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WHEN: Tuesday, November 14, 2006
9:00 a.m.–Noon

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26052; Directorate Identifier 2006–NE–30–AD; Amendment 39–14823; AD 2006–23–11]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce, plc RB211 Trent 768–60, 772–60, and 772B–60 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Rolls-Royce, plc (RR) RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines. This AD requires initial and repetitive on-wing or in-shop inspections of the high pressure (HP)/intermediate pressure (IP) turbine bearing oil feed tube heat shield. This AD results from a report that a damaged outer heat shield caused fretting of the oil feed tubes. We are issuing this AD to prevent an uncontained failure of the HP turbine disc and damage to the airplane.

DATES: Effective December 19, 2006. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of December 19, 2006.

We must receive any comments on this AD by January 16, 2007.

ADDRESSES: Use one of the following addresses to comment on this AD:

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7175; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The European Aviation Safety Agency (EASA) which is the airworthiness authority for the European Union, recently notified us that an unsafe condition may exist on RR RB211 Trent 768–60, 772–60 and 772B–60 turbofan engine. EASA advises that a Trent 700 engine was removed due to oil loss and low-oil pressure. Investigation established that a damaged outer heat shield caused fretting of the HP/IP turbine bearing oil feed tubes. Oil leakage from the oil feed tube at the outer heat shield position traveled forward to the cavity in front of the HP/IP turbine support structure and ignited. The fire caused localized heat damage to the rear of the HPT disc. This incident illustrated the possibility for overheating and failure of the HPT disc resulting from deterioration of the oil feed tube heat shield.

Relevant Service Information

We have reviewed and approved the technical contents of RR Alert Service Bulletin (ASB) No. RB.211–72–AF045, Revision 2, dated July 27, 2006. That ASB describes procedures for initial and repetitive on-wing or in-shop inspections for cracks in the HP/IPT oil feed tube outer heat shield. The CAA issued AD No. 2006–0073, dated April 3, 2006, in order to ensure the airworthiness of these RR engines in the United Kingdom.

Bilateral Airworthiness Agreement

This engine model is manufactured in the United Kingdom, and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Under this bilateral airworthiness agreement, the CAA kept the FAA informed of the situation described above. We have examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination and Requirements of This AD

Although no airplanes that are registered in the United States use these engines, the possibility exists that the engines could be used on airplanes that are registered in the United States in the future. The unsafe condition described previously is likely to exist or develop on other RR RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines of the same type design. We are issuing this AD to prevent uncontained failure of the HPT disc and damage to the airplane. This AD requires:

- An initial on-wing inspection of the oil feed tube heat shield within 10,000 hours or 2,500 cycles on the 05 module since new or overhaul or within 30 days after the effective date of this AD, whichever is later, or
- An initial in-shop inspection of the heat shield of oil feed tube during a shop visit of the module 05 where the module 05 is not scheduled for overhaul or within 30 days after the effective date of this AD, whichever is later.
- Thereafter, a repetitive inspection of the heat shield of oil feed tube at an interval determined by the condition of the heat shield.

You must use the service information described previously to perform the actions required by this AD.

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this engine model, notice and opportunity for public comment before issuing this AD are unnecessary. A situation exists that allows the immediate adoption of this regulation.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to send us any written relevant data, views, or

arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''AD Docket No. FAA–2006–26052; Directorate Identifier 2006–NE–30–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of the DMS Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Examining the AD Docket

You may examine the docket that contains the AD, any comments received, and any final disposition in person at the Docket Management Facility Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the DMS receives them.

Authority for This Rulemaking

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 rulemaking action.

Regulatory Findings

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.

For the reasons discussed above, I certify that the regulation:

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 placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ 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. The FAA amends § 39.13 by adding the following new airworthiness directive:

2006–23–11 Rolls-Royce plc: Amendment 39–14823. Docket No. FAA–2006–26052; Directorate Identifier 2006–NE–30–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective December 19, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Rolls-Royce plc (RR) RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines that do not incorporate RR Service Bulletin RB.211–71–F117 or RB.211–72–048. These engines are installed on, but not limited to, Airbus A330 series airplanes.

Unsafe Condition

(d) This AD results from a report that a damaged outer heat shield fretted the oil feed tubes. We are issuing this AD to prevent an uncontained failure of the high pressure (HP) turbine disc and damage to the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

Initial Inspection

(f) Initially inspect the HP/IP turbine oil feed tube outer heat shield for cracks. Use either 3.A.(1) through 3.A.(3) on-wing procedures or 3.B.(1)(a) through 3.B.(1)(e) in-shop procedures of RR ASB RB.211–72–AF045, Revision 2, dated July 27, 2006, at one of the following compliance times:

(1) At the next shop visit of the 05 Module regardless of the reason for the visit, or

(2) Before one of the following intervals whichever occurs latest:

(i) 30 days from the effective date of this AD, or

(ii) 10,000 hours or 2,500 cycles since new, whichever occurs first, or

(iii) 2,500 cycles since overhaul of the 05 Module.

Repetitive Inspection

(g) Re-inspect the HP/IP turbine oil feed tube outer heat shield for cracks as specified in the applicable criteria of paragraphs C.(1)(b)(i) through C(1)(b)(vi) or C(2)(b)(i) through C(2)(b)(ii) of RR ASB RB.211–72–AF045, Revision 2, dated July 27, 2006. Use either 3.A.(1) through 3.A.(3) on-wing procedures or 3.B.(1)(a) through 3.B.(1)(e) in-shop procedures of RR ASB RB.211–72–AF045, Revision 2, dated July 27, 2006.

Remove HP/IP Turbine Oil Feed Tube Outer Heat Shields From Service

(h) Remove from service HP/IP turbine oil feed tube outer heat shields according to the applicable criteria in paragraphs C(1)(b)(vii) through C(1)(b)(vii) or C(2)(b)(iii) of RR ASB RB.211–72–AF045, Revision 2, dated July 27, 2006.

Alternative Methods of Compliance

(i) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(j) EASA airworthiness directive 2006–0073, dated April 3, 2006, also addresses the subject of this AD.

Material Incorporated by Reference

(k) You must use Rolls-Royce Alert Service Bulletin No. RB.211–72–AF045, Revision 2, dated July 27, 2006, to perform the inspections required by this AD. 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. Contact Rolls-Royce plc P.O. Box 31, Derby, DE24 8BJ, United Kingdom; telephone 44 (0) 1332 242424; Fax 44 (0) 1332 249936 for a copy of this service

information. You may review copies at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; 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/cfr/ ibr-locations.html.*

Issued in Burlington, Massachusetts, on November 3, 2006.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E6–18964 Filed 11–13–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to simplify the organization of special labeling requirements for formulations (Type A medicated articles, Type B and Type C medicated feeds) containing monensin sodium. This action is being taken to improve the clarity of the regulations.

DATES: This rule is effective November 14, 2006.

FOR FURTHER INFORMATION CONTACT: Dragan Momcilovic, Center for Veterinary Medicine (HFV–226), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–453–6856, e-mail: *dragan.momcilovic@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: On October 28, 2004, FDA approved a supplemental new animal drug application (sNADA 95–735) filed by Elanco Animal Health for RUMENSIN (monensin sodium) Type A medicated article adding use in a new class of cattle (dairy cows) for increased milk production efficiency (69 FR 68783, November 26, 2004). On December 15, 2005, FDA approved another supplement to NADA 95–735 for use in dairy cow component feeding systems (71 FR 1689, January 11, 2006). The approval of each of these new conditions of use resulted in the amendment of the animal drug regulations for monensin in § 558.355 (21 CFR 558.355).

Since these approvals for use of monensin in dairy cow feeds as well as beef cattle feeds, FDA has become aware of confusion regarding which statements on the approved Type A medicated article labeling also appear on the approved representative labeling (Blue Bird labeling) for Type B and Type C medicated feeds for each class of cattle. At this time, the regulations are being amended in § 558.355 to simplify the organization of special labeling requirements for formulations (Type A medicated articles, Type B and Type C medicated feeds) containing monensin sodium. This action is being taken to improve the clarity of the regulations.

Publication of this document constitutes final action on this change under the Administrative Procedures Act (5 U.S.C. 553). Notice and public procedure are unnecessary because FDA is merely correcting nonsubstantive errors.

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

■ 2. Amend § 558.355 as follows:

a. Revise paragraphs (d)(6) through (d)(11);

b. Remove paragraph (d)(13); and

c. Revise the second sentence of paragraph (f)(3)(xiii)(B), the third sentence of paragraph (f)(3)(xiv)(B), and the sixth sentence of paragraph (f)(6)(i)(*b*)(*1*).

The revisions read as follows:

§ 558.355 Monensin.

* * * * *

(d) * * *

(6) All formulations containing monensin shall bear the following caution statement: Do not allow horses or other equines access to feed containing monensin. Ingestion of monensin by horses has been fatal.

(7) Type A medicated articles containing monensin intended for use in cattle and goats shall bear, in addition to the caution statement in paragraph (d)(6) of this section, the following statements:

(i) Monensin medicated cattle and goat feeds are safe for use in cattle and goats only. Consumption by unapproved species may result in toxic reactions.

(ii) Feeding undiluted or mixing errors resulting in high concentrations of monensin has been fatal to cattle and could be fatal to goats.

(iii) Must be thoroughly mixed in feeds before use.

(iv) Do not feed undiluted.

(v) Do not exceed the levels of monensin recommended in the feeding directions, as reduced average daily gains may result.

(vi) Do not feed to lactating goats.

(vii) If feed refusals containing monensin are fed to other groups of cattle, the concentration of monensin in the refusals and amount of refusals fed should be taken into consideration to prevent monensin overdosing.

(viii) A withdrawal period has not been established for this product in pre-ruminating calves. Do not use in calves to be processed for veal.

(ix) You may notice the following: Reduced voluntary feed intake in dairy cows fed monensin. This reduction increases with higher doses of monensin fed. Rule out monensin as the cause of reduced feed intake before attributing to other causes such as illness, feed management, or the environment. Reduced milk fat percentage in dairy cows fed monensin. This reduction increases with higher doses of monensin fed. Increased incidence of cystic ovaries and metritis in dairy cows fed monensin. Reduced conception rates, increased services per animal, and extended days open and corresponding calving intervals in dairy cows fed monensin. Have a comprehensive and ongoing nutritional, reproductive, and herd health program in place when feeding monensin to dairy cows.

(x) Inadequate mixing (recirculation or agitation) of monensin liquid Type B or Type C medicated feeds has resulted in increased monensin concentration which has been fatal to cattle and could be fatal to goats.

(8) Type A medicated articles containing monensin intended for use in chickens shall bear the caution statements specified in paragraphs (d)(6), (d)(7)(iii), and (d)(7)(iv) of this section.

(9) Type B feeds containing monensin shall bear the statements specified in the following paragraphs of this section when intended for use in:

(i) *Cattle (as described in paragraphs (f)(3)(i) through (f)(3)(xii) of this section)*: See paragraphs (d)(6), (d)(7)(i) through (d)(7)(v), (d)(7)(vii), and (d)(7)(viii) of this section.

(ii) *Dairy cows (as described in paragraphs (f)(3)(xiii) and (f)(3)(xiv) of this section)*: See paragraphs (d)(6), (d)(7)(i) through (d)(7)(iv), (d)(7)(vii), (d)(7)(viii), and (d)(7)(ix) of this section.

(iii) *Goats*: See paragraphs (d)(6) and (d)(7)(i) through (d)(7)(vi) of this section.

(10) Type C feeds containing monensin shall bear the statements specified in the following paragraphs of this section when intended for use in:

(i) *Cattle (as described in paragraphs (f)(3)(i) through (f)(3)(xii) of this section)*: See paragraphs (d)(6), (d)(7)(i), (d)(7)(v), (d)(7)(vii), and (d)(7)(viii) of this section.

(ii) *Dairy cows (as described in paragraphs (f)(3)(xiii) and (f)(3)(xiv) of this section)*: See paragraphs (d)(6), (d)(7)(i), (d)(7)(vii), (d)(7)(viii), and (d)(7)(ix) of this section.

(iii) *Goats*: See paragraphs (d)(6), (d)(7)(i), (d)(7)(v), and (d)(7)(vi) of this section.

(11) Type B and Type C liquid feeds requiring recirculation or agitation that contain monensin and are intended for use in cattle (including dairy cows) and goats shall bear the caution statement specified in paragraph (d)(7)(x) of this section.

