $12 million. Its fees, for this transaction, are estimated to be 0.0002% of its 2005 revenues.

11. The I/F represents that it has been advised of it duties and obligations under Title I of ERISA as an independent fiduciary. The I/F acknowledges its understanding of Title I of ERISA, and accepts the duties and obligations as an independent fiduciary; Furthermore, the I/F understands and accepts the potential liability of the independent fiduciary role. The I/F represents that it will exercise whatever actions are reasonable and necessary to safeguard the interests of the Plan and its participants and beneficiaries. The I/F will protect the rights of the Plan with respect to the Loan. In this transaction, the I/F's role is limited to evaluating the risks, benefits and terms of the Loan, and confirming that the Loan is funded in accordance with terms disclosed in the application. Upon funding of the Loan, the I/F's task will be completed. Once the Loan is funded, the Plan's legal counsel will advise the Plan in regards to the operation and enforcement of the Loan, as may be necessary.

The I/F represents that it toured the Training Facility, reviewed the Appraisal, read each of the proposed loan documents, evaluated the Plan's financial statements, and interviewed its legal counsel and project manager. According to the I/F, all of the terms of the Loan are prudent, reasonable and consistent with market standards; Furthermore, the I/F states the Loan is in the best interest of the Plan. The I/F also certified that it has no pre-existing relationship with Local 367 or the Plan, and based upon the information provided by the Plan, to the best of its knowledge, it is not a party in interest with respect to the Plan. Upon the publication of this exemption in the **Federal Register**, the I/F will confirm that the Loan has been funded in accordance with the terms set forth in the application.

12. The employer contributions to the Plan required by the current collective bargaining agreement have increased from $1.15 per hour to $1.25 per hour effective July 1, 2004 and to $1.35 per hour effective July 1, 2005. Even though the current collective bargaining agreement expires on June 30, 2006, Trustees of the Plan, who also represent the bargaining parties, anticipate that future collective bargaining agreements will continue to provide sufficient funds to meet the training needs of the Plan, including the financing of the new facility.

13. In summary, it is represented that the transaction will satisfy the statutory requirements for an exemption under section 408(a) of the Act because:

(a) The Plan will not pay any commissions, fees or other expenses with respect to this transaction, except certain specified third party closing costs;

(b) The I/F, after analyzing the relevant terms of the Loan, will determine whether such Loan is in the best interest of the Plan and its participants and beneficiaries;

(c) In determining the fair market value of the Training Facility, the I/F will obtain a current written Appraisal report from an independent qualified appraiser at the time of the transaction, and will ensure that such Appraisal is consistent with sound principles of valuation;

(d) The Loan will be for the duration of 15 years at the Prime Rate as listed in the Wall Street Journal;

(e) Under the terms of the Loan agreement, the Loan will be secured by the Training Facility and in the event of default by the Plan, Local No. 367 will have recourse only against such facility and not against the general assets of the Plan;

(f) The terms and conditions of the Loan will be at least as favorable to the Plan as those which the Plan could have obtained in an arm's length transaction with an unrelated third party; and

(g) The Loan will be repaid by the Plan with the funds the Plan retains after paying all of its operational expenses.

FOR FURTHER INFORMATION CONTACT: Mr. Arjumand A. Ansari of the Department at (202) 693–8566. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 31st day of October, 2005.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 05–21964 Filed 11–2–05; 8:45 am]

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DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2005–14; Exemption Application No. D–11175 et al.]

Grant of Individual Exemptions; Milan Uremovich, D.D.S., P.C. Profit Sharing Plan and Trust (the Plan)

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

Milan Uremovich, D.D.S., P.C. Profit Sharing Plan and Trust (the Plan) Located in Arvada, CO [Prohibited Transaction Exemption 2005–14; Exemption Application No. D–11175]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the leasing (the New Lease) by the individual account in the Plan of Dr. Milan Uremovich (the Account), of certain office space (the Office Space) to Milan Uremovich, D.D.S., P.C., (the Employer), a party in interest with respect to the Plan, provided that the following conditions are met:

(a) The terms and conditions of the New Lease are at least as favorable to the Account as those the Account could obtain in a comparable arm's length transaction with unrelated parties.

(b) The fair market rental value of the Office Space leased to the Employer is determined by a qualified, independent appraiser.

(c) The rent charged by the Account under the New Lease and for each renewal term is, at all times, not less than the fair market rental value of the Office Space, as determined by a qualified, independent appraiser. The rental payments under the New Lease are adjusted once every five years after the initial term and after each renewal term by the qualified, independent appraiser to ensure that the New Lease payments are not greater than or less than the fair market rental value of the leased space. In no event may the rent be adjusted below the rental amount paid for the preceding term of such lease.

(d) The fair market value of the Office Space represents, at all times, no more than 25 percent of the total assets of the Account.

(e) The Account does not pay any real estate fees, commissions, or other expenses with respect to the New Lease.

(f) The New Lease is a triple net lease under which the Employer, as lessee, pays, in addition to the base rent, all normal operating expenses associated with the Office Space, including real estate taxes, insurance, maintenance, repairs and utilities.

(g) Dr. Uremovich is the only participant in the Plan whose Account is affected by the New Lease.

(h) Within 90 days of the publication, in the **Federal Register**, of the notice granting this exemption, the Employer files a Form 5330 with the Internal Revenue Service and pays all applicable excise taxes under section 4975(a) of the Code that are attributed to the past purchase of the Building by Dr. Uremovich's individual account in the Milan Uremovich, D.D.S., P.C. Profit Sharing Plan (the Profit Sharing Plan), a predecessor to the current Plan, and the leasing of Office Space in the Building by the Profit Sharing Plan Account and the Account to Dr. Uremovich.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 29, 2005 at 70 FR 37434.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 693–8556. (This is not a toll-free number.)

Dakotas and Western Minnesota Electrical Workers Apprenticeship Plan (the Plan) Located in Fargo, ND [Prohibited Transaction Exemption No. 2005–15; Exemption Application No: L–11316]

Exemption

The restrictions of sections 406(a)(1)(A) through (D), 406(b)(1), and 406(b)(2) of the Act shall not apply to the lease (the Lease) of a portion of a parcel of improved real property (the Premises) by the Plan from the Dakotas Chapter of the National Electrical Contractors Association (the Dakotas NECA), a party in interest with respect to the Plan; provided that, at the time the transaction is entered into, the following conditions are satisfied:

(a) An independent, qualified fiduciary (the I/F), acting on behalf of the Plan, determines prior to entering into the transaction that the transaction is feasible, in the interest of, and protective of the Plan and the participants and beneficiaries of the Plan;

(b) Before the Plan enters into the Lease of the Premises, the I/F reviews the transaction, negotiates the terms of the transaction to ensure that such terms are at least as favorable to the Plan as an arm's length transaction with an unrelated party, and determines whether or not to approve the transaction, in accordance with the fiduciary provisions of the Act;

(c) The I/F monitors compliance with the terms and conditions of this

exemption, as described herein, and ensures that such terms and conditions are at all times satisfied;

(d) Throughout the duration of the Lease of the Premises, the I/F monitors compliance with the terms of the Lease of the Premises and takes any and all steps necessary to ensure that the Plan is protected, including, but not limited to, notifying Dakotas NECA of the Plan's intention to extend the Lease of the Premises at the conclusion of the initial five (5) year term of the Lease;

(e) The rent paid by the Plan for the Premises under the terms of the Lease and under the terms of any subsequent extension of the Lease is at no time greater than the fair market rental value of the Premises, as determined by an independent, qualified appraiser retained by the Board of Trustees of the Plan (the Trustees);

(f) The Plan pays no rent for the Premises, any remodeling or maintenance costs, any taxes, insurance, operating expenses or other costs, expenses, or charges for the Premises for the period from the date of the Plan's first occupancy of the Premises to the date the final exemption is published in the **Federal Register**. Nothing in this condition (f) shall preclude the payment by the Plan of rent plus its proportionate share of the cost of taxes, maintenance, and insurance on the Premises after the final exemption is published in the **Federal Register** and the Lease of the Premises is executed;

(g) Under the provisions of the Lease, the transaction is on terms and at all times remains on terms that are at least as favorable to the Plan as those that would have been negotiated under similar circumstances at arm's length with an unrelated third party;

(h) The transaction is appropriate and helpful in carrying out the purposes for which the Plan is established or maintained;

(i) The Trustees maintain, or cause to be maintained within the United States for a period of six (6) years in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described, below, in paragraph (j)(1) of this exemption to determine whether the conditions of this exemption have been met; except that—

(1) If the records necessary to enable the persons described, below, in paragraph (j)(1) of this exemption to determine whether the conditions of this exemption have been met are lost or destroyed, due to circumstances beyond the control of the Trustees, then no prohibited transaction will be considered to have occurred solely on the basis of the unavailability of those records; and

(2) No party in interest, other than the Trustees shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (i) of this exemption; and

(j)(1) Except as provided, below, in paragraph (j)(2) of this exemption and notwithstanding any provisions of sections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (i) of this exemption are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or any other applicable federal or state regulatory agency;

(B) Any fiduciary of the Plan, or any duly authorized representative of such fiduciary;

(C) Any contributing employer to the Plan and any employee organization whose members are covered by the Plan, or any duly authorized employee or representative of these entities; or

(D) Any participant or beneficiary of the Plan, or any duly authorized representative of such participant or beneficiary.

(2) None of the persons described, above, in paragraph (j)(1)(B)–(D) of this exemption are authorized to examine trade secrets or commercial or financial information that is privileged or confidential.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 12, 2005, at 70 FR 47252.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 693–8540 (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 31st day of October, 2005.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 05–21963 Filed 11–2–05; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Foreign Labor Certification Quarterly Activity Report

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training

Administration, Office of National Programs is soliciting comments concerning the proposed collection of information on the Foreign Labor Certification Quarterly Activity Report from the State Workforce Agencies. A copy of the proposed Information Collection Request (ICR) can be obtained by contacting the office listed below in the addressee section of this Notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before January 3, 2006.

ADDRESSES: John R. Beverly, Administrator, Office of National Programs, U.S. Department of Labor, Employment and Training Administration, Room C–4312, 200 Constitution Avenue, NW., Washington, DC 20210, phone: (202) 693–3010 (this is not a toll-free number); fax: (202) 693–2768; e-mail: *ETAperforms@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Gregory Wilson, Program Analyst, Division of Foreign Labor Certification, U.S. Department of Labor, Employment & Training Administration, Room C–4312, 200 Constitution Avenue, NW., Room C–4312, Washington, DC 20210; phone: (202) 693–3010 (this is not a toll-free number); fax: (202) 693–2768; e-mail: *ETAperforms@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Foreign labor certification programs administered by the Employment and Training Administration (ETA) of the Department of Labor (DOL or Department) require State Workforce Agencies (SWAs) to initially process applications for temporary labor certifications (H–2A and H–2B) filed by U.S. employers on behalf of foreign workers seeking to be employed in the U.S. SWAs are also responsible for issuing prevailing wage determinations, reviewing employer-provided wage surveys or other source data, conducting housing inspections of facilities offered to migrant and seasonal workers, and conducting and monitoring recruitment activities seeking qualified U.S. workers for the temporary jobs employers are attempting to fill with foreign workers. The SWAs perform these functions under a reimbursable grant that is awarded annually. The information pertaining to these functions is proposed to be collected on the Form ETA 9127 and will be used by Departmental staff to manage foreign (alien) labor certification programs in the SWAs. The Department will use the data collected to: (1) Monitor the number of temporary applications that are received, processed, and forwarded to the national processing centers; (2) determine the number of prevailing wage determinations issued to employers under the permanent and temporary labor certification programs, as well as the H–1B program for nonimmigrant professionals in specialty occupations; and (3) track the number of agricultural prevailing wage and practice surveys conducted, housing inspections made, and job orders filed. The information on workload will be used for formulating budget estimates for both state and Federal workloads, and for monitoring a state's performance against the grant statement of work and work plan. Without such information, the budget workload figures will be estimates and the allocation of funding to the SWAs will not reflect the true workload in a state.

II. Review Focus

Currently, the Department is soliciting comments concerning the proposed collection of information on the Foreign Labor Certification Quarterly Activity Report.

The Department is particularly interested in comments which:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collections techniques or other forms of information, e.g., permitting electronic submissions of responses.

A copy of the proposed ICR can be obtained by contacting the office listed above in the addressee section of this notice.

III. Current Actions

In order for the Department to meet its statutory responsibilities under the Immigration and Nationality Act, there is a need for a new collection of information pertaining to the SWAs changing role in the program. There is an increase in burden due to a change in the frequency of the report.

Type of Review: Proposed information request.

Agency: Employment and Training Administration, Labor.

Title: Foreign Labor Certification Quarterly Activity Report OMB Number: 1205–XXXX (new).

Affected Public: State, local, or tribal governments.

Form: ETA 9127.

Total Respondents: 54 State Workforce Agencies.

Frequency of Response: Quarterly.

Total Responses: 216.

Average Burden Hours Per Response: 2 hours.

Estimate Total Annual Burden Hours: 432.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the ICR; they will also become a matter of public record.

Dated: October 18, 2005.

Emily Stover DeRocco,

Assistant Secretary, Employment and Training Administration.

[FR Doc. E5–6097 Filed 11–2–05; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (05–149)]

Notice of Intent To Grant Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant partially exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license in the United States to practice the inventions described and claimed in U.S. Patent Nos. 5,153,131, entitled ''High Aspect Reactor Vessel and Method of Use''; 5,153,132, entitled ''Three-Dimensional Co-culture Process''; 5,153,133, entitled ''Method for Culturing Mammalian Cells in a Horizontally Rotated Bioreactor''; 5,155,034, entitled ''Three Dimensional Cell to Tissue Assembly Process''; 5,155,035, entitled '' Method for Culturing Mammalian Cells in a Perfused Bioreactor''; 5,308,764, entitled ''Multi-Cellular Three-Dimensional Living Mammalian Tissue''; 5,496,722, entitled ''Method for Producing Non-neoplastic, Three-dimensional, Mammalian Tissue and Cell Aggregates under Microgravity Culture Conditions

and the Products Produced Therefrom''; 5,627,021, entitled ''Three-Dimensional Co-Culture Process''; 5,637,477, entitled ''Recombinant Protein Production and Insect Cell Culture and Process''; 5,846,807, entitled ''Media Compositions for Three-dimensional Mammalian Tissue Grown under Microgravity Culture Conditions''; 5,851,816, entitled ''Cultured High-Fidelity Three-Dimensional Human Urogenital Tract Carcinomas and Process''; 5,858,783, entitled ''Production of Normal Mammalian Organ Culture Using a Medium Containing MEM-alpha, Leibovitz L-15, Glucose Galactose Fructose''; 5,962,324, entitled ''Three Dimensional Optic Tissue Culture and Process''; 6,177,674, entitled ''Pathogen Propagation in Cultured Three-Dimensional Tissue Mass''; 6,485,963, entitled ''Growth Stimulation of Biological Cells and Tissue by Electromagnetic Fields and Uses Thereof'', 6,673,597, entitled ''Growth Stimulation of Biological Cells and Tissue by Electromagnetic Fields and Uses Thereof''; 6,730,498, entitled ''Production of Functional Proteins: Balance of Shear Stress and Gravity''; 6,946,246, entitled ''Production of Functional Proteins: Balance of Shear Stress and Gravity'', and U.S. Patent Application Serial Number 10/734,759, entitled ''Production of Functional Proteins: Balance of Shear Stress and Gravity'', U.S. Patent Application Serial Number 10/947,786, entitled ''Production of Functional Proteins: Balance of Shear Stress and Gravity'', to Renautus Bio Therapeutics, LLC, having its principal place of business in Baton Rouge, LA. The patent rights in the inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will be treated as objections to the grant of the contemplated partially exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, Johnson Space Center, Mail Code AL, 2101 NASA Parkway, Houston, Texas 77058.

FOR FURTHER INFORMATION CONTACT: Kurt G. Hammerle, Patent Attorney, NASA Johnson Space Center, Mail Stop AL, Houston, TX 77058–8452, Telephone: (281) 483–1001, Facsimile: (281) 483–6936. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov/.*

Dated: October 26, 2005.

Keith T. Sefton,

Deputy General Counsel, Administration and Management.

[FR Doc. 05–21897 Filed 11–2–05; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Study of Users and Potential Users of Online Information

AGENCY: Institute of Museum and Library Services.

ACTION: Notice, Request for Comments, Submission for OMB Approval.

SUMMARY: The Institute of Museum and Library Service as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95)[44 U.S.C. 3508(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Institute of Museum and Library Services is soliciting comments concerning the collection of information to assist IMLS understand the information needs and expectations of users and potential users of online information including, but not limited to information currently available online through libraries, museums and other cultural heritage institutions, and the Internet, and of the impacts of having such information.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before December 5, 2005.

IMLS is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collocation of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

ADDRESSES: Rebecca Danvers, Director of Research and Technology, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036; telephone 202–653–4680, fax 202–653–4625, e-mail *rdanvers@imls.gov*.

SUPPLEMENTARY INFORMATION:

1. Background

The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services Act, 20 U.S.C. 9101, *et seq.* The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs. The Museum and Library Services Act of 2003 includes a strong emphasis on supporting museum and library services through effective and efficient use of new technologies. This solicitation is to develop plans to collect information to assist IMLS understand the information needs and expectations of users and potential users of online information including, but not limited to information currently available online through libraries, museums and other cultural heritage institutions, and

the Internet, and of the impacts of having such information.

II. Current Action

The core duties of the Institute of Museum and Library Services, as stated in its strategic plan, are to promote excellence in library services and to promote access to museum and library services for a diverse public. This goal will be accomplished in part by promoting access to online resources available through museums and libraries and to promote the development of online resources that have positive impact. IMLS is seeking assistance in developing specific plans to collect information from library users, museum users and Internet users to understand their information needs, their preference for various sources of information and factors affecting their choice, the usefulness and value of the information accessed, and to identify content that should be made available online along with mechanisms and resources needed to connect users to that content. These information collections will be developed based on the geographic location and demographic characteristics of the populations studied. Some information on online information access has been collected, most notably the Pew Internet and American Life project. The information IMLS collects should build on, but not duplicate, existing or ongoing collections.

Agency: Institute of Museum and Library Services.

Title: National Study of Users and Potential Users of Online Information.

OMB Number: N/A.

Agency Number: 3137.

Frequency: One time.

Affected Public: Users of libraries, museums and the Internet.

Number of Respondents: 5,000.

Estimated Time Per Respondent: 10–15 minutes.

Total Burden Hours: 1,042.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs: 0.

FOR FURTHER INFORMATION CONTACT: Rebecca Danvers, Director of Research and Technology, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036; telephone (202) 653–4680, fax (202) 653–4625, e-mail *rdanvers@imls.gov.*

Dated: October 27, 2005.

Rebecca Danvers,

Director, Office of Research and Technology.

[FR Doc. 05–21929 Filed 11–2–05; 8:45 am]

BILLING CODE 7036–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Study of IMLS Funded Digital Collections and Content, Collections Registry Survey, Comment Request

AGENCY: Institute of Museum and Library Services.

ACTION: Notice, Submission for OMB Approval.

SUMMARY: The Institute of Museum and Library Services as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This program helps to ensure that the requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Institute of Museum and Library Services is soliciting comments concerning the proposed collection of information from grantee institutions that received National Leadership Program digitization grants since 1998 and continuing through 2005. A copy of this proposed information collection may be obtained by contacting the individual listed in the addresses section of this notice.

DATES: Written comments must be received by the office listed in the addresses section of this notice by December 5, 2005.

IMLS is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

ADDRESSES: Rebecca Danvers, Director of Research and Technology, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036; telephone 202–653–4680, fax 202–653–4625, e-mail *rdanvers@imls.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services Act, Public Law 104–208. The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs. In the National Leadership Grant program, IMLS funds the digitization of library and museum collections. The survey is a Web-based form to collect electronically collection level data about digitization projects funded by the Institute of Museum and Library Services through the National Leadership Grant program.

II. Current Actions

To collect information from grantee institutions that received National Leadership Grant digitization grants from 1998 and continuing to 2005.

Agency: Institute of Museum and Library Services.

Title: IMLS Digital Collections and Content—Collection Registry Survey.

OMB Number: None.

Agency Number: 3137.

Frequency: Once.

Affected Public: Museums and libraries that created digital collections with IMLS funding.

Number of Respondents: 96.

Estimated Time Per Respondent: .7 hours.

Total Burden Hours: 67.2.

Total Annualized Capital/Startup Costs: N/A.

Total Costs: $1680.

FOR FURTHER INFORMATION CONTACT: For a copy of the form contact: Rebecca Danvers, Director of Research and Technology, Institute of Museum and Library Services, 1800 M Street, NW., 9th Floor, Washington, DC 20036, by telephone at 202–653–4680, by fax at 202–653–4625, or by e-mail at *rdanvers@imls.gov*.

Dated: October 27, 2005.

Rebecca Danvers,

Director, Research and Technology.

[FR Doc. 05–21930 Filed 11–2–05; 8:45 am]

BILLING CODE 7036–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities Arts and Artifacts Indemnity Panel Advisory Committee; Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in Room 730, from 9 a.m. to 5 p.m., on Monday, November 14, 2005.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after January 1, 2006.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated July 19, 1993, I have determined that the meeting would fall within exemption (4) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact Advisory Committee Management Officer, Michael McDonald, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or call 202/606–8322.

Michael McDonald,

Advisory Committee Management Officer.

[FR Doc. 05–21944 Filed 11–2–05; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities; Meeting

October 31, 2005.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given the National Council on the Humanities will meet in Washington, DC on November 17–18, 2005.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support from and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on November 17–18, 2005, will not be open to the public pursuant to subsections (c)(4), (c)(6) and (c)(9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the sessions on November 17, 2005 will be as follows:

Committee Meetings

(Open to the Public)

Policy discussion.
9–10:30 a.m.
Challenge Grants—Room 420.
Education Programs—Room M–07.
Federal/State Partnership—Room 507.
Preservation and Access—Room 415.
Research Programs—Room 315.

(Closed to the Public).

Discussion of specific grant applications and programs before the Council.
10:30 a.m. until Adjourned
Challenge Grants—Room 420.
Education Programs—Room M–07.
Federal/State Partnership—Room 507.
Preservation and Access—Room 415.
Research Programs—Room 315.

The morning session on November 18, 2005 will convene at 9 a.m., in the 1st Floor Council Room M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

A. Minutes of the Previous Meeting.
B. Reports.
1. Introductory Remarks.
2. Staff Report.
3. Congressional Report.
4. Budget Report.
5. Reports on Policy and General Matters.
a. Challenge Grants.
b. Education Programs.
c. Federal/State Partnership.
d. Preservation and Access.
e. Research Programs.

The remainder of the proposed meeting will be given to the consideration of specific applications and closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Mr. Michael P. McDonald, Advisory Committee Management Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or by calling (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Michael P. McDonald,

Advisory Committee, Management Officer.

[FR Doc. 05–21943 Filed 11–2–05; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 165th meeting on November 14–16, 2005, Room T–2B3, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

The schedule for this meeting is as follows:

Monday, November 14, 2005

8:30 a.m.–8:45 a.m.: Opening Statement (Open)—The ACNW Chairman will make opening remarks regarding the conduct of today's sessions.

8:45 a.m.–9:15 a.m.: Observations from the U.S. Environmental Protection Agency's (EPA's) October 2005 Public Meeting on its Proposed Revisions to 40 CFR Part 197 (Open)—EPA recently held public hearings on its proposed amendments to the public health and environmental radiation protection standards for Yucca Mountain, Nevada, found at 40 CFR Part 197. The Committee will receive a report from one of its Members who observed one of the public hearings.

9:15 a.m.–10 a.m.: U.S. Nuclear Regulatory Commission (NRC's) Plans

for the Implementation of a Dose Standard After 10,000 Years (Open)—NRC is proposing to amend its regulations at 10 CFR Part 63 that govern the disposal of high-level radioactive wastes in a proposed geologic repository at Yucca Mountain. The proposed rule would implement EPA's proposed standards for doses that could occur after 10,000 years but within the period of geologic stability. The Committee will hear a presentation from and hold discussions with a representative from NRC's Office of Nuclear Materials Safety and Safeguards on the proposed revisions.

10:15 a.m.–12:15 p.m.: Reasonableness of the NRC Infiltration Assumption (Tentative) (Open)—NRC's proposed rule change at Part 63 also specifies a value to be used to represent climate change after 10,000 years, as called for by EPA. The Committee will hear presentations from and hold discussions with knowledgeable subject matter experts on the reasonableness of NRC's proposed infiltration assumption.

1:30 p.m.–5:30 p.m.: Public Comment Session (Open)—The Committee will hear presentations from and hold discussions with interested stakeholders on the issues discussed during the earlier sessions. Scheduled presenters include: Dr. Dade Moeller, Chairman of the Board, Dade Moeller and Associates; Dr. Thomas Tenforde, President, National Council on Radiation Protection; Dr. John Kessler, Manager, Electric Power Research Institute High-Level Waste and Spent Nuclear Fuel Program; and Mr. Martin Malsh, Esq. State of Nevada.

5:30 p.m.–6 p.m.: ACNW Roundtable Discussion (Open)—The Committee will review the matters discussed from the previous pubic sessions and decide whether it intends to provide advice to the Commission.

Tuesday, November 15, 2005

8:30 a.m.–8:45 a.m.: Opening Statement (Open)—The ACNW Chairman will make opening remarks regarding the conduct of today's sessions.

8:45 a.m.–10:45 a.m.: Reactive Transport Research (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Office of Nuclear Regulatory Research staff and its contractors and the U.S. Geological Survey regarding work being performed by Sandia National Laboratories on radionuclide sorption in soils.

11 a.m.–12 noon: Preparation for Commission Briefing on January 11, 2006 (Open)—The Committee will review draft vu-graphs in preparation for the Commission Briefing on January 11, 2006.

1:30 p.m.–3 p.m.: Generalized Composite Modeling (Open)—The Committee will hear presentations by and hold discussions with representatives of the U.S. Geological Survey and the NRC Office of Nuclear Regulatory Research regarding demonstrations of the generalized composite approach to the modeling of reactive transport and insights from the Organization for Economic Cooperation and Development Nuclear Energy Agency Sorption Project Phase 2.

3 p.m.–4 p.m.: White Paper on Low-Level Radioactive Waste (Open)—The Committee will discuss preparation of a White Paper on Low-Level Radioactive Waste.

4:15 p.m.–5:30 p.m.: Preparation of ACNW Reports/Letters (Open)—The Committee will discuss proposed ACNW reports on matters considered during this meeting.

Wednesday, November 16, 2005

10 a.m.–10:15 a.m.: Opening Remarks by the ACNW Chairman (Open)—The ACNW Chairman will make opening remarks regarding the conduct of today's sessions.

10:15 a.m.–11:30 a.m.: Discussion of Possible Letters (Open)—The Committee will discuss prepared draft letters and determine whether letters would be written on topics discussed during the meeting.

11:30 a.m.–12 noon: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of ACNW activities, and specific issues that were not completed during previous meetings, as time and availability of information permit. Discussions may include future Committee Meetings.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 11, 2005 (70 FR 59081). In accordance with these procedures, oral or written statements may be presented by members of the public. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Persons desiring to make oral statements should notify Ms. Sharon A. Steele, (Telephone 301–415–6805), between 7:30 a.m. and 4 p.m. ET, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW office prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Ms. Steele as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted, therefore can be obtained by contacting Ms. Steele.

ACNW meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room (PDR) at *pdr@nrc.gov*, or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Mtg schedules/agendas).

Video Teleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. ET, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: October 28, 2005.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E5–6087 Filed 11–2–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste Meeting on Planning and Procedures; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold a Planning and Procedures meeting on November 16, 2005, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss

organizational and personnel matters that relate solely to internal personnel rules and practices of ACNW, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, November 16, 2005—8 a.m.–9:30 a.m.

The Committee will discuss proposed ACNW activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Ms. Sharon A. Steele (Telephone: 301/415–6805) between 8 a.m. and 5:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 8:30 a.m. and 5:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: October 26, 2005.

Michael L. Scott,

Branch Chief, ACRS/ACNW.

[FR Doc. E5–6088 Filed 11–2–05; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

DEPARTMENT OF VETERANS AFFAIRS

Cost-Based and Interagency Billing Rates for Medical Care or Services Provided by the Department of Veterans Affairs

AGENCIES: Office of Management and Budget, Executive Office of the President and the Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: This document provides cost-based and interagency billing rates for medical care or services provided by the Department of Veterans Affairs (VA):

(a) In error or on tentative eligibility;

(b) In a medical emergency;

(c) To pensioners of allied nations;

(d) For research purposes in circumstances under which VA medical care appropriation is to be reimbursed by VA research appropriation; and

(e) To beneficiaries of the Department of Defense or other Federal agencies, when the care or service provided is not covered by an applicable sharing agreement. The rates contained in this notice do not apply to sharing agreements between VA and Department of Defense unless otherwise stated.

In addition, until such time as charges for outpatient dental care and prescription drugs are implemented under the provisions of 38 CFR 17.101, the applicable cost-based billing rates provided in this notice will be used for collection or recovery by VA for outpatient dental care and prescription drugs provided under circumstances covered by that section.

This notice is issued jointly by the Office of Management and Budget and the Department of Veterans Affairs.

EFFECTIVE DATE: The rates set forth herein are effective November 3, 2005 and until further notice.

FOR FURTHER INFORMATION CONTACT: Romona Greene, Chief Business Office (168), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 254–0361. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: VA's medical regulations at 38 CFR 17.102(h) set forth a methodology for computing rates for medical care or services provided by VA:

(a) In error or on tentative eligibility;

(b) In a medical emergency;

(c) To pensioners of allied nations;

(d) For research purposes in circumstances under which VA medical care appropriation is to be reimbursed by VA research appropriation; and

(e) To beneficiaries of the Department of Defense or other Federal agencies, when the care or service provided is not covered by an applicable sharing agreement. The rates contained in this notice do not apply to sharing agreements between VA and Department of Defense unless otherwise stated.

Two sets of rates are obtained via application of this methodology: Cost-Based Rates, for use for purposes (a) through (d), above, and Interagency Rates, for use for purpose (e), above. Government employee retirement benefits and return on fixed assets are not included in the Interagency Rates, and the Interagency Rates are not broken down into three components (Physician; Ancillary; and Nursing, Room, and Board), but in all other respects the Interagency Rates are the same as the Cost-Based Rates.

When medical care or service is obtained at the expense of the Department of Veterans Affairs from a non-VA source under circumstances in which the Cost-Based or Interagency Rates would apply if the care or service had been provided by VA, then the charge for such care or service will be the actual amount paid by VA for that care or service.

Inpatient charges will be at the per diem rates shown for the type of bed section or discrete treatment unit providing the care. Prescription Filled charge in lieu of the Outpatient Visit rate will be charged when the patient receives no service other than the Pharmacy outpatient service. This charge applies whether the patient receives the prescription in person or by mail.

Current rates obtained via the above methodology are as follows:

BILLING CODE 3110–01–P

	Cost-based rates	Inter-agency rates
A. Hospital Care, Rates Per Inpatient Day		
General Medicine:		
All Inclusive Rate	$2,037	$1,914
Physician	244	.....
Ancillary	531	.....
Nursing, Room, and Board	1,262	.....
Neurology:		
All Inclusive Rate	2,633	2,465
Physician	385	.....
Ancillary	695	.....
Nursing, Room, and Board	1,553	.....
Rehabilitation Medicine:		
All Inclusive Rate	1,670	1,564
Physician	190	.....
Ancillary	510	.....
Nursing, Room, and Board	970	.....
Blind Rehabilitation:		
All Inclusive Rate	1,178	1,112
Physician	95	.....
Ancillary	585	.....
Nursing, Room, and Board	498	.....
Spinal Cord Injury:		
All Inclusive Rate	1,383	1,292
Physician	171	.....
Ancillary	348	.....
Nursing, Room, and Board	864	.....
Surgery:		
All Inclusive Rate	4,117	3,894
Physician	454	.....
Ancillary	1,249	.....
Nursing, Room, and Board	2,414	.....
General Psychiatry:		
All Inclusive Rate	1,211	1,132
Physician	114	.....
Ancillary	191	.....
Nursing, Room, and Board	906	.....
Substance Abuse (Alcohol and Drug Treatment):		
All Inclusive Rate	1,952	1,832
Physician	186	.....
Ancillary	452	.....
Nursing, Room, and Board	1,314	.....
Psychosocial Residential Rehabilitation Treatment Programs:		
All Inclusive Rate	293	273
Physician	18	.....
Ancillary	31	.....
Nursing, Room, and Board	244	.....
Intermediate Medicine:		
All Inclusive Rate	1,324	1,241
Physician	65	.....
Ancillary	194	.....
Nursing, Room, and Board	1,065	.....
B. Nursing home Care, Rates Per Day		
All Inclusive Rate	504	470
Physician	16	.....
Ancillary	68	.....
Nursing, Room, and Board	420	.....
C. Outpatient Medical and Dental Treatment		
Outpatient Visit (other than Emergency Dental)	298	284
Emergency Dental Outpatient Visit	202	188
D. Prescription filled, Per Prescription	51	51

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Beginning on the effective date indicated herein, these rates supersede those established by the Department of Veterans Affairs and by the Director of the Office of Management and Budget on January 7, 2004 (69 FR 1062).

Approved: September 9, 2005.

R. James Nicholson,

Secretary of Veterans Affairs.

Joshua B. Bolten,

Director, Office of Management and Budget.

[FR Doc. 05–21933 Filed 11–2–05; 8:45 am]

BILLING CODE 3110–01–C

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52686; File No. SR–Amex–2005–099]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to the Adoption of a Cap on Certain Fees for Options on Indexes, Exchange Traded Fund Shares, and Trust Issued Receipts

October 27, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 30, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On October 17, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.[3] On October 21, 2005, the Exchange filed Amendment No. 2 to the proposed rule change.[4] Amex has designated this proposal as one establishing or changing a due, fee, or other charge imposed by a self-regulatory organization pursuant to Section 19(b)(3)(A)(ii) of the Act [5] and Rule 19b–4(f)(2) thereunder,[6] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex proposes to adopt a cap on fees for transactions in options on indexes, Exchange Traded Fund Shares (''ETFs''), and Trust Issued Receipts (''TIRs''). The text of the proposed rule change is available on Amex's Web site (*http://www.amex.com*), at Amex's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of, and basis for, the proposed rule change, as amended, and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to put in place a cap on certain fees charged to members for customer transactions in options on indexes, ETFs, and TIRs that exceed certain volume levels.[7] Specifically, the Exchange will provide a volume trade discount to members for customer transactions in the form of a cap on transaction, comparison, and floor brokerage fees in index, ETF, and TIR options. The fee cap will be applied on a trade-by-trade basis. Thus, for customer transactions in index, ETF, and TIR options of more than 2,000 contracts, the options transaction, comparison, and floor brokerage fees will be charged to the member on the first 2,000 contracts only. As the Exchange does not currently charge members the transaction, comparison, or floor brokerage fees for customer transactions in options on the Nasdaq 100 Shares (symbol: QQQQ), the fee cap being proposed herein will not be extended to options on that ETF.

The purpose of this proposal is to help the Exchange remain competitive in these products by providing a large customer fee cap similar to those applied by other option exchanges to the trading of options on indexes, ETFs, and TIRs. The Exchange proposes that the fee cap proposed in this rule filing be effective on October 3, 2005.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [8] in general, and furthers the objectives of Section 6(b)(4) of the Act [9] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. In particular, the Exchange believes that, since other options exchanges have applied similar large customer fee caps to the trading of options on indexes, ETFs, and TIRs, the proposed customer fee cap will help the Exchange to remain competitive.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange did not solicit or receive any written comments with respect to the proposal.

II. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change, as amended, has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act [10] and Rule 19b–4(f)(2) [11] thereunder. Accordingly, the proposal is effective upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange made clarifying changes to the purpose and statutory basis sections of the proposal and made non-substantive changes to the text of the proposed rule change.

[4] In Amendment No. 2, the Exchange made clarifying changes to the purpose and statutory basis sections of the proposal and non-substantive changes to the statutory basis section and the text of the proposed rule change.

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(2).

[7] Effective September 1, 2005, the Exchange began charging members a fee on customer transactions in ETF and TIR options. The three types of fees—transaction ($0.08), comparison ($0.04), and floor brokerage ($0.03)—result in a total fee on ETF and TIR options of $0.15 per contract side. *See* Securities Exchange Act Release No. 52493 (September 22, 2005), 70 FR 56941 (September 29, 2005).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

in furtherance of the purposes of the Act.[12]

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Amex–2005–099 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–Amex–2005–099. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2005–099 and should be submitted on or before November 25, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6084 Filed 11–2–05; 8:45 am]

BILLING CODE 8010–01–P

[12] The effective date of the original proposed rule change is September 30, 2005, the effective date of Amendment No. 1 is October 17, 2005, and the effective date of Amendment No. 2 is October 21, 2005. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on October 21, 2005, the date on which the Exchange submitted Amendment No. 2. *See* 15 U.S.C. 78s(b)(3)(C).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52690; File No. SR–Amex–2005–067]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Expand Its $2.50 Strike Price Program

October 27, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 17, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .06 to Amex Rule 903 to expand the $2.50 Strike Price Program (''2.50 Strike Program'') for individual equity options to allow the listing of 2.50 point strike prices between $50 and $75. Below is the text of the proposed rule change. Proposed new language is in *italics;* proposed deletions are in [brackets].

* * * * *

Rule 903. Series of Options Open for Trading

(a) through (d). No Change.

Commentary * * *

.01 through .05 No Change.

.06 *(a) $2.50 Strike Price Program. Pursuant to a program initially approved by the SEC in 1995,* [The options exchanges] *the Exchange* may select up to [200] *51* options classes on individual stocks for which the interval of strike prices will be $2.50 where the strike price is greater than $25 but less than $50. [The 200 options classes are selected by the various options exchanges pursuant to any agreement mutually agreed to by the individual exchanges and approved by the Commission.] In addition to those options selected by the Exchange, the strike price interval may be $2.50 in any multiply-traded option once another exchange trading that option selects such option, as part of this program. [The Exchange and any of the other options exchanges may also list strike prices of $2.50 on any option class that was selected by the NYSE pursuant to this program.]

(b) In addition, on any option class that has been selected as part of the $2.50 Strike Price Program pursuant to paragraph (a) above, the Exchange may list $2.50 strike prices between $50 and $75, provided the $2.50 strike prices between $50 and $75 are no more than $10 from the closing price of the underlying stock in its primary market on the preceding day. For example, if an option class has been selected as part of the $2.50 Strike Price Program, and the underlying stock closes at $48.50 in its primary market, the Exchange may list the $52.50 strike price and the $57.50 strike price on the next business day. If an underlying security closes at $54, the Exchange may list the $52.50 strike price, the $57.50 strike price and the $62.50 strike price on the next business day.

(c) An option class shall remain in the $2.50 Strike Price Program until otherwise designated by the Exchange and a decertification notice is sent to the Options Clearing Corporation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to expand the current 2.50 Strike Program for individual equity options to permit the listing of 2.50 point strike prices between $50 and $75, provided the 2.50 point strike prices are no more than $10 from the closing price of the underlying stock in its primary market [3] on the preceding day. In addition, the proposed rule change clarifies that an option class will remain in the 2.50 Strike Program until the Exchange otherwise designates and sends a decertification notice to the Options Clearing Corporation.

The current 2.50 Strike Program is set forth in Commentary .06 to Amex Rule 903. The 2.50 Strike Program permits the Exchange to list 2.50 point strike prices for selected options trading at strike prices greater than $25 but less than $50, excluding LEAPS. Initially adopted in 1995 as a pilot program, the options exchanges at that time were permitted to list 2.50 point strike prices up to $50 on a total of up to 100 option classes.[4] In 1998, the pilot was permanently approved and expanded to allow the options exchanges to select up to 200 option classes for 2.50 point strike prices up to $50.[5] Of the current 200 options classes eligible for the 2.50 Strike Program, 51 have been allocated to the Amex. In addition, each options exchange is permitted to list 2.50 point strike prices on any option class that another options exchange selects under the 2.50 Strike Program.

The Exchange believes that the 2.50 Strike Program has created additional trading opportunities for customers benefiting the marketplace. The existence of 2.50 point strike prices affords customers the ability to more closely tailor investment strategies to the precise movement of the underlying security. Accordingly, the Amex believes that the proposal to expand the 2.50 Strike Program for 2.50 point strike prices between $50 and $75 should further benefit customers and the market by providing greater trading opportunities for those underlying stocks that have low volatility and thus trade in a narrow range.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5),[7] in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Amex consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2005–067 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–Amex–2005–067. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–Amex–2005–067 and should be submitted on or before November 25, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6093 Filed 11–2–05; 8:45 am]

BILLING CODE 8010–01–P

[3] The term ''primary market'' is defined in Amex Rule 900(b)(26) to mean (a) in respect of an underlying security that is principally traded on a national securities exchange, the principal exchange market in which the underlying security is traded; and (b) in respect of an underlying security which is principally traded in the over-the-counter market, in the case of equity securities, the market reflected by Nasdaq, and in the case of all other securities, the market reflected by any widely recognized quotation dissemination system or service.

[4] *See* Securities Exchange Act Release No. 35993 (July 15, 1995), 60 FR 35993 (July 19, 1995).

[5] *See* Securities Exchange Act Release No. 41662 (November 12, 1998), 63 FR 64297 (November 19, 1998).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52689; File No. SR–CBOE–2005–39]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change To Amend Its $2.50 Strike Price Program

October 27, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 13, 2005, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE Rule 5.5, Interpretation and Policy .05, pertaining to the $2.50 Strike Price Program. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

Rule 5.5 Series of Option Contracts Open for Trading

(a)–(c) No change.

* * * Interpretations and Policies:

.01–.04 No change.

.05 [The four options exchanges] *(a) $2.50 Strike Price Program. Pursuant to a program initially approved by the SEC in 1995, the Exchange* may select up to [100] *60* options classes on individual stocks for which the interval of strike prices will be $2.50 where the strike price is greater than $25 but less than $50. [In addition, starting in the fourth calendar quarter of 1998, the four options exchanges may add twenty new classes to this program for each of the next five calendar quarters, such that at the end of the period the Exchanges will be able to select up to 200 classes to participate in the program. The 100 options classes and the 20 classes added each quarter may be selected by the various options exchanges pursuant to any agreement mutually agreed to by the individual exchanges.] In addition to those options selected by the Exchange, the strike price interval may be $2.50 in any multiply-traded option once another exchange trading that option selects such option, as part of this program. [The CBOE and any of the other exchanges may also list strike prices of $2.50 on any option class that was selected by the NYSE pursuant to this program.]

(b) In addition, on any option class that has been selected as part of the $2.50 Strike Price Program pursuant to paragraph (a) above, the Exchange may list $2.50 strike prices between $50 and $75, provided the $2.50 strike prices between $50 and $75 are no more than $10 from the closing price of the underlying stock in its primary market on the preceding day. For example, if an option class has been selected as part of $2.50 Strike Price Program, and the underlying stock closes at $48.50 in its primary market, the Exchange may list the $52.50 strike price and the $57.50 strike price on the next business day. If an underlying security closes at $54, the Exchange may list the $52.50 strike price, the $57.50 strike price, and the $62.50 strike price on the next business day.

(c) An option class shall remain in the $2.50 Strike Price Program until otherwise designated by the Exchange and a decertification notice is sent to the Options Clearing Corporation.

.06–.08 No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CBOE proposes to amend CBOE Rule 5.5, Interpretation and Policy .05, to allow the listing of $2.50 strike prices between $50 and $75 on those option classes that have been selected as part of the $2.50 Strike Price Program, provided the $2.50 strike prices between $50 and $75 are no more than $10 from the closing price of the underlying stock in its primary market on the preceding day. For example, and as expressly described in the proposed change to Rule 5.5, if an option class has been selected as part of $2.50 Strike Price Program, and the underlying stock closes at $48.50 in its primary market, the CBOE could list the $52.50 strike price and the $57.50 strike price on the next business day. If an underlying security closes at $54, the CBOE could list the $52.50 strike price, the $57.50, and the $62.50 strike price on the next business day.

The $2.50 Strike Price Program was initially adopted in 1995 as a joint pilot program of the options exchanges, whereby the options exchanges were permitted to list $2.50 strike prices up to $50 on a total of up to 100 option classes. The $2.50 Strike Price Program was later permanently approved and expanded in 1998 to allow the options exchanges to select up to 200 classes on which to list $2.50 strike prices up to $50. Of these 200 option classes eligible for the $2.50 Strike Price Program, 60 classes were allocated to the CBOE pursuant to a formula approved by the Commission. Each options exchange, however, is permitted to list $2.50 strike prices on any option class that another exchange selects as part of the $2.50 Strike Price Program.

The CBOE believes that the experiences over the past 10 years with the $2.50 Strike Price Program have produced positive results. Specifically, the $2.50 Strike Price Program has stimulated customer interest by creating additional trading opportunities, by providing more flexibility in trading decisions, and by affording customers the ability to more closely tailor investment strategies to the precise movement of the underlying security. The CBOE's proposal to expand the $2.50 Strike Price Program as described in this proposed rule change is intended to provide customers with greater flexibility in their investment choices for those stocks priced between $50 and $75 that have a low volatility and thus trades in narrow range. The CBOE represents that Options Price Reporting Authority has the capacity to accommodate the increase in the number of series added pursuant to this rule change.

Finally, the proposed rule change makes other technical changes to Rule 5.5, Interpretation and Policy .05, including expressly noting in the rule text: (i) The total number of option classes, *i.e.* 60, that the CBOE has been allocated of the 200 classes that are eligible for the Program; and (ii) that an

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

option class shall remain in the $2.50 Strike Price Program until otherwise designated by the Exchange and a decertification notice is sent to the Options Clearing Corporation.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[3] in general, and furthers the objectives of section 6(b)(5),[4] in particular, in that it is designed to promote just and equitable principles of trade as well as to protect investors and the public interest, by increasing trading opportunities which should, in turn, increase the depth and liquidity of the marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither received nor solicited written comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the CBOE consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2005–39 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–CBOE–2005–39. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–CBOE–2005–39 and should be submitted on or before November 25, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6095 Filed 11–2–05; 8:45 am]

BILLING CODE 8010–01–P

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52691; File No. SR–CHX–2005–33]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change To Establish Certain Fees With Respect to Transactions Executed Through the Intermarket Trading System

October 27, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 2005, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the CHX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to enter into arrangements with other national securities exchanges to pass certain fees they have collected from members for transactions executed on another exchange through the Intermarket Trading System (''ITS''). This proposal does not require changes to CHX rule text.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Section 31 of the Act [3] requires each national securities exchange to pay the Commission a fee based on the aggregate dollar amount of certain sales of securities (''covered sales''). Rules 31 and 31T, adopted by the Commission in June 2004,[4] established procedures for the calculation and collection of Section 31 fees on such covered sales. Rule 31 requires each national securities exchange that owes Section 31 fees to submit a completed Form R31 to the Commission each month, beginning with July 2004. Rule 31T required each exchange to submit a completed Form R31 for each of the months September 2003 to June 2004, inclusive. Each national securities exchange must report its covered sales volume based on the data from a designated clearing agency, when available. The designated clearing agency for covered sales of equity securities is the National Securities Clearing Corporation (''NSCC''). These covered sales are reported in Part I of Form R31, and each exchange is required to ''provide in Part I only the data supplied to it by a designated clearing agency.'' [5] The data supplied by NSCC for the period September 2003 through August 2004 did not accurately reflect the aggregate dollar value of the covered sales occurring on each exchange to permit reports to be made in accordance with new Rules 31 and 31T. In particular, the data NSCC reported to each national securities exchange included non-covered sales data for sales originating on one exchange and executed on another exchange through the ITS.[6]

Section 31 requires that national securities exchanges pay a fee based on the aggregate dollar amount of sales of securities transacted on the exchange. Given the specific language of Section 31, the Commission in the Adopting Release for Rules 31 and 31T advised that the current methodology for treating sales of securities that occur through ITS [7] was no longer appropriate and that ''it would be simpler and more transparent for each covered [self-regulatory organization (''SRO'')] to report all covered sales that occur on its market.'' The Commission further stated:

> The Commission acknowledges that a covered SRO on which a covered sale occurs as a result of an incoming ITS order may not be able to collect funds to pay the Section 31 fee from one of its own members. However, Section 31 does not address the manner or extent to which covered SROs may seek to recover the amounts that they pay pursuant to Section 31 from their members. Covered SROs may wish to devise new arrangements for passing fees between themselves so that the funds are collected from the covered SRO that originated the ITS order.[8]

The Commission further noted that any such arrangements devised by the SROs would have to be established pursuant to Section 19(b) of the Act and Rule 19b–4 thereunder.

A subcommittee of the ITS Operating Committee [9] (''Subcommittee'') has had discussions in order to devise new arrangements for passing fees between the ITS participants that (1) were collected from their members for the months of September 2003 through August 2004; and (2) are being collected from their members beginning in September 2004 and continuing. This proposed rule change is being submitted by the CHX with the understanding that the other exchanges participating in the proposed arrangement devised by the subcommittee will be submitting substantially similar rule change proposals.[10]

Pursuant to the new arrangement being proposed, each ITS participant exchange determines whether it has received and executed more in dollar value of covered sales than it has originated and sent to each other ITS participant exchange. For example, for the historical period, September 2003 through August 2004, SRO A sent ITS commitments for covered sales whose dollar value was $150 million to SRO B for execution. SRO A collected fees from its members to fund its Section 31 obligation for those covered sales executed on SRO B. SRO B, as the executing market center, is obligated to pay the Section 31 fee to the SEC. During the same period, SRO B sent ITS commitments for covered sales whose dollar value was $210 million to SRO A. SRO B collected fees from its members for those covered sales executed on SRO A. SRO A, as the executing market center, is obligated to pay the Section 31 fee to the SEC. Since SRO A executed a greater dollar value of covered sales from SRO B than it sent to SRO B, the proposed arrangement requires SRO A to determine the amount of the fees collected by SRO B from its members based on the aggregate dollar value of covered sales from SRO B and executed on SRO A through ITS commitments. When invoicing SRO B, SRO A will deduct the amount of the fee it owes to SRO B (*i.e.*, the fee amount based on SRO A's $210 million in aggregate covered sales less the fee amount based on SRO B's $150 million in aggregate covered sales) and will invoice only for the difference of $60 million.

Once the fees have been invoiced and paid for the historical period, the ITS participant exchanges plan to use the same arrangement for the period beginning September 2004 and continuing. It is anticipated that the invoicing process will occur twice yearly to coincide with the March 15 and September 30 payment schedule for Section 31 fees set forth in the Act.

To implement this proposed arrangement, an ITS participant exchange will require access to the aggregate dollar value of buy and sell transactions occurring through ITS. Under the proposed arrangement for fees collected for the months of September 2003 through August 2004, an ITS participant exchange may choose to use data obtained from the Inter-market Surveillance Information System (''ISIS'') or data that provides comparable information that includes aggregate dollar value of ITS

[3] 15 U.S.C. 78ee.

[4] *See* Securities Exchange Act Release No. 49928 (June 28, 2004), 69 FR 41060 (July 7, 2004) (''Adopting Release'').

[5] 17 CFR 240.31(b)(5).

[6] As a result of this and other inaccuracies in the data reported by NSCC, the national securities exchanges were unable to report accurate information on Form R31, unless they made adjustments to the NSCC data based on data other than that provided by NSCC. On October 6, 2004, the Commission's Division of Market Regulation (''Division'') issued a ''no-action'' letter advising exchanges for whom NSCC acts as a designated clearing agency under Rule 31, that the Division staff would not recommend that the Commission take enforcement action if a national securities exchange adjusts the data provided by NSCC to accurately reflect covered sales occurring on the national securities exchange. *See* letter from Robert L.D. Colby, Deputy Director, Division, Commission to Ellen J. Neely, Senior Vice President and General Counsel, CHX, dated October 6, 2004.

[7] In the Adopting Release, the Commission described the current methodology: ''SRO A sends an ITS commitment to a member of SRO B to sell a security, and the commitment is executed on SRO B. Under existing arrangements, SRO A pays the Section 31 fee arising from this trade and passes the fee to its member that initiated the trade. * * * [T]he SROs devised this system because SRO B does not have the ability to require members of SRO A to reimburse it for the cost of its Section 31 fees.'' Adopting Release, 69 FR at 41067.

[8] *Id.*

[9] The ITS participants are American Stock Exchange LLC, Boston Stock Exchange (''BSE''), Chicago Board Options Exchange, CHX, National Association of Securities Dealers (''NASD''), National Stock Exchange, New York Stock Exchange (''NYSE''), Pacific Exchange, and Philadelphia Stock Exchange.

[10] NASD has determined not to participate in the arrangement for passing fees between exchanges although they participated in many of the conference calls regarding the proposed arrangement.

transactions.[11] The ISIS data is sorted by originating market center (*i.e.*, the sender of an ITS commitment) and receiving market center (*i.e.*, the market center that executes the ITS commitment). Using this data, each ITS participant exchange can determine on a monthly basis the dollar value of all executed commitments sent to and received from another ITS participant exchange.

At its meeting on February 23, 2005, the Subcommittee asked the Securities Industry Automation Corporation (''SIAC'') to determine the time and expense involved for SIAC to use the ITS database that it maintains to provide reports of the aggregate dollar value of buy and sell transactions occurring through ITS to the ITS participants. On March 15, 2005, representatives of the Subcommittee authorized SIAC to develop new reports. SIAC has developed these reports and it is anticipated that by the end of 2005, it will no longer be necessary for ISIS data to be used. The new reports provided by SIAC will be used by ITS participants in connection with determining which ITS participant exchange will pay the fee for transactions occurring through ITS and which ITS participant exchange has collected the fee from its members.

The CHX believes that the proposed arrangement is a fair and efficient means for passing fees collected at one ITS participant exchange based upon executions of covered sales occurring at another ITS participant exchange. The CHX acknowledges that the legal duty to report and pay the Section 31 fee remains with the ITS participant on which the sale was in fact transacted.

2. Statutory Basis

This proposal would establish a process for SROs to enter into arrangements to pass fees they have collected from members for transactions executed on another SRO through ITS. For these reasons, the Exchange believes that the proposed rule change is consistent with the Act and the rules and regulations thereunder that are applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,[13] in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act,[14] which requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CHX–2005–33 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–CHX–2005–33. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CHX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2005–33 and should be submitted on or before November 25, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of a Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[15] In particular, the Commission believes that the proposal is consistent with Section 6(b)(4) of the Act,[16] which requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. National securities exchanges obtain funds to pay their Section 31 fees to the Commission by charging fees to broker-dealers who generate the covered sales on which Section 31 fees are based. An exchange can obtain most of these funds by imposing a fee on one of its members whenever the member is on the sell side of a transaction. However, when the exchange accepts an ITS commitment to buy, the ultimate seller is a party on another market. The exchange lacks the ability to pass a fee to that seller directly, because the seller may not be a member of the exchange. Under the proposed arrangement, which the Commission understands will be adopted by each of the ITS participant exchanges,[17] the exchange that routed the ITS commitment away will continue to collect a fee from the broker-dealer

[11] The NYSE has made available to the ITS participants spreadsheets for each month in the period using the ISIS data.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(4).

[15] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78f(b)(4).

[17] *See* letter from George W. Mann, Jr., Executive Vice President and General Counsel, BSE, and Chairman, Subcommittee, to Michael Gaw, Assistant Director, Division, Commission, dated September 29, 2005.

that placed the sell order. Then, with respect to each ITS participant exchange, the exchange will determine whether it is a net sender or net receiver of ITS trades and send fees to or accept fees from each other exchange accordingly. The Commission believes this is an equitable manner for the exchanges to obtain funds to pay their Section 31 fees on covered sales resulting from ITS trades.

Under Section 19(b)(2) of the Act,[18] the Commission may not approve any proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof, unless the Commission finds good cause for so doing. The Commission hereby finds good cause for approving the proposed rule change prior to the thirtieth day after publishing notice of filing thereof in the **Federal Register**. In this case, the Commission does not believe a comment period is necessary because all of the parties affected by the proposed fee—the other ITS participant exchanges—have already consented to and will adopt the same fee arrangement.[19]

For the reasons set forth above, the Commission finds good cause to accelerate approval of the proposed rule change pursuant to Section 19(b)(2) of the Act.[20]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–CHX–2005–33) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6085 Filed 11–2–05; 8:45 am]

BILLING CODE 8010–01–P

[18] 15 U.S.C. 78s(b)(2).

[19] *See supra* note 17.

[20] *Id.*

[21] *Id.*

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52679; File No. SR–NASD–2005–112]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change Relating to Amendments To Rule 3360 To Expand Short-Interest Reporting To OTC Equity Securities

October 26, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 20, 2005, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend Rule 3360 to expand the short interest reporting requirements to over-the-counter (''OTC'') equity securities. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

3360 Short-Interest Reporting

(a) Each member shall maintain a record of total ''short'' positions in all customer and proprietary firm accounts in *OTC Equity Securities*, securities included in The Nasdaq Stock Market, and in each other security listed on a registered national securities exchange and not otherwise reported to another self-regulatory organization and shall regularly report such information to NASD in such a manner as may be prescribed by NASD. [For the purposes of this rule, the term ''customer'' includes a broker/dealer.] Reports shall be made as of the close of the settlement date designated by NASD. Reports shall be received by NASD no later than the second business day after the reporting settlement date designated by NASD.

(b) For purposes of this Rule[,]:

(1) ''short'' positions to be reported are those resulting from ''short sales'' as that term is defined in SEC Rule 200 of Regulation SHO, with the exception of positions that meet the requirements of Subsections (e)(1), (6), (7), (8), and (10) of SEC Rule 10a–1 adopted under the Act[.];

(2) the term ''customer'' includes a broker-dealer; and

(3) the term ''OTC Equity Securities'' shall mean any equity security that is not listed on The Nasdaq Stock Market or a national securities exchange.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD is proposing to amend Rule 3360, Short-Interest Reporting, to require that members maintain and report on a monthly basis total short positions in OTC equity securities in all customer and proprietary firm accounts.[3] Currently, Rule 3360(a) requires members to maintain a record of total short positions[4] in all customer[5] and proprietary firm accounts in Nasdaq securities (and listed securities if not reported to another self-regulatory organization (''SRO'')) and requires members to report such information to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Non-self-clearing broker-dealers generally are considered to have satisfied their reporting requirement by making appropriate arrangements with their respective clearing organizations. *See Notice to Members* 03–08 (January 2003).

[4] Rule 3360(b) provides that short positions required to be reported under the rule are those resulting from short sales as the term is defined in SEC Rule 200 of Regulation SHO, with limited exceptions. SEC Rule 200 of Regulation SHO provides, in part, the following: ''The term 'short sale' shall mean any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller.'' 17 CFR 242.200(a).

[5] Short sale positions held for other broker-dealers that fall within the definition of short position provided in Rule 3360(b) must be reported under Rule 3360(a), unless these positions already are reported to an SRO. *See Notice to Members* 03–08 (January 2003).

NASD on a monthly basis. NASD believes that expanding the monthly short interest reporting requirements to OTC equity securities will increase the information available to public investors and other interested parties related to trading in OTC equity securities. Accordingly, NASD proposes to amend Rule 3360(a) to require that members maintain and report to NASD short sale positions for OTC equity securities. For purposes of the proposed rule change, OTC equity securities would be defined as any equity security that is not listed on The Nasdaq Stock Market or a national securities exchange.

NASD will announce the effective date of the proposed rule change in a *Notice to Members* to be published no later than 60 days following Commission approval. In recognition of the technological and systems changes the proposed rule change may require, the effective date will be 90 days following publication of the *Notice to Members* announcing Commission approval.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will increase the information available to public investors and other interested parties related to trading in OTC equity securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

The Commission notes that the NASD is proposing an implementation period for proposed NASD Rule 3360. Specifically, the Commission notes that the NASD is proposing that it will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval and that the effective date of the proposed rule change will be 90 days following publication of the Notice to Members announcing Commission approval. The Commission specifically requests comment regarding whether this implementation period could be shorter.

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2005–112 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NASD–2005–112. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to the File Number SR–NASD–2005–112 and should be submitted on or before November 25,2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6086 Filed 11–2–05; 8:45 am]

BILLING CODE 8010–01–P

[6] 15 U.S.C. 78o–3(b)(6).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52692; File No. SR–NASD–2005–064]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval of Proposed Rule Change as Amended by Amendment No. 1 Relating to the Publication of Decisions Issued by the National Adjudicatory Council Pursuant to NASD Rule 1015

October 28, 2005.

I. Introduction

On May 12, 2005, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NASD Interpretive Material 8310–2, ''Release of Disciplinary and Other Information Through the Public Disclosure Program'' (''IM–8310–2'') to authorize the NASD to release to the public information with respect to any decision issued by the National Adjudicatory Council (''NAC'') pursuant to NASD Rule 1015, ''Review of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

National Adjudicatory Council.''[3] The proposed rule change was published for notice and comment in the **Federal Register** on June 13, 2005 (''Notice'').[4] The Commission received two comment letters on the proposal.[5] On July 26, 2005, the NASD filed a response to comments.[6] On October 6, 2005, the NASD filed Amendment No. 1 to the proposed rule change.[7] This order approves the proposed rule change, as amended.

II. Summary of Comments

The Commission received two comment letters on the proposed rule change.[8] Both commenters opposed the proposed rule change on the general basis that publication of NAC decisions issued under NASD Rule 1015 would infringe on personal rights of privacy and confidentiality by permitting NASD to reveal to the public details concerning private transactions between private individuals. The following is a summary of the major concerns that the commenters raised.

A. Details Concerning Private Transactions Between Private Individuals Will Be Released for Anyone to View

One commenter believes that the proposal to disclose NAC decisions has ''crossed the line'' where personal rights to privacy would be diminished.[9] The commenter believes the NASD should not be allowed to publicly reveal private transactions between private individuals and expresses concern that persons appearing before the NAC would have less privacy and confidentiality than would be afforded in a civil court.[10] The commenter agrees that the public has a right to information when it entrusts its assets to others, but believes that the release of NAC decisions would publicly disclose sensitive details of business transactions, trade secrets, or financial information.[11] As a result, the commenter views the consideration for the public's right to information as embodied in this proposal to have ''crossed the line.''[12]

B. The Release of NAC Decisions Regarding ''Associated Persons,'' as Defined in the NASD Rules, Violates Constitutional Rights to Confidentiality and Privacy

Another commenter expresses disapproval of the proposal because he believes it will result in the disclosure of shareholders of broker-dealers, who are included in the definition of ''Associated Person'' under the NASD Rules.[13] The commenter states that the definition of Associated Person has been adjusted by the NASD and the SEC to apply, among others, to individuals or entities that are non-employee shareholders of an Applicant broker-dealer who do not ''supervise, manage or direct the activities of the broker-dealer or are members of the board of directors.''[14] The commenter further explains that because such shareholders are included in the NASD's formal consideration of a broker-dealer's application for membership[15] or a broker-dealer's application for approval of a change in ownership, control, or business operations,[16] the information concerning such shareholders would be incorporated into any NAC decision if such Applicant broker-dealer elects to appeal the NASD decision in accordance with NASD Rule 1015.[17]

As a result, the commenter believes that the release of information in NAC decisions, as contemplated by the proposed rule change, would reveal confidential information regarding non-employee shareholders and concludes that release of the information should not be permitted.[18] The commenter argues that, as a consequence of the proposal, such shareholders would be denied their ''constitutional rights'' to confidentiality and privacy, and the release of information regarding such shareholders would directly violate federal and state law pertaining to the protection of confidentiality and privacy generally afforded to individuals and legal entities.[19]

III. NASD's Response to Comments

On July 26, 2005, the NASD responded to the comments.[20] As a general preface, the NASD first notes in its response that disclosure of NAC decisions under the proposed rule change would not involve every application for NASD membership, but would be limited to those applications that culminate in appeal proceedings before the NAC.[21]

Regarding a commenter's concern that the proposed rule change would result in the disclosure of details concerning private transactions between private individuals, the NASD argues that the attendant disclosure of an Applicant's proposed or executed business arrangements or transactions with other persons must be balanced against the public's interest in being able to review the NAC decisions.[22] The NASD states that furnishing potential new members and members that are considering a change in ownership, control, or business operations the opportunity to review the NAC decisions issued under NASD Rule 1015 will assist Applicants

[3] NASD Rule 1015 is part of the NASD Rule 1010 Series governing membership proceedings. These proceedings involve both the review of new member applications (NASD Rule 1014) and continuing membership applications seeking approval of a change in ownership, control, or business operations (NASD Rule 1017). *See infra* notes 15–17 and accompanying text.

[4] *See* Securities Exchange Act Release No. 51786 (June 6, 2005), 70 FR 34170.

[5] *See* letters from James Antosh, Chief Operating Officer and Chief Financial Officer of a privately owned broker-dealer (''Antosh'') dated June 30, 2005 and Joseph W. Mays, Jr., President, Securities Consulting Group, Inc. (''Mays'') dated July 5, 2005, both of which were addressed to Jonathan G. Katz, Secretary, Commission.

[6] *See* July 26, 2005 letter from Shirley H. Weiss, Associate General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation, SEC (''NASD Response Letter'').

[7] In Amendment No. 1, NASD made non-substantive changes to clarify the form of the NAC decisions authorized to be released to the public. It is a technical amendment and is not subject to notice and comment.

[8] *See supra* note 5.

[9] *See* Antosh at 1.

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *See* Mays at 1. The term ''Associated Person'' means: (1) A natural person registered under NASD Rules; or (2) a sole proprietor, or any partner, officer, director, branch manager of the Applicant, or any person occupying a similar status or performing similar functions; (3) any company, government or political subdivision or agency or instrumentality of a government controlled by or controlling the Applicant; (4) any employee of the Applicant, except any person whose functions are solely clerical or ministerial; (5) any person directly or indirectly controlling the Applicant whether or not such person is registered or exempt from registration under NASD By-laws or NASD Rules; (6) any person engaged in investment banking or securities business controlled directly or indirectly by the Applicant whether such person is registered or exempt from registration under NASD By-laws or NASD Rules; or (7) any person who will be or is anticipated to be a person described in (1) through (6) above. *See* NASD Rule 1011(b).

The term ''Applicant'' means a person that applies for membership in the Association under NASD Rule 1013 or a member that files an application for approval of a change in ownership, control, or business operations under NASD Rule 1017. *See* NASD Rule 1011(a).

The term ''Association'' means, collectively, the NASD, NASD Regulation, Nasdaq, and NASD Dispute Resolution. *See* NASD Rule 0120(b).

[14] *See* Mays at 1.

[15] *See* NASD Rule 1014.

[16] *See* NASD Rule 1017.

[17] Under NASD Rule 1015, an aggrieved Applicant may file a written request for NAC review of the NASD's decision issued under NASD Rules 1014 or 1017. *See generally* NASD Rule 1015.

[18] *See* Mays at 1. The NAC's decision will include a description of the NASD's decision, including its rationale, a description of the principal issues raised, a summary of the evidence, a statement as to whether the NASD's decision is affirmed, modified, or reversed, and a rationale for the decision that references the applicable standards. *See* NASD Rule 1015(j).

[19] *See* Mays at 1.

[20] *See supra* note 6.

[21] *See* NASD Response Letter at 1.

[22] *See id.*

in understanding the standards that must be met under NASD Rule 1014 or 1017, as the case may be, and the manner in which the NAC applies the standards.[23] Additionally, the NASD believes that public investors will benefit from the availability of information about any limitations placed on members, where the limitations result from proceedings before the NAC.[24] As stated in the Notice, the NASD represents that under the proposed rule change, the names of any persons who are not themselves under consideration or review as part of the membership application process will not be disclosed when the NAC decision is published.[25] Finally, the NASD notes that the information contained in NAC decisions is already subject to publication if an Applicant appeals an adverse NAC decision to the SEC, ''because the SEC makes its decision in such matters available to the public, including on the SEC's web site.'' [26]

In response to a commenter's concern that the NASD should not be permitted to release information about persons who may be non-employee shareholders of a broker-dealer, the NASD notes that it is not aware of any cognizable constitutional or statutory claim that pertains to the violation of protected rights to confidentiality and privacy.[27] The NASD acknowledges that as a self-regulatory organization, it must comport with its duty of fairness. The NASD argues that the proposed rule change is consistent with this duty and furthers a ''reasonable regulatory purpose.'' [28]

Under this proposed rule change, the NASD explains that the shareholders of broker-dealers who are not otherwise employed by the broker-dealer or engaged in the broker-dealer's business will be on notice that their names will be subject to release to the public if they meet the definition of Associated Person in NASD Rule 1011(b) and the Applicant appeals an adverse decision to the NAC.[29] The NASD states that shareholder status, alone, would not trigger disclosure under the proposed rule change. Rather, an individual or entity who is not registered with the NASD or otherwise engaged in the broker-dealer's business would meet the definition of Associated Person only if the individual or entity ''directly or indirectly controls the applicant.'' [30] The NASD states that the definition of Associated Person excludes passive investors who are not control persons of the broker-dealer, such as non-employee shareholders and shareholders who are otherwise not directly engaged in the broker-dealer's business.[31]

Finally, the NASD argues that information about control persons can be a critical part of its consideration of membership applications and applications in connection with a member's change of ownership, control or business operations.[32] The NASD believes that, in the interest of protecting investors and serving the public interest, when the NAC's decisions are based on information regarding an Applicant's control persons, public investors and current members should be allowed to review such information.[33]

IV. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change, as amended, the comment letters, and the NASD Response Letter, and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association [34] and, in particular, section 15A(b)(6) of the Act.[35] Section 15A(b)(6) requires, among other things, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission finds that the proposal to amend IM–8310–2 to give NASD authority to release to the public information with respect to any decision issued by the NAC pursuant to NASD Rule 1015 is consistent with section 15A(b)(6) of the Act. The Commission believes that the proposal is reasonably designed to (i) allow potential new NASD members and current members considering a change in ownership, control, or business operations to better understand the standards that must be met under NASD Rule 1014 or 1017, as the case may be, and the manner in which such standards are applied; and (ii) afford the general public, including public investors, the opportunity to be better informed of the membership process and the rationale behind the NAC's decision-making, particularly with respect to those instances in which the NAC issues an adverse decision.

Based on the NASD's representations, the Commission believes the proposed rule change will not unreasonably infringe on rights of privacy or confidentiality by permitting the NASD to publish detailed information with respect to decisions issued by the NAC. With regard to a commenter's assertions that the proposal will reveal to the public details concerning private transactions between private persons, the Commission believes that, after weighing the negative impact of public disclosure of such transactions against the positive impact of enhanced knowledge of the NASD standards of NASD Rules 1014 and 1017, the publication of NAC decisions would promote just and equitable principles of trade by allowing current NASD members, potential NASD members, and the general public equal access to, and a better understanding of, the specific application and interpretation of such standards. The Commission believes that public investors will benefit from the availability of information about any adverse decisions against Applicants and limitations placed on members, where such adverse decisions and limitations are a result of proceedings before the NAC, because the factors that are instrumental in the granting of membership or the expansion of business activities will be articulated in the decisions and made available to the public as a result of the proposed rule change. With respect to NAC decisions involving applications for NASD membership, reviewed pursuant to NASD Rule 1014, or applications for a change in ownership, control, or business operations, reviewed pursuant to NASD Rule 1017, the Commission further notes that access to such decisions would not only benefit future Applicants in the application process, but would also promote efficiency by deterring meritless appeals, and foster consistency by assisting the NASD in its review of such applications and serve as useful precedent for future NAC

[23] *Id.* at 1–2.

[24] *Id.* at 2.

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] *Id.*

[30] *Id. See also* NASD Rule 1011(b). The Commission notes that a broker-dealer's information reported on Form BD (Uniform Application for Broker-Dealer Registration), which may include information about a person(s) who directly or indirectly controls the broker-dealer, is publicly available.

[31] *Id.* The NASD represents that it would consider certain information concerning lenders of 5% or more of the Applicant's net capital in determining whether the Applicant meets all standards for admission, a change in ownership or control, or a material change in its business operations. *See id.*

[32] *Id.*

[33] *Id.*

[34] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[35] 15 U.S.C.78o–3(b)(6).

decisions. Finally, the Commission recognizes that the information contained in the NAC decisions is already subject to publication if an Applicant appeals an adverse NAC decision to the Commission because the Commission makes its decisions in such matters available to the public. The Commission believes that the public availability of such information furthers the goals outlined in section 15A(b)(6) of the Act by making more transparent NASD's rules and regulations, and promoting the coordination of an unimpeded flow of information that encourages a free and open market for investors and the general public.

Regarding a commenter's assertion that the proposal permits the improper disclosure of non-employee shareholders of a broker-dealer not engaged in the management of such broker-dealer's business because such shareholders would be included within the definition of Associated Person in NASD Rule 1011(b), the Commission believes the NASD has adequately responded to this concern.[36] Additionally, as Amendment No. 1 to the proposed rule change clarifies, in the interest of protecting privacy, the NAC decisions will not routinely publish the names of persons who are not themselves under consideration or review as part of the application process.[37] Finally, the Commission believes that the proposed rule change furthers a legitimate regulatory purpose and does not implicate constitutional scrutiny or violate any cognizable federal or state statute related to the protection of confidentiality and privacy.

With regard to all other issues raised by the commenters, the Commission is satisfied that the NASD has adequately and accurately addressed the commenters' concerns.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act[38], that the proposed rule change (SR–NASD–2005–064) be, and it hereby is, approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[39]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6096 Filed 11–2–05; 8:45 am]

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[36] *See supra* notes 30–31 and accompanying text.

[37] *See supra* note 7.

[38] 15 U.S.C. 78s(b)(2).

[39] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52688; File No. SR–NYSE–2005–66]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Amend Rule 460 (Specialists Participating in Contests)

October 27, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 29, 2005, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NYSE. On October 25, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change is an amendment to NYSE Rule 460 (Specialists Participating in Contests). The text of the proposed rule change is set forth below. Additions are in *italics.*

* * * * *

Rule 460. Specialists Participating in Contests

(a) No member or his member organization or any other member, allied member, or approved person or officer or employee of the member organization shall participate in a proxy contest or a company if such member specializes in the stock of that company.

Specialists as Directors

(b) No member or his member organization or any other member, allied member, or approved person in such member organization or officer or employee of the member organization shall be a director of a company if such member specializes in the stock of that company.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange made clarifying changes to the text of the proposed rule change and non-substantive changes to the purpose section.

* * * Supplementary Material: * *

.10 Control relationships—Business transactions—Finder's Fees—No specialist or his member organization or any other member, allied member or approved person in such member organization or officer or employee thereof, individually or in the aggregate shall acquire directly or indirectly the beneficial ownership of more than 10% of the outstanding shares of any equity security in which the specialist is registered, unless such security is (i) a convertible or derivative security, American Depositary Receipt, Global Depositary Receipt, or similar instrument, the conversion of which into common stock of the issuer would not result in a position in the common stock exceeding the 10% threshold; (ii) an investment company unit or Trust Issued Receipt, the redemption of which would not result in a position, directly or indirectly, in any equity security in which the specialist is registered exceeding the 10% threshold; or (iii) a security such as a currency warrant which trades in relationship to the value of that underlying currency or a security such as an index warrant which trades in relationship to the value of that underlying index. With respect to the securities specified in (iii), the specialist must obtain the permission of the Exchange to exceed the 10% threshold, and in no event may the specialist acquire directly or indirectly the beneficial ownership of more than 25% of the issue. This provision applies regardless of whether the beneficial ownership is acquired for investment, trading, or any other purpose. If the beneficial ownership of any or all of such persons reaches or exceeds 5% of the outstanding shares of any such security, the specialist or his organization shall promptly report this fact to the Market Surveillance Division. Any such person shall, at the request of the Market Surveillance Division, promptly take appropriate action either to dispose of such beneficial ownership or reduce or eliminate his interest in the specialist organization, as may be acceptable to the Exchange. No specialist or his member organization or any other member, allied member or approved person in such member organization or officer or employee thereof shall engage in any business transaction (including loans, etc.) with any company in whose stock the specialist is registered, or accept a finder's fee from such company; provided, however, that a specialist registered in a security issued by an investment company may purchase and redeem the listed security, or securities

that can be subdivided or converted into the listed security, from the issuer as appropriate to facilitate the maintenance of a fair and orderly market in the subject security. This prohibition on business transactions shall not apply, however, to the receipt of routine business services, goods, materials, or insurance, on terms that would be generally available.

.11 Definition of an Investment Company Unit—The term ''Investment Company Unit'' in paragraph .10 above shall be the same as that in Section 703.16 of the Listed Company Manual.

.12 Definition of a Trust Issued Receipt—The term ''Trust Issued Receipt'' in paragraph .10 above shall be the same as that in Rule 1200.

.20 The restrictions in paragraphs (a) and .10 above shall not apply, except as provided herein, to an approved person entitled to an exemption from this Rule pursuant to Rule 98. The restriction on acquisition of 10% or more of the outstanding shares of any equity security in which an associated specialist is registered, as provided in Rule 460.10, shall apply to such approved person separate and distinct from the restriction as applied to any or all other persons specified in Rule 460.10, and positions of the approved person shall not be aggregated with the positions of any one or more other persons specified in Rule 460.10. The same principle applies with respect to the reporting of positions specified in Rule 460.10. An approved person entitled to an exemption from this Rule may engage in business transactions with a company in whose stock an associated specialist is registered, may accept a finder's fee from such company, and may act as an underwriter in any capacity for a distribution of securities issued by such company.

.25 The restrictions in paragraph .10 above relating to business transactions between a specialist or his member organization or any other member, allied member or approved person in such member organization or officer or employee thereof shall not apply to Investment Company Units (as defined in paragraph 703.16 of the Exchange's Listed Company Manual), Trust Issued Receipts (defined in NYSE Rule 1200), and derivative instruments based on one or more securities, currencies or commodities (collectively referred to as Exchange-Traded Funds or ''ETFs''), if the following conditions are met:

(i) The specialist or his member organization or any other member, allied member or approved person in such member organization or officer or employee thereof only enters into the business transaction with the sponsor of the ETF and the sponsor is not involved in the day-to-day administration of the ETF; and

(ii) Any fee or other compensation in connection with the business transaction paid to the specialist or his member organization or any other member, allied member or approved person in such member organization or officer or employee thereof must not be dependent on the trading price or daily trading volume of the ETF; and

(iii) The specialist or his member organization or any other member, allied member or approved person in such member organization or officer or employee thereof must notify and provide a full description to the Exchange of any business transaction or relationship, except those of a routine and generally available nature as described in paragraph .10 above, it may have with any sponsor of an ETF that he or it is registered as specialist in.

(Remainder of rule unchanged.)

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Rule 460.10, in part, restricts a specialist or his member organization or any other member, allied member or approved person in such member organization or officer or employee thereof, not entitled to a NYSE Rule 98 exemption, from engaging in:

> ''Any business transaction (including loans, etc.) with any company in whose stock the specialist is registered * * * This prohibition on business transactions shall not apply, however, to the receipt of routine business services, goods, materials, or insurance, on terms that would be generally available.''

The rule is intended to ensure that specialists and their affiliates do not enter into a material business relationship with an issuer in whose security the specialist is registered, such that the specialist's or affiliate's status may create conflicts of interest with respect to the specialist's affirmative and negative obligations to maintain a fair and orderly market in the security.

Currently, NYSE Rule 460.20 provides exemptions from NYSE Rule 460(a) and .10 to an approved person entitled to a NYSE Rule 98 exemption with respect to business transactions with issuers. This is because the functional separation required by NYSE Rule 98 eliminates the conflict of interest concern. The Exchange proposes to add an exemption, in a new section, .25, from the restriction on business transactions between a specialist or his member organization or any other member, allied member or approved person in such member organization or officer or employee thereof and the sponsor of any Exchange Traded Funds (''ETFs'') in which the specialist is registered.

For purposes of the proposed rule, ETFs are Investment Company Units (defined in paragraph 703.16 of the Exchange's Listed Company Manual), Trust Issued Receipts, such as HOLDRs (defined in NYSE Rule 1200), and derivative instruments based on one or more securities, currencies or commodities. Since ETFs are based on derivatives or indices representing multiple securities, or a single commodity or currency, and the specialist registered to that ETF is not a market maker in any of the underlying component securities, commodities or currencies,[4] the Exchange believes that any potential for conflicts which might have an undue influence or impact on the ETF trading price is removed. The ETF trading price is generally only a reflection of the price changes of the different base vehicle or vehicles trading elsewhere and perhaps trading on a different exchange or market.

The proposed rule would allow business transactions between a specialist or his member organization or any other member, allied member or approved person in such member organization or officer or employee thereof and the sponsor of the ETF. Generally, the sponsor of an ETF is responsible for establishing the trust that issues the ETF shares, the registration of the ETF shares with the

[4] Exchange member organizations registered as specialists in ETFs are separate member organizations from those registered as specialists in underlying equities. (NYSE Rule 103B.VIII). The word ''underlying'' and the rule citation appearing in the preceding sentence were added by telephone conference between David Matta, Principal Rule Counsel, N, and David L. Orlic, Attorney, Division of Market Regulation, Commission, on October 27, 2005.

Commission, and the filing of required periodic reports. The trustee is responsible for the day-to-day administration of the trust, including keeping the trust's operational records. While the sponsor generally oversees the performance of the trustee and the trust's principal service providers, it does not exercise day-to-day oversight over the trustee or such service providers.

The amended rule will provide that any fee or other compensation paid in connection with the business transaction to a specialist or his member organization or any other member, allied member or approved person in such member organization or officer or employee thereof not have any relationship to the trading price or daily trading volume of the ETF. This will further diminish any potential ability for a specialist or his member organization or any other member, allied member or approved person in such member organization or officer or employee thereof to unduly influence trading for its own benefit, and further diminish any incentive for any such person to compromise its specialist obligations in maintaining fair and orderly markets. It is also designed to prevent the ETF sponsor from unduly influencing its specialist or his member organization or any other member, allied member or approved person in such member organization or officer or employee thereof.

Finally, a specialist or his member organization or any other member, allied member or approved person in such member organization or officer or employee thereof must notify and provide a full description to the Exchange of any business transaction or relationship, except those of a routine and generally available nature as described in NYSE Rule 460.10, it may have with any sponsor of an ETF in which it is registered as a specialist.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b)[5] of the Act, in general, and Section 6(b)(5)[6] of the Act, in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange did not solicit or receive any written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2005–66 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NYSE–2005–66. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2005–66 and should be submitted on or before November 25, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6091 Filed 11–2–05; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52696; File No. SR–NYSE–2005–35]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving a Proposed Rule Change Relating to Changes to Listed Company Manual Section 902.00 Regarding Listing Fees

October 28, 2005.

I. Introduction

On May 18, 2005, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to amend the current fee chapter set out in sections 902.01 to 902.04 of the Listed Company Manual (''Manual'') and reorganize the relevant sections of the Manual into a format setting out fees by

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

type of listed security. The proposed rule change was published for comment in the **Federal Register** on September 23, 2005.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

The filing proposes to amend and to reorganize the current listing fees chapter set forth in section 902.00 through section 902.04 of the Manual. Among other things, the Exchange proposes to decrease the current total issuer per annum fee cap by 50% from $1 million to $500,000, with certain exceptions. In addition, the Exchange proposes reducing the Listing Fee schedule to three tiers instead of the current four-tier structure. The Exchange also proposes to set forth Listing Fees for all types of securities as per share numbers instead of the current per million share approach and specify the fees applicable to tracking stocks. The Exchange further proposes to decrease the Listing Fee cap for shares issued in conjunction with stock splits by 40% to $150,000 per stock split and eliminate the three year cap on stock splits as well as apply the $150,000 fee cap to stock dividends.

The Exchange also proposes increasing the current minimum application fee in certain situations; increasing the current minimum application fee for the authorization of a subsequent application to list additional securities or another class of equity securities, or to make changes (such as a change in the name or par value) applicable to issuers that list equity securities; increasing the special charge that is applied when a company first lists a class of common stock; and eliminating the current application fee applicable to processing minor amendments to previously filed applications. With respect to annual listing fees, the Exchange proposes increasing the current minimum annual fee payable on a common stock or a preferred-only listing from $35,000 to $38,000; clarifying that the annual fee for each class of equity security listed is equal to the greater of the minimum fee or the fee calculated on a per share basis of $0.00093; and clearly setting out the minimum and per share rates applicable to each type of listed security. Finally, the Exchange is proposing to make a number of changes and clarifications to its current billing policies.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[5] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the reorganization of the current fee chapter set out in sections 902.01 to 902.04 of the Listed Company Manual will make those sections clearer, more concise, and easier to use. Guidelines on how fees are calculated as well as numerical examples in each section provide appropriate clarification, where necessary. Further, the Commission believes that the modifications to the Listing Fee schedule simplifies the fee structure for its members. While certain companies may pay higher listing fees than under the current fee schedule, the fee schedule overall is consistent with the Exchange's recent revisions to their fees generally.[6]

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (SR–NYSE–2005–35) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6092 Filed 11–2–05; 8:45 am]

BILLING CODE 8010–01–P

[3] *See* Securities Exchange Act Release No. 52463 (September 16, 2005), 70 FR 55933.

[4] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] *See, e.g.* Securities Exchange Act Release No. 49414 (March 12, 2004), 69 FR 13078 (March 19, 2004).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52685; File No. SR–NYSE–2005–17]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto To Amend NYSE Rule 472 (''Communications With the Public'')

October 26, 2005.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Exchange Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on February 15, 2005, the New York Stock Exchange, Inc. (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On August 12, 2005, the NYSE submitted Amendment No. 1 to the proposed rule change.[4] On October 19, 2005, the NYSE submitted Amendment No. 2 to the proposed rule change.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed amendment to NYSE Rule 472, which will exempt certain communications with the public from the pre-use review and approval requirement. Below is the text of the proposed rule change. Proposed new language is *italicized*; proposed deletions are in [brackets].

Rule 472

Communications With the Public

Approval of Communications and Research Reports

(a)(1) *Except for institutional sales material*, [E]*e*ach advertisement[,] *and* market letter, *and all* sales literature or other similar type of communication which is generally distributed or made available by a member or member organization to customers or the public must be approved in advance by a member, allied member, supervisory

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Amendment No. 1 clarifies the proposal and includes additional information on the use of the term ''Qualified Investor.''

[5] Amendment No. 2 to the proposed rule change makes a technical amendment to the filing.

analyst, or qualified person designated under the provisions of Rule 342(b)(1). *All communications with the public are subject to the standards set forth under Rule 342.17.*

(2)(A) Written policies and procedures relating to institutional sales material are required. Such policies and procedures must include a risk-based system to conduct ''spot-check'' reviews of institutional sales material, prior to distribution or within a reasonable period of time thereafter, for compliance with Rule 472. Factors to be considered in conducting such risk-based reviews must include, at minimum, i) the source of the material (i.e., the department from which the material originates); ii) the functions and responsibilities of persons producing the material; iii) the quantity of material produced per person; iv) the disciplinary history of persons producing the material; v) the content of the material; and vi) the formatting of the material.

(B) The materials selected must be reviewed to determine, at minimum: i) Whether they qualify as institutional sales material pursuant to Rule 472 Supplementary Material .10(6); ii) whether the material gives rise to any conflicts of interest; and iii) whether the material complies with the content standards of Rule 472(i).

[(2)] (*3*) Research reports must be prepared or approved, in advance, by a supervisory analyst acceptable to the Exchange under the provisions of Rule 344. Where a supervisory analyst does not have technical expertise in a particular product area, the basic analysis contained in such report may be co-approved by a product specialist designated by the organization. In the event that the member organization has no principal or employee qualified with the Exchange to approve such material, it must be approved by a qualified supervisory analyst in another member organization by arrangement between the two member organizations.

(b)(1) through (k)(3) UNCHANGED

Supplementary Material: * * *

.10 Definitions

(1) Communication—The term ''Communication'' is deemed to include, but is not limited to advertisements, market letters, research reports, sales literature, electronic communications, communications in and with the press and wires and memoranda to branch offices or correspondent firms which are shown or distributed to customers or the public.

(2) Research Report—''Research report'' is generally defined as a written or electronic communication which includes an analysis of equity securities of individual companies or industries, and provides information reasonably sufficient upon which to base an investment decision.

For purposes of approval by a supervisory analyst pursuant to Rule 472(a)[(2)]*(3)*, the term research report includes but is not limited to, a report which recommends equity securities, derivatives of such securities, including options, debt and other types of fixed income securities, single stock futures products, and other investment vehicles subject to market risk.

(3) Advertisement—''Advertisement'' is defined to include, but is not limited to, any sales communications that is published, or designed for use in any print, electronic or other public media such as newspapers, periodicals, magazines, radio, television, telephone recordings, web sites, motion pictures, audio or video device, telecommunications device, billboards or signs.

(4) Market Letters—''Market Letters'' are defined as, but are not limited to, any written comments on market conditions, individual securities, or other investment vehicles that are not defined as research reports. They also may include ''follow-ups'' to research reports and articles prepared by members or member organizations which appear in newspapers and periodicals.