* * * * *

(f) * * *

(3) * * *

(xiii) * * *

(B) * * * See special labeling considerations in paragraph (d) of this section.

(xiv) * * *

(B) * * * See special labeling considerations in paragraph (d) of this section.

* * * * *

(6) * * *

(i) * * *

(*b*) * * *

(*1*) * * * See special labeling considerations in paragraph (d) of this section.

* * * * *

Dated: October 31, 2006.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. E6–19203 Filed 11–13–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD [9297]]

RIN 1545–BG02

Residence Rules Involving U.S. Possessions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide rules for determining bona fide residency in the following U.S. territories: American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the United States Virgin Islands under section 937(a) of the Internal Revenue Code.

DATES: *Effective Date:* These regulations are effective November 14, 2006.

Applicability Dates: For dates of applicability, see § 1.937–1(i).

FOR FURTHER INFORMATION CONTACT: J. David Varley, (202) 435–5262 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On April 11, 2005, the IRS and Treasury Department published in the **Federal Register** temporary regulations (TD 9194, 70 FR 18920, as corrected at 70 FR 32589–01), which provided rules to implement section 937 of the Internal Revenue Code (Code) dealing with U.S. possessions or territories specified in that section (territories) and to conform existing regulations to other legislative changes with respect to the territories. A notice of proposed rulemaking (REG–159243–03, 70 FR 18949) cross-referencing the temporary regulations was published in the **Federal Register** on the same day. Written comments were received in response to the notice of proposed rulemaking and a public hearing on the proposed regulations was held on July 21, 2005. After consideration of the comments, the IRS and Treasury Department on January 31, 2006 published in the **Federal Register** final regulations (TD 9248, 71 FR 4996, as corrected at 71 FR 14099) under section 937(a) dealing with determining residency in a territory, adopting with amendments the proposed regulations (specifically, §§ 1.937–1 and 1.881–5T(f)(4)).

Section 937(a) provides that an individual is a bona fide resident of a territory if the individual meets a presence test, a tax home test and a closer connection test. In order to satisfy the presence test, a person must be present in the territory for at least 183 days during the taxable year (the 183-day rule), unless otherwise provided in regulations. The final section 937(a) regulations provide several alternatives to the 183-day rule in the statute.

Treasury Reg. § 1.937–1 provides that an individual who does not satisfy the 183-day rule nevertheless meets the presence test if the individual satisfies one of three alternative tests: (1) The individual spends no more than 90 days in the United States during the taxable year; (2) the individual has no more than $3,000 of earned income from U.S. sources and is present for more days in the territory than in the United States during the taxable year; or (3) the individual has no significant connection to the United States during the tax year. The term ''significant connection'' is generally defined as a permanent home, voter registration, spouse, or minor child in the United States. The final regulations also provide that certain days count as days of presence in the relevant territory for the purposes of the presence test, even if the person was not physically present in the territory. Similarly, certain days that an individual spends in the United States do not count as days of presence in the United States for purposes of the presence test.

Before finalizing the regulations, the IRS and Treasury Department received comments suggesting that days spent outside of a territory for nonmedical family emergencies, charitable pursuits or business travel should count as days spent in the territory and outside the United States. The IRS and Treasury Department were sympathetic to the concern that the realities of life in the territories might require periodic temporary absences from the territories, but found that the particular suggestions would have been very difficult to implement and monitor administratively. Further, the IRS and Treasury Department declined to adopt the commentators' suggestion to import a simple mirroring of the substantial presence test of section 7701(b) on the ground that Congress had considered but rejected this approach for determining residency in a territory. See H.R. Conf. Rep. No. 108–755, at 791–795 (2004). Nonetheless, the IRS and Treasury Department believed that final regulations provided meaningful advantages to taxpayers over the proposed and temporary regulations.

Explanation of Provisions

Following publication of the final regulations, additional comments were made requesting that the IRS and

Treasury Department revisit the presence test. For example, one commentator requested that up to 30 days of business or personal travel outside the United States and the territory be treated as days of presence in a territory. The IRS and Treasury Department continue to be sympathetic to the concern that the realities of life in the territories might require periodic temporary absences from the territories for business pursuits, have concluded nonetheless that such a rule would be administratively difficult to implement and monitor. In addition, commentators have not been able to offer meaningful suggestions to alleviate this concern. The IRS and Treasury Department believe that in these situations, the 183-day rule in combination with the alternatives to that rule, as liberalized in the final regulations, provide sufficient flexibility to accommodate absences from the territory to pursue a range of activities.

In addition, a commentator argued that the treatment of major disasters should be liberalized to allow individuals to spend time away from the territories in the event of a natural disaster. This commentator said the final regulations only provide rules for evacuations of territories, which suggests the IRS and Treasury Department do not realize that the territories are typically not evacuated in the event of natural disasters such as a hurricane. This commentator appears to have misunderstood the final regulations. The final regulations already address the commentator's concerns and provide that if an individual leaves, or is unable to return to, a relevant territory during a two-week period within which an officially declared major disaster in the relevant territory occurs, then the individual will not count any day during either period as a day of presence in the United States, even though the individual is not present in the United States, and will treat such days as days of presence in the relevant territory. In addition, the regulations provide for relief in case there ever is a natural disaster that would warrant the evacuation of a territory. The IRS and Treasury Department recognize that it is currently not the custom to evacuate the territories in the event of natural disasters such as a hurricane. However, the IRS and Treasury Department continue to think it best to retain the rules regarding evacuations so that the regulations are flexible enough to allow for such an event should it ever occur. Individuals who remain in the territories during the natural disaster obviously can count those days for the presence test.

Commentators also requested that outpatient care be added to the permitted types of qualifying medical treatment. Under the final regulations, a temporary stay in the United States for certain documented medical treatment of the individual, or a parent, spouse or child whom the individual accompanies to the treatment, will not count as days spent in the United States for purposes of the alternatives to the 183-day rule, irrespective of where the medical condition arose. The final regulations focus on inpatient treatment in a hospital, hospice or residential medical care facility and the formal credentials of the health care provider as an objective proxy for a determination that a medical condition is serious enough to entail periods of treatment that may not be readily covered by other alternatives to the 183-day rule. The IRS and Treasury Department continue to believe that in medical situations not otherwise provided for in the final regulations, the 183-day rule in combination with the alternatives to that rule, as liberalized in these final regulations, provide sufficient flexibility to accommodate absences from the territories.

Finally, these post-publication comments suggested a new alternative to the presence test whereby U.S. citizens and residents should be permitted to satisfy the 183-day rule of section 937(a)(1) by meeting some type of averaging test that would better accommodate the realities of business cycles and life in the territories. The IRS and Treasury Department believe that this final new suggestion is administrable and achieves the additional flexibility the commentators sought for the host of activities commentators discussed above and for which the commentators suggested additional exceptions to the 183-day rule.

As amended by this Treasury decision, the final regulations now incorporate a new alternative to the presence test that requires the individual to be present in the relevant territory for a simple nonweighted three-year average of 183 days per year, provided that a minimum of 60 days of presence is met in each of those three years. Thus, under this alternative, an individual will satisfy the presence test for a taxable year if the individual is present in the relevant territory a minimum of 549 days during the three-year period that includes the current taxable year and the two preceding taxable years, so long as the individual is also present in the relevant territory for a minimum of 60 days in each year during that three-year period. This test is in addition to the existing regulatory alternatives to the statutory test and incorporates the existing rules for counting days.

In light of the additional flexibility achieved by the new three-year averaging alternative adopted in this Treasury decision, the IRS and Treasury Department have determined not to adopt the other amendments suggested by commentators. These suggestions were each felt to be either not appropriate or difficult to administer. The new three-year averaging alternative, together with the existing available alternatives, provides individuals with sufficient flexibility in applying the presence test. It is not expected that any further amendments will be made to the bona fide residence rules of § 1.937–1.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is J. David Varley, Office of the Associate Chief Counsel (International), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.937–1 also issued under 26 U.S.C. 937(a). * * *

■ **Par. 2.** Section 1.937–1 is amended as follows:

■ 1. Revise paragraph (c)(1) and (c)(5) introductory text.

■ 2. Amend paragraph (g) by redesignating *Examples 1* through *9* as *Examples 2* through *10* respectively, adding new *Example 1*, and revising newly designated *Example 2,* the last sentence; *Example 3*, the ninth sentence; and *Example 6*, the sixth sentence.

The revisions and addition read as follows:

§ 1.937–1 Bona fide residency in a possession.

* * * * *

(c) *Presence test*—(1) *In general.* A United States citizen or resident alien individual (as defined in section 7701(b)(1)(A)) satisfies the requirements of this paragraph (c) for a taxable year if that individual—

(i) Was present in the relevant possession for at least 183 days during the taxable year;

(ii) Was present in the relevant possession for at least 549 days during the three-year period consisting of the taxable year and the two immediately preceding taxable years, provided that the individual was also present in the relevant possession for at least 60 days during each taxable year of the period;

(iii) Was present in the United States for no more than 90 days during the taxable year;

(iv) During the taxable year had earned income (as defined in § 1.911–3(b)) in the United States, if any, not exceeding in the aggregate the amount specified in section 861(a)(3)(B) and was present for more days in the relevant possession than in the United States; or

(v) Had no significant connection to the United States during the taxable year. See paragraph (c)(5) of this section.

* * * * *

(5) *Significant connection.* For purposes of paragraph (c)(1)(v) of this section—

* * * * *

(g) Examples. * * *

Example 1. Presence test. H, a U.S. citizen, is engaged in a profession that requires frequent travel. H spends 195 days of each of the years 2005 and 2006 in Possession N. In 2007, H spends 160 days in Possession N. Under paragraph (c)(1)(ii), H satisfies the presence test of paragraph (c) of this section with respect to Possession N for taxable year 2007. Assuming that in 2007 H does not have a tax home outside of Possession N and does not have a closer connection to the United States or a foreign country under paragraphs (d) and (e) of this section respectively, then regardless of whether H was a bona fide resident of Possession N in 2005 and 2006, H is a bona fide resident of Possession N for taxable year 2007.

Example 2. Presence test. * * * However, under paragraph (c)(1)(iv) of this section, W still satisfies the presence test of paragraph (c) of this section with respect to Possession P because she has no earned income in the United States and is present for more days in Possession P than in the United States.

Example 3. Presence test. * * * Assuming that no other accommodations in the United States constitute a permanent home with respect to T, then under paragraphs (c)(1)(v) and (c)(5) of this section, T has no significant connection to the United States. * * *

* * * * *

Example 6. Seasonal workers—Tax home and closer connection. * * * P satisfies the presence test of paragraph (c) of this section with respect to both Possession Q and Possession I, because, among other reasons, under paragraph (c)(1)(iii) of this section she does not spend more than 90 days in the United States during the taxable year. * * *

* * * * *

Linda M. Kroening,

Acting Deputy Commissioner for Services and Enforcement.

Approved: November 3, 2006.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E6–19135 Filed 11–13–06; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 707 and 799

[EPA–HQ–OPPT–2005–0058; FRL–8101–3]

RIN 2070–AJ01

Export Notification; Change to Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating amendments to the Toxic Substances Control Act (TSCA) section 12(b) export notification regulations at subpart D of 40 CFR part 707. One amendment changes the current annual notification requirement to a one-time requirement for exporters of chemical substances or mixtures (hereinafter referred to as ''chemicals'') for which certain actions have been taken under TSCA. Relatedly, for the same TSCA actions, EPA is changing the current requirement that the Agency notify foreign governments annually after the Agency's receipt of export notifications from exporters to a requirement that the Agency notify foreign governments once after it receives the first export notification from an exporter. EPA is also promulgating *de minimis* concentration levels below which notification will not be required for the export of any chemical for which export notification under TSCA section 12(b) is otherwise required, promulgating other minor amendments (to update the EPA addresses to which export notifications must be sent, to indicate that a single export notification may refer to more than one section of TSCA where the exported chemical is the subject of multiple TSCA actions, and to correct an error in 40 CFR 799.19 that currently omits mentioning multi-chemical test rules as being among those final TSCA section 4 actions that trigger export notification), and clarifying exporters' and EPA's obligations where an export notification-triggering action is taken with respect to a chemical previously or currently subject to export notification due to the existence of a previous triggering action.