(5) Sales literature—''Sales literature'' is defined as, but is not limited to, written or electronic communications including, but not limited to, telemarketing scripts, performance reports or summaries, form letters, seminar texts, and press releases discussing or promoting the products, services, and facilities offered by a member or member organization, the role of investment in an individual's overall financial plan, or other material calling attention to any other communication.

(6) Institutional Sales Material—For purposes of Rule 472, the term ''institutional sales material'' includes any communication, other than ''research reports'' and ''advertisements'' as those terms are defined in Supplementary Material section .10 (2) and .10(3) respectively, that is distributed or made available only to ''Qualified Investors'' as defined in section 3(a)(54) of the Securities Exchange Act of 1934, as amended. A member or member organization may not treat a communication as having been distributed or made available only to Qualified Investors if such member or member organization has reason to believe that the communication, or any excerpt thereof, will be forwarded or made available to any person other than a Qualified Investor.

.20 through .120 UNCHANGED

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange is proposing an amendment to NYSE Rule 472, which will exempt certain communications with the public provided to institutional investors from the pre-use review and approval requirement.

Exchange Rule 472 (''Communications with the Public'') prescribes supervisory standards for several types of communications. It currently requires that all market letters, advertisements, sales literature and similar communications be approved in advance by a member, allied member, supervisory analyst, or qualified person designated under the provisions of NYSE Rule 342(b)(1). Communications deemed to be research reports must be prepared or approved, in advance, by a supervisory analyst acceptable to the Exchange under the provisions of NYSE Rule 344 (''Research Analysts and Supervisory Analysts'') (see NYSE Rule 472.10 for definitions of types of communications).

The proposed amendment would exempt communications, except advertising and research reports, from prior-approval requirements if they are directed only to ''Qualified Investors,'' as that term is defined under Section 3(a)(54)[6] of the Exchange Act. The exempted communications are defined as ''institutional sales material.''

According to the NYSE, the Qualified Investor standard was chosen because it is an established definition, readily recognized in the securities industry, that encompasses what are generally

[6] 15 U.S.C. 78c(a)(54).

understood to be ''sophisticated'' investors.[7] Although it includes certain individuals (natural persons), they are subject to a higher financial standard (any natural person who owns and invests on a discretionary basis, not less than $25,000,000 in investments) than an ''Accredited Investor'' (natural persons with net worth of $1,000,000 or $200,000 annual income) defined under Rules 215(e) and (f)[8] of the Securities Act of 1933 (the ''Securities Act'')[9] or a ''Qualified Purchaser'' (natural person who owns not less than $5,000,000 in investments) under Section 2(a)(51) the Investment Company Act of 1940.[10]

According to the NYSE, the rationale for the proposed amendment is based on the fact that the types of communications to be exempted from pre-use review (primarily trader commentary, market ''color'' comments, and other spontaneous market-related communications) are provided as an ongoing, time-sensitive service to sophisticated investors. The NYSE believes that these types of communications are generally understood by such investors to be of-the-moment commentary, not to be confused with formalized, detailed, and prescriptive materials that would rise to the level of research. The NYSE notes that the following types of communications are illustrative of exempted communications (neither advertising nor research) addressed by the proposed amendment:[11]

- Summaries of, or commentary on economic, political or market conditions that do not recommend or rate individual securities.
- Notices of ratings or price target changes that do not contain any narrative discussion or analysis of the company, provided that the member or member organization simultaneously directs the readers of the notice as to where they may obtain the most recent research report on the subject company (such report would be subject to pre-distribution approval and would include disclosures required by NYSE Rule 472, including ''conflicts of interest'' disclosures).
- Information conveyed by trading desk representatives who evaluate and analyze trading conditions for the market as a whole or for particular market sectors. Such communications may include risk arbitrage opportunities such as the near-simultaneous buying and selling of the same or similar securities in different markets to profit on market price differentials.

According to the NYSE, generally speaking, in order for the foregoing information to be effective it must be conveyed in a timely manner. Accordingly, virtually all such information is transmitted electronically. The NYSE believes that requiring item-by-item pre-use review undercuts the value that timeliness imparts to such communications. Further, the NYSE notes that given that the exempted materials do not provide information reasonably sufficient upon which to base an investment decision (in which case, they would be deemed research) a prior-approval requirement is unwarranted in light of the sophistication and financial wherewithal of the recipients.

According to the NYSE, it is also noted that, unlike research analysts, the preparers (*e.g.*, trading desk personnel) of these types of communications are not generally subject to the same risk of pressure from investment bankers that could bias or compromise the integrity of the material. Accordingly, the NYSE notes that research reports, which require disclosure of such potential conflicts of interest, remain subject to pre-use review and approval by a supervisory analyst, and include all potential conflict of interest disclosures required by NYSE Rule 472.

According to the NYSE, the proposed amendment recognizes an essential distinction, reflected in federal securities laws, between protections afforded retail investors and certain designated institutional/sophisticated investors. In this regard, the NYSE believes that many of the disclosure/review requirements in connection with the registration, sale, and/or re-sale of securities to the public, are not statutorily required when such offerings do not involve a public offering (*e.g.*, private placements made in accordance with Regulation D[12] under the Securities Act) or are limited to institutional investors (*e.g.*, re-sales made in accordance with Rules 144[13] and 144A[14] under the Securities Act). NYSE believes that the proposed amendment also recognizes a similar distinction found in the rules of other self-regulatory organizations.[15]

According to the NYSE, as a safeguard, the proposed amendment makes clear that ''institutional sales materials'' (*i.e.*, those sales materials other than advertisements and research) remain fully subject to supervisory requirements prescribed by NYSE Rule 342.17 which include: Appropriate written policies and procedures; provision for the education and training of employees with respect to such policies and procedures; documentation of such education and training; and surveillance and follow-up to ensure that such policies and procedures are implemented and adhered to.

Also, notwithstanding the proposed exemptions, the NYSE believes that all communications remain subject to the general standards for all communications under NYSE Rule 472(i) which prohibit: Any untrue statement or omission of a material fact; a statement that is false or misleading; promises of specific results; exaggerated or unwarranted claims; opinions for which there is no reasonable basis; and projections or forecasts of future events which are not clearly labeled as forecasts.

The proposed amendment further requires written policies and procedures relating to institutional sales material that include a risk-based system to conduct ''spot-check'' reviews of such material, prior to distribution or within a reasonable period of time thereafter,

[7] Exchange Act Section 3(a)(54) expressly defines the term ''qualified investor,'' and provides authority to the Commission by rule or order to expand the definition to include any other person, taking into consideration such factors as the person's financial sophistication, net worth, and knowledge and experience in financial matters. Subsection (xi) of Section 3(a)(54)(A) provides that ''any corporation, company, or partnership that owns and invests on a discretionary basis, not less than $25,000,000 in investments'' is a qualified investor. The Commission interpreted the term ''company'' as used in this subsection to have a broad meaning that encompasses any other type of entity not otherwise specifically listed in Section 3(a)(54). In addition, subsection (v) of Section 3(a)(54)(A) includes certain employee benefit plans within the definition of ''qualified investor.'' The Commission clarified that any State sponsored employee benefit plan, or any other employee benefit plan, within the meaning of the Employee Retirement Income Security Act of 1974, other than an individual retirement account, qualifies only if the investment decisions are made by a plan fiduciary, as defined in Section 3(21) of that Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser. Section 3(a)(54) expressly limited the definition of ''qualified investor'' to these types of employee benefit plans, and the Commission's interpretation does not cover other types of employee benefit plans. See Release No. 47364 (February 13, 2003), 68 FR 8686 (Feb. 24, 2003).

[8] 17 CFR 230.215(e) and (f).

[9] 15 U.S.C. 77a.

[10] 15 U.S.C. 80a–2(a)(51).

[11] *See* Joint Memorandum of NASD and the New York Stock Exchange (NYSE Information Memo Nos. 02–26, dated June 26, 2002 and 04–10, dated March 9, 2004).

[12] 17 CFR 230.501–508.

[13] 17 CFR 230.144.

[14] 17 CFR 230.144A.

[15] The Securities and Exchange Commission approved amendments to NASD Rule 2210 and approved new Rule 2211 which, inter alia, exclude all communications to institutional investors from NASD member pre-use approval, from NASD filing requirements, and from many of NASD's content standards. *See* Release No. 34–47820 (May 9, 2003), 68 FR 27116 (May 19, 2003) (SR–NASD–00–12).

for compliance with NYSE Rule 472. According to the NYSE, factors to be considered in conducting a risk-based review of institutional sales material must include, at minimum:

(1) The source of the material (*i.e.*, the department from which the material originates to identify possible inter-departmental conflicts of interest);[16]

(2) The functions and responsibilities of persons producing the material (to identify persons with access to sensitive information);

(3) The quantity of material produced per person (to concentrate on those persons issuing the most material);

(4) The disciplinary history of persons producing the material (a disciplinary history might warrant pre-use review, or other regulatory action in some instances);

(5) The content and formatting of the material, to determine whether it qualifies for post-distribution review as institutional sales material under NYSE Rule 472 Supplementary Material .10(6) (*i.e.*, to determine that it is not research or advertising), and to review for conflicts of interest (*e.g.*, recommendations of securities in which the author or the firm holds a proprietary position); and

(6) Whether the material complies with the content standards of NYSE Rule 472(i).

In sum, the Exchange believes the proposed amendment would expedite the transmission of time-sensitive market materials to sophisticated customers, while retaining appropriate supervisory controls, follow-up, and review.

It is also proposed that paragraph 472(a)(2) be repositioned and renumbered 472(a)(3) and that the reference to this paragraph in 472.10(2) be likewise amended to reflect the change. The NYSE believes that these are non-substantive amendments.

(2) Statutory Basis

The statutory basis for this proposed rule change is Section 6(b)(5) of the Exchange Act[17] which requires, among other things, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general to protect investors and the public interests. The proposed rule is consistent with this section in that it would expedite transmission of time sensitive communication to sophisticated investors while retaining appropriate controls, follow-up, and review of such materials and persons.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2005–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–NYSE–2005–17. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2005–17 and should be submitted on or before November 25, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6094 Filed 11–2–05; 8:45 am]

BILLING CODE 8010–01–P

[16] *See* NYSE Information Memo No. 91–22, dated June 28, 1991 for joint NYSE/NASD guidance on ''Chinese Wall'' policies and procedures with respect to material, non-public information.

[17] 15 U.S.C. 78f(b)(5).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52672; File No. SR–PCX–2005–121]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add to Its Current Revenue Sharing Program an Opportunity To Share in ETP Operating Revenue for Cross Orders in Tape C Securities

October 25, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 21, 2005, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), through its wholly owned subsidiary, PCX Equities, Inc. (''PCXE''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6)[4] thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules governing the Archipelago Exchange (''ArcaEx''), the equities trading facility of PCXE. With this proposed rule change, the Exchange proposes to add to its current revenue sharing program an opportunity to share in ETP Operating Revenue for Cross Orders[6] in Tape C securities. The text of the proposed rule change is available at the PCX's Web site (*http://www.pacificex.com*), at the PCX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. PCX has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the current ArcaEx revenue sharing program applicable to Cross Orders executed in ArcaEx Tape C securities. The Exchange proposes to add language to the ArcaEx fee schedule describing the new ETP Operating Revenue sharing program. The proposal is similar to revenue sharing programs currently in place at the Nasdaq Stock Market and the National Stock Exchange,[7] although it will be a more narrow application of such programs because it is limited to Cross Orders.

Under the proposal, ETP Holders would be eligible to share in ETP Operating Revenue (''ETPOR'') associated with Cross Orders in Tape C securities. Specifically, ETPOR is defined as operating revenue that is generated by ETP Holders and consists of transaction fees and market data revenue that is attributable to ETP Holders' Cross Order executions. ETPOR shall not include any investment income or regulatory monies.

The sharing of ETPOR shall be based on each ETP Holder's pro rata contribution to ETPOR and the amount shared shall not exceed ETPOR. Under the proposal, PCX's Board of Directors would have the authority to determine the appropriate amount of ETPOR to be shared with ETP Holders. In making this determination, the Board would balance the objective of sharing a meaningful percentage of ETPOR with the objective of maintaining ArcaEx's financial integrity.[8] Such payments would be made quarterly after ArcaEx has accounted for operating expenses and working capital contributions. ArcaEx proposes to implement such changes effective November 1, 2005.

A specific example of how the proposal would be implemented follows.

First, the number of cross order executions in Tape C securities would be determined by ETP Holder for the quarter. Second, transaction fees and market data revenue (ETPOR) associated with such executions would be calculated. Third, PCX's Board of Directors would determine what percentage of ETPOR would be shared with ETP Holders. Fourth, that percentage would be allocated on a pro rata basis to ETP Holders based on their relative number of cross order executions in Tape C securities.

The rationale for these changes is to reduce the costs incurred by ETP Holders in executing Cross Orders on ArcaEx and to make the pricing for executions on the ArcaEx more competitive. The Exchange evaluated the economics of modifying its current revenue sharing program and determined that is [*sic*] was feasible and appropriate, given the costs involved and competitive concerns.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[9] of the Act, in general, and furthers the objectives of Section 6(b)(5),[10] in particular, because it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The PCX has asked the Commission to waive the 30-day operative delay. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Such waiver will allow the PCX to implement competitive pricing of ArcaEx Cross Orders in Tape

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange provided the Commission with written notice of its intention to file this proposed rule change on September 9, 2005. *See* Rule 19b–4(f)(6), 17 CFR 240.19b–4(f)(6).

[6] *See* PCXE Rule 7.31 for Cross Order definitions.

[7] *See* Securities Exchange Act Release Nos. 48303 (August 8, 2003), 68 FR 48654 (August 14, 2003) and 46688 (October 18, 2002), 67 FR 65816 (October 28, 2002). The NSX program includes book fees and technology fees, and the Nasdaq program includes technology fees. ArcaEx does not charge technology fees or book fees, and as such, these fees are not included in the proposed calculation of ETP Operating Revenue, *infra*.

[8] Regulatory fees are currently separately allocated to PCX and as such, ArcaEx will not compromise funds that would be used for regulatory responsibilities.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

C securities. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[13]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–PCX–2005–121 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549–9303.

All submissions should refer to File Number SR–PCX–2005–121. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the PCX.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PCX–2005–121 and should be submitted on or before November 25, 2005.

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6083 Filed 11–2–05; 8:45 am]

BILLING CODE 8010–01–P

[14] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10222 and # 10223]

Florida Disaster # FL–00011

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–1609–DR), dated October 24, 2005.

Incident: Hurricane Wilma.

Incident Period: October 23, 2005 and continuing.

Effective Date: October 24, 2005.

Physical Loan Application Deadline Date: December 23, 2005.

EIDL Loan Application Deadline Date: July 24, 2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on October 24, 2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Collier, Lee, and Monroe.

Contiguous Counties:

Florida: Broward, Charlotte, Glades, Hendry, and Miami-Dade.

The Interest Rates are:

	Percent
Homeowners with Credit Available Elsewhere	5.375
Homeowners without Credit Available Elsewhere	2.687
Businesses with Credit Available Elsewhere	6.557
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) with Credit Available Elsewhere	4.750
Businesses and Non-Profit Organizations without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 102228 and for economic injury is 102230.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05–21956 Filed 11–2–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10222 and # 10223]

Florida Disaster Number FL–00011

AGENCY: Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Florida (FEMA–1609–DR), dated 10/24/2005.

Incident: Hurricane Wilma.

Incident Period: 10/23/2005 and continuing.

Effective Date: 10/26/2005.

Physical Loan Application Deadline Date: 12/23/2005.

EIDL Loan Application Deadline Date: 07/24/2006.

ADDRESSES: Submit completed loan applications to: Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Florida, dated 10/24/2005, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties:

Broward, Glades, Hendry, Miami-Dade, Martin, Palm Beach, and St. Lucie.

Contiguous Counties:

Florida: De Soto, Highlands, Indian River, and Okeechobee.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 05–21958 Filed 11–2–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10228 and # 10229]

New Hampshire Disaster # NH–00001

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of New Hampshire (FEMA–1610–DR), dated October 26, 2005.

Incident: Severe Storms and Flooding.

Incident Period: October 7, 2005 through October 18, 2005.

Effective Date: October 26, 2005.

Physical Loan Application Deadline Date: December 27, 2005.

EIDL Loan Application Deadline Date: July 26, 2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on October 26, 2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Cheshire, Grafton, Hillsborough, Merrimack, and Sullivan.

Contiguous Counties:

New Hampshire: Belknap, Carroll, Coos, Rockingham, and Strafford.

Massachusetts: Essex, Franklin, Middlesex, and Worcester.

Vermont: Caledonia, Essex, Orange, Windham, and Windsor.

The Interest Rates are:

	Percent
Homeowners with Credit Available Elsewhere	5.375
Homeowners without Credit Available Elsewhere	2.687
Businesses with Credit Available Elsewhere	6.557
Businesses and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) with Credit Available Elsewhere	4.750
Businesses and Non-Profit Organizations without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 102286 and for economic injury is 102290.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05–21959 Filed 11–2–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10203 and # 10204]

Texas Disaster Number TX–00066

AGENCY: Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA–1606–DR), dated 09/24/2005.

Incident: Hurricane Rita.

Incident Period: 09/23/2005 through 10/14/2005.

Effective Date: 10/25/2005.

Physical Loan Application Deadline Date: 01/11/2006.

EIDL Loan Application Deadline Date: 06/26/2006.

ADDRESSES: Submit completed loan applications to: Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Texas, dated 09/24/2005, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 01/11/2006.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 05–21957 Filed 11–2–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to waive the Nonmanufacturer Rule for Forklifts Manufacturing.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a waiver of the Nonmanufacturer Rule for Forklifts Manufacturing. The basis of waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program to provide the products of small business manufacturers or processors on such contracts. The purpose of this notice is to solicit comments and potential source information from interested parties.

DATES: Comments and sources must be submitted on or before November 14, 2005.

FOR FURTHER INFORMATI0N CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by fax at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule.

The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small

business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. Class of products is an individual subdivision within a NAICS Industry Number as established by the Office of Management and Budget in the NAICS Manual, 13 CFR 121.1202(d). The second is the Product and Service Code required as a data entry by the Federal Procurement Data System.

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Forklifts Manufacturing, NAICS 333924. The public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for this NAICS code.

Authority: 15 U.S.C. 637(a)(17).

Dated: October 25, 2005.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. 05–21960 Filed 11–2–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to waive the Nonmanufacturer Rule for Office Supplies, Paper and Toner.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a waiver of the Nonmanufacturer Rule for Office Supplies, Paper and Toner. The basis of waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program to provide the products of small business manufacturers or processors on such contracts. The purpose of this notice is to solicit comments and potential source information from interested parties.

DATES: Comments and sources must be submitted on or before November 16, 2005.

FOR FURTHER INFORMATION CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by fax at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule.

The SBA regulations imposing this requirement are found at 13 CFR 121.406 (b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202 (c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. Class of products is an individual subdivision within a NAICS Industry Number as established by the Office of Management and Budget in the NAICS Manual, 13 CFR § 121.1202(d). The second is the Product and Service Code required as a data entry by the Federal Procurement Data System.

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Office Supplies, Paper and Toner, under NAICS 424120, 339940, 325132, 325992, 322231, 453210. The public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for these NAICS codes.

Authority: 15 U.S.C. 637(a)(17).

Dated: October 25, 2005.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. 05–21961 Filed 11–2–05; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5211]

60-Day Notice of Proposed Information Collection: Forms DS–100, DS–100E, DS–101, DS–101E, DS–102, DS–102E, DS–104, and DS–104E, Diplomatic Motor Vehicle Applications for: Vehicle Registration, Title, and Replacement Plates, OMB Control Number 1405–0072

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Diplomatic Motor Vehicle Applications for: Vehicle Registration, Title, and Replacement Plates.
- *OMB Control Number:* 1405–0072.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Diplomatic Security/Office of Foreign Missions (DS/OFM/VTC/V).
- *Form Numbers:* DS–100, DS–100E, DS–101, DS–101E, DS–102, DS–102E, DS–104 and DS–104E.
- *Respondents:* Foreign missions that have personnel assigned to the United Sates: diplomatic agents, consular officers, administrative and technical staff, specified official representatives of foreign governments to international organizations, and their dependents.
- *Estimated Number of Respondents:* 20,270.
- *Estimated Number of Responses:* 20,270.
- *Average Hours Per Response:* .5 hours (30 minutes).
- *Total Estimated Burden:* 10,135.
- *Frequency: On occasion.*
- *Obligation to Respond:* Required to obtain or retain a benefit.

DATES: The Department will accept comments from the public up to 60 days from November 3, 2005.

ADDRESSES: The Department will accept comments from the public up to 60 days

from date of publication in the **Federal Register**. You may submit comments by either of the following methods:

• E-mail: *OFMCustomerService@state.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

• Mail: U.S. Department of State, Office of Foreign Missions, Attn: Diplomatic Motor Vehicle Director, 3507 International Place, NW., State Annex 33, Washington, DC 20522–3302. You must include the DS form number, information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Attn: Jacqueline Robinson, Diplomatic Motor Vehicle Director, Office of Foreign Missions, 3507 International Place, NW., State Annex 33, Washington, DC 20522–3302, who may be reached at 202–895–3528 or *RobinsonJD@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper performance of our functions.

• Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of Proposed Collection

The operation of a motor vehicle in the United States by foreign mission personnel is a benefit under the Foreign Mission Act, 22 U.S.C. 4301 *et seq.* The U.S. Department of State Registration and Title application forms (DS–100, DS–100E, DS–101, DS–101E, DS–102, DS–102E, DS–104, and DS–104E) are the means by which foreign missions in the United States request the registration, titling, and issuance of replacement license plates for motor vehicles owned/operated by foreign missions, foreign diplomatic and consular personnel, as well as specified official representatives of foreign governments to international organizations in the United States, and their dependents.

Methodology

This collection is submitted by all foreign missions in paper format on one of four forms; the information is then entered into an electronic database, maintained and utilized by the Office of Foreign Missions to administer the benefit. Electronic versions of DS–100 and DS–101 (DS–100E and DS–101E) were introduced in May 2005 to a few foreign missions to test and develop an electronic submission option. Electronic versions of the DS–102 and DS–104 (DS–102E and DS–104E) have been developed and will be implemented in early 2006. To facilitate the collection of information in a more systematic and efficient manner, the Office of Foreign Missions will continue to develop the database to support an end-to-end electronic submission process, bearing in mind as well that utilization of electronic submissions by individual missions is dependent on the status of their own systems.

Dated: October 14, 2005.

John R. Arndt,

Acting Deputy Assistant Secretary, Bureau of Diplomatic Security, Office of Foreign Missions, Department of State.

[FR Doc. 05–21938 Filed 11–2–05; 8:45 am]

BILLING CODE 4710–43–P

DEPARTMENT OF STATE

[Public Notice 5212]

Culturally Significant Objects Imported for Exhibition Determinations: ''Antonello da Messina: Sicily's Renaissance Master''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Antonello da Messina: Sicily's Renaissance Master,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, NY, from on or about December 12, 2005, until on or about March 5, 2006, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8049). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: October 27, 2005.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 05–21937 Filed 11–2–05; 8:45 am]

BILLING CODE 4710–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

North American Free Trade Agreement; Invitation for Applications for Inclusion on the Chapter 19 Roster

AGENCY: Office of the United States Trade Representative.

ACTION: Invitation for Applications.

SUMMARY: Chapter 19 of the North American Free Trade Agreement (''NAFTA'') provides for the establishment of a roster of individuals to serve on binational panels convened to review final determinations in antidumping or countervailing duty (''AD/CVD'') proceedings and amendments to AD/CVD statutes of a NAFTA Party. The United States annually renews its selections for the Chapter 19 roster. Applications are invited from eligible individuals wishing to be included on the roster for the period April 1, 2006 through March 31, 2007.

DATES: Applications should be received no later than November 28, 2005.

ADDRESSES: Applications should be submitted (i) electronically, to *FR0501@ustr.eop.gov*, Attn: ''Chapter 19 Roster Applications'' in the subject line, or (ii) by fax to Sandy McKinzy at 202–395–3640.

FOR FURTHER INFORMATION CONTACT: Jeffrey G. Weiss, Assistant General Counsel, Office of the United States Trade Representative, (202) 395–4498.

SUPPLEMENTARY INFORMATION:

Binational Panel Reviews Under NAFTA Chapter 19

Article 1904 of the NAFTA provides that a party involved in an AD/CVD proceeding may obtain review by a binational panel of a final AD/CVD determination of one NAFTA Party with respect to the products of another NAFTA Party. Binational panels decide whether such AD/CVD determinations are in accordance with the domestic laws of the importing NAFTA Party, and must use the standard of review that would have been applied by a domestic court of the importing NAFTA Party. A panel may uphold the AD/CVD determination, or may remand it to the national administering authority for action not inconsistent with the panel's decision. Panel decisions may be reviewed in specific circumstances by a three-member extraordinary challenge committee, selected from a separate roster composed of fifteen current or former judges.

Article 1903 of the NAFTA provides that a NAFTA Party may refer an amendment to the AD/CVD statutes of another NAFTA Party to a binational panel for a declaratory opinion as to whether the amendment is inconsistent with the General Agreement on Tariffs and Trade (''GATT''), the GATT Antidumping or Subsidies Codes, successor agreements, or the object and purpose of the NAFTA with regard to the establishment of fair and predictable conditions for the liberalization of trade. If the panel finds that the amendment is inconsistent, the two NAFTA Parties shall consult and seek to achieve a mutually satisfactory solution.

Chapter 19 Roster and Composition of Binational Panels

Annex 1901.2 of the NAFTA provides for the maintenance of a roster of at least 75 individuals for service on Chapter 19 binational panels, with each NAFTA Party selecting at least 25 individuals. A separate five-person panel is formed for each review of a final AD/CVD determination or statutory amendment. To form a panel, the two NAFTA Parties involved each appoint two panelists, normally by drawing upon individuals from the roster. If the Parties cannot agree upon the fifth panelist, one of the Parties, decided by lot, selects the fifth panelist from the roster. The majority of individuals on each panel must consist of lawyers in good standing, and the chair of the panel must be a lawyer.

Upon each request for establishment of a panel, roster members from the two involved NAFTA Parties will be requested to complete a disclosure form, which will be used to identify possible conflicts of interest or appearances thereof. The disclosure form requests information regarding financial interests and affiliations, including information regarding the identity of clients of the roster member and, if applicable, clients of the roster member's firm.

Criteria for Eligibility for Inclusion on Chapter 19 Roster

Section 402 of the NAFTA Implementation Act (Pub. L. 103–182, as amended (19 U.S.C. 3432)) (''Section 402'') provides that selections by the United States of individuals for inclusion on the Chapter 19 roster are to be based on the eligibility criteria set out in Annex 1901.2 of the NAFTA, and without regard to political affiliation. Annex 1901.2 provides that Chapter 19 roster members must be citizens of a NAFTA Party, must be of good character and of high standing and repute, and are to be chosen strictly on the basis of their objectivity, reliability, sound judgment, and general familiarity with international trade law. Aside from judges, roster members may not be affiliated with any of the three NAFTA Parties. Section 402 also provides that, to the fullest extent practicable, judges and former judges who meet the eligibility requirements should be selected.

Adherence to the NAFTA Code of Conduct for Binational Panelists

The ''Code of Conduct for Dispute Settlement Procedures Under Chapters 19 and 20'' (see *http://www.nafta-sec-alena.org/DefaultSite/index_e.aspx?CategoryId=75*), which was established pursuant to Article 1909 of the NAFTA, provides that current and former Chapter 19 roster members ''shall avoid impropriety and the appearance of impropriety and shall observe high standards of conduct so that the integrity and impartiality of the dispute settlement process is preserved.'' The Code also provides that candidates to serve on chapter 19 panels, as well as those who are ultimately selected to serve as panelists, have an obligation to ''disclose any interest, relationship or matter that is likely to affect [their] impartiality or independence, or that might reasonably create an appearance of impropriety or an apprehension of bias.'' Annex 1901.2 of the NAFTA provides that a roster member may engage in other business while serving as a panelist, subject to the Code of Conduct and provided that such business does not interfere with the performance of the panelist's duties. In particular, Annex 1901.2 states that ''[w]hile acting as a panelist, a panelist may not appear as counsel before another panel.''

Procedures for Selection of Chapter 19 Roster Members

Section 402 establishes procedures for the selection by the Office of the United States Trade Representative (''USTR'') of the individuals chosen by the United States for inclusion on the Chapter 19 roster. The roster is renewed annually, and applies during the one-year period beginning April 1 of each calendar year.

Under Section 402, an interagency committee chaired by USTR prepares a preliminary list of candidates eligible for inclusion on the Chapter 19 roster. After consultation with the Senate Committee on Finance and the House Committee on Ways and Means, USTR selects the final list of individuals chosen by the United States for inclusion on the Chapter 19 roster.

Remuneration

Roster members selected for service on a Chapter 19 binational panel will be remunerated at the rate of 800 Canadian dollars per day.

Applications

Eligible individuals who wish to be included on the Chapter 19 roster for the period April 1, 2006 through March 31, 2007 are invited to submit applications. Persons submitting applications may either send one copy by fax to Sandy McKinzy at 202–395–3640, or transmit a copy electronically to *FR0501@ustr.eop.gov,* with ''Chapter 19 Roster Applications'' in the subject line. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Applications must be typewritten, and should be headed ''Application for Inclusion on NAFTA Chapter 19 Roster.'' Applications should include the following information, and each section of the application should be numbered as indicated:

1. Name of the applicant.
2. Business address, telephone number, fax number, and e-mail address.
3. Citizenship(s).
4. Current employment, including title, description of responsibility, and name and address of employer.

5. Relevant education and professional training.

6. Spanish language fluency, written and spoken.

7. Post-education employment history, including the dates and addresses of each prior position and a summary of responsibilities.

8. Relevant professional affiliations and certifications, including, if any, current bar memberships in good standing.

9. A list and copies of publications, testimony, and speeches, if any, concerning AD/CVD law. Judges or former judges should list relevant judicial decisions. Only one copy of publications, testimony, speeches, and decisions need be submitted.

10. Summary of any current and past employment by, or consulting or other work for, the Governments of the United States, Canada, or Mexico.

11. The names and nationalities of all foreign principals for whom the applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. 611 *et seq.*, and the dates of all registration periods.

12. List of proceedings brought under U.S., Canadian, or Mexican AD/CVD law regarding imports of U.S., Canadian, or Mexican products in which the applicant advised or represented (for example, as consultant or attorney) any U.S., Canadian, or Mexican party to such proceeding and, for each such proceeding listed, the name and country of incorporation of such party.

13. A short statement of qualifications and availability for service on Chapter 19 panels, including information relevant to the applicant's familiarity with international trade law and willingness and ability to make time commitments necessary for service on panels.

14. On a separate page, the names, addresses, telephone and fax numbers of three individuals willing to provide information concerning the applicant's qualifications for service, including the applicant's character, reputation, reliability, judgment, and familiarity with international trade law.

Current Roster Members and Prior Applicants

Current members of the Chapter 19 roster who remain interested in inclusion on the Chapter 19 roster must submit updated applications. Individuals who have previously applied but have not been selected may reapply. If an applicant, including a current or former roster member, has previously submitted materials referred to in item 9, such materials need not be resubmitted.

Public Disclosure

Applications normally will not be subject to public disclosure. They may be referred to other federal agencies in the course of determining eligibility for the roster, and shared with foreign governments and the NAFTA Secretariat in the course of panel selection.

False Statements

Pursuant to section 402(c)(5) of the NAFTA Implementation Act, false statements by applicants regarding their personal or professional qualifications, or financial or other relevant interests that bear on the applicants' suitability for placement on the Chapter 19 roster or for appointment to binational panels, are subject to criminal sanctions under 18 U.S.C. 1001.

Paperwork Reduction Act

This notice contains a collection of information provision subject to the Paperwork Reduction Act (''PRA'') that has been approved by the Office of Management and Budget (''OMB''). Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB number. This notice's collection of information burden is only for those persons who wish voluntarily to apply for nomination to the NAFTA Chapter 19 roster. It is expected that the collection of information burden will be under 3 hours. This collection of information contains no annual reporting or record keeping burden. This collection of information was approved by OMB under OMB Control Number 0350–0009. Please send comments regarding the collection of information burden or any other aspect of the information collection to USTR at the above e-mail address or fax number.

Privacy Act

The following statements are made in accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a). The authority for requesting information to be furnished is section 402 of the NAFTA Implementation Act. Provision of the information requested above is voluntary; however, failure to provide the information will preclude your consideration as a candidate for the NAFTA Chapter 19 roster. This information is maintained in a system of records entitled ''Dispute Settlement Panelists Roster.'' Notice regarding this system of records was published in the **Federal Register** on November 30, 2001. The information provided is needed, and will be used by USTR, other federal government trade policy officials concerned with NAFTA dispute settlement, and officials of the other NAFTA Parties to select well-qualified individuals for inclusion on the Chapter 19 roster and for service on Chapter 19 binational panels.

Daniel E. Brinza,

Assistant United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 05–21895 Filed 11–2–05; 8:45 am]

BILLING CODE 3190–W6–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Jackson County, OR

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 transportation improvement in the City of Medford, Jackson County, Oregon.

FOR FURTHER INFORMATION CONTACT: Elton Chang, Environmental Coordinator, Federal Highway Administration, The Equitable Center, 530 Center Street, NE., Suite 100, Salem, Oregon 97301, Telephone: (503) 399–5749, *elton.chang@fhwa.dot.gov.*

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation (ODOT), will prepare an (EIS) on a proposal to solve the long-term (design year 2025) transportation demands in the Oregon Highway 62 / Crater Lake Highway Corridor. Improvements are considered necessary to provide for existing and projected traffic demand and a safe and efficient transportation system meeting modern design standards. The Oregon Highway Plan classifies this segment of Oregon Highway 62 as a Statewide National Highway and a freight route of statewide significance. Alternatives will be developed as part of the Alternatives Analysis component that will be incorporated into the EIS. Alternatives under consideration include (1) taking into action; (2) improving the existing Oregon Highway 62 / Crater Lake Highway corridor with a series of access/frontage roads; and (3) construction of a new roadway on new

alignment to reduce congestion in the corridor. Phased construction/improvements will be evaluated during the project development process, including evaluating interim solutions for a highway segment between the intersections of Poplar Drive and Delta Waters. Various build alternatives to be studied will include design variations of grade and alignment. Build alternatives will also consider improvements to the existing transit service; use of Transportation System Management, and Transportation Demand Management measures to alleviate traffic congestion; improvements to bicycle and pedestrian facilities; and access management.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have expressed or are known to have an interest in this proposal. Formal agency and public scoping meetings as well as additional public and agency meetings will be held during the course of the National Environmental Policy Act process. In addition, a public hearing will be held. The draft EIS will be available for public and agency review and comments prior to the public hearing. To ensure that the full range of issues related to this proposed action are addressed and all significant 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 at the address provided above.

(Catalogue of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: October 27, 2005.

Elton Chang,

Environmental Coordinator, Oregon Division, FHWA.

[FR Doc. 05–21911 Filed 11–2–05; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2005–22847]

Notice of Receipt of Petition for Decision That Nonconforming 1999–2001 Ducati 996 Biposto Motorcycles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1999–2001 Ducati 996 Biposto motorcycles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1999–2001 Ducati 996 Biposto motorcycles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is December 5, 2005.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.] 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.*

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

US SPECS of Aberdeen, Maryland (Registered Importer 03–321) has petitioned NHTSA to decide whether non-U.S. certified 1999–2001 Ducati 996 Biposto motorcycles are eligible for importation into the United States. The vehicles that US SPECS believes are substantially similar are 1999–2001 Ducati 996 Biposto motorcycles that were manufactured for importation into and sale in the United States and were certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it carefully compared non-U.S. certified 1999–2001 Ducati 996 Biposto motorcycles to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

US SPECS submitted information with its petition intended to demonstrate that non-U.S. certified 1999–2001 Ducati 996 Biposto motorcycles, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1999–2001 Ducati 996 Biposto motorcycles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 106 *Brake Hoses,* 116 *Brake Fluid,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* and 122 *Motorcycle Brake Systems.*

The petitioner further contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated below:

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Inspection of all vehicles and replacement of the following with U.S.-model components on vehicles not already so equipped: (a) Headlamps; (b) tail lamps; (c) front and rear turn signal lamps; (d) front and rear side-mounted reflex reflectors; rear-mounted reflex reflector; and (e) left handlebar-mounted lighting control switch assembly.

Standard No. 111 *Rearview Mirrors:* Inspection of all vehicles and modification or replacement of any non-U.S.-model components as necessary to conform to this standard.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* (a) Installation of a tire information placard; and (b) inspection of all vehicles to ensure compliance with rim marking requirements, and replacement of rims that are not properly marked with U.S.-model rims.

Standard No. 123 *Motorcycle Controls and Displays:* Installation of a U.S.-model speedometer, or modification of the speedometer so that it reads in miles per hour.

Standard No. 205 *Glazing Materials:* Inspection of all vehicles, and removal of noncompliant glazing or replacement of the glazing with U.S.-model components on vehicles that are not already so equipped.

Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 05–21904 Filed 11–2–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 663X)]

CSX Transportation, Inc.—Abandonment Exemption—in Jefferson County, NY

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 1.1-mile line on its Northern Region, Albany Division, St. Lawrence Subdivision, between milepost 1.5 and the end of the track, milepost 2.6, near Watertown, in Jefferson County, NY. The line traverses United States Postal Service Zip Codes 13601.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line 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 Surface Transportation 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 meet.

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 December 3, 2005, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 14, 2005. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 23, 2005, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to the applicant's representative: Louis E. Gitomer, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

CSXT has filed an environmental and historic report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 8, 2005. 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), CSXT 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 CSXT's filing of a notice of consummation by November 3, 2006, 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: October 27, 2005.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 05–21833 Filed 11–2–05; 8:45 am]

BILLING CODE 4915–01–P

[1] 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.

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,200. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network; Proposed Collection; Comment Request; Suspicious Activity Report by Insurance Companies

AGENCY: Financial Crimes Enforcement Network (''FinCEN'').

ACTION: Notice and request for comments.

SUMMARY: FinCEN invites comment on a proposed information collection contained in a new form, ''Suspicious Activity Report by Insurance Companies (SAR–IC).'' The form will be used by insurance companies to report suspicious activity to the Department of the Treasury. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995, Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments are welcome and must be received on or before January 3, 2006.

ADDRESSES: Written comments should be submitted to: Department of the Treasury, Financial Crimes Enforcement Network, Regulatory Policy and Programs Division, P.O. Box 39, Vienna, VA 22183, Attention: PRA Comments—SAR-Insurance Companies Form. Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.treas.gov,* again with a caption, in the body of the text, ''Attention: PRA Comments—SAR-Insurance Companies Form.''

Inspection of comments. Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Washington, DC. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354–6400.

FOR FURTHER INFORMATION CONTACT: FinCEN's Regulatory Policy and Programs Division, Forms Administration at (800) 949–2732.

SUPPLEMENTARY INFORMATION: *Title:* Suspicious Activity Report by Insurance Companies (SAR–IC).

OMB Number: 1506–00XX.

Form Number: FinCEN Form 108.

Abstract: The statute generally referred to as the ''Bank Secrecy Act,'' Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–14, 5316–5332, authorizes the Secretary of the Treasury, *inter alia,* to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.[1] Regulations implementing the Bank Secrecy Act appear at 31 CFR part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.

The Secretary of the Treasury was granted authority in 1992, with the enactment of 31 U.S.C. 5318(g), to require financial institutions to report suspicious transactions. On October 17, 2002, we issued a notice of proposed rulemaking requiring insurance companies to report suspicious transactions. The final rule can be found at 31 CFR 103.16, which also can be found in today's FR.

In the preamble to the notice of proposed rulemaking, we indicated that we would be developing a suspicious activity reporting form for insurance companies entitled ''Suspicious Activity Report by Insurance Companies,'' or ''SAR–IC.''[2]

The information collected on the new form is required to be provided pursuant to 31 U.S.C. 5318(g) and 31 CFR 103.16. This information will be made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel, for use in official performance of their duties, for regulatory purposes and in investigations and proceedings involving domestic and international money laundering, terrorist financing, and other financial crimes.

Reports filed by insurance companies required to report suspicious transactions under 31 CFR 103.16, and any reports filed voluntarily by other insurance companies will be subject to the protection from liability contained in 31 U.S.C. 5318(g)(3) and the provision contained in 31 U.S.C. 5318(g)(2) which prohibits notification of any person involved in the transaction that a Suspicious Activity Report has been filed.

The enclosed draft SAR–IC form is presented only for purposes of soliciting public comment on the form. This form should not be used at this time to report suspicious activity. A final version of the form will be made available at a later date.

Type of Review: New information collection.

Affected public: Business or other for-profit institutions.

Frequency: As required.

Estimated Burden: Reporting average of 2 hours per response. This burden relates to the completion of the SAR–IC form and the recordkeeping burden of 31 CFR 103.16. *See* 67 FR 64067, 64075.

Estimated number of respondents: 1,200.

Estimated Total Annual Responses: 1,200.

Estimated Total Annual Burden Hours: 2,400.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the Bank Secrecy Act must be retained for five years.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: October 28, 2005.

William J. Fox,

Director, Financial Crimes Enforcement Network.

BILLING CODE 4810–02–P

[1] Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001 (the ''USA Patriot Act''), Public Law 107–56.

[2] *See* 67 FR 64067, 64075.

FinCEN Form 108

November 2005

Suspicious Activity Report by Insurance Companies

Please type or print. Always complete entire report. Items marked with an asterisk * are considered critical. (See instructions).

1506-00xx

1 Check this box only if amending or correcting a prior report. ☐ 1a. Check this box if this is an updated report ☐

Part I Subject Information

2 Check (a) ☐ if multiple subjects (b) ☐ subject information unavailable (See instructions)

*3 Individual's last name or entity's full name	*4 First name	5 Middle initial
6 Also known as (AKA - individual), doing business as (DBA - entity)	7 Occupation or type of business	
*8 Address	*9 City	*10 State
*11 ZIP Code —	12 Country code (If not U.S.) (See instructions)	*13 SSN/ITIN (Individual), or EIN (Entity)
*14 Date of birth ___/___/___ MM DD YYYY		

*15 Government issued identification (If available)

a ☐ Driver's license/state ID b ☐ Passport c ☐ Alien registration d ☐ Other _____

e ID Number _____ f Issuing state or country _____

16 Work phone number ( ) —	17 Home phone number ( ) —

Part II Suspicious Activity Information

*18 Type of suspicious activity: a ☐ Money laundering b ☐ Terrorist financing

*19 Date or date range of suspicious activity

From ___/___/___ MM DD YYYY To ___/___/___ MM DD YYYY

*20 Total dollar amount involved in suspicious activity $ .00

*21 Covered product type (Check all that apply)

a ☐ Annuity contract b ☐ Permanent life insurance policy c ☐ Other (Explain in Part V)

*22 Method of payment a ☐ Cash b ☐ Personal Check c ☐ Traveler's Check d ☐ Negotiable instrument e ☐ Other(Explain in Part V)

*23 Specific activity that can be identified. (Check all that apply)

a ☐ Bribery/gratuity
b ☐ Cash/unusual premium payment
c ☐ Early/excessive cash borrowing
d ☐ Early policy termination
e ☐ Excessive insurance
f ☐ Identity theft
g ☐ Little or no product performance concern
h ☐ Money structuring
i ☐ Multiple money orders or checks
j ☐ Significant transactions (wire or other) without economic purpose
k ☐ Suspicious documents or ID presented
l ☐ Transfer to unrelated third party
m ☐ Unclear or no insurable interest
o ☐ Unusual designation of beneficiary/assignee
p ☐ Unusual viatical sales
q ☐ Other (Describe in Part V)

Mail completed form to:
Detroit Computing Center
Attn: SAR - IC
P. O. Box 33106
Detroit, MI 48232-0106

Paperwork Reduction Act Notice: The purpose of this form is to provide an effective and consistent means for financial institutions to notify appropriate law enforcement agencies of known or suspected criminal conduct or suspicious activities that take place at or were perpetrated against financial institutions. This report is required by law, pursuant to authority contained in the following statutes. Board of Governors of the Federal Reserve System: 12 U.S.C. 324, 334, 611a, 1844(b) and (c), 3105(c) (2) and 3106(a). Federal Deposit Insurance Corporation: 12 U.S.C. 93a, 1818, 1881-84, 3401-22. Office of the Comptroller of the Currency: 12 U.S.C. 93a, 1818, 1881-84, 3401-22. Office of Thrift Supervision: 12 U.S.C. 1463 and 1464. National Credit Union Administration: 12 U.S.C. 1766(a), 1786(q). Financial Crimes Enforcement Network: 31 U.S.C. 5318(g). Information collected on this report is confidential (5 U.S.C. 552(b)(7) and 552a(k)(2), and 31 U.S.C. 5318(g)). The Federal financial institutions' regulatory agencies and the U.S. Departments of Justice and Treasury may use and share the information. Public reporting and recordkeeping burden for this information collection is estimated to average 30 minutes per response, and includes time to gather and maintain data in the required report, review the instructions, and complete the information collection. Send comments regarding this burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503 and, depending on your primary Federal regulatory agency, to Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551; or Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429; or Legislative and Regulatory Analysis Division, Office of the Comptroller of the Currency, Washington, DC 20219; or Office of Thrift Supervision, Enforcement Office, Washington, DC 20552; or National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314; or Office of the Director, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, VA 22183. The agencies may not conduct or sponsor, and an organization (or a person) is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Catalog Number XXXXXX

Part III Reporting Financial Institution Information (See instructions) 2

24 Check this box if this report is being filed jointly (See instructions for listing joint filer information). ☐

*25 Name of financial institution — This is: a ☐ Filing Institution or b ☐ Joint filer

*26 Employer identification number

*27 Address of Financial Institution

28 Internal control/file number(Optional)

*29 City | *30 State | *31 ZIP Code

32 Primary Federal Regulator

a ☐ Federal Reserve b ☐ FDIC c ☐ NCUA d ☐ OCC e ☐ OTS f ☐ IRS g ☐ SEC h ☐ CFTC

*33 Policy number(s) affected that are related to subject listed in Part I, if any. Check "Yes" if closed or terminated.

a Policy number Yes ☐ | b Policy number Yes ☐ | c Policy number Yes ☐

*34 Contract number(s) affected that are related to subject listed in Part I, if any. Check "Yes" if closed or terminated.

a Contract number Yes ☐ | b Contract number Yes ☐ | c Contract number Yes ☐

35 Relationship of the subject (Part I) to the above listed financial institution (check no more than four):

a ☐ Accountant b ☐ Agent c ☐ Appraiser d ☐ Attorney e ☐ Borrower f ☐ Broker g ☐ Customer
h ☐ Director i ☐ Employee j ☐ Officer k ☐ Shareholder l ☐ Other _____

*36 Address of branch office(s) where activity occured

*37 City | *38 State | *39 ZIP Code | *40 Country (If not US, enter 2 digit code)

41 Address of branch office where activity occured (if required)

42 City | 43 State | 44 ZIP Code | 45 Country (If not US, enter 2 digit code)

46 Address of branch office where activity occured (if required)

47 City | 48 State | 49 ZIP Code | 50 Country (If not US, enter 2 digit code)

51 Address of branch office where activity occured (if required) ☐ Check if additional branch addresses are listed in Part V

52 City | 53 State | 54 ZIP Code | 55 Country (If not US, enter 2 digit code)

Part IV Contact for Assistance

*56 Designated contact office

*57 Designated phone number (include area code) ( ) -

*58 Date filed ____ / ____ / ____ (MM DD YYYY)

59 Agency (if not filed by financial institution)

Special note:
If this report is being filed jointly, box 24 must be checked and Item 32 completed. The filing institution and the joint filer must complete Part III and Part IV of this report. The joint filer is not required to complete Item 58 of Part IV.

DRAFT

Part V *Suspicious Activity Information - Narrative Instructions 3

Explanation/description of suspicious activity(ies). This section of the report is critical. The care with which it is completed may determine whether or not the described activity and its possible criminal nature are clearly understood by investigators. Provide a clear, complete and chronological narrative description (**continue on a blank page if necessary**) of the activity. The narrative should address as much of the information listed in the checklist below as possible.

a. **Describe** conduct that raised suspicion.
b. **Explain** whether the transaction(s) was completed or only attempted.
c. **Describe** supporting documentation (e.g., transaction records, new account information, tape recordings, e-mail messages, correspondence, etc.). **The filer (and joint filer if appropriate) must retain a copy of the SAR and its supporting documentation** and retain such documentation on file for five years.
d. **Explain** who benefited, financially or otherwise, from the transaction(s), how much and how (if known).
e. **Describe and retain** any admission, or explanation of the transaction(s) provided by the subject(s), or other persons. Indicate to whom and when it was given.
f. **Describe and retain** any evidence of cover-up or evidence of an attempt to deceive federal or state examiners, or others.
g. **Indicate** where the possible violation of law(s) took place (e.g., main office, branch, other).
h. **Indicate** whether the suspicious activity is an isolated incident or relates to another transaction.
i. **Indicate** whether there is any related litigation. If so, specify the names of the parties involved and the court where the action is pending.
j. **Indicate** a lack of a relationship between the insured, the policy or contract owner, the beneficiary, and the person/entity paying the premiums.
k. **Indicate** whether any information has been excluded from this report; if so, state reasons.
l. **Indicate** any frequent or unusual changes in a policy.
m. **Specify** any unexplained death or payment to a beneficiary in a foreign jurisdiction.
n. **Indicate** the insured, the policy or contract owner, the beneficiary, and the person paying the premiums if not already identified.
o. **Indicate** whether U.S. or foreign currency and/or U.S. or foreign negotiable instrument(s) were involved. If foreign, provide the amount, name of currency, and country of origin.
p. **Indicate** any wire transfer in or out identifier numbers, including the transfer company's name.
q. **Indicate** whether funds or assets were recovered and, if so, enter the dollar value of the recovery in whole dollars only.
r. **Indicate** any additional policy or contract number(s) from items 24 through 29 and any domestic or foreign account number(s) which may be involved.
s. **Indicate** for a foreign national any available information on subject's passport(s), visa(s), and/or identification card(s). Include date, country, city of issue, issuing authority, and nationality.
t. **Describe** any suspicious activities that involve transfer of funds to or from a foreign country, or transactions in a foreign currency. Identify the country, sources and destinations of funds.
u. **Describe** subject(s) position if employed by the financial institution.
v. **Indicate** the type of institution filing this report, if this is not clear from Part III.
w. **Indicate** in instances when the subject or entity has an agent or broker number, what that number is.
x. **Indicate** the jurisdiction in which the policy is issued (e.g., State or country).
y. If a law enforcement agency has been contacted, list the name of the agency and the name of any person contacted, their title, their telephone number, and when they were contacted.
z. If correcting a prior SAR report, complete this form in its entirety and note the changes here in Part V

Information already provided in earlier parts of this form need not necessarily be repeated if the meaning is clear.

Supporting documentation should not be filed with this report. Maintain the information for your files.

Enter the explanation/description narrative in the space below. If necessary, continue the narrative on a duplicate of this page or a blank page.

Tips on SAR form preparation and filing are available in the SAR Activity Reviews at **www.fincen.gov/pub_reports.html or the "SAR Narrative Guidance Package" at www.fincen.gov/narrativeguidance_webintro.pdf**

Legal disclaimers will not be included in this narrative.

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Safe Harbor Federal law (31 U.S.C. 5318(g)(3)) provides complete protection from civil liability for all reports of suspicious transactions made to appropriate authorities, including supporting documentation, regardless of whether such reports are filed pursuant to this report's instructions or are filed on a voluntary basis. Specifically, the law provides that a financial institution, and its directors, officers, employees and agents, that make a disclosure of any possible violation of law or regulation, including in connection with the preparation of suspicious activity reports, "shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure or any other person identified in the disclosure."

Notification Prohibited Federal law (31 U.S.C. 5318(g)(2)) provides that a financial institution, and its directors, officers, employees, and agents who, voluntarily or by means of a suspicious activity report, reports suspicious transactions to the government, may not notify any person involved in the transaction that the transaction has been reported.

In situations involving violations that require immediate attention, such as terrorist financing or ongoing money laundering schemes, the financial institution shall immediately notify by telephone an appropriate law enforcement authority in addition to filing a timely suspicious activity report.

Definitions

Annuity contract means any agreement between the insurer and the contract owner whereby the insurer promises to pay out a fixed or variable income stream for a period of time.

Covered product means:

(i) A permanent life insurance policy, other than a group life insurance policy;

(ii) An annuity contract, other than a group annuity policy; or

(iii) Any other insurance product with features of cash value or investment.

Group annuity contract means a master contract providing annuities to a group of persons under a single contract.

Group life insurance policy means any life insurance policy under which a number of persons and their dependents, if appropriate, are insured under a single policy.

Insurance agent means a sales and/or service representative of an insurance company. The term "insurance agent" encompasses any person that sells, markets, distributes, or services an insurance company's covered products, including, but not limited to, a person who represents only one insurance company, a person who represents more than one insurance company, and a bank or broker or dealer in securities that sells any covered product of an insurance company.

Insurance broker means a person who, by acting as the customer's representative, arranges and/or services covered products on behalf of the customer.

Insurance company or insurer:

(i) The term "insurance company" or "insurer" means any person engaged within the United States as a business in the issuing or underwriting of any covered product.

(ii) The term "insurance company" or "insurer" does not include an insurance agent or insurance broker.

Permanent life insurance policy means an agreement that contains a cash value or investment element and that obligates the insurer to indemnify or to confer a benefit upon the insured or beneficiary to the agreement contingent upon the death of the insured.

When to file a report

1. Each insurance company shall file with FinCEN, to the extent and in the manner required by 31 CFR 103.16, a report of any suspicious transaction involving a covered product that is relevant to a possible violation of law or regulation. An insurance company may also file with FinCEN, by using the form specified in 31 CFR 103.16 (c)(1) or otherwise, a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by 31 CFR 103.16.

2. A transaction requires reporting under the terms of 31 CFR 103.16 if it is conducted or attempted by, at, or through an insurance company, it involves or aggregates at least $5,000 in funds or other assets, and the insurance company knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(i) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law or regulation;

(ii) Is designed, whether through structuring or other means, to evade any requirements of 31 CFR 103 or of any other regulations promulgated under the Bank Secrecy Act, Pub. L. 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5314; 5316-5332;

(iii) Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the insurance company knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or

(iv) Involves use of the insurance company to facilitate criminal activity.

3. An insurance company is responsible for reporting suspicious transactions conducted through its insurance agents and insurance brokers. Accordingly, an insurance company shall establish and implement policies and procedures reasonably designed to obtain customer information necessary to detect suspicious activity from all relevant sources, including from its insurance agents and insurance brokers, and shall report suspicious activity based on such information. Certain insurance agents and insurance brokers may have a separate obligation to report suspicious activity pursuant to other provisions of 31 CFR Part 103. In those instances, no more than one report is required to be filed by the financial institutions involved in a particular transaction so long as the report contains all relevant facts, including the name of both institutions in the narrative section, and both institutions maintain a copy of the report filed, along with any supporting documentation.

4. A suspicious transaction shall be reported by completing a Suspicious Activity Report by Insurance Companies (SAR-IC), and collecting and maintaining supporting documentation as required by 31 CFR 103.16. The SAR-IC shall be filed with FinCEN in a central location, to be determined by FinCEN, as indicated in the instructions to the SAR-IC.

5. A SAR-IC shall be filed no later than 30 calendar days after the date of the initial detection by the insurance company of facts that may constitute a basis for filing a SAR-IC under this section. If no suspect is identified on the date of such initial detection, an insurance company may delay filing a SAR-IC for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection. In situations that require immediate attention, such as ongoing terrorist financing or money laundering schemes, the insurance company shall immediately notify by telephone an appropriate law enforcement authority in addition to filing timely a SAR-IC. Insurance companies wishing voluntarily to report suspicious transactions that may relate to terrorist activity may call FinCEN's Financial Institutions Hotline at 1-866-556-3974 in addition to filing timely a SAR-IC if required by this section.

6. Exception. An insurance company is not required to file a SAR-IC to report the submission to it of false or fraudulent information to obtain a policy or make a claim, unless the company has reason to believe that that the false or fraudulent submission relates to money laundering or terrorist financing.

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Suspicious Activity Report Instructions 2.

General Instructions

A. Abbreviations and Definitions

1. AKA--also known as (individual)
2. DEA--Drug Enforcement Administration
3. DBA--doing business as (entity)
4. EIN--Employer Identification Number
5. FBI--Federal Bureau of Investigation
6. ICE--Immigration and Customs Enforcement
7. IRS--Internal Revenue Service
8. ITIN--Individual Taxpayer ID Number
9. NAIC--National Association of Insurance Commissioners
10. SSN--social security number

B. How to make a report:

NOTE: If this report is jointly filed, both of the filing institutions must retain a copy of the SAR and any supporting documentation for a period of five years from the date the report was filed.

1. **This form should be e-filed through the Bank Secrecy Act E-filing System. Go to http://bsaefiling.fincen.treas.gov/index.jsp to register.** This form is also available for download on the Financial Crimes Enforcement Network's Web site at www.fincen.gov, or may be ordered by calling the IRS Forms Distribution Center at (800) 829-3676.

If not filed electronically, send each completed suspicious activity report to:

Detroit Computing Center
Attn: SAR - IC
P.O. Box 33106
Detroit, MI 48232-0106

2. While all items are important, items marked with an asterisk (*) are considered critical for law enforcement purposes and **are required to be completed if known.**

3. If the information for a critical item is not known or not applicable, enter special responses "None," "Not Applicable," "Unknown," or "XX" (state/country/middle initial) as appropriate to complete the item. Other fields should be left blank if the information is unknown or not applicable.

4. Complete each suspicious activity report by providing as much information as possible on initial and corrected reports.

5. Do not include supporting documentation with the suspicious activity report filed. Identify and retain a copy of the suspicious activity report and all supporting documentation (e.g. transaction records, new account information, tape recordings, e-mail messages, correspondence, etc.) or business record equivalent for your files for five (5) years from the date of the suspicious activity report. All supporting documentation must be made available to appropriate authorities upon request.

6. If more than one subject is being reported, make a copy of page 1, complete only the subject information in Part I, and attach the additional page(s) behind page 1. If more space is needed to complete any other item(s), identify that item in Part V by "item number," and provide the additional information.

7. Type or complete the report using block written letters.

8. Enter all **dates** in MM/DD/YYYY format where MM=month, DD=day, and YYYY=year. Precede any single number with a zero, *i.e.*, 01,02, etc.

9. List all **telephone numbers** with (area code) first and then the seven numbers, using the format, i.e., (XXX) XXX-XXXX. List international telephone and fax numbers in Part V.

10. Always enter an **individual's name** by entering the last name, first name, and middle initial (if known). If a legal entity is listed, enter its name in the last name field.

11. Enter all **identifying numbers** (alien registration, driver's license/state ID, EIN, ITIN, Foreign National ID, passport, and SSN etc.) starting from left to right. Do not include spaces, dashes, or other punctuation.

12. Enter all **Post Office ZIP Codes** with at least the first five numbers (all nine (ZIP + 4)) if known) and listed from left to right.

13. Enter all **monetary amounts** in U.S. Dollars. Use whole dollar amounts rounded up when necessary. Use this format: $0,000,000.00. If foreign currency is involved, state name of currency and country of origin in Part V.

14. **Addresses, general.** Enter the permanent street address, city, two letter state/territory abbreviation used by the U.S. Postal Service and ZIP Code (ZIP+4 if known) of the individual or entity. A post office box number should not be used for an individual, unless no other address is available. For an individual, also enter any apartment number or suite number, road or route number. If a P.O. Box is used for an entity, enter the street name, suite number, and road or route number. If the address of the individual or entity is in a foreign country, enter the city, province or state, postal code and two letter country code. Complete any part of the address that is known, even if the entire address is not known. If from the United States, leave country box blank.

C. Specific SAR Preparation Instructions

Item 1-- Type of report. Check Box , "Corrects Prior Report", if this report is filed to correct a previously filed SAR-IC. To correct a report, a new SAR-IC must be completed in its entirety. Note corrected information in Section V (see line "z").

Item 1a-- Check this box if this is an updated report.

PART I Subject Information

Note: Enter information about the person(s) or entity involved that caused this report to be filed, not the victim of the activity.

Item 2 -- Multiple Subjects. If there are multiple subjects involved, check box "2a" and complete a separate Part I for each subject. Check box "2b" only if **NO** subject information is available. If **ANY** subject information is available, record that information in Part 1, leave box "2b" blank, and insert the appropriate special response in any critical item for which data is missing.

Items 3, 4, and 5--*Name of Subject. See General Instruction B10. If the organization is operated under a different trade or business name than its legal name, enter the organization's legal name in Item 3 (e.g., Smith Enterprises, Inc.) and the name of the business in Item 6 (e.g., Smith's Tours). If more than one Part I is required, make a copy of page 1 and provide the additional information.

Item 6-- Also known as (AKA-individual), or doing business as (DBA-entity). If a reporting institution has knowledge of a subject's separate "AKA" or entity's "DBA" name, enter it in item 6.

Item 7-- Occupation/type of business. If known, identify the occupation, profession or business that best describes the individual in Part I (e.g., attorney, car dealer, carpenter, doctor, farmer, plumber, truck driver, etc.). Do not use nondescript terms such as businessman, merchant, store owner (unless store's name is provided). If self employed, unemployed, or retired are used, add current/former profession if known (e.g. self-employed building contractor, unemployed teacher, retired attorney etc.). If the individual's business activities can be described more fully, provide the additional information in Part V. Indicate in Item 7 if "unknown."

Items 8, 9, 10, 11, and 12-- *Address. See General Instructions B12 and B14.

Item 13-- *SSN/ITIN (individual) or EIN (entity). See General Instruction B11 and definitions. If the subject named in items 3 through 5 is a U.S. Citizen or an alien with a SSN, enter his or her SSN in Item 13. If that individual is an alien who has an ITIN, enter that number. If the subject is an entity, enter the EIN.

Item 14-- Date of birth. See General Instruction B8. If an individual is named in Items 3 through 5, enter the date of birth. If the month and/or day is not available or unknown, fill in with zeros (e.g., "01/00/1969" indicates an unknown date in January, 1969).

Item 15-- *Government issued identification. See General Instruction B11. Check the appropriate box showing the type of document used to verify subject identity. If you check "Other" box "d", be sure to specify the type of document used. In box "e", list the ID number of the identifying document. In box "f", list the issuing authority.

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Suspicious Activity Report Instructions 3.

Items 16 and 17-- Telephone numbers. See General Instruction B9. List any additional number(s) (e.g., hotel, etc.) in Part V.

PART II Suspicious Activity Information

Item 18-- *Type of suspicious activity. Check the box(es) that generally identifies the suspicious activity being reported.

Item 19-- *Date or date range of suspicious activity. See General Instruction B8. Enter the date of the reported activity in the "From" field. If more than one day, indicate the duration of the activity by entering the first date in the "From" field and the last date in the "To" field. If the same individual or organization conducts multiple or related activities within the 30 calendar day period after the date of initial detection, the reporting institution may consider reporting the suspicious transactions on one form but only if doing so will fully describe what has occurred. A new report must be filed for other related suspicious transactions committed after the initial detection period.

Item 20-- *Total dollar amount. See General Instruction B13. Enter the total dollar value of the funds or assets involved in the suspicious activity that is conducted by the same individual or organization within the 30 calendar day period after the date of initial detection. For multiple or related suspicious transactions, show the breakdown of this aggregated total in Part V. For abuse by a person associated with the institution, the value of this item can be zero (0). Do not use words, such as "thousand", "million", etc. For foreign currency, convert to U.S. Dollars.

Item 21-- *Covered product type. Mark the type of covered product identified in the suspicious activity.

Item 22-- * Method of payment. Check the appropriate box to indicate how the policy or contract was paid for. If box "a" Cash is checked, indicate in the narrative if the payment included large bills (100's or larger). If box "e" Other is checked explain in Part V

Item 23-- *Specific activity that can be identified. If more specific details of the activity can be identified, check the box(es) that apply. Provide a brief explanation in Part V of why each box is checked. If none of these items applies, mark "other" and provide in Part V an explanation of the type of suspicious activity.

PART III Reporting Financial Institution Information.

Note: If filed jointly, a Part III and Part IV must be completed for each institution.

If this report is being filed jointly (box in item 24 checked), make a copy of page two and complete items 24 through 35 for the joint filer following the same instructions as the filer. Complete regional office reporting information, items 36 through 55 if appropriate. If there are additional joint filers, make as many copies of page two as required to record the additional joint filer information. Attach any additional pages behind page three, and indicate the total number of joint filers in Part V.

NOTE: Reports involving insider abuse may not be filed jointly.

Item 24-- Check this box if this report is being filed jointly and complete the joint filer information as directed above.

Item 25--Name of financial institution. Enter the full legal name of the institution, *i.e.* the name shown on the charter or other document creating the entity. Check box "a", "Filing institution" when the listed institution is the institution preparing and filing the report. Check box "b", "Joint filer" for all other reporting institutions.

Item 26--*Employer identification number. See General Instruction B11. Enter the reporting financial institution's EIN.

Items *27, *29, *30, and *31-- Address. See General Instruction B14. This address should be of the principal office or headquarters in the United States.

Item 28--Internal report control/file number (optional). Enter any internal file or report number assigned by the reporting institution to track this report. This information will act as an identification aid if contact is required.

Item 32--Primary Federal Regulator (This item must be completed for all reports). Depository Institutions jointly filing this report must check box "a" through "e" (only one). For all other institutions, check box "f", "g", or "h" as appropriate.

Items 33 (a, b, & c),-- Policy numbers. Enter up to three policy numbers. List additional numbers in Part V.

Items 34 (a, b, & c),-- Contract numbers. Enter up to three contract numbers. List additional numbers in Part V.

Item 35--Relationship to Financial Institution. Check the appropriate box(es) to indicate whether or not the subject identified in Part I, items 3-5 is or was associated with the reporting institution. Up to four boxes can be checked.

Items 36 through 55-- Regional office address locations. See General Instructions B12 & B14. Provide the addresses of up to four regional office locations where the most significant portion of the suspicious activity occurred. If there are more than four locations, check the box labeled "Check if additional branch ..." in the last branch address (item 51) and list the additional locations in Part V. If there are no regional addresses involved, enter "Not Applicable" in Item 36.

Part IV Contact for assistance

Items *56-- Designated contact office. Enter the name of the office that the financial institution has designated to receive request for assistance with this report. This office must have an individual knowledgeable of this report available during regular business hours.

Item *57--Phone number. See General Instruction B9. Enter the work telephone number of the contact office.

Item *58--Date filed. See General Instruction B8. Enter the date this report was filed. For electronic filing, it is the date that the report was e-filed using BSA Direct. For magnetic media filing, it is the date the magnetic media was forwarded to DCC. For all other filers, it is the date the financial institution completed the final review and mailed/submitted the report to DCC.

Item 59--Agency. If this report is filed by an agency other than a financial institution such as a regulator or OFAC, enter the name of the reporting agency in Item 59.

Part V *Suspicious Activity Information - Narrative

This is the most important section, and should be completed in as much detail as possible. See page 3 of the form for specific instructions for completing the narrative. **The reporting financial institution should not include legal disclaimers in the narrative.**

Paperwork Reduction Act Notice:

The purpose of this form is to provide an effective means for financial institutions to notify appropriate law enforcement agencies of suspicious transactions that occur by, through, or at the financial institutions. This report is required by law, pursuant to authority contained in 31 U.S.C. 5318(g). Information collected on this report is confidential (31 U.S.C. 5318(g)). Federal regulatory agencies, the U.S. Departments of Justice and Treasury, and other authorized authorities may use and share this information. Public reporting and recordkeeping burden for this form is estimated to average 45 minutes per response, and includes time to gather and maintain information for the required report, review the instructions, and complete the information collection. Send comments regarding this burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503 and to the Financial Crimes Enforcement Network, Attn.: Paperwork Reduction Act, P.O. Box 39, Vienna VA 22183-0039. The agency may not conduct or sponsor, and an organization (or a person) is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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[FR Doc. 05–21916 Filed 11–2–05; 8:45 am]
BILLING CODE 4810–02–C

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 28, 2005.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before December 5, 2005, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1537.

Type of Review: Extension.

Title: REG–253578–96(NPRM) Health Insurance Portability for Group Plans; (Temporary) Interim Rules for Health Insurance Portability for Group Health Plans.

Description: The regulations provide guidance for group health plans and the employers maintaining them regarding requirements imposed on plans relating to preexisting condition exclusions, discrimination based on health status, and access to coverage.

Respondents: Business or other for-profit, Not-for-profit institutions, State, local or tribal.

Estimated Total Burden Hours: 262,289 hours.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Michael A. Robinson,

Treasury PRA Clearance Officer.

[FR Doc. 05–21923 Filed 11–2–05; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of International Affairs

Survey of U.S. Ownership of Foreign Securities as of December 31, 2005

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice, the Department of the Treasury is informing the public that it is conducting a mandatory survey of U.S. ownership of foreign securities as of December 31, 2005. This Notice constitutes legal notification to all United States persons who are in the reporting panel set forth in this Notice that they must respond to this survey. Additional copies of the reporting form SHCA and instructions may be printed from the Internet at: *http://www.treas.gov/tic/forms.html.*

Who Must Report: It is expected that reporting will be required only from those organizations which reported the largest values of securities data on the benchmark survey Form SHC entitled ''U.S. Ownership of Foreign Securities, Including Selected Money Market Instruments as of December 31, 2001''. The panel for this survey is expected to include: the 31 largest custodians and largest end-investors that filed schedule 2 in the aforementioned 2001 benchmark survey; and 188 of the next largest end-investors that filed schedule 3 in the aforementioned 2001 benchmark survey. Entities required to report will be contacted individually by the Federal Reserve Bank of New York. Entities not contacted by the Federal Reserve Bank of New York have no reporting responsibilities.

What To Report: This report will collect information on U.S. resident holdings of foreign securities, i.e., equities, long-term debt securities, and short-term debt securities (including selected money market instruments).

How To Report: Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, may be obtained at the website address given above in the **SUMMARY**, or by contacting the survey staff of the Federal Reserve Bank of New York at (212) 720–6300, e-mail: *SHC.help@ny.frb.org.* The mailing address is: Federal Reserve Bank of New York, Statistics Function, 4th Floor, 33 Liberty Street, New York, NY 10045–0001.

When To Report: Data must be submitted to the Federal Reserve Bank of New York, acting as fiscal agent for the Department of the Treasury, by March 3, 2006.

Paperwork Reduction Act Notice: This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 1505–0146. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The estimated average annual burden associated with this collection of information is 48 hours per respondent for end-investors and custodians that file schedule 3 reports covering their securities entrusted to U.S. resident custodians, 145 hours per respondent for large end-investors filing schedule 2 reports, and 700 hours per respondent for large custodians of securities filing Schedule 2 reports. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Department of the Treasury, Attention Administrator, International Portfolio Investment Data Reporting Systems, Room 5422, Washington, DC 20220, and to OMB, Attention Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Reporting Systems.

[FR Doc. 05–21892 Filed 11–2–05; 8:45 am]

BILLING CODE 4810–25–P

UNITED STATES INSTITUTE OF PEACE

Sunshine Act; Notice of Meeting

AGENCY: United States Institute of Peace.

DATE/TIME: Thursday, November 17, 2005, 9:15 a.m.–3:30 p.m.

LOCATION: 1200 17th Street, NW., Suite 200, Washington, DC 20036–3011.

STATUS: Open Session—Portions may be closed pursuant to subsection (c) of section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

AGENDA: November 2005 Board Meeting; Approval of Minutes of the One Hundred Twentieth Meeting (September 22, 2005) of the Board of Directors; Chairman's Report; President's Report; Fiscal Year 2007 Budget Submission to OMB; Selection of NPEC topic; Grants Program Restructure; Other General Issues.

FOR FURTHER INFORMATION CONTACT: Tessie Higgs, Executive Office, Telephone: (202) 429–3836.

Dated: October 31, 2005.

Patricia P. Thomson,

Executive Vice President, United States Institute of Peace.

[FR Doc. 05–22016 Filed 11–1–05; 12:30 pm]

BILLING CODE 6820–AR–M

DEPARTMENT OF VETERANS AFFAIRS

Construction Advisory Board; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Construction Advisory Board will be held on Tuesday November 15, 2005, at the Department of Veterans Affairs, 810 Vermont Avenue NW., Room 430, Washington, DC. The meeting will begin at 1 p.m. and end at 5 p.m.

The purpose of the Board is to provide advice to the Secretary of the Department of Veterans Affairs regarding VA construction. The Board will make recommendations to the Secretary on the nature and scope of the Department's construction processes.

The meeting will be open to the public from 1 p.m. to 2 p.m., with an opportunity for public comments during that period. The Board will discuss its final recommendations to the Secretary. From 2 p.m. to 5 p.m., the Board will discuss selected personnel matters affecting the management of VA's construction program. To protect personal privacy and in accordance with 5 U.S.C. 552b(c)(6), that portion of the meeting will be closed.

Members of the public may direct questions or submit written statements for review by the Board in advance of the meeting. Any member of the public wishing to make a brief oral presentation or to attend the meeting should contact Doug Belling, Designated Federal Officer, at the Office of Asset Enterprise Management (004B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, or by telephone at (202) 273–6675.

Dated: October 27, 2005.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 05–21891 Filed 11–2–05; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council; Cancellation of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the National Research Advisory Council meeting scheduled for Tuesday, November 8, 2005, at the Hamilton Crowne Plaza Hotel, 14th & K Streets, NW., Washington, DC, has been cancelled.

Any member of the public wishing further information should contact Ms. Karen Scott, Designated Federal Officer, at (202) 254–0200, or *karen.scott@hq.med.va.gov.* She can also be reached by writing to Ms. Scott at Department of Veterans Affairs, Office of Research and Development (12C), 810 Vermont Ave, NW., Washington, DC 20420.

Dated: October 27, 2005.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 05–21890 Filed 11–2–05; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Thursday,
November 3, 2005

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Revised Proposed Designation of Critical Habitat for the California Red-Legged Frog (*Rana aurora draytonii*); Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

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RIN–1018–AJ16

Endangered and Threatened Wildlife and Plants; Revised Proposed Designation of Critical Habitat for the California Red-Legged Frog (*Rana aurora draytonii*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; revised proposed designation of critical habitat, special rule, reopening of comment period, and notice of availability of the draft economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of a 90-day public comment period for the proposed rule to designate critical habitat for the California red-legged frog (*Rana aurora draytonii*), pursuant to the Endangered Species Act of 1973, as amended (Act), and a concurrent 90-day comment period for the draft economic analysis for this proposed rule. A previous proposed rule to designate critical habitat was published on April 13, 2004 (69 FR 19620). We herein revise those critical habitat boundaries to better reflect lands containing essential features for the California red-legged frog, and we now propose to designate approximately 737,912 acres (ac) (298,622 hectares (ha)) of critical habitat in 23 California counties.

Section 4 of the Act requires us to consider the economic and other relevant impacts of specifying any area as critical habitat. We hereby solicit data and comments from the public on all aspects of this proposal, including data on the economic and other impacts of the designation. We have conducted an analysis of the economic impacts of designating these areas as critical habitat and are announcing the availability of the draft economic analysis for public review.

A special rule is also being proposed to exempt existing routine ranching activities from the prohibitions of the Act because these practices have neutral or beneficial effects on the California red-legged frog. We solicit additional data and information that may assist us in making a final decision on this proposed action.

DATES: We will accept comments from all interested parties until February 1, 2006. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by December 19, 2005.

ADDRESSES: If you wish to comment on this proposed rule and/or the draft economic analysis, you may submit your comments and materials by any one of several methods:

1. You may submit written comments and information to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W. 2605, Sacramento, CA 95825.

2. You may hand-deliver written comments and information to our Sacramento Fish and Wildlife Office, at the above address, or fax your comments to 916/414–6712.

3. You may send your comments by electronic mail (e-mail) to *fw1crlf@fws.gov*. For directions on how to submit electronic filing of comments, see the ''Public Comments Solicited'' section below. In the event that our Internet connection is not functional, please submit comments by the alternate methods mentioned above.

All comments and materials received, as well as supporting documentation used in preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: For general information, information on the special rule, and information about the proposed designation in Alameda, Butte, Calaveras, Contra Costa, El Dorado, Kern, Marin, Merced, Napa, Nevada, San Mateo, Santa Clara, Solano, Stanislaus, and Yuba counties, contact Wayne White, Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W. 2605, Sacramento, CA 95825 (telephone 916/414–6600; facsimile 916/414–6712).

For information about the proposed designation in Los Angeles, Monterey, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz, and Ventura counties, contact Diane Noda, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2394 Portola Road, Suite B, Ventura, CA 93003 (telephone 805/644–1766; facsimile 805/644–3958).

For information about the proposed designation in the San Gabriel Mountains of Los Angeles County or Riverside County, contact Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 6010 Hidden Valley Road, Carlsbad, CA 92009 (telephone 760/431–9440; facsimile 760/431–9624).

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

It is our intent that any final action resulting from this proposal will be as accurate as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule and its associated draft economic analysis. On the basis of public comment, during the development of the final rule we may find that areas proposed do not have the essential features, are appropriate for exclusion under section 4(b)(2), or are not appropriate for exclusion, in which case they would either be removed from or made part of the final designation. We particularly seek comments concerning:

(1) The reasons why any areas should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of designation will outweigh any threats to the subspecies resulting from the designation;

(2) Specific information on the amount and distribution of California red-legged frog and its habitat, and which habitat or habitat components (i.e., physical and biological features) are essential to the conservation of this subspecies and why;

(3) Whether the primary constituent elements for the California red-legged frog as defined in this proposal are biologically and scientifically accurate, specifically;

(a) Whether the requirement for two or more suitable breeding sites within 0.7 mi (1.2 km) is a feature essential to the conservation of the subspecies;

(b) Whether providing 200 ft (60 m) surrounding aquatic and wetland habitat for shelter, forage and predator avoidance is sufficient for conservation of the subspecies;

(4) Land use designations and current or planned activities in or adjacent to the areas proposed and their possible impacts on proposed critical habitat;

(5) Not all of the lands that may contribute to the conservation of the red-legged frog are being proposed as critical habitat. We specifically solicit comment as to whether any other areas should be included and why;

(6) With specific reference to sections 4(a)(3) and 4(b)(2) of the Act, we request information from the Department of Defense (DOD) to assist the Secretary of the Interior in excluding critical habitat on lands administered by, or under the control of, the DOD based on the benefit of an Integrated Natural Resources Management Plan (INRMP) to the

conservation of the subspecies; and information regarding impacts to national security associated with proposed designation of critical habitat; and

(7) Whether the proposed critical habitat unit in southern California with older occurrence records, RIV–2 Arroyo Seco Creek, (see Proposed Critical Habitat designation below) contains features essential to the conservation of the subspecies, and should be designated as critical habitat;

(8) Whether the currently existing unoccupied critical habitat units as identified in the previous **Federal Register** (69 FR 19620; April 13, 2004) (Unit 5) in Tuolumne and Mariposa Counties, and (Unit 31) in Los Angeles County, should remain as critical habitat; and,

(9) Additional information pertaining to the promulgation of a special rule for the California red-legged frog to exempt from take prohibitions under section 9 of the Act existing routine ranching practices located on private and Tribal lands.

(10) Information on how many of the State and local environmental protection measures referenced in the draft economic analysis were adopted largely as a result of the listing of the California red-legged frog, and how many were either already in place or enacted for other reasons;

(11) Whether the draft economic analysis identifies all State and local costs attributable to the proposed critical habitat designation, and information on any costs that have been inadvertently overlooked;

(12) Whether the draft economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes imposed as a result of the designation of critical habitat;

(13) Whether the draft economic analysis correctly assesses the effect on regional costs associated with land use controls that derive from the designation of critical habitat;

(14) The economic analysis indicated potentially disproportionate impacts to areas within San Luis Obispo, Alameda, Contra Costa, Santa Barbara, and San Mateo Counties. Based on this information, we are considering excluding portions of these areas from the final designation per our discretion under section 4(b)(2) of the Act. We are specifically seeking comment along with additional information concerning our final determination for these five areas along with any other areas with potentially disproportionate impacts.

(15) Whether the economic analysis appropriately identifies all costs that could result from the designation, in particular, any impacts on small entities or families; and whether it is appropriate that the analysis does not include the cost of project modifications that are the result of informal consultation only;

(16) Whether there is information about alternate areas that could be used as substitutes for the economic activities planned in areas proposed as critical habitat that would offset the costs and allow for the conservation of critical habitat areas; and

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

If you wish to comment on this proposed rule and/or the draft economic analysis, you may submit your comments and materials concerning this proposal and its associated draft economic analysis by any one of several methods (see **ADDRESSES** section). Please submit electronic comments in ASCII file format and avoid the use of special characters or any form of encryption. Please also include ''Attn: RIN 1018–AJ16'' in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our Sacramento Fish and Wildlife Office at phone number 916/414–6600. Please note that the e-mail address *fw1crlf@fws.gov* will be closed out at the termination of the public comment period. In the event that our internet connection is not functional, please submit comments by the alternate methods mentioned above.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Copies of the proposed rule, draft economic analysis, and information regarding this proposed critical habitat designation are available on the Internet at *http://www.fws.gov/pacific/sacramento*.

Designation of Critical Habitat Provides Little Additional Protection to Species

In 30 years of implementing the Act, (16 U.S.C. 1531 *et seq.*), we have found that the designation of statutory critical habitat provides little additional protection to most listed species, while consuming significant amounts of available conservation resources. Our present system for designating critical habitat has evolved since its original statutory prescription into a process that provides little real conservation benefit, is driven by litigation and the courts rather than biology, limits our ability to fully evaluate the science involved, consumes enormous agency resources, and imposes huge social and economic costs). We believe that additional agency discretion would allow our focus to return to those actions that provide the greatest benefit to the species most in need of protection.

Role of Critical Habitat in Actual Practice of Administering and Implementing the Act

While attention to and protection of habitat is paramount to successful conservation actions, we have consistently found that, in most circumstances, the designation of critical habitat is of little additional value for most listed species, yet it consumes large amounts of conservation resources. Sidle (1987) stated, ''Because the Act can protect species with and without critical habitat designation, critical habitat designation may be redundant to the other consultation requirements of section 7.'' Currently, only 470 species or 37 percent of the 1,264 listed species in the U.S. under our jurisdiction have designated critical habitat.

We address the habitat needs of all 1,264 listed species through conservation mechanisms such as listing, section 7 consultations, the section 4 recovery planning process, the section 9 protective prohibitions of unauthorized take, section 6 funding to the States, and the section 10 incidental take permit process. We believe that it is these measures that may make the difference between extinction and survival for many species.

We note, however, that the August 6, 2004, Ninth Circuit judicial opinion,

Gifford Pinchot Task Force v. *United State Fish and Wildlife Service*) found our definition of adverse modification was invalid. In response to the decision, the Director has provided guidance to the Service based on the statutory language.

Procedural and Resource Difficulties in Designating Critical Habitat

We have been inundated with lawsuits for our failure to designate critical habitat, and we face a growing number of lawsuits challenging critical habitat determinations once they are made. These lawsuits have subjected us to an ever-increasing series of court orders and court-approved settlement agreements, compliance with which now consumes nearly the entire listing program budget. This leaves us with little ability to prioritize its activities to direct scarce listing resources to the listing program actions with the most biologically urgent species conservation needs.

The consequence of the critical habitat litigation activity is that limited listing funds are used to defend active lawsuits, to respond to Notices of Intent (NOIs) to sue relative to critical habitat, and to comply with the growing number of adverse court orders. As a result, listing petition responses, our own proposals to list critically imperiled species, and final listing determinations on existing proposals are all significantly delayed.

The accelerated schedules of court ordered designations have left us with almost no ability to provide for adequate public participation or to ensure a defect-free rulemaking process before making decisions on listing and critical habitat proposals due to the risks associated with noncompliance with judicially-imposed deadlines. This in turn, fosters a second round of litigation in which those who fear adverse impacts from critical habitat designations challenge those designations. The cycle of litigation appears endless, is very expensive, and in the final analysis provides relatively little additional protection to listed species.

The costs resulting from the designation include legal costs, the cost of preparation and publication of the designation, the analysis of the economic effects and the cost of requesting and responding to public comment, and in some cases the costs of compliance with the National Environmental Policy Act (NEPA). None of these costs result in any benefit to the species that is not already afforded by the protections of the Act enumerated earlier, and they directly reduce the funds available for direct and tangible conservation actions.

Background

This rule focuses on the reanalysis and re-proposal of critical habitat for the California red-legged frog (*Rana aurora draytonii*). For that reason, much of the information contained in previously published rules has not been included within this notice. For additional information on the biology and habitat requirements of the California red-legged frog, please refer to the following published rules: (59 FR 4888; 61 FR 25813; 65 FR 54891; 66 FR 14626; 69 FR 19619).

Subspecies Description

The California red-legged frog is the largest native frog in the western United States. It is endemic (native and restricted) to California and Baja California, Mexico, at elevations ranging from sea level to approximately 5,000 feet (ft) (1,500 meters (m)). The California red-legged frog gains its name from the typically red or pink color of its posterior abdomen and hind legs. The California red-legged frog is one of two subspecies of the red-legged frog (*Rana aurora*). For a detailed description of the subspecies, see the Recovery Plan for the California Red-legged Frog (Service 2002) and references identified within the plan as well as information in previous **Federal Register** notices (69 FR 19620; 66 FR 14626; 61 FR 25813).

Life History

During breeding season, which typically runs from November through April, males call to females from the margins of ponds and slow streams (Jennings *et al.*, in litt. 1992). Actual mating most commonly occurs in March, but can vary depending on seasonal climatic patterns. Mating pairs enter a breeding position called amplexus, during which the female lays a jellylike mass of 2,000 to 5,000 reddish brown eggs in the water attached to some brace such as emergent vegetation. The eggs are immediately fertilized by the male, and hatch in 6 to 14 days depending on water temperatures (Jennings 1988). The resulting tadpoles, which likely feed on algae (Dickman, 1968), metamorphose into adult California red-legged frogs from July to September (Storer 1925; Wright and Wright 1949; N. Scott, in litt. 1998), although some tadpoles have been observed to delay metamorphosis until the following March or April (Bobzien *et al.* 2000; Fellers *et al.* 2001; R. Smith, in litt. 2004). Adults tend to be nocturnal, while juveniles can be active at any time of day (Hayes and Tennant 1985).

Geographic Range

The historic range of the California red-legged frog extended from Marin County, California, south along the coast to northwestern Baja California, Mexico, and inland as far as the vicinity of Redding in Shasta County, California (Jennings and Hayes 1985; Hayes and Krempels 1986). Recent genetic studies have identified that the subspecies may extend north along the coast into Mendocino County, California (Shaffer *et al.* 2004). The range of the California red-legged frog has declined since being described by Storer (1925). Through comparison of historical museum records (1890–1980) and field surveys (1990–1992), Fisher and Shaffer (1996) present evidence of the extirpation (local extermination) of California red-legged frogs from 24 of 28 counties in a limited portion of its historical range. In 1996 when the subspecies was listed, 243 streams or drainages in 22 California counties were documented to contain populations of California red-legged frogs (California Natural Diversity Database (CNDDB) 2004). At the time of listing, California red-legged frogs were believed to have been extirpated from most of the southern Coastal Mountains from Santa Barbara south to Baja California and east along the Transverse (San Gabriel, San Bernadino, Santa Ynez, and Santa Monica Mountains) and Peninsular Ranges (San Jacinto, Santa Rosa, Agua Tibia, Laguna, Santa Ana Mountains). Since listing, two additional occurrences have been discovered south of the Tehachapi Mountains (CNDDB 2005) but may no longer be extant. Four additional occurrences have been recorded in the Sierra Nevada foothills, bringing the total to five known populations, compared to approximately 26 historical records (Berkeley Museum of Vertebrate Zoology 2004; CNDDB 2004; California Academy of Sciences 2004; Barry in litt. 2005). Currently California red-legged frogs are only known from 3 disjunct regions in 26 California counties and is still present in Baja California, Mexico (Grismer 2002; Fidenci 2004; R. Smith and D. Krofta, in litt. 2005).

Threats

For information regarding threats to the subspecies, refer to the previous final listing of the subspecies as well as the previous critical habitat proposal (61 FR 25813; 69 FR 19620). Our understanding of the threats of livestock grazing and stock pond development

described in the previous final listing of the subspecies has changed.

Stock pond and small reservoir impoundments can provide suitable breeding habitat for the California red-legged frog. In many areas the presence of California red-legged frogs is due solely to these small ponded habitats. For example, at the Point Reyes National Seashore in Marin County, an area where there are more than 120 breeding sites with an estimated total adult population of several thousand California red-legged frogs, the majority of the breeding sites are artificial stockponds constructed on lands that have been grazed by cattle for over 150 years (Fellers and Guscio 2004). In the Eastbay Regional Park District lands in Contra Costa and Alameda Counties, 43 of 179 ponds surveyed which were exposed to grazing, and were characterized with and without emergent vegetation, supported successful breeding frog populations often exhibiting high rates of annual breeding (Bobzien *et al.* 2000). For more information concerning the importance of stock ponds to the subspecies see the Special Rule section below.

The Service now recognizes that managed livestock grazing at low to moderate levels has a neutral or beneficial effect on California red-legged frog habitat (Bobzien et al. 2000) by keeping a mix of open water habitat and emergent vegetation which is beneficial to the subspecies. In some cases, without managed grazing, stock ponds would quickly fill with emergent vegetation resulting in habitat loss (Bobzien pers. comm. 2005).

However, numerous studies, summarized by Kauffman and Krueger (1984) and Belsky *et al.* (1999), have shown that unmanaged livestock grazing (overgrazing) can negatively affect riparian and instream aquatic habitat. Some of the effects of unmanaged grazing include: Higher instream water temperatures resulting from reduction or removal vegetation, channel down cutting, lowered water tables and loss of plunge pools which results in direct loss of pool habitats for the California red-legged frog (Patla and Keinath 2005), as well as diminished water quality through increased sediment loads and nutrient levels (Belsky *et al.* 1999).

Habitat

California red-legged frogs live in a Mediterranean climate, which is characterized by temporal and spatial changes in habitat quality. During a period of abundant rainfall, almost the entire landscape, including breeding ponds and streams may become suitable habitat for the adults. Conversely, habitat use may be drastically confined during periods of prolonged drought. Due to this variability, population sizes can vary widely from year to year. During favorable years, California red-legged frogs can produce large numbers of dispersing young, resulting in an increase in the number of occupied sites. In contrast, California red-legged frogs may temporarily disappear from an area during periods of extended drought. Therefore, it is essential to provide for sites that can be recolonized by dispersing individuals (Semlitsch 2000).

The habitats used by this subspecies typically change in extent and suitability in response to the dynamic nature of floodplain and fluvial processes (*i.e.*, natural water flow and sedimentation regimes that, in flux, create, modify, and eliminate deep pools, backwater areas, ponds, marshes, and other aquatic habitats). Rangewide, and even within local populations, the California red-legged frog uses a variety of areas, including various aquatic, riparian, and upland habitats. In some cases, they may complete their entire life cycle in a particular habitat (*i.e.*, a pond is suitable for all life stages), and in other cases, they may seek multiple habitat types depending on climatic conditions or distance between and availability of wetland and hydric environments.

Despite the California red-legged frog's ability to utilize multiple habitat types, there are certain habitat features they require. Most important is a breeding pond or slow flowing stream reach or plunge pool within a stream with some type of vegetative or other material to attach their egg masses, that holds water long enough for tadpoles to complete their metamorphoses and juveniles able to survive outside of water. California red-legged frogs often disperse from their breeding habitat to utilize various aquatic, riparian, and upland summer habitats during their migrations from one area to another. However, it is also common for individuals to remain in the breeding area on a year-round basis.

Aquatic breeding habitat must remain hydrated until at least July, and preferably September, so the tadpoles can complete their metamorphoses. Drydowns after that time can be beneficial because they help prevent the establishment of predatory fish or bullfrogs (Hayes and Jennings 1989; Cook 1997; N. Scott, in litt. 1998). Water quality requirements for eggs and tadpoles include low salinity (below 4.5 parts per thousand (ppt) for eggs, up to 7.0 ppt for tadpoles) (Jennings and Hayes 1990; M. Jennings, in litt. 1994), and temperatures below about 73° Fahrenheit (23° Celsius) (Cook 1997; Nussbaum *et al.* 1983). Water bodies free of bullfrogs and nonnative predatory fish, are optimal but California red-legged frog populations can persist in the presence of one or the other of these predators (Kiesecker and Blaustein 1998; Lawler *et al.* 1999).

In Northern California, few California red-legged frog populations occupy naturally occurring wetland environments. Historically, as natural wetlands and streams were converted for agriculture, flood control, and urban development, California red-legged frogs colonized small artificial impoundments created by cattle ranchers for the purpose of providing water for their cattle. Our understanding of the role of stock ponds in the conservation of the California red-legged frog has evolved since listing. Without these stock ponds, the range of the California red-legged frog would be limited further in this region.

Dispersal

Adult California red-legged frogs may disperse from breeding sites at any time of year. Dispersing adult California red-legged frogs in northern Santa Cruz County traveled distances from 0.25 miles (mi) (0.4 kilometers (km)) to more than 2.0 mi (3.2 km) without apparent regard to topography, vegetation type, or riparian corridors (Bulger *et al.* 2003). California red-legged frogs have also been radio tracked in East Las Virgenes Creek, Ventura County which has a Mediterranean climate characterized by highly variable rainfall (R. Smith, in litt. 2005). Habitat includes a well-defined creek and riparian zone with permanent deep pools. In contrast to California red-legged frog movements in Santa Cruz County, Smith *et al.* have found movements of California red-legged frogs to be substantially less, with typical movements of 9—16 feet (3—5 meters) from the water's edge. Maximum distance moved was 48 feet (15 meters) (R. Smith, in litt. 2005). Many newly metamorphosed juveniles tend to disperse short distances initially from July through September, and then move farther away from the breeding habitat during warm rain events (Monk 1997; M. Jennings, in litt. 2000). Bobzien *et al.* (2000) observed juveniles inhabiting a wide variety of habitats while adults primarily inhabited deep pools. They postulated that juveniles might segregate themselves away from adults to escape predation and competition.

For reasons that are currently unclear, juveniles tend to disperse away from

aquatic habitat occupied by adults. Juvenile dispersal is essential for recolonizing temporarily extirpated habitat and preventing genetic isolation because juveniles disperse in more directions, and for longer distances than do migrating adults (Wright, in litt. 1999; Bulger *et al.* 2003). Dispersal habitat for juveniles can be almost anything that provides sheltering vegetation or scattered wetlands or streams. This includes forested areas, nonnative grasslands, and even croplands, but is not known to include urbanized or suburban areas, suburban developments, or areas separated from breeding habitat by impassible barriers. Impassible barriers include wide or fast flowing rivers and streams, lakes greater than 50 ac (20 ha), and heavily traveled roads without underpasses or culverts (Reh and Seitz 1990; Fahrig *et al.* 1995). Juveniles dispersing along riparian corridors may have higher survivorship, as sheltering vegetation and suitable aquatic habitat are both more common in such corridors (M. Jennings, in litt. 2000). Juveniles appear to have less strict requirements for aquatic habitat than adults, and tend to segregate away from adults in water bodies that are shallower or faster moving than those typically used for breeding (Hayes and Jennings 1989; Bobzien pers. comm. 2000; M. Jennings, in litt. 2000).

The long-term probability of the survival and recovery of California red-legged frogs is dependent upon the protection of existing breeding habitat and associated uplands (Fellers and Kleeman 2005), the movements of individuals between aquatic patches, and the ability to recolonize newly created or vacated habitats. Recolonization, which is vital to the recovery of this subspecies, is dependent upon landscape characteristics including the distance between suitable breeding and non-breeding aquatic habitat, and fragmentation of interconnecting habitat (Vos and Chardon 1998).

Previous Federal Action

On June 8, 2001, various homebuilding and commerce organizations filed a lawsuit in the U.S. District Court for the District of Columbia challenging our designation of critical habitat for the California red-legged frog (*Home Builders Ass'n of Northern California, et al.* v. *Norton, et al.*, Civ. No. 01–1291 (RJL) (D. D.C.)). On November 6, 2002, the court entered a consent decree remanding the designation to the Service to conduct a new economic analysis. The consent decree vacated the critical habitat designation for the California red-legged frog with the exception of Units 5 and 31, which were not known to be occupied by the California red-legged frog, and ordered us to promulgate a proposed revised designation by March 2004, and a final revised rule by November 2005. We published a revised critical habitat proposal on April 13, 2004 (69 FR 19620), which proposed the re-designation of the previously established units. Due to comments received, our own re-evaluation of our selection criteria and the primary constituent elements required by the California red-legged frog (see below), we now issue this revised proposed critical habitat designation and its associated draft economic analysis.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 requires consultation on Federal actions that may result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow government or public access to private lands.

To be included in a critical habitat designation, the habitat within the geographical area occupied by the species must first have features that are ''essential to the conservation of the species.'' Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (i.e., areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Specific areas within the geographical area occupied by the species at the time of listing may be included in critical habitat only if the essential features thereon may require special management or protection. Thus, we do not include areas where existing management is sufficient to conserve the species. (As discussed below, such areas may also be excluded from critical habitat pursuant to section 4(b)(2) of the Act.) Accordingly, when the best available scientific data do not demonstrate that the conservation needs of the species so require, we will not designate critical habitat in areas outside the geographic area occupied by the species at the time of listing. An area currently occupied by the species, but was not known to be occupied at the time of listing, will likely be essential to the conservation of the species and, therefore, included in the critical habitat designation.

Our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), and section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service, provide criteria, establish procedures, and provide guidance to ensure that our decisions represent the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas contain features essential to the conservation of a species, a primary source of information is generally the listing package for the species. Additional information sources include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and Counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge. All information is used in accordance with the provisions of section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service.

Section 4 of the Act requires that we designate critical habitat on the basis of what we know at the time of designation. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the

habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Areas that support populations, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act, to the regulatory protections afforded by the section 7(a)(2) of the Act jeopardy standard, and take under sections 9 and 10 of the Act if they support populations, as determined on the basis of the best available information at the time of the action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by section 4(b)(1)(A) of the Act, we use the best scientific data available in determining areas that contain the features that are essential to the conservation of the California red-legged frog. The sources of data used in identifying critical habitat include information in our files regarding habitat requirement of the subspecies including the data sources mentioned in the previous proposal (69 FR 19620), as well as information provided by commenters to that proposal. We also reviewed available information that pertains to the habitat requirements of this subspecies including data in reports submitted during section 7 consultations and by biologists holding section 10(a)(1)(A) recovery permits; research published in peer-reviewed articles and presented in academic theses and agency reports; and regional Geographic Information System (GIS) coverages. We designated no areas outside the geographic area presently occupied by the subspecies.

In re-proposing critical habitat for the California red-legged frog, we changed our previous methodology of using the watershed as our primary mapping unit for the subspecies. Our current methodology includes a more precise mapping of the physical and biological features essential to the conservation of the California red-legged frog (i.e., primary constituent elements (PCEs)) (see below). This has resulted in significant differences between the units we proposed in April, 2004 (69 FR 19620) and those we are proposing here. Additional changes have resulted from minor adjustments to the PCEs, and from an increased emphasis in the criteria on establishing the likely limits of occupied areas. See the section below, Criteria Used to Identify Critical Habitat, for a detailed listing of our selection criteria.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to designate as critical habitat, we are required to consider those physical and biological features (PCEs) that are essential to the conservation of the species, within areas occupied by the species at the time of listing, and that may require special management considerations and protection. These include, but are not limited to: space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, rearing (or development) of offspring; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

Each of the areas designated in this rule have been determined to contain sufficient PCEs to provide for one or more of the life history functions of the California red-legged frog. As a result, the existing conditions at the time of designation will be included in the baseline in any consultation conducted subsequent to this designation. Federal actions that may result in alteration of these conditions will be subject to an analysis to determine whether adverse modification or destruction of critical habitat has occurred.

Aquatic Breeding Habitat

California red-legged frogs typically lay eggs between December and early April. Eggs hatch within 6 to 14 days depending on water temperatures and require approximately 20 days to develop into tadpoles. Tadpoles in turn require anywhere between 11–20 weeks to develop into terrestrial frogs (Bobzien *et al.* 2000; Storer 1925; Wright and Wright 1949). Water bodies suitable for tadpole rearing must remain watered at least until the tadpoles metamorphose into adults, typically between July and September. Adult California red-legged frogs can survive in moist upland areas after breeding habitat has dried, and can live several years to make new breeding attempts. Therefore, aquatic breeding habitat need not be available every year, but it must do so often enough to maintain a California red-legged frog population during most years.

Aquatic habitat is essential for providing space, food, and cover, necessary to sustain all life stages of California red-legged frogs. It consists of virtually all low-gradient fresh water bodies, including natural and manmade (e.g., stock) ponds, backwaters within streams and creeks, marshes, lagoons, and dune ponds. It does not include deep lacustrine water habitat (e.g., deep lakes and reservoirs 50 ac (20 ha) or larger in size).

The aquatic habitat described as the first PCE is essential for frog breeding and for providing space, food, and cover necessary to sustain early life history stages of larval and juvenile California red-legged frogs. To be considered essential breeding habitat, the aquatic feature must have the capability to hold water for a minimum of 15 weeks in all but the driest of years. This is the average amount of time needed for larvae to grow into metamorphosed juveniles so they can become capable of surviving in upland habitats. California red-legged frogs usually have completed metamorphosis between July and September. During periods of drought or less-than-average rainfall, these sites may not hold water long enough for individuals to complete metamorphosis. However, these sites would still contain features that are essential because they constitute breeding habitat in years of average rainfall. Without aquatic breeding habitats, the California red-legged frog would not survive, reproduce, develop juveniles, and grow into adult individual California red-legged frogs that can complete their life cycles.

Non-Breeding Aquatic Habitat

The aquatic habitat described as the second PCE is essential for providing the space, food, and cover necessary to sustain California red-legged frogs. Non-breeding habitat consists of those aquatic elements identified above, but would also include, but not be limited to, other wetland habitats such as intermittent creeks, seeps, and springs. California red-legged frogs can use large cracks in the bottom of dried ponds as refugia to maintain moisture and avoid heat and solar exposure (Alvarez 2004). Without these non-breeding aquatic features California red-legged frogs would not be able to survive drought periods, or be able to disperse to other breeding habitat.

Upland Habitat

Upland and riparian habitats associated with aquatic habitat is essential to maintain California red-legged frog populations associated with essential aquatic habitat. The associated upland and riparian habitat provide food and shelter sites for California red-legged frogs and assist in maintaining the integrity of aquatic sites by protecting them from disturbance and supporting the normal functions of the aquatic habitat. Upland habitat associated with occupied wetland habitat often contains blackberry (*Rubus* sp.) and other upland perennial species that provide for shelter from predatory species and forage habitat (Service 2002).

Upland habitat that contains the features essential to the conservation of the species consists of natural areas within 200 ft (60 m) of the edge of the riparian vegetation or dripline, or no further than the watershed boundary. This is based on the dispersal capabilities of the subspecies (see Dispersal Habitat below), and also research that has found in one study that the subspecies was capable of inhabiting upland habitats within 200 ft (60 m) of aquatic habitat for continuous durations exceeding 20 days (Bulger *et al.* 2003), and in another study, California red-legged frogs were observed inhabiting riparian habitat for durations up to 77 days (Rathbun *et al.* 1993). California red-legged frogs often disperse from their breeding habitat to forage and seek upland habitat if aquatic habitat is not available. Upland habitat includes structure that provides shade, moisture, and cooler temperatures. This structure may be natural such as the spaces under boulders or rocks and organic debris such as downed trees or logs; or it could be manmade including industrial debris and agricultural features, such as drains, watering troughs, abandoned sheds, or under stacks of hay or other vegetation. California red-legged frogs also use small mammal burrows and moist leaf litter (Jennings and Hayes 1994; Fellers and Kleeman 2005).

Dispersal Habitat

Dispersal habitat provides connectivity among California red-legged frog breeding habitat (and associated upland) patches. While California red-legged frogs can pass many obstacles, and do not require a particular type of habitat for dispersal, the habitat connecting breeding locations and other aquatic habitat must be free of barriers that prevent California red-legged frogs from dispersing. Dispersal habitat that is designated in this rule consists of upland and wetland habitat contiguous with breeding and non-breeding habitat which is free of barriers that connect two or more patches of breeding habitat within 0.7 mi (1.2 km) of one another. Dispersal barriers include heavily traveled roads (Vos and Chardon 1998) that possess no bridges or culverts; moderate to high density urban or industrial developments with large expanses of asphalt or concrete that do not contain the PCEs or features essential to the subspecies; and large reservoirs over 50 ac (20 ha) in size that contains predatory fish. Agricultural lands such as row crops, orchards, vineyards, and pastures do not constitute barriers to California red-legged frog dispersal.

California red-legged frogs have been documented to travel 2.2 mi (3.6 km) from nonbreeding to breeding habitats (Bulger *et al.* 2003). These long distance movements are migrations rather than use of corridors for moving between habitats (N. Scott and G. Rathbun, in litt. 1998). These movements have also been found to be with apparent disregard to topography, vegetation type, or riparian corridors (Bulger *et al.* 2003; Fellers and Kleeman 2005). We conclude the 2.2 mi (3.6 km) is likely the upward limit of dispersal capability for the California red-legged frog and that the 0.7 mi (1.2 km) dispersal element will ensure that connectivity between breeding habitats will be maintained within areas designated as critical habitat. This 0.7 mi (1.2 km) dispersal element also includes elements of non-aquatic habitat (i.e., summer habitat) for shelter.

Primary Constituent Elements for the California Red-Legged frog

Based on our current knowledge of the life history, biology, and ecology of the California red-legged frog and the requirements of the habitat necessary to sustain the essential life history functions of the subspecies, we have determined that the primary constituent elements for the California red-legged frog are:

(1) *Aquatic Breeding Habitat.* Standing bodies of fresh water (with salinities less than 7.0 ppt), including natural and manmade (e.g., stock) ponds, slow moving streams or pools within streams, and other ephemeral or permanent water bodies that typically become inundated during winter rains and hold water for a minimum of 15 weeks in all but the driest of years. This would be the time necessary for the subspecies to complete the aquatic portion of its life cycle.

(2) *Non-Breeding Aquatic Habitat.* Fresh water habitats as described above which may or may not hold water long enough for the subspecies to hatch and complete its aquatic lifecycle but which does provide for shelter, foraging, predator avoidance, and aquatic dispersal habitat for juvenile and adult California red-legged frogs. Other wetland habitat which would be considered to meet these elements would include, but are not limited to, plunge pools within intermittent creeks, seeps, quiet water refugia during high water flows, and springs of sufficient flow to withstand the summer dry period.

(3) *Upland Habitat.* Upland areas within 200 ft (60m) of the surrounding aquatic and wetland habitat comprised of various vegetational series such as grasslands, woodlands, and/or wetland/riparian plant species. Upland habitat includes natural or manmade structures such as the spaces under boulders or rocks and organic debris such as downed trees or logs; as well as agricultural features and light construction debris, such as drains, watering troughs, abandoned sheds, or under stacks of hay, brush piles, or other vegetation. California red-legged frogs also use small mammal burrows and moist leaf litter as cover (Jennings and Hayes 1994; Fellers and Kleeman 2005). This upland habitat provides the California red-legged frog shelter and shade, moisture, cooler temperatures, prey base, foraging opportunities, and predator avoidance.

(4) *Dispersal Habitat.* Accessible upland or wetland dispersal habitat within designated units and between occupied locations within 0.7 mi (1.2 km) of each other that allow for movement between such sites. Dispersal habitat includes various natural habitats and altered habitats such as agricultural fields, which also do not contain barriers to dispersal, such as heavily traveled roads (Vos and Chardon 1998) that possess no bridges or culverts. Dispersal habitat does not include moderate to high density urban or industrial developments with large expanses of asphalt or concrete and large reservoirs over 50 ac (20 ha) in size, which do not contain those features identified in PCE 1, 2, or 3. Accessible dispersal habitat provides opportunities for the California red-legged frog to move freely across the landscape in search of adjacent breeding and non-breeding habitats. Accessible dispersal habitat is considered essential and provides for: (1) Opportunities for movement and establishment of home ranges by juvenile recruits, (2) maintaining gene flow by the movement

of both juveniles and adults between subpopulations, and (3) recolonization of or recruitment into breeding habitat after local extirpations.

Criteria Used To Identify Critical Habitat

In our proposed designation of critical habitat for the California red-legged frog, we selected areas based on the best scientific data available that possess those physical and biological features essential to the conservation of the subspecies, and that may require special management considerations or protection. We included areas which were occupied at the time of listing as well as some areas subsequently identified as occupied. We found that the majority of newer occurrence records were within areas already known to support the California red-legged frog. We identified proposed critical habitat units that have the highest likelihood to be self-sustaining on the basis of density of California red-legged frog occurrences, and based our definition of the primary constituent elements on the kind, amount, and quality of habitat associated with those occurrences. The proposed units contain sufficient PCEs to support behaviors we have determined are essential to the conservation of the subspecies.

Throughout the development process, we avoided identifying areas with single occurrences for designation unless such areas were considered unique or had other biological significance. Further, we made an effort to avoid developed areas, such as housing and commercial developments, that are unlikely to contribute to the conservation of the California red-legged frog. We also avoided fragmented areas such as those surrounded by development. Areas within the boundaries of the mapped units, such as buildings, roads, parking lots, railroads, canals, levees, airport runways and other paved areas, lawns, and other urban landscaped areas are not critical habitat and are not included in this designation. Federal actions limited to these areas would not trigger a section 7 consultation, unless they affect the subspecies and/or the PCEs in adjacent critical habitat. We avoided known areas of intensive agriculture. Agricultural lands may have been included if they were within areas identified as necessary for dispersal or connectivity between known occurrences.

We considered several criteria in the selection of areas which contain the essential features for the California red-legged frog and focused on designating units: (1) Throughout the current geographic, elevational, and ecological distribution of the subspecies; (2) which would maintain the current population structure across the subspecies' range; (3) that retain or provide for connectivity between breeding sites that allows for the continued existence of viable and essential metapopulations, despite fluctuations in the status of subpopulations; (4) that possess large continuous blocks of occupied habitat, representing source populations and/or unique ecological characteristics; and (5) contain sufficient upland habitat around each breeding location to allow for sufficient survival and recruitment to maintain a breeding population over the long term.

We first determined the occupancy status of areas. Areas were considered to possess extant populations if California red-legged frogs have been documented in that area since 1976. We used the final listing rule to establish occupancy at the time of listing. All other designations were based on occupancy data collected since listing. Our designation does not include all occupied areas. However those areas occupied takes into consideration theories of metapopulation persistence, on-the-ground survey data, and California red-legged frog longevity. We believe that persistence of individual populations is critical to the viability of a metapopulation structure. Bulger *et al.* (2003) found more than 75 percent of California red-legged frogs are resident at permanent aquatic habitats over the course of a year, thereby providing local population stability. Survey data provided to us during the development of this proposed critical habitat rule show an average persistence of 19 years for California red-legged frog populations. Additionally, maximum longevity of male and female California red-legged frogs is 8 and 10 years respectively (Jennings *et al.* 1992) which also contributes to generational and metapopulation stability.

The extant occurrences within the proposed critical habitat units comprise approximately 63 percent of extant occurrences within the range of the subspecies. We critically evaluated records in which the exact site location was not precisely identified or could not be confirmed, and removed those locations from our analysis. We then selected areas that are inhabited by populations (source populations) that are capable of maintaining their current population levels and capable of providing individuals to recruit into subpopulations found in adjacent areas. We also selected several areas which have other unique ecological significance, with the goal of maintaining the full range of the habitat variability and evolutionary adaptation in the subspecies. These include areas on the periphery of the current range and elsewhere that represents the distribution of the subspecies, and areas that provide connectivity among source populations or between source populations.

The proposed critical habitat units were delineated by creating approximate areas for the units by screen digitizing polygons (map units) using ArcMap (Environmental Systems Research Institute, Inc.), a computer GIS program. The polygons were created by overlaying extant at time of listing and subsequent to listing California red-legged frog occurrence locations with a 0.7 mi (1.2 km) radius. This distance was used as a guide for mapping the essential features around locations where California red-legged frog populations are present (see Dispersal Habitat above). As stated above, California red-legged frogs have been documented to disperse from ponds and streams a distance over 2.0 mi (3.2 km) (Bulger *et al.* 2003). However, based on a review of the most current literature and information gathered in development of the Recovery Plan for the subspecies, we have determined that the 2.0 mi (3.2 km) distance is toward the maximum dispersal distance for the subspecies during a single season, and that the 0.7 mi (1.2 km) distance is more reflective of the average dispersal distance for the California red-legged frog (Rathbun *et al.* 1993; Scott and Rathbun, in litt 1998; Wright, in litt. 1999; Bulger *et al.* 2003; T. Tatarian, in litt. 2005; Fellers and Kleeman 2005). Although the studies discussed above provide an approximation of the distances that California red-legged frogs can move from their aquatic habitats, breeding ponds, and other wetland habitats in search of suitable upland refugia or other breeding locations, we recognize that upland habitat features will influence California red-legged frog movements in a particular landscape. As a result, we made adjustments to the upland areas to include additional areas up to the watershed boundaries or to include habitat containing the PCEs beyond the 0.7 mi (1.2 km) distance where appropriate to aggregate clumps of occurrences. In other some instances, we reduced the areas to remove non-habitat (those not exhibiting the PCEs) from the proposed designation including agricultural, developed, disturbed, or fragmented lands.

We evaluated the resulting units (delineating geographic range and potential suitable habitat), refined

elevation and hydrologic ranges, and identified areas not containing the essential features (*i.e.*, not containing PCEs) (see Primary Constituent Elements section). We excluded areas that do not contain sufficient PCEs to support one or more of the species' life processes or which had low quality PCEs because: (1) The area is highly degraded and is likely not restorable; (2) the area is small, highly fragmented, or isolated and may provide little or no long-term conservation value; and (3) other areas within the geographic region were determined to be sufficient to meet the conservation needs of the subspecies.

Throughout the designation process, when selecting areas of critical habitat, we made an effort to avoid developed areas, such as housing developments and commercial developments that are unlikely to contribute to the conservation of the California red-legged frog. However, we were not able to map critical habitat in sufficient detail to exclude all developed areas, or other lands unlikely to contain the PCEs.

Further refinement of the preliminary areas as described above was based on the extent of aquatic habitat extent, stream reach, upland dispersal distance and watershed boundaries. We focused on areas of high California red-legged frog abundance, areas to maintain connectivity, and/or areas of unique ecological significance. Refined unit boundaries were delineated using watershed boundaries from the State of California's CALWATER watershed classification system (version 2.2) using the smallest (planning watersheds) watershed designation. Visual inspection of mapped California red-legged frog occurrence records revealed un-surveyed regions surrounded by surveyed regions, mostly in highly developed areas. Rather than designating critical habitat in the development fringe, we designated in areas where fewer surveys have been conducted but where California red-legged frogs are likely to occur based on similarity of habitat and presence of PCEs. In areas where planning watersheds were large and/or had significantly altered hydrologically, we used alternative structural, political, or topographic boundaries (*e.g.*, roads, county boundaries, ridgeline features, elevation contour lines) as critical habitat boundaries because in these areas the benefits of using planning watersheds were limited in that they included areas outside the subspecies' dispersal distance or were of little conservation value for the California red-legged frog.

Summary of Changes From Previous Proposed Critical Habitat

Following the publication of the previous proposed rule (69 FR 19620), we revised this current proposed critical habitat based on new information, re-evaluation of existing information, and public comments. We also revised the methodology for determining the specific features that are essential to the conservation of the California red-legged frog and mapping them to areas. Our previous proposal utilized aggregations of watersheds that contained areas of high California red-legged frog abundance and that maintained connectivity and/or included areas of unique ecological significance. Portions of these areas were outside the dispersal capabilities of the frog and not all the areas within the designation contained the features considered essential to the California red-legged frog. This has resulted in a complete re-analysis of the areas previously proposed and new areas where the frog had been recently documented to ensure a more thorough and scientifically sound designation of critical habitat. This re-analysis resulted in the removal of specific lands determined not to contain features essential to the conservation of the frog, and the inclusion of additional areas. The Service believes that this task was necessary to ensure compliance with recent court decisions on critical habitat and to ensure appropriate consideration of public comments and new information in the rulemaking process. Upon identification of lands containing features essential to the conservation of the frog following the revised methodology, the Service began to refine its mapping methodology from using a landscape-level watershed as the primary mapping unit in the previous proposal to a methodology that is more precise in delineating areas that contain the physical and biological features essential to the frog and thus meet the statutory definition of critical habitat. This new methodology employs an average dispersal distance of 0.7 miles around extant populations of frogs to capture the features essential to their conservation.

In this proposal we have eliminated areas that do not have essential features and refined unit boundaries in accordance with the criteria for determining the essential features described above. Our criteria for determining essential features targeted areas known to be occupied by California red-legged frog at the time of listing or determined to be occupied since the time of listing, or areas of high-quality habitat likely to be occupied based on proximity to known occurrences, contiguous habitat, and dispersal capabilities of the California red-legged frog. Our refined proposal includes large blocks of contiguous habitat that provide geographic distribution across the range of the subspecies, contains high-quality habitat, allows for the long-term viability of the subspecies, represents the full range of habitat and environmental variability the subspecies occupies, avoids conflict with existing commercial and residential development, focuses on public lands where available, and, where possible, overlaps with other critical habitat designations.

As a result of our refined approach, the current proposal includes units that more accurately reflect the requirements and known distribution of the California red-legged frog. Based on our refined approach, some areas previously proposed as critical habitat are no longer included in this new proposed designation, and based on new occurrence records, several areas where units did not exist in the previous designation we have determined contain the features that are essential and we are now proposing for designation as critical habitat. We are proposing to not designate two currently designated unoccupied units (Unit 5 in Tuolumne and Mariposa Counties and Unit 31 in Los Angeles County) identified in our previous designation (66 FR 14626) and proposal (69 FR 19620). The criteria used in the current proposal identified areas across the known range of the subspecies and included areas which are essential for the conservation of the subspecies. We consider that the currently occupied proposed critical habitat units would be sufficient to conserve the species and that the non-occupied units would only supplement areas needed for conservation of the subspecies. We are seeking comment on the status of these units, whether they should remain as critical habitat and whether these areas contain the features which are essential to the conservation of the subspecies.

In our re-evaluation of our April 13, 2004 (69 FR 19620), proposed critical habitat, we identified that a technical error was present in 50 CFR 17.11 concerning the extent of the geographic range for which the California red-legged frog is listed. The extent of the geographic range has been corrected to reflect the entire range of the subspecies.

Special Management Considerations or Protections

When designating critical habitat, we assess whether the areas determined to be occupied at the time of listing and contain the PCEs may require special management considerations or protections. As we undertake the process of designating critical habitat for a species, we first evaluate lands defined by those physical and biological features essential to the conservation of the species for inclusion in the designation pursuant to section 3(5)(A) of the Act. Secondly, we evaluate those features to assess whether they may require special management considerations or protections. As discussed throughout this proposed rule, our previous final designation of critical habitat for the California red-legged frog (66 FR 14626, March 13, 2001) and in our final recovery plan for the subspecies (Service 2002), threats to those features that define important habitat (primary constituent elements) for the California red-legged frog include but are not limited to: trematode and chytrid fungus disease, direct and indirect impacts from some human recreational activities, flood control maintenance activities, water diversions, unmanaged overgrazing activities, competition and predation by nonnative species, and habitat removal and alteration by urbanization.

Pathogens and parasites have been implicated in the decline of other frog species, but there has not been a systematic examination of how disease may adversely affect California red-legged frog populations. Trematode-induced malformations and chytrid fungus disease have been identified in some California red-legged frogs in Elkhorn Slough National Estuarine Research Reserve and in frogs within East Bay Regional Park District (Bobzien pers. comm. 2005). It has been suggested that increased levels of UV-B radiation or air pollutants cause a weakening of the immune system which could increase the susceptibility of frogs to natural diseases (Kiesecker *et al.* 2001; Blaustein *et al.* 2003).

Routine road maintenance, trail development, and facilities construction associated with parks and other public lands, in or adjacent to California red-legged frog habitat can degrade habitat quality. Heavy recreational use of parks (*e.g.*, fishing, hiking, use of developed sites, dispersed camping) can also degrade habitat for the California red-legged frog. People tend to congregate around aquatic areas and can trample vegetation, trample frog eggs and tadpoles, increase noise levels, and change the environment.

Routine flood control maintenance, which typically includes vegetation removal, herbicide spraying, shaping and riprapping of banks to control erosion, and dredging of creeks and rivers, can result in degradation of California red-legged frog habitat. Widespread channelization of watercourses for flood control and water diversion has eliminated habitat along small to medium-sized watercourses (Harding 1960), and has allowed the proliferation of non-native aquatic species. Management of water flows for flood control also has the potential to adversely impact California red-legged frogs. For example, in San Mateo County, poorly timed releases of storm water flows from Horse Stable Pond at Sharp Park in February 1992, resulted in exposure and desiccation of 62 California red-legged frog egg masses (T. Steiner in litt. 1994).

Water diversion and impoundment for irrigation, can reduce the flows necessary to support adequate aquatic habitat for frogs and other species. The California coast supports several agricultural activities including artichoke production, flower nurseries, and other irrigated crops that require the use of irrigation ponds. Water is collected during the winter months from rainfall and is also pumped out of coastal drainages into ponds. These ponds typically grow shoreline vegetation such as cattails, tules (Scirpus spp.) and horsetails (Equisetum spp.), and with proper water management can provide high quality breeding habitat. However, farmers often start irrigating crops during the late spring, and continue through summer. As water is drawn down, egg masses can be exposed and desiccate. Although the outlets may be screened, the pumps used are powerful enough to suck tadpoles and juveniles against the screen and can crush individuals. Depending upon the size of ponds, they also may be drawn down to such an extent that they completely dry out or are shallow enough to allow significant predation of frogs (particularly tadpoles that have not fully metamorphosized).

Continued colonization of existing habitat by, and competition with, predatory nonnative species (Fisher and Shaffer 1996; Lawler *et al.* 1999) is one of the most significant threats to California red-legged frogs. Twedt (1993) analyzed stomach contents of 22 bullfrogs in Humboldt County, California and found 9.1 percent of the prey items consisted of northern red-legged frog juveniles. Cook (1997) also analyzed stomach contents of eight bullfrogs collected in Sonoma County and found California red-legged frog tadpoles in two of them. However, predation of California red-legged frogs by bullfrogs is likely to be dependant on the density of bullfrogs (Cook1997) and habitat segregation may lessen the impact of predation on California red-legged frogs (Twedt 1993). Bobzien *et al.* (2000) suggest the presence of nonnative predators adversely affects the distribution of California red-legged frogs within East Bay Regional Park lands, leading to local extirpation in some areas. Lawler *et al.* (1999) found mosquitofish did not affect the survival of California red-legged frog tadpoles, however tadpoles weighed 34 percent less at metamorphosis than did tadpoles that developed in absence of mosquitofish competition.

Urban and suburban developments often leave isolated habitat fragments and create barriers to frog dispersal. Another consequence of urbanization is the change in hydroperiod of historically ephemeral drainages to perennial streams (often due to wastewater outflows), which allows the proliferation of non-native predators (M. Moore and M. Westphal in litt. 1997). Other consequences include channelization of creeks (which reduces or eliminates breeding sites), increased potential for toxic runoff from developments, and increased suitability for predators such as raccoons.

We believe that the features essential to the conservation of the subspecies in each area proposed for designation as critical habitat may require some level of special management and/or protection to address the current and future threats to the California red-legged frog to ensure the conservation of the subspecies.

Proposed Critical Habitat Designation

The areas we are proposing as critical habitat currently provide all of those habitat components necessary to meet the primary biological needs of the California red-legged frog. We did not include all areas currently occupied by California red-legged frogs, only areas possessing large populations, that represent unique ecological characteristics or adaptations, or that represent the historic geographic area where California red-legged frogs can be re-established. No unoccupied habitat is being proposed as critical habitat.

Table 1. Approximate area exempt from proposed critical habitat for the California red-legged frog pursuant to sections 4(a)(3) of the Act.

Location (unit) Vandenberg Air Force Base	Lands containing essential features		Area exempt from critical habitat designation	
	ac	ha	ac	ha
STB–2	4,922	1,992	4,922	1,992
STB–4	8,691	3,517	1,011	409

Table 2. Approximate area (acres (as) (hectares ha)) of locations supporting features essential to conservation of the California red-legged frog fitting the selection criteria for proposed critical habitat and (first column), areas excluded from critical habitat pursuant to section 4(b)(2) of the Act (second column), and areas proposed as critical habitat (third column) for the California red-legged frog.

Areas with essential features		Excluded areas		Total proposed critical habitat	
ac	ha	ac	ha	ac	ha
743,845	301,023	5,933	2,401	737,912	298,622

Table 3. Critical Habitat Units Proposed for the California red-legged frog [Area estimates (acres (ac) (hectares ha)) reflect the entire area within the proposed critical habitat unit boundaries, areas supporting PCEs may be less within each unit.]

Unit	Federal		State		Local		Private		Military	
	ac	ha	ac	ha	ac	ha	ac	ha	ac	ha
BUT–1	3,234	1,309	137	56			1,922	778		
YUB–1	2,489	1,007					3,833	1,551		
NEV–1	3,158	1,278	90	36			5,038	2,039		
ELD–1	463	188					8,791	3,558		
CAL–1	7	3					4,442	1,798		
NAP–1							2,524	1,022		
MRN–1					1,046	423	21,513	8,706		
MRN–2	25,995	10,520								
SOL–1							9,245	3,741		
CCS–1A					3,475	1,406	730	296		
CCS–1B					3,297	1,334	16,437	6,652		
ALA–1A			1,276	516	16,389	6,632	40,753	16,492		
ALA–1B							3,679	1,489		
ALA–1C					15,357	6,215	22,135	8,958		
SNM–1A	52	21					14,691	5,945		
SNM–1B							3,327	1,346		
SNM–1C			1,0214	413	117	48	4,978	2,015		
SNM–2A							10,200	4,128		
SNM–2B			2,099	849			14,672	5,937	358	145
SNM–2C			3,722	1,506			4,056	1,641		
STC–1A					8,384	3,393	19,671	7,961		
STC–1B			27,983	11,324			1,746	707		
SCZ1			297	120			12,807	5,183		
SCZ2	120	49	601	243			3,326	1,346		
MER–1			10,153	4,109			2,349	951		
MNT–1			525	213						
MNT–2	1,233	499	544	220			43,632	17,657		
SNB–1			5,418	2,193			8,861	3,586		
SNB–2	13	5					9,644	3,903		
SNB–3	13,979	5,657					6,070	2,457		
SLO–1	176	71					18,011	7,289		
SLO–2	19	8					4,602	1,863		
SLO–3			524	212			9,972	4,035		
SLO–4			52	21			8,097	3,277		
SLO–5			511	207			10,269	4,156		
SLO–6	840	340					8,989	3,638		
SLO–7	2,004	811	4,393	1,778			15,950	6,455		
SLO–8	9,443	3,822					6,837	2,767		
STB–1	21,181	8,572					3,921	1,587		
STB–2									4,922	1,992
STB–3	40,038	16,203					7,394	2,992		
STB–4							7,681	3,108	1,011	409
STB–5	1,558	630	1,844	746			9,486	3,839		
STB–6	1,867	756	76	31			10,042	4,064		
STB–7	32,419	13,120					3,805	1,540		

Unit	Federal		State		Local		Private		Military	
	ac	ha	ac	ha	ac	ha	ac	ha	ac	ha
VEN–1	5,300	2,145	.....	.....	.....	.....	1,382	559	.....	.....
VEN–2	.....	.....	.....	.....	.....	.....	2,936	1,188	.....	.....
VEN–3	8,521	3,448	.....	.....	.....	.....	305	124	.....	.....
VEN–4	.....	.....	2,784	1,127	.....	.....	.....	.....	.....	.....
LOS–1	3,907	1,581	.....	.....	.....	.....	321	130	.....	.....
RIV–1	.....	.....	3,002	1,215	.....	.....	7,416	3,001	.....	.....
Total	178,016	72,043	67,052	27,135	48,065	19,451	438,488	177,450	6,291	2,546

Presented below are brief descriptions of all units. The units are listed in order geographically north to south and west to east, with exception of the units in the Sierra foothills which are listed first, north to south.

BUT–1, Hughes Place Pond (5,294 ac (2,142 ha))

This unit is located in east-central Butte County, east of State Highway 70 and west of Oroville-Quincy Highway. BUT–1 is essential for the conservation of the subspecies because the area contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4) and is occupied by the species. This unit encompasses one of five known extant Sierra Foothill populations identified since the time of listing and is located in the eastern most portion of the subspecies historic range. This unit represents the California red-legged frog's adaptation to a wide range of habitat and ecological variability, is known to be occupied, contains high quality habitat, and contains the features essential for the conservation of the subspecies. The unit consists of 1,922 ac (778 ha) of private land, 137 ac (56 ha) of State land and 3,234 ac (1,309 ha) of Federal land and is mapped entirely from occurrence records subsequent to the time of listing. Threats that may require special management in this unit include necessary wildland fire suppression activities which may dewater aquatic habitats resulting in the desiccation of egg masses or direct death of adults from water drafting, timber harvest activities which can alter or remove upland habitat, and predation by nonnative species. We are proposing to exclude 3,234 ac (1,309 ha) of land from the final designation of critical habitat which is managed under the Sierra Nevada Forest Plan by the Plumas National Forest. For a further discussion of this proposed exclusion see the Relationship of Critical Habitat to Other Land—Exclusions Under Section 4(b)(2) of the Act section below.

YUB–1, Little Oregon Creek (6,322 ac (2,558 ha))

This unit is located in northeastern Yuba County, north of Marysville Road and south of La Porte Road. YUB–1 is considered an area that is essential for the conservation of the subspecies because it contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4) and is occupied by the species. YUB–1 is one of five known extant Sierra Foothill populations identified since the time of listing and is located in the eastern most portion of the subspecies historic range. This unit represents the California red-legged frog's adaptation to a wide range of habitat and ecological variability, is known to be occupied, contains high quality habitat, and contains the features essential for the conservation of the subspecies. This unit consists of 3,833 ac (1,551 ha) of private land and 2,489 ac (1,007 ha) of Federal land and is mapped entirely from occurrence records subsequent to the time of listing. Threats that may require special management in this unit include necessary wildland fire suppression activities which may dewater aquatic habitats resulting in the desiccation of egg masses or direct death of adults from water drafting, timber harvest activities which can alter or remove upland habitat, and predation by nonnative species. We are proposing to exclude 2,489 ac (1,007 ha) of land from the final designation of critical habitat which is managed under the Sierra Nevada Forest Plan by the Plumas National Forest. For a further discussion of this proposed exclusion see the Relationship of Critical Habitat to Other Land—Exclusions Under Section 4(b)(2) of the Act section below.

NEV–1, Sailor Flat (8,285 ac (3,353 ha))

This unit is located in central Nevada County, approximately three miles (five kilometers) northeast of Nevada City, south of Tyler Foote Road and north of State Highway 20. NEV–1 is considered an area that is essential for the conservation of the subspecies because it contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4) and is occupied by the species. NEV–1 is one of five known extant Sierra Foothill populations and is located in the eastern most portion of the subspecies historic range. This unit represents the California red-legged frog's adaptation to a wide range of habitat and ecological variability, is known to be occupied, contains high quality habitat, and contains the features essential for the conservation of the subspecies. This unit consists of 5,038 ac (2,039 ha) of private land, 90 ac (36 ha) of State land and 3,158 ac (1,278 ha) of Federal land and is mapped entirely from occurrence records subsequent to the time of listing. Threats that may require special management in this unit include timber harvest activities, removal and alteration of habitat due to potential urban development, necessary wildland fire suppression activities which may dewater aquatic habitats resulting in the desiccation of egg masses or direct death of adults from water drafting and predation by nonnative species. We are proposing to exclude 1,512 ac (612 ha) of land from the final designation of critical habitat which is managed under the Sierra Nevada Forest Plan by the Tahoe National Forest. For a further discussion of this proposed exclusion see the Relationship of Critical Habitat to Other Land—Exclusions Under Section 4(b)(2) of the Act section below.

ELD–1, Spivey Pond (9,254 ac (3,745 ha))

This unit is located in central El Dorado County, south of State Highway 50 and east of Newton Road. ELD–1 is essential for the conservation of the subspecies because it contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), upland habitat for foraging and dispersal activities (PCE 3 and PCE 4), and is occupied by the species. ELD–1 is one of five known extant Sierra Foothill

populations and is located in the eastern most portion of the subspecies historic range. This unit represents the California red-legged frog's adaptation to a wide range of habitat and ecological variability, is known to be occupied, contains high quality habitat, and contains the features essential for the conservation of the subspecies. The unit consists of 8,791 ac (3,558 ha) of private land and 463 ac (188 ha) of Federal land and is mapped entirely from occurrence records subsequent to the time of listing. Threats that may require special management in this unit include necessary wildland fire suppression activities which may dewater aquatic habitats resulting in the desiccation of egg masses or direct death of adults from water drafting, timber harvest activities, and predation by nonnative species. We are proposing to exclude 409 ac (166 ha) of land from the final designation of critical habitat which is managed under the Sierra Nevada Forest Plan by the El Dorado National Forest. For a further discussion of this proposed exclusion see the Relationship of Critical Habitat to Other Land—Exclusions Under Section 4(b)(2) of the Act section below.

CAL–1, Young's Creek (4,450 ac (1,801 ha))

This unit is located in northwestern Calaveras County, north of State Highway 26 and south of Paloma Road. CAL–1 is essential for the conservation of the subspecies because it contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4) and is occupied by the species. This unit encompasses one of five known extant Sierra Foothill populations identified since the time of listing and is located in the eastern most portion of the subspecies historic range. This unit represents the California red-legged frog's adaptation to a wide range of habitat and ecological variability, is known to be occupied, contains high quality habitat, and contains the features essential for the conservation of the subspecies. The unit consists of 4,442 ac (1,798 ha) of private land and 7 ac (3 ha) of Federal land and is mapped entirely from occurrence records subsequent to the time of listing. The main threats that may require special management in this unit include overgrazing of aquatic and riparian habitats and predation by nonnative species.

NAP–1, Wragg Creek (2,524 ac (1,022 ha))

This unit is located in east-central Napa County and is bisected by State Highway 128 and lies largely to the west of State Highway 121. NAP–1 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). NAP–1 was known to be occupied at time of listing and is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies and contains high quality habitat. The unit consists of 2,524 ac (1,022 ha) of private land and is mapped from occurrence records at time of listing and subsequent to the time of listing. Threats that may require special management in this unit include predation by nonnative species.

MRN–1, Salmon Creek (22,559 ac (9,129 ha))

This unit is located in northcentral Marin County, east of State Highway 1 and north of Point Reyes Petaluma Road. MRN–1 is occupied and contains occurrence records subsequent to the time of listing. The area is essential for the conservation for the subspecies because it contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), upland habitat for foraging and dispersal activities (PCE 3 and PCE 4) and is occupied by the species. MRN–1 also provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, and contains high quality habitat. The unit consists of 21,513 ac (8,706 ha) of private land and 1,046 ac (423 ha) of local government land and is mapped from occurrence records subsequent to the time of listing. Threats that may require special management in this unit include overgrazing of aquatic and riparian habitats and predation by nonnative species.

SOL–1, Sky Valley (9,245 ac (3,741 ha))

This unit is located in southwestern Solano County and a portion of extreme southeastern Napa County, south of Interstate 80 and west of Interstate 680. SOL–1 contains the following features that are essential for the conservation for the subspecies: aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SOL–1 was known to be occupied at time of listing and is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies and contains high quality habitat. The unit consists of 9,245 ac (3,741 ha) of private land and is mapped from occurrence records at time of listing and subsequent to the time of listing. Threats that may require special management in this unit include overgrazing of aquatic and riparian habitats, and removal and alteration of habitat due to urbanization.

MRN–2, Point Reyes Peninsula (25,995 ac (10,520 ha))

This unit is located in western Marin County, west of State Highway 1. MRN–2 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). MRN–2 was known to be occupied at time of listing and is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies and contains high quality habitat. The unit consists of 25,995 ac (10,520 ha) of Federal land and is mapped from occurrence records at time of listing and subsequent to the time of listing. Threats that may require special management in this unit include overgrazing of aquatic and riparian habitats and predation by nonnative species.

CCS–1A, Berkeley Hills (4,205 ac (1,702 ha))

This unit is located in western Contra Costa County, south of Alhambra Valley Road and north of Bear Creek Road. CCS–1A contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). CCS–1A was known to be occupied at time of listing and is currently occupied, contains permanent

and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies, and contains high quality habitat. The unit consists of 730 ac (296 ha) of private land and 3,475 ac (1,406 ha) of local government land and is mapped from occurrence records at time of listing and subsequent to the time of listing. Threats that may require special management in this unit include removal and alteration of habitat due to urbanization, overgrazing of aquatic and riparian habitats, and predation by nonnative species. We are proposing to exclude 3,475 ac (1,406 ha) of land from the final designation of critical habitat which is managed by the East Bay Regional Park District. For a further discussion of this proposed exclusion see the Relationship of Critical Habitat to Other Land—Exclusions Under Section 4(b)(2) of the Act section below.

CCS–1B, Mulligan Hill (19,734 ac (7,986 ha))

This unit is located in northern Contra Costa County, south of State Highway 4 and north of Marsh Creek Road. CCS–1B contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). CCS–1B was known to be occupied at time of listing and is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies, and contains high quality habitat. The unit consists of 16,437 ac (6,652 ha) of private land and 3,297 ac (1,334 ha) of local government land and is mapped from occurrence records at time of listing and subsequent to the time of listing. Threats that may require special management in this unit include removal and alteration of habitat due to urbanization, overgrazing of aquatic and riparian habitats, erosion and siltation due to flooding, and predation by nonnative species. We are proposing to exclude this entire unit from the final designation of critical habitat because it falls within the draft East Contra Costa County Natural Communities Conservation Plan / Habitat Conservation Plan. For a further discussion of this proposed exclusion see the Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act section below.

ALA–1A, Los Vaqueros (58,417 ac (23,640 ha))

This unit is located in southeastern Contra Costa and northeastern Alameda Counties, south of Marsh Creek Road and west of the junction of Interstates 205 and 580. ALA–1A contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). ALA–1A was known to be occupied at time of listing and is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies, and contains high quality habitat. The unit consists of 40,753 ac (16,492 ha) of private land, 1,276 ac (516 ha) of State land, and 16,389 ac (6,632 ha) of local government land and is mapped from occurrence records at time of listing and subsequent to the time of listing. Threats that may require special management in this unit include overgrazing of aquatic and riparian habitat and predation by nonnative species. We are proposing to exclude 18,359 ac (7,430 ha) of land from the final designation of critical habitat because it falls within the draft East Contra Costa County Natural Communities Conservation Plan/Habitat Conservation Plan. For a further discussion of this proposed exclusion see the Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act section below.

ALA–1B, San Antonio Creek (3,679 ac (1,489 ha))

This unit is located in north-central Alameda County, north of Interstate 580, west of Livermore Avenue and east of Tassajara Road. ALA–1B contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). ALA–1B is essential for the conservation of the California red-legged frog since the unit is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies, and contains high quality habitat. The unit consists of 3,679 ac (1,489 ha) of private land. Threats that may require special management in this unit include removal and alteration of habitat due to urbanization, overgrazing of aquatic and riparian habitats, and predation by nonnative species.

ALA–1C, San Antonio Reservoir (37,491 ac (15,172 ha))

This unit is located in south central Alameda County, southeast of Vallecitos Road and north of Oakridge Road. ALA–1C contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). ALA–1C was known to be occupied at time of listing and is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies, and contains high quality habitat. The unit consists of 22,135 ac (8,958 ha) of private land and 15,357 ac (6,215 ha) of local government land and is mapped from occurrence records at time of listing and subsequent to the time of listing. Threats that may require special management in this unit include overgrazing of aquatic and riparian habitats and predation by nonnative species. We are proposing to exclude 15,292 ac (6,189 ha) of land from the final designation of critical habitat which is managed by the East Bay Regional Park District. For a further discussion of this proposed exclusion see the Relationship of Critical Habitat to Other Land—Exclusions Under Section 4(b)(2) of the Act section below.

SNM–1A, Cahill Ridge (14,743 ac (5,966 ha))

This unit is located in northwestern San Mateo County, west of Interstate 280 and east of U.S. Route 1. SNM–1A contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SNM–1A was known to be occupied at time of listing and is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides representation of a portion of the geographic range of the subspecies, and

contains high quality habitat. The unit consists of 14,691 ac (5,945 ha) of private land and 52 ac (21 ha) of local government land and is mapped from occurrence records at time of listing and subsequent to the time of listing. Threats that may require special management in this unit include predation by nonnative species.

SNM–2A, Gordon Ridge (10,200 ac (4,128 ha))

This unit is located in west-central San Mateo County, north of La Honda Road and east of U.S. Route 1. SNM–2A contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SNM–2A was known to be occupied at time of listing and is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations along the coast and inland, provides representation of a portion of the geographic range of the subspecies and contains high quality habitat. This unit consists of 10,200 ac (4,128 ha) of private land and is mapped from occurrence records at time of listing and subsequent to the time of listing. Threats that may require special management in this unit include overgrazing of aquatic and riparian habitat and predation by nonnative species.

STC–1A, Cañada de Pala (28,055 ac (11,353 ha))

This unit is located in north-central Santa Clara County, south of Sierra Road and west of Mount Hamilton. STC–1A contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). STC–1A was known to be occupied at time of listing and is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations along the coast and inland, provides representation of a portion of the geographic range of the subspecies and contains high quality habitat. This unit consists of 19,671 ac (7,961 ha) of private land, and 8,384 ac (3,393 ha) of local government land and is mapped from occurrence records at the time of listing and subsequent to the time of listing. Threats that may require special management in this unit include removal and alteration of habitat due to urbanization, overgrazing of aquatic and riparian habitats, and predation by nonnative species.

SNM–1B, Langley Hill (3,327 ac (1,346 ha))

This unit is located in east-central San Mateo County, east of La Honda Road and west of State Highway 35. SNM–1B contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SNM–1B was known to be occupied at time of listing, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies and contains high quality habitat. The unit consists of 3,327 ac (1,346 ha) of private land and is mapped entirely from occurrence records at time of listing. Threats that may require special management in this unit include overgrazing of aquatic and riparian habitat and predation by nonnative species.

SNM–2B, Pescadero Creek (17,129 ac (6,932 ha))

This unit is located in southwestern San Mateo County, south of SNM–2A and north of SNM–2C, east of Highway 1. SNM–2B contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SNM–2B was known to be occupied at time of listing and is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies, and contains high quality habitat. The unit consists of 14,672 ac (5,937 ha) of private land, 2,099 ac (849 ha) of State land, and 358 ac (145 ha) of military land and is mapped from occurrence records at time of listing and subsequent to the time of listing. Threats that may require special management in this unit include overgrazing of aquatic and riparian habitat and predation by nonnative species.

SNM–1C, Peter's Creek (6,117 ac (2,476 ha))

This unit is located in southeastern San Mateo County, west of State Highway 35 and south of SNM–1B. SNM–1C contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SSNM–1C was known to be occupied at time of listing and is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies and contains high quality habitat. The unit consists of 4,978 ac (2,015 ha) of private land, 1,021 ac (413 ha) of State land and 117 ac (48 ha) of local government land and is mapped from occurrence records at time of listing and subsequent to the time of listing. Threats that may require special management in this unit include overgrazing of aquatic and riparian habitat and predation by nonnative species.

SNM–2C, Año Nuevo (7,777 ac (3,147 ha))

This unit is located in southern San Mateo and extreme northwestern Santa Cruz Counties. SNM–2C contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SNM–2C was known to be occupied at time of listing and is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies, and contains high quality habitat. The unit consists of 4,056 ac (1,641 ha) of private land and 3,722 ac (1,506 ha) of State land and is mapped from occurrence records at time of listing and subsequent to the time of listing. Threats that may require special management in this unit include predation by nonnative species.

STC–1B, Henry Coe State Park (29,729 ac (12,031 ha))

This unit is located in southeastern Santa Clara County, east of Anderson Lake and north of State Highway 152.

STC–1B contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). STC–1B was known to be occupied at time of listing and is currently occupied, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies, and contains high quality habitat. The unit consists of 1,746 ac (707 ha) of private land and 27,983 ac (11,324 ha) of State land and is mapped from occurrence records at time of listing and subsequent to the time of listing. Threats that may require special management in this unit include predation by nonnative species.

SCZ–1, North Coastal Santa Cruz County (13,104 ac (5,303 ha))

This unit is located along the coastline of Santa Cruz County, from approximately Waddell Creek to Yellow Bank Creek. It includes locations within several watersheds which drain into the Pacific Ocean, and is mapped from occurrence records at time of listing and subsequent to the time of listing. SCZ–1 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SCZ–1 provides connectivity between occupied sites along the coast and further inland. In addition, it contains high quality habitat, indicated by high density of extant occurrences, permanent and ephemeral aquatic habitat suitable for breeding, and accessible upland areas for dispersal, shelter and food. The unit consists of 12,807 ac (5,183 ha) of private land, and 297 ac (120 ha) of State land. Threats that may require special management in this unit include water diversions which could dewater portions of aquatic habitat leading to desiccation of egg masses or temporal loss of aquatic habitat. We are proposing to exclude 4.9 ac (2 ha) of land from the final designation of critical habitat which is managed under the Bonny Doon Habitat Conservation Plan. For a further discussion of this proposed exclusion see the Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act section below.

MER–1, Pacheco Pass (12,502 ac (5,059 ha))

This unit is located in southwestern Merced County and a small portion of southeastern Santa Clara County, west of San Luis Reservoir. MER–1 is essential for the conservation of the subspecies because it contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4), and is occupied by the species. MER–1 is an area determined to be occupied since the time of listing and is currently occupied, provides for connectivity between populations, provides representation of a portion of the geographic range of the subspecies, and contains high quality habitat. The unit consists of 2,349 ac (951 ha) of private land and 10,153 ac (4,109 ha) of State land and is mapped entirely from occurrence records subsequent to time of listing. Threats that may require special management in this unit include overgrazing of aquatic and riparian habitat and predation by nonnative species.

SCZ–2, Watsonville Slough (4,046 ac (1,637 ha))

This unit is located along the coastal plain in southern Santa Cruz County, north of the mouth of the Pajaro River and seaward of California Highway 1. It includes locations in the Watsonville Slough system, including all or portions of Gallighan, Hanson, Harkins, Watsonville, Struve, and the West Branch of Struve Sloughs. The unit is mapped from occurrence records at time of listing and subsequent to the time of listing. SCZ–2 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SCZ–2 provides connectivity between occupied sites along the coast and further inland. In addition, it contains permanent and ephemeral aquatic habitats suitable for breeding, and upland areas for dispersal, shelter and food. The unit consists of 3,326 ac (1,346 ha) of private land, 601 ac (243 ha) of State land, and 120 ac (49 ha) of Federal land. Threats that may require special management in this unit include mortality due to agricultural pollution, conversion of habitat by introduced invasive plants, removal and alteration of aquatic and upland habitat due to urbanization and predation by nonnative species.

MNT–1, Elkhorn Slough (525 ac (213 ha))

This unit is located along the coastal plain in northern Monterey County inland from the town of Moss Landing, and is mapped from occurrence records at time of listing and subsequent to the time of listing. MNT–1 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). MNT–1 provides connectivity from the coastal plain and outer Coast Ranges to the inner Coast Ranges, contains permanent and ephemeral aquatic habitats suitable for breeding, contains upland areas for dispersal, shelter and food which we have determined are essential to the conservation of the subspecies. Elkhorn Slough is unique in that it is a large estuary/freshwater slough system not typically found on the California coast. The unit consists of 525 ac (213 ha) of State land. Threats that may require special management in this unit include mortality due to agricultural pollution, trematode infestation and chytrid fungus infection, and predation by nonnative species.

SNB–1, Hollister Hills (14, 279 ac (5,779 ha))

This unit is located in northwestern San Benito County in the foothills of the Gabilan Range. It is mapped from occurrence records at time of listing and subsequent to the time of listing near Saint Frances Retreat, San Juan Oaks, Azalea Canyon, Bird Creek, and the Hollister Hills State Vehicle Recreation Area. SNB–1 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SNB–1 is occupied by the species and provides connectivity between sites between the coast plain and inner Coast Ranges, and contains permanent and ephemeral aquatic habitats suitable for breeding, and accessible upland areas for dispersal, shelter and food. The unit consists of 8,861 ac (3,586 ha) of private land, and 5,418 ac (2,193 ha) of State land. Threats that may require special management in this unit include removal and alteration of aquatic and upland habitat due to recreational and residential development, off-road vehicular activities, and predation by nonnative species.

SNB–2, Paicines Reservoir and Tres Pinos Creek (9,657 ac (3,908 ha))

This unit is located in northwestern San Benito County, approximately 8 mi (13 km) southeast of the City of Hollister and is mapped from occurrence records subsequent to listing in and near Paicines Reservoir and Tres Pinos Creek. SNB–2 is considered an area that is essential for the conservation of the subspecies. The area contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SNB–2 is essential to the conservation of the subspecies because it provides connectivity between sites on the coast plain and inner Coast Range, it contains permanent and ephemeral aquatic habitats suitable for breeding, and upland areas for dispersal, shelter and food. The unit consists of 9,644 ac (3,903 ha) of private land, and 13 ac (5 ha) of Federal land. Threats that may require special management in this unit include removal and alteration of aquatic and upland habitat due to urbanization and predation by nonnative species.

MNT–2, Carmel River (45, 408 ac (18,376 ha))

This unit is located about 3 mi (5 km) south to about 22 mi (35 km) southeast of the city of Monterey and includes locations in the Carmel River Valley and nearby San Jose Creek. It is mapped from occurrence records at time of listing and subsequent to the time of listing at the Carmel River, and at Las Garzas, San Jose, and San Clemente creeks. MNT–2 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). MNT–2 is occupied by the species and contains permanent and ephemeral aquatic habitats suitable for breeding, contains sufficient PCEs to support behaviors we have determined are essential to the conservation of the subspecies, and accessible upland areas for dispersal, shelter and food. The unit consists of 43, 632 ac (17,657 ha) of private land, 544 ac (220 ha) of State land, and 1,233 ac (499 ha) of Federal land. Threats that may require special management in this unit include removal and alteration of aquatic and upland habitat due to urbanization, dewatering of aquatic habitat due to water pumping and water diversions, reservoir maintenance activities, and predation by nonnative species.

SNB–3, Pinnacles National Monument (20,049 ac (8,114 ha))

This unit is located in the Gabilan Range at Pinnacles National Monument, about 3.5 mi (5.6 km) west of the town of San Benito, in southern San Benito County, and is mapped from occurrence records at time of listing and subsequent to the time of listing. SNB–3 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SNB–3 provides connectivity between sites between the coast plain and inner Coast Ranges, and contains permanent and ephemeral aquatic habitat suitable for breeding, and accessible upland areas for dispersal, shelter and food, and is occupied by the species. The unit consists of 6,070 ac (2,457 ha) of private land and 13,979 ac (5,657 ha) of Federal land. Threats that may require special management in this unit include overgrazing and trampling of aquatic and upland habitat by feral pigs, recreational activities, and predation by nonnative species.

SLO–1, Cholame (18,187 ac (7,360 ha))

This unit is located in northeastern San Luis Obispo and northwestern Kern Counties, includes locations in the Cholame Creek watershed, and is mapped from occurrence records at time of listing and subsequent to the time of listing. SLO–1 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SLO–1 contains permanent and ephemeral aquatic habitats suitable for breeding, and contains accessible upland areas for dispersal, shelter and food, and is occupied by the species. The unit consists of 18,011 ac (7,289 ha) of private land, and 176 ac (71 ha) of Federal land. Threats that may require special management in this unit include highway construction which may remove upland or aquatic habitat, overgrazing of aquatic and riparian habitats, and dewatering of aquatic habitats due to water diversions.

SLO–2, Piedras Blancas (4,621 ac (1,870 ha))

This unit is located along the coast in northwestern San Luis Obispo County, extends from Arroyo de Los Chinos south to Point Piedras Blancas, and is mapped from occurrence records at time of listing. SLO–2 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SLO–2 provides connectivity within the Santa Lucia Range, and between this range and the inner Coast Ranges in San Luis Obispo County, and is occupied by the species. The unit contains high quality habitat, indicated by high density of extant occurrences, permanent and ephemeral aquatic habitats suitable for breeding, and accessible upland areas for dispersal, shelter and food. The unit consists of 4,602 ac (1,863 ha) of private land, and 19 ac (8 ha) of Federal land. Threats that may require special management in this unit include dewatering of aquatic habitats due to water diversion and predation by nonnative species.

SLO–3, San Simeon (10,496 ac (4,248 ha))

This unit is located along the coast in northwestern San Luis Obispo County, extends from Arroyo del Puerto south to San Simeon Creek, and is mapped from occurrence records at time of listing and subsequent to the time of listing. SLO–3 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SLO–3 provides connectivity within the Santa Lucia Range, and between this range and the inner Coast Ranges in San Luis Obispo County, and contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food which we have determined are essential to the conservation of the subspecies, and is occupied by the species. The unit consists of 9,972 ac (4,035 ha) of private land and 524 ac (212 ha) of State land. Threats that may require special management in this unit include dewatering of aquatic habitats due to water diversion, overgrazing of aquatic and riparian habitats, and predation by nonnative species.

SLO–4, Santa Rosa Creek (8,150 ac (3,298 ha))

This unit is located along the coast in northwestern San Luis Obispo County and is mapped from occurrence records at the time of listing and subsequent to time of listing. SLO–4 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and

dispersal activities (PCE 3 and PCE 4). SLO–4 provides connectivity within the Santa Lucia Range, and between this range and the inner Coast Ranges in San Luis Obispo County, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food and is occupied by the species. This unit consists of 8,097 ac (3,277 ha) of private land, and 52 ac (21 ha) of State land. Threats that may require special management in this unit include dewatering of aquatic habitats due to water diversion, overgrazing of aquatic and riparian habitats, and predation by nonnative species.

SLO–5, Point Estero to Cayucos Creek (10,780 ac (4,363 ha))

This unit is located along the coast in central San Luis Obispo County, west of the town of Cayucos, and is mapped from occurrence records at time of listing and subsequent to the time of listing. SLO–5 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SLO–5 provides connectivity within the Santa Lucia Range, and between this range and the inner Coast Ranges in San Luis Obispo County, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, and is occupied by the species. This unit consists of 10,269 ac (4,156 ha) of private land and 511 ac (207 ha) of State land. Threats that may require special management in this unit include removal and alteration of aquatic and upland habitat due to urbanization, dewatering of aquatic habitats due to water diversion, overgrazing of aquatic and riparian habitats, and predation by nonnative species.

SLO–6, Willow and Toro Creeks (9,829 ac (3,978 ha))

This unit is located near the coast in central San Luis Obispo County, about 1.9 mi (3 km) north of the town of Morro Bay, and is mapped from occurrence records at time of listing and subsequent to the time of listing. SLO–6 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SLO–6 provides connectivity within the Santa Lucia Range, and between this range and the inner Coast Ranges in San Luis Obispo County, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, and is occupied by the species. This unit consists of 8,989 ac (3,638 ha) of private land and 840 ac (340 ha) of Federal land. Threats that may require special management in this unit include removal and alteration of aquatic and upland habitat due to urbanization, dewatering of aquatic habitats due to water diversion, and predation by nonnative species.

SLO–7, San Luis Obispo (22,347 ac (9,043 ha))

This unit is located north and east of the City of San Luis Obispo, and is mapped from occurrence records at time of listing and subsequent to the time of listing. SLO–7 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SLO–7 provides connectivity between the Santa Lucia Range and populations further inland, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food which we have determined are essential to the conservation of the subspecies, and is occupied by the species. This unit consists of 15,950 ac (6,455 ha) of private land, 4,393 ac (1,778 ha) of State land, and 2,004 ac (811 ha) of Federal land. Threats that may require special management in this unit include removal and alteration of aquatic and upland habitat due to urbanization, dewatering of aquatic habitats due to water diversion, overgrazing of aquatic and riparian habitats, and predation by nonnative species.

SLO–8, Upper Salinas River (16,281 ac (6,589 ha))

This unit is located at the base of Garcia Mountain about 17 mi (27 km) east of the City of San Luis Obispo, and is mapped from occurrence records subsequent to time of listing. SLO–8 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). SLO–8 provides connectivity between populations in the outer Coast Ranges and populations further inland, and is occupied by the species. In addition, it contains permanent and ephemeral aquatic habitats suitable for breeding, and contains accessible upland areas for dispersal, shelter and food. This unit consists of 6,837 ac (2,767 ha) of private land and 9,443 ac (3,822 ha) of Federal land. Threats that may require special management in this unit include alteration of aquatic and upland habitat by recreational activities and predation by nonnative species.

STB–1, La Brea Creek (25,103 ac (10,159 ha))

This unit is located in Los Padres National Forest in northern Santa Barbara County, and is mapped from occurrence records at time of listing and subsequent to the time of listing. STB–1 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). STB–1 provides connectivity between coastal populations and populations in the Transverse Ranges, and contains permanent and ephemeral aquatic habitats suitable for breeding, contains sufficient PCEs to support behaviors we have determined are essential to the conservation of the subspecies, and accessible upland areas for dispersal, shelter and food, and is occupied by the species. The unit consists of 3,921 ac (1,587 ha) of private land, and 21,181 ac (8,572 ha) of Federal land. Threats that may require special management in this unit include alteration of aquatic and upland habitat by recreational activities.

STB–2, San Antonio Terrace (4,922 ac (1,992 ha))

This unit is located in northwestern Santa Barbara County near the coast, and extends from about Casmalia south to the Santa Lucia Canyon near the Purisima Hills and is mapped from occurrence records subsequent to time of listing. STB–2 contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4), and is occupied by the species. STB–2 provides connectivity between coastal populations and populations in the Transverse Ranges, and contains permanent and ephemeral aquatic habitats suitable for breeding and accessible upland areas for dispersal, shelter and food. The unit consists of 4,922 ac (1,992 ha) of military land and is being excluded under section 4(a)(3) of the Act (see *Application of Section 4(a)(3) and Exclusions Under Section 4(b)(2) of the Act*). Special management which may be required in this unit includes management of construction and other activities which may

contaminate or cause sedimentation of aquatic habitats.

STB–3, Sisquoc River (47,431 ac (19,195 ha))

This unit occurs in northern Santa Barbara County and includes locations in the Sisquoc River watershed and is mapped from occurrence records at time of listing and subsequent to the time of listing. STB–3 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). STB–3 is occupied by the species and provides connectivity between locations along the coast and the Transverse Ranges, it is essential in stabilizing populations of the subspecies in tributaries to the Santa Ynez River, and contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food. The unit consists of 7,394 ac (2,992 ha) of private land and 40,038 ac (16,203 ha) of Federal land. Threats that may require special management in this unit include alteration of aquatic and upland habitat by recreational activities, predation by nonnative species, and water management practices which could be detrimental to California red-legged frog aquatic habitat.

STB–4, Jalama Creek (8,691 ac (3,517 ha))

This unit is located along the coast in southwestern Santa Barbara County about 4.4 mi (7 km) south of the City of Lompoc, and is mapped from occurrence records at time of listing and subsequent to the time of listing. STB–4 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). STB–4 is occupied by the species and provides connectivity between locations along the coast and the Santa Ynez River watershed, and contains permanent and ephemeral aquatic habitats suitable for breeding, and upland areas for dispersal, shelter and food. This unit consists of 7,681 ac (3,108 ha) of private land and 1,011 ac (409 ha) of military land. The military land is being excluded under section 4(a)(3) of the Act (see below). Threats that may require special management in this unit include predation by nonnative species and water management practices which could negatively affect California red-legged frog aquatic habitat. Populations in this unit may also require special management or protection due to their potential importance in stabilizing populations in tributaries to the Santa Ynez River.

STB–5, Gaviota Creek (12,888 ac (5,216 ha))

This unit is located along the coast in southern Santa Barbara County about 3 mi (5 km) southwest of the town of Buellton, and is mapped from occurrence records at time of listing and subsequent to the time of listing. STB–5 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). STB–5 is occupied by the species and provides connectivity between locations along the coast and the Santa Ynez River watershed, and contains upland areas for dispersal, shelter and food. The unit consists of 9,486 ac (3,839 ha) of private land, 1,844 ac (746 ha) of State land, and 1,558 ac (630 ha) of Federal land. Threats that may require special management in this unit include predation by nonnative species and water management practices which could negatively affect California red-legged frog aquatic habitat. Populations in this unit may also require special management or protection due to their potential importance in stabilizing populations in tributaries to the Santa Ynez River.

STB–6, Arroyo Quemado to Refugio Creek (11,985 ac (4,850 ha))

This unit occurs along the coast in southern Santa Barbara County about 5 mi (8 km) south of the town of Solvang, and is mapped from occurrence records at time of listing and subsequent to the time of listing. STB–6 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). STB–6 is occupied by the species and provides connectivity between locations along the coast and the Santa Ynez River watershed, and contains permanent and ephemeral aquatic habitats suitable for breeding, and upland areas for dispersal, shelter and food. The unit consists of 10,042 ac (4,064 ha) of private land, 76 ac (31 ha) State land, and 1,867 ac (756 ha) Federal land. Threats that may require special management in this unit include predation by nonnative species and water management practices which could negatively affect California red-legged frog aquatic habitat. Populations in this unit may also require special management or protection due to their potential importance in stabilizing populations in tributaries to the Santa Ynez River.

STB–7, Upper Santa Ynez River (36,224 ac (14,659 ha))

This unit is located in southeastern Santa Barbara County about 5 mi (8 km) north of the City of Santa Barbara. It includes locations in the middle and upper Santa Ynez River watershed, and is mapped from occurrence records at time of listing and subsequent to the time of listing. STB–7 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). STB–7 is occupied by the species and provides connectivity between locations along the coast, in the Sierra Madre Mountains, and in the Ventura River watershed. It contains high quality habitat, indicated by high density of extant occurrences, permanent and ephemeral aquatic habitats suitable for breeding, and accessible upland areas for dispersal, shelter and food. The unit consists of 3,805 ac (1,540 ha) of private land, and 32,419 ac (13,120 ha) of Federal land. Threats that may require special management in this unit include flood control and road maintenance activities which could cause siltation in and reduce available aquatic habitat, and directly remove upland habitat. Additional threats that may require special management include recreational activities and predation by nonnative species.

VEN–1, Matilija Creek (6,682 ac (2,704 ha))

This unit is located in western Ventura County at Matilija Creek and is mapped from occurrence records at time of listing and subsequent to the time of listing. VEN–1 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). VEN–1 is occupied by the species and important to species conservation in that persistence of the species in this area will prevent further isolation of breeding locations near the limit of the geographic range of the subspecies, contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food, and because it provides connectivity between populations

within the Transverse Ranges. The unit consists of 1,382 ac (559 ha) of private land and 5,300 ac (2,145 ha) of Federal land. Threats that may require special management in this unit include alteration of aquatic and upland habitat by recreational activities and predation by nonnative species.

VEN–2, San Antonio Creek (2,936 ac (1,188 ha))

This unit is located in western Ventura County at San Antonio Creek and is mapped from occurrence records at time of listing and subsequent to the time of listing. VEN–2 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). VEN–2 is occupied by the species. Persistance of the species in this area will prevent further isolation of breeding locations near the limit of the geographic range of the subspecies, contains permanent and ephemeral aquatic habitats suitable for breeding and accessible upland areas for dispersal, shelter and food, and because it provides connectivity between populations within the Transverse Ranges. The unit consists of 2,936 ac (1,188 ha) of private land. Threats that may require special management in this unit include alteration of aquatic and upland habitat by recreational activities, sedimentation of aquatic habitats, and predation by nonnative species.

VEN–3, Piru Creek (8,826 ac (3,572 ha))

This unit is located in eastern Ventura County and northwestern Los Angeles County and is mapped from occurrence records at time of listing at Piru Creek. VEN–3 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). VEN–3 is occupied by the species. Persistence of the species in this area is important to prevent further isolation of breeding locations near the limit of the geographic range of the subspecies, and it contains permanent and ephemeral aquatic habitats suitable for breeding, upland areas for dispersal, shelter and food. The unit consists of 305 ac (124 ha) of private land and 8,512 ac (3,448 ha) of Federal land. Threats that may require special management in this unit include alteration of aquatic and upland habitat by off-road vehicle use, conversion of native habitat by introduced invasive plant species, and predation by nonnative species.

VEN–4, Upper Las Virgenes Canyon Open Space Preserve (2,784 ac (1,127 ha))

This unit is located in southeastern Ventura County and is mapped from occurrence records subsequent to the time of listing. VEN–4 is considered an area that is essential for the conservation of the subspecies because it is currently occupied by the species and contains aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2), and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). Further, VEN–4 provides connectivity between coastal populations and populations in the Transverse Ranges, and contains permanent and ephemeral aquatic habitats suitable for breeding and accessible upland areas for dispersal, shelter and food. The unit consists of 2,784 ac (1,127 ha) of State land, managed by the Santa Monica Mountains Conservancy. Threats that may require special management in this unit include habitat degradation by recreational activities and the potential threat of predation by nonnative species.

LOS–1, San Francisquito Creek (4,228 ac (1,711 ha))

This unit is located in northwestern Los Angeles County and is mapped from occurrence records at time of listing. LOS–1 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). LOS–1 contains permanent and ephemeral aquatic habitats suitable for breeding and accessible upland areas for dispersal, shelter and food. The unit consists of 321 ac (130 ha) of private land and 3,907 ac (1,581 ha) of Federal land. Threats that may require special management in this unit include alteration and removal of aquatic and upland habitat by residential development, degradation of habitat by recreational activities, sedimentation of aquatic habitats, conversion of native habitats by introduced invasive plants and predation by African clawed frogs (*Xenopus laevis*) and other nonnative species.

RIV–1, Cole Creek (10,418 ac (4,216 ha))

This unit is located in southwestern Riverside County along Cole Creek, partially within the Santa Rosa Plateau Ecological Reserve. RIV–1 contains the following features that are essential for the conservation for the subspecies: Aquatic habitat for breeding and non-breeding activities (PCE 1 and PCE 2) and upland habitat for foraging and dispersal activities (PCE 3 and PCE 4). The unit was known to be occupied at time of listing and is currently occupied. It contains permanent and ephemeral aquatic habitats suitable for breeding and accessible upland areas for dispersal, shelter and food, provides for connectivity between populations, provides representation of the southern-most extent of the geographic range of the subspecies in the United States, and contains high quality habitat. Further, based on recent genetics work (Shaffer *et al.* 2004), it is believed that this population represents a unique genetic lineage of the subspecies that is closely related to the populations found in Baja California, Mexico, and may be representative of the genetic lineage that once occupied the southern California basin in Riverside, Orange, and San Diego counties. This unit consists of 7,416 ac (3,001 ha) of private land, and 3,002 ac (1,215 ha) of State land. Threats that may require special management in this unit include removal and alteration of habitat due to urbanization, and predation by nonnative species. We are proposing to exclude this entire unit from the final designation of critical habitat because it is covered under the Western Riverside Multiple Species Habitat Conservation Plan. For a further discussion of this proposed exclusion see the Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act section below.

Effect of Critical Habitat Designation

Section 7 Consultation

Section 7 of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. In our regulations at 50 CFR 402.2, we define destruction or adverse modification as ''a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to: Alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.'' We are currently reviewing the regulatory definition of adverse modification in relation to the conservation of the species, and are relying on the statutory provisions of the Act in evaluating the effects of Federal actions on proposed critical

habitat, pending further regulatory guidance.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. We may issue a formal conference report if requested by a Federal agency. Formal conference reports on proposed critical habitat contain an opinion that is prepared according to 50 CFR 402.14, as if critical habitat were designated. We may adopt the formal conference report as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)). The conservation recommendations in a conference report are advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Through this consultation, the action agency ensures that their actions do not destroy or adversely modify critical habitat.

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. ''Reasonable and prudent alternatives'' are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conference with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect the California red-legged frog, occupied habitat, or its proposed critical habitat will require consultation under section 7. Activities on private, State, County, or lands under local jurisdictions requiring a permit from a Federal agency, such as Federal Highway Administration (FHA) or Federal Emergency Management Act (FEMA) funding, or a permit from the U.S. Army Corps of Engineers (Corps) under section 404 of the Clean Water Act, will continue to be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on non-Federal lands that are not federally funded, authorized, or permitted do not require section 7 consultation.

Section 4(b)(8) of the Act requires us to evaluate briefly and describe, in any proposed or final regulation that designates critical habitat, those activities involving a Federal action that may adversely modify such habitat, or that may be affected by such designation. We note that such activities may also jeopardize the continued existence of the species. All areas proposed as critical habitat and unoccupied at the time of listing are determined to be essential to the conservation of the California red-legged frog.

Activities that may destroy or adversely modify critical habitat are those that alter the PCEs to an extent that the conservation value of critical habitat for the California red-legged frog is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency may directly or indirectly destroy or adversely modify critical habitat for California red-legged frog include, but are not limited to:

(1) Activities affecting waters of the United States by the Corps under section 404 of the Clean Water Act;

(2) Water flows, damming, diversion, and channelization implemented or licensed by Federal agencies;

(3) Timber harvest, grazing, mining, and recreation by the U.S. Forest Service and BLM;

(4) Road construction and maintenance, right-of-way designation, and regulation of agricultural activities;

(5) Hazard mitigation and post-disaster repairs funded by the Federal Emergency Management Agency; and

(6) Activities funded by the Environmental Protection Agency, U.S. Department of Energy, or any other Federal agency.

All lands proposed for designation as critical habitat are within the geographic range of the California red-legged frog and are occupied by the subspecies, and/or are likely to be used by the subspecies, whether for foraging, breeding, growth of larvae and juveniles, intra-specific communication, dispersal, migration, genetic exchange and sheltering. Federal agencies already consult with us on activities in areas currently occupied by the subspecies, or if the subspecies may be affected by the action, to ensure that their actions do not jeopardize the continued existence of the subspecies. Thus, we do not anticipate substantial additional regulatory protection will result from the proposed critical habitat designation.

If you have questions regarding whether specific activities may constitute adverse modification of critical habitat in California, contact the Field Supervisor, Sacramento Fish and Wildlife Office (see **ADDRESSES** section). Requests for copies of the regulations on listed plants and wildlife and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Branch of Endangered Species, 911 NE 11th Ave, Portland, OR 97232 (telephone 503/231–2063; facsimile 503/231–6243).

Application of Section 4(a)(3) and Exclusions Under Section 4(b)(2) of the Act

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an Integrated Natural Resource Management Plan (INRMP). An INRMP integrates implementation of the military mission

of the installation with stewardship of the natural resources found on the base. Each INRMP includes an assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan. We consult with the military on the development and implementation of INRMPs for installations with listed species.

Section 318 of Fiscal Year 2004 the National Defense Authorization Act (Public Law No. 108–136) amended the Endangered Species Act to address the relationship of INRMPs to critical habitat by adding a new section 4(a)(3)(B). This provision prohibits us from designating as critical habitat any lands or other geographical areas owned or controlled by the DOD, or designated for its use, that are subject to an INRMP prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary of the Interior determines, in writing, that such plan provides a benefit to the species for which critical habitat is proposed for designation. Vandenberg Air Force Base has an approved INRMP that provides additional conservation benefit for the California red-legged frog. Thus, in the development of identifying specific areas for designation as critical habitat, we evaluate whether areas determined to contain the features essential to the conservation of the subject species are covered by and approved INRMP that provides a benefit to the species. If the area is covered by an approved INRMP that provides a benefit to the species, then the area is exempt from designation pursuant to section 4(a)(3) of the Act.

In our critical habitat designations, we use the provision outlined in section 4(b)(2) of the Act to evaluate those specific areas that we consider designating as critical habitat. Lands that may be excluded from the final designation of critical habitat for this species pursuant to section 4(b)(2) of the Act may include those covered by the following types of plans if they provide assurances that the conservation measures they outline will be implemented and effective: (1) Legally operative approved HCPs that cover the species; (2) draft HCPs that cover the species and have undergone public review and comment (i.e., pending HCPs); (3) Tribal conservation plans that cover the species; (4) State conservation plans that adequately cover the species; and (5) National Wildlife Refuge System Comprehensive Conservation Plans.

Relationship of Critical Habitat to Section 4(a)(3) of the Act—Approved Integrated Natural Resource Management Plans (INRMPs)

Vandenberg Air Force Base

Vandenberg Air Force Base completed an INRMP in 1997 prior to the passage and implementation of the Sikes Act Improvements Act of 1997. While we did not specifically participate in its development, this older plan does provide conservation measures for the California red-legged frog, as well as for the management of important wetland habitats across the base. The INRMP provides management direction on conserving listed and imperiled species and their habitats on the base. Sites with known populations of the California red-legged frog are protected from disturbance from human activities and grazing through measures appropriate to the given situation. Vandenberg's INRMP specifies monitoring of California red-legged frog populations on the base, and periodic surveys to provide continuous evaluation of the subspecies' status at known and new sites identified on the base. In addition, Vandenberg actively consults with us on all actions that may affect California red-legged frogs on the base, and has implemented conservation measures as recommended. Vandenberg Air Force Base is currently in the process of updating their INRMP. We have reviewed the draft update, and we are working together to ensure that appropriate measures are included in their final INRMP to provide additional conservation benefit to the California red-legged frog. The updated version of the INRMP as currently drafted provides for an equal or greater level of benefit to the California red-legged frog. Based on Vandenberg's commitment to working with us on frog conservation, we believe that the final version of the INRMP will continue to provide a benefit for the subspecies. Therefore, we have determined that the INRMP as drafted and implemented for Vandenberg Air Force Base provides a benefit to the California red-legged frog. As such, the lands that contain the features essential to the conservation of the California red-legged frog on Vandenberg Air Force Base are exempt from inclusion in this proposed designation of critical habitat for the subspecies pursuant to section 4(a)(3) of the Act.

Relationship of Critical Habitat to Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires us to consider other relevant impacts, in addition to economic impacts, when designating critical habitat. Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed wildlife species incidental to otherwise lawful activities. Development of an HCP is a prerequisite for the issuance of an incidental take permit pursuant to section 10(a)(1)(B) of the Act. An incidental take permit application must be supported by an HCP that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the permitted incidental take. HCPs vary in size and may provide for incidental take coverage and conservation management for one or many federally-listed species. Additionally, more than one applicant may participate in the development and implementation of an HCP. Large regional HCPs expand upon the basic requirements set forth in section 10(a)(1)(B) of the Act because they reflect a voluntary, cooperative approach to large-scale habitat and species conservation planning. Many of the large regional HCPs in southern California have been, or are being, developed to provide for the conservation of numerous federally-listed species and unlisted sensitive species and the habitat that provides for their biological needs. These HCPs are designed to proactively implement conservation actions to address future projects that are anticipated to occur within the planning area of the HCP. However, given the broad scope of these regional HCPs, not all projects envisioned to potentially occur may actually take place. The State of California also has a NCCP process that is very similar to the federal HCP process and is often completed in conjunction with the HCP process. We recognize that many of the projects with HCPs also have State-issued NCCPs. In the case of approved regional HCPs and accompanying Implementing Agreements (IAs) (e.g., those sponsored by cities, counties, or other local jurisdictions) that provide for incidental take coverage, a primary goal of these regional plans is to provide for the protection and management of the habitat features essential for species conservation, while directing development to other areas. We are considering whether to exclude from the critical habitat designation lands within

the Bonny Doon Quarries Settlement Ponds HCP, Western Riverside Multiple Species HCP, and the Draft East Contra Costa County HCP under section 4(b)(2) of the Act.

Bonny Doon Quarries Settlement Ponds Habitat Conservation Plan (Bonny Doon HCP)

Section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data available after taking into consideration the economic impact, impact on national security, and any other relevant impact, of specifying any particular area as critical habitat. An area may be excluded from critical habitat if it is determined that the benefits of such exclusion outweigh the benefits of specifying a particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species. Consequently, we may exclude an area from critical habitat based on economic impacts, impacts on national security, or other relevant impacts such as preservation of conservation partnerships, if we determine the benefits of excluding an area from critical habitat outweigh the benefits of including the area in critical habitat, provided the action of excluding the area will not result in the extinction of the species.

Below we first provide some general background information on the Bonny Doon HCP, followed by an analysis pursuant to section 4(b)(2) of the Act of the benefits of including Bonny Doon HCP land within the critical habitat designation, an analysis of the benefits of excluding this area, and an analysis of why we believe the benefits of exclusion are greater than those of inclusion. We are proposing to exclude the 4.9 ac (2 ha) Bonny Doon HCP located within proposed critical habitat unit SCZ–1.