DATES: This rule is effective January 16, 2007. In accordance with 40 CFR 23.5, this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern daylight/standard time on November 28, 2006.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2005–0058. All documents in the docket are listed on the regulations.gov web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. The EPA Docket Center (EPA/DC) suffered structural damage due to flooding in June 2006. Although the EPA/DC is continuing operations, there will be temporary changes to the EPA/DC during the clean-up. The EPA/DC Public Reading Room, which was temporarily closed due to flooding, has been relocated in the EPA Headquarters Library, Infoterra Room (Room Number 3334) in EPA West, located at 1301 Constitution Ave., NW., Washington, DC. The EPA/DC 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 EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. EPA visitors are required to show

photographic identification and sign the EPA visitor log. Visitors to the EPA/DC Public Reading Room will be provided with an EPA/DC badge that must be visible at all times while in the EPA Building and returned to the guard upon departure. In addition, security personnel will escort visitors to and from the new EPA/DC Public Reading Room location. Up-to-date information about the EPA/DC is on the EPA website at *http://www.epa.gov/epahome/dockets.htm*.

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

For technical information contact: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; e-mail address: *moss.kenneth@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

You may be potentially affected by this action if you export or intend to export any chemical substance or mixture for which any of the following actions have been taken under TSCA with respect to that chemical substance or mixture: Data are required under TSCA section 4 or 5(b), an order has been issued under TSCA section 5, a rule has been proposed or promulgated under TSCA section 5 or 6, or an action is pending, or relief has been granted under section 5 or 7. Potentially affected entities, identified using the North American Industrial Classification System (NAICS) codes, may include, but are not limited to:

• Exporters of chemical substances or mixtures (NAICS codes 325 and 324110; e.g. chemical manufacturing and processing, and petroleum refineries).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The NAICS codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions at 40 CFR 707.60 for TSCA section 12(b)-related obligations. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**. You may obtain a copy of both the U.S. Department of Health and Human Services National Toxicology Program (NTP) Report on Carcinogens (latest edition) (Ref. 1) and the World Health Organization International Agency for Research on Cancer (IARC) Monographs on the Evaluation of Carcinogenic Risks to Humans and their Supplements (latest editions) (Ref. 2) on-line.

II. Background

A. What is the Agency's Authority for Taking this Action?

EPA is promulgating these amendments pursuant to TSCA section 12(b), 15 U.S.C. 2611(b). Section 12(b) of TSCA requires that any person who exports or intends to export to a foreign country a chemical for which the submission of data is required under TSCA section 4 or 5(b), an order has been issued under TSCA section 5, a rule has been proposed or promulgated under TSCA section 5 or 6, or with respect to which an action is pending or relief has been granted under TSCA section 5 or 7 must notify the Administrator of EPA of such exportation or intent to export. Upon receipt of such notification, EPA must furnish the government of the importing country with:

1. Notice of the availability of data received pursuant to an action under TSCA section 4 or 5(b), or
2. Notice of such rule, order, action, or relief under TSCA section 5, 6, or 7.

B. Currently Existing Regulations

Currently, the TSCA section 12(b) regulations require exporters of chemicals to notify EPA of the first export or intended export to a particular country in a calendar year when data are required under TSCA section 5(b), an order has been issued under TSCA section 5, a rule has been proposed or promulgated under TSCA section 5 or 6, or an action is pending, or relief has been granted under TSCA section 5 or 7. For chemicals subject to a final TSCA section 4 action, exporters are currently required to submit an export notification only for the first export or intended export to a particular country.

In the **Federal Register** of December 16, 1980, EPA promulgated rules at 40 CFR part 707, subpart D, implementing TSCA section 12(b) (Ref. 3). Under these rules, exporters were required to submit a written notification to EPA for the first export or intended export to a particular country in a calendar year for any chemical that was the subject of a TSCA section 12(b)-triggering TSCA action. Upon receipt of such notification from an exporter, the implementing rules required (and still require) that EPA provide the importing country with, among other things, a summary of the action taken or an indication of the availability of data received pursuant to action under TSCA section 4 or 5(b) (see 40 CFR 707.70(b)).

To facilitate foreign governments' consideration of export notices for chemicals exported from the United States and to reduce the burden on EPA and exporters, EPA published a rule in the **Federal Register** of July 27, 1993, that amended the regulations in 40 CFR part 707, subpart D (Ref. 4). The amendment limited the notification requirement for each exporter of chemicals subject to a final TSCA section 4 action to a one-time notification to EPA for the export of each such chemical to each particular country, instead of requiring annual notification to EPA for shipments of the chemical to that country. The amended rule also limited EPA's notice to foreign governments to one time for the export of each chemical subject to a final TSCA section 4 action. The 1993 amendment did not change the export notification requirements for chemicals that are the subject of an action under TSCA section 5, 6, or 7. The 1993 amendment also did not change the frequency of EPA's notice to foreign governments for chemicals subject to TSCA section 5, 6, or 7; EPA notice is provided upon receipt of the first annual export notification for each such chemical to each country.

C. What Action is the Agency Taking?

EPA is amending TSCA section 12(b) export notification regulations at subpart D of 40 CFR part 707. The first amendment changes the current annual notification requirement for exporters of chemicals for which certain actions have been taken under TSCA. Currently, the TSCA section 12(b) regulations require exporters of chemicals to notify EPA of the first export or intended export to a particular country in a calendar year when data are required under TSCA section 5(b), an order has been issued under TSCA section 5, a rule has been proposed or promulgated under TSCA section 5 or 6, or an action is pending, or relief has been granted under TSCA section 5 or 7. For chemicals subject to a final TSCA section 4 action, exporters are currently required to submit an export

notification only for the first export or intended export to a particular country.

This final rule changes the current annual export notification requirement to a one-time requirement for each of the following TSCA section 12(b)-triggering actions per each destination country for each exporter of a chemical:

- An order issued, an action pending, or an action granting relief under TSCA section 5(e),
- A proposed or promulgated rule under TSCA section 5(a)(2), or
- An action requiring the submission of data under TSCA section 5(b).

For exports of chemicals that are the subjects of TSCA 12(b)-triggering actions under TSCA section 5(f), 6, or 7, however, each exporter will continue to be required to submit annual export notifications to EPA.

EPA is also changing the frequency with which the Agency must notify foreign governments after the Agency's receipt of export notifications from exporters. Consistent with the current requirement that EPA notify foreign governments one time regarding the export of chemicals subject to final TSCA section 4 actions, EPA is requiring that the Agency provide a one-time (rather than the current annual) notice to each foreign government to which exported chemicals that are the subjects of any of the following actions are sent: An order issued, an action pending, or an action granting relief under TSCA section 5(e), a rule proposed or promulgated under TSCA section 5(a)(2), or an action requiring the submission of data under TSCA section 5(b). EPA will continue to notify each foreign government on an annual basis regarding the export of chemicals that are the subject of TSCA section 5(f), 6, or 7 actions, for which EPA has proposed to make or has made a finding under TSCA that a chemical substance or mixture ''presents or will present'' an unreasonable risk.

EPA believes this rule will further focus importing governments' resources and attention on chemicals for which EPA has proposed to make or has made a finding under TSCA that a chemical substance or mixture ''presents or will present'' an unreasonable risk, and to reduce overall burden on exporters and the Agency.

In addition, EPA is setting *de minimis* concentration levels below which notification would not be required for the export of any chemical substance or mixture for which export notification under TSCA section 12(b) is otherwise required. Specifically, EPA is finalizing the requirement that export notification will not be required for such chemical substances or mixtures if the chemical is being exported at a concentration of less than 1% (by weight or volume), unless that chemical substance or mixture is a known or potential human carcinogen. A chemical is considered to be a known or potential human carcinogen, for purposes of TSCA section 12(b) export notification, if that chemical is:

1. Listed as a ''known to be human carcinogen'' or ''reasonably anticipated to be human carcinogen'' in the Report on Carcinogens issued by the U.S. Department of Health and Human Services National Toxicology Program (NTP) (latest edition) (Ref. 1),
2. Classified as a Group 1, Group 2A, or Group 2B carcinogen by the World Health Organization International Agency for Research on Cancer (IARC) in the IARC Monographs on the Evaluation of Carcinogenic Risks to Humans and their Supplements (latest editions) (Ref. 2), or
3. Characterized as a carcinogen or potential carcinogen in the Occupational Safety and Health Administration's (OSHA's) regulations related to toxic and hazardous substances (29 CFR part 1910, subpart Z).

For such chemicals in paragraph 1., 2., or 3. of this unit, a *de minimis* concentration level of less than 0.1% (by weight or volume) will apply.

4. A polychlorinated biphenyl (PCB), for which notification will not be required if such PCBs are being exported at a concentration of less than or equal to 50 parts per million (ppm) (by weight or volume).

In this final rule, EPA is also updating the instructions for the submission of export notifications to the Agency (40 CFR 707.65(c)), clarifying exporters' and EPA's obligations when subsequent TSCA section 12(b)-triggering actions are taken with respect to a chemical previously or currently subject to export notification due to a separate triggering action, indicating in 40 CFR 707.67 that a single export notification may refer to more than one section of TSCA where the exported chemical is the subject of multiple TSCA actions, and correcting 40 CFR 799.19 to make it clear that final multi-chemical TSCA section 4 rules also trigger export notification.

D. Rotterdam Convention

EPA notes as further background the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention) (Ref. 5), a multi-lateral environmental agreement that the United States signed in September of 1998 but has not yet ratified (and thus is not a Party to). This Rotterdam Convention, which went into force in February of 2004, includes the following major obligations:

1. *Notification of control action and imposition of export notification requirement on exporters.* The Rotterdam Convention requires exporting parties to: Determine whether a pesticide or industrial chemical is ''banned'' or ''severely restricted'' (BSR); notify the Secretariat of that determination; and notify importing parties of the export of those chemicals from their country prior to their export after making the BSR determination and thereafter for the first export of every calendar year.

2. *Impose export restrictions consistent with importing parties response.* Once a BSR chemical (and its use category, i.e., use as a pesticide or industrial chemical) is, by consensus of the Parties, added to Annex III of the Rotterdam Convention, the Rotterdam Convention requires importing parties to identify any conditions/restrictions on the import of these substances and exporting parties to make sure exports occur consistent with conditions/restrictions identified by importing countries. Annex III of the Rotterdam Convention contains a list of chemicals that are subject to the Prior Informed Consent Procedures described by the Rotterdam Convention (Ref. 5).

3. *Label exported products.* For countries' domestic BSR chemicals and the Rotterdam Convention's Annex III chemicals, the Rotterdam Convention requires labeling to ''ensure adequate availability of information with regard to risks and/or hazards to human health or the environment.'' For the Rotterdam Convention's Annex III chemicals, labels must also include a Harmonized System Code if available (Ref. 6). The Harmonized Commodity Description and Coding System, generally referred to as ''Harmonized System'' or simply ''HS,'' is a multi-purpose international product nomenclature developed by the World Customs Organization. For an exporting country's BSR chemicals and the Rotterdam Convention's Annex III chemicals that are to be used in an occupational setting, the Rotterdam Convention requires that a safety data sheet setting out the most up-to-date information available be sent to each importer.

EPA believes the export notification mechanism in the Rotterdam Convention broadly reflects importing governments' interests and that this proposal to amend the TSCA section 12(b) export notification rule is not inconsistent with the export notification provisions of the Rotterdam Convention.

EPA wishes to note that the Administration is committed to the United States becoming a Party to the Rotterdam Convention, as well as two other chemicals-related multi-lateral environmental agreements: the Stockholm Convention on Persistent Organic Pollutants (POPs) (Stockholm Convention) (Ref. 7) and the POPs Protocol to the United Nations Economic Commission for Europe Convention on Long Range Transboundary Air Pollution (LRTAP) (Ref. 8). The Administration has been and intends to continue working with Congress to facilitate the development of legislation that would provide the authority needed for the United States to fully implement and become a Party to those agreements. If and when such legislation is enacted, and depending on the nature of the legislation, it may be appropriate or necessary to further amend the TSCA section 12(b) regulations.

III. Rationale for This Rule

EPA believes this rule is a reasonable supplement to the export notification regulations at 40 CFR parts 707 and 799 because it further reduces overall burden on exporters and the Agency and helps to further focus importing governments' resources and attention on chemicals for which EPA has proposed to make or has made a finding that a chemical ''presents or will present'' an unreasonable risk to human health or the environment.