The Bonny Doon HCP encompasses 4.9 ac (2 ha) of privately-owned lands in the Santa Cruz Mountains near the town of Davenport, Santa Cruz County, California. California red-legged frogs are present in both of the watersheds (San Vicente Creek and Liddell Creek) where settlement ponds were constructed at the Bonny Doon Quarries. The Bonny Doon HCP was completed and finalized in 1998 concurrently with a final environmental assessment on the HCP pursuant to NEPA. We issued a non-jeopardy biological opinion under section 7 of the Act on the Bonny Doon HCP in August 1999. The Bonny Doon HCP contains measures to minimize and mitigate impacts from the operations, maintenance, and possible reclamation activities to the California red-legged frog and its habitat and to further the conservation of the species. The primary components of the minimization and mitigation include: Developing and implementing an employee training program and a community outreach program; conducting annual breeding and pre-activity surveys at all settlement and mitigation ponds for California red-legged frogs; avoiding or relocating California red-legged frogs and their tadpoles and eggs during maintenance activities; minimizing impacts of water releases to breeding populations of California red-legged frogs; inspecting the ground under vehicles for California red-legged frogs prior to use; establishing a speed limit of ten miles per hour on roads within the operational area (although the incidental take permit will only authorize incidental take associated with the proposed operation, maintenance, and reclamation activities in the project area; not the entire operational area); using pesticides and herbicides that do not affect aquatic organisms and applying them in accordance with label precautions; disposing of all food-related trash in closed containers; controlling exotic predators; and enhancing habitat suitability of the mitigation ponds and Settlement Pond 1 for the California red-legged frog. The Bonny Doon HCP and its accompanying Implementing Agreement, which delineates the responsibilities of the Service and the permittee for the implementation of the HCP, are designed to allow the operation and maintenance activities of up to seven settlement ponds and the reclamation of two of the Bonny Doon Quarries Settlement Ponds in a manner that will result in conservation of the California red-legged frog and its habitat.

(1) Benefits of Inclusion

The primary benefit to designation of critical habitat is the requirement that Federal agencies consult with the Service to ensure that their actions are not likely to result in the destruction or adverse modification of critical habitat. If critical habitat were designated in these areas, primary constituent elements in these areas would be protected from destruction or adverse modification by Federal actions using a conservation standard based on the Ninth Circuit's decision in *Gifford Pinchot.* This requirement would be in addition to the requirement that proposed Federal actions would not be likely to jeopardize the species' continued existence. However, inasmuch as these areas currently are occupied by the subspecies, consultation for activities which might adversely impact the subspecies, including possibly significant habitat modification (see definition of ''harm'' at 50 CFR 17.3) would be required, even without the critical habitat designation. The requirement to conduct such consultation would occur regardless of whether the authorization for incidental take occurs under either section 7 or section 10 of the Act.

As discussed above, we expect the Bonny Doon HCP to provide substantial protection of the PCEs and special management of essential habitat features for the California red-legged frog on Bonny Doon HCP conservation lands. We expect the Bonny Doon HCP to provide a greater level of management for the California red-legged frog on private lands than would designation of critical habitat on private lands. Moreover, inclusion of these non-Federal lands as critical habitat would not necessitate additional management and conservation activities that would exceed the approved Bonny Doon HCP and its implementing agreement. As a result, we do not anticipate any action on these lands would destroy or adversely modify the areas proposed as critical habitat. Therefore, we do not expect that including those areas in the final designation will lead to any changes to actions on the conservation lands to avoid destroying or adversely modifying that habitat.

A benefit of including an area as critical habitat designation is the education of landowners and the public regarding the potential conservation value of these areas. The inclusion of an area as critical habitat may focus and contribute to conservation efforts by other parties by clearly delineating areas of high conservation values for certain species. However, we believe that there are informational benefits gained from including the Bonny Doon HCP within the designation because this area is included in this proposed rule. Additionally, the purpose of the Bonny Doon HCP is to provide protection and enhancement of habitat for the California red-legged frog is already well established among State and local governments, and Federal agencies. Consequently, we believe that the informational benefits are already provided even though this area is not designated as critical habitat.

(2) Benefits of Exclusion

The benefits of excluding lands within HCPs from critical habitat designation include relieving landowners, communities, and counties

of any additional regulatory burden that might be imposed by a critical habitat designation. Many HCPs such as the Bonny Doon HCP take many years to develop and, upon completion, become regional conservation plans that are consistent with the recovery objectives for listed species that are covered within the plan area. In fact, designating critical habitat in areas covered by a pending HCP could result in the loss of some species' benefits if participants abandon the HCP process, in part because of the strength of the perceived additional regulatory compliance that such designation would entail. The time and cost of regulatory compliance for a critical habitat designation do not have to be quantified for them to be perceived as additional Federal regulatory burden sufficient to discourage continued participation in plans targeting listed species conservation.

Furthermore, an HCP or NCCP/HCP application must itself be consulted upon. Such a consultation would review the effects of all activities covered by the HCP which might adversely impact the species under a jeopardy standard, including possibly significant habitat modification (see definition of ''harm'' at 50 CFR 17.3), even without the critical habitat designation. In addition, Federal actions not covered by the HCP in areas occupied by listed species would still require consultation under section 7 of the Act and would be reviewed for possibly significant habitat modification in accordance with the definition of harm referenced above.

(3) Benefits of Exclusion Outweigh Benefits of Inclusion

We have reviewed and evaluated benefits of inclusion and exclusion of critical habitat for the California red-legged frog. Based on this evaluation, we find that the benefits of exclusion of the lands in the planning area for the Bonny Doon HCP outweigh the benefits of including a portion of proposed critical habitat unit SCZ–1 as critical habitat.

The exclusion of these lands from critical habitat will help preserve the partnerships that we have developed with the local jurisdiction and project proponent in the development of the Bonny Doon HCP, which provides for red-legged frog conservation. The educational benefits of critical habitat, including informing the public of areas important for the long term conservation of the subspecies, are still accomplished from material provided on our website and through public notice and comment procedures required to establish the Bonny Doon HCP. The public also has been informed through the public participation that occurs during the development of this HCP. Further, many educational benefits of critical habitat designation will be achieved through the overall designation, and will occur whether or not this particular location is designated. For these reasons, we believe that designating critical habitat has little benefit in areas covered by the Bonny Doon HCP. We do not believe that this exclusion would result in the extinction of the species because the Bonny Doon HCP provides for species conservation in this area by: Developing and implementing an employee training program and a community outreach program; conducting annual breeding and pre-activity surveys at all settlement and mitigation ponds for California red-legged frogs; avoiding or relocating California red-legged frogs and their tadpoles and eggs during maintenance activities; minimizing impacts of water releases to breeding populations of California red-legged frogs; inspecting the ground under vehicles for California red-legged frogs prior to use; establishing a speed limit of ten miles per hour on roads within the operational area (although the incidental take permit will only authorize incidental take associated with the proposed operation, maintenance, and reclamation activities in the project area; not the entire operational area); using pesticides and herbicides that do not affect aquatic organisms and applying them in accordance with label precautions; disposing of all food-related trash in closed containers; controlling exotic predators; and enhancing habitat suitability of the mitigation ponds and Settlement Pond 1 for the California red-legged frog.

Maps delineating the essential habitat features for the California red-legged frog, overlaid with the planning area for the Bonny Doon HCP, are available for public review and comment at the Ventura Fish and Wildlife Office (see **ADDRESSES** section). These maps are provided to allow the public the opportunity to adequately comment on these proposed exclusions.

Western Riverside Multiple Species Habitat Conservation Plan

Below we first provide some general background information on the Western Riverside Multiple Species Habitat Conservation Plan (MSHCP), followed by an analysis pursuant to section 4(b)(2) of the Act of the benefits of including MSHCP land within the critical habitat designation, an analysis of the benefits of excluding this area, and an analysis of why we believe the benefits of exclusion are greater than those of inclusion. We are proposing to exclude all of proposed critical habitat unit RIV–1 (10,416 ac (4,216 ha)).

The Western Riverside Multiple Species Habitat Conservation Plan (MSHCP) was finalized and approved on June 22, 2004. Participants in this HCP include 14 cities; the County of Riverside, including the Riverside County Flood Control and Water Conservation Agency, Riverside County Transportation Commission, Riverside County Parks and Open Space District, and Riverside County Waste Department; the California Department of Parks and Recreation; and the California Department of Transportation. The Western Riverside MSHCP is a subregional plan under the State's NCCP and was developed in cooperation with the California Department of Fish and Game. Within the 1.26 million-acre (510,000 ha) planning area of the MSHCP, approximately 153,000 ac (62,000 ha) of diverse habitats are being conserved. The conservation of 153,000 ac (62,000 ha) complements other existing natural and open space areas that are already conserved through other means (*e.g.*, State parks, USFS, and County park lands).

Conservation measures specific to the California red-legged frog in the MSHCP include the conservation of 766 ac (310 ha) of occupied and historic breeding habitat, the conservation of 39,992 ac (16,184 ha) of intervening lands which shall provide movement between core areas, the conservation of 39,147 ac (15,842 ha) of upland habitat adjacent to occupied or suitable breeding habitat, surveys in suitable habitat within the plan area, and maintenance and, where feasible, restoration of ecological processes within occupied and suitable habitat.

Unit RIV–1 is located at the Santa Rosa Plateau Ecological Reserve, which is cooperatively managed by the Riverside County Regional Park and Open Space District, the Metropolitan Water District of Southern California, and The Nature Conservancy. The reserve contains riparian habitat that considered necessary to establish persistence of the subspecies in Southern California. Current management activities for the subspecies on the Santa Rosa Plateau include surveys, habitat restoration, and annual removal of exotic species (particularly bullfrogs). Additional efforts to recover this species are currently underway, including a joint project by the Service, the Los Angeles Zoo, The Nature Conservancy, and the Mexican government to augment and

reestablish the population on the Santa Rosa Plateau.

(1) Benefits of Inclusion

The primary benefit to designation of critical habitat is the requirement that federal agencies consult with the Service to ensure that their actions are not likely to result in the destruction or adverse modification of critical habitat. If critical habitat were designated in these areas, primary constituent elements in these areas would be protected from destruction or adverse modification by federal actions using a conservation standard based on the Ninth Circuit's decision in *Gifford* v. *Pinchot*. This requirement would be in addition to the requirement that proposed Federal actions would not be likely to jeopardize the species' continued existence. However, inasmuch as these areas currently are occupied by the subspecies, consultation for activities which might adversely impact the subspecies, including possibly significant habitat modification (see definition of ''harm'' at 50 CFR 17.3) would be required, even without the critical habitat designation. The requirement to conduct such consultation would occur regardless of whether the authorization for incidental take occurs under either section 7 or section 10 of the Act.

As discussed above, we expect the MSHCP to provide substantial protection of the PCEs and special management of essential habitat features for the California red-legged frog on MSHCP conservation lands. We expect the MSHCP to provide a greater level of management for the California red-legged frog on private lands than would designation of critical habitat on private lands. Moreover, inclusion of these non-Federal lands as critical habitat would not necessitate additional management and conservation activities that would exceed the approved MSHCP and its implementing agreement. As a result, we do not anticipate any action on these lands would destroy or adversely modify the areas proposed as critical habitat. Therefore, we do not expect that including those areas in the final designation will lead to any changes to actions on the conservation lands to avoid destroying or adversely modifying that habitat.

A benefit of including an area as critical habitat designation is the education of landowners and the public regarding the potential conservation value of these areas. The inclusion of an area as critical habitat may focus and contribute to conservation efforts by other parties by clearly delineating areas of high conservation values for certain species. However, we believe that there would be little additional informational benefit gained from including the MSHCP within the designation because this area is included in this proposed rule. Additionally, the purpose of the MSHCP is to provide protection and enhancement of habitat for the California red-legged frog is already well established among State and local governments, and Federal agencies. Consequently, we believe that the informational benefits are already provided even though this area is not designated as critical habitat.

(2) Benefits of Exclusion

The benefits of excluding lands within HCPs from critical habitat designation include relieving landowners, communities, and counties of any additional regulatory burden that might be imposed by a critical habitat designation. Many HCPs, particularly large regional HCPs such as the MSHCP, take many years to develop and, upon completion, become regional conservation plans that are consistent with the recovery objectives for listed species that are covered within the plan area. In fact, designating critical habitat in areas covered by a pending HCP could result in the loss of species' benefits if participants abandon the HCP process, in part because of the strength of the perceived additional regulatory compliance that such designation would entail. The time and cost of regulatory compliance for a critical habitat designation do not have to be quantified for them to be perceived as additional Federal regulatory burden sufficient to discourage continued participation in plans targeting listed species conservation.

Furthermore, an HCP or NCCP/HCP application must itself be consulted upon. Such a consultation would review the effects of all activities covered by the HCP which might adversely impact the species, including possibly significant habitat modification (see definition of ''harm'' at 50 CFR 17.3), under the jeopardy standard, even without the critical habitat designation. In addition, Federal actions not covered by the HCP in areas occupied by listed species would still require consultation and a determination whether the project would jeopardize the continued existence of the species under section 7 of the Act and would be reviewed for possibly significant habitat modification in accordance with the definition of harm referenced above.

(3) Benefits of Exclusion Outweigh Benefits of Inclusion

We have reviewed and evaluated the benefits of inclusion and exclusion of critical habitat in unit RIV–1 for the California red-legged frog. Based on this evaluation, we find that the benefits of exclusion of the lands in the planning area for the MSHCP outweigh the benefits of including all of proposed critical habitat units RIV–1 as critical habitat.

The exclusion of these lands from critical habitat will help preserve the partnerships that we have developed with the local jurisdiction and project proponent in the development of the MSHCP. The educational benefits of critical habitat, including informing the public of areas that have the features that are essential for the long term conservation of the subspecies, are still accomplished from material provided on our Web site and through public notice and comment procedures required to establish the MSHCP. The public also has been informed through the public participation that occurs during the development of this HCP. In addition, many educational benefits of critical habitat designation will be achieved through the overall designation, and will occur whether or not this particular unit is designated. For these reasons, we believe that designating critical habitat has little benefit in areas covered by the MSHCP. We do not believe that this exclusion would result in the extinction of the species because the MSHCP seeks to: Include the conservation of 766 acres of occupied and historic breeding habitat, the conservation of 39,992 acres of intervening lands which shall provide movement between core areas, the conservation of 39,147 acres of upland habitat adjacent to occupied or suitable breeding habitat, surveys in suitable habitat within the plan area, and maintenance and, where feasible, restoration of ecological processes within occupied and suitable habitat. Further, unit RIV–1 in particular is being conserved and managed for, among other species, the California red-legged frog.

Maps delineating the essential habitat features for the California red-legged frog, overlaid with the planning area for the Western Riverside MSHCP area, are available for public review and comment at the Carlsbad Fish and Wildlife Office (see **ADDRESSES** section). These maps are provided to allow the public the opportunity to adequately comment on these proposed exclusions.

East Contra Costa County Natural Communities Conservation Plan / Habitat Conservation Plan (ECCHCP)

The notice of availability for the draft ECCHCP was published in the **Federal Register** on September 2, 2005 (70 FR 52434). The draft ECCHCP is currently under review and open for public comment until December 1, 2005. The document is available at the following Web site: *http://www.cocohcp.org*. The document will also be available for public inspection, by appointment, during normal business hours at the Sacramento Fish and Wildlife Office [see **ADDRESSES**]. We expect a finalized plan before the end of 2006. Participants in this HCP include the County of Contra Costa; the cities of Brentwood, Clayton, Oakley, and Pittsburg, California; the Contra Costa Water District; and the East Bay Regional Park District. The draft ECCHCP encompasses the eastern portion of Contra Costa County from approximately west of Concord to Sand Mound Slough and Clifton Court Forebay on the east. The draft ECCHCP is also a subregional plan under the State's Natural Community Conservation Planning (NCCP) process and was developed in cooperation with the California Department of Fish and Game. The draft ECCHCP identifies the California red-legged frog as a covered species and has identified areas where growth and development are expected to occur, as well as several conservation measures, including (1) protection of 28 to 36 acres of pond habitat, 85 to 98 miles of stream habitat, and 24,455 to 29,467 acres of upland habitat; (2) acquisition of aquatic habitat to compensate for habitat loss; (3) creation of aquatic habitat for compensation of habitat and to contribute to recovery; (4) stream restoration to enhance aquatic habitat. When the conservation measures are implemented they will benefit California red-legged frog conservation by preserving and restoring existing aquatic and upland habitat and creating new aquatic habitat for the species. We expect that the draft ECCHCP will provide substantial protection for all four of the primary constituent elements for the Central population of the California red-legged frog, and that protected lands will receive special management they require through funding mechanisms that will be implemented under the ECCHCP.

All of proposed critical habitat unit CCS–1B and a portion of proposed critical habitat unit ALA–1A are within the proposed ECCHCP. A total of 38,093 ac (15,416 ha) may be considered for exclusion if the HCP has reached the threshold of being considered a ''pending HCP'' prior to the completion of the final critical habitat designation. East Bay Regional Park District (EBRPD) lands are covered under the ECCHCP. However, they are not included in the total area here, rather they are addressed as a group below.

(1) Benefits of Inclusion

The primary benefit to designation of critical habitat is the requirement that federal agencies consult with the Service to ensure that their actions are not likely to result in the destruction or adverse modification of critical habitat. If critical habitat were designated in these areas, primary constituent elements in these areas would be protected from destruction or adverse modification by Federal actions using a conservation standard based on the Ninth Circuit's decision in *Gifford Pinchot*. This requirement would be in addition to the requirement that proposed Federal actions would not be likely to jeopardize the species' continued existence. However, inasmuch as these areas currently are occupied by the subspecies, consultation for activities which might adversely impact the subspecies, including possibly significant habitat modification (see definition of ''harm'' at 50 CFR 17.3) would be required, even without the critical habitat designation. The requirement to conduct such consultation would occur regardless of whether the authorization for incidental take occurs under either section 7 or section 10 of the Act.

As discussed above, we expect the ECCHCP to provide substantial protection of the PCEs and special management of essential habitat features for the California red-legged frog on ECCHCP conservation lands. We expect the ECCHCP to provide a greater level of management for the California red-legged frog on private lands than would designation of critical habitat on private lands. Moreover, inclusion of these non-Federal lands as critical habitat would not necessitate additional management and conservation activities that would exceed an approved ECCHCP and its implementing agreement. As a result, we do not anticipate any action on these lands would destroy or adversely modify the areas proposed as critical habitat. Therefore, we do not expect that including those areas in the final designation will lead to any changes to actions on the conservation lands to avoid destroying or adversely modifying that habitat.

A benefit of including an area as critical habitat designation is the education of landowners and the public regarding the potential conservation value of these areas. The inclusion of an area as critical habitat may focus and contribute to conservation efforts by other parties by clearly delineating areas of high conservation values for certain species. However, we believe that this conservation benefit has largely been achieved for the California red-legged frog through the hearings and workshops that have been held in the East Bay area associated with the listing of the subspecies and previous proposal to designate critical habitat.

(2) Benefits of Exclusion

The benefits of excluding lands within HCPs from critical habitat designation include relieving landowners, communities, and counties of any additional regulatory burden that might be imposed by a critical habitat designation. Many HCPs, particularly large regional HCPs such as the ECCHCP, take many years to develop and, upon completion, become regional conservation plans that are consistent with the recovery objectives for listed species that are covered within the plan area. In fact, designating critical habitat in areas covered by a pending HCP could result in the loss of species' benefits if participants abandon the HCP process, in part because of the strength of the perceived additional regulatory compliance that such designation would entail. The time and cost of regulatory compliance for a critical habitat designation do not have to be quantified for them to be perceived as additional Federal regulatory burden sufficient to discourage continued participation in plans targeting listed species conservation.

Furthermore, an HCP or NCCP/HCP application must itself be consulted upon. Such a consultation would review the effects of all activities covered by the HCP which might adversely impact the species, including possibly significant habitat modification (see definition of ''harm'' at 50 CFR 17.3), even without the critical habitat designation. In addition, Federal actions not covered by the HCP in areas occupied by listed species would still require consultation under section 7 of the Act and would be reviewed for possibly significant habitat modification in accordance with the definition of harm referenced above. This standard also would apply to all consultation conducted in the interim period prior to finalization of the ECCHCP, whether incidental take exemption is provided under section 7 or section 10 of the Act.

(3) Benefits of Exclusion Outweigh the Benefits of Inclusion

We have reviewed and evaluated the benefits of both including and excluding critical habitat in this location for the California red-legged frog. Based on this evaluation, we believe that the benefits of exclusion of the lands in the planning area for the draft ECCHCP would outweigh the benefits of including all of proposed critical habitat unit CCS–1B and a portion of proposed critical habitat unit ALA–1A as critical habitat.

The proposed exclusion of these lands from critical habitat would help preserve the partnerships that we have developed with the local jurisdiction and project proponent in the development of the ECCHCP. The educational benefits of critical habitat, including informing the public of areas that have the features that are essential for the long term conservation of the subspecies, would still be accomplished from material provided on our website and through public notice and comment procedures required to establish the ECCHCP. The public also has been informed through the public participation that occurs during the development of this regional HCP. For these reasons, we believe that designating critical habitat would have little benefit in areas covered by the draft ECCHCP. We do not believe that this proposed exclusion would result in the extinction of the species because the draft ECCHCP seeks to: (1) Protect 28–36 acres of pond habitat, 85–98 miles of stream habitat, and 24,455–29,467 acres of upland habitat; (2) acquire aquatic habitat to compensate for habitat loss; (3) create aquatic habitat for compensation of habitat loss and for contribution to recovery; (4) restore streams to enhance aquatic habitat.

Maps delineating the essential habitat features for the California red-legged frog, overlaid with the planning area for the ECCHCP will be available for public review and comment at the Sacramento Fish and Wildlife Office (see **ADDRESSES** section). These maps are provided to allow the public the opportunity to adequately comment on these proposed exclusions.

Relationship of Critical Habitat to Other Land—Exclusions Under Section 4(b)(2) of the Act

East Bay Regional Park District, Master Plan 1997

Below, we first provide some general background information on the East Bay Regional Park District (EBRPD), followed by an analysis pursuant to section 4(b)(2) of the Act of the benefits of including EBRPD land within the critical habitat designation, an analysis of the benefits of excluding this area, and an analysis of why we believe the benefits of exclusion are greater than those of inclusion. We are proposing to exclude a total of 18,867 ac (7,595 ha) from portions of proposed critical habitat units CCS–1A and ALA–1C.

The East Bay Regional Park District (EBRPD) manages 65 regional parks, recreation areas, wilderness, shorelines, preserves and land bank areas covering over 95,000 ac (34,446 ha) in Alameda and Contra Costa Counties. The EBRPD Board of Directors adopted the Master Plan 1997 on December 17, 1996 under Resolution Number 1996–12–349. The master plan provides for monitoring and conservation of rare, threatened, and endangered species. Species conservation efforts take precedence over other park activities if EBRPD activities are determined to have a significant adverse effect on rare, threatened or endangered species (EBRPD, 1997). EBRPD has been actively conducting California red-legged frog surveys and research over the last 15 years under U.S. Fish and Wildlife Service recovery permit number 817400. During the years of 1996, 2000 and 2004 EBRPD conducted California red-legged frog surveys across all park lands for the purpose of population trend monitoring and habitat assessment. Research has also focused on California red-legged frog habitat requirements, tolerances related to water quality, adult and juvenile movements, as well as the effect of livestock grazing on habitat and frog reproduction. EBRPD provides educational outreach through park interpretive programs, presentation of California red-legged frog research findings at scientific conferences and in peer reviewed journals. Habitat restoration and non-native predator control are special management actions the EBRPD has used and continues to use for the conservation of the California red-legged frog. Nearly 90 percent of the EBRPD land holdings are protected and managed as natural parklands thereby providing protection for the PCEs (Bobzien, pers com. 2005).

(1) Benefits of Inclusion

We believe that there is minimal benefit from designating critical habitat for the California red-legged frog within EBRPD because, as explained in detail above, these lands are already managed for the conservation of the subspecies. Further, lands contained within EBRPD within this proposal are currently occupied by the California red-legged frog and contain wetlands regulated by the Corps pursuant to the Clean Water Act. Thus, Federal actions agencies would be required to consult with us pursuant to section 7 of the Act for activities that may affect the subspecies or wetlands within this area.

Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act. The section 7 consultation process is triggered when a Federal agency determines that its proposed Federal action (*i.e.*, an action that it funds, carries out, or authorizes) may affect a listed species or its critical habitat. Thus, the principal benefit of any designated critical habitat is that Federal activities that may affect critical habitat require consultation under section 7 of the Act.

Once consultation under section 7 of the Act is triggered, the process may conclude informally when the Service concurs in writing that the proposed Federal action is not likely to adversely affect the listed species or its critical habitat. However, if the Service determines through informal consultation that adverse impacts may occur, then formal consultation is initiated. Formal consultation concludes with a biological opinion issued by the Service on whether the proposed Federal action is likely to jeopardize the continued existence of a listed species or result in destruction or adverse modification of critical habitat, with separate analyses being made under both the jeopardy and the adverse modification standards. For critical habitat, a biological opinion that concludes in a determination of no destruction or adverse modification may contain discretionary conservation recommendations to minimize adverse effects to primary constituent elements, but it would not contain any mandatory reasonable and prudent measures or terms and conditions. Mandatory reasonable and prudent alternatives to the proposed Federal action would only be issued when the biological opinion results in a jeopardy or adverse modification conclusion.

In *Sierra Club* v. *Fish and Wildlife Service,* 245 F.3d 434 (5th Cir. 2001), the Fifth Circuit Court of Appeals stated that the identification of the habitat with features essential to the conservation of the species can provide informational benefits to the public, State and local governments, scientific organizations, and Federal agencies. The court also noted that heightened public awareness of the plight of listed species and their habitats may facilitate conservation efforts. However, we believe that there would be little additional informational benefit gained

from including the EBRPD lands within the designation because this area is included in this proposed rule. Consequently, we believe that the informational benefits are already provided even though this area is not designated as critical habitat. EBRPD lands are well known as publicly protected park lands to the public and scientific community and have an active public outreach program. Given that EBRPD lands are managed as protected park lands, it is unlikely that EBRPD would consider undertaking any projects that would result in a reduction of the capability of the existing habitat to sustain the subspecies.

(2) Benefits of Exclusion

As mentioned above, EBRPD provides more benefits for the conservation of the California red-legged frog than critical habitat would. Not only does EBRPD lands provide for protection of the PCEs, activities conducted under the Master Plan also addresses special management needs such as non-native predator control and habitat restoration. Continued research in the area of California red-legged frog habitat requirements and environmental tolerances will undoubtedly lead to applied conservation measures which will enhance the survival and recovery of the subspecies. Exclusion of EBRPD lands would provide a measure of public and agency confidence in the applied research, conservation activities, and recovery actions conducted by EBRPD.

(3) Benefits of Exclusion Outweigh Benefits of Inclusion

In summary, we believe that the benefits of excluding portions of EBRPD from the designation of critical habitat for the California red-legged frog outweighs the benefits of including EBRPD lands in critical habitat. We find that including EBRPD would result in very minimal, if any additional, benefits to the California red-legged frog, as explained above. EBRPD lands provide protections of the PCEs and additional benefits such as non-native predator control and habitat restoration.

We also find that the exclusion of these lands will not lead to the extinction of the subspecies, nor hinder its recovery because EBRPD actively conducts research and engages in recovery activities. Furthermore, EBRPD lands are protected and managed as open park lands thereby providing protection of the PCEs for the California red-legged frog.

Maps delineating the essential habitat features for the California red-legged frog, overlaid with the planning area for EBRPD, are available for public review and comment at the Sacramento Fish and Wildlife Office (see **ADDRESSES** section). These maps are provided to allow the public the opportunity to adequately comment on these exclusions.

Spivey Pond Management Area

Below we first provide some general background information on the Spivey Pond Management Area (SPMA) and the Spivey Pond Management Plan (SPMP), followed by an analysis pursuant to section 4(b)(2) of the Act of the benefits of including SPMA land within the critical habitat designation, an analysis of the benefits of excluding this area, and an analysis of why we believe the benefits of exclusion are greater than those of inclusion. We are proposing to exclude the entire 54 ac (22 ha) SPMA located within proposed critical habitat unit ELD–1.

The SPMA encompasses 54 ac (22 ha) of Bureau of Land Management (BLM) owned lands surrounding Spivey Pond, in El Dorado County, California. Spivey Pond is one of five known extant California red-legged frog breeding populations in the Sierra foothills. In July 2004 a management plan for the California red-legged frog was approved and signed by the Bureau of Land Management, Bureau of Reclamation, California Department of Fish and Game, El Dorado County, El Dorado Irrigation District, the American River Conservancy, the U.S. Fish and Wildlife Service, and the El Dorado National Forest. The Spivey Pond Management Plan (SPMP) consists of six management objectives specifically for the conservation of the California red-legged frog: control of bullfrogs and predatory fish, monitoring of water quality, maintenance of the pond's integrity and habitat/water quality, creation and management of additional California red-legged frog breeding habitat, promotion of research and maintenance of a GIS database, and providing input for watershed level planning and activities which may benefit Spivey Pond.

In 1997, during a review of a proposed timber harvest plan U.S. Fish and Wildlife Service (Service) staff discovered a population of a reproducing California red-legged frog in Spivey Pond on the north fork of Webber Creek. The previous confirmed sightings of a California red-legged frog in the Webber Creek watershed were in 1972 and 1975 for the entire Sierra Nevada foothill region. At the time of discovery, the Spivey Pond parcel was privately owned and slated for timber harvest and subdivision development. The Service urged the American River Conservancy (ARC) to initiate negotiations with the owners of the Spivey Pond for purchase of the property. With financial assistance from the Service and the United States Bureau of Reclamation (USBR) ARC succeeded in purchasing the 54 acre Spivey Pond parcel on April 28, 1998. Additional grant funding from the National Fish and Wildlife foundation was received on September 15, 1998 which allowed for initial pond stabilization and restoration work. On May 3, 1999 all preliminary acquisition and restoration activities were completed and the parcel was transferred to the BLM to be managed as a wildlife reserve specifically for the benefit of the California red-legged frog.

(1) Benefits of Inclusion

We believe that there is minimal benefit from designating critical habitat for the California red-legged frog within the SPMA because, as explained in detail above, these lands are already expressly managed for the conservation of the subspecies.

Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act. The section 7 consultation process is triggered when a Federal agency determines that its proposed Federal action (i.e., an action that it funds, carries out, or authorizes) may affect a listed species or its critical habitat. Thus, the primary benefit to designation of critical habitat is the requirement that federal agencies consult with the Service to ensure that their actions are not likely to result in the destruction or adverse modification of critical habitat. If critical habitat were designated in these areas, primary constituent elements in these areas would be protected from destruction or adverse modification by federal actions using a conservation standard based on the Ninth Circuit's decision in *Gifford Pinchot.*

Once consultation under section 7 of the Act is triggered, the process may conclude informally when the Service concurs in writing that the proposed Federal action is not likely to adversely affect the listed species or its critical habitat. However, if the Service determines through informal consultation that adverse impacts are likely to occur, then formal consultation is initiated. Formal consultation concludes with a biological opinion issued by the Service on whether the proposed Federal action is likely to jeopardize the continued existence of a listed species or result in destruction or

adverse modification of critical habitat, with separate analyses being made under both the jeopardy and the adverse modification standards. For critical habitat, a biological opinion that concludes in a determination of no destruction or adverse modification may contain discretionary conservation recommendations to minimize adverse effects to primary constituent elements, but it would not contain any mandatory reasonable and prudent measures or terms and conditions. Mandatory reasonable and prudent alternatives to the proposed Federal action would only be issued when the biological opinion results in a jeopardy or adverse modification conclusion.

In *Sierra Club* v. *Fish and Wildlife Service*, 245 F.3d 434 (5th Cir. 2001), the Fifth Circuit Court of Appeals stated that the identification of habitat with features essential to the conservation of the species can provide informational benefits to the public, State and local governments, scientific organizations, and Federal agencies. The court also noted that heightened public awareness of the plight of listed species and their habitats may facilitate conservation efforts. However, we believe that there would be little additional informational benefit gained from including the SPMA within the designation because this area is included in this proposed rule. Additionally, the purpose of the SPMA is to provide protection and enhancement of habitat for the California red-legged frog is already well established State and local governments, and Federal agencies. Consequently, we believe that informational benefits are already provided even though this area is not designated as critical habitat.

(2) Benefits of Exclusion

As mentioned above, the SPMP provides more benefits for the conservation of the California red-legged frog than critical habitat would. Not only does the SPMP provide for protection of the PCEs, it also addresses special management needs such as non-native predator control, pollution monitoring and additional habitat creation. All activities which occur within the SPMA are required to undergo consultation under section 7 of the Act since the SPMA is owned by the BLM. For instance, in March of 2004 a biological opinion (Service number 1–1–03–F–0289) with a finding of ''not likely to jeopardize the continued existence of the California red-legged frog'' was issued by the Service as a result of consultation on the construction of a new breeding pond for the California red-legged frog within the SPMA. Exclusion from critical habitat provides a measure of confidence in the interagency management plan and indirectly in the signers of the plan. Critical habitat designation would remain in the watershed area around SPMA, thereby providing a measure of protection for the PCEs upstream of SPMA.

(3) Benefits of Exclusion Outweigh Benefits of Inclusion

In summary, we believe that the benefits of excluding the entire 54 ac (22 ha) SPMA from the designation of critical habitat for the California red-legged frog outweighs the benefits of including the SPMA in critical habitat. We find that including the SPMA would result in very minimal, if any additional, benefits to the California red-legged frog, as explained above. Proposed critical habitat designation would remain surrounding SPMA thereby providing a measure of protection of the PCEs outside of the area, while the management plan would provide protections of the PCEs and additional benefits of non-native predator control, habitat management and creation and pollution monitoring within the area.

We also find that the exclusion of these lands will not lead to the extinction of the subspecies, nor hinder its recovery because the management emphasis of the SPMA is to protect and enhance habitat for the California red-legged frog.

Maps delineating the essential habitat features for the California red-legged frog, overlaid with the planning area for the Spivey Pond Management Area, are available for public review and comment at the Sacramento Fish and Wildlife Office (see **ADDRESSES** section). These maps are provided to allow the public the opportunity to adequately comment on these exclusions.

Sierra Nevada National Forest Lands

Below we first provide some general background information on the Sierra Nevada Forest Plan Amendment (SNFPA) and the Herger-Feinstein Quincy Library Group Forest Recovery Act (HFQLG), followed by an analysis pursuant to section 4(b)(2) of the Act of the benefits of including U.S. Forest Service (USFS) lands managed under the SNFPA and the HFQLG within the critical habitat designation, an analysis of the benefits of excluding these areas, and an analysis of why we believe the benefits of exclusion are greater than those of inclusion. We are proposing to exclude those portions of proposed critical habitat units BUT–1, YUB–1, NEV–1 and ELD–1 that are managed by the Plumas, Tahoe and El Dorado National Forests (Forests) from the final designation of critical habitat for the California red-legged frog pursuant to section 4(b)(2) of the Act because those portions are managed under the SNFPA (NEV–1 and ELD–1) and HFQLG (YUB–1 and NEV–1).

Of the five known Sierra foothill California red-legged frog populations, only Hughes Place (BUT–1) and Little Oregon Creek (YUB–1) breeding populations are located on land managed by the USFS (Plumas National Forest). The other three known Sierra foothill population breeding ponds are located on private (CAL–1 and NEV–1) or other federally owned land (ELD–1). However, portions of (i.e., dispersal habitat and/or non-breeding aquatic habitat) two of the three (NEV–1 and ELD–1) proposed critical habitat units are on Sierra Nevada National Forest Lands. The Plumas NF is taking an active role in the conservation and management of the California red-legged frog population at Hughes Place pond through direct land acquisition and research concerning frog movement in the Sierra. We are proposing to exclude a total of 7,644 ac (3,094 ha) from proposed critical habitat units BUT–1, YUB–1, NEV–1 and ELD–1.

Management of the El Dorado and Tahoe National Forests is guided by the SNFPA, and aquatic species management is specifically guided by the Aquatic Management Strategy (AMS) within the SNFPA. The AMS contains nine broad goals, or endpoints, toward which management should move watershed functions and processes, populations, attributes and habitats. Several of these nine goals directly relate to the protection of the PCEs and the conservation of the California red-legged frog include; the maintenance and restoration of habitats that support viable populations of native vertebrate riparian dependent species, prevention of new invasive species introductions and reduction of the impacts of invasive species on native populations; the maintenance and restoration of spatial and temporal watershed connectivity for aquatic riparian species within and between watersheds to provide for unobstructed movement related to migration, reproduction and survival; and maintenance and restoration of stream flow to sustain desired conditions of wetland and meadow habitats and keep sediment regimes close to those in which aquatic species evolved.

Management of the Plums National Forest is guided by the HFQLG Act of 1998. A major component of the HFQLG is the construction of defensible fuel profile zones (DFPZ) which are typically

constructed along road corridors to break up fuel continuity across the landscape as to provide a defensible zone for fire suppression activities. Under the selected alternative, the construction and maintenance of DFPZ are not expected to adversely affect the California red-legged frog. Avoidance zones would be implemented during DFPZ maintenance activities. A 300 foot (90 meter) avoidance zone would be implemented along all waterways and ephemeral wetlands and a 500 foot (150 meter) avoidance zone would be implemented along known occupied California red-legged frog sites. Six critical aquatic refuges (CARs) will be placed on the Plumas NF after completion of the HFQLG pilot project. CARs are used to protect known locations of threatened, endangered or sensitive species dependent on aquatic or riparian habitats.

(1) Benefits of Inclusion

We believe that there is minimal benefit from designating critical habitat for the California red-legged frog on USFS lands managed under the SNFPA and HFQLG, as explained in detail above, these lands are already managed for the conservation of the subspecies.

Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act. The section 7 consultation process is triggered when a Federal agency determines that its proposed Federal action (*i.e.*, an action that it funds, carries out, or authorizes) may affect a listed species or its critical habitat. Thus, the principal benefit of any designated critical habitat is that Federal activities that may affect critical habitat require consultation under section 7 of the Act.

Once consultation under section 7 of the Act is triggered, the process may conclude informally when the Service concurs in writing that the proposed Federal action is not likely to adversely affect the listed species or its critical habitat. However, if the Service determines through informal consultation that adverse impacts are likely to occur, then formal consultation is initiated. Formal consultation concludes with a biological opinion issued by the Service on whether the proposed Federal action is likely to jeopardize the continued existence of a listed species or result in destruction or adverse modification of critical habitat, with separate analyses being made under both the jeopardy and the adverse modification standards. For critical habitat, a biological opinion that concludes in a determination of no destruction or adverse modification may contain discretionary conservation recommendations to minimize adverse effects to primary constituent elements, but it would not contain any mandatory reasonable and prudent measures or terms and conditions. Mandatory reasonable and prudent alternatives to the proposed Federal action would only be issued when the biological opinion results in a jeopardy or adverse modification conclusion.

In *Sierra Club* v. *Fish and Wildlife Service*, 245 F.3d 434 (5th Cir. 2001), the Fifth Circuit Court of Appeals stated that the identification of habitat with features essential to the conservation of the species can provide informational benefits to the public, State and local governments, scientific organizations, and Federal agencies. The court also noted that heightened public awareness of the plight of listed species and their habitats may facilitate conservation efforts. However, we believe that there would be little additional informational benefit gained from including the lands managed under the SNFPA and HFQLG within the designation because this area is included in this proposed rule. Consequently, we believe that the informational benefits are already provided even though this area is not designated as critical habitat. Additionally, the status of California red-legged frogs in the Sierra foothills is well known and it is unlikely that the USFS would consider undertaking any projects which would reduce the capability of the habitat to sustain existing populations.

(2) Benefits of Exclusion

As mentioned above, the SNFPA and the AMS provide more benefits for the conservation of the California red-legged frog than critical habitat would. Not only do the SNFPA and AMS provide for protection of the PCEs, they also provide for implementation of actions which could addresses special management needs such as habitat restoration, non-native predator control and land acquisitions. Activities conducted under the HFQLG Act provide for the use of avoidance zones around known occupied California red-legged frog sites and all other aquatic areas. Furthermore, all actions which occur on USFS lands require consultation under section 7 of the Act. In 2003, we issued a biological opinion on the SNFPA Supplemental Environmental Impact Statement and concluded that the proposed alternative action was not likely to jeopardize the continued existence of the California red-legged frog (Service number 1–1–03–F–2638).

(3) Benefits of Exclusion Outweigh Benefits of Inclusion

In summary, we believe that the benefits of excluding USFS lands managed under the SNFPA and HFQLG from the designation of critical habitat for the California red-legged frog outweighs the benefits of including those lands in critical habitat. We find that including the USFS lands that are managed under the SNFPA and HFQLG would result in very minimal, if any additional, benefits to the California red-legged frog, as explained above. Proposed critical habitat designation would remain on private lands adjacent to USFS lands thereby providing a measure of protection of the PCEs outside of the area.

We also find that the exclusion of these lands will not lead to the extinction of the subspecies, nor hinder its recovery because the SNFPA and HFGLQ have provisions for the conservation of the California red-legged frog.

Maps delineating the essential habitat features for the California red-legged frog, overlaid with the management areas for the SNFPA and HFQLG, are available for public review and comment at the Sacramento Fish and Wildlife Office (see **ADDRESSES** section). These maps are provided to allow the public the opportunity to adequately comment on these exclusions.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific data available, and to consider the economic, national security, and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species.

An analysis of the economic impacts of the revised proposal of critical habitat for California red-legged frog is available for review and comment. The comment period for the draft economic analysis runs concurrently with the comment period for this proposed rule. Copies of the draft economic analysis are available by contacting the Sacramento Fish and Wildlife Office directly (see **ADDRESSES** section) or available for downloading from the Internet at *http://www.fws.gov/pacific/sacramento/*.

The draft economic analysis addresses the impacts of California red-legged frog conservation efforts on activities

occurring on lands proposed for designation as well as those proposed for exclusion. The analysis measures lost economic efficiency associated with residential and commercial development; Federal land management; Federal and State agencies; recreation; agriculture; road maintenance and transportation; and administrative consultation costs.

The draft economic analysis considers the potential economic effects of actions relating to the conservation of the California red-legged frog, including costs associated with sections 4, 7, and 10 of the Act, and including those attributable to designating critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for the California red-legged frog in habitat areas with features essential to the conservation of this subspecies. The analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect the ''opportunity costs'' associated with the commitment of resources to comply with habitat exclude other areas based on the information in the economic analysis and public comments.

Costs related to conservation activities for the proposed California red-legged frog critical habitat pursuant to sections 4, 7, and 10 of the Act are estimated to be approximately $326 to $498 million from 2005 to 2025. Overall, the residential and commercial industry is calculated to experience the highest of estimated costs. Of the 23 counties that are part of this current proposal, more than 80 percent of the costs occur in the five counties of San Luis Obispo ($166 million), Alameda ($91 million). Contra Costa ($88 million), Santa Barbara ($41 million), and San Mateo ($19 million). Annualized impacts of costs attributable to the designation of critical habitat are projected to be between approximately $16.3 and $25.1 million.

Special Rule

Section 4(d) of the Act provides authority for us to promulgate special rules for threatened species that would relax specific prohibitions against taking pursuant to section 9 of the Act and defined in section 3 of the Act. As a means to promote conservation efforts of the California red-legged frog, we are proposing a special rule under section 4(d) of the Act. In the case of a special rule, the general regulations (50 CFR 17.31 and 17.71) applying most prohibitions under section 9 of the Act to threatened species do not apply to that species, and the special rule contains the prohibitions necessary and appropriate to conserve that species. Under the proposed special rule, take of the threatened California red-legged frog caused by existing routine ranching activities on private or Tribal lands that do not have a Federal nexus would be exempt from section 9 of the Act. We believe that this special rule will encourage landowners and ranchers operating on non-Federal land to continue their livestock-related practices that are not only important for livestock operations, but also provide habitat for the California red-legged frog. Livestock use on Federal lands will be addressed through the section 7 process. The proposed special rule would follow the general outline of the special rule finalized for the California tiger salamander (*Ambystoma californiense*) (69 FR 47211; August 4, 2004).

We are proposing this special rule under the authority of section 4(d) of the Act containing the actions and prohibitions necessary to provide for the conservation of the California red-legged frog. The prohibitions outlined in the listing of the California red-legged frog do not include the take of California red-legged frog during existing routine ranching practices. If this proposed special rule is finalized, the general regulations at 50 CFR 17.31 would not apply to the California red-legged frog where it is designated as threatened. Our rationale for a proposed special rule follows.

The rule to list the California red-legged frog as a threatened subspecies identifies the take of the subspecies in upland and aquatic habitats as one of many possible reasons for the decline of the animal. The listing describes the potential loss of California red-legged frogs to activities routinely occurring on private and Tribal lands. The specific focus of this proposed special rule is routine activities occurring on private and Tribal lands currently in or that may become subject to ranching practices, such as livestock grazing, stock pond management, and noxious weed control.

In areas where seasonal or permanent water bodies (*e.g.*, streams or ponds) no longer exist due to landscape changes or alteration of local hydrologic conditions, the California red-legged frog utilizes manmade water supplies such as stock ponds for breeding (Hayes and Jennings 1989; Bobzein *et al.* 2000; Fellers and Guscio 2004). The creation and maintenance of these ponds provides not only an alternate breeding site for California red-legged frog, in the absence of naturally occurring sites, but also provides additional breeding habitat as well. Routine management practices on manmade water supplies such as stock ponds must be performed in order to protect water supplies and protect the integrity of the water storage system. Management typically includes periodic dredging, dam and levee repair, the introduction of fish species to control aquatic vegetation and pests, and the chemical control of aquatic vegetation.

Justification

This special rule will apply to land primarily used for livestock grazing. Two beneficial effects to California red-legged frogs that would occur as a result of exempting livestock grazing in this special rule: The maintenance of open rangelands and oak woodlands that are utilized by the California red-legged frog, and the construction and maintenance of stockponds that are used for breeding by the subspecies. It has not been demonstrated in the scientific literature, nor do we expect, that continued moderate intensity livestock grazing will destroy wetland or upland habitats to such an extent that California red-legged frogs cannot use them as habitat.

In addition to streams and seasonal ponds, the California red-legged frog also uses small artificial water bodies (stockponds) for breeding (Hayes and Jennings 1989; Bobzein *et al.* 2000; Fellers and Guscio 2004). Stockponds for cattle (*Bos taurus*), sheep (*Ovies aries*), horses (*Equus caballus*) and other livestock have been, and continue to be, built to supply local water needs, especially in rural grazing lands in coastal and Sierra foothill areas where inexpensive public water or ground water is not available (Bennett 1970). Stockponds, constructed as water sources for livestock, are important habitats for the California red-legged frog throughout its range. For example, at the Point Reyes National Seashore in Marin County, an area where there are more than 120 breeding sites with an estimated total adult population of several thousand California red-legged frogs, the majority of the breeding sites are artificial stockponds constructed on lands that have been grazed by cattle for over 150 years (Fellers and Guscio 2004). In the Eastbay Regional Park District lands in Contra Costa and Alameda Counties, 43 of 179 ponds surveyed which were exposed to grazing, and were characterized with and without emergent vegetation, supported successful breeding frog populations, often exhibiting high rates of annual breeding (Bobzien *et al.* 2000). In some areas, stockponds have largely replaced natural seasonal ponds and

provide important habitat for the subspecies. For instance, of the 12 California red-legged frog locality records in the Livermore area where the wetland type was identified, 50 percent (6 sites) are located in stockponds (CNDDB 2004).

However, stockponds often are poorer habitat for California red-legged frogs than natural ponds. Hydroperiods (amount of time the stockpond contains water) may be so short that larvae and tadpoles cannot metamorphose (*e.g.*, when early drawdown of irrigation ponds occurs). Artificial ponds also require ongoing maintenance and are often temporary structures. Natural soil erosion, sometimes increased by pond breaching, stock animal impacts, and off-road vehicle (ORV) use, can cause ponds to silt in after a few decades (Hamilton and Jepson 1940), thereby reducing their quality as frog habitat. Often ponds are not maintained because it may be more economical to construct a new pond when the old pond fills with silt and is no longer functional (Hamilton and Jepson 1940). Stockponds are often geographically isolated from other seasonal wetlands and colonization of newly created ponds beyond the normal dispersal range may be slow or nonexistent (Pechmann *et al.* 1989).

Although stockponds can provide refugia for frog populations and are important for the subspecies, these habitats may be dynamic. Stockponds often dry out during drought, and flooding may destroy downstream impoundments or cause siltation, either of which may result in loss of aquatic habitat and extirpation of frog populations. Periodic maintenance to remove silt from stockponds may also cause a temporary loss of habitat. Some eggs and tadpoles of the California red-legged frog are probably trampled by livestock on the perimeters of the stockponds. Populations of nonnative introduced predaceous fish and bullfrogs, although less prevalent than in natural habitats, sometimes become established in stockponds and have been implicated in the decline of other amphibian species (Fisher and Shaffer 1996; Hayes and Jennings 1986; Moyle 1973).

Stockponds may also facilitate spread of nonnative organisms by providing aquatic habitats in arid landscapes that otherwise may have served as barriers to the spread of such organisms. Despite these adverse impacts, the long-term effect of ranching on the subspecies is either neutral or beneficial, because the California red-legged frog would have likely been extirpated from many areas if stockponds had not been built and maintained for livestock production.

In the final rule listing the California red-legged frog as threatened we stated that livestock grazing is one form of habitat alteration that is contributing to the decline of California red-legged frog (61 FR 25813). However, no site specific studies have been done that document the decline and disappearance of California red-legged frogs once grazing is introduced into an area. Most evidence on the effects of grazing on the California red-legged frog is circumstantial. However, extensive research has been done on the effects of livestock grazing on the aquatic environment. As stated in the proposed rule to list the subspecies (59 FR 4888), the petitioners found that grazing occurred at all historic sites known to support California red-legged frogs in the Central Valley hydrologic basin. Combining this information with information about the habitat preferences of the California red-legged frog leads to the logical conclusion that grazing, where it has dramatically altered California red-legged frog habitat, has played a role in the decline of the subspecies. The majority of our concerns regarding cattle grazing pertain to the resulting habitat alteration of riparian stream corridors and to a lesser degree sedimentation and alteration to natural pond habitats. In the final rule to list the subspecies several commenters stated that housing and urban development and introduced predators were the major factors which lead to the decline of the California red-legged frog. In our response to comments in the final rule we stated that properly managed livestock grazing operations can be compatible with the preservation of California red-legged frog populations. California red-legged frogs and cattle grazing are able to co-occur in areas where grazing pressure is managed in such a way as to avoid detrimental habitat alteration. We acknowledge that preservation and proper management of open space, especially in riparian areas, is a fundamental requirement in the survival and recovery of the California red-legged frog.

California red-legged frogs may be subject to take during routine control of California ground squirrel (*Spermophilus beecheyi*) populations on private lands. Discing and/or blading burrow complexes to destroy burrows and fill burrow openings may result in take of California red-legged frogs. Although the extent of this practice has not been documented, conversations with landowners lead us to believe this activity generally does not occur over widespread areas on any given parcel of land. Generally, this type of activity is limited to areas in or near ranch buildings, and in areas where livestock tend to be concentrated (e.g., corrals and watering areas). Poisonous grains such as Chlorophacinone® and toxic and suffocating gases (e.g., Phostoxin®) are regulated by the EPA, California Department of Pesticide Regulation (CDPR), and other county and local ordinances. Toxic and suffocating gases also may result in high levels of frog mortality. In areas where federally listed species are known to occur, regulations on the use of toxicants to control California ground squirrels are more restrictive, and these restrictions should provide an ''umbrella'' protection for California red-legged frogs from take associated with routine ground squirrel control. In counties where more stringent guidelines are not in place to protect listed species, we will continue to work with agencies to develop use guidelines for these products and activities.

California's annual precipitation ranges from less than 8 in (20 cm) in the San Joaquin Valley to more than 50 in (127 cm) along the northern coast range, western slope of the Sierra Nevada mountains, and parts of the Cascade Range (National Climatic Data Center 2003). Summers are dry with little or no rainfall, and abnormally dry winters can be disastrous on both summer water supplies and the quality of feeding ranges for domestic livestock. In some areas of California, spring/summer range usually does not support more than one cow-calf unit per 10 to 20 ac (4 to 8 ha) of range, with each cow being able to consume up to 15 gallons (57 liters) of water per day per 1,000 lbs (454 kg) of body weight (Ohlenbusch *et al.* 1995). Considering the limited availability of naturally occurring water across California's rangeland, routine management of stock ponds is critical to the economic success of ranching operations. During heavy winter rain events, stock pond dams and levees may be subject to overflows that cause severe erosion (head-cutting) of the dam faces and containment levees. Without immediate repair, critical summer water supplies will be lost. Pond vegetation is typically controlled by grazing animals using the water supply. However, at times the vegetation must be controlled through mechanical means or herbicide applications to prevent excess loss of water supply through evapotranspiration, and to prevent aquatic vegetation from completely dominating the pond. In some ponds, fish are introduced to help control

vegetation and insects. This practice, although potentially harmful to local frog populations, would not be as detrimental to the entire frog population if the land were to be converted to housing or other non-compatible land uses.

We propose to include in the final rule an exemption for incidental take of California red-legged frogs during routine ranching activities by non-Federal entities on private and Tribal lands for the following activities: (1) Livestock grazing according to normally acceptable and established levels of intensity in terms of the number of head of livestock per acre of rangeland; (2) control of ground-burrowing rodents using poisonous grain according to the labeled directions and local, State and Federal regulations and guidelines. The use of toxic or suffocating gases is not exempt from the prohibitions due to its non-target specific mode of action; (3) control and management of burrow complexes using discing and grading to destroy burrows and fill openings is exempt. This exemption does not apply to large-scale discing or grading of rangeland (more than 10 ac (4 ha)) within any one-quarter section for burrow control and management; (4) routine management and maintenance of stock ponds and berms to maintain livestock water supplies at levels present at the time of the finalization of this special rule; but not including the introduction of species into the stock pond that may prey on California red-legged frog adult, tadpoles, or eggs; or the introduction of chemicals into the stock pond during the general breeding season of the California red-legged frog that would result in the take of California red-legged frog adults, tadpoles, or eggs, or result in decreased reproductive success; and (5) control and management of noxious weeds.

Provisions of the Proposed Special Rule

Other than as described above, we propose to exempt existing routine ranching practices from the prohibitions on take (see 50 CFR 17.31) for the California red-legged frog. This proposal will not be finalized until we have reviewed comments from the public and peer reviewers. Exempted activities include existing routine ranching practices as outlined above by non-Federal entities on existing rangeland (as defined by U.S. Department of Agriculture, National Agricultural Statistics Service 2002 Census of Agriculture—Appendix (1)).

Take Prohibitions

Except as exempted by this proposal, the prohibitions under section 9 of the Act that apply to threatened species would continue to apply to all California red-legged frogs if our proposed special rule is finalized, to the same extent that they apply to other threatened species under our general regulations at 50 CFR 17.31.

Effects of the Special Rule on Future Section 7 Consultations

This special rule does not change the obligation of Federal agencies to consult with us under section 7 of the Act concerning actions they authorize, fund, or carry out that may affect listed species, including the California red-legged frog.

Section 10(a)(1)(B) authorizes us to issue permits for the take of listed species incidental to otherwise lawful activities, such as agriculture, surface mining, and urban development. Incidental take permits must be supported by an HCP that identifies conservation measures that the permittee agrees to implement to conserve the species, usually on the permittee's lands. Such conservation measures may, for example, minimize the reduction in the number of California ground squirrels whose burrows are used by resting California red-legged frogs. These and other techniques to avoid take of California red-legged frogs or protect the subspecies can be examined in the development of an HCP. A key element in our review of each of these conservation strategies is a determination of the plan's effect upon the long-term conservation of the subspecies. We would approve an HCP, and issue a section 10(a)(1)(B) permit, as appropriate, if the plan would minimize and mitigate the impacts of the take to the maximum extent practicable and would not appreciably reduce the likelihood of the survival and recovery of that species in the wild.

We also are exploring other opportunities to permit conservation activities for the California red-legged frog. In particular, we encourage the public to comment on the desirability of promulgating a special rule under section 4(d) of the Act that would exempt from the section 9 take prohibition activities associated with conservation plans for the California red-legged frog. Eligible conservation plans would need to promote recovery and be approved by the Service. Activities potentially addressed under such a plan, and which would be exempt from the section 9 take provisions, could include, but are not limited to, construction of new breeding and upland habitats, fencing, and removal of bullfrogs or other exotic animals.

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of this review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. Peer reviewers will also be asked to review and comment on the special rule. We will send these peer reviewers a copy of this proposed rule immediately following publication in the **Federal Register**. We will invite the selected peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat and special rule.

We will consider all comments and information received during the public comment periods on this proposed rule during the preparation of a final rulemaking. Accordingly, the decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests for public hearings must be made in writing at least 15 days prior to the close of the public comment period. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (groupings and order of the sections, use of headings, paragraphing, and so forth) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make this proposed rule easier to understand?

Send a copy of any comments on how we could make this proposed rule easier

to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to this address: *Exsec@ios.doi.gov.*

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this proposed designation of critical habitat is a significant rule in that it may raise novel legal and policy issues, but it is not anticipated to have an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the tight timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed this rule. We have prepared a draft economic analysis of this proposed action, which is currently available for public comment, to determine the economic consequences of designating the specific areas as critical habitat. The draft economic analysis estimates that potential economic impact from this revised proposed designation of critical habitat for the red-legged frog to range from $326 to $498 million over a 20-year time period. As such, this proposed regulation will not have an annual effect on the economy of $100 million or more. This economic analysis also will be used to determine compliance with Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act, and Executive Order 12630.

Further, Executive Order 12866 directs Federal Agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once it has been determined that the Federal regulatory action is appropriate, then the agency will need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat providing that the benefits of such exclusion outweighs the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the species. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

Within these areas, the types of Federal actions or authorized activities that we have identified as potential concerns are listed above in the section on Section 7 Consultation. The draft economic analysis is available concurrently with this proposed rule and has been announced in the **Federal Register** and in local newspapers so that it is available for public review and comments. The draft economic analysis can be obtained from the Internet Web site at *http://www.fws.gov/pacific/sacramento/* or by contacting the Sacramento Fish and Wildlife Office directly (see **ADDRESSES** section).

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

Our assessment of economic effect will be completed prior to final rulemaking based upon review of the draft economic analysis prepared pursuant to section 4(b)(2) of the Act and Executive Order 12866. This analysis is for the purposes of compliance with the Regulatory Flexibility Act and does not reflect our position on the type of economic analysis required by *New Mexico Cattle Growers Assn.* v. *U.S. Fish & Wildlife Service* 248 F.3d 1277 (10th Cir. 2001).

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if this proposed designation of critical habitat for the California red-legged frog would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities (e.g., residential and commercial development). We considered each industry or category individually to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat. Designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies; non-Federal activities are not affected by the designation. Typically, when proposed critical habitat designations are made final, Federal agencies must consult with us if their activities may affect that designated critical habitat. Consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

We determined that the critical habitat designation is expected to have the largest impacts on the market for developable land. Critical habitat for California red-legged frog occurs in a number of rapidly growing communities. Regulatory requirements to avoid onsite impacts and mitigate offsite impacts affect the welfare of both producers and consumers. Two scenarios are considered. In the first scenario, avoidance requirements are

assumed to reduce the stock of new housing. Given the importance of regulation of housing development even in the absence of critical habitat, this scenario is taken as the base case. In this scenario, critical habitat is expected to impose losses of over $498 million over the 20-year study period. An alternative scenario is constructed in which all avoidance requirements are accommodated through densification. In this case, welfare losses from critical habitat are $326 million over the 20-year study period.

These economic impacts of critical habitat designation vary widely among the 23 affected counties, and even within counties. The counties most impacted by the critical habitat designation include; San Luis Obispo ($166 million), Alameda ($91 million), Contra Costa ($88 million), Santa Barbara ($41 million), and San Mateo ($19 million). Further, economic impacts are unevenly distributed within counties. The analysis was conducted at the census tract level, resulting in a high degree of spatial precision. Please refer to our draft economic analysis of this designation for a more detailed discussion of potential economic impacts.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule to designate critical habitat for the California red-legged frog is a significant rule in that it may raise novel legal and policy issues, but it is not anticipated to have an annual effect on the economy of $100 million or more or affect the economy in a material way. It is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required. However, we will further evaluate the potential effects on energy supplies, distribution, or use as we conduct our economic analysis of the proposed designation, and as appropriate, will review and revise this assessment as warranted.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon State, local, Tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or Tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) Due to current public knowledge of the subspecies' protection through the listing of the species, the final recovery plan, and the previous designation of critical habitat, we do not anticipate that this rule will significantly or uniquely affect small governments. As such, Small Government Agency Plan is not required.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with DOI and Department of Commerce policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in California. The designation may have some benefit to these governments in that the areas with features that are essential to the conservation of the subspecies are more clearly defined, and the PCEs of the habitat necessary to the conservation of the subspecies are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Endangered Species Act. This proposed rule uses standard property descriptions and identifies the PCEs within the designated areas to assist the public in understanding the habitat needs of the California red-legged frog.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996).

References Cited

A complete list of all references cited in this rulemaking is available upon request from the Field Supervisor, Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

Author(s)

The primary authors of this notice are staff from the Sacramento, Ventura, and Carlsbad Fish and Wildlife Offices (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

For the reasons outlined in the preamble, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h) revise the entry for ''Frog, California red-legged,'' under ''AMPHIBIANS,'' to read as follows:

17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
AMPHIBIANS							
*	*	*	*	*	*		*
Frog, California red-legged.	*Rana aurora draytonii.*	U.S.A. (CA), Mexico	Entire	T	583	17.95(d)	17.43
*	*	*	*	*	*		*

3. Amend § 17.43 by adding a new paragraph (d) to read as follows:

§ 17.43 Special rules-amphibians.

* * * * *

(d) California red-legged frog (*Rana aurora draytonii*).

(1) *Which populations of the California red-legged frog are covered by this special rule*? This rule covers the California red-legged frog (*Rana aurora draytonii*) rangewide.

(2) *What activities are prohibited*? Except as noted in paragraph (d)(3) of this section, all prohibitions of § 17.31 will apply to the California red-legged frog.

(3) *What activities are allowed on private or Tribal land*? Incidental take of the California red-legged frog will not be a violation of section 9 of the Act, if the incidental take results from routine ranching activities located on private or Tribal lands. Routine ranching activities include, but are not limited to, the following:

(i) Livestock grazing according to normally acceptable and established levels of intensity in terms of the number of head of livestock per acre of rangeland;

(ii) Control of ground-burrowing rodents using poisonous grain according to the labeled directions and local, State, and Federal regulations and guidelines (The use of toxic or suffocating gases is not exempt from the prohibitions due to their nontarget-specific mode of action.);

(iii) Control and management of burrow complexes using discing and grading to destroy burrows and fill openings;

(iv) Routine management and maintenance of stock ponds and berms to maintain livestock water supplies (This exemption does not include the intentional introduction of species into a stock pond that may prey on California red-legged frog adults, larvae, or eggs.); and

(v) Control and management of noxious weeds.

4. Amend § 17.95(d) by revising critical habitat for the California red-legged frog (*Rana aurora draytonii*) to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(d) *Amphibians.*

* * * * *

California red-legged frog (*Rana aurora draytonii*)

(1) Critical habitat units are depicted for Alameda, Butte, Calaveras, Contra Costa, El Dorado, Kern, Los Angeles, Marin, Merced, Monterey, Napa, Nevada, Riverside, San Benito, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Stanislaus, Ventura and Yuba Counties, California, on the maps below.

(2) Within these areas, the primary constituent elements for the California red-legged frog consist of four components:

(i) Aquatic breeding habitat. Standing bodies of fresh water (with salinities less than 7.0 ppt), including natural and manmade (e.g., stock) ponds, slow-moving streams or pools within streams, and other ephemeral or permanent water bodies that typically become inundated during winter rains and hold water for a minimum of 15 weeks in all but the driest of years. This would be the time necessary for the subspecies to complete the aquatic portion of its life cycle.

(ii) Aquatic non-breeding habitat. Fresh water habitats as described above which may or may not hold water long enough for the subspecies to hatch and complete its aquatic lifecycle but do provide for shelter, foraging, predator avoidance, and aquatic dispersal habitat for juvenile and adult California red-legged frogs. Other wetland habitat that would be considered to meet these elements would include, but are not limited to, plunge pools within intermittent creeks, seeps, quiet water refugia during high water flows, and

springs of sufficient moisture to withstand the summer dry period.

(iii) Upland Habitat. Upland areas within 200 ft (60m) of the surrounding aquatic and wetland habitat comprised of various vegetational series such as grasslands, woodlands, and/or wetland/riparian plant species. Upland habitat includes natural or manmade structures such as the spaces under boulders or rocks and organic debris such as downed trees or logs; as well as agricultural features and light construction debris, such as drains, watering troughs, abandoned sheds, or under stacks of hay, brush piles, or other vegetation. California red-legged frogs also use small mammal burrows and moist leaf litter as cover (Jennings and Hayes 1994; Fellers and Kleeman 2005). This upland habitat provides the California red-legged frog shelter and shade, moisture, cooler temperatures, prey base, foraging opportunities, and predator avoidance.

(iv) Dispersal Habitat. Accessible upland or wetland dispersal habitat within designated units and between occupied locations within 0.7 mi (1.2 km) of each other that allow for movement between such sites. Dispersal habitat includes various natural habitats and altered habitats such as agricultural fields, which also do not contain barriers to dispersal, such as heavily traveled roads (Vos and Chardon 1998) that possess no bridges or culverts. Dispersal habitat does not include moderate to high density urban or industrial developments with large expanses of asphalt or concrete and large reservoirs over 50 ac (20 ha) in size, which do not contain those features identified in PCE 1, 2, or 3.

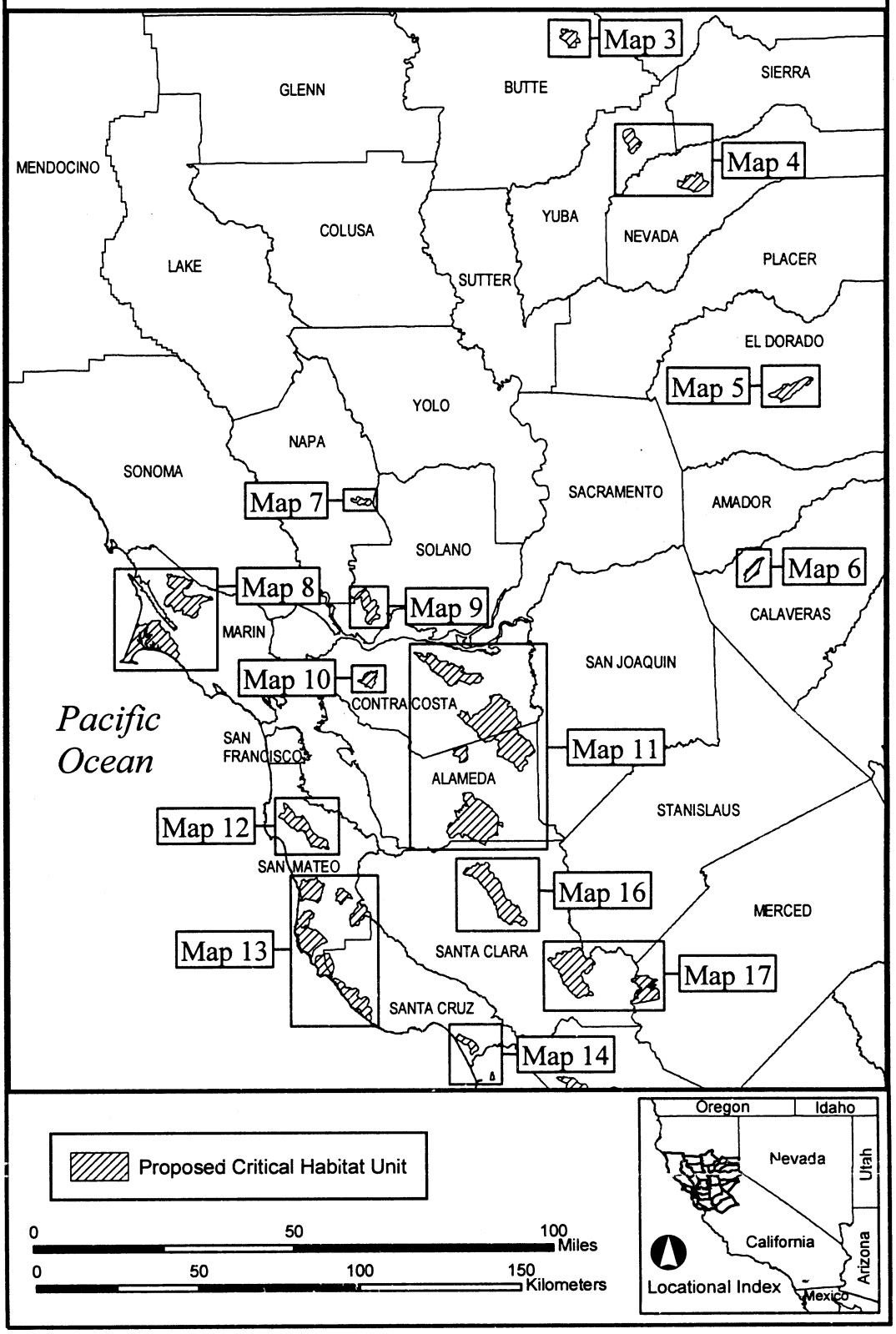
3. Accessible dispersal habitat provides opportunities for the California red-legged frog to move freely across the landscape in search of adjacent breeding and non-breeding habitats. Accessible dispersal habitat is considered essential and provides for: opportunities for movement and establishment of home ranges by juvenile recruits, maintaining gene flow by the movement of both juveniles and adults between subpopulations, and recolonization of or recruitment into breeding habitat after local extirpations.

(3) Critical habitat does not include man-made structures existing on the effective date of this rule and not containing one or more of the primary constituent elements, such as buildings, aqueducts, airports, and roads, and the land on which such structures are located.

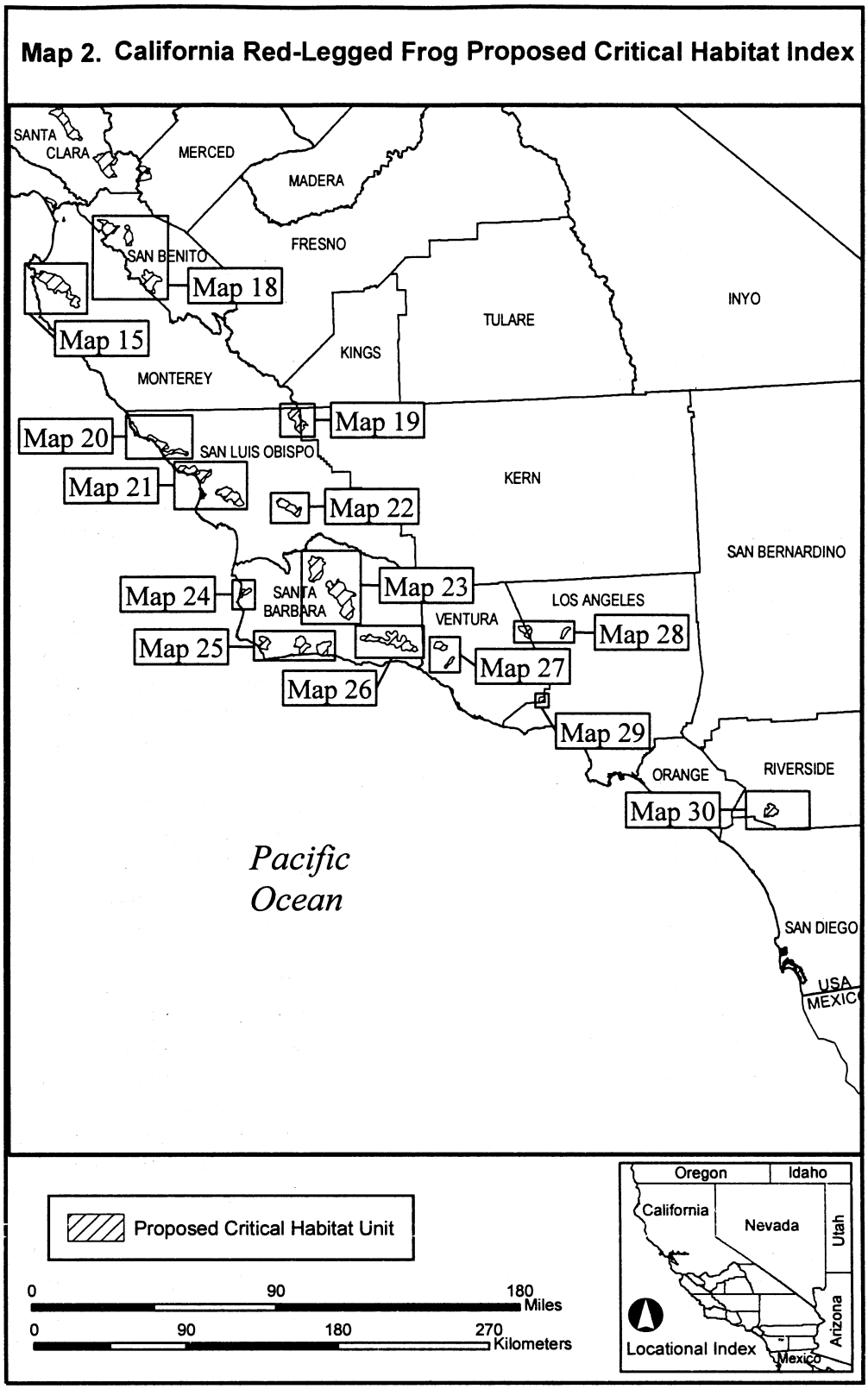
(4) Index map of proposed critical habitat units for California red-legged frog, follows:

BILLING CODE 4310–55–P

Map 1. California Red-Legged Frog Proposed Critical Habitat Index



(5) Index map of proposed critical habitat units in southern California for California red-legged frog, follows:



BILLING CODE 4310–55–C

(6) Unit BUT–1, Butte County, California.

(i) From USGS 1:24,000 scale quadrangle Pulga, Berry Creek, Brush Creek. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 635284, 4400926; 635318, 4400907; 635359, 4400907; 635415, 4400907; 635453, 4400907; 635502, 4400892; 635539, 4400870; 635588, 4400900; 635603, 4400930; 635666, 4400930; 635726, 4400934; 635749, 4400956; 635749, 4400994; 635767, 4401009; 635820, 4401042; 635868, 4401042; 635906, 4401042; 635940, 4401031; 635992, 4400997; 636033, 4401012; 636074, 4401012; 636100, 4401009; 636164, 4400994; 636228, 4401012; 636299, 4401020; 636377, 4401020; 636414, 4401012; 636415, 4400967; 636824, 4400972; 636836, 4400961; 636840, 4400584; 636819, 4400561; 636453, 4400557; 636453, 4400557; 636442, 4400546; 636442, 4400546; 636032, 4400541; 636024, 4400532; 636010, 4400518; 636011, 4400485; 636009, 4400483; 636000, 4400474; 636004, 4400185; 635993, 4400174; 635993, 4400141; 635993, 4400141; 636403, 4400145; 636414, 4400157; 636790, 4400161; 636801, 4400172; 637156, 4400177; 637156, 4400177; 637167, 4400188; 637477, 4400191; 637488, 4400203; 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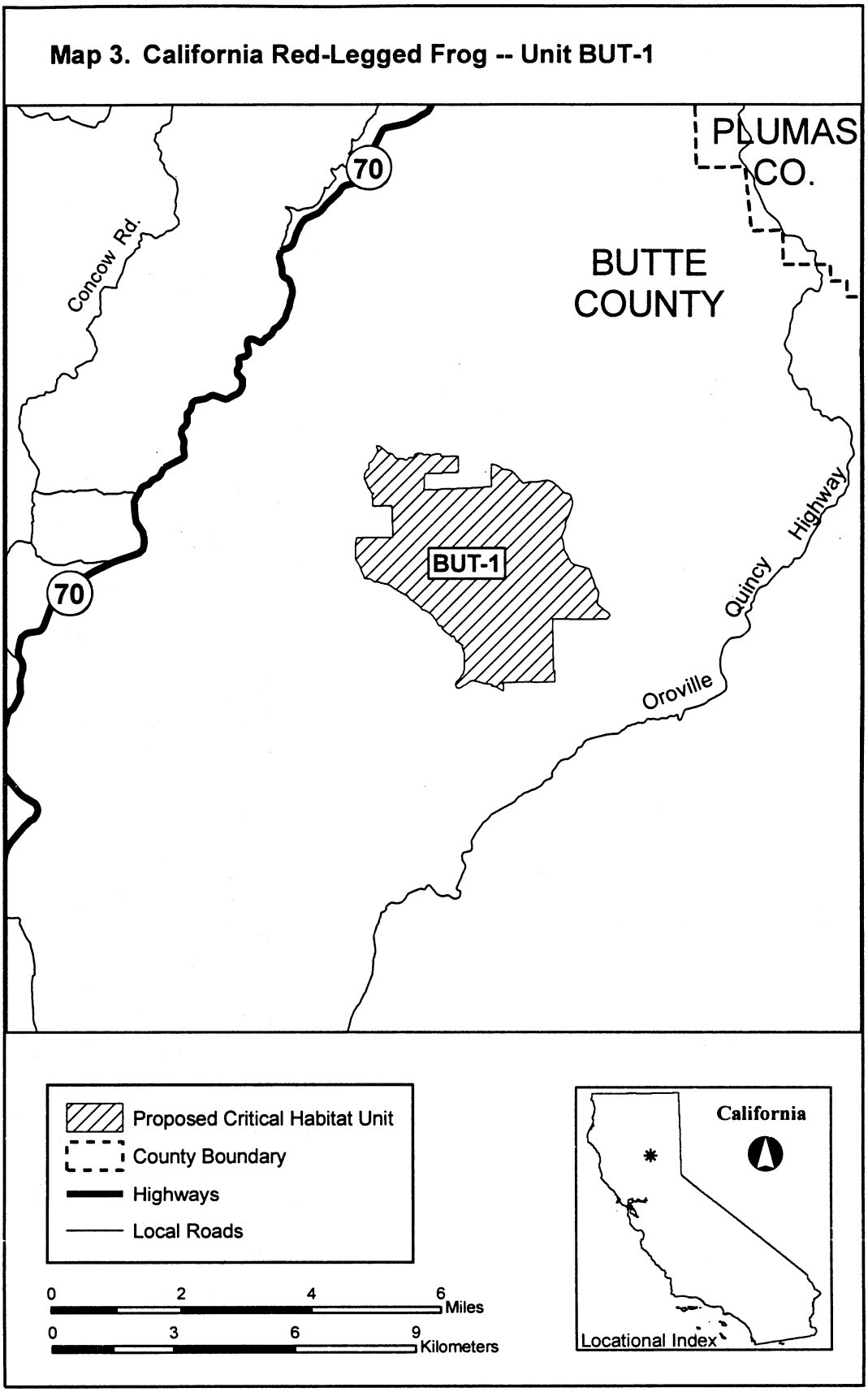
635579, 4397526; 635494, 4397574; 635401, 4397621; 635277, 4397695; 635249, 4397708; 635222, 4397727; 635183, 4397763; 635111, 4397800; 635070, 4397817; 634941, 4397842; 634853, 4397867; 634798, 4397867; 634758, 4397876; 634699, 4397920; 634647, 4397940; 634610, 4397948; 634540, 4397952; 634514, 4397948; 634478, 4398036; 634458, 4398087; 634391, 4398277; 634290, 4398434; 634290, 4398602; 634290, 4398815; 634318, 4398953; 634468, 4398957; 634468, 4398957; 635222, 4398966; 635218, 4399276; 635206, 4399287; 635206, 4399287; 635201, 4399676; 635190, 4399687; 635190, 4399731; 635178, 4399742; 634716, 4399737; 634716, 4399814; 634716, 4399882; 634701, 4399998; 634738, 4400050; 634701, 4400050; 634637, 4400155; 634614, 4400166; 634614, 4400185; 634584, 4400237; 634562, 4400290; 634540, 4400350; 634510, 4400417; 634517, 4400544; 634536, 4400574; 634570, 4400623; 634618, 4400645; 634626, 4400702; 634626, 4400761; 634629, 4400803; 634682, 4400840; 634730, 4400889; 634764, 4400964; 634809, 4401031; 634843, 4401080; 634843, 4401143; 634813, 4401188; 634817, 4401226; 634843, 4401222; 634899, 4401218; 634948, 4401177; 634996, 4401140; 635041, 4401095; 635086, 4401053; 635127, 4401046; 635180, 4401035; 635213, 4401009; 635251, 4400967; returning to 635284, 4400926.

(ii) **Note:** Unit BUT–1 (Map M3) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(7) Unit YUB–1, Yuba County, California.

(i) From USGS 1:24,000 scale quadrangle Challenge. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 656776, 4370030; 656932, 4369825; 657033, 4369527; 657462, 4368370; 657472, 4368056; 657481, 4367769; 657672, 4367445; 657691, 4367430; 657890, 4367270; 658105, 4367098; 658503, 4366871; 658905, 4366554; 659124, 4366290; 659222, 4366053; 659369, 4365971; 659528, 4365883; 659624, 4365706; 659586, 4365706; 659383, 4365704; 659383, 4365704; 659383, 4365691; 659384, 4365583; 659354, 4365585; 659340, 4365600; 659305, 4365588; 659286, 4365572; 659261, 4365537; 659224, 4365531; 659182, 4365526; 659125, 4365527; 659101, 4365527; 659082, 4365536; 659075, 4365559; 659061, 4365567; 659044, 4365567; 659027, 4365567; 659017, 4365574; 658998, 4365584; 658996, 4365603; 658996, 4365620; 658991, 4365643; 658989, 4365668; 658985, 4365687; 658982, 4365690; 658974, 4365700; 658960, 4365723; 658939, 4365742; 658916, 4365757; 658894, 4365767; 658888, 4365790; 658871, 4365805; 658852, 4365805; 658827, 4365805; 658791, 4365820; 658764, 4365830; 658751, 4365849; 658751, 4365877; 658751, 4365900; 658745, 4365908; 658730, 4365919; 658726, 4365936; 658707, 4365940; 658678, 4365940; 658650, 4365940; 658627, 4365940; 658596, 4365929; 658579, 4365929; 658564, 4365921; 658551, 4365908; 658537, 4365891; 658533, 4365885; 658516, 4365868; 658490, 4365853; 658467, 4365845; 658446, 4365845; 658440, 4365847; 658419, 4365847; 658400, 4365837; 658398, 4365824; 658396, 4365801; 658396, 4365782; 658408, 4365757; 658421, 4365733; 658438, 4365721; 658465, 4365719; 658474, 4365736; 658499, 4365744; 658520, 4365769; 658538, 4365791; 658541, 4365795; 658550, 4365802; 658581, 4365826; 658606, 4365836; 658634, 4365834; 658640, 4365806; 658652, 4365775; 658664, 4365752; 658674, 4365736; 658695, 4365712; 658714, 4365694; 658741, 4365677; 658760, 4365666; 658794, 4365641; 658794, 4365568; 658794, 4365469; 658740, 4365433; 658695, 4365384; 658628, 4365353; 658552, 4365295; 658539, 4365237; 658551, 4365237; 658545, 4365228; 658543, 4365216; 658524, 4365193; 658497, 4365191; 658488, 4365186; 658465, 4365184; 658446, 4365184; 658427, 4365180; 658425, 4365167; 658431, 4365157; 658453, 4365151; 658465, 4365151; 658493, 4365144; 658520, 4365142; 658564, 4365144; 658606, 4365163; 658625, 4365178; 658642, 4365193; 658659, 4365199; 658678, 4365182; 658680, 4365161; 658688, 4365136; 658701, 4365123; 658707, 4365123; 658720, 4365127; 658730, 4365136; 658732, 4365153; 658737, 4365174; 658741, 4365201; 658743, 4365224; 658747, 4365240; 658809, 4365247; 658812, 4365243; 658817, 4365231; 658825, 4365212; 658836, 4365197; 658850, 4365176; 658867, 4365191; 658876, 4365207; 658882, 4365226; 658901, 4365233; 658920, 4365226; 658932, 4365218; 658947, 4365220; 658968, 4365226; 658974, 4365239; 658983, 4365252; 658998, 4365252; 659017, 4365245; 659040, 4365228; 659050, 4365205; 659057, 4365184; 659078, 4365182; 659103, 4365186; 659115, 4365201; 659124, 4365222; 659147, 4365239; 659164, 4365239; 659181, 4365235; 659214, 4365222; 659238, 4365207; 659248, 4365186; 659248, 4365167; 659256, 4365148; 659273, 4365132; 659290, 4365127; 659305, 4365140; 659332, 4365140; 659351, 4365125; 659368, 4365118; 659105, 4365028; 659020, 4364875; 658939, 4364572; 658735, 4364385; 658531, 4364168; 658412, 4364134; 658410, 4364131; 658410, 4364131; 658254, 4364129; 658243, 4364118; 658054, 4364117; 658043, 4364105; 657788, 4364103; 657788, 4364103; 657792, 4363648; 657826, 4363648; 657826, 4363648; 657837, 4363659; 657837, 4363659; 658070, 4363661; 658081, 4363672; 658106, 4363673; 657950, 4363548; 657655, 4363358; 657395, 4363049; 657282, 4362805; 657113, 4362469; 657087, 4362405; 657087, 4362405; 657083, 4362409; 656805, 4362407; 656794, 4362418; 656528, 4362416; 656516, 4362427; 656272, 4362425; 656261, 4362436; 656227, 4362436; 656227, 4362436; 656171, 4362531; 656051, 4362735; 655836, 4362878; 655683, 4362963; 655558, 4363109; 655427, 4363405; 655202, 4363849; 655406, 4364066; 655669, 4364315; 655690, 4364586; 655438, 4364908; 655218, 4365202; 655027, 4365526; 654779, 4365758; 654445, 4365837; 654319, 4366013; 654187, 4366370; 654149, 4366639; 653990, 4366874; 653952, 4367143; 653883, 4367381; 653710, 4367531; 653696, 4367950; 653744, 4368109; 653737, 4368319; 653751, 4368687; 653740, 4369028; 653747, 4369047; 653836, 4369294; 653990, 4369404; 654143, 4369566; 654429, 4369681; 654687, 4369794; 655104, 4369939; 655245, 4369920; 655453, 4369987; 655660, 4370113; 655896, 4370242; 656198, 4370221; 656470, 4370170; returning to 656776, 4370030.

(ii) **Note:** Unit YUB–1 is depicted on Map M4—Units YUB–1 and NEV–1—see paragraph (8)(ii):

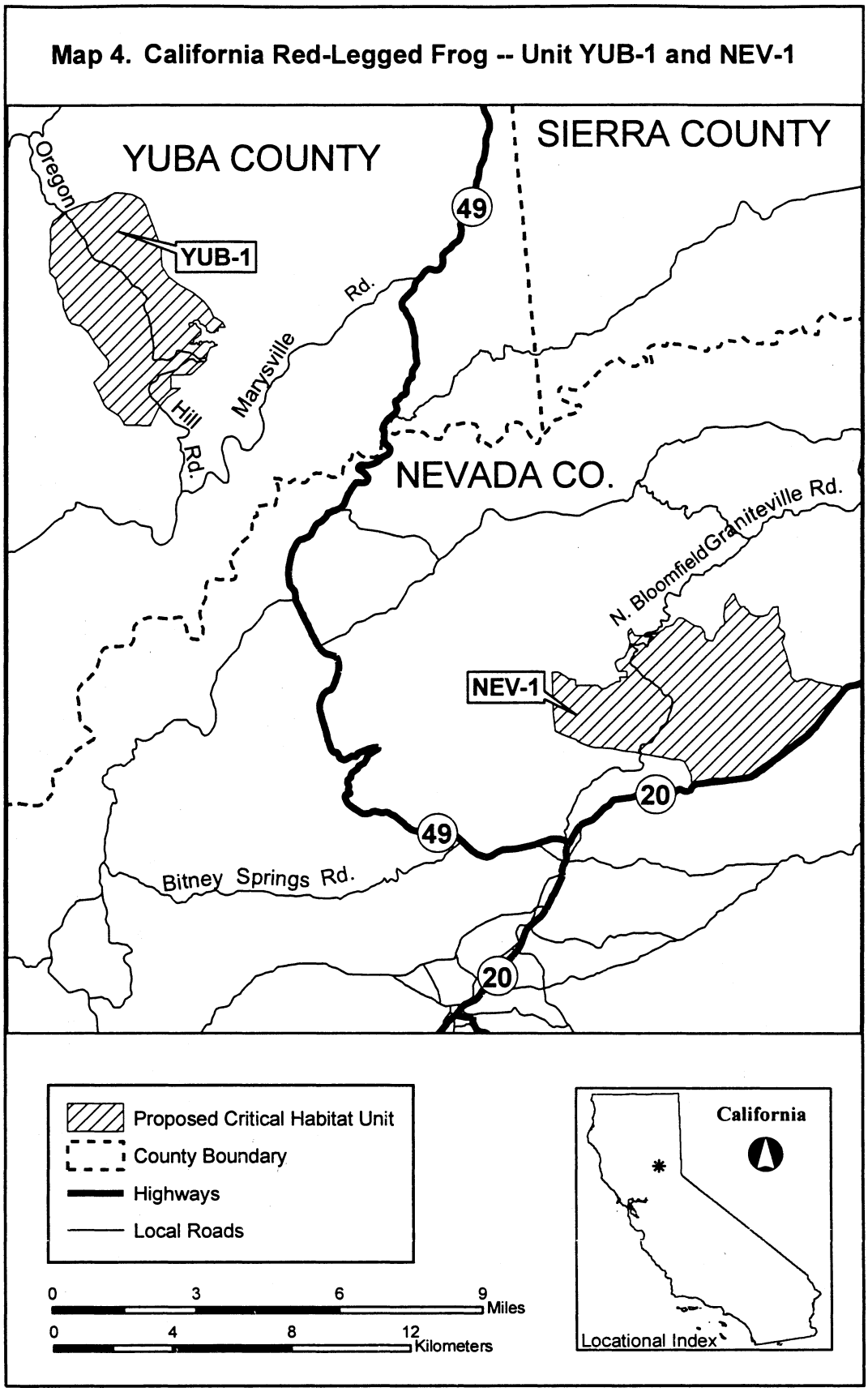
(8) Unit NEV–1, Nevada County, California.

(i) From USGS 1:24,000 scale quadrangle Nevada City, North Bloomfield. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 676906, 4356394; 676962, 4356305; 677130, 4356317; 677131, 4356238; 677181, 4356231; 677306, 4356068; 677485, 4355987; 677670, 4355985; 677882, 4356056; 677980, 4356196; 678051, 4356296; 678137, 4356315; 678170, 4356315; 678201, 4356320; 678231, 4356310; 678224, 4356187; 678232, 4356116; 678268, 4355942; 678277, 4355825; 678274, 4355759; 678251, 4355709; 678217, 4355664; 678229, 4355623; 678337, 4355534; 678350, 4355522; 678361, 4355511; 678374, 4355498; 678418, 4355448; 678444, 4355409; 678448, 4355341; 678432, 4355290; 678417, 4355258; 678406, 4355233; 678390, 4355204; 678379, 4355182; 678354, 4355125; 678356, 4355083; 678510, 4354644; 678528, 4354561; 678540, 4354482; 678577, 4354374; 678642, 4354231; 678654, 4354168; 678649, 4354037; 678650, 4353980; 678683, 4353930; 678734, 4353879; 678783, 4353842; 678852, 4353796; 678971, 4353841; 679102, 4353875; 679178, 4353901; 679227, 4353902; 679353, 4353865; 679459, 4353818; 679563, 4353782; 679706, 4353759; 679914, 4353707; 680299, 4353648; 680349, 4353649; 680352, 4353523; 680352, 4353517; 679780, 4352799; 679437, 4352381; 679422, 4352362; 679157, 4352094; 679157, 4352094; 679148, 4352080; 678711, 4351756; 677827, 4351102; 677690, 4351000; 677303, 4350713; 677303, 4350703; 677292, 4350702; 677270, 4350680; 677256, 4350679; 677248, 4350679; 677202, 4350639; 677199, 4350636; 677198, 4350636; 676807, 4350614; 676807, 4350614; 676812, 4350531; 676440, 4350485; 676219, 4350558; 676117, 4350571; 675995, 4350556; 675823, 4350507; 675686, 4350459; 675583, 4350452; 675457, 4350453; 675362, 4350424; 675325, 4350412; 675325, 4350537; 675325, 4350616; 675293, 4350711; 675206, 4350862; 675166, 4350990; 675063, 4351133; 674920, 4351180; 674673, 4351196; 674371, 4351260; 674173, 4351284; 673807, 4351355; 673616, 4351379; 673417, 4351427; 673139, 4351467; 673020, 4351483; 672710, 4351546; 672559, 4351554; 672424, 4351562; 672281, 4351570; 672074, 4351586; 671907, 4351626; 671684, 4351705; 671534, 4351793; 671438, 4351872; 671239, 4351936; 670969, 4352039;

670738, 4352158; 670668, 4352774; 670633, 4354099; 670634, 4354099; 670679, 4354110; 670780, 4354114; 670847, 4354102; 670901, 4354084; 670960, 4354053; 670990, 4354030; 671054, 4353992; 671117, 4353941; 671174, 4353907; 671212, 4353893; 671282, 4353872; 671394, 4353858; 671435, 4353852; 671426, 4353850; 671437, 4353664; 672180, 4353672; 672208, 4353633; 672243, 4353598; 672287, 4353562; 672365, 4353550; 672450, 4353566; 672475, 4353582; 672578, 4353673; 672716, 4353754; 672766, 4353780; 672817, 4353800; 672938, 4353818; 672910, 4353887; 672900, 4353937; 673158, 4353946; 673150, 4354094; 673148, 4354137; 672855, 4354130; 672842, 4354168; 672783, 4354295; 672757, 4354434; 672799, 4354491; 672842, 4354522; 672941, 4354578; 673021, 4354593; 673084, 4354628; 673117, 4354665; 673122, 4354687; 673119, 4354745; 673140, 4354749; 673191, 4354837; 673202, 4354897; 673236, 4355028; 673247, 4355052; 673253, 4355088; 673243, 4355133; 673224, 4355185; 673201, 4355258; 673199, 4355268; 673199, 4355269; 673175, 4355379; 673188, 4355465; 673226, 4355517; 673228, 4355519; 673283, 4355581; 673391, 4355365; 673402, 4355344; 673600, 4355329; 673616, 4355327; 673903, 4355380; 674072, 4355387; 674203, 4355443; 674378, 4355543; 674440, 4355612; 674554, 4355655; 674698, 4355703; 674779, 4355812; 674843, 4355885; 674907, 4355945; 675027, 4355928; 675092, 4355868; 675272, 4355764; 675414, 4355681; 675573, 4355640; 675621, 4355628; 675622, 4355627; 675647, 4355612; 675763, 4355477; 675775, 4355358; 675775, 4355332; 675773, 4355263; 675827, 4355213; 675947, 4355175; 675947, 4355175; 676036, 4355164; 676080, 4355242; 676143, 4355418; 676255, 4355555; 676269, 4355603; 676350, 4355660; 676400, 4355681; 676445, 4355779; 676405, 4355981; 676418, 4356168; 676456, 4356381; 676581, 4356556; 676668, 4356706; 676693, 4356744; 676751, 4356738; 676818, 4356555; returning to 676906, 4356394.

(ii) **Note:** Unit NEV–1 is depicted on Map M4—Units YUB–1 and NEV–1—which follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(9) Unit ELD–1, El Dorado County, California.

(i) From USGS 1:24,000 scale quadrangle Pollock Pines, Camino, Sly Park. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 712042, 4292979; 712161, 4292902; 712243, 4292856; 712331, 4292834; 712419, 4292796; 712497, 4292718; 712540, 4292683; 712538, 4292678; 712530, 4292662; 712517, 4292599; 712511, 4292523; 712492, 4292476; 712454, 4292420; 712417, 4292357; 712384, 4292281; 712357, 4292219; 712319, 4292151; 712259, 4292082; 712201, 4292042; 712105, 4292004; 712037, 4291985; 711944, 4291952; 711866, 4291905; 711816, 4291791; 711785, 4291740; 711702, 4291628; 711680, 4291585; 711663, 4291485; 711666, 4291403; 711650, 4291319; 711576, 4291195; 711450, 4291102; 711326, 4291028; 711255, 4291003; 711182, 4290958; 711117, 4290899; 711061, 4290822; 711003, 4290754; 710956, 4290705; 710846, 4290604; 710753, 4290533; 710718, 4290493; 710718, 4290490; 710678, 4290488; 710400, 4290528; 710227, 4290581; 710054, 4290648; 709815, 4290648; 709523, 4290568; 709311, 4290303; 709152, 4290090; 708926, 4289838; 708873, 4289705; 708661, 4289533; 708515, 4289347; 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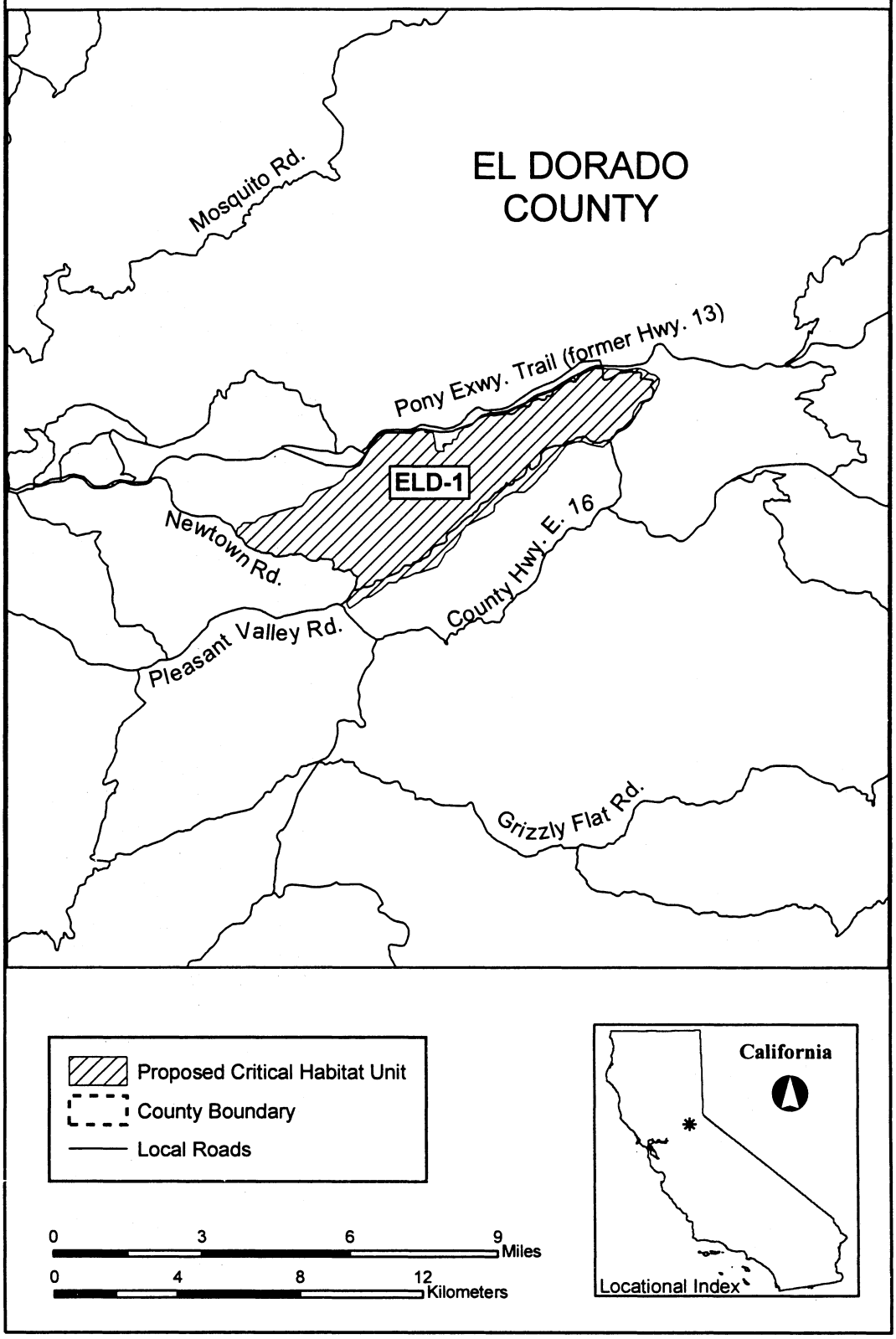
(ii) **Note:** Unit ELD–1 (Map M5) follows:

BILLING CODE 4310–55–P

Map 5. California Red-Legged Frog -- Unit ELD-1



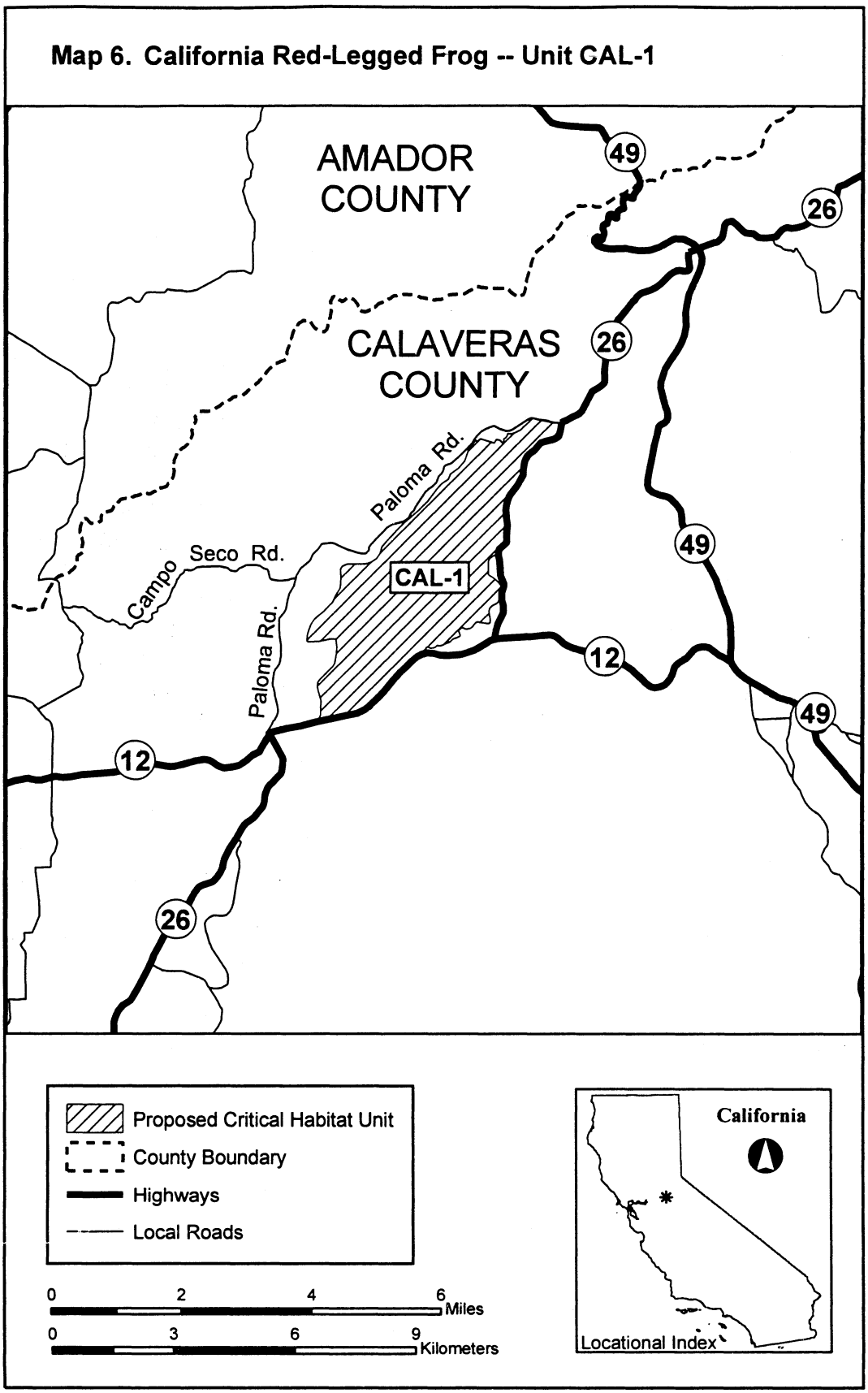
BILLING CODE 4310–55–C

(10) Unit CAL–1, Calaveras County, California.

(i) From USGS 1:24,000 scale quadrangle Valley Springs, Jackson, Mokelumne Hill. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 697316, 4236788; 697288, 4236702; 697239, 4236661; 697043, 4236601; 696856, 4236549; 696803, 4236489; 696681, 4236360; 696594, 4236292; 696515, 4236211; 696474, 4236132; 696437, 4236012; 696425, 4235875; 696408, 4235746; 696372, 4235657; 696295, 4235532; 696222, 4235429; 696139, 4235314; 696094, 4235249; 696061, 4235190; 696017, 4235064; 695993, 4234928; 695995, 4234790; 696002, 4234689; 696025, 4234548; 696014, 4234388; 696012, 4234247; 696012, 4234138; 696012, 4234080; 696012, 4234062; 695970, 4234021; 695881, 4233955; 695844, 4233920; 695782, 4233817; 695732, 4233779; 695673, 4233743; 695596, 4233687; 695559, 4233626; 695551, 4233577; 695561, 4233426; 695552, 4233361; 695562, 4233280; 695630, 4233225; 695729, 4233158; 695821, 4233075; 695863, 4233013; 695878, 4232967; 695875, 4232870; 695807, 4232615; 695757, 4232563; 695668, 4232520; 695598, 4232462; 695574, 4232384; 695607, 4232132; 695599, 4232090; 695588, 4232071; 695522, 4232076; 695344, 4232109; 695302, 4232111; 695277, 4232108; 695242, 4232087; 695202, 4232047; 695170, 4231994; 695143, 4231971; 695111, 4231955; 695041, 4231933; 695024, 4231930; 695000, 4231934; 694987, 4231933; 694967, 4231942; 694952, 4231956; 694930, 4231959; 694907, 4231961; 694888, 4231956; 694867, 4231943; 694835, 4231923; 694823, 4231902; 694822, 4231886; 694824, 4231874; 694831, 4231852; 694844, 4231813; 694860, 4231806; 694875, 4231784; 694873, 4231770; 694857, 4231759; 694833, 4231743; 694817, 4231735; 694770, 4231717; 694741, 4231711; 694707, 4231700; 694671, 4231674; 694618, 4231635; 694580, 4231609; 694543, 4231591; 694505, 4231581; 694449, 4231552; 694408, 4231538; 694379, 4231528; 694355, 4231522; 694328, 4231527; 694308, 4231532; 694281, 4231528; 694265, 4231515; 694251, 4231498; 694233, 4231482; 694211, 4231471; 694159, 4231465; 694118, 4231465; 694098, 4231479; 694085, 4231479; 694057, 4231494; 694033, 4231489; 694017, 4231479; 694016, 4231451; 694012, 4231420; 693971, 4231408; 693924, 4231394; 693863, 4231366; 693832, 4231349; 693787, 4231327; 693739, 4231289; 693701, 4231226; 693654, 4231174; 693651, 4231135; 693651, 4231132; 693642, 4231125; 693542, 4231021; 693414, 4230903; 693252, 4230731; 693152, 4230609; 693004, 4230419; 692822, 4230232; 692634, 4230055; 692509, 4229955; 692359, 4229874; 692231, 4229831; 692013, 4229788; 691801, 4229741; 691330, 4229637; 691394, 4229813; 691405, 4230022; 691407, 4230142; 691336, 4230385; 691319, 4230512; 691328, 4230620; 691374, 4230695; 691692, 4231006; 691745, 4231081; 691794, 4231327; 691804, 4231499; 691776, 4231683; 691751, 4231690; 691630, 4231686; 691374, 4231628; 691068, 4231614; 691056, 4231653; 691072, 4231792; 691134, 4232019; 691232, 4232170; 691498, 4232393; 691699, 4232598; 691779, 4232774; 691878, 4232931; 691900, 4233064; 691896, 4233223; 691881, 4233422; 691933, 4233485; 692046, 4233537; 692203, 4233537; 692333, 4233537; 692499, 4233537; 692646, 4233581; 692786, 4233676; 692873, 4233798; 692916, 4233981; 693081, 4234155; 693194, 4234277; 693334, 4234424; 693464, 4234572; 693655, 4234720; 693847, 4234885; 694029, 4235077; 694264, 4235390; 694360, 4235494; 694412, 4235538; 694551, 4235642; 694612, 4235781; 694812, 4235920; 694969, 4236103; 695056, 4236347; 695063, 4236421; 695102, 4236450; 695156, 4236511; 695204, 4236570; 695232, 4236613; 695249, 4236614; 695292, 4236574; 695314, 4236614; 695351, 4236655; 695702, 4236544; 695757, 4236644; 695857, 4236612; 695891, 4236559; 695920, 4236555; 695935, 4236591; 695935, 4236627; 695937, 4236656; 695961, 4236665; 695982, 4236665; 696003, 4236686; 696014, 4236707; 696018, 4236739; 696019, 4236770; 696021, 4236770; 696130, 4236778; 696239, 4236808; 696340, 4236871; 696414, 4236925; 696465, 4236970; 696533, 4237037; 696637, 4237159; 696667, 4237166; 696697, 4237159; 696824, 4237130; 697020, 4237104; 697091, 4237069; 697163, 4237060; 697251, 4237048; 697313, 4237047; 697373, 4237040; 697350, 4236929; 697342, 4236896; returning to 697316, 4236788.

(ii) **Note:** Unit CAL–1 (Map M6) follows:

BILLING CODE 4310–55–P



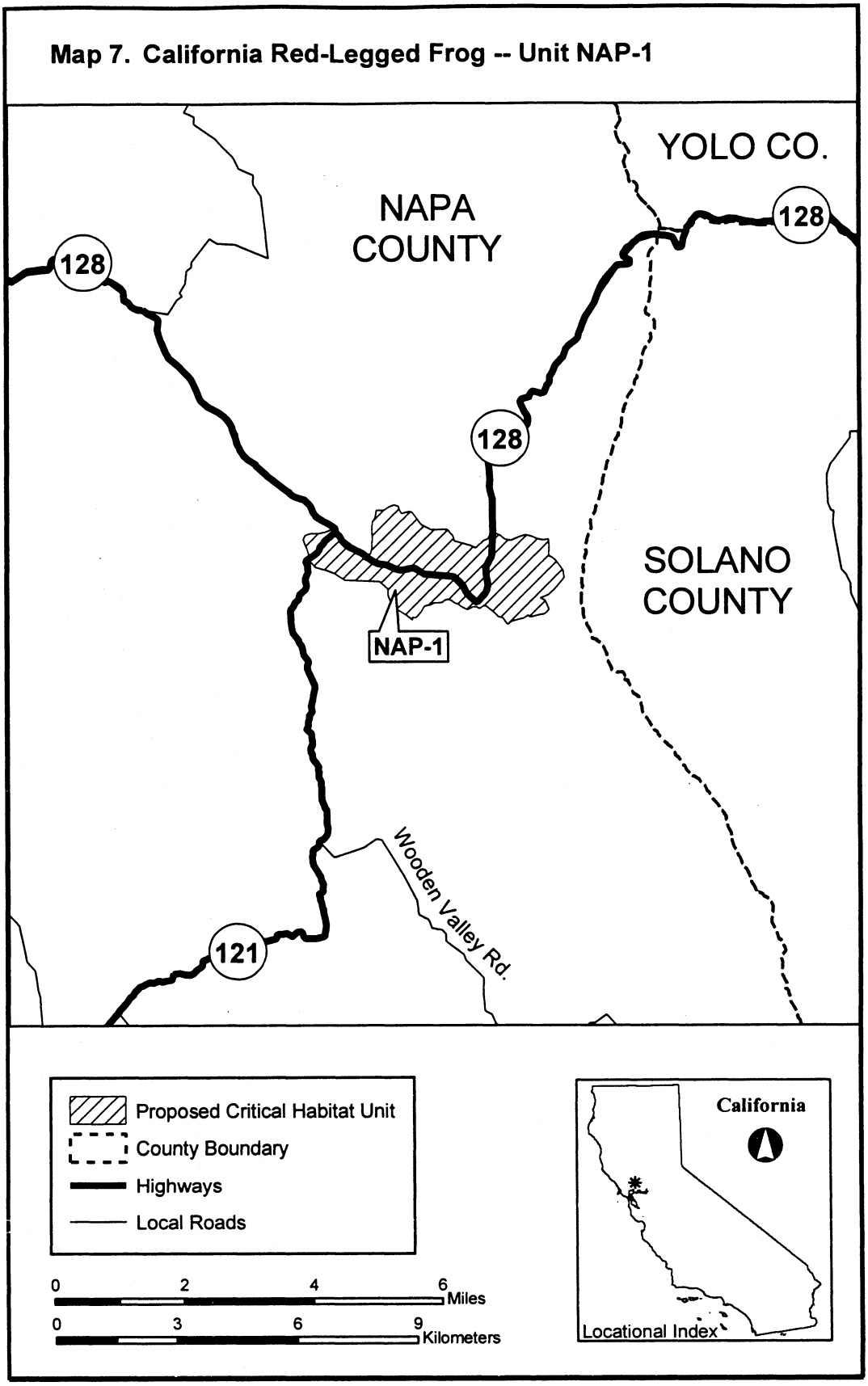
BILLING CODE 4310–55–C

(11) Unit NAP–1, Napa County, California.

(i) From USGS 1:24,000 scale quadrangle Capell Valley. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 571668, 4256238; 571744, 4256065; 571928, 4256108; 572003, 4256097; 572230, 4255795; 572479, 4255665; 572879, 4255676; 573030, 4255503; 573063, 4255384; 573182, 4255341; 573495, 4255265; 573603, 4255200; 573798, 4255395; 573895, 4255427; 573949, 4255535; 574100, 4255568; 574187, 4255535; 574327, 4255427; 574468, 4255395; 574630, 4255460; 574835, 4255535; 575008, 4255481; 575116, 4255438; 575278, 4255406; 575408, 4255427; 575430, 4255244; 575408, 4255017; 575505, 4254962; 575592, 4254887; 575765, 4254649; 575808, 4254465; 575581, 4254195; 575408, 4254033; 575214, 4253957; 575333, 4253892; 575419, 4253676; 575321, 4253562; 575277, 4253557; 575222, 4253545; 575199, 4253536; 575049, 4253507; 574998, 4253484; 574972, 4253480; 574953, 4253482; 574899, 4253535; 574853, 4253488; 574781, 4253445; 574705, 4253431; 574585, 4253396; 574564, 4253396; 574538, 4253391; 574508, 4253381; 574463, 4253347; 574429, 4253311; 574411, 4253302; 574385, 4253312; 574367, 4253332; 574315, 4253408; 574301, 4253437; 574279, 4253463; 574229, 4253481; 574172, 4253490; 574146, 4253508; 574118, 4253536; 573980, 4253656; 573958, 4253683; 573855, 4253754; 573831, 4253776; 573804, 4253764; 573715, 4253702; 573684, 4253697; 573634, 4253728; 573609, 4253736; 573552, 4253734; 573530, 4253730; 573386, 4253663; 573213, 4253769; 573186, 4253794; 573145, 4253809; 573088, 4253822; 573050, 4253848; 572996, 4253897; 572972, 4253911; 572925, 4253921; 572909, 4253921; 572877, 4253917; 572820, 4253898; 572766, 4253856; 572740, 4253845; 572693, 4253839; 572602, 4253837; 572582, 4253833; 572454, 4253783; 572418, 4253774; 572359, 4253765; 572328, 4253749; 572299, 4253714; 572235, 4253614; 572104, 4253461; 572073, 4253465; 572055, 4253475; 572027, 4253479; 572022, 4253461; 572020, 4253414; 571863, 4253525; 571679, 4253644; 571495, 4253784; 571420, 4254011; 571420, 4254184; 571204, 4254368; 570923, 4254379; 570652, 4254390; 570339, 4254400; 570079, 4254573; 569885, 4254638; 569593, 4254725; 569474, 4254865; 569431, 4255060; 569388, 4255179; 569344, 4255298; 569290, 4255416; 569344, 4255525; 569463, 4255568; 569669, 4255568; 569852, 4255600; 570015, 4255676; 570047, 4255643; 570207, 4255556; 570241, 4255438; 570350, 4255341; 570458, 4255211; 570641, 4255200; 570706, 4255135; 570804, 4255060; 570858, 4255060; 570966, 4255049; 571020, 4255211; 571009, 4255330; 571031, 4255449; 571009, 4255589; 571009, 4255752; 571031, 4255870; 571085, 4255968; 571117, 4256141; 571301, 4256141; 571441, 4256227; 571560, 4256281; returning to 571668, 4256238.

(ii) **Note:** Unit NAP–1 (Map M7) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(12) Unit MRN–1, Marin County, California.

(i) From USGS 1:24,000 scale quadrangle Point Reyes NE, Petaluma, Inverness. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 512634, 4232438; 512662, 4232404; 512681, 4232407; 512698, 4232405; 512794, 4232328; 512825, 4232308; 512895, 4232271; 512927, 4232250; 512942, 4232244; 512975, 4232243; 513064, 4232286; 513098, 4232298; 513279, 4232406; 513325, 4232436; 513362, 4232450; 513452, 4232462; 513497, 4232455; 513610, 4232428; 513701, 4232401; 513734, 4232386; 513809, 4232322; 513872, 4232273; 513918, 4232251; 513934, 4232231; 513953, 4232187; 513956, 4232128; 513948, 4232059; 513939, 4232023; 513924, 4231990; 513867, 4231891; 513856, 4231862; 513849, 4231832; 513847, 4231791; 513851, 4231760; 513858, 4231739; 513860, 4231712; 513859, 4231644; 513855, 4231619; 513876, 4231594; 513885, 4231636; 513905, 4231703; 513925, 4231754; 513952, 4231792; 514013, 4231813; 514067, 4231818; 514387, 4231769; 514431, 4231744; 514466, 4231651; 514470, 4231597; 514482, 4231533; 514514, 4231516; 514620, 4231572; 514663, 4231619; 514694, 4231745; 514716, 4231792; 514738, 4231830; 514778, 4231868; 514822, 4231896; 514879, 4231915; 514935, 4231890; 514984, 4231862; 515034, 4231853; 515098, 4231846; 515164, 4231822; 515196, 4231785; 515215, 4231752; 515265, 4231703; 515305, 4231691; 515352, 4231696; 515413, 4231696; 515463, 4231671; 515480, 4231654; 515560, 4231646; 515639, 4231609; 515682, 4231600; 515700, 4231605; 515728, 4231638; 515773, 4231673; 515817, 4231732; 515857, 4231825; 515889, 4231847; 515908, 4231845; 515929, 4231815; 515942, 4231788; 515977, 4231770; 516011, 4231747; 516049, 4231654; 516062, 4231612; 516087, 4231574; 516124, 4231555; 516220, 4231529; 516258, 4231510; 516298, 4231481; 516369, 4231437; 516428, 4231423; 516551, 4231414; 516624, 4231372; 516655, 4231366; 516691, 4231364; 516733, 4231367; 516773, 4231353; 516875, 4231333; 516929, 4231317; 516965, 4231299; 517002, 4231285; 517058, 4231285; 517107, 4231304; 517346, 4231631; 517391, 4231679; 517422, 4231695; 517463, 4231696; 517486, 4231669; 517509, 4231650; 517588, 4231597; 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(ii) **Note:** Unit MRN–1 is depicted on Map M8—Unit MRN–1 and MRN–2—see paragraph (13)(ii):

(13) Unit MRN–2, Marin County, California.

(i) From USGS 1:24,000 scale quadrangle Drakes Bay, Inverness. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 510133, 4216765; 510173, 4216617; 510221, 4216478; 510235, 4216457; 510270, 4216372; 510239, 4216321; 510249, 4216204; 510265, 4216159; 510281, 4216124; 510334, 4216085; 510368, 4216064; 510404, 4216036; 510456, 4215972; 510513, 4215936; 510566, 4215894; 510629, 4215830; 510660, 4215814; 510730, 4215795; 510767, 4215777; 510849, 4215727; 510865, 4215696; 510863, 4215590; 510877, 4215571; 510944, 4215590; 510978, 4215595; 510993, 4215605; 511006, 4215619; 511057, 4215680; 511072, 4215673; 511096, 4215652; 511122, 4215630; 511147, 4215593; 511156, 4215550; 511161, 4215478; 511210, 4215387; 511256, 4215351; 511275, 4215332; 511330, 4215234; 511374, 4215173; 511395, 4215115; 511408, 4215093; 511446, 4215044; 511518, 4214941; 511530, 4214911; 511539, 4214870; 511553, 4214727; 511565, 4214698; 511580, 4214681; 511602, 4214667; 511676, 4214648; 511730, 4214616; 511750, 4214608; 511785, 4214601; 511807, 4214601; 511887, 4214613; 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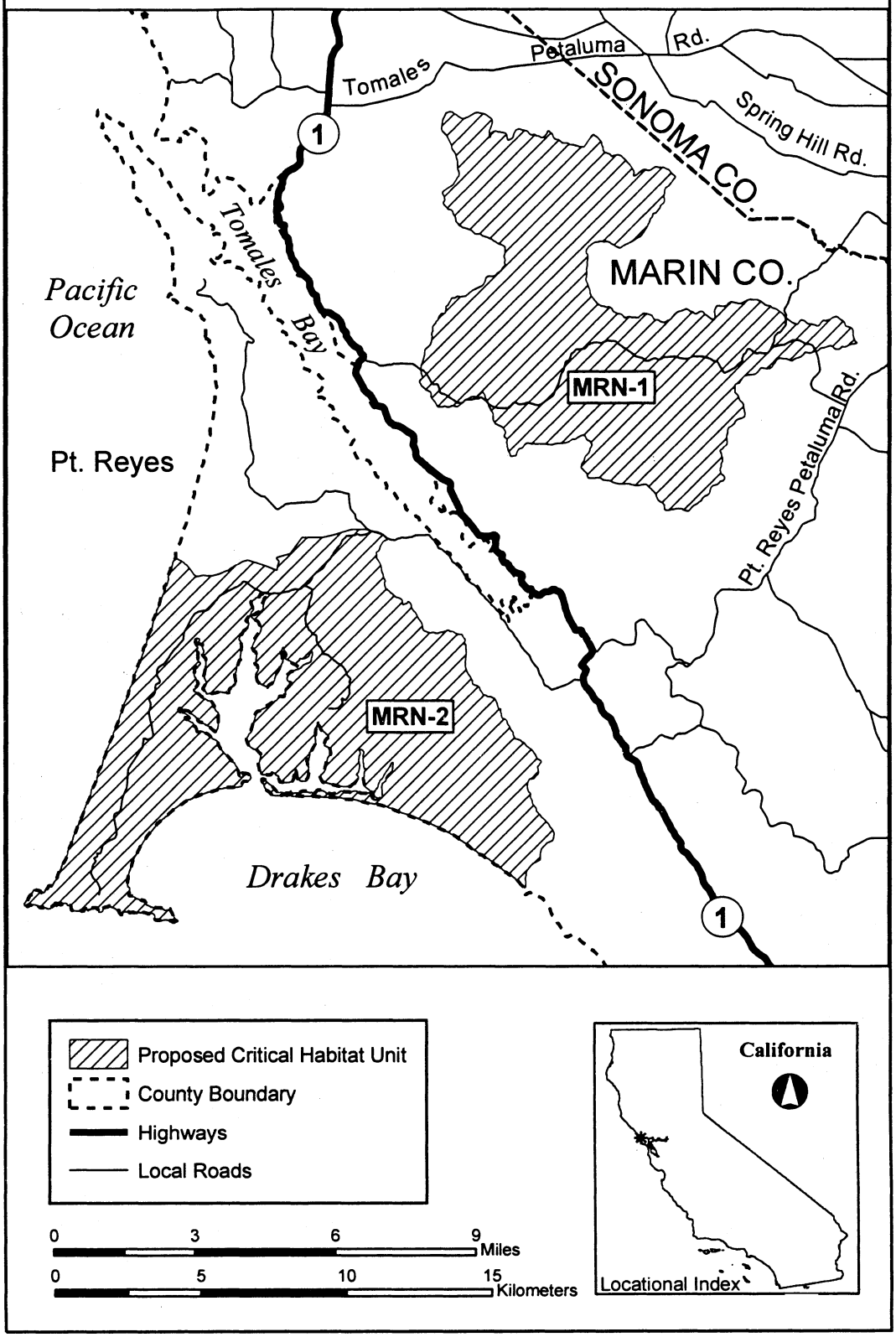
(ii) **Note:** Unit MRN–2 is depicted on Map M8—Unit MRN–1 and MRN–2—which follows:

BILLING CODE 4310–55–P

Map 8. California Red-Legged Frog -- Unit MRN-1 and MRN-2



BILLING CODE 4310–55–C

(14) Unit SOL–1, Solano County, California.

(i) From USGS 1:24,000 scale quadrangle Cordelia, Fairfield South, Benicia, Vine Hill. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 574151, 4227931; 574159, 4227922; 574168, 4227924; 574108, 4227756; 574045, 4227438; 574091, 4227308; 574227, 4227263; 574369, 4227183; 574420, 4227110; 574539, 4226906; 574607, 4226770; 574709, 4226724; 574710, 4226757; 574747, 4226749; 574752, 4226739; 574956, 4226092; 575176, 4225375; 575264, 4225162; 575359, 4224951; 575367, 4224934; 575349, 4224839; 575429, 4224688; 575442, 4224534; 575525, 4224485; 575509, 4224434; 575447, 4224377; 575368, 4224326; 575308, 4224295; 575272, 4224261; 575277, 4224221; 575368, 4224094; 575430, 4223998; 575487, 4223947; 575543, 4223916; 575614, 4223905; 575693, 4223901; 575755, 4223882; 575835, 4223882; 575898, 4223882; 575934, 4223899; 575951, 4223933; 575954, 4223981; 575956, 4224042; 576006, 4224063; 576184, 4224161; 576443, 4224275; 576548, 4224315; 576613, 4224309; 576698, 4224258; 576848, 4224202; 576995, 4224139; 577094, 4224080; 577153, 4224080; 577185, 4224072; 577294, 4223874; 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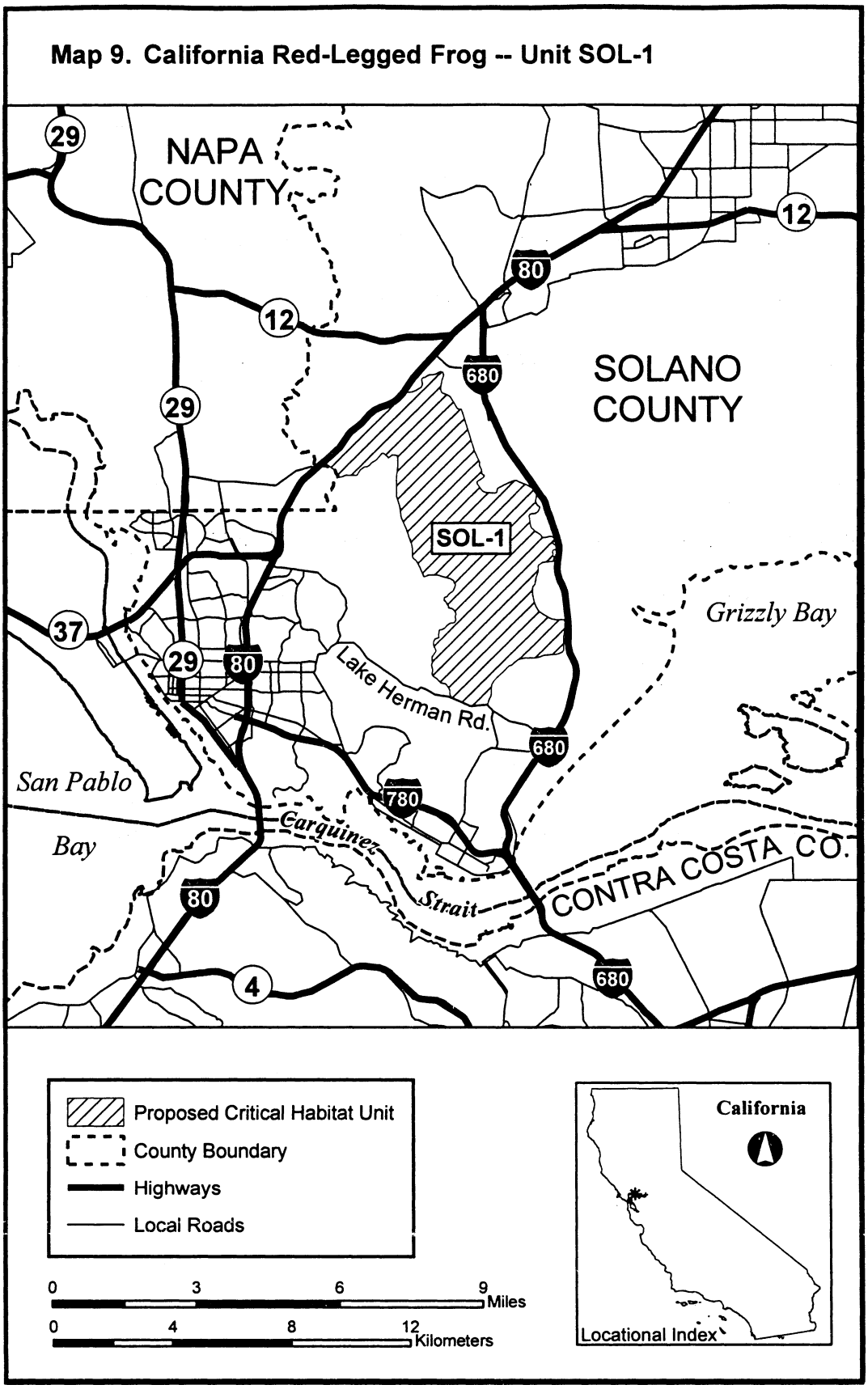
(ii) Unit SOL–1 (Map M9) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(15) Unit CCS–1A, Contra Costa County, California.

(i) From USGS 1:24,000 scale quadrangle Briones Valley, Walnut Creek. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 577415, 4202403; 577553, 4202269; 577370, 4202080; 577433, 4202019; 577361, 4201950; 577307, 4201899; 577273, 4201866; 577181, 4201779; 577181, 4201778; 577217, 4201778; 577331, 4201778; 577332, 4201711; 577396, 4201713; 577394, 4201778; 577491, 4201779; 577538, 4201779; 577538, 4201703; 577538, 4201657; 577538, 4201623; 577538, 4201608; 577528, 4201602; 577508, 4201588; 577427, 4201529; 577375, 4201499; 577311, 4201467; 577244, 4201455; 577180, 4201413; 577171, 4201344; 577177, 4201270; 577238, 4201225; 577253, 4201191; 577226, 4201086; 577192, 4200992; 577195, 4200899; 577204, 4200806; 577242, 4200746; 577282, 4200651; 577331, 4200562; 577346, 4200495; 577350, 4200480; 577311, 4200435; 577245, 4200395; 577192, 4200372; 577175, 4200312; 577162, 4200287; 577096, 4200285; 577031, 4200293; 577028, 4200293; 576947, 4200268; 576858, 4200184; 576858, 4200181; 576858, 4200181; 576873, 4200135; 576906, 4200083; 576923, 4199997; 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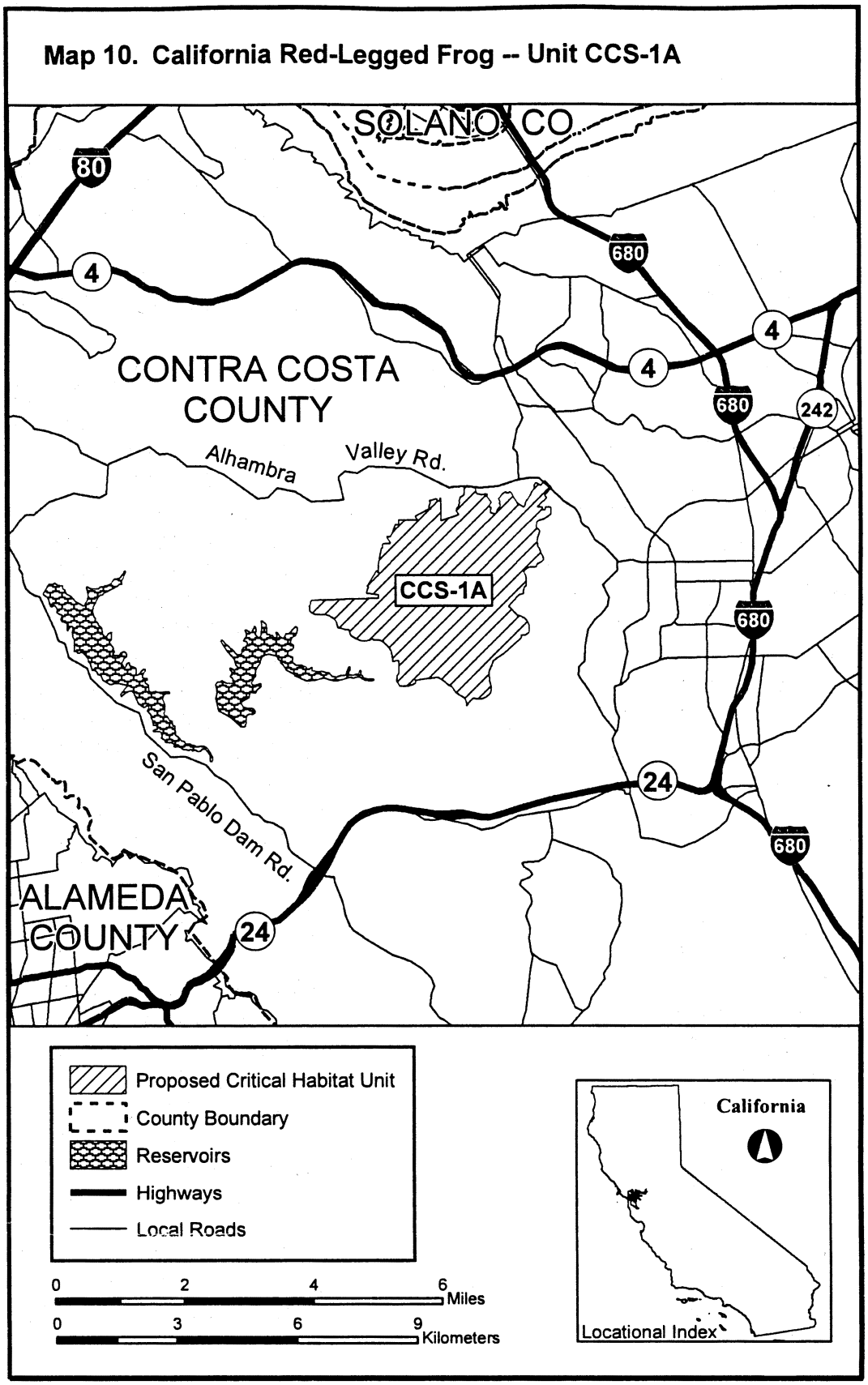
(ii) Unit CCS–1A (Map M10) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(16) Unit CCS–1B, Contra Costa County, California.

(i) From USGS 1:24,000 scale quadrangle Clayton, Antioch South, Brentwood, Honker Bay. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 588885, 4208099; 589054, 4208083; 589250, 4208083; 589396, 4208083; 589562, 4208083; 589718, 4208083; 589767, 4208034; 590050, 4207770; 590235, 4207770; 590372, 4207770; 590528, 4207858; 590606, 4207985; 590675, 4208073; 590684, 4207917; 590684, 4207722; 590870, 4207712; 591046, 4207712; 591134, 4207712; 591407, 4207644; 591485, 4207595; 591592, 4207370; 591631, 4207165; 591661, 4206970; 591709, 4206804; 591758, 4206599; 591973, 4206589; 592139, 4206589; 592344, 4206589; 592559, 4206628; 592949, 4206990; 592969, 4207136; 593008, 4207380; 593008, 4207585; 593013, 4207688; 593036, 4207697; 593647, 4207706; 593675, 4207563; 593680, 4207475; 593711, 4207387; 593737, 4207382; 593784, 4207356; 593810, 4207299; 593825, 4207221; 593825, 4207144; 593913, 4207149; 593944, 4207294; 594017, 4207537; 594043, 4207646; 594131, 4207702; 594234, 4207702; 594312, 4207692; 594322, 4207671; 594338, 4207625; 594343, 4207589; 594343, 4207558; 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(ii) **Note:** Unit CCS–1B is depicted on Map M11—Unit CCS–1B, ALA–1A, ALA–1B, and ALA–1C—see paragraph (19)(ii):

(17) Unit ALA–1A, Contra Costa, Alameda County, California.

(i) From USGS 1:24,000 scale quadrangle Brentwood, Tassajara, Byron Hot Springs, Clifton Court Forebay, Altamont, Midway. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 615743, 4194821; 615759, 4194818; 615779, 4194818; 615820, 4194834; 615834, 4194835; 615851, 4194825; 615865, 4194810; 615881, 4194807; 615918, 4194810; 615934, 4194739; 615967, 4194716; 615982, 4194699; 615969, 4194627; 615976, 4194602; 615985, 4194587; 615997, 4194579; 616012, 4194577; 616029, 4194567; 616044, 4194563; 616073, 4194572; 616094, 4194590; 616112, 4194596; 616128, 4194587; 616152, 4194534; 616166, 4194521; 616182, 4194515; 616229, 4194525; 616239, 4193549; 617046, 4193558; 617051, 4193168; 617855, 4193174; 617872, 4192712; 618515, 4192719; 618516, 4191960; 617880, 4191958; 617899, 4191157; 619480, 4191161; 619497, 4190356; 620314, 4190360; 620320, 4189919; 620320, 4189916; 620725, 4189915; 620768, 4187156; 621183, 4187164; 621181, 4186374; 621991, 4186386; 622007, 4185606; 622024, 4184779; 622024, 4184753; 621934, 4184749; 621356, 4184728; 621215, 4184722; 621214, 4184514; 621214, 4184381; 620416, 4184361; 620429, 4183947; 620972, 4183953; 620972, 4183880; 620972, 4183819; 620972, 4183763; 620983, 4183702; 621027, 4183657; 621089, 4183618; 621172, 4183568; 621255, 4183507; 621283, 4183457; 621322, 4183396; 621356, 4183340; 621361, 4183305; 621367, 4183263; 621356, 4183196; 621356, 4183135; 621328, 4183085; 621272, 4183018; 621272, 4182957; 621272, 4182912; 621272, 4182873; 621283, 4182823; 621300, 4182767; 621322, 4182712; 621367, 4182645; 621400, 4182556; 621389, 4182512; 621344, 4182462; 621305, 4182423; 621267, 4182367; 621228, 4182311; 621222, 4182250; 621239, 4182217; 621222, 4182167; 621105, 4181978; 621216, 4182083; 621294, 4182156; 621372, 4182245; 621450, 4182256; 621450, 4182289; 621456, 4182350; 621511, 4182417; 621578, 4182434; 621617, 4182434; 621684, 4182406; 621739, 4182367; 621823, 4182311; 621906, 4182300; 621990, 4182289; 622040, 4182267; 622051, 4182228; 622106, 4182211; 622134, 4182161; 622129, 4182128; 622079, 4182078; 622073, 4182022; 622101, 4182022; 622151, 4182028; 622207, 4182061; 622257, 4182067; 622268, 4182117; 622323, 4182156; 622373, 4182150; 622373, 4182128; 622368, 4182089; 622340, 4182050; 622340, 4181994; 622385, 4181994; 622401, 4182022; 622457, 4182022; 622501, 4182011; 622512, 4181967; 622485, 4181939; 622462, 4181850; 622485, 4181827; 622540, 4181833; 622568, 4181872; 622624, 4181872; 622646, 4181844; 622646, 4181772; 622613, 4181683; 622613, 4181583; 622651, 4181577; 622663, 4181594; 622746, 4181622; 622746, 4181677; 622746, 4181727; 622779, 4181744; 622829, 4181733; 622907, 4181661; 622918, 4181599; 622952, 4181544; 623002, 4181466; 623013, 4181421; 623013, 4181360; 622985, 4181271; 623019, 4181238; 623058, 4181255; 623074, 4181310; 623124, 4181327; 623163, 4181310; 623213, 4181260; 623269, 4181210; 623291, 4181171; 623324, 4181110; 623369, 4181060; 623464, 4180988; 623519, 4180904; 623547, 4180832; 623575, 4180754; 623658, 4180726; 623786, 4180671; 623925, 4180659; 624009, 4180654; 624153, 4180648; 624287, 4180648; 624404, 4180648; 624493, 4180637; 624554, 4180609; 624632, 4180554; 624698, 4180487; 624765, 4180404; 624815, 4180331; 624882, 4180231; 624921, 4180153; 624965, 4180064; 624976, 4179970; 624976, 4179875; 625004, 4179792; 625049, 4179742; 625115, 4179714; 625182, 4179697; 625255, 4179658; 625288, 4179592; 625316, 4179508; 625321, 4179447; 625321, 4179386; 625321, 4179302; 625332, 4179236; 625377, 4179163; 625455, 4179091; 625638, 4179013; 625693, 4178989; 625757, 4178685; 625897, 4178306; 625972, 4177965; 626051, 4177801; 626226, 4177601; 626311, 4177469; 626437, 4177148; 626473, 4176962; 626349, 4176930; 626159, 4176815; 626141, 4176788; 626029, 4176699; 625990, 4176675; 625921, 4176656; 625876, 4176649; 625812, 4176611; 625776, 4176567; 625766, 4176552; 625741, 4176524; 625656, 4176462; 625634, 4176425; 625617, 4176414; 625597, 4176384; 625577, 4176340; 625555, 4176246; 625532, 4176200; 625504, 4176158; 625464, 4176133; 625424, 4176115; 625376, 4176103; 625292, 4176056; 625166, 4176005; 625144, 4175985; 625097, 4175967; 625049, 4175943; 625021, 4175898; 625012, 4175828; 624982, 4175737; 624945, 4175738; 624895, 4175713; 624871, 4175708; 624819, 4175662; 624758, 4175618; 624651, 4175562;

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(ii) **Note:** Unit ALA–1A is depicted on Map M11—Unit CCS–1B, ALA–1A, ALA–1B, and ALA–1C—see paragraph (19)(ii):

(18) Unit ALA–1B, Alameda County, California.

(i) From USGS 1:24,000 scale quadrangle Livermore, Tassajara. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 605371, 4178338; 605396, 4178299; 605423, 4178305; 605468, 4178293; 605499, 4178275; 605527, 4178239; 605558, 4178167; 605586, 4178142; 605610, 4178091; 605591, 4178016; 605559, 4177966; 605538, 4177883; 605408, 4177646; 605371, 4177603; 605330, 4177547; 605316, 4177495; 605294, 4177453; 605281, 4177417; 605266, 4177312; 605276, 4177218; 605289, 4176971; 605266, 4176874; 605269, 4176833; 605266, 4176726; 605273, 4176705; 605293, 4176673; 605307, 4176586; 605331, 4176499; 605348, 4176375; 605358, 4176335; 605363, 4176285; 605358, 4176243; 605364, 4176151; 605388, 4176109; 605414, 4176080; 605441, 4176025; 605476, 4175990; 605486, 4175984; 605528, 4175946; 605511, 4175897; 605512, 4175855; 605519, 4175811; 605535, 4175776; 605530, 4175745; 605535, 4175716; 605557, 4175650; 605560, 4175566; 605570, 4175534; 605569, 4175466; 605550, 4175459; 605431, 4175438; 605385, 4175435; 605350, 4175393; 605363, 4175281; 605376, 4175219; 605455, 4175062; 605469, 4175006; 605469, 4174978; 605487, 4174933; 605494, 4174866; 605507, 4174797; 605518, 4174760; 605516, 4174746; 605508, 4174697; 605365, 4174616; 605340, 4174590; 605313, 4174538; 605243, 4174457; 605189, 4174408; 605154, 4174363; 605090, 4174293; 605046, 4174232; 605003, 4174198; 604964, 4174156; 604918, 4174116; 604850, 4174082; 604807, 4174055; 604707, 4174008; 604641, 4174026; 604603, 4174030; 604524, 4174007; 604460, 4173947; 604197, 4173862; 604110, 4173818; 604061, 4173802; 604027, 4173814; 603978, 4173811; 603894, 4173775; 603803, 4173732; 603763, 4173751; 603710, 4173812; 603667, 4173852; 603636, 4173868; 603547, 4173842; 603485, 4173815; 603400, 4173787; 603361, 4173759; 603295, 4173754; 603216, 4173726; 603170, 4173716; 603063, 4173709; 602985, 4173713; 602945, 4173710; 602945, 4173817; 602945, 4173947; 602945, 4174103; 603036, 4174259; 603075, 4174389; 603088, 4174519; 603140, 4174584; 603192, 4174727; 603192, 4174922; 603257, 4175026; 603127, 4175260; 602893, 4175377; 602802, 4175572; 602711, 4175637; 602229, 4175715; 601956, 4175715; 601657, 4175754; 601553, 4175897; 601345, 4175936; 601215, 4176027; 601059, 4176236; 601032, 4176260; 601041, 4176272; 601056, 4176303; 601067, 4176339; 601079, 4176441; 601096, 4176474; 601140, 4176544; 601160, 4176556; 601184, 4176555; 601210, 4176548; 601282, 4176539; 601312, 4176545; 601336, 4176568; 601383, 4176603; 601481, 4176637; 601525, 4176649; 601535, 4176663; 601567, 4176728; 601581, 4176823; 601583, 4176875; 601616, 4176976; 601621, 4177049; 601614, 4177107; 601603, 4177140; 601467, 4177258; 601413, 4177332; 601378, 4177373; 601333, 4177401; 601283, 4177407; 601240, 4177434; 601219, 4177459; 601214, 4177507; 601222, 4177540; 601275, 4177634; 601289, 4177678; 601354, 4177763; 601390, 4177800; 602153, 4177746; 604155, 4178790; 604695, 4178965; 605183, 4178930; 605395, 4178792; 605406, 4178719; 605422, 4178688; 605422, 4178649; 605397, 4178557; 605381, 4178530; 605360, 4178502; 605335, 4178481; 605283, 4178448; 605278, 4178437; 605284, 4178407; 605297, 4178403; 605359, 4178342; returning to 605371, 4178338.

(ii) **Note:** Unit ALA–1B is depicted on Map M11—Unit CCS–1B, ALA–1A, ALA–1B, and ALA–1C—see paragraph (19)(ii):

(19) Unit ALA–1C, Alameda, Santa Clara County, California.

(i) From USGS 1:24,000 scale quadrangle La Costa Valley, Mendenhall Springs, Niles, Calaveras Reservoir, Mt. Day. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 605586, 4164267; 605649, 4164257; 605817, 4164262; 605875, 4164270; 605955, 4164294; 605993, 4164312; 606017, 4164319; 606040, 4164321; 606086, 4164315; 606156, 4164292; 606197, 4164286; 606236, 4164292; 606298, 4164308; 606347, 4164309; 606378, 4164305; 606563, 4164273; 606748, 4164218; 606796, 4164193; 606807, 4164177; 606863, 4164032; 606921, 4163920; 606956, 4163861; 607033, 4163799; 607087, 4163816; 607137, 4163817; 607200, 4163795; 607244, 4163763; 607268, 4163723; 607370, 4163442; 607406, 4163317; 607437, 4163070; 607437, 4163048; 607421, 4163015; 607402, 4162987; 607399, 4162974; 607416, 4162944; 607448, 4162927; 607509, 4162882; 607510, 4162863; 607497, 4162830; 607489, 4162781; 607492, 4162747; 607499, 4162724; 607503, 4162693; 607489, 4162603; 607497, 4162559; 607511, 4162549; 607593, 4162509; 607612, 4162491; 607634, 4162407; 607645, 4162375; 607662, 4162347; 607719, 4162312; 607832, 4162253; 607884, 4162241; 607905, 4162243; 607939, 4162253; 607960, 4162266; 607987, 4162290; 608003, 4162310; 608031, 4162385; 608041, 4162397; 608218, 4162404; 608293, 4162412; 608369, 4162379; 608388, 4162386; 608432, 4162412; 608463, 4162419; 608495, 4162421; 608631, 4162415; 608655, 4162411; 608710, 4162384; 608768, 4162345; 608789, 4162338; 608806, 4162335; 608832, 4162339; 608939, 4162358; 609035, 4162342; 609063, 4162321; 609100, 4162286; 609122, 4162269; 609174, 4162244; 609251, 4162174; 609280, 4162115; 609303, 4162095; 609321, 4162087; 609372, 4162076; 609507, 4162059; 609691, 4161999; 609787, 4161976; 609821, 4161959; 609841, 4161947; 609870, 4161918; 609905, 4161873; 609945, 4161800; 609961, 4161787; 609982, 4161783; 610052, 4161776; 610106, 4161764; 610119, 4161756; 610140, 4161738; 610176, 4161691; 610206, 4161667; 610234, 4161650; 610263, 4161613; 610377, 4161516; 610411, 4161485; 610421, 4161462; 610425, 4161399; 610432, 4161379; 610457, 4161332; 610497, 4161291; 610535, 4161203; 610548, 4161189; 610612, 4161164; 610681, 4161148; 610779, 4161145; 610800, 4161140; 610918, 4161142; 610991, 4161132; 611011, 4161121; 611020, 4161109; 611025, 4161092; 611017, 4161064; 611003, 4161046; 610988, 4161034; 610928, 4161008; 610918, 4160994; 610914, 4160979; 610928, 4160923; 610939, 4160906; 610962, 4160883; 611029, 4160841; 611036, 4160828; 611036, 4160805; 611044, 4160783; 611067, 4160755; 611085, 4160743; 611110, 4160738; 611133, 4160741; 611228, 4160767; 611256, 4160770; 611283, 4160763; 611299, 4160755; 611315, 4160731; 611337, 4160664; 611374, 4160626; 611424, 4160616; 611448, 4160606; 611495, 4160572; 611523, 4160558; 611554, 4160552; 611609, 4160549; 611666, 4160540; 611692, 4160528; 611726, 4160504; 611758, 4160493; 611795, 4160501; 611835, 4160517; 611872, 4160520; 611919, 4160501; 611933, 4160492; 611957, 4160463; 611975, 4160399; 612030, 4160305; 612045, 4160274; 612079, 4160189; 612062, 4160134; 612083, 4159923; 612110, 4159929; 612140, 4159944; 612184, 4159956; 612210, 4159958; 612245, 4159953; 612260, 4159947; 612278, 4159934; 612315, 4159894; 612348, 4159866; 612383, 4159805; 612392, 4159757; 612384, 4159695; 612387, 4159681; 612436, 4159659; 612476, 4159647; 612537, 4159621; 612588, 4159605; 612622, 4159601; 612678, 4159613; 612697, 4159622; 612748, 4159637; 612774, 4159636; 612800, 4159628; 612853, 4159581; 612863, 4159555; 612875, 4159535; 612935, 4159486; 612976, 4159458; 612995, 4159437; 613012, 4159412; 613026,

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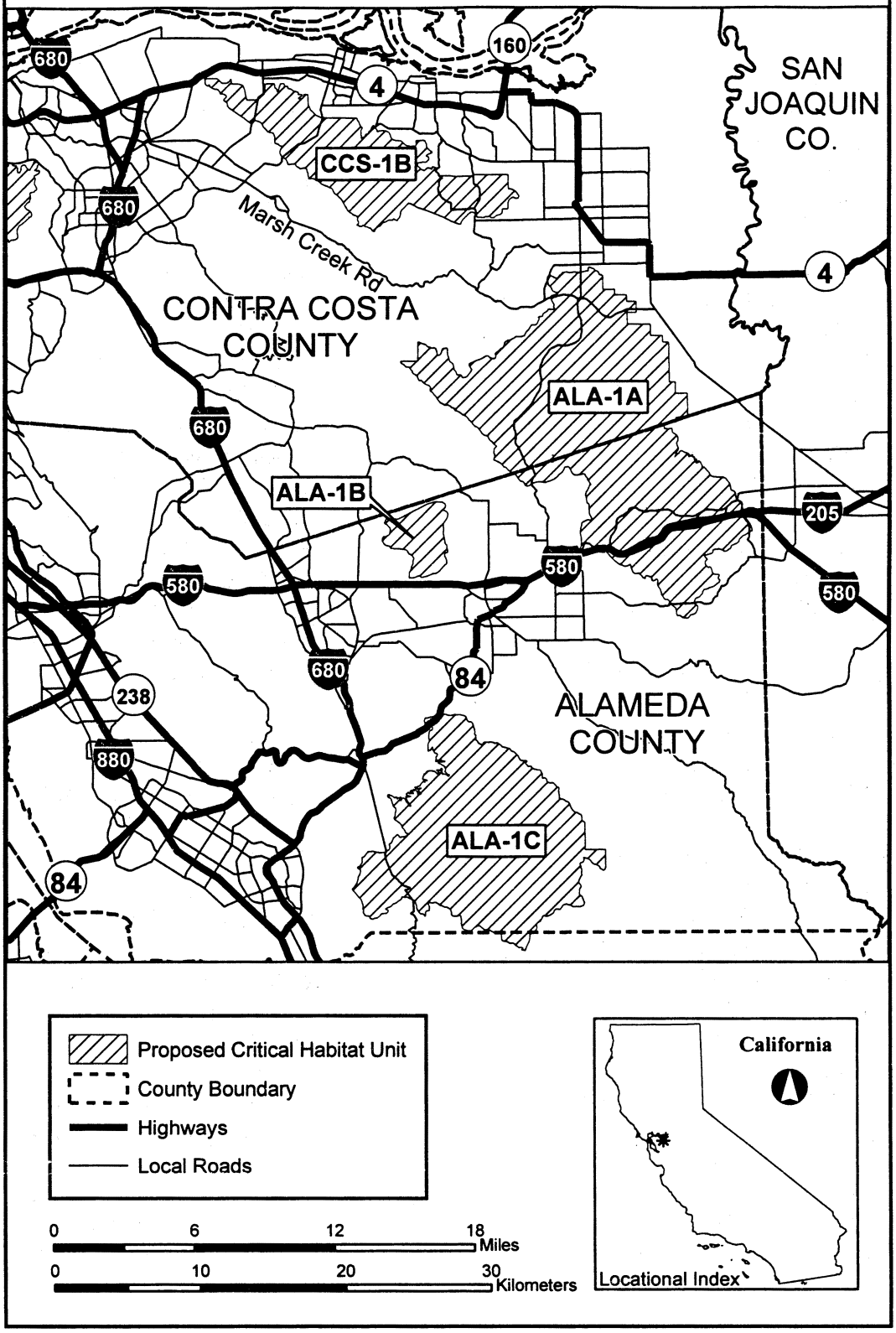
(ii) **Note:** Unit ALA–1C is depicted on Map M11—Unit CCS–1B, ALA–1A, ALA–1B, and ALA–1C—which follows:

BILLING CODE 4310–55–P

Map 11. California Red-Legged Frog -- Unit CCS-1B, ALA-1A, ALA-1B and ALA-1C



BILLING CODE 4310–55–C

(20) Unit SNM–1A, San Mateo County, California.

(i) From USGS 1:24,000 scale quadrangle Montara Mountain, San Mateo, and Woodside. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 548601, 4161211; 548730, 4161151; 548766, 4161160; 548853, 4161154; 548877, 4161142; 549134, 4160985; 549197, 4160966; 549218, 4160956; 549246, 4160927; 549267, 4160875; 549294, 4160831; 549373, 4160753; 549457, 4160660; 549480, 4160623; 549620, 4160503; 549679, 4160466; 549754, 4160406; 549784, 4160346; 549794, 4160258; 549811, 4160220; 549849, 4160204; 549883, 4160198; 549917, 4160186; 550088, 4160005; 550102, 4159916; 550082, 4159828; 550086, 4159806; 550095, 4159783; 550143, 4159710; 550233, 4159597; 550292, 4159511; 550325, 4159450; 550342, 4159427; 550393, 4159398; 550426, 4159391; 550459, 4159379; 550539, 4159331; 550563, 4159327; 550644, 4159347; 550702, 4159341; 550724, 4159325; 550751, 4159293; 550763, 4159270; 550796, 4159226; 550808, 4159199; 550816, 4159164; 550819, 4159100; 550827, 4159075; 550847, 4159023; 550899, 4158937; 550913, 4158907; 550916, 4158876; 550929, 4158841; 551193, 4158626; 551320, 4158575; 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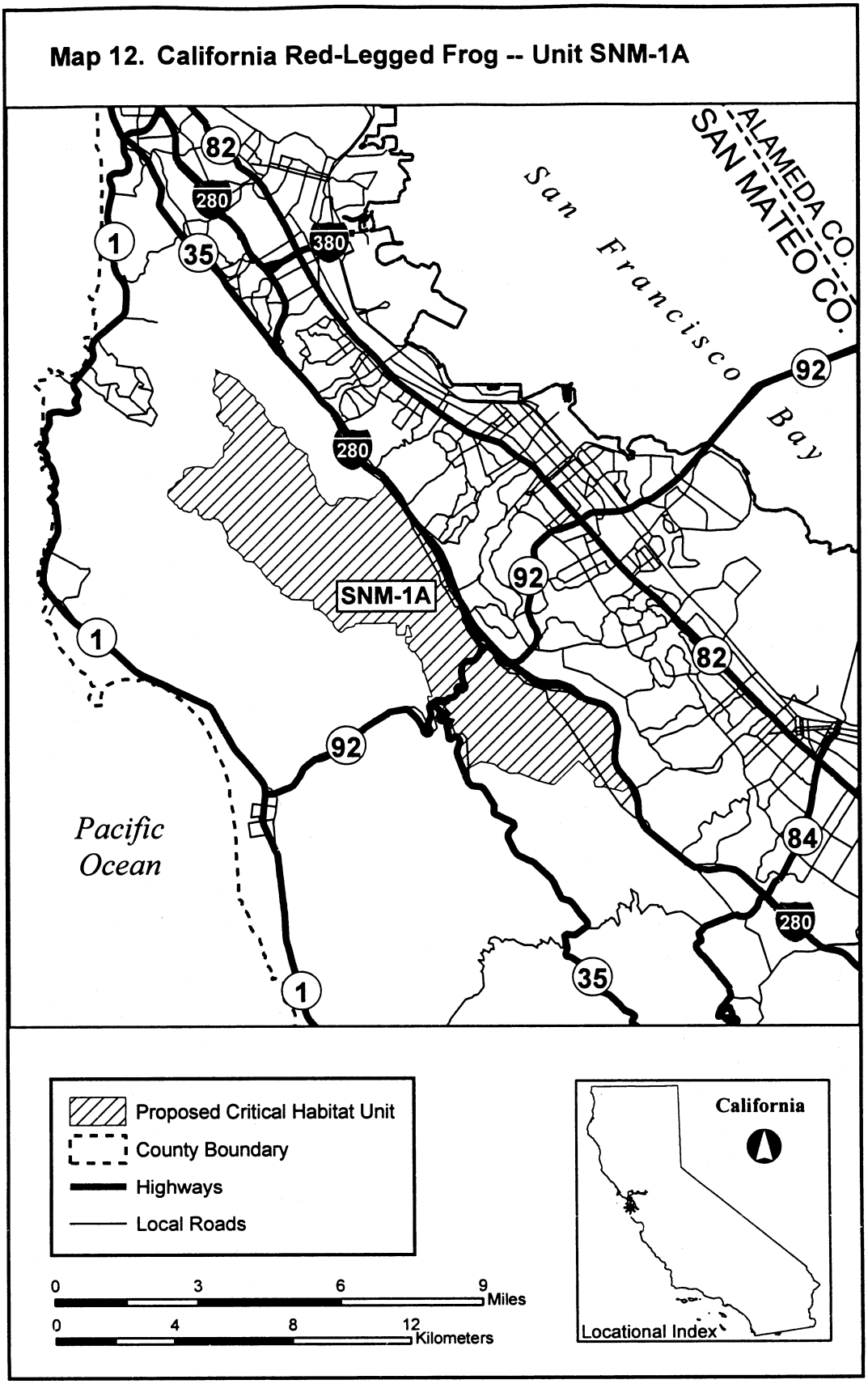
(ii) **Note:** Unit SNM–1A (Map M12) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(21) Unit SNM–1B, San Mateo County, California.

(i) From USGS 1:24,000 scale quadrangle La Honda, Mindego Hill. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 566722, 4134895; 566730, 4134874; 566755, 4134820; 566779, 4134784; 566789, 4134777; 566801, 4134760; 566829, 4134744; 566847, 4134729; 566870, 4134722; 567001, 4134715; 567090, 4134510; 567094, 4134481; 567085, 4134394; 567105, 4134309; 567112, 4134289; 567120, 4134277; 567186, 4134242; 567218, 4134215; 567260, 4134165; 567285, 4134117; 567352, 4134023; 567392, 4133986; 567433, 4133959; 567476, 4133953; 567496, 4133957; 567534, 4133976; 567578, 4133984; 567603, 4133963; 567707, 4133941; 567748, 4133928; 567839, 4133927; 567848, 4133880; 567992, 4133811; 568057, 4133772; 568085, 4133744; 568100, 4133708; 568129, 4133663; 568180, 4133587; 568205, 4133558; 568241, 4133501; 568248, 4133471; 568287, 4133378; 568306, 4133355; 568385, 4133309; 568496, 4133250; 568515, 4133229; 568543, 4133207; 568573, 4133169; 568613, 4133142; 568659, 4133126; 568963, 4132987; 568998, 4132944; 569008, 4132922; 569026, 4132902; 569045, 4132867; 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565848, 4130016; 565833, 4130072; 565812, 4130125; 565792, 4130176; 565774, 4130240; 565727, 4130305; 565689, 4130379; 565591, 4130473; 565556, 4130523; 565512, 4130615; 565409, 4130989; 565401, 4131033; 565235, 4131033; 564397, 4131028; 564409, 4131048; 564412, 4131095; 564412, 4131131; 564389, 4131163; 564353, 4131190; 564324, 4131210; 564312, 4131237; 564312, 4131272; 564359, 4131299; 564427, 4131334; 564465, 4131372; 564513, 4131390; 564563, 4131390; 564592, 4131428; 564572, 4131484; 564557, 4131511; 564566, 4131552; 564589, 4131576; 564601, 4131611; 564616, 4131646; 564660, 4131667; 564710, 4131702; 564722, 4131750; 564704, 4131788; 564651, 4131794; 564625, 4131829; 564598, 4131891; 564566, 4131968; 564554, 4132024; 564554, 4132062; 564569, 4132100; 564610, 4132127; 564657, 4132159; 564713, 4132189; 564751, 4132218; 564748, 4132274; 564722, 4132298; 564707, 4132327; 564707, 4132369; 564713, 4132401; 564737, 4132425; 564754, 4132454; 564751, 4132484; 564728, 4132510; 564728, 4132540; 564728, 4132563; 564731, 4132590; 564707, 4132622; 564689, 4132649; 564666, 4132681; 564663, 4132737; 564651, 4132817; 564622, 4132870; 564574, 4132964; 564533, 4133032; 564504, 4133085; 564477, 4133132; 564468, 4133217; 564468, 4133276; 564465, 4133329; 564462, 4133365; 564462, 4133409; 564486, 4133444; 564530, 4133474; 564554, 4133497; 564604, 4133521; 564648, 4133533; 564686, 4133548; 564751, 4133568; 564787, 4133568; 564837, 4133565; 564890, 4133536; 564908, 4133527; 564934, 4133548; 564964, 4133565; 564981, 4133583; 564987, 4133604; 564990, 4133636; 564967, 4133727; 564955, 4133772; 564955, 4133816; 564961, 4133872; 564967, 4133907; 564990, 4133946; 565005, 4133978; 565064, 4134019; 565096, 4134037; 565123, 4134058; 565149, 4134078; 565155, 4134119; 565155, 4134172; 565155, 4134234; 565155, 4134302; 565155, 4134364; 565155, 4134414; 565149, 4134458; 565111, 4134497; 565079, 4134526; 565037, 4134567; 565002, 4134609; 564975, 4134647; 564969, 4134671; 564971, 4134702; 565135, 4134702; 565317, 4134714; 565487, 4134748; 565634, 4134861; 565703, 4134952; 565805, 4134952; 565975, 4134895; 566088, 4134884; 566292, 4134884; 566497, 4134895; 566678, 4134963; 566708, 4134989; 566711, 4134982; returning to 566722, 4134895.

(ii) **Note:** Unit SNM–1B is depicted on Map M13—Unit SNM–1B, SNM–1C, SNM–2A, SNM–2B, SNM–2C, and SCZ–1—see paragraph (26)(ii):

(22) Unit SNM–1C, San Mateo County, California.

(i) From USGS 1:24,000 scale quadrangle Mindego Hill. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 571512, 4130484; 571647, 4130455; 571705, 4130457; 571725, 4130449; 571745, 4130447; 571787, 4130428; 571800, 4130420; 571831, 4130388; 571879, 4130333; 571910, 4130289; 571950, 4130253; 572014, 4130219; 572061, 4130203; 572075, 4130192; 572097, 4130152; 572123, 4130068; 572121, 4130053; 572097, 4130007; 572093, 4129988; 572096, 4129969; 572111, 4129944; 572138, 4129919; 572135, 4129890; 572127, 4129861; 572137, 4129832; 572182, 4129734; 572251, 4129650; 572263, 4129640; 572277, 4129620; 572316, 4129589; 572378, 4129563; 572415, 4129543; 572435, 4129539; 572452, 4129532; 572467, 4129531; 572524, 4129539; 572549, 4129551; 572584, 4129577; 572629, 4129660; 572651, 4129689; 572687, 4129727; 572800, 4129806; 572903, 4129865; 572960, 4129877; 573007, 4129880; 573020, 4129882; 573651, 4129531; 573648, 4129501; 573679, 4129407; 573700, 4129369; 573759, 4129283; 573807, 4129200; 573825, 4129154; 573842, 4129125; 573860, 4129108; 573907, 4129100; 573950, 4129100; 573974, 4129096; 574000, 4129102; 574017, 4129093; 574038, 4129074; 574050, 4129057; 574103, 4129013; 574160, 4128993; 574175, 4128995; 574189, 4128990; 574205, 4128993; 574229, 4128985; 574243, 4128966; 574248, 4128949; 574248, 4128935; 574238, 4128903; 574215,

4128853; 574194, 4128773; 574184, 4128749; 574126, 4128667; 574114, 4128638; 574115, 4128631; 574131, 4128611; 574148, 4128600; 574182, 4128591; 574196, 4128592; 574208, 4128579; 574207, 4128564; 574181, 4128533; 574154, 4128490; 574090, 4128354; 574054, 4128309; 574014, 4128270; 574000, 4128253; 573981, 4128215; 573976, 4128167; 573980, 4128129; 573979, 4128082; 573971, 4128066; 573954, 4128041; 573918, 4128005; 573904, 4128002; 573872, 4127983; 573856, 4127980; 573846, 4127966; 573844, 4127948; 573848, 4127937; 573854, 4127926; 573872, 4127915; 573886, 4127912; 573948, 4127914; 573979, 4127920; 574017, 4127917; 574063, 4127919; 574082, 4127916; 574138, 4127836; 574152, 4127826; 574174, 4127800; 574192, 4127800; 574254, 4127781; 574289, 4127774; 574360, 4127750; 574377, 4127750; 574436, 4127724; 574544, 4127673; 574657, 4127623; 574766, 4127576; 574821, 4127549; 574830, 4127526; 574937, 4127439; 575016, 4127363; 575041, 4127344; 575061, 4127322; 575088, 4127275; 575108, 4127212; 575115, 4127172; 575117, 4127123; 575117, 4127120; 575123, 4127083; 575119, 4127022; 575118, 4127007; 575136, 4126998; 575150, 4126916; 575150, 4126865; 575164, 4126771; 575179, 4126705; 575212, 4126651; 575255, 4126597; 575306, 4126564; 575357, 4126531; 575422, 4126477; 575437, 4126460; 575426, 4126447; 575408, 4126405; 575410, 4126387; 575421, 4126375; 575450, 4126357; 575467, 4126339; 575475, 4126295; 575447, 4126263; 575404, 4126223; 575393, 4126180; 575393, 4126147; 575407, 4126096; 575407, 4126056; 575407, 4126024; 575378, 4125991; 575364, 4125966; 575328, 4125922; 575302, 4125868; 575303, 4125865; 575286, 4125866; 575197, 4125880; 575177, 4125877; 575166, 4125889; 575058, 4126064; 575008, 4126094; 574924, 4126121; 574896, 4126114; 574868, 4126079; 574807, 4126096; 574777, 4126096; 574731, 4126102; 574599, 4126105; 574561, 4126117; 574478, 4126131; 574396, 4126151; 574316, 4126210; 574289, 4126242; 574259, 4126316; 574241, 4126336; 574200, 4126355; 574144, 4126360; 574134, 4126347; 574078, 4126370; 574058, 4126374; 574044, 4126373; 574007, 4126405; 573986, 4126411; 573947, 4126434; 573898, 4126442; 573834, 4126462; 573732, 4126487; 573691, 4126493; 573644, 4126490; 573584, 4126473; 573453, 4126448; 573399, 4126414; 573377, 4126379; 573365, 4126319; 573327, 4126300; 573310, 4126282; 573305, 4126239; 573310, 4126199; 573306, 4126158; 573287, 4126109; 573224, 4126079; 573175, 4126039; 573147, 4125959; 573138, 4125924; 573141, 4125880; 573135, 4125795; 572861, 4125545; 572745, 4125424; 572723, 4125412; 572696, 4125402; 572663, 4125396; 572624, 4125322; 572617, 4125284; 572596, 4125240; 572556, 4125206; 572497, 4125176; 572439, 4125136; 572351, 4125107; 572303, 4125058; 572287, 4125052; 572239, 4125049; 572209, 4125057; 572184, 4125058; 572173, 4125070; 572169, 4125089; 572150, 4125118; 572123, 4125147; 572094, 4125164; 572081, 4125163; 572026, 4125191; 571999, 4125201; 571966, 4125234; 571948, 4125242; 571917, 4125270; 571863, 4125324; 571849, 4125335; 571796, 4125373; 571752, 4125391; 571743, 4125393; 571688, 4125399; 571681, 4125393; 571660, 4125374; 571652, 4125343; 571656, 4125320; 571678, 4125269; 571730, 4125067; 571736, 4124983; 571745, 4124948; 571748, 4124914; 571749, 4124892; 571725, 4124802; 571722, 4124772; 571715, 4124751; 571680, 4124564; 571688, 4124523; 571712, 4124486; 571733, 4124465; 571744, 4124430; 571745, 4124411; 571755, 4124370; 571765, 4124348; 571758, 4124239; 571751, 4124191; 571732, 4124132; 571679, 4124055; 571574, 4123852; 571562, 4123774; 571517, 4123697; 571477, 4123647; 571448, 4123631; 571407, 4123602; 571295, 4123494; 571276, 4123446; 571261, 4123425; 571226, 4123403; 571173, 4123391; 571124, 4123411; 571071, 4123421; 571047, 4123417; 570995, 4123440; 570969, 4123456; 570873, 4123581; 570798, 4123689; 570760, 4123730; 570693, 4123772; 570651, 4123796; 570610, 4123819; 570561, 4123817; 570509, 4123801; 570489, 4123795; 570442, 4123709; 570402, 4123673; 570363, 4123620; 570326, 4123599; 570276, 4123580; 570220, 4123560; 570154, 4123546; 570048, 4123496; 570000, 4123464; 569959, 4123443; 569887, 4123387; 569605, 4123239; 569503, 4123156; 569361, 4123062; 569323, 4123100; 569299, 4123111; 569307, 4123126; 569310, 4123142; 569296, 4123157; 569285, 4123210; 569284, 4123268; 569269, 4123299; 569269, 4123358; 569251, 4123412; 569231, 4123445; 569196, 4123476; 569164, 4123536; 569127, 4123553; 569050, 4123606; 569001, 4123645; 568975, 4123763; 568974, 4123999; 568949, 4124016; 568956, 4124057; 568947, 4124099; 568915, 4124158; 568915, 4124194; 568889, 4124238; 568859, 4124295; 568868, 4124326; 568864, 4124363; 568881, 4124419; 568862, 4124484; 568870, 4124533; 568871, 4124604; 568862, 4124655; 568830, 4124689; 568820, 4124744; 568831, 4124758; 568835, 4124777; 568818, 4124827; 568824, 4124854; 568823, 4124905; 568820, 4124920; 568826, 4124936; 568835, 4124948; 568833, 4124974; 568824, 4124995; 568817, 4125031; 568794, 4125082; 568790, 4125109; 568779, 4125147; 568752, 4125198; 568691, 4125286; 568690, 4125287; 568691, 4125299; 568691, 4125318; 568690, 4125320; 568669, 4125363; 568663, 4125420; 568664, 4125472; 568659, 4125537; 568725, 4125673; 568743, 4125731; 568765, 4125782; 568806, 4126159; 568834, 4126246; 568837, 4126271; 568870, 4126356; 568887, 4126427; 568894, 4126515; 568924, 4126568; 568932, 4126575; 568936, 4126578; 569043, 4126622; 569057, 4126645; 569073, 4126677; 569075, 4126729; 569083, 4126823; 569099, 4126847; 569134, 4126885; 569158, 4126897; 569246, 4126923; 569273, 4126934; 569283, 4126945; 569307, 4127018; 569375, 4127000; 569395, 4127001; 569412, 4127011; 569448, 4127045; 569528, 4127105; 569542, 4127109; 569573, 4127109; 569629, 4127120; 569656, 4127110; 569694, 4127110; 569708, 4127115; 569723, 4127128; 569756, 4127182; 569790, 4127229; 569802, 4127253; 569821, 4127277; 569852, 4127359; 569894, 4127414; 569906, 4127439; 569974, 4127479; 569998, 4127497; 570023, 4127552; 570040, 4127606; 570049, 4127649; 570136, 4127927; 570154, 4127965; 570166, 4128021; 570200, 4128078; 570274, 4128137; 570284, 4128160; 570319, 4128197; 570355, 4128230; 570398, 4128257; 570483, 4128353; 570530, 4128384; 570556, 4128410; 570571, 4128464; 570572, 4128484; 570589, 4128526; 570622, 4128571; 570665, 4128645; 570722, 4128709; 570783, 4128731; 570807, 4128747; 570849, 4128783; 570871, 4128817; 570938, 4128887; 570965, 4128930; 571011, 4128988; 571075, 4128998; 571119, 4129013; 571146, 4129024; 571189, 4129050; 571239, 4129060; 571275, 4129088; 571312, 4129180; 571303, 4129206; 571297, 4129247; 571282, 4129292; 571264, 4129322; 571250, 4129380; 571223, 4129465; 571225, 4129513; 571204, 4129578; 571147, 4129893; 571139, 4129947; 571117, 4130018; 571100, 4130102; 571064, 4130191; 571051, 4130276; 571048, 4130320; 571050, 4130343; 571077, 4130379; 571112, 4130404; 571147, 4130475; 571165, 4130471; 571199, 4130472; 571335, 4130445; 571393, 4130458; 571420, 4130454; 571467, 4130457; returning to 571512, 4130484.

(ii) **Note:** Unit SNM–1C is depicted on Map M13—Unit SNM–1B, SNM–1C, SNM–2A, SNM–2B, SNM–2C, and SCZ–1—see paragraph (26)(ii):

(23) Unit SNM–2A, San Mateo County, California.