A. This Rule

This rule treats actions under TSCA sections 5(a)(2) and 5(e) similarly to final actions under TSCA section 4 for purposes of export notification, such that a one time notice will be required. In the 1993 amendments, it was EPA's view that TSCA section 5(a)(2) and 5(e) actions, which are based on exposure or risk concerns for identified use scenarios, ''restrict'' in a limited sense, regulated uses. The amendments further stated that the Agency has authority to take follow-up action under TSCA section 5(a)(2) via TSCA section 5(e) and because there is no similar provision under TSCA section 4 (with the exception of a separate proceeding under TSCA section 6 or 7), there was a reasonable basis for treating the export notification requirement for chemicals regulated under TSCA sections 4 and 5 differently (Ref. 4, p. 40240).

Although TSCA sections 5(a)(2) and 5(e) restrict use in some sense, the statutory finding for such actions is based on consideration of ''factors'' relating to a ''significant new use'' determination under TSCA section 5(a)(2) or, for TSCA section 5(e), the same ''may present an unreasonable risk'' or ''substantial production/significant/substantial exposure'' findings required under TSCA section 4 rulemakings. EPA believes foreign governments will want to focus greater attention on chemicals for which the Agency has made a finding that a chemical ''presents or will present'' an unreasonable risk to human health or the environment (TSCA sections 5(f), 6, and 7). This finding represents a definitive determination and thus is different from a finding that a chemical ''may present'' an unreasonable risk (TSCA sections 4(a)(1)(A)(i) and 5(e)(1)(A)(ii)(I)), substantial production and substantial or significant exposure/release findings (''exposure-based'' findings; TSCA sections 4(a)(1)(B)(i), 5(b)(4)(A)(i), and 5(e)(1)(A)(ii)(II)), or factors determining a significant new use (TSCA section 5(a)(2)). Because ''presents or will present'' an unreasonable risk to human health or the environment is a definitive risk determination, EPA believes that it is reasonable to require more frequent notification for those chemicals that are the subject of each export notification-triggering action under TSCA sections 5(f), 6, and 7. Therefore, EPA is continuing to require annual export notification by exporters of chemicals that are the subject of each action under TSCA section 5(f), 6, or 7, and EPA is similarly amending the regulatory provision regarding EPA's notice to foreign governments to limit annual notices to these chemicals.

B. De Minimis Exemption

EPA is also promulgating *de minimis* concentration levels below which notification will not be required for the export of any chemical that is the subject of an action under TSCA section 4, 5, 6, or 7. This rule provides background on the use of *de minimis* concentration levels under an international chemical classification and labeling scheme as a basis for incorporation of a *de minimis* concentration level under TSCA section 12(b).

The 1992 United Nations Conference on Environment and Development (Ref. 9) provided the international mandate for development of the Globally Harmonized System of Classification and Labeling of Chemicals (Ref. 10). The GHS was adopted by the United Nations Economic and Social Council in July 2003 and is an internationally agreed upon tool for chemical hazard communication that incorporates a harmonized approach to hazard classification and provisions for standardized labels and safety data sheets. The GHS labeling is intended to provide a foundation for national programs to promote safer use, transport and disposal of chemicals, and to facilitate international trade in chemicals whose hazards have been properly assessed and identified based on internationally agreed upon criteria. As with TSCA section 12(b), one of the primary purposes of the GHS labeling scheme is to communicate information on chemicals to foreign governments. Accordingly, EPA believes it is appropriate to look to GHS for guidance on establishing a *de minimis* concentration exemption under TSCA section 12(b).

Classification of chemical mixtures under the GHS for several health and environmental hazard classes is triggered when generic cut-off values or concentration limits are exceeded, for example, >1.0% for target organ systemic toxicity, >0.1% for known or presumed human carcinogens, etc. (See Ref. 10, chapter 1.5, table 1.5.1; the cut-off levels for each hazard class are provided in chapters 3.1-3.10 (health hazards) and chapter 4.1 (environmental hazards) of Ref. 10.) When a chemical is present below these cut-off levels, the GHS does not require that the chemical appear on labeling or other information sources. The GHS reflects international consensus on appropriate *de minimis* concentrations below which governments do not find information useful for hazard communication on chemicals in international (or domestic) commerce. TSCA section 12(b) is primarily intended to alert and inform foreign governments, in a general manner, of hazards that may be associated with a chemical substance or mixture. As a result, EPA believes it is logical to refer to GHS as a guide to implementation of TSCA section 12(b). EPA believes the inclusion of *de minimis* concentration thresholds in GHS is indicative of foreign governments' likely preference not to be notified by the United States about its export of chemicals present in low concentrations.

In order to implement an exemption from export notification requirements for chemicals exported in *de minimis* concentrations, EPA is establishing *de minimis* concentration levels below which notification would not be required for the export of any chemical for which export notification under TSCA section 12(b) is otherwise required. Specifically, export notification will not be required for such chemicals if the chemical is being exported at a concentration of less than 1% (by weight or volume), with two

exceptions. The first exception would be made for chemicals treated for export notification purposes as known or potential human carcinogens. These chemicals are identified in the regulation based on the three sources referred to in OSHA's regulations related to hazard communication (29 CFR 1910.1200(d)(4)), i.e.:

1. Listed as a ''known to be human carcinogen'' or ''reasonably anticipated to be human carcinogen'' in the Report on Carcinogens issued by the U.S. Department of Health and Human Services National Toxicology Program (NTP) (latest edition) (Ref. 1),

2. Classified as a Group 1, Group 2A, or Group 2B carcinogen by the World Health Organization International Agency for Research on Cancer (IARC) in the IARC Monographs on the Evaluation of Carcinogenic Risks to Humans and their Supplements (latest editions) (Ref. 2), or

3. Characterized as a carcinogen or potential carcinogen in OSHA's regulations related to toxic and hazardous substances (29 CFR part 1910, subpart Z).

For paragraphs III.B.1., 2. and 3., a *de minimis* concentration level of less than 0.1% (by weight or volume) will apply, except for PCBs regarding which a *de minimis* concentration level of 50 ppm or less will apply, as in this unit. For purposes of monitoring compliance with notice requirements for chemical substances or mixtures subject to this rule as covered in 40 CFR 707.60(c)(2)(i) and (ii) of the regulatory text, EPA will consider the lists maintained by the World Health Organization, International Agency for Research on Cancer (IARC) and the US Department of Health and Human Services, Public Health Service, National Toxicology Program (NTP) as the definitive sources.

The NTP Report on Carcinogens is mandated by section 301(b)(4) of the Public Health Service Act, as amended (42 U.S.C. 201 *et seq.*), which stipulates that the Secretary of the Department of Health and Human Services shall publish an annual report which contains a list of all substances:

• Which either are known to be carcinogens in humans or may reasonably be anticipated to be human carcinogens

• To which a significant number of persons residing in the United States are exposed.

In 1993, the Public Health Service Act was amended by Public Law 95–622 to change the frequency of publication of the Report on Carcinogens from an annual to a biennial report.

The IARC Monographs on the Evaluation of Carcinogenic Risks to Humans are independent assessments prepared by international working groups of experts of the evidence on the carcinogenicity of a wide range of agents, mixtures and exposures. The evaluations of IARC Working Groups are scientific, qualitative judgments on the evidence for or against carcinogenicity provided by the available data. The Monographs are used by national and international authorities to make risk assessments, formulate decisions concerning preventive measures, provide effective cancer control programs and decide among alternative options for public health decisions.

The third source of carcinogens or potential carcinogens which is referred to in OSHA's regulations related to hazard communication (29 CFR 1910.1200(d)(4)) is the group of carcinogens or potential carcinogens in OSHA's toxic and hazardous substances regulations (29 CFR part 1910, subpart Z). In lieu of referencing OSHA's regulations directly in the regulatory text, this rule incorporates at 40 CFR 707.60(c)(2)(iii) the two chemicals characterized by OSHA as carcinogens or potential carcinogens that are not already included on either the NTP or IARC lists referenced. The rest of the chemicals characterized by OSHA as carcinogens or potential carcinogens are included on either or both the NTP Report on Carcinogens (latest edition) (Ref. 1) and/or IARC Monographs and their Supplements (latest editions) (Ref. 2).

Concentration threshold levels like those used in the GHS context are also generally accepted or recognized in other United States Federal regulatory contexts. The OSHA has established 1.0% and 0.1% concentration thresholds as a basis for requiring the development of Material Safety Data Sheets (MSDSs) and workplace labeling under the OSHA's Hazard Communication (HAZCOM) Standard (29 CFR 1910.1200) (Ref. 11). The Emergency Planning and Community Right-to-Know Act, section 313 (Toxic Release Inventory (TRI)) regulations use the OSHA HAZCOM Standard for purposes of establishing a chemical's *de minimis* concentration as either 0.1% or 1.0% for chemical substances when present in a mixture (40 CFR 372.38(a)). EPA's TSCA New Chemicals Program also uses concentration limits of 1.0% and 0.1% in TSCA section 5(e) consent orders as thresholds for hazard communication and personal protective equipment requirements (Ref. 12).

EPA believes that in the context of TSCA section 12(b) export notification, foreign governments will have little interest in notices regarding exports of chemicals present in *de minimis* concentrations, and that notices for such exports may divert attention from notices for exports of chemicals in higher concentrations that potentially may warrant more serious consideration. Thus, EPA believes that *de minimis* concentration thresholds are justified in the context of its TSCA section 12(b) regulations and is promulgating that the export of chemicals present at a concentration below the specified *de minimis* concentration levels be exempt from notification requirements.

As EPA has noted in the past, some chemicals retain their toxic properties at levels less than the general thresholds in this rule, so the *de minimis* concentration thresholds established in this TSCA section 12(b) context are not an indication that EPA has determined that chemicals are generally not toxic at lesser concentrations. The *de minimis* concentration exemption in this rule is only a reflection of the circumstances under which EPA believes foreign governments want to receive information regarding chemicals imported into their countries.

In addition to paragraphs III.B.1., 2, and 3., the second exception to the generally applicable *de minimis* concentration level of 1% is made for PCBs, which, when exported in a concentration of greater than 50 ppm, require the submission of an export notification. EPA believes it is appropriate to include a different *de minimis* concentration level for PCBs in its TSCA section 12(b) regulations (i.e., levels less than or equal to 50 ppm versus the general 1% and 0.1% for carcinogens levels) after considering the coverage of PCBs under certain international treaties and/or guidance materials developed thereunder, including the Stockholm Convention and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention) (Ref. 13). Note that the manufacture and distribution in commerce of PCBs for use within the United States or for export from the United States are generally prohibited, with certain exceptions (see, for example, 40 CFR 761.20(b) and (c)).

The Stockholm Convention, which entered into force on May 17, 2004, and for which there were 128 Parties and 151 Signatories as of August 2006 (the United States is a Signatory but not yet a Party), includes, among other things, provisions that require Parties to reduce and/or eliminate the production and use of listed intentionally produced chemicals or pesticides (Ref. 7). Annex A of the Stockholm Convention lists

chemicals subject to elimination, including PCBs which are listed with a specific exemption for ''articles in use in accordance with the provisions of Part II of this Annex.'' Part II of Annex A of the Stockholm Convention states, in part:

''Each Party shall: (a) With regard to the elimination of the use of polychlorinated biphenyls in equipment (e.g. transformers, capacitors or other receptacles containing liquid stocks) by 2025, subject to review by the Conference of the Parties, take action in accordance with the following priorities . . . (iii) Endeavour to identify and remove from use equipment containing greater than 0.005 percent [50 ppm] polychlorinated biphenyls and volumes greater than 0.05 litres . . . (d) Except for maintenance and servicing operations, not allow recovery for the purpose of reuse in other equipment of liquids with polychlorinated biphenyls content above 0.005 per cent;
(e) Make determined efforts designed to lead to environmentally sound waste management of liquids containing polychlorinated biphenyls and equipment contaminated with polychlorinated biphenyls having a polychlorinated biphenyls content above 0.005 per cent, in accordance with paragraph 1 of Article 6, as soon as possible but no later than 2028, subject to review by the Conference of the Parties;
(f) In lieu of note (ii) in Part I of this Annex, endeavour to identify other articles containing more than 0.005 per cent polychlorinated biphenyls (e.g., cable-sheaths, cured caulk and painted objects) and manage them in accordance with paragraph 1 of Article 6;''

Annex A of the Stockholm Convention thus focuses attention on PCBs in equipment or articles where the PCBs are at a concentration of more than 50 ppm.