(i) From USGS 1:24,000 scale quadrangle Half Moon Bay, Woodside, San Gregorio, La Honda. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 558739, 4137767; 558811, 4137592; 558811, 4137356; 558811, 4137192; 559016, 4137182; 559221, 4137182; 559365, 4137120; 559519, 4136935; 559632, 4136791; 559930, 4136596; 560176, 4136463; 560371, 4136412; 560556, 4136545; 560689, 4136607; 560689, 4136607; 560712, 4136605; 560754, 4136583; 560802, 4136568; 560800, 4136566; 560803, 4136493; 560824, 4136421; 560888, 4136267; 560925, 4136136; 560924, 4136062; 560913, 4136001; 560921, 4135922; 560965, 4135865; 561004, 4135820; 560840, 4135713; 560781, 4135695; 560728, 4135658; 560678, 4135570; 560636, 4135485; 560561, 4135354; 560541, 4135285; 560517, 4135214; 560501, 4135134; 560426, 4134975; 560418, 4134908; 560416, 4134853; 560418, 4134690; 560405, 4134607; 560304, 4134407; 560273, 4134339; 560239, 4134222; 560239, 4134027; 560251, 4133792; 560276, 4133666; 560276, 4133593; 560193, 4133506; 560143, 4133467; 560074, 4133423; 559998, 4133400; 559928, 4133371; 559862, 4133311; 559869, 4133233; 559864, 4133111; 559871, 4133045; 559887, 4132979; 559877, 4132779; 559839, 4132609; 559830, 4132523; 559815, 4132450; 559820, 4132404; 559820, 4132342; 559798, 4132287; 559778, 4132201; 559727, 4132088; 559710, 4132025; 559702, 4131960; 559677, 4131887; 559636, 4131789; 559609, 4131708; 559589, 4131626; 559579, 4131551; 559594, 4131503; 559528, 4131324; 559421, 4131269; 559368, 4131236; 559326, 4131204; 559227, 4131110; 559164, 4131041; 559141, 4130975; 559108, 4130864; 559078, 4130813; 558987, 4130735; 558923, 4130654; 558888, 4130583; 558847, 4130516; 558788, 4130468; 558770, 4130460; 558699, 4130504; 558443, 4130773; 558414, 4130798; 558346, 4130823; 558271, 4130826; 558210, 4130855; 558162, 4130889; 558123, 4130980; 558096, 4131043; 558030, 4131118; 557944, 4131188; 557865, 4131218; 557804, 4131227; 557693, 4131224; 557573, 4131220; 557509, 4131213; 557430, 4131229; 557332, 4131304; 557276, 4131356; 557221, 4131374; 557149, 4131374; 557078, 4131358; 556970, 4131340; 556899, 4131326; 556816, 4131333; 556695, 4131342; 556494, 4131347; 556378, 4131363; 556321, 4131392; 556278, 4131442; 556233, 4131533; 556199, 4131592; 556149, 4131639; 556097, 4131646; 556022, 4131642; 555936, 4131621; 555832, 4131589; 555716, 4131585; 555648, 4131605; 555571, 4131630; 555456, 4131676; 555247, 4131775; 555093, 4131839; 555016, 4131846; 554948, 4131836; 554871, 4131805; 554773, 4131771; 554712, 4131739; 554662, 4131698; 554642, 4131644; 554621, 4131594; 554576, 4131510; 554510, 4131428; 554456, 4131367; 554426, 4131342; 554304, 4131304; 554127, 4131243; 554012, 4131156; 553923, 4131104; 553858, 4131086; 553694, 4131068; 553472, 4131052; 553212, 4131041; 553182, 4131046; 553329, 4131316; 553417, 4131466; 553474, 4131510; 553551, 4131545; 553621, 4131545; 553698, 4131532; 553764, 4131523; 553819, 4131530; 553859, 4131554; 553920, 4131635; 553945, 4131683; 553947, 4131725; 553932, 4131794; 553916, 4131824; 553876, 4131870; 553817, 4131947; 553784, 4132040; 553668, 4132528; 553622, 4132706; 553602, 4132871; 553621, 4132961; 553641, 4133060; 553621, 4133192; 553566, 4133298; 553503, 4133368; 553434, 4133496; 553397, 4133654; 553384, 4133735; 553342, 4133828; 553292, 4133924; 553267, 4134023; 553258, 4134144; 553259, 4134239; 553287, 4134329; 553314, 4134377; 553401, 4134549; 553421, 4134628; 553413, 4134692; 553399, 4134765; 553375, 4134828; 553360, 4134855; 553296, 4134916; 553237, 4134973; 553190, 4135011; 553069, 4135151; 552963, 4135283; 552969, 4135286; 553118, 4135405; 553218, 4135497; 553247, 4135519; 553272, 4135559; 553338, 4135587; 553379, 4135635; 553376, 4135670; 553399, 4135719; 553406, 4135751; 553442, 4135811; 553462, 4135827; 553540, 4135865; 553563, 4135893; 553572, 4135910; 553584, 4135953; 553587, 4135990; 553583, 4136045; 553659, 4136295; 553682, 4136322; 553750, 4136380; 553773, 4136411; 553817, 4136459; 553856, 4136487; 553889, 4136534; 553900, 4136589; 553914, 4136623; 553924, 4136763; 553921, 4136828; 553914, 4136854; 553887, 4136884; 553762, 4136980; 553783, 4137262; 553803, 4137293; 553829, 4137321; 553858, 4137341; 553952, 4137382; 554034, 4137410; 554111, 4137430; 554197, 4137481; 554222, 4137502; 554314, 4137597; 554352, 4137652; 554361, 4137673; 554381, 4137704; 554417, 4137731; 554531, 4137770; 554567, 4137778; 554602, 4137783; 554628, 4137781; 554696, 4137766; 554759, 4137744; 554766, 4137744; 554768, 4137740; 554870, 4137604; 554983, 4137446; 555006, 4137254; 555017, 4137005; 555334, 4137107; 555526, 4137152; 555673, 4137254; 555876, 4137423; 556046, 4137536; 556611, 4137762; 557131, 4137740; 557515, 4137683; 557718, 4137683; 557933, 4137830; 558069, 4138000; 558673, 4138166; 558719, 4138033; 558719, 4137910; returning to 558739, 4137767.

(ii) **Note:** Unit SNM–2A is depicted on Map M13—Unit SNM–1B, SNM–1C, SNM–2A, SNM–2B, SNM–2C, and SCZ–1—see paragraph (26)(ii):

(24) Unit SNM–2B, San Mateo County, California.

(i) From USGS 1:24,000 scale quadrangle Pigeon Point, Franklin Point, San Gregorio, La Honda. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 556272, 4128069; 556321, 4128065; 556384, 4128096; 556461, 4128125; 556520, 4128140; 556571, 4128119; 556611, 4128014; 556666, 4127931; 556770, 4127883; 556824, 4127867; 556935, 4127808; 556995, 4127793; 557043, 4127769; 557072, 4127718; 557079, 4127683; 557067, 4127633; 557027, 4127526; 557034, 4127489; 557043, 4127476; 557080, 4127451; 557135, 4127443; 557201, 4127442; 557282, 4127452; 557336, 4127443; 557461, 4127388; 557503, 4127364; 557575, 4127307; 557639, 4127217; 557659, 4127144; 557696, 4127037; 557708, 4126997; 557711, 4126978; 557674, 4126914; 557597, 4126841; 557561, 4126795; 557533, 4126669; 557437, 4126548; 557415, 4126492; 557429, 4126422; 557481, 4126335; 557512, 4126293; 557536, 4126242; 557513, 4126194; 557443, 4126136; 557374, 4126088; 557302, 4126049; 557247, 4126001; 557217, 4125955; 557188, 4125893; 557144, 4125811; 557111, 4125760; 557084, 4125706; 557045, 4125673; 556829, 4125615; 556735, 4125644; 556628, 4125656; 556550, 4125644; 556490, 4125609; 556445, 4125569; 556356, 4125459; 556289, 4125410; 556229, 4125373; 556199, 4125334; 556207, 4125286; 556232, 4125231; 556270, 4125180; 556274, 4125129; 556245, 4125074; 556192, 4124997; 556180, 4124916; 556171, 4124732; 556148, 4124603; 556131, 4124326; 556109, 4124276; 556035, 4124239; 555988, 4124221; 555909, 4124080; 555928, 4124009; 555897, 4123861; 555861, 4123748; 555826, 4123577; 555826, 4123526; 555717, 4123565; 555573, 4123619; 555341, 4123538; 555308, 4123622; 555025, 4123517; 554751, 4123367; 554691, 4123369; 554688, 4123334; 554690, 4123310; 554648, 4123252; 554627, 4123168; 554627, 4123080; 554615,

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552792, 4120911; 552762, 4120954; 552717, 4120935; 552201, 4120514; 552193, 4120507; 552077, 4120672; 551997, 4120795; 551950, 4120891; 551909, 4120979; 551862, 4121280; 551836, 4121391; 551799, 4121450; 551742, 4121540; 551682, 4121643; 551673, 4121666; 551645, 4121741; 551625, 4121833; 551629, 4121985; 551631, 4122069; 551655, 4122392; 551678, 4122540; 551723, 4122681; 551879, 4123107; 551922, 4123230; 551957, 4123361; 552016, 4123713; 552096, 4124176; 552129, 4124397; 552161, 4124514; 552171, 4124534; 552186, 4124515; 552190, 4124509; 552195, 4124488; 552197, 4124463; 552208, 4124447; 552222, 4124393; 552247, 4124373; 552256, 4124354; 552287, 4124315; 552300, 4124289; 552312, 4124267; 552329, 4124249; 552346, 4124238; 552362, 4124233; 552417, 4124241; 552451, 4124251; 552478, 4124256; 552497, 4124251; 552523, 4124254; 552548, 4124260; 552568, 4124255; 552609, 4124235; 552634, 4124232; 552652, 4124244; 552655, 4124255; 552635, 4124268; 552563, 4124291; 552554, 4124298; 552554, 4124301; 552560, 4124308; 552555, 4124315; 552541, 4124320; 552524, 4124317; 552503, 4124322; 552481, 4124330; 552453, 4124337; 552426, 4124340; 552418, 4124356; 552418, 4124377; 552428, 4124392; 552439, 4124395; 552462, 4124398; 552479, 4124414; 552477, 4124422; 552471, 4124430; 552408, 4124422; 552393, 4124431; 552383, 4124449; 552377, 4124469; 552340, 4124498; 552306, 4124536; 552287, 4124564; 552273, 4124577; 552259, 4124585; 552242, 4124579; 552229, 4124579; 552220, 4124581; 552204, 4124586; 552197, 4124591; 552225, 4124651; 552313, 4124842; 552333, 4124930; 552350, 4125030; 552407, 4125302; 552435, 4125429; 552451, 4125426; 552464, 4125424; 552542, 4125417; 552588, 4125420; 552671, 4125417; 552739, 4125431; 552748, 4125432; 552832, 4125431; 552907, 4125426; 552959, 4125433; 553090, 4125485; 553136, 4125511; 553164, 4125538; 553183, 4125611; 553212, 4125657; 553272, 4125723; 553317, 4125749; 553385, 4125764; 553419, 4125780; 553445, 4125803; 553469, 4125814; 553479, 4125831; 553485, 4125914; 553501, 4125994; 553518, 4126040; 553538, 4126084; 553616, 4126226; 553624, 4126266; 553643, 4126330; 553722, 4126487; 553728, 4126532; 553775, 4126591; 553839, 4126654; 553892, 4126683; 553917, 4126692; 553950, 4126709; 553991, 4126700; 554018, 4126689; 554034, 4126688; 554099, 4126697; 554108, 4126701; 554184, 4126855; 554187, 4126889; 554194, 4126916; 554206, 4126943; 554225, 4127009; 554251, 4127025; 554279, 4127026; 554287, 4127051; 554300, 4127141; 554348, 4127299; 554368, 4127323; 554393, 4127347; 554399, 4127474; 554367, 4127547; 554353, 4127603; 554358, 4127620; 554385, 4127637; 554461, 4127656; 554474, 4127672; 554493, 4127761; 554507, 4127806; 554561, 4127851; 554634, 4127852; 554685, 4127834; 554714, 4127809; 554791, 4127799; 554815, 4127790; 554847, 4127784; 554886, 4127761; 554922, 4127756; 554994, 4127769; 555063, 4127762; 555128, 4127727; 555219, 4127712; 555274, 4127714; 555326,

4127764; 555396, 4127841; 555502, 4127974; 555587, 4127938; 555629, 4127938; 555727, 4127983; 555794, 4128009; 555880, 4128054; 555977, 4128166; 556053, 4128186; 556140, 4128177; 556202, 4128144; returning to 556272, 4128069.

(ii) **Note:** Unit SNM–2B is depicted on Map M13—Unit SNM–1B, SNM–1C, SNM–2A, SNM–2B, SNM–2C, and SCZ–1—see paragraph (26)(ii):

(25) Unit SNM–2C, San Mateo and Santa Cruz County, California.

(i) From USGS 1:24,000 scale quadrangle Franklin Point, Ano Nuevo. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 562470, 4114177; 562510, 4114085; 562527, 4114045; 562761, 4113432; 562862, 4113260; 563257, 4112585; 563520, 4111387; 563725, 4110807; 563871, 4110394; 563875, 4110389; 563780, 4110288; 563695, 4110174; 563609, 4110031; 563524, 4109846; 563524, 4109703; 563524, 4109617; 563526, 4109601; 563566, 4109375; 563481, 4109275; 563438, 4109104; 563338, 4108933; 563338, 4108747; 563338, 4108576; 563224, 4108504; 563010, 4108333; 562896, 4108219; 562881, 4108194; 562810, 4108076; 562710, 4107905; 562688, 4107730; 561676, 4107984; 561673, 4107989; 561665, 4107998; 561653, 4108008; 561651, 4108009; 561622, 4108016; 561602, 4108017; 561579, 4108015; 561529, 4108029; 561517, 4108038; 561500, 4108046; 561481, 4108063; 561466, 4108071; 561466, 4108071; 561445, 4108083; 561442, 4108084; 561436, 4108087; 561385, 4108094; 561385, 4108094; 561348, 4108107; 561345, 4108108; 561341, 4108110; 561286, 4108123; 561255, 4108137; 561243, 4108142; 561241, 4108143; 561231, 4108146; 561230, 4108147; 561221, 4108151; 561208, 4108156; 561205, 4108156; 561195, 4108160; 561170, 4108173; 561144, 4108178; 561139, 4108178; 561130, 4108181; 561120, 4108181; 561110, 4108181; 561097, 4108179; 561097, 4108179; 561097, 4108179; 561072, 4108174; 561067, 4108173; 561031, 4108186; 561016, 4108189; 560992, 4108186; 560936, 4108182; 560932, 4108180; 560928, 4108176; 560927, 4108171; 560929, 4108170; 560932, 4108161; 560932, 4108161; 560932, 4108160; 560934, 4108150; 560931, 4108131; 560923, 4108124; 560918, 4108124; 560901, 4108140; 560897, 4108139; 560896, 4108141; 560890, 4108141; 560887, 4108140; 560885, 4108138; 560883, 4108137; 560881, 4108136; 560879, 4108135; 560878, 4108131; 560877, 4108127; 560877, 4108124; 560877, 4108120; 560875, 4108105; 560877, 4108097; 560875, 4108087; 560874, 4108082; 560872, 4108077; 560871, 4108071; 560871, 4108065; 560867, 4108044; 560857, 4108037; 560853, 4108036; 560846, 4108032; 560842, 4108028; 560836, 4108021; 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(ii) **Note:** Unit SNM–2C is depicted on Map M13—Unit SNM–1B, SNM–1C, SNM–2A, SNM–2B, SNM–2C, and SCZ–1—see paragraph (26)(ii):

(26) Unit SCZ–1, Santa Cruz County, California.

(i) From USGS 1:24,000 scale quadrangle Ano Nuevo, Davenport, Santa Cruz. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 564479, 4107160; 566634, 4105910; 567103, 4105347; 567118, 4104849; 567025, 4104348; 567425, 4104203; 567712, 4104017; 568417, 4104162; 568799, 4104049; 568801, 4104043; 569040, 4103968; 569287, 4103649; 570005, 4103995; 570612, 4103900; 570626, 4103898; 571224, 4103498; 571428, 4102995; 571405, 4102392; 571014, 4101827; 570727, 4101666; 572239, 4100487; 572580, 4101093; 573541, 4101360; 574404, 4100932; 574656, 4099895; 574323, 4099265; 574226, 4098867; 573943, 4098177; 574618, 4098204; 575136, 4097850; 575519, 4097115; 575464, 4096542; 574982, 4095962; 574626, 4095860; 575097, 4095407; 575329, 4094831; 575269, 4094227; 575005, 4093879; 574656, 4093670; 574648, 4093691; 574652, 4093705; 574649, 4093715; 574643, 4093717; 574642, 4093718; 574639, 4093718; 574639, 4093718; 574635, 4093720; 574631, 4093733; 574635, 4093758; 574620, 4093770; 574619, 4093769; 574616, 4093773; 574612, 4093770; 574608, 4093767; 574601, 4093771; 574595, 4093788; 574584, 4093802; 574567, 4093847; 574535, 4093867; 574510, 4093876; 574497, 4093883; 574480, 4093891; 574463, 4093899; 574455, 4093902; 574442, 4093907; 574428, 4093911; 574419, 4093914; 574418, 4093915; 574417, 4093915; 574415, 4093916; 574397, 4093921; 574389, 4093921; 574386, 4093919; 574385, 4093917; 574383, 4093916; 574380, 4093914; 574380, 4093913; 574370, 4093905; 574364, 4093898; 574362, 4093894; 574362, 4093893; 574350, 4093876; 574344, 4093875; 574307, 4093875; 574300, 4093869; 574294, 4093869; 574292, 4093866; 574290, 4093864; 574290, 4093863; 574278, 4093860; 574268, 4093855; 574266, 4093855; 574264, 4093854; 574255, 4093851; 574255, 4093851; 574245, 4093850; 574235, 4093855; 574221, 4093852; 574209, 4093855; 574186, 4093868; 574176, 4093871; 574172, 4093869; 574172, 4093869; 574167, 4093868; 574164, 4093868; 574159, 4093865; 574156, 4093862; 574154, 4093860; 574153, 4093857; 574149, 4093852; 574145, 4093850; 574140, 4093847; 574141, 4093866; 574137, 4093878; 574144, 4093887; 574145, 4093902; 574134, 4093912;

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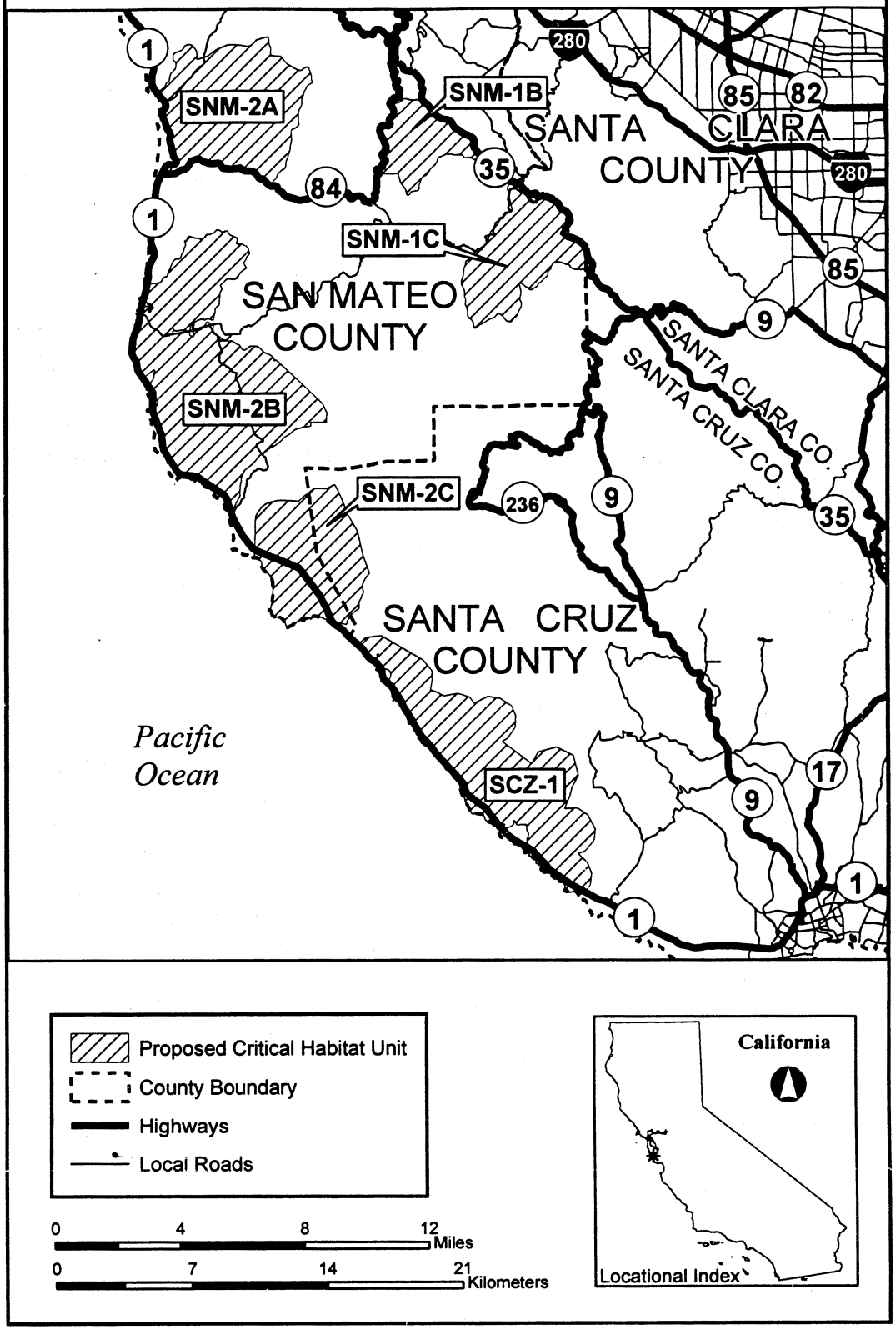
(ii) **Note:** Unit SCZ–1 is depicted on Map M13—Unit SNM–1B, SNM–1C, SNM–2A, SNM–2B, SNM–2C, and SCZ–1—which follows:

BILLING CODE 4310–55–P

Map 13. California Red-Legged Frog -- Unit SNM-1B, SNM-1C, SNM-2A, SNM-2B, SNM-2C and SCZ-1



BILLING CODE 4310–55–C

(27) Unit SCZ–2, Santa Cruz County, California.

(i) From USGS 1:24,000 scale quadrangle Watsonville West. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 607874, 4086411; 608553, 4085138; 608613, 4085025; 608701, 4084860; 608605, 4084937; 608520, 4084844; 608271, 4084560; 608298, 4084472; 608221, 4084334; 607164, 4083847; 606471, 4082967; 606324, 4083005; 606116, 4083463; 605956, 4083724; 605973, 4084135; 606148, 4084358; 606145, 4084654; 606041, 4084856; 605804, 4085090; 605626, 4085580; 605562, 4085868; 605307, 4086095; 604763, 4086054; 604698, 4086167; 604466, 4086226; 604132, 4086258; 603860, 4086466; 603822, 4086495; 603654, 4086692; 603520, 4086848; 603202, 4086973; 603148, 4086995; 603133, 4087000; 602711, 4087325; 602103, 4087771; 601519, 4088060; 601520, 4088063; 601554, 4088150; 601585, 4088193; 601585, 4088249; 601585, 4088326; 601585, 4088419; 601585, 4088453; 601570, 4088484; 601601, 4088515; 601669, 4088521; 601724, 4088539; 601777, 4088564; 601808, 4088598; 601867, 4088607; 601916, 4088620; 601959, 4088660; 602000, 4088703; 602037, 4088737; 602074, 4088759; 602052, 4088799; 602095, 4088833; 602058, 4088879; 602064, 4088910; 602117, 4088950; 602179, 4089043; 602395, 4089247; 602411, 4089309; 602380, 4089340; 602360, 4089344; 602512, 4089607; 603010, 4089239; 603336, 4088906; 603799, 4088685; 603846, 4088662; 604761, 4088286; 604808, 4088268; 605712, 4087917; 606286, 4087760; 607611, 4086748; returning to 607874, 4086411.

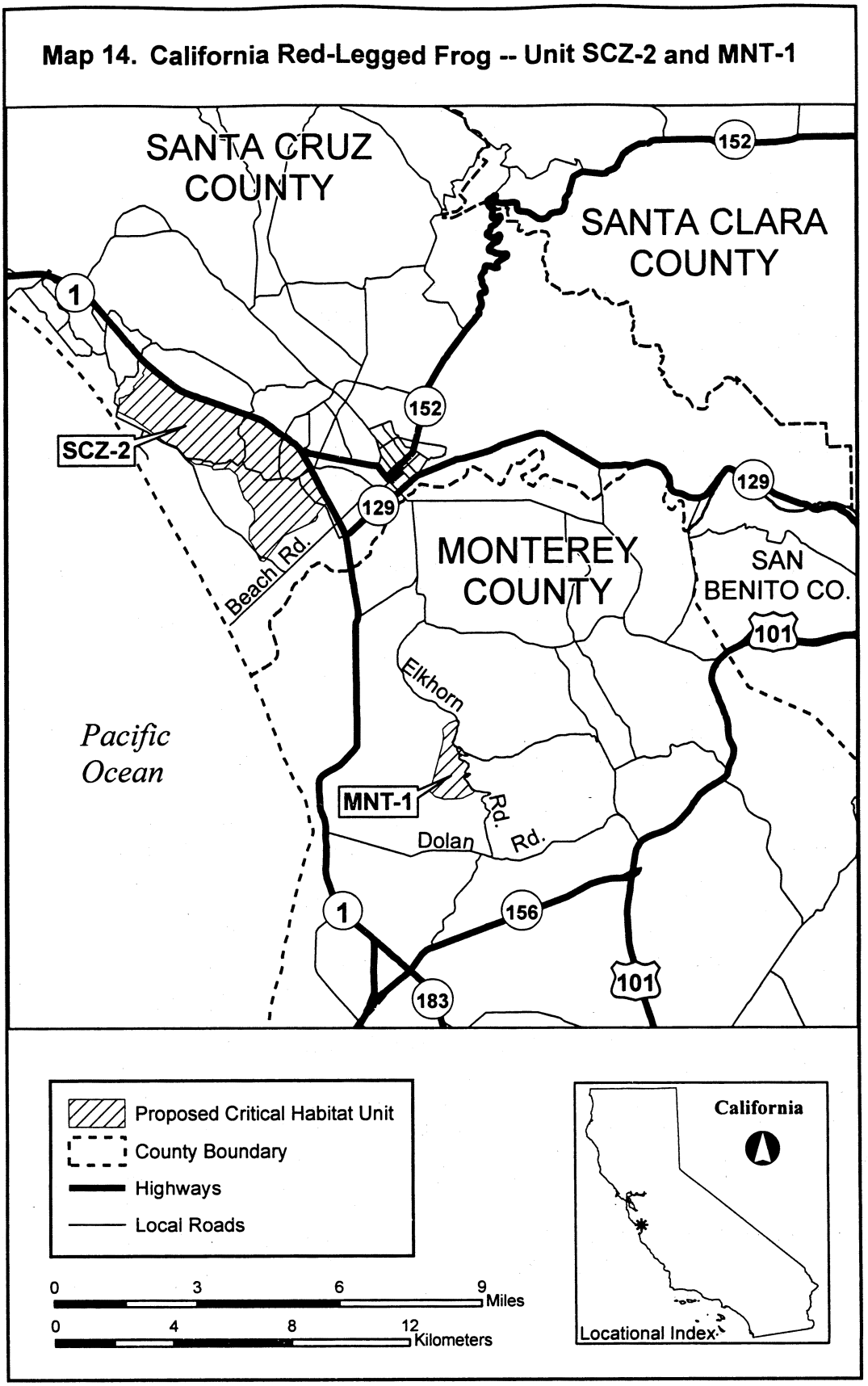
(ii) **Note:** Unit SCZ–2 is depicted on Map M14—Unit SCZ–2 and MNT—1 " see paragraph (28)(ii):

(28) Unit MNT–1, Monterey County, California.

(i) From USGS 1:24,000 scale quadrangle Prunedale. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 612824, 4076812; 612877, 4076761; 612890, 4076766; 612903, 4076728; 612911, 4076703; 612928, 4076696; 612959, 4076682; 612987, 4076670; 613152, 4076598; 613238, 4076481; 613293, 4076409; 613380, 4076378; 613266, 4076375; 613142, 4076444; 613147, 4076371; 613064, 4076368; 613074, 4076297; 613154, 4076256; 613159, 4076254; 613275, 4076193; 613332, 4076148; 613345, 4076148; 613366, 4076130; 613376, 4076025; 613376, 4076023; 613374, 4076019; 613312, 4075926; 613276, 4075888; 613249, 4075818; 613384, 4075784; 613399, 4075779; 613416, 4075763; 613238, 4075690; 613219, 4075623; 613289, 4075559; 613321, 4075516; 613496, 4075230; 613600, 4075201; 613539, 4075128; 613180, 4074959; 613046, 4074939; 612571, 4074924; 612260, 4075009; 612080, 4075185; 612494, 4076734; 612505, 4076777; 612525, 4076880; 612544, 4077054; 612524, 4077188; 612513, 4077290; 612736, 4077486; 612970, 4077581; 613036, 4077496; 613035, 4077429; 613029, 4077412; 612994, 4077327; 612968, 4077174; 612871, 4076894; 612828, 4076846; returning to 612824, 4076812.

(ii) **Note:** Unit MNT–1 is depicted on Map M14—Unit SCZ–2 and MNT–1—which follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(29) Unit MNT–2, Monterey County, California.

(i) From USGS 1:24,000 scale quadrangle Seaside, Monterey, Spreckels, Soberanes Point, Mt. Carmel, Carmel Valley, Ventana Cones. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 599419, 4045578; 599642, 4045473; 600088, 4045563; 600547, 4045528; 600834, 4045542; 601407, 4045461; 601540, 4045385; 602032, 4045244; 602271, 4045215; 602387, 4044955; 602749, 4044863; 602995, 4044764; 603303, 4044544; 603443, 4044360; 603755, 4044455; 604112, 4044534; 604453, 4044544; 604716, 4044472; 605099, 4044296; 605406, 4044091; 605466, 4044057; 605685, 4044068; 605887, 4043958; 606225, 4043919; 606430, 4043827; 606596, 4043689; 607244, 4043808; 607797, 4043794; 608102, 4043643; 608466, 4043373; 608793, 4043110; 608866, 4042937; 609413, 4042802; 609830, 4042815; 610290, 4042597; 610740, 4042432; 611052, 4042219; 611573, 4041944; 611635, 4041678; 611814, 4041289; 612122, 4040953; 612726, 4040175; 613137, 4039874; 613321, 4039445; 613762, 4038586; 614228, 4038610; 614670, 4038326; 614985, 4038027; 615168, 4037755; 615292, 4037674; 615771, 4037572; 616123, 4037392; 616272, 4037092; 616407, 4036778; 616603, 4036556; 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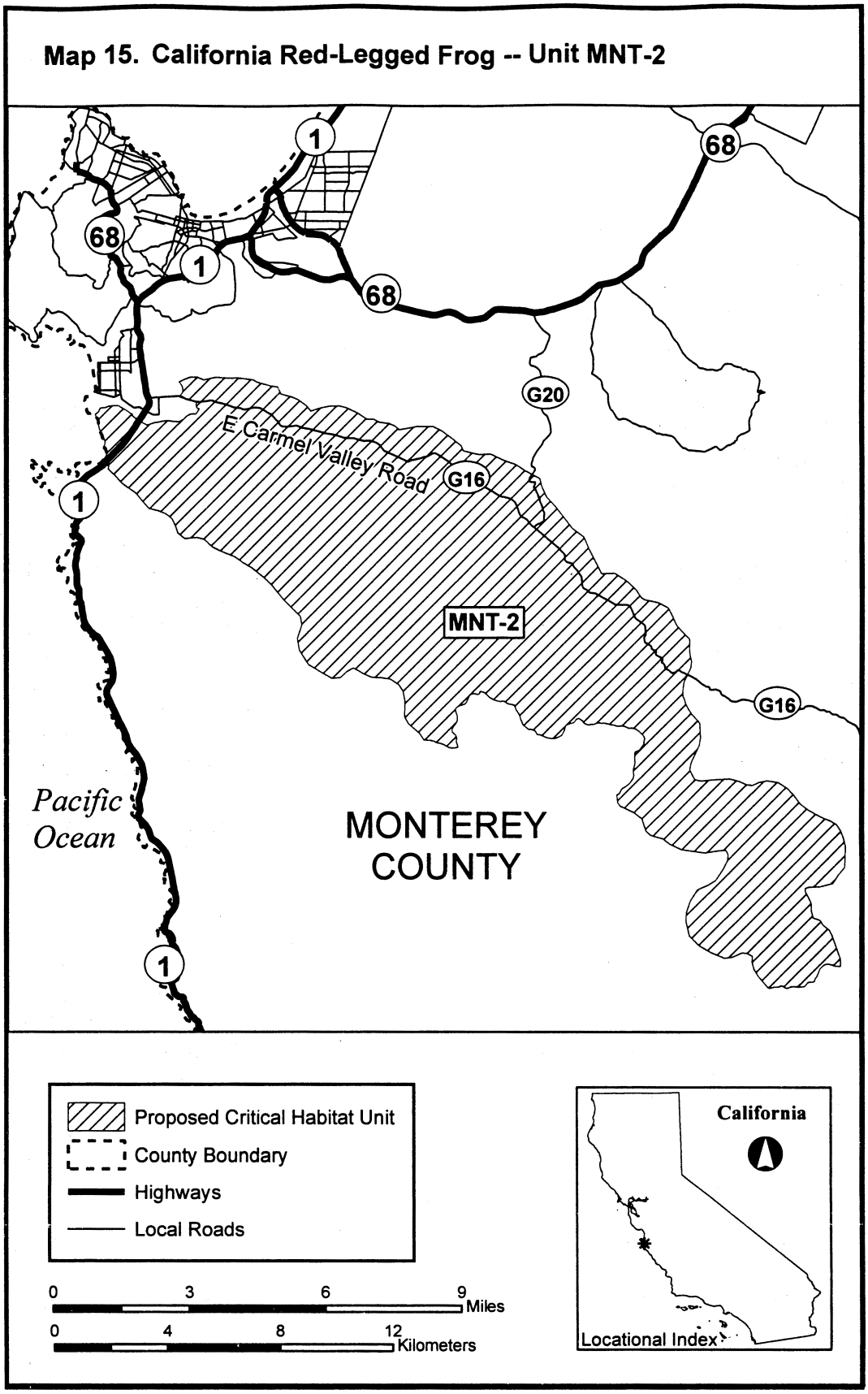
(ii) **Note:** Unit MNT–2 (Map M15) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(30) Unit STC–1A, Santa Clara County, California.

(i) From USGS 1:24,000 scale quadrangle Calaveras Reservoir, Mt. Day, San Jose East, Lick Observatory, Isabel Valley, Mt. Sizer. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 612237, 4141991; 612243, 4141962; 612237, 4141935; 612234, 4141846; 612223, 4141800; 612206, 4141761; 612198, 4141726; 612196, 4141684; 612203, 4141589; 612105, 4141470; 612088, 4141439; 612049, 4141338; 612041, 4141311; 612049, 4141279; 612049, 4141259; 612039, 4141239; 612012, 4141215; 612001, 4141198; 611960, 4141119; 611901, 4140979; 611893, 4140940; 611891, 4140910; 611898, 4140868; 611909, 4140842; 611926, 4140815; 611960, 4140734; 611966, 4140710; 611969, 4140675; 611969, 4140650; 611960, 4140583; 611942, 4140491; 611944, 4140344; 611956, 4140251; 611944, 4140135; 611962, 4140096; 611973, 4140089; 611991, 4140087; 612052, 4140065; 612114, 4139997; 612139, 4139952; 612152, 4139946; 612174, 4139945; 612211, 4139951; 612236, 4139960; 612275, 4139957; 612312, 4139924; 612334, 4139915; 612386, 4139946; 612405, 4139963; 612434, 4139974; 612459, 4139974; 612476, 4139954; 612507, 4139882; 612529, 4139869; 612554, 4139865; 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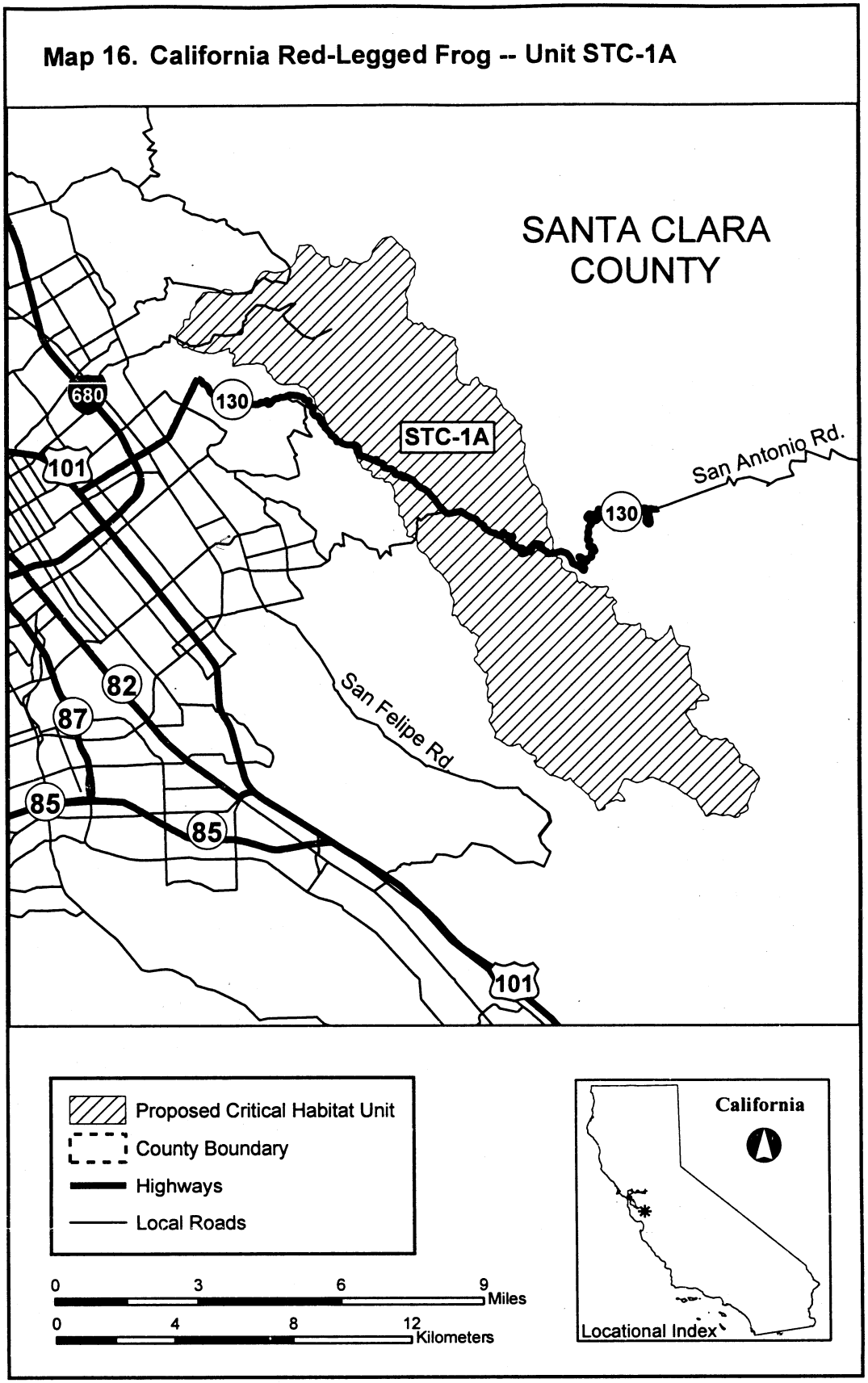
(ii) **Note:** Unit STC–1A (Map M16) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(31) Unit STC–1B, Santa Clara County, California.

(i) From USGS 1:24,000 scale quadrangle Mt. Sizer, Mississippi Creek, Mustang Peak, Gilroy Hot Springs. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 640334, 4116041; 640398, 4116014; 640468, 4115985; 640581, 4116005; 640713, 4116030; 640873, 4116030; 640881, 4115999; 640911, 4115919; 640943, 4115878; 640955, 4115867; 640973, 4115829; 640976, 4115812; 640971, 4115771; 640953, 4115732; 640934, 4115675; 640911, 4115637; 640882, 4115607; 640828, 4115569; 640721, 4115558; 640691, 4115548; 640682, 4115529; 640679, 4115486; 640687, 4115423; 640706, 4115377; 640717, 4115363; 640753, 4115339; 640778, 4115334; 640799, 4115321; 640826, 4115312; 640879, 4115281; 640899, 4115264; 640939, 4115263; 640961, 4115273; 640991, 4115276; 641051, 4115208; 641103, 4115169; 641134, 4115131; 641157, 4115115; 641202, 4115056; 641210, 4115035; 641201, 4115007; 641192, 4114991; 641175, 4114905; 641181, 4114821; 641186, 4114636; 641196, 4114556; 641213, 4114469; 641213, 4114443; 641206, 4114426; 641206, 4114410; 641211, 4114393; 641225, 4114368; 641227, 4114354; 641235, 4114334; 641251, 4114323; 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(ii) **Note:** Unit STC–1B is depicted on Map M17—Unit STC–1B and MER–1—see paragraph (32)(ii):

(32) Unit MER–1, Santa Clara, Merced County, California.

(i) From USGS 1:24,000 scale quadrangle Pacheco Pass. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 661847, 4106966; 662047, 4106856; 662258, 4106725; 662489, 4106605; 662730, 4106534; 662870, 4106524; 663111, 4106524; 663352, 4106524; 663540, 4106524; 663573, 4106524; 663814, 4106484; 664085, 4106364; 664344, 4106286; 664333, 4106246; 664319, 4106211; 664299, 4106202; 664281, 4106209; 664244, 4106232; 664210, 4106245; 664192, 4106211; 664183, 4106203; 664166, 4106195; 664145, 4106206; 664117, 4106188; 664110, 4106148; 664058, 4106097; 664045, 4106065; 664028, 4106043; 664013, 4106035; 663964, 4106025; 663946, 4106026; 663931, 4106037; 663925, 4106053; 663916, 4106100; 663903, 4106104; 663830, 4106102; 663813, 4106108; 663807, 4106123; 663829, 4106167; 663851, 4106195; 663860, 4106218; 663864, 4106244; 663783, 4106232; 663758, 4106242; 663722, 4106292; 663712, 4106178; 663697, 4106153; 663660, 4106143; 663581, 4106161; 663568, 4106170; 663554, 4106171; 663545, 4106164; 663545, 4106132; 663549, 4106101; 663580, 4106099; 663594, 4106093; 663609, 4106081; 663620, 4106067; 663608, 4106044; 663587, 4106018; 663581, 4105999; 663581, 4105963; 663570, 4105954; 663530, 4105901; 663518, 4105880; 663513, 4105861; 663509, 4105833; 663513, 4105809; 663523, 4105786; 663550, 4105752; 663550, 4105740; 663535, 4105727; 663494, 4105728; 663452, 4105750; 663423, 4105746; 663338, 4105717; 663306, 4105713; 663283, 4105716; 663248, 4105728; 663203, 4105750; 663170, 4105782; 663157, 4105810; 663152, 4105835; 663137, 4105877; 663119, 4105892; 663113, 4105856; 663117, 4105834; 663112, 4105818; 663099, 4105808; 663095, 4105780; 663101, 4105748; 663095, 4105732; 663057, 4105687; 663029, 4105666; 663012, 4105662; 662985, 4105670; 662930, 4105706; 662888, 4105748; 662880, 4105769; 662864, 4105874; 662863, 4105886; 662870, 4105906; 662862, 4105912; 662831, 4105889; 662807, 4105861; 662764, 4105833; 662751, 4105829; 662716, 4105830; 662644, 4105849; 662605, 4105875; 662453, 4105932; 662453, 4105961; 662401, 4105940; 662374, 4105946; 662336, 4105976; 662313, 4105985; 662270, 4105987; 662244, 4105983; 662200, 4105960; 662197, 4105949; 662210, 4105906; 662211, 4105885; 662201, 4105855; 662191, 4105839; 662150, 4105796; 662118, 4105773; 662086, 4105757; 662062, 4105702; 662013, 4105669; 662047, 4105655; 662082, 4105672; 662094, 4105682; 662142, 4105697; 662186, 4105685; 662233, 4105690; 662279, 4105675; 662342, 4105669; 662359, 4105659; 662411, 4105639; 662482, 4105617; 662514, 4105597; 662541, 4105568; 662592, 4105572; 662622, 4105546; 662645, 4105514; 662655, 4105490; 662664, 4105480; 662695, 4105464; 662711, 4105452; 662679, 4105438; 662662, 4105420; 662547, 4105456; 662538, 4105441; 662513, 4105430; 662485, 4105431; 662471, 4105426; 662418, 4105398; 662383, 4105375; 662338, 4105357; 662238, 4105344; 662218, 4105319; 662197, 4105301; 662172, 4105268; 662130, 4105244; 662081, 4105233; 662061, 4105236; 662033, 4105245; 662009, 4105247; 662019, 4105220; 662047, 4105182; 662066, 4105171; 662126, 4105174; 662150, 4105172; 662189, 4105157; 662229, 4105186; 662249, 4105197; 662271, 4105204; 662295, 4105204; 662326, 4105217; 662369, 4105241; 662389, 4105242; 662414, 4105136; 662565, 4105124; 662580, 4105141; 662683, 4105177; 662773, 4105186; 662796, 4105179; 662810, 4105167; 662816, 4105152; 662779, 4105105; 662729, 4105064; 662723, 4105055; 662744, 4105018; 662745, 4104994; 662744, 4104979; 662715, 4104922; 662709, 4104895; 662752, 4104909; 662774, 4104903; 662790, 4104888; 662802, 4104914; 662811, 4104965; 662818, 4104980; 662852, 4105023; 662884, 4105026; 662917, 4105007; 662933, 4105021; 662959, 4105073; 663044, 4105197; 663047, 4105210; 663045, 4105230; 663062, 4105232; 663101, 4105226; 663106, 4105175; 663058, 4105090;

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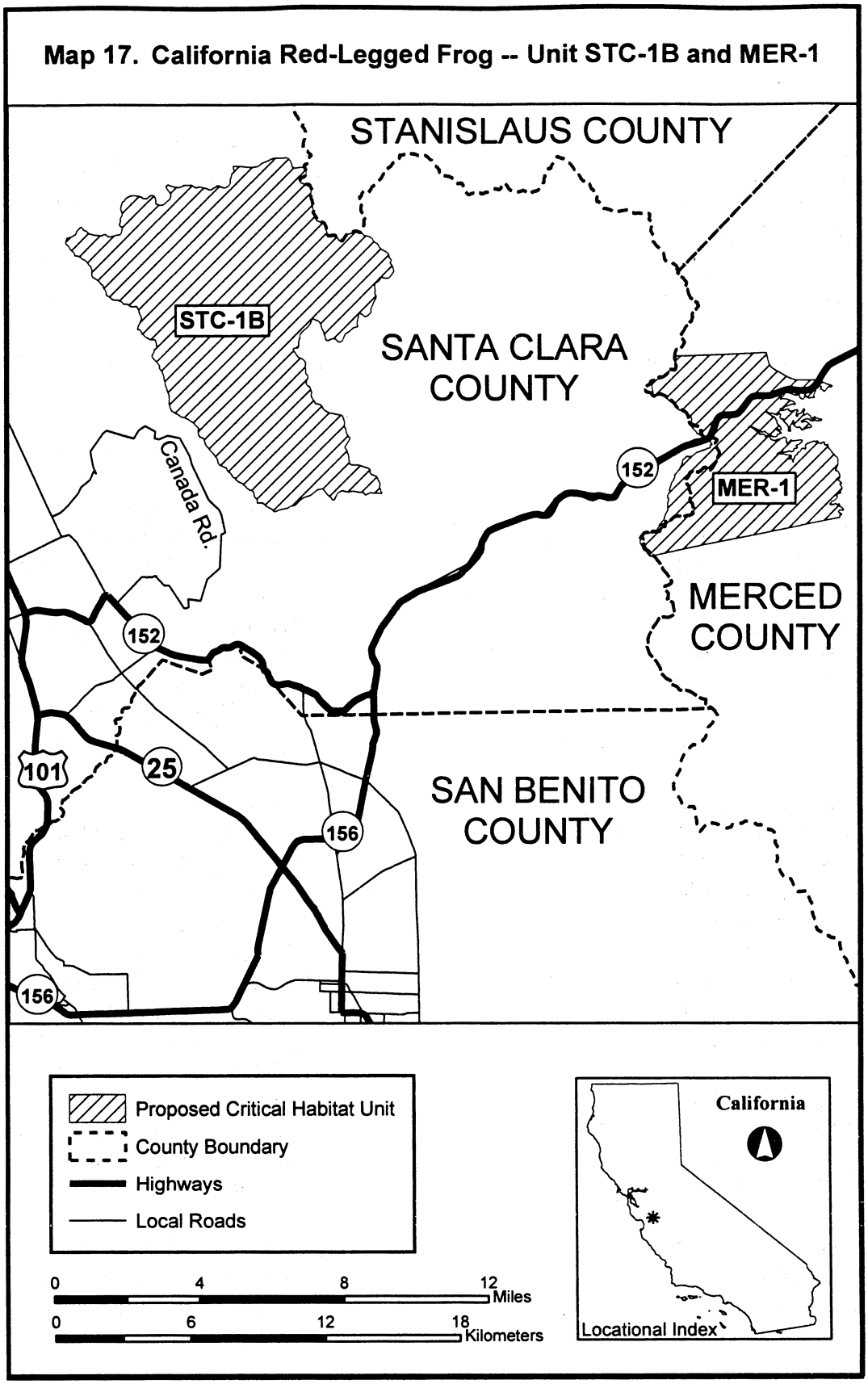
657166, 4101901; 657168, 4101905; 657171, 4101910; 657184, 4101921; 657198, 4101936; 657217, 4101960; 657238, 4101987; 657259, 4102021; 657271, 4102038; 657280, 4102059; 657281, 4102075; 657284, 4102093; 657290, 4102106; 657314, 4102135; 657327, 4102153; 657342, 4102206; 657339, 4102220; 657332, 4102240; 657329, 4102260; 657329, 4102284; 657339, 4102297; 657367, 4102328; 657384, 4102348; 657409, 4102378; 657436, 4102407; 657449, 4102426; 657475, 4102453; 657507, 4102492; 657530, 4102512; 657557, 4102539; 657574, 4102547; 657583, 4102569; 657575, 4102608; 657577, 4102621; 657588, 4102646; 657605, 4102672; 657623, 4102697; 657640, 4102716; 657656, 4102733; 657656, 4102771; 657652, 4102791; 657655, 4102811; 657665, 4102828; 657675, 4102849; 657678, 4102872; 657687, 4102929; 657702, 4102975; 657709, 4102983; 657717, 4102988; 657731, 4102996; 657746, 4103002; 657753, 4103008; 657793, 4103045; 657820, 4103070; 657852, 4103111; 657854, 4103113; 657858, 4103113; 657871, 4103131; 657904, 4103120; 657944, 4103115; 657970, 4103111; 657976, 4103109; 658001, 4103104; 658028, 4103105; 658040, 4103107; 658044, 4103107; 658053, 4103107; 658079, 4103110; 658191, 4103188; 658245, 4103234; 658254, 4103241; 658318, 4103295; 658325, 4103300; 658330, 4103302; 658339, 4103304; 658347, 4103305; 658379, 4103312; 658454, 4103338; 658454, 4103338; 658503, 4103358; 658518, 4103364; 658540, 4103372; 658581, 4103386; 658581, 4103386; 658602, 4103394; 658628, 4103403; 658665, 4103417; 658665, 4103417; 658683, 4103423; 658747, 4103449; 658798, 4103464; 658885, 4103493; 658922, 4103505; 658915, 4103553; 658912, 4103572; 658904, 4103622; 658914, 4103622; 659001, 4103622; 659001, 4103629; 658998, 4103629; 658921, 4103767; 658860, 4103880; 658855, 4103889; 658817, 4103876; 658801, 4103873; 658792, 4103872; 658786, 4103871; 658759, 4103879; 658713, 4103913; 658708, 4103917; 658681, 4103934; 658510, 4104044; 658414, 4104113; 658336, 4104136; 658264, 4104261; 658191, 4104322; 658086, 4104436; 658041, 4104510; 658041, 4104510; 658027, 4104532; 658011, 4104558; 658098, 4104568; 658089, 4104860; 657953, 4104883; 657910, 4104941; 657884, 4104976; 657857, 4105019; 657846, 4105036; 657821, 4105076; 657795, 4105089; 657773, 4105101; 657743, 4105117; 657714, 4105132; 657626, 4105173; 657553, 4105205; 657516, 4105222; 657515, 4105223; 657510, 4105226; 657475, 4105242; 657472, 4105243; 657456, 4105262; 657456, 4105262; 657401, 4105330; 657399, 4105332; 657358, 4105382; 657344, 4105398; 657344, 4105399; 657283, 4105497; 657271, 4105505; 657123, 4105596; 657123, 4105596; 657123, 4105596; 657096, 4105617; 657039, 4105660; 657032, 4105681; 657027, 4105697; 657027, 4105697; 657008, 4105704; 656967, 4105718; 656957, 4105746; 656943, 4105787; 656933, 4105816; 656886, 4105843; 656855, 4105861; 656831, 4105868; 656810, 4105866; 656789, 4105865; 656761, 4105863; 656714, 4105901; 656694, 4105905; 656640, 4105916; 656609, 4105913; 656600, 4105912; 656599, 4105912; 656582, 4105910; 656565, 4105909; 656548, 4105894; 656532, 4105862; 656520, 4105838; 656519, 4105837; 656494, 4105786; 656491, 4105783; 656480, 4105778; 656479, 4105778; 656470, 4105775; 656461, 4105772; 656445, 4105775; 656430, 4105777; 656427, 4105778; 656410, 4105781; 656410, 4105781; 656308, 4106398; 656306, 4106493; 656315, 4106495; 656350, 4106493; 656403, 4106468; 656419, 4106463; 656436, 4106466; 656475, 4106488; 656516, 4106533; 656576, 4106581; 656597, 4106588; 656634, 4106587; 656665, 4106592; 656748, 4106621; 656772, 4106618; 656778, 4106619; 656805, 4106623; 656814, 4106624; 656821, 4106629; 656827, 4106632; 656838, 4106639; 656872, 4106676; 656876, 4106681; 656934, 4106752; 656935, 4106754; 656954, 4106790; 656962, 4106805; 656989, 4106828; 657011, 4106846; 657013, 4106854; 657022, 4106881; 657031, 4106909; 657040, 4106923; 657042, 4106925; 657051, 4106932; 657074, 4106939; 657120, 4106951; 657138, 4106963; 657161, 4106986; 657178, 4106994; 657198, 4106993; 657199, 4106993; 657222, 4106969; 657231, 4106960; 657263, 4106952; 657279, 4106956; 657295, 4106960; 657321, 4106975; 657335, 4106987; 657340, 4106992; 657358, 4107015; 657358, 4107016; 657385, 4107065; 657392, 4107091; 657397, 4107158; 657390, 4107187; 657355, 4107238; 657352, 4107251; 657352, 4107264; 657351, 4107270; 657367, 4107289; 657375, 4107305; 657377, 4107309; 657377, 4107310; 657378, 4107330; 657373, 4107356; 657362, 4107380; 657356, 4107388; 657330, 4107419; 657327, 4107429; 657328, 4107440; 657331, 4107474; 657332, 4107483; 657319, 4107533; 657318, 4107554; 657317, 4107583; 657316, 4107595; 657318, 4107614; 657319, 4107627; 657712, 4107635; 661420, 4107769; 661420, 4107769; 661445, 4107648; 661475, 4107488; 661515, 4107307; 661596, 4107147; 661706, 4107046; returning to 661847, 4106966.

(ii) **Note:** Unit MER–1 is depicted on Map M17—Unit STC–1B and MER–1—which follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(33) Unit SNB–1, San Benito and Monterey County, California.

(i) From USGS 1:24,000 scale quadrangle Hollister, Mt. Harlan, San Juan Bautista, Tres Pinos. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 635579, 4075824; 635896, 4075764; 636333, 4075764; 636809, 4075566; 637368, 4075520; 637770, 4075623; 638436, 4075288; 638714, 4074971; 639151, 4074594; 639270, 4074217; 639380, 4074122; 639547, 4073979; 640024, 4073740; 640877, 4073582; 641234, 4073582; 641790, 4073621; 642008, 4073284; 642345, 4072947; 642306, 4072530; 642289, 4072222; 642286, 4072173; 642327, 4072128; 642484, 4071954; 642762, 4071855; 643076, 4071911; 643099, 4071915; 643417, 4071816; 643635, 4071756; 644012, 4071875; 644350, 4072014; 644786, 4072133; 645168, 4072165; 645170, 4072129; 645182, 4072089; 645215, 4072050; 645231, 4072038; 645253, 4072031; 645297, 4072025; 645348, 4072041; 645628, 4072149; 645689, 4072165; 645738, 4072161; 645805, 4072141; 645874, 4072116; 645916, 4072108; 645934, 4072108; 645883, 4072000; 645724, 4071740; 645583, 4071554; 645248, 4071406; 644994, 4071392; 644771, 4071306; 644570, 4071098; 644445, 4070870; 644243, 4070540; 644078, 4070211; 643854, 4069908; 643751, 4069797; 643657, 4069655; 643423, 4069300; 643211, 4069149; 643197, 4069138; 643171, 4069118; 642999, 4068980; 642881, 4068706; 642878, 4068693; 642791, 4068354; 642789, 4068342; 642787, 4068332; 642797, 4068299; 642790, 4068252; 642764, 4068214; 642733, 4068176; 642670, 4068146; 642562, 4068111; 642519, 4068102; 642465, 4068092; 642401, 4068048; 642361, 4067985; 642342, 4067933; 642312, 4067852; 642285, 4067815; 642247, 4067789; 642140, 4067746; 642045, 4067717; 642016, 4067716; 641938, 4067715; 641851, 4067709; 641682, 4067666; 641663, 4067663; 641626, 4067656; 641586, 4067649; 641481, 4067639; 641344, 4067647; 641284, 4067651; 641226, 4067664; 641112, 4067711; 641041, 4067744; 640958, 4067776; 640877, 4067786; 640811, 4067772; 640729, 4067743; 640563, 4067623; 640497, 4067579; 640417, 4067543; 640368, 4067554; 640304, 4067596; 640247, 4067603; 640191, 4067576; 640134, 4067533; 640073, 4067474; 640033, 4067428; 640006, 4067369; 639998, 4067314; 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634940, 4075973; 635205, 4075936; 635440, 4075883; returning to 635579, 4075824.

(ii) Note: Unit SNB–1 is depicted on Map M18—Unit SNB–1, SNB–2, and SNB–3—see paragraph (35)(ii):

(34) Unit SNB–2, San Benito County, California.

(i) From USGS 1:24,000 scale quadrangle Tres Pinos, Pacines. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 651305, 4072378; 651421, 4072222; 651437, 4072111; 651525, 4072011; 651737, 4071913; 651845, 4071771; 651942, 4071587; 652028, 4071278; 652025, 4071022; 652022, 4070800; 651949, 4070686; 651860, 4070548; 651786, 4070356; 651818, 4070204; 651865, 4070144; 651782, 4070129; 651900, 4069970; 652018, 4069794; 652109, 4069671; 652139, 4069547; 652150, 4069490; 652150, 4069394; 652148, 4069311; 652172, 4069237; 652194,

4069177; 652252, 4069130; 652367, 4069064; 652524, 4068952; 652647, 4068869; 652713, 4068803; 652804, 4068680; 652916, 4068468; 652963, 4068378; 653034, 4068282; 653166, 4068188; 653301, 4068111; 653488, 4067996; 653559, 4067949; 653537, 4067906; 653529, 4067757; 653487, 4067706; 653440, 4067572; 653417, 4067449; 653393, 4067297; 653399, 4067163; 653452, 4067064; 653487, 4066953; 653522, 4066830; 653562, 4066562; 653621, 4066392; 653668, 4066229; 653668, 4066077; 653668, 4065931; 653662, 4065809; 653686, 4065623; 653679, 4065476; 653720, 4065342; 653773, 4065079; 653889, 4064402; 653994, 4063731; 653994, 4063632; 653954, 4063600; 652942, 4063283; 652942, 4063144; 653041, 4062787; 653061, 4062588; 652882, 4062132; 652882, 4061814; 652882, 4061536; 652942, 4061338; 653180, 4061239; 653220, 4061060; 653200, 4060683; 652505, 4060743; 651751, 4060624; 651216, 4060624; 650977, 4060663; 650700, 4060723; 650263, 4060723; 649985, 4060584; 649871, 4060727; 649873, 4060734; 649942, 4060883; 649961, 4060946; 649963, 4061014; 649959, 4061076; 649961, 4061111; 649978, 4061157; 650013, 4061229; 650024, 4061281; 650017, 4061318; 649973, 4061411; 649962, 4061449; 649952, 4061505; 649952, 4061533; 649968, 4061568; 650000, 4061600; 650024, 4061641; 650031, 4061681; 650030, 4061724; 650049, 4061793; 650077, 4061824; 650087, 4061874; 650089, 4061931; 650082, 4061953; 650049, 4061993; 649996, 4062080; 649982, 4062119; 649966, 4062184; 649932, 4062220; 649896, 4062244; 649867, 4062267; 649831, 4062318; 649815, 4062358; 649807, 4062398; 649810, 4062429; 649825, 4062483; 649832, 4062527; 649811, 4062612; 649789, 4062639; 649724, 4062698; 649655, 4062746; 649641, 4062764; 649622, 4062798; 649590, 4062864; 649587, 4062888; 649599, 4062910; 649868, 4063043; 649922, 4063061; 649992, 4063123; 649797, 4063229; 649750, 4063250; 649827, 4063402; 649827, 4063977; 649132, 4064573; 648497, 4064850; 648418, 4064893; 648368, 4065024; 648394, 4065025; 648501, 4065109; 648557, 4065146; 648595, 4065182; 648611, 4065229; 648616, 4065271; 648613, 4065332; 648637, 4065377; 648702, 4065409; 648816, 4065443; 648880, 4065469; 648952, 4065483; 649027, 4065470; 649094, 4065455; 649152, 4065452; 649176, 4065456; 649166, 4065485; 649168, 4065547; 649183, 4065671; 649198, 4065719; 649213, 4065749; 649211, 4065793; 649188, 4065850; 649169, 4065881; 649136, 4065923; 649108, 4065968; 649028, 4066184; 649002, 4066237; 648919, 4066341; 648912, 4066371; 648922, 4066408; 648952, 4066454; 648983, 4066497; 649024, 4066544; 649077, 4066591; 649127, 4066627; 649176, 4066672; 649210, 4066712; 649284, 4066828; 649309, 4066881; 649325, 4066943; 649331, 4067009; 649329, 4067076; 649311, 4067200; 649258, 4067391; 649242, 4067454; 649241, 4067470; 649272, 4067484; 649331, 4067498; 649392, 4067509; 649438, 4067511; 649486, 4067527; 649534, 4067593; 649752, 4067816; 649718, 4067874; 649705, 4067923; 649698, 4067969; 649699, 4067996; 649709, 4068017; 649785, 4068079; 649874, 4068114; 649918, 4068146; 649941, 4068182; 649963, 4068234; 649980, 4068287; 650006, 4068391; 650032, 4068474; 650040, 4068536; 650048, 4068561; 650059, 4068581; 650104, 4068608; 650178, 4068606; 650212, 4068614; 650312, 4068678; 650369, 4068697; 650426, 4068705; 650473, 4068716; 650495, 4068725; 650539, 4068759; 650566, 4068788; 650589, 4068803; 650628, 4068816; 650661, 4068824; 650688, 4068826; 650730, 4068837; 650778, 4068876; 650837, 4068945; 650872, 4068980; 650911, 4069003; 650958, 4069016; 650997, 4069023; 651038, 4069037; 651109, 4069081; 651099, 4069092; 651098, 4069094; 650688, 4069441; 650221, 4069918; 649977, 4070181; 649801, 4070453; 649700, 4070581; 649543, 4070708; 649393, 4070835; 649304, 4071005; 649209, 4071370; 649185, 4071702; 649241, 4071918; 649399, 4072173; 649574, 4072372; 649791, 4072531; 649804, 4072538; 649950, 4072309; 649990, 4072411; 650067, 4072500; 650247, 4072695; 650467, 4072726; 650689, 4072712; 650886, 4072656; 651155, 4072505; returning to 651305, 4072378.

(ii) **Note:** Unit SNB–2 is depicted on Map M18—Unit SNB–1, SNB–2, and SNB–3—see paragraph (35)(ii):

(35) Unit SNB–3, San Benito, Monterey County, California.

(i) From USGS 1:24,000 scale quadrangle North Chalone Peak, Topo Valley, San Benito, Bickmore Canyon. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 662185, 4046287; 662254, 4046134; 662287, 4045981; 662361, 4045883; 662425, 4045846; 662560, 4045656; 662765, 4045639; 662771, 4045637; 662867, 4045605; 663004, 4045486; 663021, 4045281; 663021, 4045145; 663089, 4045060; 663174, 4045060; 663396, 4044906; 663464, 4044770; 663464, 4044634; 663532, 4044548; 663668, 4044548; 663890, 4044565; 663992, 4044599; 664197, 4044599; 664504, 4044599; 664691, 4044736; 664916, 4044848; 664930, 4044855; 665049, 4044940; 665203, 4045077; 665322, 4045196; 665423, 4045274; 665485, 4045196; 665730, 4044906; 665931, 4044549; 666154, 4044103; 666332, 4043701; 666667, 4043367; 666712, 4043144; 667158, 4042965; 667850, 4042965; 668162, 4042697; 668541, 4042474; 668921, 4042296; 669278, 4042229; 669523, 4042273; 669771, 4042313; 669773, 4042311; 669866, 4042161; 669903, 4042115; 669964, 4042067; 670012, 4042054; 670104, 4042056; 670140, 4042046; 670188, 4041997; 670212, 4041934; 670231, 4041868; 670283, 4041791; 670325, 4041669; 670375, 4041616; 670435, 4041598; 670530, 4041524; 670551, 4041504; 670602, 4041425; 670634, 4041385; 670716, 4041292; 670826, 4041221; 670836, 4041194; 670838, 4041162; 670822, 4041091; 670900, 4041022; 670963, 4040988; 671006, 4040960; 671049, 4040923; 671090, 4040907; 671152, 4040895; 671218, 4040873; 671265, 4040836; 671335, 4040734; 671427, 4040628; 671440, 4040577; 671428, 4040514; 671400, 4040455; 671347, 4040394; 671293, 4040364; 671213, 4040338; 671148, 4040312; 671080, 4040276; 671047, 4040233; 671048, 4040128; 671041, 4040074; 671021, 4040013; 670971, 4039960; 670893, 4039913; 670843, 4039862; 670823, 4039814; 670826, 4039761; 670896, 4039682; 670892, 4039645; 670859, 4039594; 670802, 4039491; 670761, 4039451; 670709, 4039407; 670684, 4039389; 670368, 4039485; 670027, 4039673; 669908, 4039673; 669652, 4039553; 669533, 4039468; 669472, 4039468; 669396, 4039468; 669158, 4039502; 669089, 4039536; 668970, 4039639; 668868, 4039656; 668663, 4039502; 668425, 4039536; 668237, 4039588; 668033, 4039571; 667896, 4039485; 667828, 4039417; 667726, 4039230; 667675, 4039059; 667521, 4038752; 667317, 4038633; 667282, 4038411; 667163, 4038258; 666942, 4038121; 666788, 4037900; 666746, 4037721; 666720, 4037610; 666584, 4037423; 666396, 4037184; 666297, 4037100; 666174, 4036996; 666163, 4036911; 666123, 4036621; 666004, 4036400; 665962, 4036212; 665902, 4035939; 666004, 4035684; 666243, 4035530; 666362, 4035428; 666549, 4035206; 666686, 4034883; 666873, 4034610; 667129, 4034184; 667146, 4033894; 667129, 4033587; 667112, 4033314; 667027, 4033144; 667010, 4032820; 667043, 4032692; 667025, 4032674; 667019, 4032646; 666975, 4032619; 666881, 4032621; 666867, 4032618;

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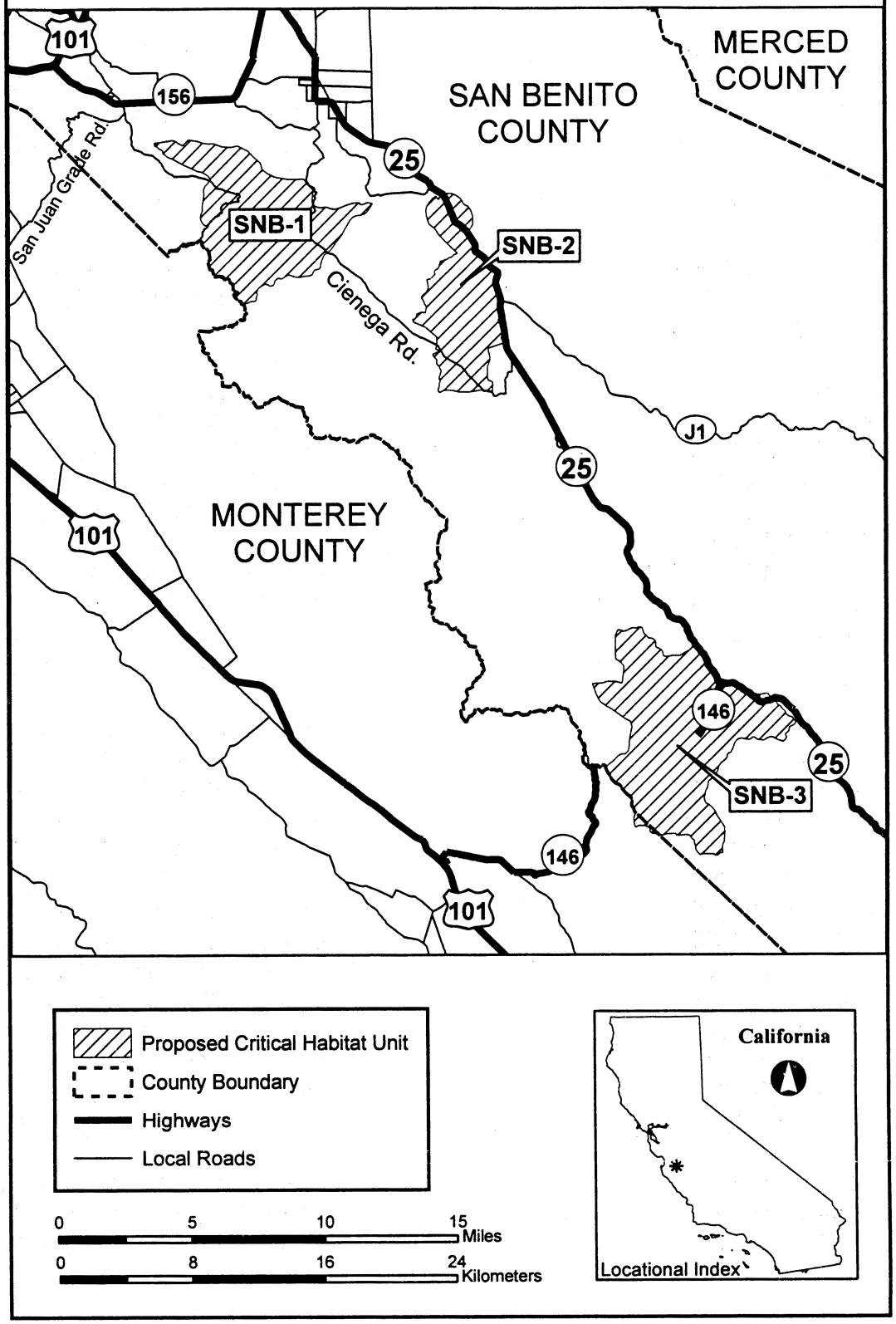
(ii) **Note:** Unit SNB–3 is depicted on Map M18—Unit SNB–1, SNB–2, and SNB–3—which follows:

BILLING CODE 4310–55–P

Map 18. California Red-Legged Frog -- Unit SNB-1, SNB-2 and SNB-3



BILLING CODE 4310–55–C

(36) Unit SLO–1, San Luis Obispo, Monterey, Kern County, California.

(i) From USGS 1:24,000 scale quadrangle Tent Hills, Orchard Peak, Cholame, Cholame Valley. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 751686, 3964133; 751712, 3964088; 751785, 3964089; 751891, 3964092; 751909, 3964092; 751944, 3964093; 751976, 3964063; 752025, 3963982; 752044, 3963957; 752084, 3963940; 752125, 3963905; 752151, 3963870; 752170, 3963839; 752168, 3963806; 752158, 3963766; 752127, 3963722; 752089, 3963653; 752130, 3963634; 752177, 3963621; 752213, 3963622; 752268, 3963595; 752316, 3963561; 752394, 3963470; 752407, 3963405; 752351, 3963238; 752338, 3963176; 752337, 3963122; 752346, 3963062; 752383, 3963030; 752406, 3962984; 752407, 3962939; 752399, 3962920; 752376, 3962881; 752361, 3962832; 752393, 3962782; 752495, 3962683; 752531, 3962658; 752588, 3962626; 752627, 3962621; 752678, 3962626; 752740, 3962609; 752775, 3962577; 752826, 3962473; 752945, 3962368; 752987, 3962338; 753042, 3962310; 753072, 3962276; 753118, 3962186; 753131, 3962136; 753131, 3962086; 753155, 3962031; 753304, 3961863; 753416, 3961775; 753462, 3961715; 753511, 3961661; 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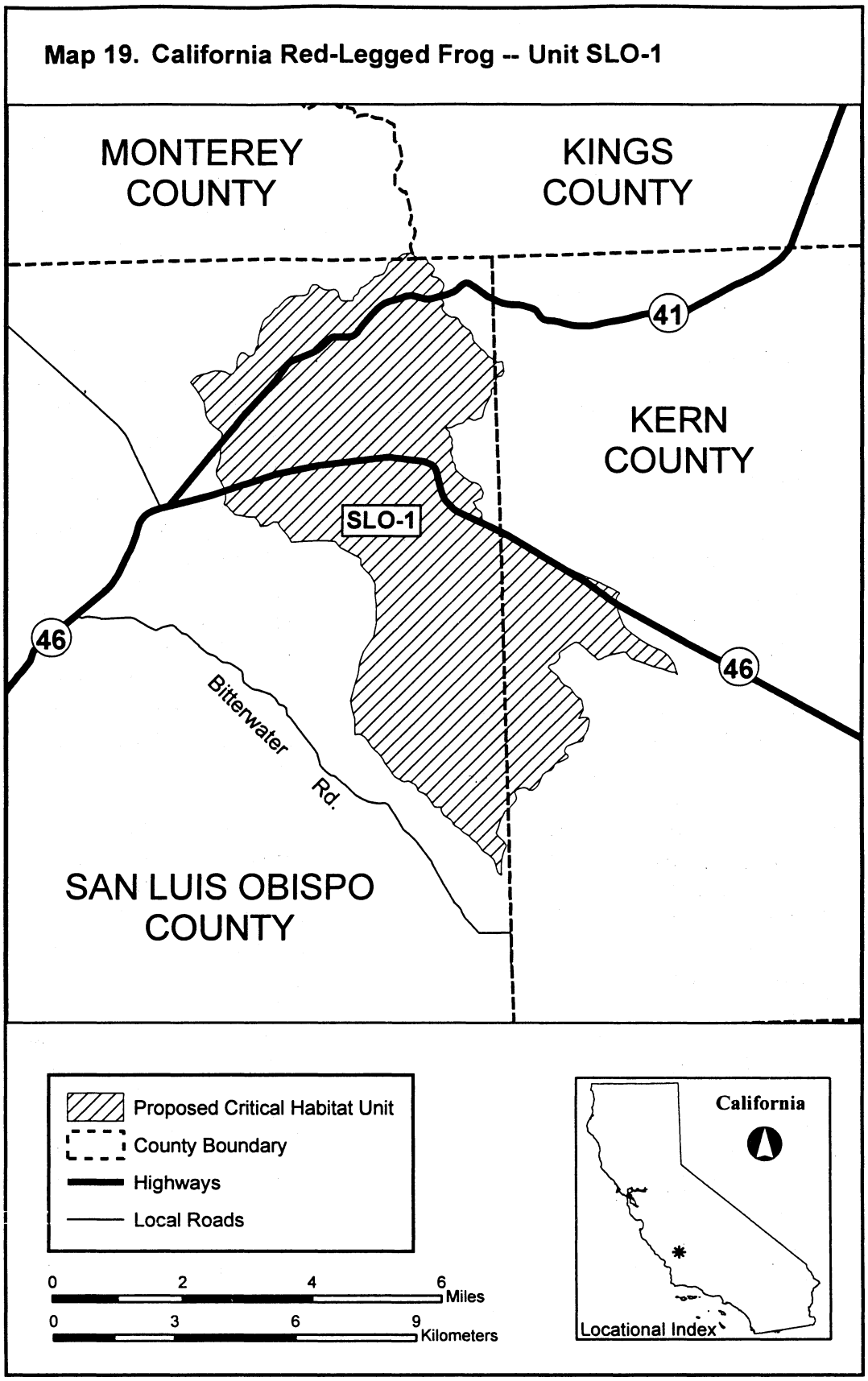
(ii) **Note:** Unit SLO–1 (Map M19) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(37) Unit SLO–2, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangle Piedras Blancas. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 653897, 3956003; 654147, 3955768; 654340, 3955498; 654439, 3955293; 654446, 3955074; 654441, 3954867; 654482, 3954660; 654617, 3954399; 654871, 3954050; 655146, 3953747; 655482, 3953342; 655875, 3952963; 656187, 3952603; 656416, 3952299; 656540, 3952015; 656527, 3951703; 656497, 3951541; 656538, 3951334; 656673, 3951108; 656830, 3950894; 657002, 3950553; 657181, 3949982; 657356, 3949204; 657414, 3948837; 657554, 3948414; 657645, 3948071; 657620, 3947990; 657576, 3948042; 657544, 3948069; 657480, 3948111; 657434, 3948124; 657363, 3948121; 657270, 3948096; 657264, 3948091; 657255, 3948087; 657248, 3948079; 657232, 3948070; 657204, 3948060; 657195, 3948058; 657181, 3948041; 657159, 3948023; 657137, 3948003; 657133, 3947988; 657119, 3947962; 657116, 3947961; 657101, 3947951; 657085, 3947949; 657060, 3947954; 657044, 3947960; 657031, 3947962; 657017, 3947971; 656985, 3947980; 656970, 3947979; 656968, 3947981; 656980, 3948005; 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(ii) **Note:** Unit SLO–2 is depicted on Map M20—Unit SLO–2, SLO–3, and SLO–4—see paragraph (39)(ii):

(38) Unit SLO–3, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangle San Simeon, Pebblestone Shut-In, Pico Creek, Cambria. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 667357, 3946516; 668241, 3945870; 668994, 3945407; 669702, 3944849; 670357, 3944493; 671039, 3944295; 672209, 3944065; 673285, 3943816; 673749, 3943548; 673846, 3943489; 673853, 3943434; 673881, 3943354; 673903, 3943333; 673932, 3943292; 674037, 3943220; 674084, 3943196; 674117, 3943185; 674169, 3943158; 674237, 3943092; 674276, 3943043; 674305, 3942975; 674306, 3942921; 674323, 3942858; 674490, 3942594; 674489, 3942520; 674481, 3942453; 674462, 3942367; 674468, 3942330; 674459, 3942291; 674466, 3942249; 674463, 3942223; 674476, 3942160; 674488, 3942123; 674491, 3942083; 674467, 3942046; 674451, 3942007; 674448, 3941958; 674441, 3941925; 674480, 3941872; 674501, 3941859; 674539, 3941844; 674578, 3941815; 674617, 3941761; 674705, 3941709; 674738, 3941653; 674735, 3941614; 674750, 3941530; 674751, 3941491; 674768, 3941448; 674784, 3941380; 674809, 3941350; 674834, 3941338; 674862, 3941293; 674914, 3941255; 674952, 3941236; 674999, 3941219; 675092,

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(ii) **Note:** Unit SLO–3 is depicted on Map M20—Unit SLO–2, SLO–3, and SLO–4—see paragraph (39)(ii):

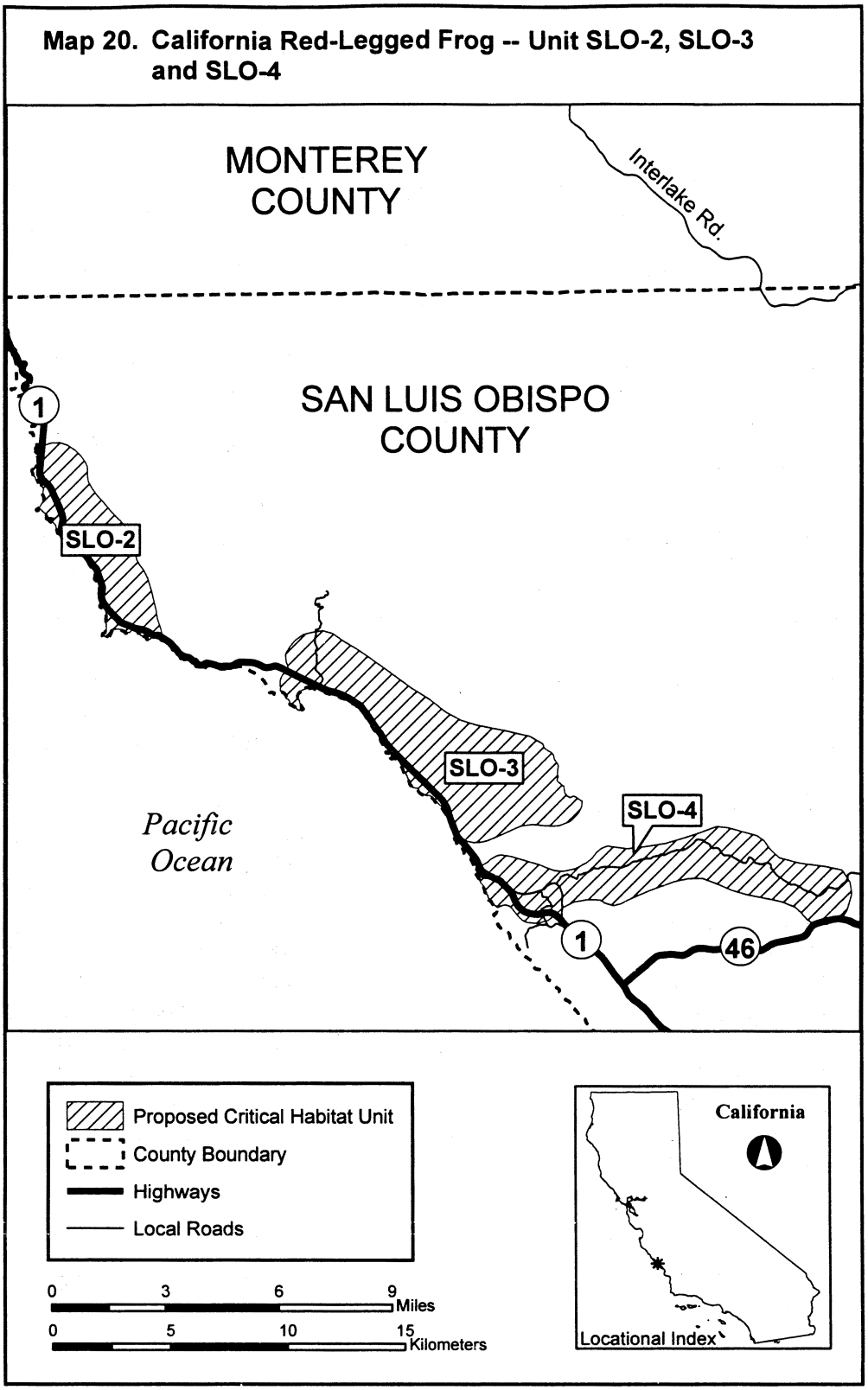
(39) Unit SLO–4, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangle Cambria, Cypress Mountain. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 683203, 3939412; 683482, 3939029; 683870, 3938664; 684741, 3938440; 685845, 3938302; 686557, 3938152; 686887, 3937629; 686965, 3937130; 686766, 3936449; 686653, 3936236; 686577, 3936236; 686496, 3936236; 686273, 3936075; 686112, 3935994; 685932, 3935834; 685717, 3935837; 685307, 3935887; 685083, 3936021; 684790, 3936341; 684547, 3936569; 683959, 3936802; 683468, 3936912; 682505, 3937086; 681870, 3937270; 681297, 3937535; 680613, 3937796; 680032, 3937778; 679439, 3937650; 678352, 3937256; 677530, 3936901; 677143, 3936701; 676847, 3936630; 676498, 3936729; 676259, 3936862; 675740, 3936878; 675177, 3936782; 674697, 3936548; 674347, 3936208; 674039, 3935979; 673587, 3935871; 673178, 3935905; 673003, 3935978; 672793, 3936160; 672547, 3936481; 672418, 3936603; 672243, 3936660; 672103, 3936624; 671886, 3936545; 671887, 3936545; 671875, 3936572; 671874, 3936584; 671867, 3936600; 671850, 3936611; 671841, 3936617; 671789, 3936638; 671767, 3936654; 671748, 3936668; 671728, 3936691; 671714, 3936722; 671708, 3936724; 671706, 3936730; 671698, 3936732; 671697, 3936733; 671692, 3936754; 671683, 3936765; 671683, 3936765; 671672, 3936780; 671664, 3936811; 671654, 3936816; 671652, 3936821; 671636, 3936831; 671628, 3936832; 671622, 3936833; 671613, 3936834; 671609, 3936837; 671592, 3936857; 671591, 3936857; 671585, 3936864; 671578, 3936868; 671574, 3936870; 671560, 3936868; 671555, 3936870; 671554, 3936872; 671551, 3936884; 671554, 3936904; 671515, 3936948; 671516, 3936956; 671528, 3936960; 671527, 3936969; 671520, 3936974; 671520, 3936974; 671516, 3936981; 671515, 3936983; 671493, 3936988; 671491, 3936996; 671492, 3937004; 671508, 3937008; 671499, 3937023; 671499, 3937030; 671505, 3937031; 671508, 3937039; 671505, 3937047; 671500, 3937054; 671500, 3937054; 671497, 3937062; 671485, 3937076; 671477, 3937084; 671455, 3937100; 671443, 3937115; 671439, 3937181; 671433, 3937184; 671431, 3937189; 671418, 3937197; 671410, 3937199; 671398, 3937206; 671388, 3937208; 671380, 3937213; 671376, 3937217; 671367, 3937227; 671366, 3937231; 671369, 3937276; 671365, 3937305; 671356, 3937328; 671356, 3937330; 671321, 3937428; 671315, 3937439; 671312, 3937446; 671292, 3937481; 671258, 3937531; 671250, 3937538; 671245, 3937546; 671219, 3937569; 671173, 3937619; 671173, 3937621; 671164, 3937659; 671154, 3937704; 671152, 3937720; 671154, 3937754; 671148, 3937799; 671119, 3937885; 671105, 3937942; 671073, 3937993; 671068, 3938011; 671048, 3938052; 671035, 3938069; 671035, 3938069; 671030, 3938076; 670995, 3938121; 670976, 3938140; 670971, 3938146; 670984, 3938171; 670989, 3938188; 670987, 3938231; 671034, 3938252; 671072, 3938269; 671289, 3938355; 671490, 3938470; 671596, 3938583; 671766, 3938683; 671920, 3938766; 672093, 3938771; 672503, 3938706; 673201, 3938508; 673692, 3938366; 673963, 3938249; 674328, 3938119; 674706, 3938084; 675206, 3938193; 675685, 3938443; 675915, 3938623; 676111, 3938880; 676311, 3939043; 676590, 3939161; 676921, 3939108; 677442, 3939046; 678177, 3939131; 679053, 3939268; 679831, 3939512; 680615, 3939771; 681221, 3939993; 681709, 3939946; 682359, 3939762;

682914, 3939607; returning to 683203, 3939412.

(ii) **Note:** Unit SLO–4 is depicted on Map M20—Unit SLO–2, SLO–3, and SLO–4—which follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(40) Unit SLO–5, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangle Cayucos. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 683057, 3929683; 683381, 3929622; 683644, 3929622; 684089, 3929663; 684271, 3929825; 684534, 3929845; 684858, 3929845; 685222, 3929986; 685748, 3929359; 686031, 3928935; 686314, 3928813; 686698, 3928550; 687042, 3928449; 687467, 3928227; 687750, 3928206; 688417, 3928894; 688680, 3929117; 689227, 3929299; 689651, 3929501; 690056, 3929784; 690278, 3929905; 690612, 3930032; 690613, 3930029;

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(ii) **Note:** Unit SLO–5 is depicted on Map M21—Unit SLO–5, SLO–6 and SLO–7—see paragraph (42)(ii):

(41) Unit SLO–6, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangle Morro Bay North, Cayucos. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 700525, 3926590; 700513, 3926469; 700513, 3925973; 700493, 3925784; 700464, 3925501; 700613, 3925228; 700836, 3925054; 701177, 3924874; 700826, 3924892; 700523, 3924957; 700415, 3924871; 700285, 3924698; 700194, 3924567; 700134, 3924482; 699961, 3924265; 699723, 3923963; 699334, 3923746; 699074, 3923552; 698923, 3923336; 698750, 3923055; 698512, 3923011; 698339, 3922968; 698058, 3922968; 697907, 3922968; 697647, 3922903; 697474, 3922752; 697474, 3922536; 697366, 3922298; 697172, 3922125; 697085, 3921887; 696847, 3921563; 696566, 3921325; 696436, 3921065; 696372, 3920741; 696155, 3920330; 696069, 3920092; 695874, 3919876; 695723, 3919768; 695615, 3919487; 695553, 3919385; 695526, 3919394; 695279, 3919493; 695114, 3919691; 694899, 3919905; 694734, 3920136; 694668, 3920318; 694552, 3920450; 694420, 3920565; 694255, 3920582; 694156, 3920631; 693760, 3920747; 693694, 3920846; 693694, 3921192; 693595, 3921324; 693397, 3921423; 693183, 3921589; 693034, 3921704; 692952, 3921886; 692886, 3922084; 692886, 3922331; 692737, 3922529; 692638, 3922645; 692556, 3922744; 692452, 3922808; 692385, 3922910; 692220, 3923081; 692070, 3923197; 691953, 3923266; 691895, 3923406; 691902, 3923456; 691859, 3923494; 691755, 3923745; 691735, 3923774; 691730, 3923833; 691730, 3923965; 691714, 3924114; 691714, 3924444; 691730, 3924609; 691796, 3924741; 692143, 3924774;

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(ii) **Note:** Unit SLO–6 is depicted on Map M21—Unit SLO–5, SLO–6 and SLO–7—see paragraph (42)(ii):

(42) Unit SLO–7, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangle San Luis Obispo, Morro Bay South, Lopez Mtn., Atascadero. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 711375, 3916303; 711503, 3916272; 711599, 3916278; 711661, 3916314; 711707, 3916333; 711757, 3916333; 711856, 3916306; 711957, 3916263; 712136, 3916212; 712250, 3916190; 712362, 3916160; 712500, 3916114; 712645, 3916053; 712709, 3916019; 712748, 3915990; 712788, 3915965; 712823, 3915937; 712840, 3915899; 712860, 3915839; 712861, 3915805; 712831, 3915739; 712826, 3915710; 712827, 3915671; 712851, 3915616; 712881, 3915576; 712910, 3915561; 712954, 3915545; 712984, 3915526; 712991, 3915457; 712981, 3915387; 712983, 3915282; 712995, 3915208; 713014, 3915134; 713056, 3915052; 713096, 3915024; 713180, 3914992; 713207, 3914959; 713275, 3914859; 713384, 3914729; 713433, 3914693; 713524, 3914650; 713561, 3914628; 713628, 3914554; 713660, 3914532; 713762, 3914490; 713883, 3914424; 713901, 3914406; 713909, 3914377; 713922, 3914263; 713940, 3914209; 714009, 3914124; 714046, 3914090; 714169, 3914016; 714216, 3914016; 714276, 3913999; 714425, 3913926; 714464, 3913898; 714509, 3913889; 714631, 3913900; 714755, 3913918; 714893, 3913918; 714965, 3913941; 714990, 3913951; 715001, 3913955; 715033, 3913968; 715093, 3914005; 715132, 3914045; 715142, 3914070; 715150, 3914112; 715146, 3914161; 715156, 3914213; 715180, 3914257; 715221, 3914296; 715266, 3914324; 715334, 3914343; 715418, 3914357; 715587, 3914394; 715729, 3914443; 715751, 3914462; 715813, 3914543; 715838, 3914544; 715862, 3914523; 715927, 3914418; 715955, 3914360; 716018, 3914258; 716053, 3914177; 716107, 3913983; 716133, 3913918; 716166, 3913872; 716185, 3913836; 716184, 3913798; 716160, 3913751; 716146, 3913695; 716147, 3913654; 716170, 3913623; 716266, 3913595; 716332, 3913585; 716462, 3913574; 716491, 3913552; 716513, 3913472; 716532, 3913419; 716565, 3913361; 716602, 3913323; 716623, 3913302; 716627, 3913298; 716677, 3913256; 716731, 3913195; 716783, 3913169; 716830, 3913185; 716922, 3913260; 716955, 3913247; 717064, 3913180; 717104, 3913138; 717141, 3913065; 717185, 3912951; 717212, 3912871; 717236, 3912812; 717270, 3912696; 717292, 3912663; 717321, 3912634; 717344, 3912599; 717341, 3912580; 717325, 3912554; 717328, 3912499; 717383, 3912384; 717409, 3912313; 717423, 3912255; 717468, 3912136; 717512, 3912067; 717537, 3912015; 717558, 3911935; 717596, 3911845; 717665, 3911751; 717716, 3911696; 717779, 3911589; 717805, 3911553; 717843, 3911508; 717860, 3911466; 717854, 3911413; 717786, 3911335; 717766, 3911299; 717758, 3911272; 717758, 3911254; 717726, 3911167; 717731, 3911141; 717755, 3911081; 717795, 3911029; 717845, 3910972; 717981, 3910806; 717993, 3910758; 718017, 3910626; 718052, 3910536; 718169, 3910401; 718215, 3910363; 718240, 3910306; 718192, 3910067; 718203, 3909972; 718203, 3909970; 718206, 3909962; 718287, 3909735; 718335, 3909652; 718434, 3909550; 718505, 3909488; 718540, 3909448; 718544, 3909442; 718558, 3909426; 718590, 3909381; 718629, 3909312; 718670, 3909254; 718783, 3909118; 718850, 3909031; 718887, 3908988; 718970, 3908869; 719018, 3908788; 719192, 3908551; 719223, 3908487; 719251, 3908417; 719274, 3908373; 719278, 3908366; 719278, 3908365; 719304, 3908329; 719338, 3908288; 719372, 3908258; 719425, 3908205; 719436, 3908195; 719441, 3908190; 719455, 3908184; 719504, 3908146; 719529, 3908120; 719562, 3908073; 719600, 3908028; 719647, 3907974; 719677, 3907946; 719697, 3907913; 719700, 3907869; 719710, 3907823; 719748, 3907764; 719802, 3907737; 719850, 3907729; 719881, 3907705; 719911, 3907677; 719991, 3907590; 720063, 3907521; 720152, 3907408; 720184, 3907370; 720204, 3907354; 720169, 3907336; 720106, 3907274; 720027, 3907209; 719997, 3907189; 719977, 3907176; 719961, 3907169; 719863, 3907126; 719827, 3907099; 719802, 3907049; 719756, 3906930; 719713, 3906887; 719677, 3906864; 719639, 3906828; 719605, 3906790; 719525, 3906734; 719431, 3906655; 719343, 3906531; 719271, 3906397; 719240, 3906353; 719187, 3906323; 719104, 3906320; 719044, 3906311; 719007, 3906298; 718920, 3906286; 718724, 3906291; 718661, 3906281; 718631, 3906271; 718587, 3906229; 718535, 3906102; 718494, 3906042; 718379, 3905952; 718293, 3905926; 718211, 3905954; 718127, 3906003; 718060, 3906026; 717993, 3906029; 717918, 3906014; 717766, 3905967; 717681, 3905971; 717607, 3905996; 717546, 3906007; 717477, 3906001; 717397, 3905986; 717257, 3905942; 717197, 3905906; 717172, 3905863; 717147, 3905798; 717124, 3905714; 717017, 3905776; 716918, 3905828; 716836, 3905876; 716745, 3905915; 716507, 3905968; 716435, 3905975; 716386, 3905988; 716315, 3906013; 716172,

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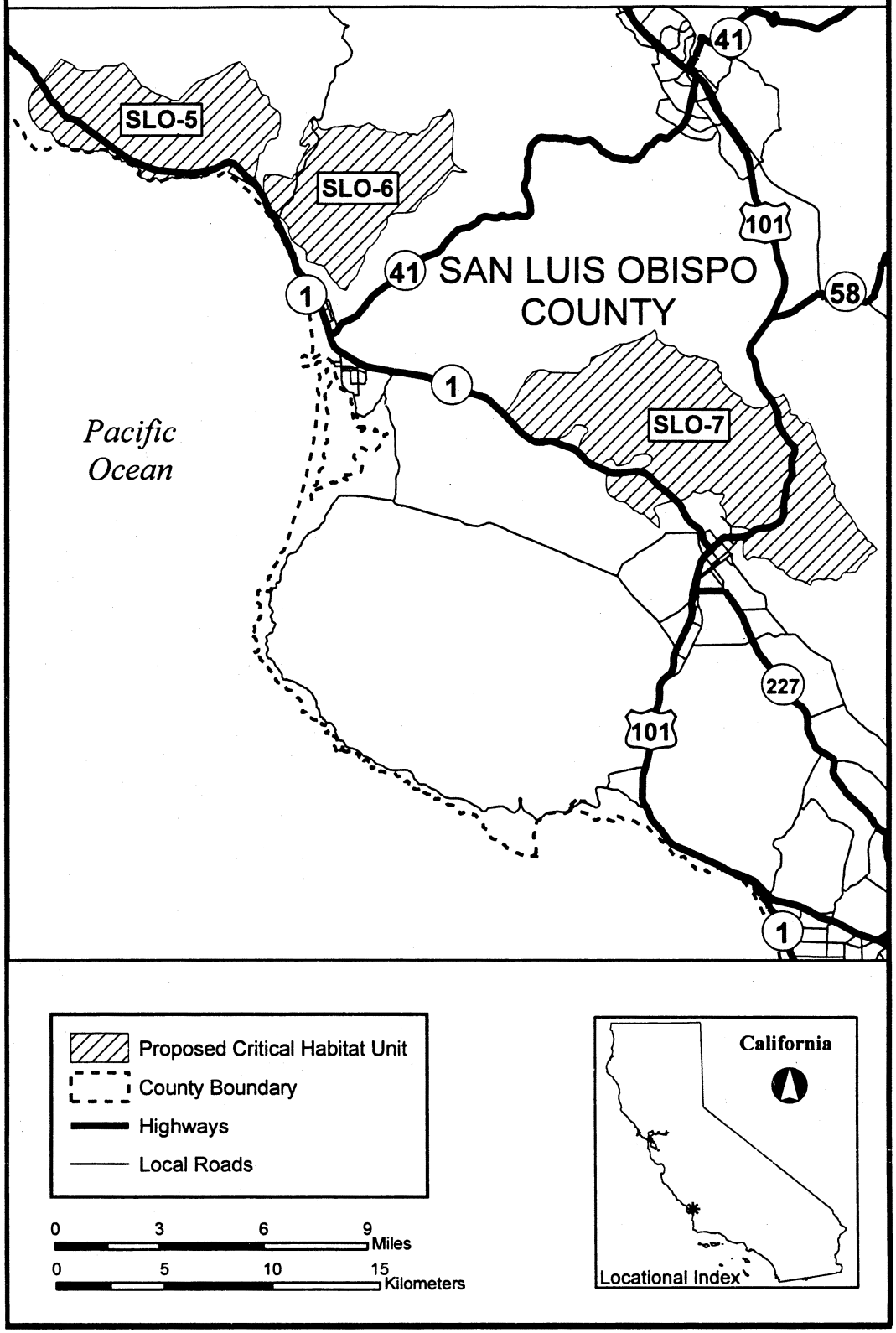
(ii) **Note:** Unit SLO–7 is depicted on Map M21—Unit SLO–5, SLO–6 and SLO–7—which follows:

BILLING CODE 4310–55–P

Map 21. California Red-Legged Frog -- Unit SLO-5, SLO-6 and SLO-7



BILLING CODE 4310–55–C

(43) Unit SLO–8, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangle Pozo Summit, La Panza, Caldwell Mesa, Los Machos Hills. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 742342, 3910355; 742377, 3910329; 742444, 3910300; 742490, 3910289; 742528, 3910268; 742613, 3910177; 742672, 3910122; 742732, 3910097; 742793, 3910060; 742859, 3910036; 742886, 3910019; 742896, 3909995; 742970, 3910001; 742987, 3910011; 743049, 3909814; 743416, 3909965; 743654, 3909836; 744021, 3909620; 744518, 3909447; 744885, 3909015; 744885, 3908647; 745101, 3908669; 745404, 3908669; 745749, 3908669; 746009, 3908669; 746225, 3908647; 746246, 3908474; 746268, 3908345; 746506, 3908258; 746743, 3907826; 746789, 3907806; 747132, 3907653; 747345, 3907423; 747650, 3907244; 747910, 3907092; 747910, 3906919; 748076, 3906852; 748126, 3906832; 748385, 3906703; 748537, 3906616; 748796, 3906573; 749142, 3906487; 749639, 3906465; 749834, 3906249; 750071, 3906227; 750244, 3906033; 750719, 3905644; 750849, 3905277; 750904, 3904999; 750913, 3904952; 750913, 3904672; 751216, 3904477; 751285, 3904328; 751346, 3904196; 751475, 3904131; 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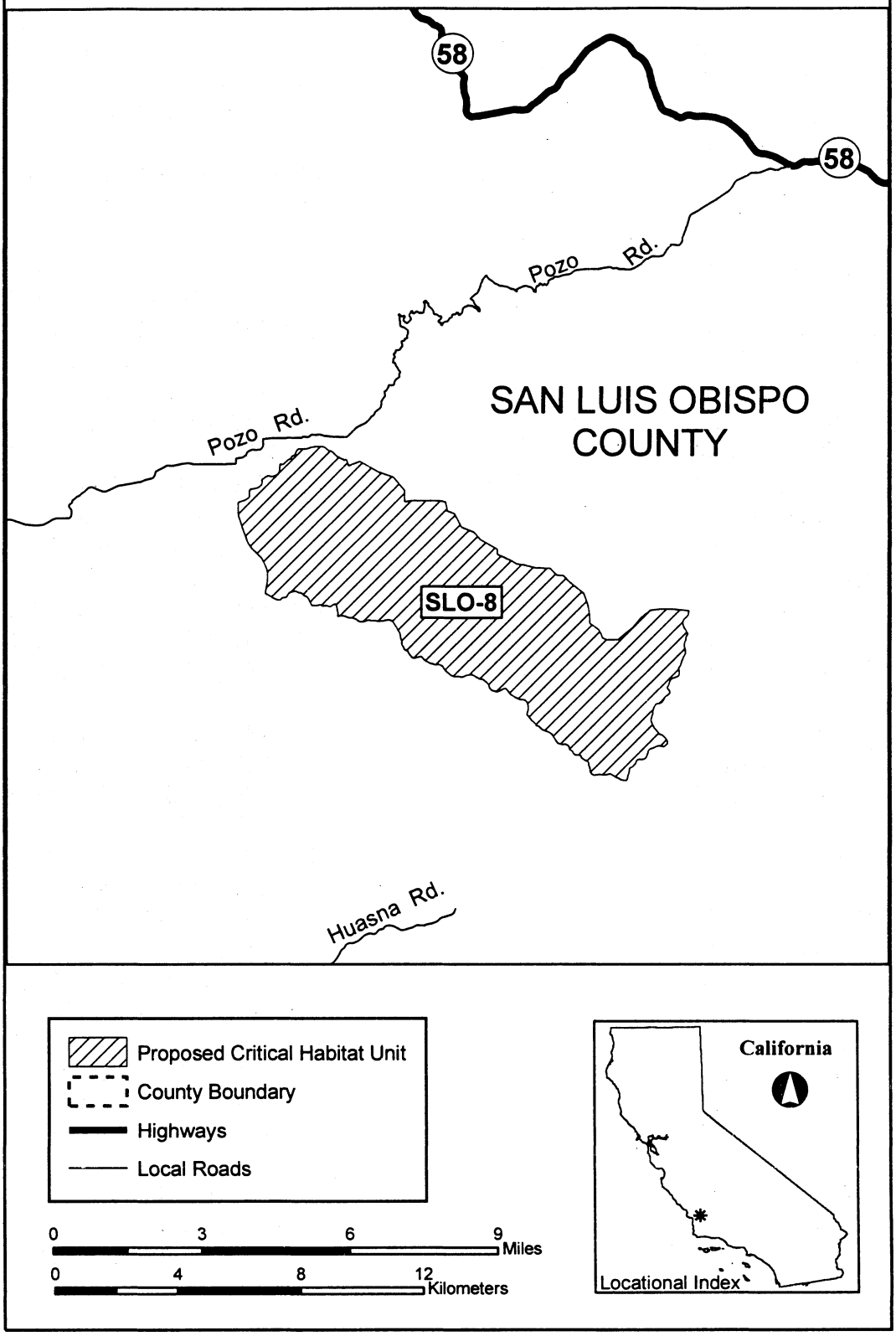
(ii) **Note:** Unit SLO–8 (Map M22) follows:

BILLING CODE 4310–55–P

Map 22. California Red-Legged Frog -- Unit SLO-8



BILLING CODE 4310–55–C

(44) Unit STB–1, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Tepusquet Canyon, Manzanita Mtn., Foxen Canyon, Zaca Lake. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 760562, 3876097; 760672, 3876042; 760732, 3876046; 760958, 3876093; 761005, 3876093; 761065, 3876061; 761121, 3876024; 761287, 3875929; 761374, 3875918; 761428, 3875907; 761484, 3875882; 761612, 3875809; 761676, 3875762; 761783, 3875634; 761834, 3875595; 761915, 3875540; 761948, 3875494; 761987, 3875390; 762011, 3875342; 762040, 3875323; 762129, 3875309; 762187, 3875292; 762248, 3875260; 762302, 3875217; 762326, 3875187; 762339, 3875178; 762395, 3875163; 762422, 3875139; 762448, 3875099; 762484, 3875033; 762518, 3874997; 762585, 3874946; 762670, 3874870; 762715, 3874853; 762778, 3874840; 762885, 3874807; 763079, 3874758; 763098, 3874824; 763121, 3874875; 763145, 3874919; 763191, 3874968; 763219, 3874988; 763269, 3875006; 763311, 3875038; 763330, 3875069; 763359, 3875103; 763377, 3875138; 763397, 3875213; 763422, 3875236; 763459, 3875242; 763490, 3875256; 763558, 3875303; 763680, 3875366; 763752, 3875412; 763812, 3875437; 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(ii) **Note:** Unit STB–1 is depicted on Map M23—Unit STB–1 and STB–3—see paragraph (45)(ii):

(45) Unit STB–3, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Zaca Lake, Bald Mountain, Hurricane Deck, Figueroa Mtn. Land bounded by the following UTM Zone 11, NAD27 coordinates (E,N): 779569, 3859788; 780830, 3856380; 780798, 3856059; 780785, 3855692; 780964, 3855651; 781497, 3855489; 782018, 3855371; 782272, 3855332; 782552, 3855289; 783451, 3855077; 784454, 3854760; 784906, 3854659; 785271, 3854587; 785356, 3854549; 785706, 3854393; 785720, 3854382; 785748, 3854375; 785794, 3854357; 785828, 3854335; 785845, 3854320; 785869, 3854286; 785896, 3854223; 785922, 3854183; 786108, 3854079; 786150, 3854050; 786187, 3854013; 786209, 3853976; 786211, 3853945; 786188, 3853800; 786186, 3853753; 786202, 3853731; 786328, 3853643; 786374, 3853614; 786407, 3853588; 786481, 3853540; 786608, 3853489; 786670, 3853472; 786716, 3853443; 786805, 3853352; 786893, 3853274; 786918, 3853232; 786914, 3853182; 786863, 3853062; 786858, 3853034; 786886, 3853023; 786846, 3853020; 786791, 3853000; 786695, 3852939; 786566, 3852905; 786495, 3852866; 786442, 3852809; 786414, 3852755; 786376, 3852751; 786272, 3852491; 786251, 3852467; 786224, 3852426; 786210, 3852398; 786201, 3852370; 786190, 3852350; 785653, 3852350; 785091, 3852430; 784942, 3852430; 784658, 3852467; 784381, 3852431; 784060, 3852384; 783822, 3852228; 783616, 3852019; 783504, 3851579; 783484, 3851305; 783549, 3850983; 783607, 3850631; 783709, 3850284; 783790, 3850121; 783795, 3849955; 783805, 3849871; 783805, 3849457; 784046, 3848895; 784127, 3848252; 784127, 3847994; 784123, 3847981; 784079, 3847875; 784057, 3847841; 784028, 3847803; 784007, 3847767; 783991, 3847720; 783985, 3847664; 783946, 3847485; 783922, 3847351; 783901, 3847291; 783849, 3847192; 783833, 3847151; 783819, 3847100; 783835, 3847058; 783850, 3846990; 783867, 3846949; 783894, 3846921; 783912, 3846888; 783926, 3846824; 783953, 3846801; 783966, 3846726; 784129, 3846291; 784147, 3846185; 784154, 3846165; 784166, 3846145; 784185, 3846141; 784207, 3846083; 784850, 3846003; 784967, 3845885; 784978, 3845827; 784999, 3845780; 785055, 3845711; 785112, 3845654; 785180, 3845593; 785268, 3845521; 785310, 3845471; 785353, 3845427; 785401, 3845387; 785456, 3845347; 785507, 3845320; 785544, 3845305; 785590, 3845266; 785652, 3845185; 785692, 3845142; 785722, 3845105; 785775, 3845018; 785823, 3844966; 785856, 3844943; 785889, 3844927; 785923, 3844892; 785962, 3844866; 785972, 3844828; 785973, 3844722; 785957, 3844662; 785926, 3844628; 785865, 3844587; 785811, 3844568; 785720, 3844552; 785618, 3844524; 785571, 3844505; 785542, 3844485; 785458, 3844389; 785414, 3844330; 785381, 3844283; 785366, 3844253; 785355, 3844206; 785352, 3844138; 785342, 3844070; 785323, 3844010; 785268, 3843932; 785193, 3843857; 785142, 3843814; 785081, 3843782; 785036, 3843752; 784970, 3843694; 784937, 3843675; 784902, 3843645; 784883, 3843613; 784861, 3843561; 784828, 3843509; 784792, 3843476; 784701, 3843444; 784653, 3843413; 784623, 3843382; 784623, 3843348; 784662, 3843270; 784735, 3843080; 784784, 3842999; 784795, 3842960; 784813, 3842852; 784826, 3842810; 784825, 3842766; 784798, 3842733; 784783, 3842705; 784775, 3842671; 784772, 3842605; 784774, 3842547; 784792, 3842502; 784867, 3842383; 784943, 3842301; 784997, 3842208; 785047, 3842101; 785062, 3842051; 785073, 3842014; 785100, 3841923; 785078, 3841896; 785032, 3841876; 784999, 3841846; 784956, 3841732; 784949, 3841676; 784950, 3841619; 784973, 3841543; 784991, 3841469; 784987, 3841401; 784955, 3841351; 784932, 3841303; 784921, 3841263; 784867, 3841191; 784855, 3841132; 784860, 3841069; 784857, 3841023; 784827, 3840974; 784743, 3840899; 784610, 3840758; 784579, 3840710; 784557, 3840659; 784570, 3840594; 784598, 3840544; 784621, 3840485; 784649, 3840361; 784676, 3840311; 784693, 3840266; 784690, 3840209; 784651, 3840181; 784603, 3840159; 784450, 3840065; 784405, 3840031; 784388, 3839967; 784413, 3839913; 784447, 3839821; 784447, 3839784; 784404, 3839751; 784358, 3839756; 784315, 3839784; 784218, 3839868; 784163, 3839899; 784117, 3839911; 784019, 3839920; 783888, 3839897; 783808, 3839861; 783730, 3839807; 783691, 3839793; 783662, 3839789; 783574, 3839746; 783550, 3839719; 783521, 3839677; 783493, 3839631; 783454, 3839598; 783399, 3839588; 783347, 3839571; 783308, 3839543; 783228, 3839417; 783211, 3839379; 783198, 3839359; 783185, 3839320; 783181, 3839275; 783164, 3839238; 783115, 3839162; 783123, 3839108; 783200, 3839046; 783237, 3839010; 783256, 3838982; 783242, 3838931; 783208, 3838890; 783184, 3838837; 783179, 3838723; 783157, 3838655; 783101, 3838557; 782980, 3838414; 782943, 3838375; 782881, 3838344; 782829, 3838328; 782788, 3838323; 782660, 3838282; 782609, 3838260; 782557, 3838231; 782485, 3838231; 782398, 3838284; 782340, 3838310; 782245, 3838346; 782204, 3838352; 782218, 3838405; 782176, 3838517; 782128, 3838554; 782043, 3838595; 781968,

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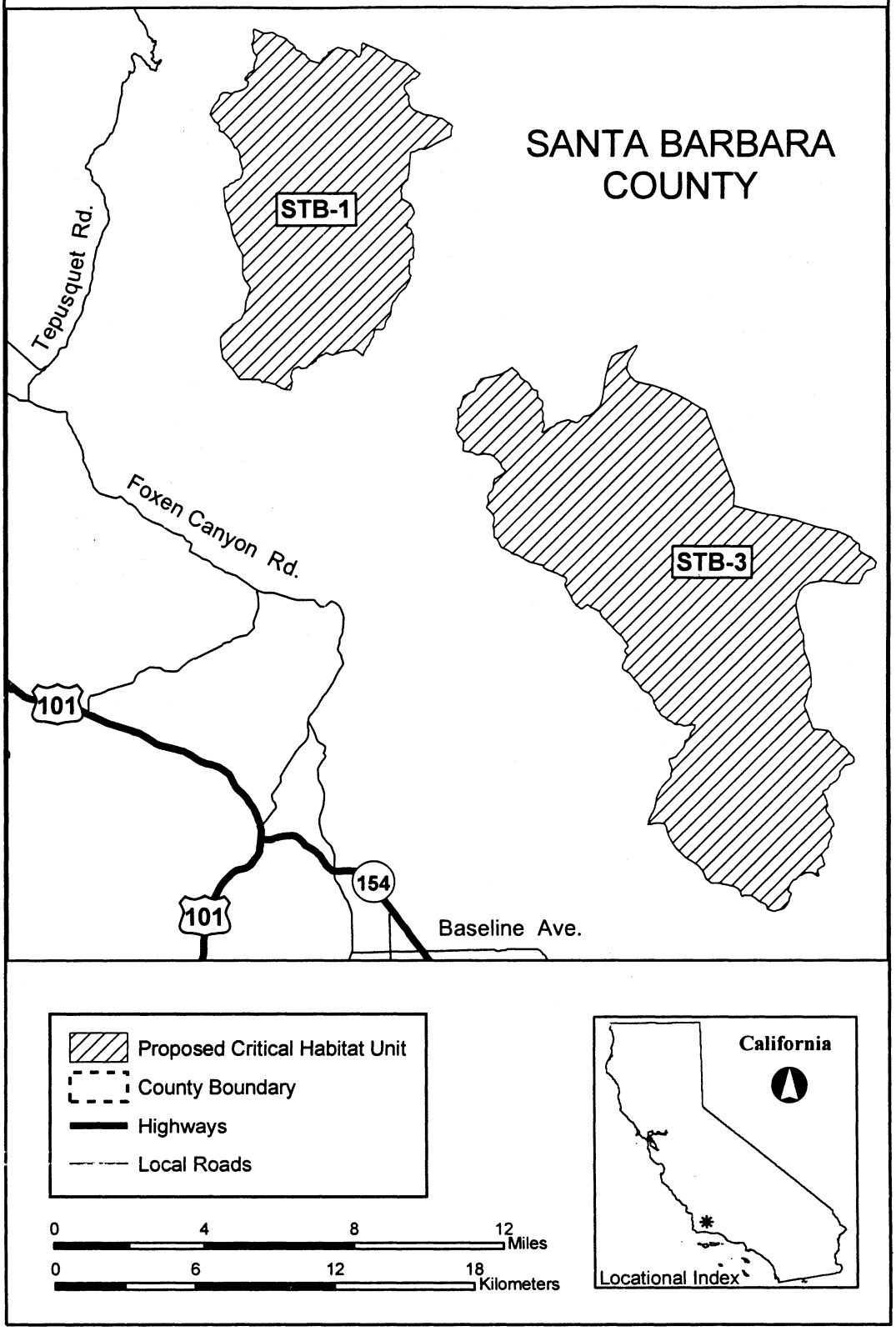
(ii) **Note:** Unit STB–2 is depicted on Map M23—Unit STB–1 and STB–3—which follows:

BILLING CODE 4310–55–P

Map 23. California Red-Legged Frog -- Unit STB-1 and STB-3



BILLING CODE 4310–55–C

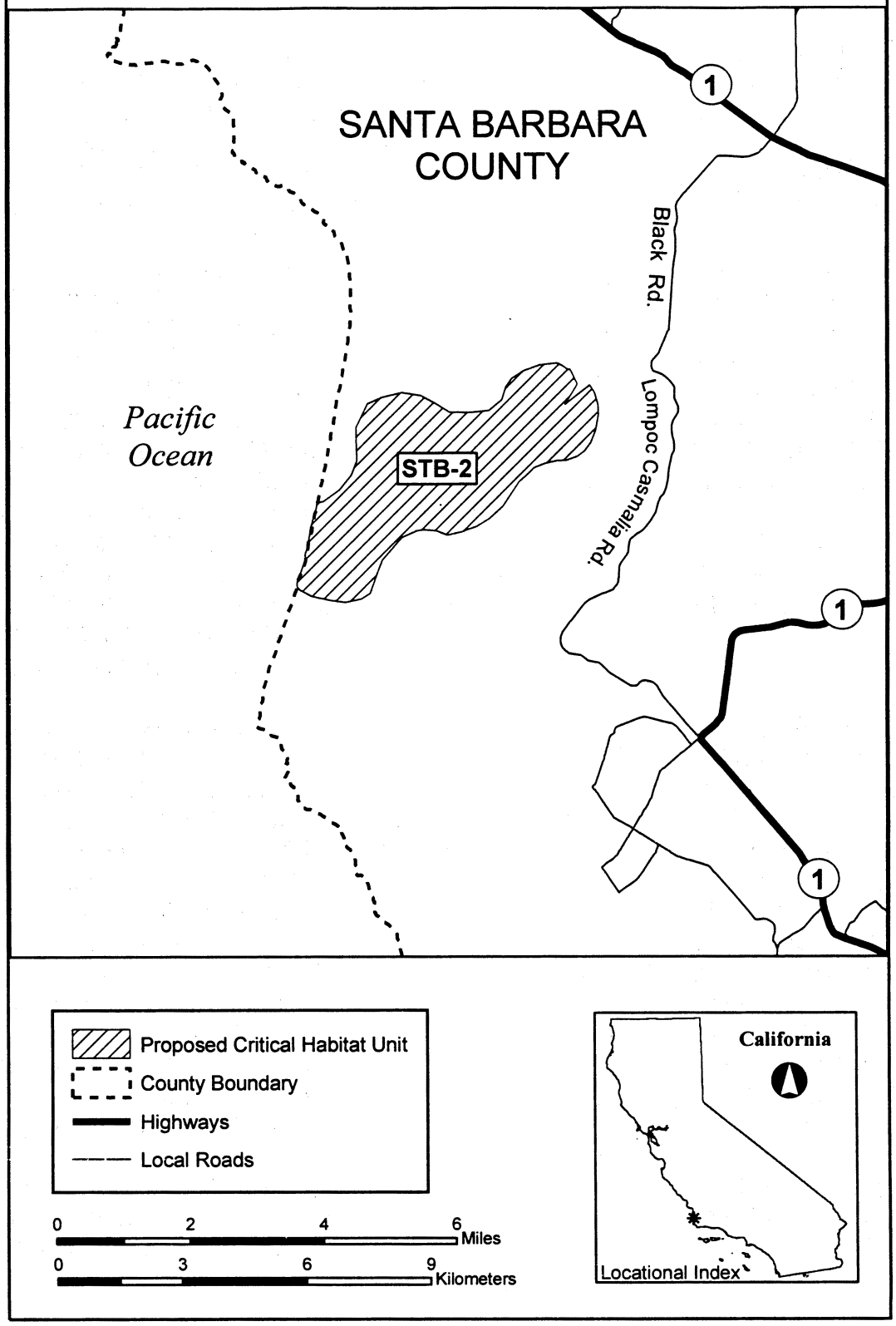
(46) Unit STB–2, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Casmalia. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 723552, 3857306; 723810, 3857151; 723856, 3857159; 724032, 3856791; 723903, 3856582; 723735, 3856310; 723730, 3856302; 724301, 3856752; 724330, 3856774; 724330, 3856774; 724442, 3856585; 724528, 3856295; 724547, 3856061; 724471, 3855670; 724353, 3855377; 724196, 3855173; 724037, 3855042; 723768, 3854943; 723533, 3854936; 723263, 3854874; 722977, 3854757; 722818, 3854607; 722625, 3854420; 722226, 3853830; 721909, 3853531; 721607, 3853341; 721249, 3853221; 720889, 3853138; 720614, 3853238; 720324, 3853266; 720161, 3853243; 719786, 3853069; 719559, 3852808; 719314, 3852530; 719179, 3852182; 719080, 3851872; 719012, 3851725; 718799, 3851592; 718421, 3851508; 718057, 3851551; 717602, 3851646; 717325, 3851800; 717246, 3851880; 717252, 3851940; 717255, 3852002; 717264, 3852034; 717281, 3852079; 717288, 3852104; 717306, 3852143; 717331, 3852218; 717345, 3852251; 717375, 3852314; 717383, 3852336; 717396, 3852391; 717405, 3852403; 717442, 3852533; 717447, 3852559; 717448, 3852593; 717442, 3852651; 717453, 3852701; 717479, 3852756; 717494, 3852799; 717510, 3852943; 717517, 3852977; 717526, 3853002; 717531, 3853032; 717537, 3853069; 717546, 3853110; 717570, 3853269; 717588, 3853335; 717602, 3853406; 717630, 3853506; 717640, 3853539; 717648, 3853556; 717658, 3853605; 717712, 3853788; 717725, 3853868; 717738, 3853930; 717894, 3853952; 718284, 3854235; 718563, 3854587; 718697, 3854935; 718685, 3855350; 718691, 3855748; 718963, 3856317; 719303, 3856472; 719788, 3856595; 720243, 3856519; 720593, 3856330; 720943, 3856124; 721451, 3856103; 721902, 3856153; 722202, 3856415; 722302, 3856726; 722440, 3856929; 722724, 3857118; 723119, 3857257; returning to 723552, 3857306.

(ii) **Note:** Unit SLO–2 (Map M24) follows:

BILLING CODE 4310–55–P

Map 24. California Red-Legged Frog -- Unit STB-2



BILLING CODE 4310–55–C

(47) Unit STB–4, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Lompoc Hills, Tranquillon Mtn. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 731548, 3828414; 731631, 3828340; 731725, 3828302; 731818, 3828284; 731970, 3828271; 732061, 3828237; 732151, 3828210; 732411, 3828217; 732482, 3828211; 732577, 3828173; 732753, 3828066; 732831, 3828031; 732925, 3827998; 732988, 3827969; 733060, 3827929; 733104, 3827883; 733144, 3827820; 733182, 3827777; 733281, 3827712; 733316, 3827677; 733338, 3827632; 733373, 3827572; 733460, 3827544; 733590, 3827560; 733679, 3827587; 733733, 3827609; 733774, 3827615; 733813, 3827600; 733880, 3827547; 733955, 3827496; 734142, 3827411; 734240, 3827371; 734329, 3827341; 734401, 3827309; 734461, 3827273; 734488, 3827244; 734507, 3827177; 734511, 3827084; 734524, 3827005; 734567, 3826941; 734659, 3826858; 734725, 3826825; 734755, 3826822; 734799, 3826810; 734838, 3826787; 734874, 3826750; 734904, 3826681; 734936, 3826576; 734963, 3826511; 734997, 3826441; 735013, 3826386; 735031, 3826308; 735035, 3826244; 735049, 3826177; 735077, 3826100; 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733622, 3821974; 733633, 3821873; 733672, 3821769; 733760, 3821640; 733809, 3821601; 733983, 3821490; 734059, 3821447; 734138, 3821389; 734241, 3821294; 734300, 3821224; 734349, 3821148; 734388, 3821045; 734413, 3820953; 734434, 3820848; 734439, 3820745; 734423, 3820661; 734395, 3820592; 734325, 3820574; 734149, 3820615; 734055, 3820617; 733815, 3820591; 733705, 3820588; 733584, 3820587; 733409, 3820591; 733328, 3820601; 733201, 3820643; 733075, 3820689; 732981, 3820758; 732779, 3820930; 732703, 3821014; 732606, 3821109; 732500, 3821165; 732200, 3821183; 732051, 3821221; 731910, 3821231; 731773, 3821215; 731671, 3821197; 731567, 3821184; 731427, 3821206; 731306, 3821218; 731053, 3821259; 730929, 3821244; 730834, 3821228; 730762, 3821261; 730655, 3821331; 730572, 3821371; 730442, 3821394; 730298, 3821394; 730148, 3821386; 730039, 3821421; 729978, 3821470; 729938, 3821539; 729891, 3821611; 729841, 3821675; 729724, 3821725; 729584, 3821732; 729535, 3821739; 729488, 3821739; 729398, 3821715; 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729277, 3826991; 729288, 3827064; 729299, 3827090; 729331, 3827125; 729424, 3827244; 729473, 3827299; 729519, 3827339; 729557, 3827377; 729552, 3827430; 729552, 3827438; 729520, 3827481; 729486, 3827493; 729475, 3827497; 729414, 3827528; 729404, 3827537; 729371, 3827572; 729366, 3827576; 729311, 3827671; 729277, 3827710; 729251, 3827712; 729217, 3827700; 729165, 3827705; 729115, 3827740; 729083, 3827786; 729069, 3827841; 729064, 3827885; 729102, 3827905; 729120, 3827920; 729135, 3827930; 729167, 3827968; 729244, 3828071; 729256, 3828084; 729386, 3828164; 729443, 3828188; 729518, 3828204; 729585, 3828203; 729668, 3828194; 729771, 3828199; 729868, 3828230; 729916, 3828251; 729967, 3828263; 730048, 3828268; 730093, 3828281; 730133, 3828335; 730162, 3828390; 730232, 3828426; 730319, 3828420; 730640, 3828369; 730754, 3828356; 730845, 3828360; 730910, 3828407; 730961, 3828526; 730978, 3828604; 731006, 3828783; 731025, 3828817; 731042, 3828827; 731096, 3828820; 731149, 3828804; 731183, 3828800; 731218, 3828769; 731258, 3828725; 731399, 3828562; returning to 731548, 3828414.

(ii) **Note:** Unit STB–4 is depicted on Map M25—Unit STB–4, STB–5, and STB–6—see paragraph (49)(ii):

(48) Unit STB–5, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Santa Rosa Hills, Solvang, Gaviota. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 754082, 3828621; 754118, 3828615; 754173, 3828633; 754220, 3828624; 754272, 3828592; 754314, 3828559; 754353, 3828538; 754484, 3828518; 754530, 3828525; 754594, 3828524; 754651, 3828519; 754785, 3828523; 754931, 3828518; 754993, 3828513; 755077, 3828500; 755167, 3828497; 755206, 3828493; 755239, 3828478; 755300, 3828431; 755354, 3828343; 755414, 3828288; 755514, 3828237; 755575, 3828212; 755697,

3828189; 755742, 3828169; 755779, 3828121; 755795, 3828053; 755823, 3827856; 755872, 3827690; 755879, 3827637; 755871, 3827582; 755856, 3827548; 755833, 3827517; 755821, 3827482; 755964, 3827406; 756196, 3827235; 756251, 3827151; 756293, 3827116; 756352, 3827096; 756432, 3827081; 756511, 3827052; 756572, 3827024; 756595, 3827008; 756607, 3826989; 756593, 3826908; 756601, 3826836; 756642, 3826704; 756664, 3826658; 756695, 3826612; 756716, 3826559; 756734, 3826502; 756743, 3826460; 756728, 3826416; 756673, 3826343; 756612, 3826255; 756595, 3826204; 756591, 3826150; 756657, 3826032; 756675, 3825969; 756682, 3825835; 756701, 3825778; 756736, 3825736; 756792, 3825702; 756846, 3825651; 756876, 3825582; 756865, 3825496; 756836, 3825427; 756812, 3825346; 756798, 3825268; 756775, 3825217; 756738, 3825157; 756716, 3825102; 756705, 3824964; 756691, 3824887; 756670, 3824819; 756638, 3824748; 756583, 3824656; 756610, 3824645; 756698, 3824674; 756802, 3824697; 756889, 3824704; 756924, 3824697; 756944, 3824678; 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753219, 3822054; 753191, 3822091; 753146, 3822124; 753039, 3822189; 752961, 3822212; 752904, 3822213; 752836, 3822206; 752752, 3822190; 752711, 3822177; 752675, 3822165; 752604, 3822156; 752592, 3822158; 752546, 3822165; 752457, 3822164; 752416, 3822171; 752336, 3822171; 752269, 3822198; 752121, 3822276; 752044, 3822295; 751885, 3822284; 751841, 3822309; 751808, 3822354; 751740, 3822395; 751659, 3822421; 751571, 3822432; 751465, 3822435; 751345, 3822432; 751259, 3822422; 751191, 3822409; 751109, 3822387; 750965, 3822371; 750881, 3822355; 750711, 3822281; 750560, 3822292; 750454, 3822312; 750371, 3822319; 750315, 3822333; 750278, 3822344; 750250, 3822356; 750231, 3822360; 750225, 3822383; 750212, 3822413; 750179, 3822461; 750132, 3822522; 750078, 3822570; 750032, 3822621; 750007, 3822667; 750010, 3822725; 750027, 3822775; 750066, 3822856; 750093, 3822890; 750152, 3822912; 750213, 3822944; 750239, 3822986; 750268, 3823084; 750312, 3823089; 750434, 3823080; 750485, 3823086; 750577, 3823091; 750652, 3823110; 750690, 3823155; 750716, 3823220; 750714, 3823288; 750690, 3823335; 750608, 3823419; 750501, 3823518; 750439, 3823592; 750348, 3823715; 750335, 3823770; 750371, 3823840; 750426, 3823901; 750456, 3823947; 750458, 3824011; 750467, 3824102; 750488, 3824163; 750536, 3824219; 750596, 3824256; 750717, 3824252; 750780, 3824259; 750804, 3824283; 750820, 3824317; 750839, 3824376; 750844, 3824468; 750834, 3824582; 750806, 3824706; 750807, 3824796; 750826, 3824870; 750857, 3824955; 750913, 3825079; 750944, 3825166; 750948, 3825215; 750944, 3825300; 750926, 3825433; 750875, 3825585; 750867, 3825644; 750875, 3825695; 750896, 3825759; 750921, 3825810; 750964, 3825912; 750975, 3825968; 750978, 3826048; 750994, 3826175; 751023, 3826238; 751031, 3826304; 751047, 3826363; 751078, 3826424; 751111, 3826462; 751147, 3826518; 751162, 3826568; 751161, 3826631; 751167, 3826702; 751194, 3826784; 751222,

3826843; 751257, 3826992; 751298, 3827055; 751357, 3827114; 751377, 3827152; 751406, 3827294; 751444, 3827363; 751480, 3827388; 751566, 3827409; 751732, 3827410; 751815, 3827425; 751922, 3827466; 752065, 3827481; 752145, 3827504; 752206, 3827500; 752251, 3827481; 752438, 3827464; 752473, 3827456; 752493, 3827446; 752505, 3827471; 752553, 3827613; 752582, 3827645; 752627, 3827679; 752676, 3827740; 752750, 3827870; 752768, 3827890; 752799, 3827907; 752841, 3827943; 752869, 3827994; 752992, 3828140; 753043, 3828218; 753111, 3828351; 753129, 3828410; 753139, 3828454; 753153, 3828494; 753196, 3828533; 753238, 3828558; 753276, 3828572; 753344, 3828583; 753438, 3828636; 753511, 3828663; 753588, 3828705; 753656, 3828716; 753718, 3828722; 753846, 3828746; 753902, 3828744; 753944, 3828711; 753974, 3828673; 754008, 3828652; returning to 754082, 3828621.

(ii) **Note:** Unit STB–5 is depicted on Map M25—Unit STB–4, STB–5, and STB–6—see paragraph (49)(ii):

(49) Unit STB–6, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Santa Ynez, Solvang, Gaviota, Tajiguas. Land bounded by the following UTM Zone 10, NAD27 coordinates (E,N): 770986, 3825640; 771043, 3825632; 771105, 3825658; 771147, 3825680; 771193, 3825688; 771256, 3825673; 771349, 3825620; 771424, 3825566; 771613, 3825452; 771711, 3825403; 771789, 3825385; 771858, 3825355; 771983, 3825292; 772104, 3825203; 772092, 3825193; 772066, 3825149; 772038, 3825075; 772006, 3824926; 771995, 3824856; 771984, 3824806; 771961, 3824744; 771949, 3824690; 771949, 3824632; 771945, 3824561; 771920, 3824424; 771907, 3824379; 771903, 3824212; 771893, 3824187; 771832, 3824123; 771816, 3824079; 771797, 3823977; 771794, 3823949; 771803, 3823910; 771803, 3823865; 771756, 3823816; 771714, 3823789; 771692, 3823753; 771692, 3823706; 771673, 3823665; 771646, 3823619; 771632, 3823581; 771638, 3823456; 771635, 3823364; 771645, 3823303; 771652, 3823204; 771634, 3823189; 771599, 3823198; 771498, 3823201; 771455, 3823162; 771432, 3823131; 771416, 3823090; 771416, 3822976; 771402, 3822958; 771370, 3822930; 771341, 3822894; 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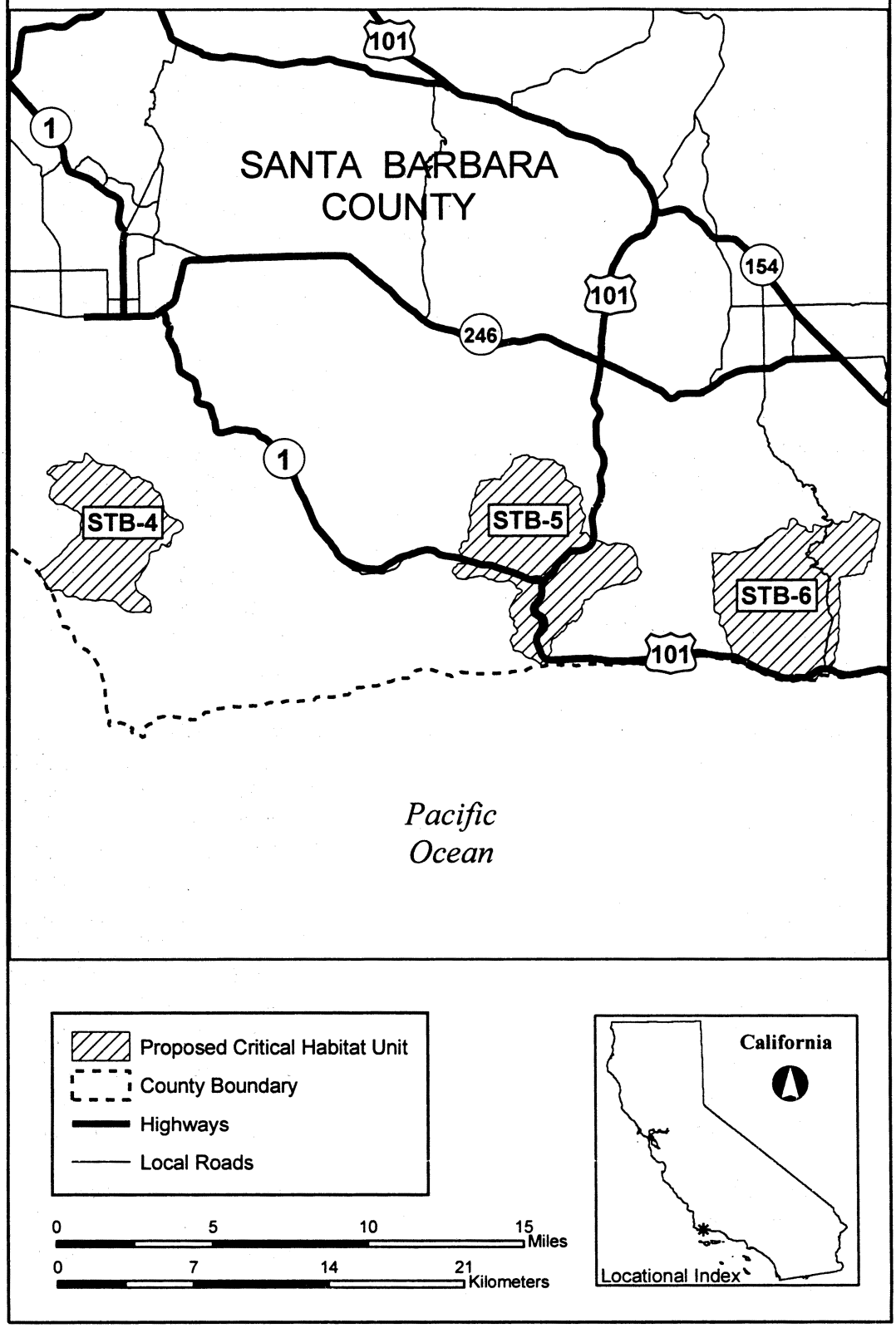
(ii) **Note:** Unit STB–6 is depicted on Map M25—Unit STB–4, STB–5, and STB–6—which follows:

BILLING CODE 4310–55–P

Map 25. California Red-Legged Frog -- Unit STB-4, STC-5 and STB-6



BILLING CODE 4310–55–C

(50) Unit STB–7, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle San Marcos Pass, Little Pine Mtn., Hildreth Peak, Carpinteria, White Ledge Peak. Land bounded by the following UTM Zone 11, NAD27 coordinates (E,N): 811543, 3830835; 811642, 3830073; 811658, 3829782; 811707, 3829105; 811672, 3828780; 811574, 3828614; 811315, 3828385; 811202, 3828220; 811161, 3828101; 811194, 3827969; 811324, 3827589; 811374, 3827369; 811382, 3827119; 811335, 3826704; 811311, 3826512; 811390, 3826337; 811577, 3826018; 811896, 3825703; 812106, 3825591; 812373, 3825554; 812711, 3825609; 813119, 3825783; 813350, 3825981; 813555, 3826519; 813644, 3827038; 813777, 3827528; 813942, 3827932; 814152, 3828336; 814406, 3828742; 814695, 3828957; 815148, 3829103; 815381, 3829061; 815815, 3828941; 816125, 3828755; 816364, 3828393; 816517, 3828006; 816613, 3827705; 816774, 3827063; 816784, 3826717; 816712, 3826154; 816587, 3825870; 816430, 3825688; 816345, 3825568; 816303, 3825478; 816364, 3825421; 816612, 3825517; 817005, 3825735; 817472, 3825926; 817824, 3826010; 818225, 3825933; 818808, 3825685; 819142, 3825370; 819178, 3825164; 819191, 3824707; 819141, 3824396; 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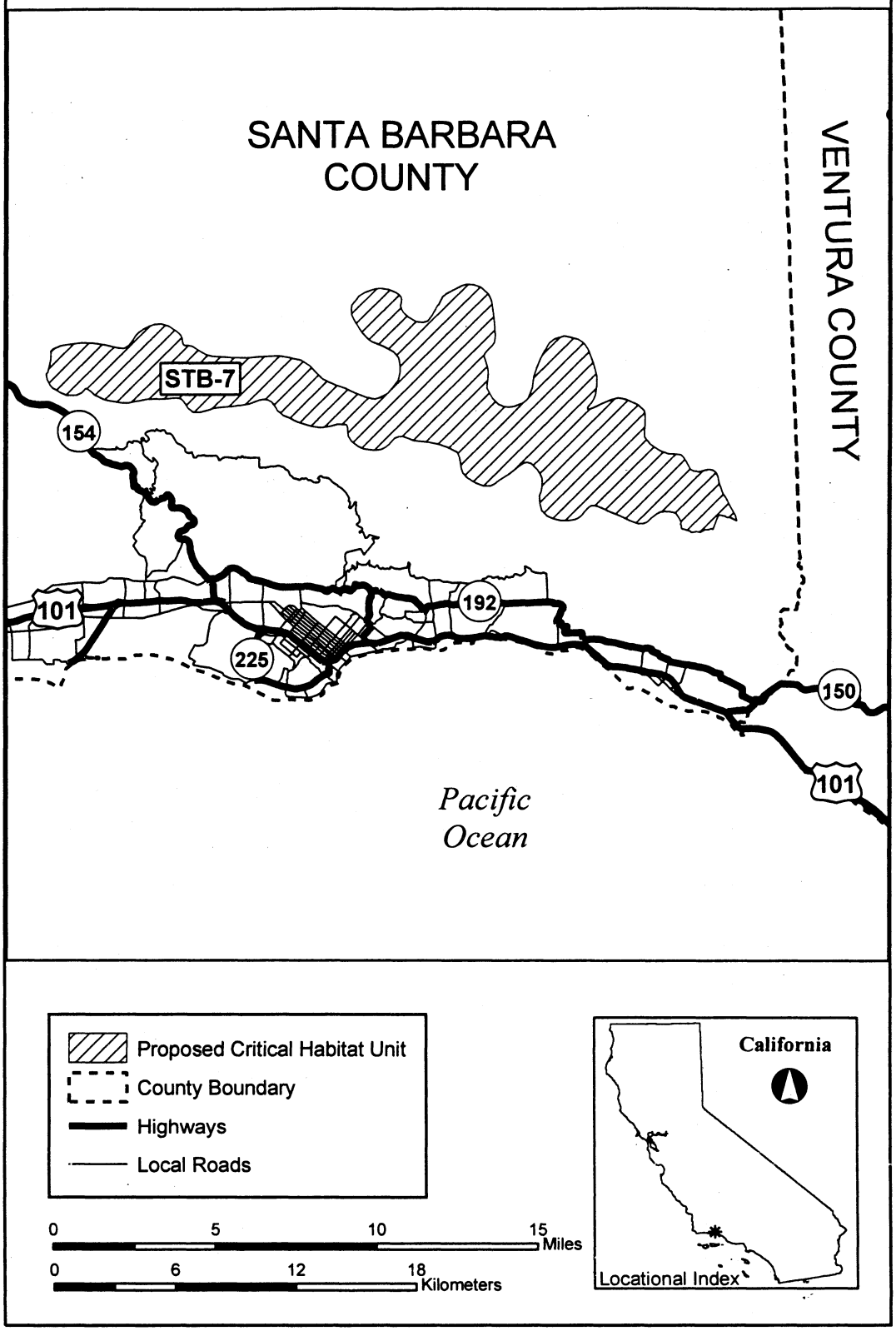
(ii) **Note:** Unit STB–7 (Map M26) follows:

BILLING CODE 4310–55–P

Map 26. California Red-Legged Frog -- Unit STB-7



BILLING CODE 4310–55–C

(51) Unit VEN–1, Ventura County, California.

(i) From USGS 1:24,000 scale quadrangle Wheeler Springs, Matilija. Land bounded by the following UTM Zone 11, NAD27 coordinates (E,N): 837608, 3825140; 837642, 3825101; 837705, 3825043; 837854, 3824934; 837879, 3824892; 837909, 3824857; 837952, 3824839; 838090, 3824793; 838181, 3824789; 838248, 3824793; 838327, 3824774; 838409, 3824727; 838449, 3824655; 838474, 3824597; 838539, 3824480; 838540, 3824427; 838550, 3824344; 838555, 3824272; 838581, 3824232; 838615, 3824199; 838647, 3824180; 838785, 3824140; 838859, 3824081; 838993, 3824006; 839082, 3823992; 839186, 3823992; 839304, 3823947; 839408, 3823858; 839483, 3823739; 839601, 3823606; 839601, 3823606; 839617, 3823578; 839675, 3823472; 839705, 3823413; 839750, 3823354; 839824, 3823294; 839957, 3823279; 840009, 3823240; 840012, 3823238; 840076, 3823190; 840224, 3823027; 840284, 3822997; 840521, 3822997; 840684, 3822908; 840848, 3822894; 840981, 3822923; 841144, 3822997; 841233, 3823012; 841367, 3822938; 841382, 3822805; 841382, 3822627; 841308, 3822508; 841248, 3822389; 841189, 3822270; 841026, 3822241; 840892, 3822226; 840818, 3822078; 840803, 3821974; 840747, 3821909; 840744, 3821905; 840714, 3821870; 840684, 3821796; 840684, 3821692; 840699, 3821558; 840699, 3821499; 840699, 3821440; 840699, 3821351; 840699, 3821202; 840744, 3821084; 840744, 3821083; 840833, 3820876; 840640, 3820861; 840521, 3820861; 840254, 3820713; 840046, 3820668; 840010, 3820643; 840005, 3820641; 839913, 3820579; 839779, 3820460; 839631, 3820342; 839512, 3820267; 839364, 3820178; 839215, 3820134; 839067, 3820089; 838830, 3820015; 838592, 3820015; 838474, 3820015; 838266, 3820030; 838147, 3820208; 838058, 3820267; 837895, 3820327; 837687, 3820327; 837568, 3820253; 837509, 3820282; 837494, 3820431; 837465, 3820520; 837450, 3820609; 837390, 3820609; 837361, 3820623; 837346, 3820683; 837316, 3820772; 837287, 3820891; 837287, 3821009; 837227, 3821113; 837153, 3821217; 837155, 3821222; 837134, 3821210; 837106, 3821215; 837070, 3821211; 837005, 3821213; 836844, 3821256; 836715, 3821317; 836683, 3821322; 836530, 3821293; 836422, 3821283; 836390, 3821273; 836328, 3821263; 836264, 3821260; 836173, 3821270; 836109, 3821316; 836058, 3821336; 835988, 3821358; 835846, 3821417; 835808, 3821444; 835720, 3821487; 835634, 3821499; 835541, 3821529; 835471, 3821537; 835410, 3821530; 835327, 3821530; 835267, 3821544; 835187, 3821554; 835123, 3821548; 835018, 3821519; 834959, 3821522; 834880, 3821561; 834751, 3821613; 834611, 3821624; 834501, 3821581; 834469, 3821560; 834419, 3821509; 834348, 3821462; 834284, 3821383; 834252, 3821367; 834111, 3821331; 834062, 3821326; 833947, 3821292; 833900, 3821296; 833852, 3821311; 833813, 3821331; 833767, 3821341; 833703, 3821377; 833634, 3821382; 833556, 3821395; 833465, 3821395; 833400, 3821401; 833361, 3821393; 833348, 3821389; 833348, 3821477; 833289, 3821814; 833260, 3822122; 833260, 3822488; 833260, 3822723; 833275, 3822753; 833333, 3822869; 833465, 3822987; 833514, 3823061; 833553, 3823118; 833582, 3823309; 833743, 3823455; 833911, 3823623; 833919, 3823631; 833978, 3823807; 833992, 3824129; 833992, 3824155; 833992, 3824335; 834051, 3824569; 834227, 3824686; 834388, 3824818; 834446, 3824965; 834599, 3825141; 834605, 3825142; 834708, 3825183; 834777, 3825218; 834846, 3825244; 835006, 3825280; 835082, 3825290; 835238, 3825296; 835323, 3825280; 835392, 3825263; 835439, 3825244; 835535, 3825191; 835605, 3825159; 835666, 3825148; 835778, 3825150; 835919, 3825145; 835959, 3825131; 836006, 3825107; 836055, 3825104; 836174, 3825107; 836273, 3825118; 836381, 3825149; 836456, 3825189; 836574, 3825237; 836669, 3825271; 836728, 3825297; 836846, 3825328; 836993, 3825371; 837057, 3825385; 837100, 3825417; 837138, 3825477; 837178, 3825523; 837233, 3825562; 837353, 3825617; 837401, 3825649; 837442, 3825670; 837480, 3825681; 837502, 3825695; 837513, 3825712; 837550, 3825580; 837560, 3825486; 837570, 3825256; 837584, 3825186; returning to 837608, 3825140.

(ii) **Note:** Unit VEN–1 is depicted on Map M27—Unit VEN–1 and VEN–2—see paragraph (52)(ii):

(52) Unit VEN–2, Ventura County, California.

(i) From USGS 1:24,000 scale quadrangle Matilija, Ojai, Ventura. Land bounded by the following UTM Zone 11, NAD27 coordinates (E,N): 844594, 3816280; 844644, 3816240; 844712, 3816268; 844762, 3816280; 844824, 3816280; 844885, 3816280; 844941, 3816280; 845008, 3816280; 845070, 3816280; 845131, 3816274; 845182, 3816274; 845226, 3816274; 845266, 3816257; 845310, 3816235; 845333, 3816196; 845350, 3816162; 845378, 3816134; 845445, 3816106; 845517, 3816005; 845545, 3815972; 845545, 3815888; 845534, 3815832; 845517, 3815798; 845456, 3815748; 845445, 3815709; 845434, 3815658; 845411, 3815586; 845411, 3815519; 845355, 3815435; 845327, 3815367; 845299, 3815317; 845277, 3815311; 845198, 3815306; 845109, 3815244; 845073, 3815219; 845047, 3815211; 845021, 3815180; 844997, 3815133; 844957, 3815057; 844910, 3814996; 844863, 3814920; 844844, 3814904; 844836, 3814900; 844832, 3814898; 844827, 3814896; 844821, 3814894; 844816, 3814892; 844810, 3814891; 844804, 3814890; 844801, 3814890; 844800, 3814890; 844734, 3814819; 844689, 3814757; 844633, 3814696; 844572, 3814645; 844521, 3814623; 844449, 3814606; 844415, 3814556; 844281, 3814466; 844253, 3814405; 844219, 3814304; 844214, 3814254; 844180, 3814198; 844197, 3814153; 844247, 3814108; 844279, 3814086; 844300, 3814084; 844309, 3814075; 844394, 3813896; 844426, 3813780; 844359, 3813574; 844296, 3813471; 844296, 3813391; 844314, 3813310; 844327, 3813265; 844327, 3813264; 844323, 3813264; 844277, 3813240; 844238, 3813212; 844220, 3813185; 844204, 3813146; 844186, 3813036; 844158, 3813018; 844085, 3813032; 844019, 3813037; 843964, 3813027; 843917, 3812984; 843891, 3812925; 843883, 3812880; 843855, 3812844; 843809, 3812841; 843684, 3812863; 843652, 3812857; 843631, 3812821; 843636, 3812683; 843623, 3812594; 843603, 3812556; 843575, 3812531; 843502, 3812514; 843428, 3812532; 843385, 3812532; 843348, 3812513; 843310, 3812394; 843273, 3812355; 843208, 3812350; 843013, 3812439; 842960, 3812441; 842918, 3812419; 842899, 3812375; 842900, 3812331; 842918, 3812245; 842929, 3812206; 842945, 3812168; 842968, 3812126; 842974, 3812087; 842952, 3812055; 842918, 3812029; 842824, 3811937; 842778, 3811920; 842734, 3811934; 842644, 3812000; 842591, 3812025; 842534, 3812033; 842487, 3812025; 842436, 3811982; 842325, 3811814; 842298, 3811809; 842227, 3811817; 842158, 3811809; 842014, 3811709; 841985, 3811654; 841972, 3811647; 841919, 3811609; 841861, 3811576; 841724, 3811547; 841680, 3811524; 841643, 3811484; 841614, 3811440; 841607, 3811386; 841608, 3811317; 841570, 3811276; 841501, 3811274; 841443, 3811267; 841417, 3811233; 841383, 3811113; 841381, 3811053; 841386, 3810985; 841385, 3810934; 841374, 3810905; 841348, 3810878; 841277, 3810822; 841256, 3810791; 841255, 3810600; 841234, 3810521; 841198,

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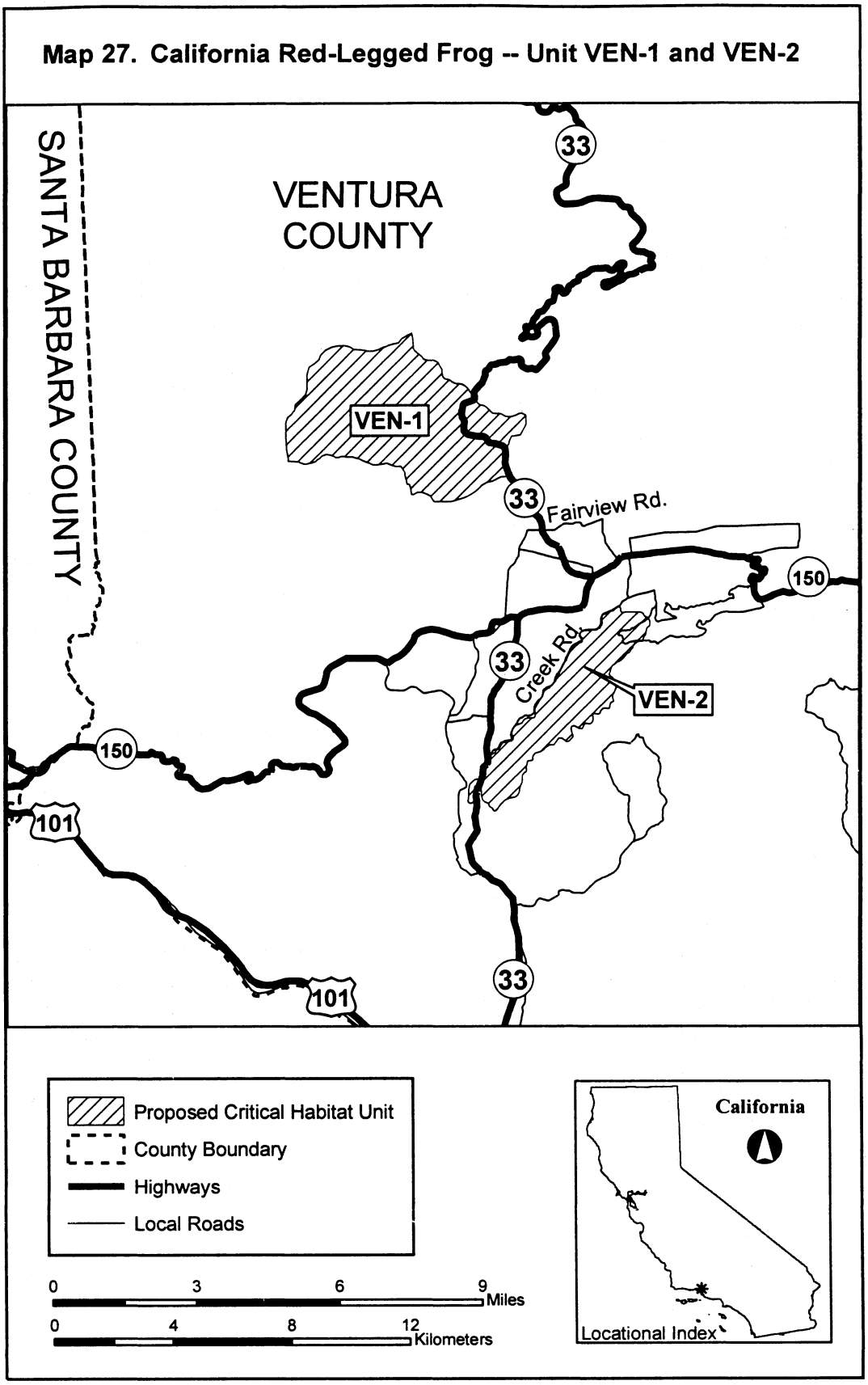
(ii) **Note:** Unit VEN–2 is depicted on Map M27—Unit VEN–1 and VEN–2—which follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(53) Unit VEN–3; Ventura County, California.

(i) From USGS 1:24,000 scale quadrangle Cobblestone Mtn., Whitaker Peak. Land bounded by the following UTM Zone 11, NAD27 coordinates (E,N): 889722, 3834648; 889736, 3834553; 889953, 3834430; 890062, 3834321; 890212, 3834209; 890225, 3834199; 890389, 3834145; 890538, 3834077; 890851, 3833941; 891001, 3833709; 891042, 3833600; 891246, 3833437; 891532, 3833287; 891592, 3833268; 891585, 3833256; 891479, 3833002; 891479, 3832747; 891585, 3832514; 891595, 3832484; 891669, 3832281; 891542, 3832048; 891457, 3831815; 891457, 3831412; 891457, 3831137; 891457, 3830925; 891182, 3830522; 890822, 3830522; 890567, 3830332; 890567, 3830056; 890567, 3829696; 890673, 3829463; 890970, 3829441; 890906, 3829230; 890779, 3828954; 890758, 3828721; 890758, 3828382; 890440, 3828339; 890272, 3828053; 890059, 3827640; 890059, 3827407; 889889, 3827259; 889790, 3827093; 889719, 3826975; 889707, 3826983; 889611, 3827021; 889566, 3827043; 889544, 3827069; 889531, 3827105; 889517, 3827167; 889496, 3827231; 889452, 3827290; 889389, 3827333; 889336, 3827384; 889305, 3827450; 889304, 3827453; 889303, 3827459; 889289, 3827525; 889261, 3827575; 889222, 3827618; 889062, 3827734; 889019, 3827777; 888953, 3827867; 888953, 3827867; 888942, 3827882; 888892, 3827956; 888850, 3827999; 888811, 3828021; 888765, 3828029; 888712, 3828033; 888643, 3828032; 888589, 3828035; 888543, 3828054; 888538, 3828055; 888485, 3828076; 888369, 3828152; 888287, 3828188; 888176, 3828226; 888078, 3828269; 887957, 3828329; 887810, 3828423; 887755, 3828447; 887698, 3828442; 887646, 3828443; 887583, 3828460; 887470, 3828500; 887465, 3828503; 887427, 3828527; 887411, 3828543; 887378, 3828604; 887330, 3828653; 887292, 3828674; 887250, 3828683; 887209, 3828703; 887167, 3828712; 887109, 3828731; 887077, 3828734; 887151, 3828961; 887273, 3829247; 887450, 3829369; 887504, 3829546; 887504, 3829832; 887572, 3830036; 887545, 3830145; 887382, 3830199; 887164, 3830308; 887137, 3830362; 887028, 3830417; 886879, 3830485; 886729, 3830580; 886579, 3830648; 886375, 3830716; 886266, 3831111; 886035, 3831274; 885899, 3831288; 885709, 3831301; 885518, 3831301; 885341, 3831356; 885164, 3831437; 885151, 3831614; 885096, 3831723; 884919, 3831737; 884743, 3831900; 884675, 3832104; 884552, 3832158; 884334, 3832322; 884239, 3832362; 884171, 3832471; 883994, 3832566; 883763, 3832811; 883709, 3832961; 883695, 3833151; 883790, 3833328; 883491, 3833927; 883273, 3834090; 883382, 3834253; 883600, 3834430; 883790, 3834485; 883954, 3834512; 884117, 3834512; 884253, 3834485; 884389, 3834471; 884566, 3834471; 884770, 3834458; 884988, 3834458; 885151, 3834458; 885341, 3834430; 885518, 3834430; 885736, 3834430; 885994, 3834430; 886321, 3834498; 886933, 3834539; 887205, 3834403; 887328, 3834403; 887532, 3834240; 887544, 3834257; 887613, 3834349; 887872, 3834349; 888076, 3834444; 888280, 3834621; 888525, 3834689; 888824, 3834621; 889028, 3834716; 889341, 3834947; 889491, 3835002; 889640, 3835002; 889722, 3834879; 889722, 3834743; returning to 889722, 3834648.

(ii) **Note:** Unit VEN–3 is depicted on Map M28—Unit VEN–3 and LOS–1—see paragraph (54)(ii):

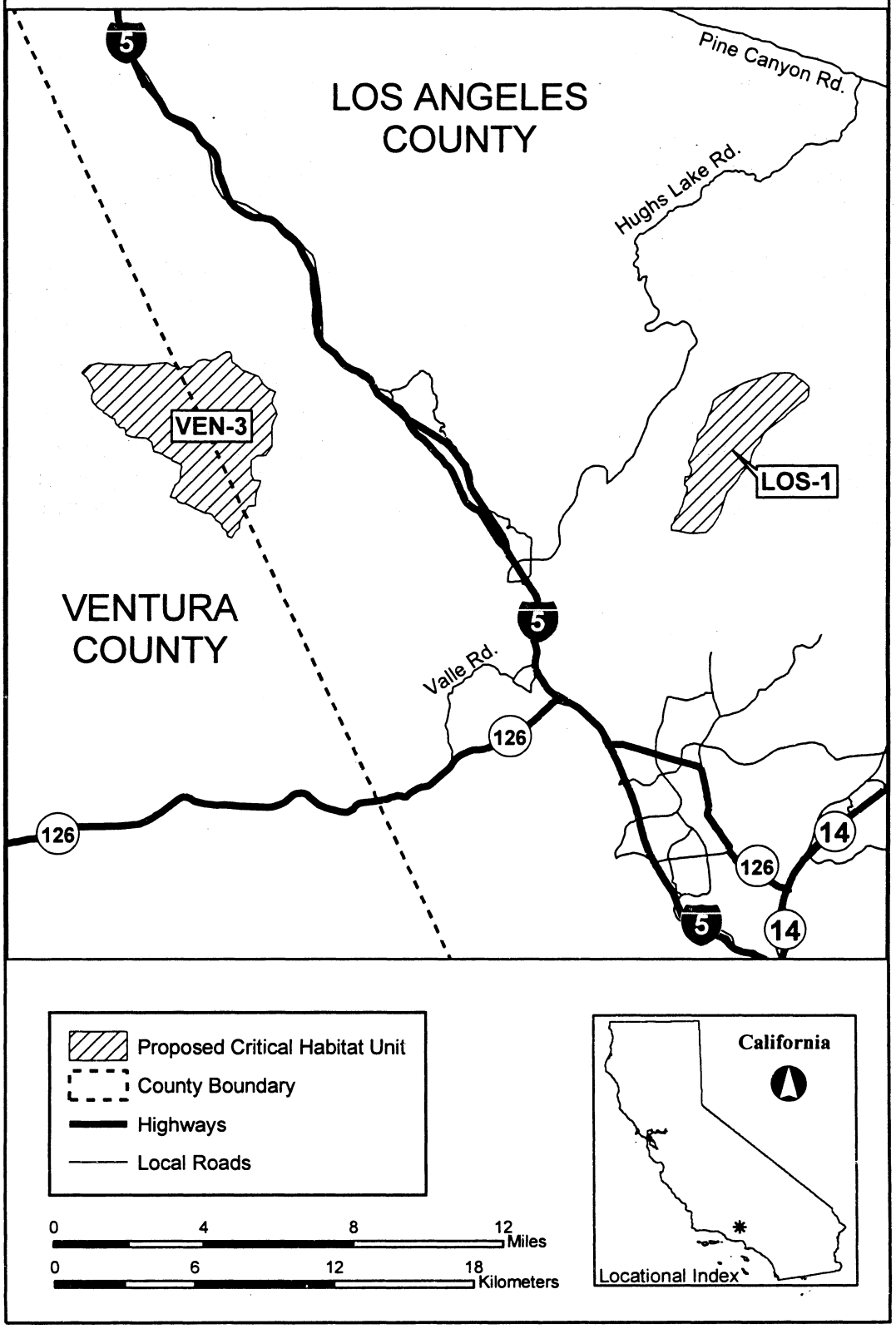
(54) Unit LOS–1, Los Angeles County, California.

(i) From USGS 1:24,000 scale quadrangle Warm Springs Mountain, Green Valley. Land bounded by the following UTM Zone 11, NAD27 coordinates (E,N): 909672, 3827197; 909460, 3827183; 908957, 3827270; 908956, 3827270; 908613, 3827329; 908613, 3827528; 908732, 3827634; 908772, 3827845; 908930, 3828017; 908970, 3828176; 909089, 3828362; 909169, 3828706; 909288, 3829010; 909288, 3829196; 909169, 3829275; 909182, 3829434; 909222, 3829606; 909407, 3829633; 909486, 3829871; 909486, 3829964; 909394, 3830096; 909354, 3830308; 909513, 3830573; 909592, 3830890; 909698, 3831089; 909751, 3831433; 909910, 3831645; 910056, 3831830; 910135, 3832042; 910201, 3832267; 910281, 3832386; 910334, 3832532; 910413, 3832889; 910691, 3833114; 911711, 3833657; 911922, 3833737; 912174, 3833829; 912518, 3833909; 912902, 3834068; 913167, 3834081; 913604, 3834107; 913882, 3834041; 913917, 3834003; 913968, 3833948; 914041, 3833869; 914119, 3833818; 914160, 3833791; 914345, 3833670; 914403, 3833604; 914455, 3833544; 914517, 3833472; 914491, 3833273; 914477, 3833088; 914458, 3833058; 914457, 3833058; 914375, 3832935; 914357, 3832908; 914345, 3832889; 914173, 3832797; 913961, 3832638; 913630, 3832360; 913458, 3832161; 912995, 3831830; 912770, 3831658; 912584, 3831473; 912478, 3831287; 912425, 3831115; 912320, 3830983; 912174, 3830811; 912081, 3830559; 912028, 3830400; 912002, 3830228; 911856, 3830043; 911737, 3829884; 911578, 3829699; 911433, 3829447; 911115, 3829077; 911009, 3828971; 910929, 3828772; 910837, 3828441; 910744, 3828110; 910612, 3827845; 910400, 3827528; 910095, 3827223; 909986, 3827216; 909973, 3827216; returning to 909672, 3827197.

(ii) **Note:** Unit LOS–1 is depicted on Map M28—Unit VEN–3 and LOS–1—which follows:

BILLING CODE 4310–55–P

Map 28. California Red-Legged Frog -- Unit VEN-3 and LOS-1



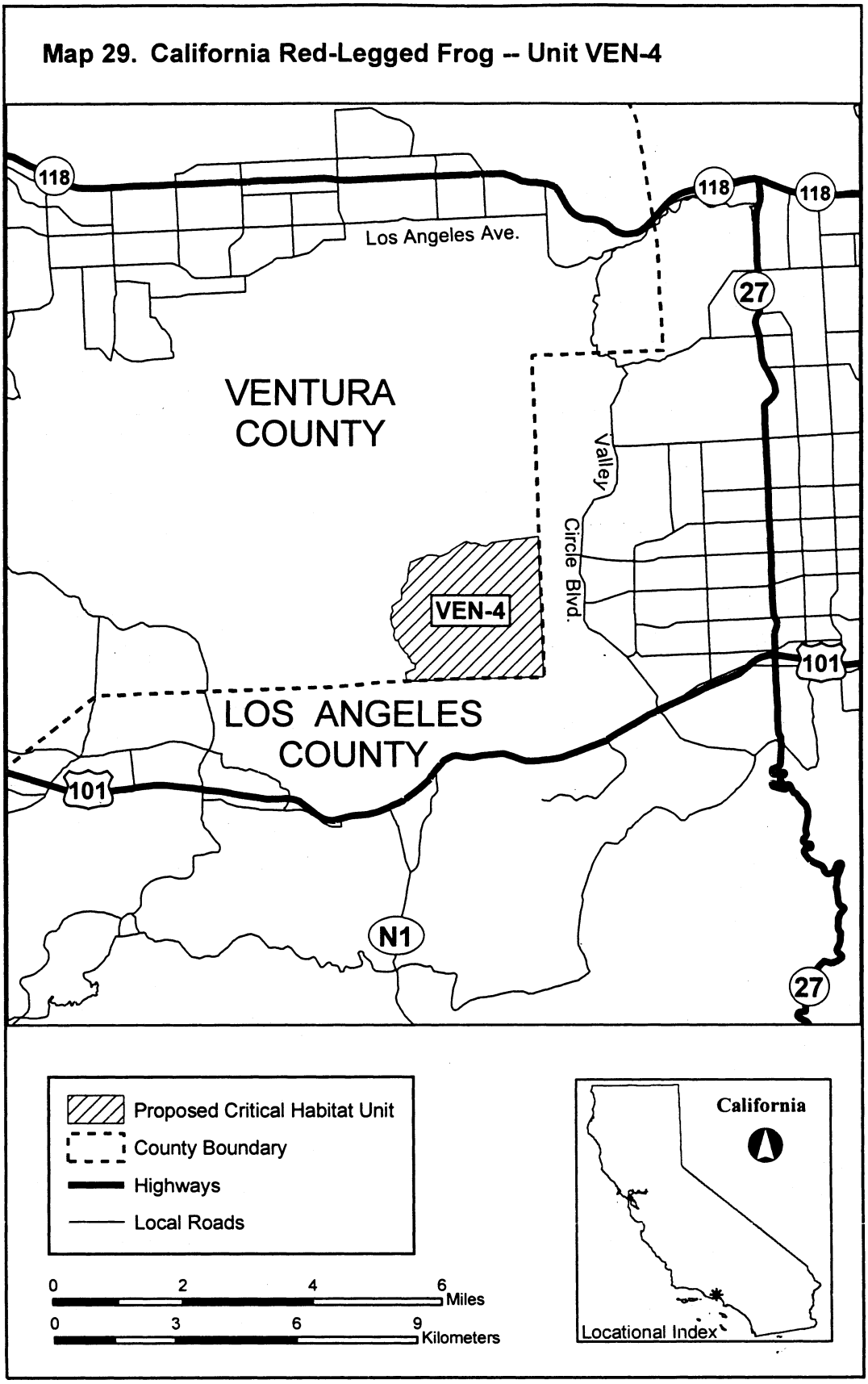
BILLING CODE 4310–55–C

(55) Unit VEN–4, Ventura County, California.

(i) From USGS 1:24,000 scale quadrangle Calabasas. Land bounded by the following UTM Zone 11, NAD27 coordinates (E,N): 899260, 3792780; 899269, 3792341; 899271, 3792289; 899274, 3792130; 899282, 3791776; 899351, 3790160; 899387, 3789294; 897330, 3789240; 896183, 3789194; 896137, 3789194; 896134, 3789194; 896131, 3789196; 896109, 3789195; 896104, 3789194; 895982, 3789189; 895982, 3789189; 895980, 3789195; 895953, 3789402; 895961, 3789404; 896201, 3789495; 896208, 3789616; 896103, 3789653; 896099, 3789667; 896085, 3789717; 896032, 3789763; 896028, 3789785; 896015, 3789854; 895941, 3789898; 895812, 3790075; 895770, 3790185; 895733, 3790192; 895705, 3790200; 895653, 3790333; 895682, 3790410; 895672, 3790492; 895613, 3790598; 895613, 3790675; 895579, 3790719; 895602, 3790853; 895636, 3790892; 895649, 3790906; 895618, 3790990; 895605, 3791026; 895859, 3791213; 895850, 3791451; 895997, 3791667; 896034, 3791978; 896036, 3791986; 896068, 3792126; 896100, 3792140; 896328, 3792238; 896351, 3792233; 896416, 3792259; 896500, 3792312; 896720, 3792313; 896781, 3792288; 896824, 3792288; 896859, 3792293; 896971, 3792344; 897000, 3792353; 897054, 3792392; 897080, 3792419; 897107, 3792440; 897231, 3792517; 897264, 3792545; 897306, 3792570; 897458, 3792664; 897591, 3792609; 897679, 3792610; 897729, 3792605; 897784, 3792588; 897838, 3792560; 897897, 3792541; 897951, 3792534; 898097, 3792625; 899251, 3792779; returning to 899260, 3792780.

(ii) **Note:** Unit VEN–4 (Map M29) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

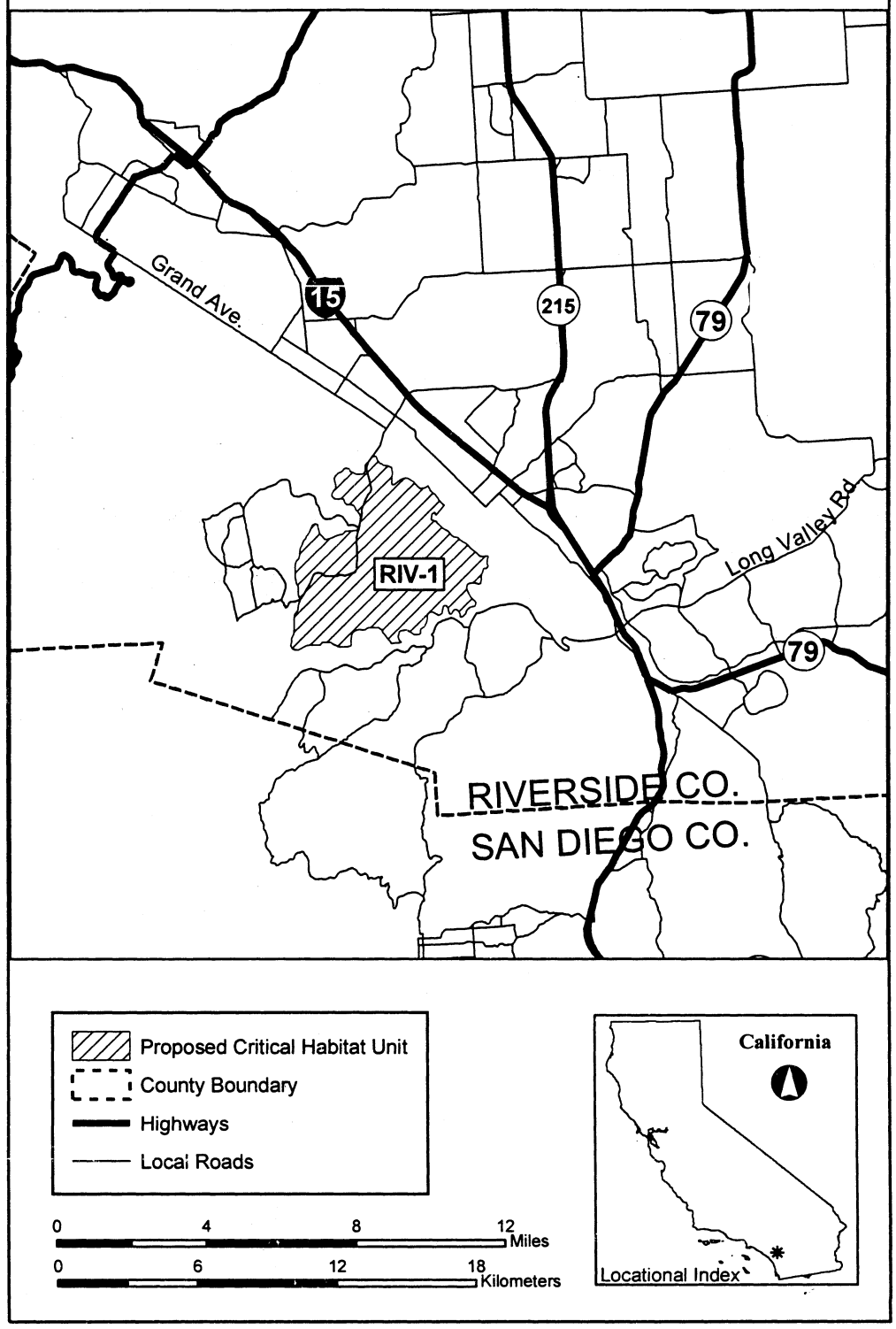
(56) Unit RIV–1, Riverside County, California.

(i) From USGS 1:24,000 scale quadrangle Wildomar, Murrieta, Fallbrook. Land bounded by the following UTM Zone 11, NAD27 coordinates (E,N): 103373, 3728915; 103371, 3728747; 103370, 3728602; 103370, 3728505; 103370, 3728384; 103372, 3728382; 103380, 3728375; 103394, 3728487; 103405, 3728580; 103422, 3728654; 103440, 3728654; 103446, 3728608; 103466, 3728510; 103476, 3728351; 103488, 3728249; 103492, 3728212; 103509, 3728221; 103515, 3728258; 103527, 3728333; 103538, 3728100; 103558, 3727941; 103568, 3727830; 103574, 3727718; 103588, 3727559; 103596, 3727494; 103586, 3727354; 103562, 3727075; 103561, 3727051; 103559, 3727100; 103557, 3727167; 103556, 3727178; 103552, 3727166; 103548, 3727130; 103543, 3727115; 103543, 3727082; 103543, 3727042; 103540, 3726844; 103550, 3726824; 103555, 3726803; 103557, 3726792; 103558, 3726784; 103559, 3726772; 103563, 3726808; 103565, 3726736; 103591, 3726494; 103602, 3726427; 103615, 3726346; 103630, 3726185; 103639, 3726105; 103655, 3726091; 103663, 3725984; 103688, 3725863; 103690, 3725849; 103693, 3725821; 103693, 3725821; 103700, 3725742; 103709, 3725648; 103732, 3725446; 103743, 3725379; 103753, 3725258; 103765, 3725258; 103767, 3725258; 103782, 3725299; 103787, 3725285; 103784, 3725109; 103784, 3725109; 103783, 3725070; 103783, 3724923; 103786, 3724868; 103786, 3724868; 103786, 3724865; 103784, 3724829; 103784, 3724829; 103782, 3724794; 103782, 3724794; 103782, 3724789; 103776, 3724736; 103768, 3724736; 103764, 3724669; 103762, 3724594; 103762, 3724583; 103756, 3724493; 103756, 3724431; 103756, 3724354; 103756, 3724297; 103756, 3724218; 103756, 3724211; 103755, 3724121; 103746, 3724073; 103734, 3724130; 103734, 3724130; 103721, 3724135; 103700, 3724106; 103697, 3724045; 103697, 3724044; 103696, 3723988; 103694, 3723901; 103702, 3723686; 103712, 3723519; 103725, 3723391; 103733, 3723305; 103730, 3723119; 103720, 3723109; 103716, 3723095; 103716, 3723095; 103711, 3723077; 103702, 3723044; 103694, 3722932; 103689, 3722834; 103689, 3722830; 103678, 3722671; 103667, 3722662; 103667, 3722774; 103660, 3722895; 103654, 3722949; 103650, 3722988; 103642, 3722988; 103641, 3722988; 103632, 3722867; 103627, 3722783; 103620, 3722802; 103615, 3722904; 103613, 3723063; 103608, 3723147; 103595, 3723147; 103590, 3722979; 103588, 3722839; 103579, 3722765; 103572, 3722746; 103561, 3722802; 103547, 3722876; 103532, 3722876; 103532, 3722876; 103524, 3722774; 103524, 3722681; 103524, 3722681; 103524, 3722616; 103521, 3722420; 103509, 3722243; 103496, 3722150; 103496, 3721973; 103487, 3721898; 103467, 3721889; 103452, 3722001; 103441, 3722075; 103439, 3722084; 103428, 3722103; 103404, 3722038; 103397, 3721805; 103401, 3721693; 103403, 3721673; 103412, 3721572; 103402, 3721535; 103385, 3721535; 103382, 3721535; 103382, 3721535; 103368, 3721525; 103363, 3721618; 103351, 3721740; 103344, 3721833; 103337, 3721898; 103333, 3721991; 103327, 3722112; 103320, 3722163; 103314, 3722206; 103306, 3722206; 103306, 3722206; 103296, 3722206; 103285, 3722206; 103267, 3722206; 103253, 3722112; 103250, 3722112; 103241, 3722112; 103223, 3722112; 103223, 3722112; 103222, 3722112; 103207, 3722056; 103201, 3721955; 103196, 3721870; 103194, 3721712; 103194, 3721563; 103195, 3721441; 103182, 3721385; 103172, 3721367; 103145, 3721367; 103125, 3721451; 103119, 3721482; 103115, 3721504; 103104, 3721563; 103088, 3721572; 103080, 3721563; 103070, 3721553; 103066, 3721510; 103061, 3721460; 103039, 3721460; 103020, 3721460; 103001, 3721441; 102965, 3721236; 102953, 3721236; 102940, 3721302; 102935, 3721402; 102935, 3721402; 102934, 3721423; 102939, 3721637; 102939, 3721674; 102939, 3721768; 102949, 3721954; 102949, 3722140; 102949, 3722299; 102949, 3722427; 102949, 3722427; 102949, 3722466; 102949, 3722581; 102949, 3722616; 102949, 3722635; 102952, 3722766; 102953, 3722811; 102959, 3722889; 102959, 3722889; 102963, 3722932; 102965, 3723100; 102967, 3723231; 102973, 3723389; 102967, 3723613; 102967, 3723808; 102967, 3723976; 102959, 3724088; 102953, 3724330; 102953, 3724535; 102953, 3724722; 102953, 3724899; 102958, 3725048; 102967, 3725160; 102972, 3725290; 102972, 3725458; 102974, 3725598; 102982, 3725793; 102988, 3725952; 102999, 3726073; 103000, 3726110; 103015, 3726315; 103022, 3726502; 103027, 3726623; 103039, 3726679; 103050, 3726641; 103050, 3726511; 103058, 3726269; 103072, 3726119; 103078, 3726045; 103081, 3726008; 103089, 3725998; 103111, 3726064; 103124, 3726138; 103137, 3726194; 103158, 3726231; 103172, 3726371; 103191, 3726371; 103206, 3726390; 103220, 3726390; 103227, 3726548; 103234, 3726809; 103234, 3726958; 103234, 3727051; 103222, 3727210; 103214, 3727275; 103213, 3727331; 103206, 3727461; 103196, 3727499; 103183, 3727499; 103175, 3727499; 103167, 3727592; 103162, 3727732; 103156, 3727769; 103147, 3727769; 103136, 3727732; 103129, 3727732; 103120, 3727788; 103112, 3727862; 103112, 3727965; 103117, 3728095; 103126, 3728179; 103129, 3728291; 103128, 3728384; 103122, 3728542; 103120, 3728636; 103126, 3728766; 103140, 3728878; 103155, 3728943; 103163, 3729046; 103171, 3729092; 103186, 3729074; 103190, 3728952; 103203, 3728906; 103213, 3728850; 103227, 3728831; 103241, 3728831; 103249, 3728878; 103256, 3729018; 103256, 3729241; 103268, 3729372; 103279, 3729512; 103290, 3729595; 103302, 3729595; 103309, 3729437; 103314, 3729342; 103316, 3729316; 103325, 3729288; 103335, 3729223; 103352, 3729204; 103366, 3729138; 103368, 3729130; returning to 103373, 3728915.