In addition, the Basel Convention, which entered into force on May 5, 1992, and for which there were 166 governments that were Parties as of November 2005 (the United States is a Signatory but not yet a Party), stipulates that any transboundary movement of wastes (export, import, or transit) is permitted only when the movement itself and the disposal of the concerned hazardous or other wastes are environmentally sound. The Stockholm Convention directs close cooperation with the Basel Convention to define a ''low POPs content'' for purposes of safe disposal of wastes contaminated with POPs. Under the Basel Convention, ''General Technical Guidelines for the Environmentally Sound Management of Wastes Consisting of, Containing or Contaminated with Persistent Organic Pollutants'' (Basel POPs Guidelines) have been developed that provisionally identify the level of 50 milligrams/kilogram (mg/kg) (50 ppm) as ''low POPs content'' for PCBs. (Ref. 14).

Because the 50 ppm level is used in the Stockholm Convention as a cutoff level for purposes of obligations associated with PCB-containing equipment and has been further supported by the Basel POPs Guidelines as a low level not warranting the attention and control required for higher PCB levels, EPA believes it reasonable to use it as the basis of a *de minimis* concentration level for PCBs under TSCA section 12(b). Thus, at this time, EPA believes importing governments will not desire export notices from the United States for PCBs at levels of 50 ppm or less.

EPA believes that the most practical means of maintaining the quality of notification, of improving the scrutiny importing countries give to notices, and of reducing burden on both exporters and EPA, is to amend the TSCA section 12(b) regulations under 40 CFR part 707 to reduce the frequency of certain export notifications submitted by exporters to EPA as well as EPA notices sent to foreign governments. EPA's responsibility is both to alert and to make information and data available to the importing government. EPA believes that although the frequency of EPA's notices to foreign governments may be reduced by this rule, the quality of the information provided to them will not be substantially affected.

C. Additional Amendments and Clarifications

In addition to the amendments to the TSCA section 12(b) regulations regarding the scope of exporters' and EPA's responsibilities, the Agency is promulgating minor amendments to update the EPA addresses to which export notifications must be sent (40 CFR 707.65(c)), to indicate that a single export notification may refer to more than one section of TSCA where the exported chemical is the subject of multiple TSCA actions, and to correct an error in 40 CFR 799.19 that currently omits mentioning multi-chemical test rules as being among those final TSCA section 4 actions that trigger export notification.

EPA is also clarifying exporters' and EPA's obligations where a TSCA section 12(b)-triggering action is taken with respect to a chemical previously or currently subject to export notification due to the existence of a previous triggering action. EPA's intention is that exporters notify EPA with respect to each TSCA section 12(b)-triggering action to which the chemical becomes subject (as long as the exporter in fact still exports or intends to export the chemical to that country) even if they have previously notified EPA about the export of that chemical to that country as a result of an earlier TSCA section 12(b)-triggering action. Note that an export notification may indicate more than one triggering action, i.e., separate export notifications need not be submitted where the need for export notification as a result of more than one triggering action at the same time exists with respect to a given chemical. Similarly, EPA would notify a foreign government with respect to each TSCA section 12(b)-triggering action to which the chemical becomes subject (as long as the Agency continues to receive an export notification from any exporter for the export of the chemical to that country) even if it has previously notified that government about the export of the chemical as a result of an earlier TSCA section 12(b)-triggering action. In this rule, EPA is amending 40 CFR 707.65 and 707.70 in order to make these obligations clear.

IV. Response to Public Comments

The Agency received 48 comments on the proposed rule that was issued in the Federal Register of February 9, 2006 (71 FR 6733) (FRL–7752–2). Copies of all comments received are available in the public docket for this action. A discussion of the comments germane to the rulemaking and the Agency's response follows:

1. *Comment—Response to Four Questions Listed in Unit VI of the Proposed Rule.* Unit VI. of the proposed rule provided four issues on which the Agency was specifically requested public comment. These issues were:

- Whether the proposed reporting thresholds (1.0%, 0.1%, and 50 ppm) are set at a reasonable level for the purposes of TSCA section 12(b), and if not, what other, if any, level(s) may be appropriate and why?
- Whether it is appropriate to look to GHS for guidance on establishing a *de minimis* concentration exemption under TSCA section 12(b).
- Whether the Stockholm Convention is an appropriate basis for selecting a 50 ppm threshold for PCBs.
- EPA estimated that the *de minimis* concentration exemption would reduce the burden of TSCA section 12(b) reporting by 5%. EPA sought information that might further inform the Agency's burden estimate.

Response. Public comments received overwhelmingly supported the proposed *de minimis* reporting thresholds, the use of GHS as guidance for these thresholds, and the use of the Stockholm Convention as a basis for selecting a 50 ppm threshold for PCBs. All commenters agreed that there would be burden reduction, although

quantifying this was difficult and there were suggestions for other amendments that could result in further or ''more meaningful'' burden reduction. Estimates ranged from at least the 5% Agency estimate in the proposed rule to much greater than 50%. EPA is adjusting its burden reduction estimates in response to comments received. Following are more specific burden-related comments.

2. *Comment.* The concept of establishing three separate thresholds is cumbersome and likely more resource intensive than what is in place today. A more accurate estimate of cost or burden is needed. Commenters questioned the Agency's choice of 5% for its estimate of burden reduction or decrease in TSCA 12(b) reporting for an individual company resulting from the proposed rule, and EPA received a number of estimates, ranging from greater than the Agency's estimate of 5% up to one commenter stating that its TSCA section 12(b) reporting will decrease by 100% if the *de minimis* exemption is adopted. Some commenters noted that costs incurred in reprogramming computerized systems that ensure compliance with TSCA reporting may be such that several years will be required before a net burden reduction will be achieved for some business entities, and noted that these do not seem to have been recognized in the economic analysis. The point was also made that if industry does what is needed in order to not 'over-report' without the use of a consolidated EPA master list of chemicals subject to reporting requirements, then companies will likely add burden to their current operations, while EPA will see a reduction in notifications received.

Response. While the public responses to EPA's request to quantify the potential burden reduction as a result of the *de minimis* exemption varied greatly, the responses appear to assert that the reduction may be larger than the Agency's previously estimated 5%. Taking into account the range of comments, including seven firms that estimated a reduction of at least 50%, EPA is now estimating that the overall reduction will be 20%. EPA disagrees with the implication, by one commenter, that the addition of the new *de minimis* reporting thresholds will not achieve meaningful burden reduction, and points to the overwhelming support of the public comments received on the proposed rule, including support for the thresholds themselves as technically appropriate. With regards to potential computer reprogramming costs, EPA does not at this time have enough information, and the commenter did not provide specific estimates, to gauge such costs. Such costs are not part of the Agency's burden estimates because they are not imposed by EPA; they are activities that companies may engage in on their own.

3. *Comment— No expected burden reduction.* While supporting the expansion of one-time notification in this rule, one commenter did not think that the associated burden reduction will be significant. The commenter stated that the change may somewhat reduce the number of notification letters submitted, but it does not fundamentally affect the steps necessary for compliance and the burden associated with it.

Response. EPA agrees with this commenter that the fundamental steps necessary to comply with the regulations are not changed by the amendments to the rule. However, the reduction in the frequency and number of notification letters will lead to a reduction in the burden and costs associated with submitting those letters.

4. *Comment.* The proposed rule is silent as to the management costs that are incurred for compliance with TSCA section 12(b) reporting obligations. The coordination required to identify known and trace ingredients in various chemical products and mixtures, along with supervision of the complex processes required to communicate this information to the export administration and regulatory compliance personnel is not adequately presented in the proposed rule. The costs of compliance with TSCA section 12(b) reporting requirements for small and medium sized facilities are not sufficiently considered by the proposed rule. For substances such as pigments that are manufactured from complex intermediate ingredient products that may in turn be manufactured from many more ingredients, the proposed rule does not consider the cost of analyzing all of these sources for the possible substances present or known to be potentially present in finished products. As a result, the costs of compliance with the existing TSCA section 12(b) reporting rule is underestimated significantly by EPA. Therefore compliance with TSCA section 12(b) is not a simple exercise in collecting a list of products which might be exported, as the proposed rule indicates. Nor is the task complete when such a list of products is identified for TSCA section 12(b) compliance. Additionally, industry has been required to prepare clarification letters for EPA to provide to foreign governments when shipments subject to notification are received and the notification covers only trace contaminants in the product. Many foreign governments have, and continue to, request clarification, since the notice provided by EPA does not indicate that only trace *de minimis* amounts of regulated substances are present. In summary, the cost of compliance with the current regulatory scheme is extensive and underestimated by EPA in its proposed rule.

Response. EPA has presented the costs and burdens more fully in the Economic Analysis for the rule, including costs and burdens associated with anticipated activities involved in compliance determination. As the TSCA section 12(b) regulations apply identically regardless of company size, EPA assumes that small and medium-sized companies would go through the same process that larger companies would to comply with the TSCA section 12(b) regulations. Since the burden and cost figures presented by EPA represent an average, EPA also recognizes that certain companies, such as pigment manufacturers, may have higher-than-average burdens, and thus exceed the estimates in the Economic Analysis, while other companies may have lower than average burdens and thus experience lower costs than the EPA estimates. EPA never intended the estimates to represent a worst-case scenario as presented by the commenter. The clarification letters mentioned by the commenter are not required by the TSCA section 12(b) reporting regulations, and as such are not included in the estimated costs of the TSCA section 12(b) regulations. Further, because *de minimis* concentrations are not subject to export notification, future notices would all pertain to exports exceeding the *de minimis* concentrations, and it should also be noted that the requirement for notice covers only substances known to be in the exported material.

5. *Comment— Timing of export notification: Seven days is not a long enough time to develop and submit export notification to EPA.* Commenters noted that the ''within seven days of forming the intent to export'' timing in 40 CFR 707.65(a)(3) for submitting export notification to EPA does not originate in the TSCA section 12(b) statutory language. One commenter stated ''Compliance with this timeframe requires an ongoing system of identifying exports, checking them for potential 12(b) components, and generating letters almost immediately.'' One commenter requested that the phrase ''or on the date of export, whichever is earlier'' be removed from 40 CFR 707.65(a)(3), stating that many companies have automated systems

which track composition and distribution of products, integrated with regulatory data systems that address international regulatory elements. As to not interfere with systems running in multi-national environments, companies typically briefly suspend sytem operations to allow for data extracts and maintenance after normal business hours. The commenter stated that phrase in 40 CFR 707.65(a)(3) has the effect of requiring companies to implement separate processes, usually manual, to ''catch'' those samples/products that trigger an export notification where processing of an order after hours would not allow compliance with the ''postmarked on the date of export'' requirement for notification to EPA. This is especially relevant with overnight sample shipments. Other commenters suggested changing 7 days to 30 days (as is currently the case for TSCA section 8(e) reporting), quarterly, annually or some other reasonable timeframe.

Response. The proposed rule did not address timing of submission of export notification and the Agency may investigate this issue further. If EPA decides to initiate additional amendments to TSCA section 12(b) export notification requirements, it may consider further adjusting this timeframe.

6. *Comment— Allow Electronic Reporting Under TSCA Section 12(b)*. Commenters suggested adding ''either in written or electronic form'' at 40 CFR 707.65(a)(1), that such reporting would be easier, less time consuming than by letter, especially for non-CBI.

Response. EPA agrees with the commenter that there are technologies and solutions that can streamline the export notification submission process. In fact, EPA is putting in place such a process for the upcoming Inventory Update Reporting (*http://www.epa.gov/iur*) and hopes to use this type of technological solution for other TSCA data submissions, including TSCA section 12(b), in the future.

7. *Comment— EPA Should Maintain an Official List of Chemicals Subject to TSCA 12(b) Reporting*. Commenters requested that, to avoid confusion and possible over-reporting, EPA should maintain an official list of chemicals subject to TSCA section12(b) reporting, identifying which ones qualify for the various new *de minimis* thresholds.

Response. The Agency does make publicly available on the Internet the ''Current List of Chemical Substances Subject to TSCA Section 12(b) Export Notification Requirements,'' at *http://www.epa.gov/opptintr/chemtest/pubs/main12b.htm*. However, this listing is intended simply as an information resource to facilitate compliance with TSCA section 12(b). It does identify which chemicals are subject to TSCA section 4, section 5 generally, section 6, and section 7 actions. This list will be revised to distinguish chemicals subject to TSCA section 5(f) (annual export notification requirement) from the remainder of the section 5 chemicals (subject to actions under TSCA section 5(e), 5(a)(2), or 5(b), for which there is now a one-time TSCA section 12(b) export notification requirement). The list does not identify those substances considered to be known or potential human carcinogens for purposes of TSCA section 12(b) export notification (i.e., those substances for which reporting would be required at concentrations of 0.1% or more (by weight or volume)). That information is available from the IARC and NTP documents cited in the 40 CFR 707.60(c)(2)(i) and (ii), and from 40 CFR 707.60(c)(2)(iii), which lists the two chemicals characterized by OSHA as carcinogens or potential carcinogens and which are currently not included in either the NTP or IARC documents.

8. *Comment— Accept one-time reporting, per country, per chemical*. Comments requested that one notification for a particular chemical to a country suffice for subsequent notifications on that same chemical to the same country but from a different chemical exporter. This would avoid duplicative reporting.

Response. 40 CFR 707.60(a) and TSCA section 12(b) state that ''any person'' who exports or intends to export a chemical subject to TSCA section 12(b) triggering action must notify EPA. Thus, the statute specifies that the notification requirement pertains to each exporter. EPA believes the commenters' suggestion is not consistent with TSCA, or the intended function of this required notification in terms of the receiving countries.

9. *Comment— The proposed exemption should also include Research and Development samples, byproducts, and impurities*. Commenter claimed that domestic manufacturers, batch manufacturers of pigments in particular, are at disadvantage under the current and proposed reporting scheme. Exported samples for customer evaluation and testing represent small quantities and are sent to foreign manufacturers with expertise in evaluating products and as a result should not require formal TSCA export notification.

Response. EPA has not completely foreclosed the creation of some or all of these additional exemptions. EPA will consider this suggestion if it undertakes another, future amendment to the 12(b) regulations.

10. *Comment—Eligibility prior to effective date of final rule*. Allow TSCA section 5(e), 5(a)(2), or 5(b) notifications submitted prior to the effective date of the final rule to also be eligible to qualify for the new one-time notification.

Response. The Agency believes this suggestion is consistent with the Agency's goal of focusing foreign government attention on certain TSCA actions. Therefore, any export notice for a chemical subject to a TSCA section 5(e), 5(a)(2), or 5(b) action submitted prior to the effective date of this final rule would satisfy the one-time reporting requirement established in the new rule.

11. *Comment—Objection to a notification requirement for future, multiple TSCA actions*. Two commenters stated that companies should not have to re-notify EPA when a chemical already subject to a TSCA section 12(b) triggering action becomes subject to a new action.

Response. EPA's intention is to clarify that exporters need to notify EPA with respect to each TSCA section 12(b)-triggering action under TSCA to which the chemical becomes subject (as long as the exporter in fact still exports or intends to export the chemical to that country), even if they have previously notified EPA about the export of that chemical to that country as a result of an earlier 12(b)-triggering action. EPA will re-notify the receiving country. EPA has amended 40 CFR 707.65 and 707.70 in order to make these obligations clear.

12. *Comment— Notification on Class 2 substances*. One commenter requested that EPA state that export notifications are not required for Class 2 substances that contain TSCA section 12(b)-subject chemicals.

Response. It is EPA's position that the export of a Class 2 substance that contains a component that is subject to a TSCA section 12(b)-triggering action triggers export notification. Neither the statutory nor the regulatory language restricts the export notification requirement to exporters of chemical substances and mixtures in particular forms, but instead generally extends export notification requirements to exporters of chemical substances and mixtures without regard to the form in which the chemical substances and mixtures are being or will be exported. Accordingly, any person who exports, or who intends to export, one of the chemical substances contained in a TSCA 12(b)-triggering action in any form is subject to the export notification

requirements. This is consistent with the Agency's view regarding the scope of TSCA section 12(b) since the export notification regulations were initially published in the **Federal Register** of December 16, 1980 (Ref. 3).

13. *Comment— Exempt chemicals that are only subject to ''information collection rules.''* One commenter suggested an exemption for chemicals subject to ''information collection rules,'' such as TSCA section 4 actions or section 5 SNURs pending information collection—anything but established risk chemicals—TSCA section 5(f), 6, and 7 actions.

Response. The commenter's suggestion is inconsistent with TSCA section 12(b).

V. Economic Impact

EPA has evaluated the potential costs of these amendments. The Agency anticipates that these amendments will reduce the number of export notifications sent to EPA by exporters of chemicals that are the subject of actions under TSCA section 5(e), 5(a)(2), or 5(b), and also eliminate the submission of export notifications from exporters of chemicals otherwise subject to TSCA section 12(b) where they are present at a concentration below the relevant *de minimis* concentration threshold. The amendments will also reduce the number of export notices sent by EPA to foreign governments. These reductions will save both exporter and EPA resources.

For the period 1996–2004, EPA received an average of approximately 8,600 export notifications from exporters annually. On average, each year nearly 60% of those export notifications were for chemicals subject to final TSCA section 4 actions, 25% for chemicals that were the subject of actions under TSCA section 5, and the remainder were primarily for chemicals that were the subject of actions under TSCA section 6 and a very few for chemicals subject to actions under TSCA section 7. At this time, EPA is unable to predict with certainty the reduction in export notifications received by EPA from exporters due to the *de minimis* concentration exemption of this rule, but based on comments received on the proposed rule, EPA is estimating a 20% across-the-board reduction in TSCA section 12(b) notification burden to exporters due to the *de minimis* concentration exemption. Based on historical reporting, EPA is able to estimate, after the first year, a 50% reduction in export notifications triggered by TSCA section 5(e), 5(a)(2), or 5(b) actions as a result of the one-time-only provision. Thus, EPA expects to receive approximately 6,000 export notifications annually. These reductions are expected to save the regulated community over $75,000 per year, or over 20% of industry costs. Over 20 years, these amendments should save the regulated community approximately $800,000 at a 7% discount rate, and over $1.1 million at a 3% discount rate. See the Final Economic Analysis of the Amendments to TSCA Section 12(b) Export Notification Requirements (Ref. 15) for details on all cost and burden calculations. The costs to EPA should also be reduced based on these amendments, as EPA incurs costs for processing export notifications received, and for sending export notices to foreign governments. While EPA has been sending roughly 1,600 notices to foreign governments annually, that number is expected to drop as a result of these amendments to an estimated 824 yearly. These reductions are expected to save the Federal Government over $60,000 annually (34% of current costs). Over 20 years, these amendments should save the Federal Government approximately $650,000 at a 7% discount rate, and roughly $900,000 at a 3% discount rate. Over 20 years these amendments should yield a total cost savings to both EPA and industry of $1.46 million at a 7% discount rate and $2.05 million at 3% (Ref. 15).

VI. References

The official record for this rule has been established under docket ID number EPA–HQ–OPPT–2005–0058, and the public version of the official record is available for inspection as specified under **ADDRESSES**. The following is a listing of the documents referenced in this preamble that have been placed in the official docket for this rule (see *http://www.regulations.gov*, docket ID number EPA–HQ–OPPT–2005–0058):

1. United States Department of Health and Human Services, Public Health Service. National Toxicology Program. Report on Carcinogens (latest edition). Available on-line at *http://ntp.niehs.nih.gov/index.cfm?objectid=32BA9724-F1F6-975E-7FCE50709CB4C932*.

2. International Agency for Research on Cancer Monographs on the Evaluation of Carcinogenic Risks to Humans and their Supplements. Lists of All Agents Evaluated as Being in Group 1 (carcinogenic to humans), Group 2A (probably carcinogenic to humans), and Group 2B (possibly carcinogenic to humans) (latest editions). Available on-line at *http://www-cie.iarc.fr/monoeval/allmonos.html*.

3. EPA. Chemical Imports and Exports; Notification of Export. Final Rule. **Federal Register** (45 FR 82844, December 16, 1980). Available on-line at *http://www.regulations.gov*, docket ID number EPA–HQ–OPPT–2005–0058.

4. EPA. Export Notification Requirement; Change to Reporting Requirements. Final Rule. **Federal Register** (58 FR 40238, July 27, 1993) (FRL–4067–2). Available on-line at *http://www.regulations.gov*, docket ID number EPA–HQ–OPPT–2005–0058.

5. Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. September, 1998 (amended September, 2004). Available on-line at *http://www.pic.int/en/viewpage.asp?id_cat=0*. Annex III: Chemicals Subject to the Prior Informed Consent Procedure. Available on-line at *http://www.pic.int/en/ViewPage.asp?id=104#III%20Annex*.

6. Harmonized System Convention, World Customs Organization (WCO). Available on-line at *http://www.wcoomd.org/ie/En/Topics_Issues/topics_issues.html*. June 14, 1983.

7. Stockholm Convention on Persistent Organic Pollutants (POPs). May 22, 2001. Available on-line at *http://www.pops.int*.

8. United Nations Economic Commission for Europe Convention on Long Range Transboundary Air Pollution (LRTAP) Protocol on Persistent Organic Pollutants (POPs), June 24, 1998. Available on-line at *http://www.unece.org/env/lrtap/pops_h1.htm*.

9. United Nations Conference on Environment and Development (Earth Summit) Agenda 21; Chapter 19: Environmentally Sound Management of Toxic Chemicals, Including Prevention of Illegal International Traffic in Toxic and Dangerous Products. Rio de Janeiro, June 1992. Available on-line at *http://www.un.org/esa/sustdev/documents/agenda21/english/agenda21chapter19.htm*.

10. GHS. Globally Harmonized System of Classification and Labelling of Chemicals (GHS). United Nations. 2003. Available on-line at *http://www.unece.org/trans/danger/publi/ghs/ghs_rev00/00files_e.html*.

11. OSHA. Hazard Communication. Final Rule. **Federal Register** (48 FR 53280–53348, November 25, 1983). For discussion of 1% and 0.1% cut-off, see pp. 53290–53293.

12. EPA. New Chemicals Program Boilerplate TSCA Section 5(e) Consent Orders. Available on-line at *http://www.epa.gov/opptintr/newchems/boilerpl.htm*.

13. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. Adopted by the Conference of the Plenipotentiaries March 22, 1989. Entry into force May 1992. Available on-line at *http://www.basel.int/about.html*.

14. Basel Convention General Technical Guidelines for Environmentally Sound Management of wastes consisting of, containing or contaminated with Persistent Organic Pollutants (POPs). April 2005. Available on-line at *http://www.basel.int/techmatters/techguid/frsetmain.php*.

15. Economic and Policy Analysis Branch, Office of Pollution Prevention and Toxics, EPA. August 2006. Final Economic Analysis of the Amendments to TSCA Section 12(b) Export Notification Requirements.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has determined that this final rule is not a ''significant regulatory action'' subject to review by OMB, because it does not meet the criteria in section 3(f) of the Executive Order.

B. Paperwork Reduction Act

The information collection activities associated with export notification under TSCA section 12(b) are already approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*. That Information Collection Request (ICR) document has been assigned EPA ICR number 0795, and OMB control number 2070–0030. This final rule does not impose any new information collection burdens that would require additional approval by OMB under PRA, and is expected to reduce existing burden estimates.

The currently approved annual public burden for the collection of information covered by OMB Control No. 2070–0030 is estimated to be 0.878 hours per response. Under PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Under PRA, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations codified in chapter 40 of the CFR, after appearing in the preamble of the final rule, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9. For the ICR activity contained in this final rule, in addition to displaying the applicable OMB control number in this Unit, the Agency has also included it on the list in 40 CFR 9.1.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of this rule will not have a significant adverse economic impact on a substantial number of small entities. The factual basis for the Agency's determination is presented in the economic analysis prepared for this rule (Ref. 15), a copy of which is available in the docket for this rulemaking. The following is a brief summary of the factual basis for this certification.

Under RFA, small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as:

1. A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201, which for the pesticide industry consists of businesses with fewer than 500 to 1,000 employees (range is based on NAICS sector variations).

2. A small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000.

3. A small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Available information indicates that small governmental jurisdictions and small not-for-profit organizations would not generally engage in the activities regulated by this rule, i.e., the export of chemical substances or mixtures. As such, the Agency's expects that only small businesses will benefit from the burden reduction in this rule.

This final rule amends an existing requirement and result in a reduction of burden and costs for all chemical exporters, regardless of the size of the business. As such, these amendments will not have a significant adverse economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year.

Based on EPA's experience with the TSCA 12(b) reporting, State, local, and tribal governments have not been affected by this reporting requirement, and EPA does not have any reason to believe that any State, local, or tribal government will be affected by these amendments. As such, EPA has determined that this regulatory action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any affect on such governments, nor will it have these impacts on the private sector. EPA has determined that this rule does not significantly or uniquely affect small governments. Accordingly, this rule is not subject to the requirements of sections 202, 203, 204, or 205 of UMRA.