(ii) **Note:** Unit RIV–1 is depicted on Map M30—Unit RIV–1 and RIV–2—see paragraph (57)(ii):

(iii) **Note:** Unit RIV–1 (Map M30) follows:

Map 30. California Red-Legged Frog -- Unit RIV-1



Dated: October 24, 2005.

Craig Manson,

Assistant Secretary of Fish and Wildlife and Parks.

[FR Doc. 05–21594 Filed 11–2–05; 8:45 am]

BILLING CODE 4310–55–C

Federal Register

Thursday,
November 3, 2005

Part III

Department of Homeland Security

Coast Guard

33 CFR Parts 155 and 157

46 CFR Part 162

Pollution Prevention Equipment; Proposed Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 155 and 157

46 CFR Part 162

[USCG–2004–18939]

RIN 1625–AA90

Pollution Prevention Equipment

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise its pollution prevention equipment regulations to make them consistent with new International Maritime Organization (IMO) guidelines and specifications issued under the International Convention for the Prevention of Pollution from Ships (MARPOL) Annex I. These revisions should effectively implement MARPOL Annex I regulations, reduce the amount of oil discharged from vessels, and eliminate the use of ozone-depleting solvents in equipment tests. The proposed rule would require newly constructed vessels carrying oil in bulk to install cargo monitors that meet revised standards and require all vessels replacing or installing oil separators and bilge alarms to install equipment that meets revised standards. Tests for approval of this equipment would also be revised both to deal with common bilge contaminants and to eliminate the use of ozone-depleting solvents.

DATES: Comments and related material must reach the Docket Management Facility on or before February 1, 2006.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2004–18939 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Web Site: *http://dms.dot.gov.*

(2) Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

(3) Fax: 202–493–2251.

(4) 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. The telephone number is 202–366–9329.

(5) Federal eRulemaking Portal: *http://www.regulations.gov.*

You may inspect the material proposed for incorporation by reference at room 1300, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–6640. Copies of the material are available as indicated in the ''Incorporation by Reference'' section of this preamble.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Lieutenant Commander George Grills, Systems Engineering Division (G–MSE–3), Office of Design and Engineering Standards, U.S. Coast Guard, telephone 202–267–6640. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

Preamble Organization

This preamble is organized as follows:

Public Participation and Request for Comments
Submitting comments
Viewing comments and documents
Privacy Act
Public Meeting
Background and Purpose
Which vessels would this proposed rule affect?
Regulatory History
Discussion of Proposed Rule
Incorporation by Reference
Regulatory Evaluation
Background
Proposed Action
Applicability
Costs
Benefits
Smal Entities
Assistance for Small Entities
Collection of Information
Federalism
Undated Mandates Reform Act
Taking of Private Property
Civil Justice Reform
Protection of Children
Indian Tribal Governments
Energy Effects
Technical Standards
Environment

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://dms.dot.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this rulemaking (USCG–2004–18939), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in 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.

Privacy Act: Anyone can 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 the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Under the Act to Prevent Pollution from Ships, Pub. L. 96–478, sections 2 and 4, 94 Stat. 2297, 2298 (Oct. 21, 1980), 33 U.S.C. 1901 and 1903, the Secretary of the Department in which the Coast Guard is operating is authorized to prescribe any necessary or desired regulations to carry out the provisions of the Act and of Annexes I and II of the International Convention

for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to that Convention (MARPOL 73/78). Under the Act of August 26, 1983, Pub. L. 98–89, 97 Stat. 500, 504, 522, subtitle II of title 46 of the U.S. Code, specifically 46 U.S.C. 3703, the Secretary in which the Coast Guard is operating is authorized to issue equipment regulations for vessels carrying liquid bulk dangerous cargo, including oil. Authority under both of these acts has been delegated to the Coast Guard under Department of Homeland Security Delegation No. 0170.1 (2)(77) and (92)(b).

For some time, it has been well understood by the international maritime community that existing pollution prevention equipment (PPE) is not adequately designed to process bilge wastes. Pollution prevention equipment on vessels encounter bilge wastes that are not replicated in test fluids used for certifying and approving PPE. This has led to release of more oil into the marine environment than desired. Of specific concern has been emulsified oil in water, surfactants (for example, detergents), and other contaminants typically found in bilge water.

A second problem concerned the method by which oil content is measured in effluent samples during the approval process. Existing methods require the use of ozone-depleting solvents, specifically carbon tetrachloride and Freon 113 (CFC 113). Both an international treaty and laws of the United States call for phasing out the use of these solvents. Therefore, an alternative test method was desired.

Having identified these concerns, the International Maritime Organization's (IMO) Marine Environment Protection Committee (MEPC) instructed the Ship Design and Equipment subcommittee to develop new performance standards to replace those referenced in MARPOL Annex I. The Ship Design and Equipment subcommittee drafted new resolutions, in which the U.S. participated, that were ultimately approved by the MEPC at its 49th session in July 2003 and designated as MEPC.107(49) and MEPC.108(49).

Which Vessels Would This Proposed Rule Affect?

Our proposed rule would not change the type or class of vessels that require a cargo monitor, oily-water separator (OWS), or bilge alarm under 33 CFR part 155, subpart B, or 33 CFR part 157; it would only require that such equipment meet new pollution prevention standards.

Regulatory History

Even before Annex I of MARPOL 73/78 came into force internationally in 1983, the Coast Guard issued a final rule (44 FR 53352, September 13, 1979) containing PPE design and approval requirements. On December 31, 2003, the Coast Guard published in the **Federal Register** (68 FR 75603) a notice of policy informing the public of the new MEPC resolutions, our desire to update 46 CFR subpart 162.050, and our willingness to consider alternatives to the performance and testing standards in part 162.050.

Discussion of Proposed Rule

The proposed rule would revise 46 CFR subpart 162.050 to reflect the new IMO PPE guidelines and specifications that governments have been invited to apply on or after January 1, 2005, to their implementation of MARPOL Annex I regulations. The proposed rule would also align 46 CFR subpart 162.050 more closely with the IMO PPE guidelines by removing the bilge monitor standard. The six factors that were considered in the decision to propose to remove the bilge monitor follow:

1. A bilge monitor includes a 100 parts per million (ppm) performance standard that is no longer an allowed discharge concentration of oil at sea nationally or internationally.

2. There is no longer an equivalent to a bilge monitor requirement in the IMO guidelines or MARPOL Annex I. The IMO resolutions and Annex I call for three types of PPE equipment: cargo monitors, oil separators and bilge alarms. In addition to these three types of equipment, the equipment that can obtain approval under subpart 162.050 currently also includes bilge monitors. Retaining the bilge monitor design and approval standards in the proposed subpart 162.050 results in unique testing and performance requirements inconsistent with international standards.

3. According to our records, the Coast Guard has not received an approval application for a bilge monitor in more than a decade.

4. Only four bilge monitors are listed in the Coast Guard equipment database and only one of those has maintained an ''approved'' status. All the others are ''former-may use'' or ''expired.''

5. There are no specific requirements in the current regulations for installing a bilge monitor—it is an alternative to installation of a bilge alarm.

6. The new bilge alarm requirements incorporate a recording function which, other than the 100-ppm alarm, was the major difference between the bilge alarm and bilge monitor. As proposed, a bilge monitor requirement in the proposed subpart 162.050 would be both redundant and obsolete.

Unlike many of the engineering references incorporated into our current regulations, subpart 162.050 contains text taken in large part from the IMO documents detailing the performance and testing requirements. Two options exist for updating subpart 162.050:

1. Replace existing regulatory text with detailed text implementing the new IMO standards by describing them; or

2. Replace existing regulatory text with new text that relies heavily on incorporating the new standards by reference to resolutions MEPC.107(49) and MEPC.108(49), and ISO 9377–2.

In seeking to avoid conflicts between Coast Guard PPE regulations and MARPOL Annex I guidelines and specifications that Member States are invited to make applicable on or after January 1, 2005, we considered incorporating the MARPOL guidelines and specifications by reference—and not have any differences between the MARPOL guidelines and specifications and Coast Guard PPE standards—but we decided to maintain some differences.

Some of our regulations will be more specific and concrete than the MARPOL Annex I guidelines and specifications. We will, for example, specify when and where inclination tests will be performed. These differences are intended to make the regulations easier to enforce and more likely to ensure that the oil-release-reduction goals of the MARPOL Annex I guidelines and specifications are met.

Incorporation by Reference

New material proposed for incorporation by reference is added in both 33 CFR 157.02 and 46 CFR 162.050–4. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES.** Copies of the material are available from the sources listed in §§ 157.02 and 162.050–4.

Before publishing a binding rule, we will submit copies of all of the proposed new material to the Director of the Office of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under

section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. A draft Regulatory Evaluation follows:

Background

This NPRM proposes to change the performance standards of oily-water separators (OWS), bilge alarms, and cargo monitors to meet the revised guidelines and specifications for the MARPOL Annex I standards.

In analyzing the cost impact of this proposed rule, we considered the increase in cost to buyers of new vessels who must install new pollution prevention equipment meeting the revised standards, and owners and operators of existing vessels who must replace old equipment with the new pollution prevention equipment.

Proposed Action

The Coast Guard proposes to make the following changes to pollution prevention equipment performance standards, outlined in 46 CFR part 162, subpart 162.050:

- Remove the requirement for a bilge monitor;
- Require OWSs to effectively process emulsified oils, surfactants, and contaminants;
- Change standards for the bilge alarm which must now: 1. Pass new tests using emulsified oil and contaminants; 2. have a ppm display; 3. display each change in oil content of the mixture it is measuring within 5 seconds after the change occurs instead of every 20 seconds; 4. limit access to the bilge alarm beyond checking instrument drift must be limited; repeatability of the instrument reading and the ability to re-zero the instrument must require the breaking of a seal; 5. activate its alarm whenever clean water is used for cleaning or zeroing purposes; and 6. record date, time, alarm status, and operating status of the 15 ppm bilge separator. The recording device must also store data for at least 18 months and be able to display or print a protocol. In the event the 15 ppm bilge alarm is replaced, means must be provided to ensure the data recorded remains available on board for 18 months; and,
- Change standards for cargo monitors that are used with category C and D oil-like noxious liquid substances. Based on our research, we found that the manufacturers of cargo monitors, plan to sell these monitors meeting the new standards for approximately the same retail price as the old equipment. Therefore, there is no additional cost to vessel owners for this requirement.

We expect there to be no additional cost to industry for removing the requirement for bilge monitors, or changing standards for cargo monitors because there will be no change in cost for installation, operation, and maintenance.

Applicability

This proposed rule applies to all ocean-going vessels that operate in U.S. waters. Foreign vessels in compliance with MARPOL need not prove compliance with the domestic equipment approval standards. Therefore, this rule primarily affects U.S. flag vessels.

The vessels impacted by the proposed changes for the bilge alarm and the OWS are described in 33 CFR 155.380, and are divided into three main categories:

- 33 CFR 155.350—Oceangoing vessels of less than 400 gross tons (GT). These vessels are not required to have the equipment on board if they have the capacity to retain on board all oily mixtures and can discharge these oily mixtures to a reception facility. Certain vessels, in this category that embark on international voyages, however, are required to have an International Pollution Prevention Certificate (IOPP) that requires them to have pollution prevention equipment on board. Based on Coast Guard data, we estimate that 30 percent of the fleet have the IOPP Certificate and have OWSs and bilge alarms on board.
- Oceangoing vessels of 400 GT and above, but less than 10,000 GT. The current regulations require all vessels in this category to have an installed OWS and if the vessel ballasts the fuel tanks and/or plans to discharge through the OWS within 12 nm of land the vessel must also have a bilge alarm. Additionally, vessels in this category that embark on international voyages, which are required to have an IOPP Certificate, have the pollution prevention equipment on board. Based on Coast Guard and industry information, we assume the majority of new construction oceangoing vessels have bilge alarms and the OWSs on board.
- 33 CFR 155.370—Oceangoing vessels of 10,000 GT and above. The current regulation requires all oceangoing vessels in this tonnage range to have both an OWS and bilge alarm. We assume all of these vessels comply with these regulations and have the equipment.

Costs

The following vessel population estimates are based on 2004 Coast Guard data. There are approximately 86 new oceangoing vessels built per year that would be affected by this proposed rule. Of these, approximately 29 new vessels are 400 GT or greater and must meet the new requirements to have bilge alarms and oily water separators that meet the new standards. Of the remaining 57 vessels less than 400 GT, we assume 30 percent, or approximately 17 vessels, will be installing the equipment because they will embarking on international voyages and are required to carry pollution prevention equipment.

All existing vessels subject to these PPE regulations, approximately 5,838 U.S. flag vessels, must install equipment that meets the new standards whenever the owners or operators replace the equipment. Based on Coast Guard data, we assume that the entire existing fleet of vessels 400 GT and over will update its equipment as it breaks down over the next 20 years, which is approximately the length of service for these U.S. flag vessels. We assume that the 30 percent of the fleet below 400 GT that has this equipment on board will also update it once over the service life of the vessel.

The cost of this proposed rule to vessel owners is the additional price owners must pay for the higher-priced pollution prevention equipment that meets the new MARPOL standards. The owners and operators of existing vessels would face no immediate mandatory implementation costs from this proposed rule, but they would face ongoing costs as they update equipment or install new equipment on new vessels.

We calculated the cost of the rulemaking for the next 10 years (2005–2014), which is a long enough period of analysis to capture the majority of the future costs of this rulemaking. This follows OMB's guidance that the ending point for calculating costs ''should be far enough in the future to encompass all significant benefits and costs likely to result from the rule'' (see OMB Circular A–4, page 31). However, in other cases, simply presenting annualized costs are sufficient. For example, OMB's Circular A–4 (page 36) notes that if the expected flow of costs is constant over time, then annualizing the cost stream is sufficient and further discounting is unnecessary. That said, for this rulemaking we would have been on safe ground simply reporting annualized costs.

For vessel owners and operators that would be replacing equipment once over the service life of the vessel or once every twenty years, we assume that five percent of the affected population would update their equipment for each year in the 10-year period of analysis.

We considered possible increases in the operation and maintenance (O&M) costs. Based on Coast Guard and industry information, we estimate that the O&M cost of the new equipment would not be more than the O&M costs of the existing equipment, and in some instances would cost less. Therefore, we assume that there would be no significant increases in O&M costs, since vessels routinely face similar costs for existing installed equipment.

For OWSs, there is a wide range in the price of the equipment depending on flow rates and levels of technological capability. Based on discussions with manufacturers, we find that there is currently considerable variability in market prices as suppliers begin to market and sell the new equipment. Still, we believe we have estimated average price increases that are reasonably accurate. We separated the vessel categories into the three groups discussed earlier, and assume an average price increase of:

- $8,000 for vessels below 400 GT;
- $12,000 for vessels 400 GT or more and less than 10,000 GT; and
- $18,000 for vessels 10,000 GT and over.

For bilge alarms, there is less of a variation in the price. The change in the price ranges from approximately $400 to $1,500 and we assume an average price increase of $1,000 for all vessel categories.

Thus, the total price increase for both oily water separators and bilge alarms combined is:

- $9,000 for vessels below 400 GT;
- $13,000 for vessels 400 GT or more and less than 10,000 GT; and
- $19,000 for vessels 10,000 GT and over.

We estimate the total annual cost for new vessels is $548,000 and the total annual cost for existing vessels is $2,298,000. See Tables 1 and 2 below for details on the calculations of the annual costs.

TABLE 1.—ANNUAL COST OF OILY-WATER SEPARATORS (OWS) & BILGE ALARMS FOR NEW VESSELS

Vessel types	Price increase	Annually affected New vessels	Annual cost
<400 GT	$9,000	17	$153,000
≥400 GT and <10,000 GT	13,000	26	338,000
≥10,000 GT	19,000	3	57,000
Total		46	548,000

TABLE 2.—ANNUAL COST OF OWSS & BILGE ALARMS FOR EXISTING VESSELS

Vessel types	Price increase	Annually affected existing vessels (w/ 20-yr break-down rate)	Annual cost
<400 GT	$9,000	50	$450,000
≥400 GT and <10,000 GT	13,000	91	1,183,000
≥10,000 GT	19,000	35	665,000
Total		176	2,298,000

We estimate the total annual cost of this rule to industry would be $2,846,000 ($548,000 + $2,298,000). The present value of the total cost for the next 10 years is $21,388,531, based on a 7 percent discount rate, and $25,005,266, based on a 3 percent discount rate.

To the extent that shippers purchase equipment from U.S. suppliers, this is a transfer from shippers to suppliers.

To the extent that shippers will pass on these costs to their customers, these consumers and their customers will bear most of the burden of the rule. Given that vessel owners will phase in the equipment over 20 years, vessel owners may be more likely to try to absorb as much of this increase as possible over the first few years.

To the extent that vessel owners do eventually pass on costs to consumers, these price increases would be small given vessel owners and operators can spread these costs over thousands of voyages.

Benefits

The benefits of this proposed rule are mainly in the improved environmental conditions resulting from the use of PPE which meets higher standards of pollution prevention. The new OWSs will better handle the separation of emulsified oils, surfactants and contaminants from water whereas in previously approved units this may not have occurred. There would also be a broader range and volume of pollutants no longer released into the environment because of these new standards, which is a positive impact of this proposed rule.

Testing standards for pollution prevention equipment outlined in 46 CFR 162.050–39 currently require the use of the solvents carbon tetrachloride and Freon 113 (CFC 113), which have been phased out by the Montreal Protocol on Substances that Deplete the Ozone Layer. This proposed rule would require a new test protocol to be used for testing the oil separating capabilities of pollution prevention equipment—outlined in 46 CFR 162.050–39—that does not include these substances.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The small entities affected by the proposed rule are vessels owners required to install or replace pollution prevention equipment meeting the new standards on their vessels.

To analyze the financial impact of the proposed rule on small entities, we selected and analyzed a random sample of 360 vessels that is statistically representative of the target population

of 5,838. In the entire population, 2,780 companies own these 5,838 vessels. In the random sample, we found that 263 companies owned the 360 vessels. In this sample, 69 small companies owned 79 vessels, 47 large companies owned 99 vessels, the Federal government owned 26 vessels and we found 156 vessels with no revenue information available on their 146 owners.

We then assessed the impact of cost on the revenue of the companies with information that we identified as small entities, and broke them down by the percentage impact on revenue. The large majority of small entities (about 87 percent) face an impact on revenue between 0 and 4 percent. To be conservative, we assumed that all vessels with no available information on their ownership were owned by small entities. We further assumed that the percentage impact of annual cost on annual revenue was distributed in the same proportion as the small businesses for both the vessels with no information in the random sample, and for the entire target population. See Table 3 below for details.

TABLE 3.—IMPACT OF COST ON SMALL ENTITIES

Percent of annual revenue impact	Number of entities with known annual revenues	Percentage of entities with known annual revenues	Expanded number of entities with unknown annual revenues	Distribution of small entities in total population
0 – 1%	41	59	87	1,074
>1% – 4%	19	28	40	498
>4% – 10%	5	7	11	131
>10% – 20%	0	0	0	0
>20% – 30%	3	4	6	79
>30%	1	1	2	26
Total	69	100	146	1,807

* Some values may not total due to rounding.

Under the Clean Air Act, as amended, specifically under 42 U.S.C. 7671a, we must eliminate the use of ozone-depleting testing solvents in our current PPE regulations. Therefore, ''no action'' is not an option. Also, the United States is party to MARPOL Annex I. To effectively implement MARPOL Annex I regulations, we must revise our other PPE regulations to reflect that resolutions MEPC.107(49) and MEPC.108(49) have superseded resolutions MEPC.60(33) and A.586(14), respectively.

We believe the proposed regulations will have a minimal costs to small businesses. First, existing vessels are not required to immediately install pollution prevention equipment meeting the new standards, but only when they are replacing it, which could be over a long period of time. Second, 57 percent of vessel types in the small business category are below 400 GT, and owners of these vessels have the option of not installing pollution prevention equipment and instead discharging oily mixtures at a reception facility. Finally, the prices of OWS systems (the highest cost component of this proposed rule) vary widely depending on a range of factors including their technological capability, so that vessel owners can choose cheaper versions within the options available to them.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Lt. George Grills, Office of Systems Engineering (G–MSE–3), Coast Guard, telephone 202–267–6640. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

The paperwork burden associated with the manufacture, laboratory testing, approval tests, and marking of pollution prevention equipment is addressed in the existing collection of information, OMB #1625–0035, entitled ''Title 46 CFR Subchapter Q: Lifesaving, Electrical, and Engineering Equipment; Construction and Materials.'' This collection of information was approved by the Office of Management and Budget on December 10, 2002, and will expire after the 3-year approval period ends on December 31, 2005.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments or would either preempt State law or impose a substantial direct cost of compliance on them. Based on our survey of vessels expected to be effected, we have identified only 26 state-owned vessels that may be affected, and these vessels are already subject to regulation under the sections affected by the proposed amendments. Therefore, we conclude the proposed rule would not impose a substantial direct cost of compliance on State or local governments.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field

foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S. Ct. 1135 (March 6, 2000)). Our proposed rule would revise standards for pollution prevention equipment. Because the States may not regulate within this category, preemption under Executive Order 13132 is not an issue.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule uses the following new voluntary consensus standards:

1. IMO Assembly Resolution A.393(X)—Recommendation on International Performance and Test Specifications For Oily-Water Separating Equipment and Oil Content Meters;
2. IMO Assembly Resolution A.496(XII)—Guidelines and Specifications for Oil Discharge Monitoring and Control Systems for Oil Tankers;
3. IMO Assembly Resolution A.586(14)—Revised Guidelines and Specifications for Oil Discharge Monitoring and Control Systems for Oil Tankers;
4. IMO Marine Environment Protection Committee Resolution MEPC.13(19)—Guidelines for Plan Approval and Installation Survey of Oil Discharge Monitoring and Control Systems for Oil Tankers and Environmental Testing of Control Sections Thereof;
5. IMO Marine Environment Protection Committee Resolution MEPC.108(49)—Revised Guidelines and Specifications for Oil Discharge Monitoring and Control Systems for Oil Tankers;
6. International Organization of Standardization Standard ISO 8217 (1996) Petroleum products—Fuels (class F)—Specification of marine fuels;
7. International Organization of Standardization Standard ISO 9377–2 (2000), Water Quality—Determination of hydrocarbon oil index—Part 2: Method Using solvent extraction and Gas Chromatography.

The proposed sections that reference these standards and the locations where these standards are available are listed in 33 CFR 157.02 and 46 CFR 162.050–4.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(e), of the Instruction, from further environmental documentation. These regulations concern equipment approval and carriage requirements. A preliminary ''Environmental Analysis Check List'' is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. Comments on this section will be considered before we make the final decision on whether this rule should be categorically excluded from further environmental review.

List of Subjects

33 CFR Part 155

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 157

Cargo vessels, Incorporation by reference, Oil pollution, Reporting and recordkeeping requirements.

46 CFR Part 162

Fire prevention, Incorporation by reference, Marine safety, Oil pollution, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 155 and 157, and 46 CFR part 162 as follows:

Title 33—Navigation and Navigable Waters

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

1. Revise the authority citation for part 155 to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793; Department of Homeland Security Delegation No. 0170.1. Sections 155.100 through 155.130, 150.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) are also issued under 33 U.S.C. 1903(b). Sections 155.480, 155.490, 155.750(e), and 155.775 are also issued under 46 U.S.C. 3703. Section 155.490 is also issued under section 4110(b) of Pub. L. 101–380. Note: Additional requirements for vessels carrying oil or hazardous materials are contained in 46 CFR parts 30 through 40, 150, 151, and 153.

2. In § 155.380, revise the section heading and paragraph (c) to read as follows:

§ 155.380 Oily-water separating equipment and bilge alarm approval standards.

* * * * *

(c) A ship that is required to have a bilge alarm may defer installment and use a previously installed bilge monitor provided the bilge monitor met Coast Guard approval requirements at the time of its installation and it does not allow more than a 15 ppm oil content in water discharge.

PART 157—RULES FOR THE PROTECTION OF THE MARINE ENVIRONMENT RELATING TO TANK VESSELS CARRYING OIL IN BULK

3. Revise the authority citation for part 157 to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3703, 3703a (note); Department of Homeland Security Delegation No. 0170.1. Subparts G, H, and I are also issued under section 4115(b), Pub. L. 101–380, 104 Stat. 520; Pub. L. 104–55, 109 Stat. 546.

4. In § 157.02, revise paragraph (b) to read as follows:

§ 157.02 Incorporation by reference.

* * * * *

(b) The material approved for incorporation by reference in this part and the sections affected, are as follows:

International Maritime Organization (IMO)—4 Albert Embankment, London SE1 7SR, United Kingdom.

IMO Assembly Resolution A.393(X), Recommendation on International Performance and Test Specifications For Oily-Water Separating Equipment and Oil Content Meters—157.12

IMO Assembly Resolution A.496(XII), Guidelines and Specifications for Oil Discharge Monitoring and Control Systems for Oil Tankers—157.12

IMO Assembly Resolution A.586(14), Revised Guidelines and Specifications for Oil Discharge Monitoring and Control Systems for Oil Tankers—157.12

IMO Marine Environment Protection Committee Resolution MEPC.13(19), Guidelines for Plan Approval and Installation Survey of Oil Discharge Monitoring and Control Systems for Oil Tankers and Environmental Testing of Control Sections Thereof—157.12

IMO Marine Environment Protection Committee Resolution MEPC.108(49), Revised Guidelines and Specifications for Oil Discharge Monitoring and Control Systems for Oil Tankers—157.12

IMO Assembly Resolution A.601(15), Provision and Display of Manoeuvring Information on Board Ships, Annex sections 1.1, 2.3, 3.1, and 3.2 with appendices, adopted on 19 November 1987—157.450

IMO Assembly Resolution A.744(18), Guidelines on the Enhanced Programme of Inspections During Surveys of Bulk Carriers and Oil Tankers, Annex B sections 1.1.3–1.1.4, 1.2–1.3, 2.1, 2.3–2.6, 3–8, and Annexes 1–10 with appendices, adopted 4 November 1993—157.430

IMO Assembly Resolution A.751(18), Interim Standards for Ship Manoeuvrability, Annex sections 1.2, 2.3–2.4, 3–4.2, and 5, adopted 4 November 1993 with Explanatory Notes in MSC/Circ. 644 dated 6 June 1994—157.445

Oil Companies International Marine Forum (OCIMF) 27 Queen Anne's Gate, London, SW1H 9BU, England].

International Safety Guide for Oil Tankers and Terminals, Fourth Edition, Chapters 6, 7, and 10, 1996—157.435

5. In § 157.12, revise paragraphs (b) and (c) to read as follows:

§ 157.12 Cargo monitor and control system.

* * * * *

(b) Each monitor installed on a U.S. vessel must be approved under 46 CFR 162.050. Each monitor installed on a foreign vessel must be approved:

(1) Under 46 CFR 162.050; or

(2) As meeting IMO Marine Environment Protection Committee resolution MEPC.108(49) by a country that has ratified the MARPOL 73/78. Paragraph 1.2.2 of MEPC.108(49) provides, as to equipment installed in ''oil tankers the keels of which are laid, or which are at a similar stage of construction, before January 1, 2005,'' for alternative compliance with IMO resolutions A.393(X), A.496(XII), MEPC.13(19), and A.586(14). These five resolutions are incorporated by reference (see § 157.02).

(c) Each monitor on a U.S. vessel must be installed in accordance with §§ 157.12b through 157.12g.

6. Add §§ 157.12a through 157.12g to read as follows:

§ 157.12a Definitions.

As used in §§ 157.12a through 157.12g—

Control section means a unit in a monitoring system composed of the items specified in § 157.12d(a)(4)(viii).

Control unit means a device that receives automatic signals of oil content of the effluent ppm, flow rate of discharge m^3/hour, ship's speed in knots, ship's position—latitude and longitude, date and time (GMT, Greenwich Mean Time), and status of the overboard discharge control. The control unit makes automatic recordings of data as specified in § 157.12d(h)(2).

Oil discharge monitoring and control system or *monitoring system* means a system that monitors the discharge into the sea of oily ballast or other oil-contaminated water from the cargo tank areas and comprises the items specified in § 157.12d(a)(4).

Overboard discharge control means a device that automatically initiates the sequence to stop the overboard discharge of the effluent in alarm conditions and prevents the discharge throughout the period the alarm condition prevails. The device may be arranged to close the overboard valves or to stop the relevant pumps, as appropriate.

PPM or *ppm* means parts of oil per million parts of water by volume.

Starting interlock means a facility that prevents the initiation of the opening of the discharge valve or the operation of other equivalent arrangements before the monitoring system is fully operational when use of the monitoring system is required by the Convention.

§ 157.12b Implementation requirements.

Oil discharge monitoring and control systems must be fitted to oil tankers to which this subpart applies. A monitoring and control system must employ a control unit and be fitted with a starting interlock and overboard discharge control.

§ 157.12c Construction, maintenance, security, calibration and training.

(a) The oil discharge monitoring and control system must be designed to

ensure that user access is restricted to essential controls. Access beyond these controls must be available for emergency maintenance and temporary repair but must require the breaking of security seals or activation of another device which indicates an entry to the equipment.

(b) The seals must be of a design that only the manufacturer or the manufacturer's agent can replace the seals or reset the system following inspection and permanent repairs to the equipment.

(c) The accuracy of the monitoring system must be verified during International Oil Pollution Prevention certificate renewal surveys. The calibration certificate certifying date of last calibration check must be retained on board for inspection purposes.

(d) The monitoring system may have several scales as appropriate for its intended use. The recording device fitted to a meter which has more than one scale must indicate the scale which is in use.

(e) Simple means must be provided aboard ship to check on instrument drift must be limited; repeatability of the instrument reading, and the ability to re-zero the instrument.

(f) Ship staff training must include familiarization in the operation and the maintenance of the equipment.

(g) The routine maintenance of the monitoring system and troubleshooting procedures must be clearly defined in the Operating and Maintenance Manual. All routine maintenance and repairs must be recorded.

§ 157.12d Technical specifications.

(a) *Oil discharge monitoring and control system.* (1) The monitoring system must be capable of effectively monitoring and controlling the discharge of any effluent into the sea through those overboard discharge outlets permitted by § 157.11 that are necessary to fulfill the operational requirements of the oil tanker.

(2) The discharge of dirty ballast water or other oil-contaminated water from the cargo tank areas into the sea through outlets which are not controlled by the monitoring system is prohibited.

(3) The monitoring system must function effectively under all environmental conditions that oil tankers normally encounter, and must be designed and constructed to satisfy the specifications for approval in 46 CFR subpart 162.050. Moreover—

(i) The system must be designed so that no discharge of dirty ballast or other oil-contaminated water from the cargo tank areas can take place unless the monitoring system is in the normal operating mode and the relevant sampling point has been selected;

(ii) Preferably the system should sample the effluent discharge from a minimum number of discharge outlets and be arranged so that discharge overboard can take place via only one outlet at a time;

(iii) Where it is intended that more than one line be used for simultaneous discharging purposes, one cargo monitor, together with a flow meter, must be installed in each discharge line. These instruments must be connected to a common processor; and

(iv) To avoid alarms because of short-term high oil concentration signals (spikes) causing indications of high instantaneous rates of discharge, the short-term high ppm signal may be suppressed for a maximum of 10 seconds. Alternatively, the instantaneous rate of discharge may be continuously averaged during the preceding 20 seconds or less as computed from instantaneous ppm values of the cargo monitor readings received at intervals not exceeding 5 seconds.

(4) The monitoring system must comprise—

(i) A cargo monitor to measure the oil content of the effluent in ppm. The monitor must be approved in accordance with the provisions contained in 46 CFR 162.050 and be certified to take into account the range of cargoes carried;

(ii) A flow rate indicating system to measure the rate of effluent being discharged into the sea;

(iii) A ship speed indicating device to give the ship's speed in knots;

(iv) A ship position indicating device to give the ship's position—latitude and longitude;

(v) A sampling system to convey a representative sample of the effluent to the cargo monitor;

(vi) An overboard discharge control to stop the overboard discharge;

(vii) A starting interlock to prevent the discharge overboard of any effluent unless the monitoring system is fully operational; and

(viii) A control section comprising—

(A) A processor that accepts signals of oil content in the effluent, the effluent flow rate and the ship's speed, and computes these values into liters of oil discharged per nautical mile and the total quantity of oil discharged;

(B) A means to provide alarms and command signals to the overboard discharge control;

(C) A recording device to provide a record of data required under § 157.12d(h)(2);

(D) A data display to exhibit the current operational data required under § 157.12d(i);

(E) A manual override system to be used in the event of failure of the monitoring system; and

(F) A means to provide signals to the starting interlock to prevent the discharge of any effluent before the monitoring system is fully operational.

(5) Each main component of the monitoring system must be fitted with a name-plate, properly identifying the component by assembly drawing number, type or model number and serial number, as appropriate.

(6) The electrical components of the monitoring system that are to be installed in an explosive atmosphere must be in compliance with 46 CFR 162.050–25.

(b) *Sampling system.* (1) Sampling points must be located so that relevant samples can be obtained from those outlets that are used for operational discharges in accordance with paragraph (a) of this section. The sampling probes located in the overboard discharge lines and the piping system connecting the sampling probes to the cargo monitor must meet the requirements of this paragraph.

(2) The piping and probes must be of a material resistant to fire, corrosion, and oil and be of adequate strength, and properly jointed and supported.

(3) The system must have a stop-valve fitted adjacent to each probe, except that, where the probe is mounted in a cargo line, two stop-valves must be fitted, in series, in the sample line; one of these may be the remote controlled sample selector valve.

(4) Sampling probes must be arranged for easy withdrawal and must, as far as practicable, be mounted at an accessible location in a vertical section of the discharge line. Should it be necessary to fit sampling probes in a horizontal section of the discharge line it must be ascertained, during the installation survey, that the pipe runs full of liquid at all times during the discharge of the effluent. Sampling probes must normally penetrate inside the discharge pipe to a distance of one quarter the diameter of that pipe.

(5) Means must be provided for cleaning the probes and piping system by the provision of permanent clean water flushing arrangements or an equivalent method. The design of the probes and piping must be such as to minimize their clogging by oil, oily residue, and other matter.

(6) The velocity of the fluid in the piping must be such that, taking into consideration the length of the piping, the overall response time must be as

short as possible between an alteration in the mixture being pumped and the alteration in the cargo monitor reading and in any case not more than 40 seconds, including the response time of the cargo monitor.

(7) The location of sampling probes in relation to any point of flow diversion to a slop tank must be selected with regard to the need for sampling the oily water in the recirculation mode.

(8) The arrangements for driving the sampling pump or any other pumps used in the system must account for the safety requirements of the space in which the pump is located. Any bulkhead penetration between a hazardous and a non-hazardous area must be of a design meeting the requirements of 46 CFR 32.60–20 and 46 CFR subpart 111.105.

(9) The flushing arrangement must be such that where necessary it can be utilized for test-running and stabilizing the cargo monitor and correcting for zero setting.

(10) Sample water returning to the slop tank must not be allowed to free-fall into the tank. In tankers equipped with an inert gas system, a water seal meeting the requirements of 46 CFR 32.53–10(b) must be arranged in the piping leading to a slop tank.

(11) A valve must be provided for the manual collection of samples from the inlet piping to the cargo monitor at a point downstream of any sampling pump.

(c) *Flow rate indicating system.* (1) A flow meter for measuring the rate of discharge must be installed in a vertical section of a discharge line or in any other section of a discharge line as appropriate, so as to be always filled with the liquid being discharged.

(2) A flow meter must employ an operating principle which is suitable for shipboard use and, where relevant, can be used in large diameter pipes.

(3) A flow meter must be suitable for the full range of flow rates that may be encountered during normal operation. Alternatively, arrangements such as the use of two flow meters of different ranges or a restriction of the operational flow rate range may be employed if necessary to meet this requirement.

(4) The flow meter, as installed, must have an accuracy of ±10 percent, or better, of the instantaneous rate of discharge throughout the operating range for discharging the effluent.

(5) Any component part of the flow meter in contact with the effluent should be of corrosion-resistant and oil-resistant material of adequate strength.

(6) The design of the flow metering arrangements must account for the safety requirements of the space in which such metering arrangements are located.

(d) *Ship's speed indicating system.* The automatic speed signal required for a monitoring system must be obtained from the ship's speed indicating device by means of a repeater signal. The speed information used may be either speed over the ground or speed through the water, depending upon the speed measuring equipment installed on board.

Note to paragraph (d): See ''Recommendation on Performance Standards for Devices to Indicate Speed and Distance,'' Annex to resolution A.824(19) as amended by resolution MSC.96(72).

(e) *Ship position indicating device.* The ship position indicating device must consist of a receiver for a global navigation satellite system or a terrestrial radio navigation system, or other means, suitable for use at all times throughout the intended voyage to establish and update the ship's position by automatic means.

(f) *Overboard discharge control management.* The overboard discharge control must be able to stop the discharge of the effluent into the sea automatically by either closing all relevant overboard discharge valves or stopping all relevant pumps. The discharge control arrangement must be fail-safe so that all effluent discharge is stopped when the monitoring system is not in operation, at alarm conditions, or when the monitoring system fails to function.

(g) *Processor and transmitting device.* (1) The processor of a control section must receive signals from the cargo monitor, the flow rate indicating system and the ship's speed indicating system at time intervals not exceeding 5 seconds and must automatically compute the following:

(i) Instantaneous rate of discharge of oil in liters per nautical mile; and

(ii) Total quantity of oil discharged during the voyage in cubic meters or liters.

(2) When the limits imposed by § 157.37(a)(3) and (4) are exceeded, the processor must provide alarms and provide command signals to the overboard discharge control arrangement which will cause the discharge of effluent into the sea to stop.

(3) The processor must normally include a device for the continuous generation of time and date information. Alternative arrangements which ensure the automatic and continuous reception of time and date information from an external source may be approved by the Marine Safety Center.

(4) In the event of power failure the processor must retain its memory in respect to computation of the total quantity of oil discharged, time, and date. A printout of data must be obtained when the monitoring system is operating with manual override, but the printout of data is not required if, when the power fails, the monitoring system activates the overboard discharge control to stop the discharge of effluent.

(h) *Recording devices.* (1) The recording device of a control section must include a digital printer, which may be formatted electronically. The recorded parameters must be explicitly identified on the printout. The printout must be legible and must remain so once removed from the recording device and must be retained for at least 3 years.

(2) The data to be automatically recorded must include at least the following:

(i) Instantaneous rate of discharge of oil (liters per nautical mile);

(ii) Instantaneous oil content (ppm);

(iii) The total quantity of oil discharged (cubic meters or liters);

(iv) Time and date (GMT, Greenwich Mean Time);

(v) Ship's speed in knots;

(vi) Ship's position—latitude and longitude;

(vii) Effluent flow rate;

(viii) Status of the overboard discharge control or arrangement;

(ix) Oil type selector setting, where applicable;

(x) Alarm condition;

(xi) Failure, including, but not limited to, no flow, or fault; and

(xii) Override action, including, but not limited to, manual override, flushing, and calibration. Any information inserted manually as a result of an override action must be identified as such on the printout.

(3) Data required in paragraph (h)(2) of this section must be printed out or may be stored electronically with printout capability, with the following minimum frequency:

(i) When the discharge is started;

(ii) When the discharge is stopped;

(iii) At intervals of not more than 10 minutes (except when the system is in stand-by mode);

(iv) When an alarm condition develops;

(v) When normal conditions are restored;

(vi) Whenever the computed rate of discharge varies by 10 liters per nautical mile;

(vii) When zero-setting or calibration modes are selected; and

(viii) On manual command.

(4) The recording device must be located in a position easily accessible to

the person in charge of the overboard discharge operation.

(i) *Data display.* (1) In addition to the recorded printout, the current data must be visibly displayed and must as a minimum contain the following:

(i) Instantaneous rate of discharge of oil (liters per nautical mile);

(ii) Total quantity of oil discharged (cubic meters or liters);

(iii) Instantaneous oil content (ppm)

(iv) Flow rate;

(v) Ship's speed; and

(vi) Status of the overboard discharge control or arrangement.

(2) The data display must be located in a position easily observed by the person in charge of the overboard discharge operation.

(j) *Manually operated alternatives in the event of equipment malfunction.* Acceptable alternative means of obtaining information in the event of a failure in the monitoring system include the following:

(1) Cargo monitor or sampling system: visual observation of the surface of the water adjacent to the effluent discharge;

(2) Flow meter: pump discharge characteristics;

(3) Ship's speed indicating device: main engine rpm;

(4) Processor: manual calculation and manual recording; and

(5) Overboard discharge control: manual operation of pumps and valves.

(k) *Alarm conditions resulting in the stopping of discharge.* Audio-visual alarms must be activated for any of the following conditions and the monitoring system must be so arranged that the discharge of effluent into the sea is stopped:

(1) Whenever the instantaneous rate of discharge of oil exceeds 30 liters per nautical mile;

(2) When the total quantity of oil discharged reaches 1/30,000 of the previous cargo for new vessels and 1/15,000 for existing vessels;

(3) In the event of failure of the system's operation, such as:

(i) Power failure;

(ii) Loss of sample;

(iii) Significant failure of the measuring or recording system; or

(iv) When the input of any sensor exceeds the effective capacity of the system.

(l) *Location of alarm indicator.* The alarm indicator of the system must be installed in the cargo control room, where provided, and/or in other places where it will attract immediate attention and action.

§ 157.12e Certificate of approval.

(a) A copy of the certificate of approval for the cargo monitors must be carried aboard an oil tanker fitted with such equipment at all times.

(b) A certificate of type approval must be issued for the specific application for which the cargo monitor is approved, that is, for crude oil, ''black'' products, ''white'' products, or other products or applications as listed on the certificate.

§ 157.12f Workshop functional test requirements.

(a) Each cargo monitor and each control section of a monitoring system must be subjected to a functional test on a suitable test bench prior to delivery. The detailed program for a functional test of such equipment must be developed by the manufacturer, taking into account the features and functions of the specific design of equipment. A completed workshop certificate including the delivery test protocol must be received with each unit delivered.

(b) A functional test conducted on a cargo monitor must include at least all the following operations:

(1) Check flow rate, pressure drop, or an equivalent parameter as appropriate;

(2) Check all alarm functions built into the meter;

(3) Check all switching functions interconnecting with other parts of the system; and

(4) Check correct reading at several ppm values on all measurement scales when operated on an oil appropriate for the application of the cargo monitor or by an equivalent method.

(c) A functional check conducted on a control section of a monitoring system must include at least all the following operations:

(1) Check all alarm functions;

(2) Check correct function of the signal processor and the recording equipment when simulated input signals of ppm, flow rate, and speed are varied;

(3) Check that the alarm is activated when the input signals are varied to exceed the discharge limits contained in § 157.37(a)(3) and (4).

(4) Check that a signal is given to the overboard discharge control when alarm conditions are reached; and

(5) Check that the alarm is activated when each one of the input signals is varied to exceed the capacity of the system.

§ 157.12g Plan approval requirements.

Adequate documentation must be prepared well in advance of the intended installation of a monitoring system and must be submitted to the Marine Safety Center for approval. The documentation to be submitted must include at least all the following:

(a) A description of the monitoring system. The description must include a diagrammatic drawing of the pumping and piping arrangements, identifying the operational outlets for dirty ballast and oil-contaminated water from the cargo tank area and compatible with the operational requirements set out in the oil tanker's cargo and ballast handling manuals. Special considerations may have to be given to installations in oil tankers which have unusual pumping and piping arrangements.

(b) Equipment manuals, supplied by manufacturers, which must contain details of the major components of the monitoring system.

(c) An operations and technical manual for the complete monitoring system which is proposed to be installed in the oil tanker. This manual must cover the arrangements and operation of the system as a whole and must specifically describe parts of the system which are not covered by the manufacturer's equipment manuals.

(d) The operations section of the manual must include normal operational procedures and procedures for the discharge of oily water in the event of malfunction of the equipment.

(e) The technical section of the manual must include adequate information (description and diagrammatic drawings of the pumping and piping arrangements of the monitoring system and electrical/electronic wiring diagrams) to enable fault finding and must include instructions for keeping a maintenance record.

(f) A technical installation specification defining, among other things, the location and mounting of components, arrangements for maintaining the integrity of the boundary between safe and hazardous spaces and the arrangement of the sample piping, including calculation of the sample response time referred to in § 157.12d(b)(6). The installation must comply with manufacturer's specific installation criteria.

(g) A copy of the certificate of type approval for the cargo monitor and technical documentation relevant to other main components of the monitoring system.

(h) A recommended test and checkout procedure specific to the monitoring system installed. This procedure must specify all the checks to be carried out in a functional test by the installation contractor and must provide guidance for the surveyor when carrying out the on-board survey of the monitoring system and confirming the installation reflects the manufacturer's specific installation criteria.

7. Revise § 157.39(b)(3) to read as follows:

§ 157.39 Machinery space bilges.

* * * * *

(b) * * *

(3) Has in operation an oil discharge monitoring and control system in compliance with § 157.12 and oil separating equipment in compliance with 33 CFR 155.380.

Appendix F to Part 157—[Removed and Reserved]

8. Remove and reserve Appendix F to part 157.

Title 46—Shipping

PART 162—ENGINEERING EQUIPMENT

9. Revise the authority citation for part 162 to read as follows:

Authority: 33 U.S.C. 1321(j), 1903; 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; Department of Homeland Security Delegation No. 0170.1.

10. In § 162.050–1, revise paragraph (a)(1) to read as follows:

§ 162.050–1 Scope.

(a) * * *

(1) Procedures for approval of 15 ppm separators, cargo monitors, and bilge monitors.

* * * * *

11. Revise § 162.050–3 to read as follows:

§ 162.050–3 Definitions.

As used in this subpart—

15 ppm separator means a separator that is designed to remove enough oil from an oil-water mixture to provide a resulting mixture that has an oil concentration of 15 ppm or less.

Bilge alarm means an instrument that is designed to measure the oil content of oily mixtures from machinery space bilges and fuel oil tanks that carry ballast and activate an alarm at a set concentration limit and record date, time, alarm status, and operating status of the 15 ppm separator.

Cargo monitor means an instrument that is designed to measure and record the oil content of cargo residues from cargo tanks and oily mixtures combined with these residues.

Independent laboratory means a laboratory that—

(1) Has the equipment and procedures necessary to approve the electrical components described in §§ 162.050–21(b) and 162.050–25(c), or to conduct the test described in § 162.050–37(a); and

(2) Is not owned or controlled by a manufacturer, supplier, or vendor of separators, monitors, or bilge alarms.

PPM or *ppm* means parts per million by volume of oil in water.

Response time means the time elapsed between an alteration in the sample being supplied to the bilge alarm and the ppm display showing the correct response.

12. Revise § 162.050–4 to read as follows:

§ 162.050–4 Documents incorporated by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection 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*. Also, it is available for inspection at the Coast Guard, (G–MSE), 2100 Second Street SW., Washington, DC 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part (subchapter), and the sections affected, are as follows:

Underwriters Laboratories, Inc., (UL) 12 Laboratory Drive, Research Triangle Park, NC 27709–3995.

Underwriters Laboratories Standard 913 (as revised April 8, 1976)—162.050–21, 162.050–25.

American Society for Testing and Materials 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959.

ASTM D2777–98, Standard Practice for Determination of Precision and Bias of Applicable Test Methods of Committee D–19 on Water—162.050–15.

International Organization for Standardization (ISO) 1, rue de Varembé, Case postale 56, CH–1211 Geneva 20, Switzerland (Internet: *http://www.iso.org.*)

International Organization of Standardization Standard ISO 8217 (1996) Petroleum products—Fuels (class F)—Specification of marine fuels—162.050–20.

International Organization of Standardization Standard ISO 9377–2 (2000), Water Quality—Determination of hydrocarbon oil index—Part 2: Method Using solvent extraction and Gas Chromatography—162.050–39.

§ 162.050–5 [Amended]

13. In § 162.050–5, in paragraph (a), remove the abbreviation ''p.p.m.'', and add, in its place, the letters ''ppm''.

§ 162.050–7 [Amended]

14. In §162.050–7:

a. Remove paragraph (j);

b. Redesignate paragraph (k) as paragraph (j);

c. In paragraph (e), remove the word and figure ''fifty (50)'' wherever they appear and add, in their place, the figure ''50''; in paragraph (h)(3), following the figure ''3'', remove the letter ''S'' and add, in its place, the letter ''A''; and in paragraph (h)(4), following the figure ''5'', remove the letter ''S'' and add, in its place, the letter ''A'', and in redesignated paragraph (j)(2), remove the abbreviation ''p.p.m.'', and add, in its place, the letters ''ppm''; and

d. Revise paragraphs (f), (h)(2), (i)(2), and redesignated (j)(3) to read as follows:

§ 162.050–7 Approval procedures.

* * * * *

(f) The approval tests in this subpart must be performed by a facility designated under § 162.050–15. The facility must also be accepted as an independent laboratory by the Coast Guard under subpart 159.010 of this chapter. The facility must perform each test in accordance with the test conditions prescribed in this subpart for the test, prepare a test report for the item if it completes all of the tests, and send the report with three copies to the Commanding Officer, USCG Marine Safety Center. The applicant may observe the tests. If an item does not complete testing, a new application must be made before retesting.

* * * * *

(h) * * *

(2) The oil content of each sample of separated water effluent taken during approval testing is 15 ppm or less;

* * * * *

(i) * * *

(2) Each oil content reading recorded during approval testing is ±10 ppm or ±10 percent, whichever is greater, of the oil content of the sample influent mixture taken at the time of the reading;

* * * * *

(j) * * *

(3) Its response time is five seconds or less; and

* * * * *

§ 162.050–14 [Removed]

14A. Remove § 162.050–14.

15. In § 162.050–15, revise paragraphs (a), (d), (e), (f)(3) and (h) to read as follows:

§ 162.050–15 Designation of facilities.

(a) Each request for designation as a facility authorized to perform approval tests must be submitted to Commandant, G–MSE–3, 2100 2nd Street SW., Washington, DC 20593–0001.

* * * * *

(d) If the facility meets the requirements in paragraphs (g)(1) through (g)(4) of this section, they must obtain 12 samples containing mixtures of oil in water that are within a 10-to-30 ppm range that can be verified by an independent third-party source mutually acceptable to the applying lab and the Coast Guard prior to verification.

(e) The facility must measure the oil content of each sample using the method described in § 162.050–39 and report the value of each of the 12 measurements to Commandant, G–MSE–3, 2100 2nd St. SW., Washington, DC 20593–0001.

(f) * * *

(3) The absolute value of X_d must be smaller than u based on the following analysis of paired observations:

(i) Calculate the value of $\bar{X}_d$ and S_d. This is the mean and standard deviation, respectively, of the differences between the known sample concentrations and the values obtained by the facility with their equipment. The value of $\bar{X}_d$ for the 12 measurements described in paragraph (e) of this section, or for 11 measurements if paragraph (f)(2) of this section applies, must be within the range $-1 \leq \bar{X}_d \leq +1$.

(ii) Determine the appropriate critical value of the Student's t distribution with $(n-1)$ degrees of freedom for a confidence level of $\alpha=0.01$. If all 12 samples meet the criteria of paragraph (f)(1) of this section then $(n-1)=11$ and the critical value,

$$t_{1-\frac{a}{2}},$$

is 3.106. If paragraph (f)(2) of this section applies, then $(n-1)=10$ and

$$t_{1-\frac{a}{2}} = 3.169.$$

(iii) Compute the value of u, where

$$u = t_{1-\frac{a}{2}}\left(\frac{S_d}{\sqrt{n}}\right),$$

where n=12 if all samples meet the criteria of paragraph(f)(1) and n=11 if paragraph (f)(2) applies.

(iv) Compare the absolute value of $\bar{X}_d$ to the value of u. If $|\bar{X}_d|<u$, then the facility meets the criteria.

* * * * *

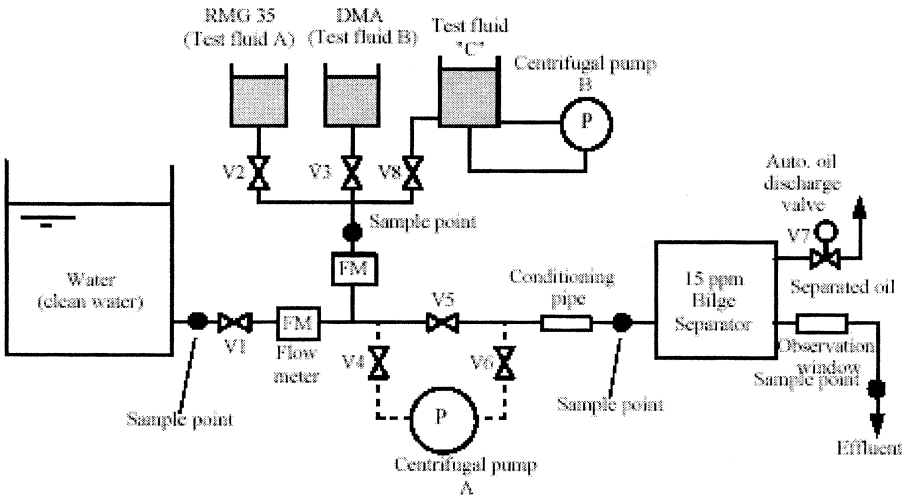
(h) A facility may not subcontract for approval testing unless previously authorized by the Coast Guard. A request for authorization to subcontract must be sent to Commandant, G–MSE–3, 2100 2nd Street, SW., Washington, DC 20593–0001.

16. In § 162.050–17, revise Figure 162.050–17(a) and paragraphs (b)(1), (b)(2), (c)(1), and (c)(3); in paragraph (d) remove the reference ''162.050–17(e)'' and add in its place the reference ''162.050–17(d)''; remove Figure 162.050–17(e) and add in its place Figure 162.050–17(d) to read as follows:

§ 162.050–17 Separator test rig.

* * * * *

FIGURE 162.050-17(a) - SEPARATOR TEST RIG



BILLING CODE 4910–15–C

(b) * * *

(1) Be a centrifugal pump capable of operating at 1,000 revolutions per minute or more;

(2) Have a delivery capacity of at least 1.5 times the maximum throughput at which the separator being tested is designed to operate;

* * * * *

(c) * * *

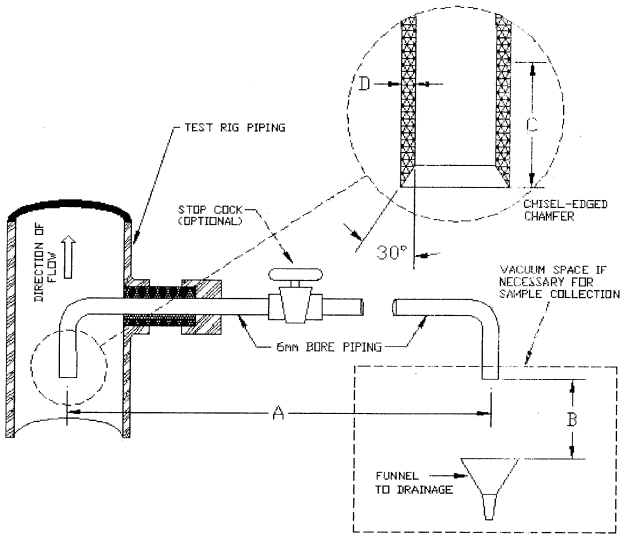
(1) Influent water flows at a Reynolds Number of at least 10,000;

* * * * *

(3) Its length is at least 20 times its inside diameter.

* * * * *

FIGURE 162.050-17(d) - SAMPLE POINT

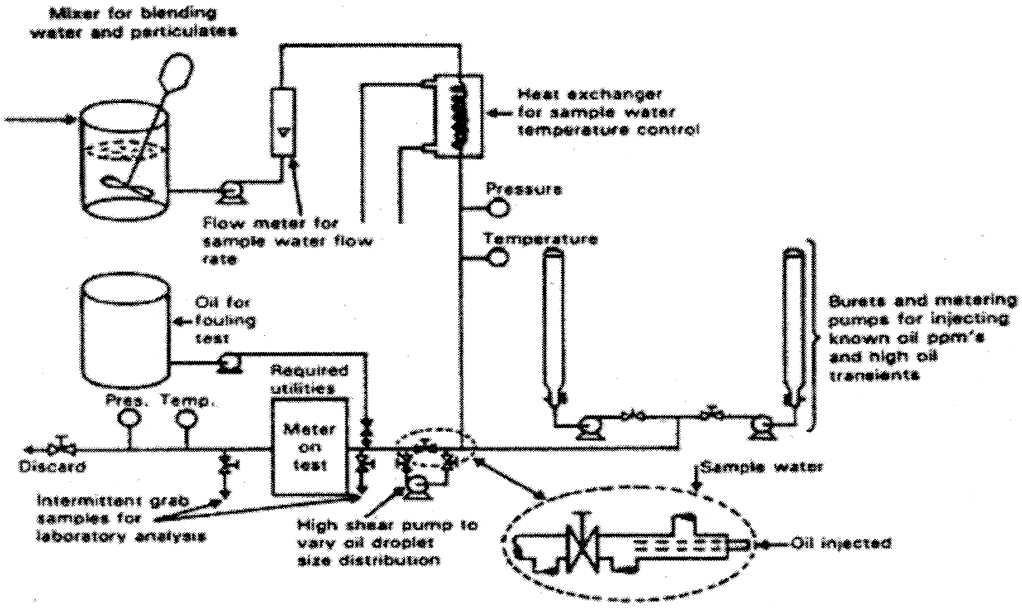


A DIMENSION A IS NOT GREATER THAN 400 MM
B HEIGHT B IS LARGE ENOUGH TO INSERT A SAMPLE BOTTLE
C DISTANCE C IS A STRAIGHT LINE OF NOT LESS THAN 60 MM
D WIDTH D IS NOT GREATER THAN 2 MM

§ 162.050–19 [Amended]

17. In § 162.050–19(c), remove the words and figure ''one thousand (1,000)'' and add, in their place, the figure ''1,000''; and revise Figure 162.050–19 to read as follows:

FIGURE 162.050-19 - MONITOR AND BILGE ALARM TEST RIG



BILLING CODE 4910–15–C

18. Add § 162.050–20 to read as follows:

§ 162.050–20 Separator and bilge alarm test fluids.

(a) Tests required in § 162.050–23 and § 162.050–35 shall be performed using the following three types of test fluids:

(1) Test Fluid A which is a marine residual fuel oil in accordance with ISO 8217 (Incorporated by reference, see § 162.050–4), type RMG 35 (density at 15 °C not less than 980 kg/m^3);

(2) Test Fluid B which is a marine distillate fuel oil in accordance with ISO 8217, type DMA (density at 15 °C not less than 830 kg/m^3);

(3) Test Fluid C must be a mixture of an oil-in-fresh-water emulsion, where 1 kg of the mixture consists of:

(i) 947.8 g of fresh water;

(ii) 25.0 g of Test Fluid A;

(iii) 25.0 g of Test Fluid B;

(iv) 0.5 g of surfactant (sodium salt of dodecylbenzene sulfonic acid) in the dry form; and

(v) 1.7 g of iron oxides, a black ferrosoferric oxide (Fe_3O_4) with a particle size distribution of which 90 percent is less than 10 microns, the remainder having a maximum particle size of 100 microns.

(b) Test Fluid C must be prepared as needed for § 162.050–23 or § 162.050–35 by the following procedures:

(1) Measure out 1.2 times the quantity of surfactant required from the WORKSHEET FOR DETERMINING CONSTITUENTS OF TEST FLUID C, see figure 162.050–20;

(2) Mix it with fresh water and stir well in a small container to make a mixture until the surfactant has been thoroughly dissolved;

(3) Fill clean test fluid tank with fresh water with a quantity 1.2 times the volume of the total quantity of water in the Test Fluid C needed for the test described in § 162.050–23 and § 162.050–35;

(4) Operate the centrifugal pump B running at a speed of not less than 3,000 rpm with a flow rate at which the volume of the test fluid has been changed out at least once per minute;

(5) Add the surfactant mixture from paragraph (b)(2) of this section first, followed by oil and suspended solids (iron oxides) respectively, both 1.2 times the required amounts, to the fresh water in the tank;

(6) To establish a stable emulsion, keep running the centrifugal pump B for one hour and confirm no oil floats on the surface of the test fluid; and

(7) After the one hour stated in paragraph (b)(6) of this section, keep running the centrifugal pump B at reduced speed to approximately 10 percent of original flow rate, until the end of the test.

Figure 162.050–20—Worksheet for Determining Constituents of Test Fluid C

1. Determine volumetric flow rate of separator in m^3/hr.

2. Determine net volume of fluid needed for testing with fluid C:

a. Multiply Volumetric flow rate × 3 hours = Net volume (assumes conditioning time of approximately 30 minutes added to 2½-hour test period)

3. Determine Volume of Test Fluid C:

a. Multiply Net Volume * 0.06 = Fluid C Volume

4. Determine amounts of constituents:

a. Volume of Test Fluid C: 1.2 × Net Volume;

b. Volume of Fresh Water in Test Fluid C: 0.9478 × Volume of Test Fluid C;

c. Weight of Test Fluid A: 25 × Volume of Test Fluid C;

d. Weight of Test Fluid B: 25 × Volume of Test Fluid C;

e. Weight of Surfactant: 0.5 × Volume of Test Fluid C; and

f. Weight of iron oxide: 1.7 × Volume of Test Fluid C.

Example

1. Bilge separator is rated at $2m^3$/hr;

2. Net Volume needed for the Test: Volume of test water: $2m^3 \times 3$ hours = $6m^3$;

3. Volume Test Fluid C: 6 percent of test water = $0.06 \times 6m^3 = 0.36m^3$;

4. Actual Volume to be prepared:

a. Volume of Test Fluid C to be prepared: 1.2 times the Net Volume of Test Fluid C = $1.2 \times 0.36 = 0.432m^3$;

b. Volume of fresh water in Test Fluid C: (947.8g/1000g) of Test Fluid C = $0.9478 \times 0.432 = 0.4094m^3$;

c. Weight of Test Fluid A: (25g/1000g) of Test Fluid C = $25/1000 \times 0.432 \times 1000$ = 10.8kg;

d. Weight of Test Fluid B: (25g/1000g) of Test Fluid C = $25/1000 \times 0.432 \times 1000$ = 10.8kg;

e. Weight of surfactant: (0.5g/1000g) of Test Fluid C = $0.5/1000 \times 0.432 \times 1000$ = 0.216kg; and

f. Weight of iron oxide: (1.7g/1000g) of Test Fluid C) = $1.7/1000 \times 0.432 \times 1000 \times 0.734$kg.

19. In § 162.050–21—

a. In paragraph (b), add the words ''(Incorporated by reference, see § 162.050–4)'' immediately after the words ''(dated April 8, 1976)''.

b. In paragraph (e), remove the words and figure ''twenty-four (24)'' and add, in their place, the figure ''24''.

20. In § 162.050–23—

a. Remove paragraphs (a)(2), (c), (d), (e), (f), and (g);

b. Redesignate paragraphs (a)(3) through (a)(13) as paragraphs (a)(2) through (a)(12);

c. In newly designated paragraph (a)(11), remove the word and figure ''one (1)'' and add, in their place, the figure ''1'' and, in newly designated paragraph (a)(12), following the words ''Test No. 5'', remove the letter ''S'' and add, in its place, the letter ''A''; and

d. Revise newly designated paragraph (a)(4) to read as set out below; and add new paragraphs (b), (c), and (d) to read as follows:

§ 162.050–23 Separator: Approval tests.

(a) * * *

(4) The influent water used in each test must be clean fresh water or clean fresh water in solution with sodium chloride. In either case, the relative density of the water must be no greater than 1.015 at 20 °C.

* * * * *

(b) The following tests must be conducted using Test Fluid A:

(1) *Test No. 1A.* The separator is filled with water and started. It is first fed with pure Test Fluid A for at least 5 minutes and then with a mixture of Test Fluid A and water influent containing Fluid A content of between 5,000 and 10,000 ppm until a steady flow rate occurs. After the flow rate is steady, the influent is fed to the separator for 30 minutes. Samples of separated water effluent are taken after the first 10 and 20 minutes. At the end of the 30-minute period, the air cock on the test rig is opened and, if necessary, the oil and water supply valves are closed to stop the flow of influent. A sample is then taken of the separated water effluent as the effluent flow ceases.

(2) *Test No. 2A.* Repeat Test No. 1A in paragraph (b)(1) of this section using an influent containing approximately 25 percent oil and 75 percent water. Percentage is on a by volume basis.

(3) *Test No. 3A.* The separator is fed with 100 percent Test Fluid A until Fluid A is discharged at the oil discharge outlet of the separator at essentially the same rate that oil is being fed to the separator. The separator is then fed with 100 percent Test Fluid A for 5 additional minutes. If any oily mixture is discharged from the separated water outlet on the separator during the test, that observation is recorded.

(4) *Test No. 4A.* The separator is fed with water for 15 minutes. Samples of the separated water effluent are taken at the beginning of the test and after the first 10 minutes.

(5) *Test No. 5A.* The separator is operated automatically for 3 hours. During the test, the separator is continuously fed with an influent varying from water to a mixture of 25 percent Test Fluid A in water and back to water every 15 minutes. The Test Fluid A concentration in the influent is varied in at least five equal increments during each 15-minute period and the time intervals between the incremental changes are equal. During the last hour, the separator must be inclined at an angle of 22.5 ° with the plane of its normal operating position. During the last time increment in which the unit is fed a 25 percent Fluid A mixture, a sample of the separated water effluent is taken. If the separator stops at any time during this test, that observation is recorded.

(c) The following tests shall be conducted using Test Fluid B:

(1) *Test No. 1B:* Repeat Test No. 1A in paragraph (b)(1) of this section using Test Fluid B; and

(2) *Test No. 2B:* Repeat Test No. 2A in paragraph (b)(2) of this section using Test Fluid B.

(d) The following tests shall be conducted using Test Fluid C: *Test No. 1C.* The separator is fed with a mixture composed of 6 percent Test Fluid C and

94 percent water by volume such that the emulsified Test Fluid C content is approximately 3,000 ppm in the test water until a steady flow rate occurs. After the flow rate is steady, the influent containing the 6 percent Test Fluid C solution is fed to the separator operating automatically for 3 hours. Samples of separated water effluent are taken at 50 minutes and 100 minutes. At the end of the 3-hour period, the air cock on the test rig is opened and, if necessary, the oil and water supply valves are closed to stop the flow of influent. A sample is then taken of the separated water effluent as the effluent flow ceases.

21. In § 162.050–25—

a. In paragraph (c), add the words ''(Incorporated by reference, see § 162.050–4)'' immediately after the words ''(dated April 8, 1976)''.

b. In paragraph (g), remove the word and figure ''twenty (20)'' and add, in their place, the figure ''20''.

22. Revise § 162.050–27 to read as follows:

§ 162.050–27 Cargo monitor: Approval tests.

This section contains requirements that apply to cargo monitors.

(a) *Test conditions.* (1) The tests and each step in the tests must be carried out in the order described in this section. Each test must be performed without time delay between steps in the test.

(2) A test rig of the type described in § 162.050–19 must be used in performing each test.

(3) Each mixture used during the tests must be prepared by combining oil supplied from the oil injection pipe of the test rig and water supplied from the mixture tank of the test rig. However, if the flow of oil through the oil injection pipe becomes intermittent, oil and water may be combined in the mixture tank to form the mixture.

(4) A mixture may be circulated through a monitor only once during testing.

(5) Unless otherwise provided in a specific test, the water used in each test must be clean, fresh water.

(6) The oil used in each test, except Test No. 2CM in paragraph (c) of this section, must be Arabian light crude oil.

(7) Each test must be performed at an ambient temperature of between 10 °C and 30 °C.

(8) Unless otherwise provided in a specific test, each test must be performed at the maximum mixture pressure, the maximum flow rate, and the power supply ratings at which the monitor is designed to operate.

(9) The particulate contaminant described in Test No. 5CM in paragraph (f) of this section, if not attapulgite, must be of a type that does not lose more than three percent of its weight after ignition and must be insoluble in a 500 ppm mixture.

(10) In each test the monitor must be operated in accordance with the procedures described in its instructions manual.

(11) Unless otherwise provided in a specific test, the centrifugal pump shown in Figure 162.050–19 in § 162.050–19 must be operated at 1,000 revolutions per minute or more in each test.

(12) Whenever the oil content of a mixture is recorded, a sample of the mixture must also be taken. The oil content of the sample must be measured using the method described in § 162.050–39.

(13) A one-liter sample of each oil to be used in testing must be taken and provided for use in the sample analysis required by § 162.050–39.

(b) *Test No. 1CM Calibration and Zero Test.* The cargo monitor is calibrated and zeroed to manufacturer's instructions. It is then fed with water for 15 minutes and then with mixtures in the following concentrations: 15 ppm, 50 ppm, 100 ppm, and each additional concentration, in increments of 50 ppm up to the highest oil concentration that can be read on the monitor. Each mixture is fed to the monitor in the order listed in Table 162.050–27(c) for 15 minutes. Water is fed to the monitor for a 15-minute period between each mixture. At the end of each 15-minute period, an oil content reading is obtained and recorded.

(c) *Test No. 2CM Response to Different Oil Types Test.* (1) If the cargo monitor is designed for use with crude oils, it is fed with a mixture of water and the first oil listed in Table 162.050–27(c) at the following concentrations: 15 ppm, 100 ppm, and a concentration that is 90 percent of the highest oil concentration in water that can be read on the monitor. Each concentration is fed to the monitor in the order listed until a steady reading occurs and is recorded. After each steady reading is recorded, the monitor is fed with water for 15 minutes. At the end of each 15-minute period of feeding the monitor with water, an oil content reading is again obtained and recorded.

(2) The steps described in paragraph (c)(1) of this section are repeated using each of the other oils listed in Table 162.050–27(c).

TABLE 162.050–27(C).—OIL TYPE AND CHARACTERISTICS

Oil type	Characteristics
Sahara blend crude oil	Density—low. Viscosity—low. Pour point—very low. Producing country—Algeria. General description—mixed base.
Arabian light crude oil	Density—medium. Viscosity—medium. Pour point—low. Producing country—Saudi Arabia. General description—mixed base.
Nigerian medium crude oil	Density—high. Viscosity—medium. Pour point—low. Producing country—Nigeria. General description—naphthenic base.
Bachaquero 17 crude oil	Density—very high. Viscosity—very high. Pour point—low. Producing country—Venezuela. General description—asphaltic base.
Minas crude oil	Density—medium. Viscosity—high.

TABLE 162.050–27(C).—OIL TYPE AND CHARACTERISTICS—Continued

Oil type	Characteristics
Residual fuel oil	Pour point—very high. Producing country—Indonesia. General description—paraffinic base. Bunker C or No. 6 Fuel Oil.

(3) If any oil listed in Table 162.050–27(c) is unavailable, an oil with similar properties may be substituted in testing.

(4) If the monitor is to be used with refined oil products, the steps described in paragraph (c)(1) of this section are performed using each of the following:

(i) Leaded regular grade automotive gasoline;

(ii) Unleaded automotive gasoline;

(iii) Kerosene; and

(iv) Light diesel or No. 2 fuel oil.

(5) If the monitor is to be used with category C and D oil-like noxious liquid substances to meet the requirements of 33 CFR 151.41(b), the tests described in paragraphs (c) and (d) of this section are to be performed using the substances for which approval is sought.

(d) *Test No. 3CM Response Time Test.* (1) The cargo monitor is fed with water, zeroed, and then fed with a 100 ppm mixture. The time at which the monitor first detects oil in the mixture, the times of reading 63 ppm and 90 ppm, and the time of reaching the highest steady reading of oil content are recorded. The oil content of the mixture at the highest steady reading is also recorded.

(2) The metering pump is turned off and the time at which the highest reading starts to decrease, the times of reading 37 ppm and 10 ppm, and the time of returning to the lowest steady oil content reading are recorded. The oil content of the mixture at the lowest steady reading is also recorded.

(3) The time interval between first detecting oil in the mixture and reading 63 ppm, and the time interval between the first decrease in the highest reading and reading 37 ppm, are averaged and recorded as the response time for the monitor.

(e) *Test No. 4CM Oil Fouling and Calibration Shift Test.* (1) The cargo monitor is fed with water, zeroed, and then fed with a mixture containing 10 percent oil for one minute. The following times occurring during this procedure are recorded:

(i) Time at which the monitor first detects oil;

(ii) Time of reading 15 ppm;

(iii) Time of reading 100 ppm;

(iv) Time of exceeding the highest oil concentration that can be read on the monitor;

(v) Time of returning to the highest oil concentration that can be read on the monitor;

(vi) Time of returning to a reading of 100 ppm;

(vii) Time of returning to a reading of 15 ppm; and

(viii) Time of returning to the lowest steady oil content reading.

(2) The oil content of the mixture at the lowest steady reading described in paragraph (e)(1)(viii) of this section is recorded.

(3) The monitor is fed with water, zeroed, and then fed with oil for 1 minute after which the flow of water is resumed. The times described in paragraph (e)(1) of this section are recorded.

(4) The monitor is fed with a 100 ppm mixture until a steady oil content reading is obtained and recorded.

(f) *Test No. 5CM Contaminant Test.* (1) The monitor is fed with a 15 ppm mixture until a steady oil content reading is obtained and recorded.

(2) The cargo monitor is fed with a 15 ppm oil mixture of contaminated water consisting of not less than 270 ppm by weight of the clay mineral attapulgite, or similar contaminant that is stable in both fresh and salt water and 30 ppm by weight of iron oxides. The test contaminant should have a particle size distribution with about 30 percent of 10 microns or less and a maximum particle size of 100 microns. The oil content reading, when steady, is recorded.

(3) Each of the two contaminants will be mixed sequentially in the following manner: the mixing of attapulgite shall be for a period of not less than 15 minutes so that a homogeneous suspension is formed; following, iron oxides will be added for an additional period of not less than 10 minutes. The mixing process should maintain the contaminants in suspension throughout the test period.

(4) The test in paragraph (f)(2) of this section is repeated for 100 and 300 ppm oil mixtures in contaminated water.

(g) *Test No. 6CM Air Entrainment Test.* (1) The cargo monitor is fed with a 15 ppm mixture until a steady oil content reading is obtained and recorded.

(2) Air is injected into the cargo monitor test rig before the sample pump or, in the absence of such pump, immediately before any conditioning unit used to prepare the mixture for measurement. Injection must be by needle having an orifice dimension not exceeding 0.5 mm in diameter arranged in line with the sample flow. The quantity of air injected must be one percent of the designated flow rate of the sample pump or conditioning unit at the point of injection.

(3) Air must be delivered to the system by direct injection or pump via a suitable measuring device designed to permit a constant controllable flow rate within ±10 percent of the required rate of injection for an uninterrupted effective test period of not less than 15 minutes.

(4) The oil content reading, when steady, is recorded.

(h) *Test No. 7CM Oil Particle Size—Centrifugal Pump Test.* (1) The cargo monitor is fed with a 100 ppm mixture until a steady oil content reading is obtained and recorded.

(2) The monitor is fed with a 100 ppm mixture that has first passed through the centrifugal pump of the test rig. The pump is run at one-fourth of its design speed. The oil content reading, when steady, is recorded.

(3) The steps described in paragraph (h)(2) of this section are repeated with the pump running at one-half of its design speed and then repeated at its design speed.

(i) *Test No. 8CM Temperature Test.* (1) The steps described in paragraph (h)(1) of this section are repeated.

(2) The temperature of the mixture is adjusted to 10 °C and the flow continued until a steady oil content reading is obtained and recorded.

(3) The steps described in paragraph (i)(2) of this section are repeated with the temperature of the mixture at 65 °C or the highest mixture temperature at which the cargo monitor is designed to operate, whichever is lower.

(j) *Test No. 9CM Sample Pressure or Flow Test.* (1) The steps described in paragraph (h)(1) of this section are repeated.

(2) If the monitor has a positive displacement mixture pump, the mixture pressure is lowered to one-half of the monitor's maximum design pressure. If the monitor has a centrifugal

mixture pump, or is not equipped with a mixture pump, the mixture flow rate is reduced to one-half of the monitor's design flow rate. The reduced flow rate or mixture pressure is maintained until a steady oil content reading is obtained and recorded.

(3) If the monitor has a positive displacement mixture pump, the mixture pressure is increased to twice the monitor's design pressure. If the monitor has a centrifugal mixture pump or does not have a mixture pump, the mixture flow rate is increased to twice the monitor's maximum design flow rate. The increased flow rate or mixture pressure is maintained until a steady oil content reading is obtained and recorded.

(k) *Test No. 10CM Shut-off Test.* (1) The steps described in paragraph (h)(1) of this section are repeated.

(2) The water and metering pumps on the test rig are stopped for 8 hours after which the steps described in paragraph (h)(1) of this section are repeated.

(l) *Test No. 11CM Supply Voltage Variation Test.* (1) The supply voltage to the cargo monitor is increased to 110 percent of its design supply voltage. The monitor is then fed a 100 ppm mixture for one hour. At the end of the 1-hour period, an oil content reading is obtained and recorded.

(2) The steps described in paragraph (l)(1) of this section are repeated with the supply voltage to the monitor lowered to 90 percent of its design supply voltage.

(3) Upon completing the steps described in paragraph (l)(2) of this section, the supply voltage to the monitor is returned to the design rating.

(4) The steps described in paragraphs (l)(1) through (l)(3) of this section are repeated varying each power supply to the monitor in the manner prescribed in those steps for supply voltage.

(m) *Test No. 12CM Calibration and Zero Drift Test.* (1) The monitor is calibrated and zeroed.

(2) The steps described in paragraph (h)(1) of this section are repeated.

(3) A 100 ppm mixture is fed to the monitor for 8 hours. At the end of the 8-hour period, an oil content reading is obtained and recorded.

(4) The monitor is fed with water until a steady oil content reading is obtained and recorded.

(n) *Test No. 13CM Shut-down and Restart Test.* (1) All power to the monitor is shut off for one week. After 1 week the monitor is started, zeroed, and calibrated.

(2) The monitor is fed with a 100 ppm mixture for 1 hour. An oil content reading is then obtained and recorded.

(3) The monitor is fed with water for 1 hour. An oil content reading is then obtained and recorded.

(4) The steps described in paragraphs (n)(2) and (n)(3) of this section are repeated three additional times. During the last hour in which the monitor is fed with a 100 ppm mixture, the monitor is inclined at an angle of 22.5 ° with the plane of its normal operating position.

§ 162.050–29 [Removed]

23. Remove § 162.050–29.

§ 162.050–31 [Removed]

24. Remove § 162.050–31.

25. In § 162.050–33, in paragraph (b), remove the paragraph designator ''(g)'' and add, in its place, the paragraph designator ''(f)''; in paragraph (c)(1), remove the abbreviation ''p.p.m'', and add, in its place, the letters ''ppm''; and add new paragraphs (d), (e), (f), (g), and (h) to read as follows:

§ 162.050–33 Bilge alarm: Design specification.

* * * * *

(d) Each bilge alarm must have a ppm display. Emulsions and/or the type of oil must not affect the ppm display. Calibrating the bilge alarm must not be necessary once installed on board the vessel, however, on board testing in accordance with the manufacturer's instructions is permitted. The accuracy of the readings must at all times remain within the limits described in paragraph (c)(1) of this section.

(e) Each bilge alarm must be designed so that it displays each change in oil content of the mixture it is measuring within 5 seconds after the change occurs.

(f) Access to the bilge alarm beyond checking instrument drift must be limited; repeatability of the instrument reading and the ability to re-zero the instrument must require the breaking of a seal.

(g) Each bilge alarm must activate its alarm whenever clean water is used for cleaning or zeroing purposes.

(h) The bilge alarm must record date, time, alarm status, and operating status of the 15 ppm bilge separator. The recording device must also store data for at least 18 months and be able to display or print a protocol. In the event the 15 ppm bilge alarm is replaced, means must be provided to ensure the data recorded remains available on board for 18 months.

26. Revise § 162.050–35 to read as follows:

§ 162.050–35 Bilge alarm: Approval tests.

This section contains requirements that apply to bilge alarms.

(a) *Test conditions.* (1) Each test must be conducted under the conditions prescribed for cargo monitors in §§ 162.050–27(a)(1) through (a)(5), (a)(7), (a)(8), (a)(10), (a)(11), and (a)(13).

(2) The tests in this section shall be performed using test fluids described in § 162.050–20.

(3) The oil content of each sample must be measured using the method described in § 162.050–39.

(b) *Test No. 1A Calibration and Zero Test.* (1) The bilge alarm is calibrated and zeroed to manufacturer's instructions.

(2) It is then fed with water for 15 minutes and then with a mixture of Test Fluid A and water in the following concentrations: 0 ppm, 15 ppm, and the highest oil concentration that can be read on the monitor. A sample of the mixture causing actuation of the alarm is taken. The alarm is then fed with water for 15 minutes.

(3) Repeat steps in paragraphs (b)(1) and (2) of this section first using Test Fluid B and then again with Test Fluid C. Collect samples as required in the test for each run of Test Fluid B and Test Fluid C.

(4) If the bilge alarm must be calibrated and re-zeroed between test fluids, this shall be noted in the test report.

(c) *Test No. 2A Contaminant Test.* (1) The bilge alarm is fed for 5 minutes with a 10 ppm mixture of Test Fluid B and water. At the end of the 5-minute period an oil content reading is obtained and recorded.

(2) The bilge alarm is then fed for 5 minutes with a 10 ppm mixture of Test Fluid B and water contaminated with a 10 ppm concentration of iron oxide. Any change in the bilge alarm reading during the 5 minutes is recorded.

(3) Repeat steps in paragraphs (c)(1) and (2) of this section using iron oxide concentrations of 50 ppm and 100 ppm.

(4) The bilge alarm is then fed for 5 minutes with a 10 ppm mixture of Test Fluid B and water. At the end of the 5-minute period an oil content reading is obtained and recorded.

(5) The bilge alarm is fed for 5 minutes with a 10 ppm mixture of Test Fluid B and fresh water with 6 percent sodium chloride. Any change in the bilge alarm reading is recorded.

(d) *Test No. 3A Sample Pressure or Flow Test.* (1) The bilge alarm is fed with a mixture of Test Fluid B and water and the test fluid content of the mixture is increased until the bilge alarm actuates. The ppm display is recorded and a sample of the mixture causing actuation of the alarm is taken.

(2) If the alarm has a positive displacement mixture pump, the

mixture pressure is reduced to one-half of the alarm's maximum design pressure. If the alarm has a centrifugal mixture pump or is not equipped with a mixture pump, the mixture flow rate is reduced to one-half of the alarm's maximum design flow rate. After reduction of pressure or flow rate, the oil content in the mixture is increased until the alarm actuates. The ppm display is recorded and a sample of the mixture causing actuation of the alarm is taken.

(3) If the alarm has a positive displacement mixture pump, the influent pressure is increased to twice the alarm's minimum design pressure. If the alarm has a centrifugal mixture pump or if the alarm is not equipped with a mixture pump, the influent flow rate is increased to twice the alarm's maximum design flow rate. After increasing the pressure or flow rate, the oil content in the mixture is increased until the alarm actuates. The ppm display is recorded and a sample of the mixture causing actuation is taken.

(e) *Test No. 4A Shut-off Test.* (1) The steps described in paragraph (d)(1) of this section are repeated.

(2) The metering and water pumps of the test rig are stopped for 8 hours with the bilge alarm left turned on with no other changes made.

(3) The metering and water pumps are started and the Test Fluid B content of the mixture is increased until the bilge alarm actuates. A sample of the mixture causing actuation is taken. The bilge alarm ppm display readings before and after the 8-hour period will be recorded.

(f) *Test No. 5A Supply Voltage Variation Test.* (1) The supply voltage to the bilge alarm is raised to 110 percent of its design supply voltage. The bilge alarm is fed with a mixture of Test Fluid B and water and the test fluid content of the mixture is increased until the bilge alarm actuates. The ppm display is recorded and a sample of the mixture causing actuation is taken.

(2) The supply voltage to the alarm is lowered to 90 percent of its design supply voltage. The bilge alarm is fed with a mixture of Test Fluid B and water and the test fluid content of the mixture is increased until the bilge alarm actuates. The ppm display is recorded and a sample of the mixture causing actuation is taken.

(3) Upon completion of the steps described in paragraph (f)(2) of this section, the supply voltage to the alarm is returned to its design value.

(4) The steps described in paragraphs (f)(1) through (f)(3) of this section are repeated varying each other power supply to the alarm in the manner prescribed in those steps for supply voltage.

(g) *Test No. 6A Calibration and Zero Test.* (1) The steps described in paragraph (b)(1) of this section are repeated and then the steps in paragraph (d)(1) of this section are repeated.

(2) The bilge alarm is fed with a 15 ppm mixture of Test Fluid B and water for eight hours and any calibration drift is recorded. Samples of the mixture must be taken at the beginning of the test and at 2-hour intervals until the completion of the 8-hour period.

(3) The steps in paragraph (g)(2) of this section are repeated using clean, oil-free water only. Any zero drift is recorded.

(h) *Test No. 7A Response Time Test.* (1) The bilge alarm is fed with a 40 ppm mixture of Test Fluid B and water until the bilge alarm actuates. The time of turning on the metering pump of the test rig and the time of alarm actuation are recorded. The flow rate on the flow meter of the test rig is also recorded.

(i) *Test No. 8A Shut Down and Restart Test.* (1) All power to the bilge alarm is shut off for 1 week. After 1 week the alarm is then started, zeroed, and calibrated.

(2) The steps described in paragraph (d)(1) of this section are repeated. Water is then fed to the monitor for 1 hour.

(3) The steps described in paragraph (i)(2) of this section are repeated seven additional times. During the last hour, the alarm must be inclined at an angle of 22.5 ° with the plane of its normal operating position.

27. In § 162.050–37, in paragraph (b), remove the figure ''4'' and add, in its place, the word ''2''; redesignate paragraphs (b)(1) through (3) as paragraphs (b)(1)(i) through (iii); redesignate paragraph (b) introductory text as (b)(1) and designate the undesignated paragraph as (b)(2); and add paragraph (c) to read as follows:

§ 162.050–37 Vibration test.

* * * * *

(c) After completion of the test described in paragraph (b) of this section, the test must be repeated and any significant change in the vibration pattern will be noted in the test report.

28. Revise § 162.050–39 to read as follows:

§ 162.050–39 Measurement of oil content.

(a) The collection and testing of all samples of oil in water from the required test will be accomplished in accordance with ISO 9377–2 (2000), Water Quality—Determination of hydrocarbon oil index—Part 2: Method Using solvent extraction and Gas Chromatography (Incorporated by reference, see § 162.050–4).

(b) Testing facilities may continue to use the infrared spectrophotometer assay in lieu of ISO 9377–2, so long as supplies of reagents necessary for the testing are available.

Dated: October 24, 2005.

T.H. Gilmour,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

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