E. Executive Order 13132

This rule does not have a federalism implications because it is not expected to have substantial direct effects on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This rule does not have tribal implications because it is not expected to have substantial direct any affect on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in the Order. Thus, Executive Order 13175, entitled *Consultation and Coordination with*

Indian Tribal Governments (65 FR 67249, November 6, 2000), do not apply to this rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use.

I. National Technology Transfer Advancement Act

Since this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This rule does not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, the Agency does not need to consider environmental justice-related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, 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 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).

List of Subjects in 40 CFR Parts 707 and 799

Environmental protection, Chemicals, Exports, Hazardous substances, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: November 2, 2006.

James B. Gulliford,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 707—[AMENDED]

■ 1. The authority citation for part 707 continues to read as follows:

Authority: 15 U.S.C. 2611(b) and 2612.

■ 2. In §707.60, redesignate paragraphs (c) through (e) as paragraphs (d) through (f), add a new paragraph (c), and revise newly redesignated paragraphs (d), (e), and (f) to read as follows:

§707.60 Applicability and compliance.

* * * * *

(c)(1) Except as provided in paragraphs (c)(2) and (3) of this section no notice of export is required for the export of a chemical substance or mixture for which export notification is otherwise required, where such chemical substance or mixture is present in a concentration of less than 1% (by weight or volume).

(2) No notice of export is required for the export of a chemical substance or mixture that is a known or potential human carcinogen. A chemical is considered to be a known or potential human carcinogen, for purposes of TSCA section 12(b) export notification, if that chemical is:

(i) A chemical substance or mixture listed as a ''known to be human carcinogen'' or ''reasonably anticipated to be human carcinogen'' in the Report on Carcinogens (latest edition) issued by the U.S. Department of Health and Human Services, Public Heath Service, National Toxicology Program,

(ii) A chemical substance or mixture is classified as ''carcinogenic to humans'' (Group 1), ''probably carcinogenic to humans'' (Group 2A), or ''probably carcinogenic to humans'' (Group 2B) in the Monographs and Supplements on the Evaluation of Carcinogenic Risks to Humans issued by the World Health Organization International Agency for Research on Cancer (IARC), Lyons, France (latest editions), or

(iii) Alpha-naphthylamine (Chemical Abstract Service Registry Number (CAS No.) 134–32–7) or 4–nitrobiphenyl (CAS No. 92–93–3).

(3) No notice of export is required for the export of polychlorinated biphenyl chemicals (PCBs) (see definition in 40 CFR 761.3), where such chemical substances are present in a concentration of less than or equal to 50 ppm (by weight or volume).

(d) Any person who exports or intends to export PCBs or PCB articles (see definition in 40 CFR 761.3), for any purpose other than disposal, shall notify EPA of such intent or exportation under TSCA section 12(b), except as specified in §707.60(c)(3). PCBs and PCB articles have the definitions published in 40 CFR 761.3.

(e) Any person who would be prohibited by a TSCA section 5 or 6 regulation from exporting a chemical substance or mixture, but who is granted an exemption by EPA to export that chemical substance or mixture, shall notify EPA under TSCA section 12(b) of such intent to export or exportation.

(f) Failure to comply with TSCA section 12(b) as set forth in this part will be considered a violation of TSCA section 15(3), and will subject the exporter to the penalty, enforcement, and seizure provisions of TSCA sections 16 and 17.

■ 3. In §707.65, revise paragraph (a) introductory text, (a)(2), and (c) to read as follows:

§707.65 Submission to agency.

(a) For each action under TSCA triggering export notification, exporters must notify EPA of their export or intended export of each subject chemical substance or mixture for which export notice is required under §707.60 in accordance with the following:

* * * * *

(2) (i) The notice must be for the first export or intended export by an exporter to a particular country in a calendar year when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(f), a rule that has been proposed or promulgated under TSCA section 6, or an action that is pending or relief that has been granted under TSCA section 7.

(ii) The notice must only be for the first export or intended export by an exporter to a particular country when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(e), a rule that has been proposed or promulgated under TSCA section 5(a)(2), or when the submission of data is required under

TSCA section 4 or 5(b). Under this paragraph, notice of export to a particular country is not required if an exporter previously submitted to EPA a notice of export to that country prior to January 16, 2007.

* * * * *

(c) Notices shall be marked ''TSCA Section 12(b) Notice'' and sent to EPA by mail or delivered by hand or courier. Send notices by mail to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001 (Attention: TSCA Section 12(b) Notice). Hand delivery of TSCA section 12(b) notices should be made to: OPPT Document Control Office (DCO), EPA East., Rm. 6428, Environmental Protection Agency, 1201 Constitution Ave., NW., Washington, DC (Attention: TSCA Section 12(b) Notice). The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation.

§707.67 [Amended]

■ 4. In §707.67, add ''and/'' before ''or'' in the first sentence of paragraph (a) after ''6,'' and in the parenthetical in paragraph (e) after ''6,''.

■ 5. In §707.70, revise paragraph (a) to read as follows:

§707.70 EPA notice to foreign governments.

(a)(1) Notice by EPA to the importing country shall be sent no later than 5 working days after receipt by the TSCA Document Processing Center of the first annual notification from any exporter for each chemical substance or mixture that is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(f), a rule that has been proposed or promulgated under TSCA section 6, or an action that is pending or relief that has been granted under TSCA section 7.

(2) Notice by EPA to the importing country shall be sent no later than 5 working days after receipt by the TSCA Document Processing Center of the first notification from any exporter for each chemical substance or mixture that is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(e), a rule that has been proposed or promulgated under TSCA section 5(a)(2), or for which the submission of data is required under TSCA section 4 or 5(b).

* * * * *

PART 799—[AMENDED]

■ 6. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

■ 7. By revising §799.19 to read as follows:

§799.19 Chemical imports and exports.

Persons who export or who intend to export chemical substances or mixtures listed in subpart B, subpart C, or subpart D of this part are subject to the requirements of 40 CFR part 707.

[FR Doc. E6–19182 Filed 11–13–06; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7951]

Suspension of Community Eligibility

AGENCY: Mitigation Division, Federal Emergency Management Agency (FEMA), Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you want to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office.

FOR FURTHER INFORMATION CONTACT: David Stearrett, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer

stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 is revised to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region V				
Illinois:				
Algonquin, Village of, Kane and McHenry Counties.	170474	September 4, 1974, Emerg; March 16, 1981, Reg; November 16, 2006, Susp.	11/16/2006	11/16/2006
Bannockburn, Village of, Lake County ..	170359	March 7, 1975, Emerg; June 15, 1979, Reg; November 16, 2006, Susp.	.....do	Do.
Barrington, Village of, Cook and Lake Counties.	170057	October 30, 1974, Emerg; October 16, 1984, Reg; November 16, 2006, Susp.	.....do	Do.
Barrington Hills, Village of, Cook, Kane, Lake, McHenry Counties.	170058	April 3, 1975, Emerg; August 10, 1979, Reg; November 16, 2006, Susp.	.....do	Do.
Carpentersville, Village of, Kane County	170322	September 25, 1974, Emerg; August 17, 1981, Reg; November 16, 2006, Susp.	.....do	Do.
Cary, Village of, McHenry County	170475	November 27, 1974, Emerg; July 2, 1980, Reg; November 16, 2006, Susp.	.....do	Do.
Cook County, Unincorporated Areas	170054	March 9, 1973, Emerg; April 15, 1981, Reg; November 16, 2006, Susp.	.....do	Do.
Crystal Lake, City of, McHenry County	170476	October 21, 1974, Emerg; June 15, 1982, Reg; November 16, 2006, Susp.	.....do	Do.
Deerfield, Village of, Lake County	170361	October 13, 1972, Emerg; September 30, 1977, Reg; November 16, 2006, Susp.	.....do	Do.
Deer Park, Village of, Lake County	171028	February 17, 1993, Emerg; September 3, 1997, Reg; November 16, 2006, Susp.	.....do	Do.
East Dundee, Village of, Cook and Kane Counties.	170323	May 9, 1975, Emerg; March 16, 1981, Reg; November 16, 2006, Susp.	.....do	Do.
Elgin, City of, Cook and Kane Counties	170087	May 29, 1975, Emerg; March 1, 1982, Reg; November 16, 2006, Susp.	.....do	Do.
Fox Lake, Village of, Lake and McHenry Counties.	170362	March 9, 1973, Emerg; September 29, 1978, Reg; November 16, 2006, Susp.	.....do	Do.
Fox River Grove, Village of, McHenry County.	170477	April 17, 1973, Emerg; June 4, 1980, Reg; November 16, 2006, Susp.	.....do	Do.
Gilberts, Village of, Kane County	170326	September 4, 1996, Emerg; December 20, 2002, Reg; November 16, 2006, Susp.	.....do	Do.
Greenwood, Village of, McHenry County.	171057	December 4, 1997, Emerg; December 4, 1997, Reg; November 16, 2006, Susp.	.....do	Do.
Hampshire, Village of, Kane County	170327	January 14, 1976, Emerg; March 2, 1981, Reg; November 16, 2006, Susp.	.....do	Do.
Harvard, City of, McHenry County	170479	July 23, 1974, Emerg; November 15, 1979, Reg; November 16, 2006, Susp.	.....do	Do.
Highland Park, City of, Lake County	170367	April 5, 1973, Emerg; November 5, 1980, Reg; November 16, 2006, Susp.	.....do	Do.
Hoffman Estates, Village of, Cook and Kane Counties.	170107	November 10, 1972, Emerg; May 19, 1981, Reg; November 16, 2006, Susp.	.....do	Do.
Holiday Hills, Village of, McHenry County.	170936	August 8, 1977, Emerg; April 1, 1982, Reg; November 16, 2006, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Huntley, Village of, Kane and McHenry Counties.	170480	June 6, 1975, Emerg; December 15, 1992, Reg; November 16, 2006, Susp.	.....do	Do.
Inverness, Village of, Cook County	170111	November 27, 1974, Emerg; June 1, 1981, Reg; November 16, 2006, Susp.	.....do	Do.
Island Lake, Village of, Lake and McHenry Counties.	170370	January 24, 1975, Emerg; September 16, 1982, Reg; November 16, 2006, Susp.	.....do	Do.
Johnsburg, Village of, McHenry County	170486	June 27, 1975, Emerg; June 18, 1980, Reg; November 16, 2006, Susp.	.....do	Do.
Kane County, Unincorporated Areas	170896	July 29, 1976, Emerg; March 1, 1982, Reg; November 16, 2006, Susp.	.....do	Do.
Lake County, Unincorporated Areas	170357	April 4, 1973, Emerg; November 3, 1982, Reg; November 16, 2006, Susp.	.....do	Do.
Lake Barrington, Village of, Lake County.	170372	June 25, 1975, Emerg; January 2, 1981, Reg; November 16, 2006, Susp.	.....do	Do.
Lake Forest, City of, Lake County	170374	April 23, 1974, Emerg; February 18, 1981, Reg; November 16, 2006, Susp.	.....do	Do.
Lake-in-the-Hills, Village of, McHenry County.	170481	December 12, 1974, Emerg; July 5, 1983, Reg; November 16, 2006, Susp.	.....do	Do.
Lakemoor, Village of, Lake and McHenry Counties.	170915	March 5, 1976, Emerg; January 19, 1983, Reg; November 16, 2006, Susp.	.....do	Do.
Lakewood, Village of, McHenry County	170805	March 25, 1974, Emerg; September 4, 1985, Reg; November 16, 2006, Susp.	.....do	Do.
Marengo, City of, McHenry County	170482	June 27, 1973, Emerg; August 1, 1979, Reg; November 16, 2006, Susp.	.....do	Do.
McCullom Lake, Village of, McHenry County.	170829	March 3, 1975, Emerg; August 19, 1985, Reg; November 16, 2006, Susp.	.....do	Do.
McHenry, City of, McHenry County	170483	January 17, 1974, Emerg; November 19, 1980, Reg; November 16, 2006, Susp.	.....do	Do.
McHenry County, Unincorporated Areas	170732	January 15, 1974, Emerg; September 30, 1981, Reg; November 16, 2006, Susp.	.....do	Do.
North Barrington, Village of, Lake County.	170383	May 27, 1975, Emerg; October 18, 1983, Reg; November 16, 2006, Susp.	.....do	Do.
Port Barrington, Village of, McHenry County.	170478	January 19, 1973, Emerg; March 4, 1980, Reg; November 16, 2006, Susp.	.....do	Do.
Prairie Grove, Village of, McHenry County.	170975	October 26, 1992, Emerg; November 16, 2006, Reg; November 16, 2006, Susp.	.....do	Do.
Richmond, Village of, McHenry County	170484	May 9, 1975, Emerg; July 16, 1981, Reg; November 16, 2006, Susp.	.....do	Do.
Riverwoods, Village of, Lake County	170387	August 21, 1975, Emerg; August 15, 1980, Reg; November 16, 2006, Susp.	.....do	Do.
South Barrington, Village of, Cook County.	170161	August 1, 1975, Emerg; July 16, 1981, Reg; November 16, 2006, Susp.	.....do	Do.
Spring Grove, Village of, McHenry County.	170485	February 10, 1975, Emerg; November 4, 1981, Reg; November 16, 2006, Susp.	.....do	Do.
Union, Village of, McHenry County	170487	July 18, 1973, Emerg; August 15, 1983, Reg; November 16, 2006, Susp.	.....do	Do.
Volo, Village of, Lake County	171042	April 3, 1998, Emerg; April 3, 1998, Reg; November 16, 2006, Susp.	.....do	Do.
Wauconda, Village of, Lake County	170396	January 13, 1975, Emerg; December 1, 1981, Reg; November 16, 2006, Susp.	.....do	Do.
Wonder Lake, Village of, McHenry County.	170976	October 2, 1980, Emerg; August 15, 1983, Reg; November 16, 2006, Susp.	.....do	Do.
Woodstock, City of, McHenry County ...	170488	June 12, 1974, Emerg; June 15, 1979, Reg; November 16, 2006, Susp.	.....do	Do.

*.....do = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: October 27, 2006.

David I. Maurstad,

Mitigation Division Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–19117 Filed 11–13–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Department of Homeland Security, Mitigation Division.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: *Effective Dates:* The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director has resolved any appeals resulting from this notification.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67. The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground modified	Communities affected
Cook County, Illinois and Incorporated Areas Docket No.: FEMA–P–7921			
Buffalo Creek	Just upstream of Elmhurst Road	*653	Village of Wheeling.
	Just downstream of Aptakisic Road	*667	
Wheeling Drainage Ditch	Just downstream of Wolf Road	*641	Cook County (Unincorporated Areas).
	Approximately 400 feet downstream of Elmhurst Road	*652	Village of Wheeling.
William Rogers Memorial Diversion Channel.	Approximately 300 feet upstream of the confluence with Des Plaines River.	*644	Cook County (Unincorporated Areas).
	At divergence from Wheeling Drainage Ditch	*646	Village of Wheeling.

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground modified	Communities affected

ADDRESSES

Cook County, Illinois (Unincorporated Areas)

Maps are available for inspection at Cook County Building and Zoning Department, 69 West Washington, Suite 2830, Chicago, Illinois.

Village of Wheeling, Cook County, Illinois

Maps are available for inspection at Wheeling Village Hall, Engineer's Office, 255 West Dundee Road, Wheeling, Illinois.

Calhoun County, South Carolina and Incorporated Areas
Docket No.: FEMA–B–7462

Lake Marion	At the Sumter County/Clarendon County line	+76	Calhoun County (Unincorporated Areas).
	At the Calhoun County/Orangeburg County line	+76	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Unincorporated Areas of Calhoun County

Maps are available for inspection at Calhoun County, Office of Building and Planning, 102 Courthouse Drive, Suite 112, St. Matthews, SC 29135.

Maury County, Tennessee and Incorporated Areas
Docket No.: FEMA–B–7458

Duck River	Approximately 6,680 feet downstream of the confluence Roberts Bend Branch.	+562	Maury County (Unincorporated Areas).
	Approximately 2,040 feet downstream of the confluence Little Bigby Creek.	+576	
Duck River	Approximately 1,800 feet downstream of the confluence Bear Creek.	+588	Maury County (Unincorporated Areas), City of Columbia.
	Approximately 3,680 feet upstream of the confluence Flat Creek.	+634	
Fountain Creek	At the confluence of Fountain Creek with Duck River	+604	Maury County (Unincorporated Areas).
	Approximately 3,000 feet upstream of Culleoka Highway	+663	
Silver Creek	At the confluence of Silver Creek with Fountain Creek	+604	Maury County (Unincorporated Areas).
	Approximately 200 feet upstream of Kerr Road	+661	

Depth in feet above ground.
* National Geodetic Vertical Datum.
North America Vertical Datum.
(NOTE: NGVD+.069=NAVD).

ADDRESSES

Unincorporated Areas of Maury County

Maps are available for inspection at the Community Map Repository, County Courthouse, 41 Public Square, Columbia, TN 38401.

City of Columbia

Maps are available for inspection at the Community Map Repository, 707 North Main Street, Columbia, TN 38401.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 6, 2006.

David I. Maurstad,

Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–19116 Filed 11–13–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Department of Homeland Security, Mitigation Division.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: *Effective Dates:* The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., CFM, Acting Section Chief, Engineering Management Section, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director has resolved any appeals resulting from this notification.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

State	City/town/ county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD) +Elevation in feet (NAVD) Modified
Columbia County, Arkansas Docket No.: FEMA–B–7456				
Arkansas	Columbia County	Nations Creek	Approximately 500 feet downstream from Nations Creek and Calhoun Road.	+269
			Approximately 7,000 feet upstream from Nations Creek and Highway 82.	+285
	Columbia County	Barlow Branch	Approximately 2,500 feet downstream from Highway 82 and Barlow Branch.	+259
			Approximately 1,200 feet downstream from Highway 371 and Barlow Branch.	+267
	Columbia County	Tributary to Barlow Branch	Confluence of Barlow Branch and Tributary to Barlow Branch.	+262

State	City/town/ county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD) +Elevation in feet (NAVD) Modified
			Intersection of the Louisiana and Northwest Railway and Tributary to Barlow Branch.	+277
	Columbia County	Tributary to Big Creek	Approximately 2,900 feet upstream from the confluence of Big Creek and Tributary to Big Creek.	+252
			Approximately 2,400 feet downstream from Height Street and Tributary to Big Creek.	+258
	Columbia County	Tanyard Branch	Approximately 1,800 feet downstream from Tanyard Branch and the Louisiana and Northwest Railway.	+264
			Approximately 600 feet downstream from Tanyard Branch and the Louisiana and Northwest Railway.	+266

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Unincorporated Areas of Columbia County

Maps are available for inspection at the Columbia County Courthouse, Court #1 Square, Magnolia, AR 71753.

Mount Vernon, South Dakota
Docket No.: FEMA–B–7456

South Dakota	City of Mt. Vernon	Dry Run Creek	At 7th Street	+1400
			Approximately 300 feet upstream of West Railroad Street.	+1412
		East Drainage	Approximately 400 feet upstream of Main Street.	+1411
			At 397th Avenue	+1415
		Diversion	At intersection 397th Avenue and 253rd Street.	+1405
			At Railroad Street	+1417

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

City of Mt. Vernon

Maps are available for inspection at the Mount Vernon Community Center, 500 North Main Street, Mt. Vernon South Dakota 57363.

Teton County, Wyoming
(FEMA Docket No. B–7456)

Wyoming	Teton County	Flat Creek	Just upstream of High School Road	*6113
	Town of Jackson		Just upstream of U.S. Highway 26	*6214
	Teton County	Spring Creek	Approximately 1400 feet downstream of Tribal Trail Road.	*6125
	Town of Jackson	Approximately 400 feet upstream of U.S. Highway 22.	*6158.	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Unincorporated Areas of Teton County

Maps are available for inspection at the Teton County Administration Building, 200 South Willow, Jackson, Wyoming 83001.

Town of Jackson

Maps are available for inspection at Town Hall, 150 East Pearl Avenue, Jackson, Wyoming 83001.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
San Diego County and Incorporated Areas Docket No.: FEMA–B–7456			
Agua Hedionda Creek	Approximately 1,400 feet downstream of Melrose Drive. ..... Approximately 200 feet downstream of confluence with Buena Creek.	* 308 * 353	City of Vista.

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

City of Vista
Maps are available for inspection at the City Hall, 600 Eucalyptus Avenue, Vista, CA 92084.

Boulder County, Colorado and Incorporated Areas Docket No.: FEMA–B–7456			
Skunk Creek	Approximately 50 feet upstream of 30th Street Bridge ..... Approximately 520 feet upstream of 30th Street	+ 5,312 + 5,322	City of Boulder.

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

City of Boulder
Maps are available for inspection at Central Records Department, 1777 Broadway, Boulder, Colorado 80302.

Dixie County, Florida and Incorporated Areas Docket No.: FEMA–B–7457			
Suwannee River	Approximately 14.4 miles downstream of U.S. Route 19 ..... Approximately 2.8 miles upstream of County Highway 340	+ 12 + 28	Dixie County (Unincorporated Areas).

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Dixie County (Unincorporated Areas)
Maps available for inspection at the Dixie County Planning and Zoning Department, 405 Southeast 22nd Avenue, Cross City, Florida.

Escambia County, Florida and Incorporated Areas Docket No.: FEMA–B–7457			
Tributary to Elevenmile Creek ..	Approximately 750 feet upstream of the confluence with Elevenmile Creek. Approximately 2.83 miles upstream of the confluence with Elevenmile Creek.	+ 36 + 74	Escambia County (Unincorporated Areas).
Carpenters Creek	Approximately 1,120 feet upstream of 12th Avenue ..... Approximately 1,833 feet upstream of Interstate 10	+ 10 + 84	Escambia County (Unincorporated Areas) and City of Pensacola.
Tributary to Carpenters Creek ..	At the confluence with Carpenters Creek ..... Approximately 1,260 feet upstream of Dirt Road	+ 64 + 84	Escambia County (Unincorporated Areas).
Tributary to Bridge Creek (West).	At the confluence with Bridge Creek ..... Approximately 2,650 feet upstream of the confluence with Bridge Creek.	+ 16 + 24	Escambia County (Unincorporated Areas).
Tributary to Bridge Creek (East)	At the confluence with Bridge Creek ..... Approximately 2,500 feet upstream of the confluence with Bridge Creek.	+ 16 + 20	Escambia County (Unincorporated Areas).
Tributary 1 to Bayou Grande	At the confluence with Bayou Grande	+ 9	Escambia County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 1,000 feet upstream of Blue Angel Parkway	+20	
Tributary 2 to Bayou Grande	At the confluence with Bayou Grande	+7	Escambia County (Unincorporated Areas).
	Approximately 2,200 feet upstream of Gulf Beach Boulevard ...	+20	
Tributary 3 to Bayou Grande	At the confluence with Bayou Grande	+7	Escambia County (Unincorporated Areas).
	Approximately 0.8 mile upstream of Blue Angel Parkway	+26	
Tributary 4 to Bayou Grande	At the confluence with Bayou Grande	+7	Escambia County (Unincorporated Areas).
	Approximately 2,750 feet upstream of the confluence with Bayou Grande.	+16	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

City of Pensacola
Maps available for inspection at the City of Pensacola Inspection Services, 14 West Jordan Street, Pensacola, Florida.

Escambia County (Unincorporated Areas)
Maps available for inspection at the Escambia County Building Inspections, 3300 North Pace Boulevard, Suite 300, Pensacola, Florida.

Gilchrist County Florida and Incorporated Areas
Docket No.: FEMA–B–7457

Suwannee River	Approximately 1.7 miles downstream of U.S. Route 19	+19	City of Fanning Springs, Gilchrist County (Unincorporated Areas).
	Approximately 8.2 miles upstream of Highway 340	+31	
Santa Fe River	Approximately 2.8 miles upstream of State Route 47	+37	City of Fanning Springs, Gilchrist County (Unincorporated Areas).
	Approximately 5.9 miles upstream of State Route 47	+40	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

City of Fanning Springs
Maps available for inspection at the Fanning Springs City Hall, 17651 Northwest 90th Court, Fanning Springs, Florida.

Gilchrist County (Unincorporated Areas)
Maps available for inspection at the Gilchrist County Building and Zoning Department, 209 Southeast First Street, Trenton, Florida.

Lafayette County Florida and Incorporated Areas
Docket No.: FEMA–B–7457

Suwannee River	Approximately 14.5 miles downstream of U.S. Highway 27	+28	Lafayette County (Unincorporated Areas).
	Approximately 10,000 feet upstream of County Road 250	+59	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Lafeyette County (Unincorporated Areas)
Maps available for inspection at the Lafayette County Building and Zoning Department, 120 West Main Street, Mayo, Florida.

Cherokee County Georgia and Incorporated Areas
Docket No.: FEMA–B–7456

Tate Creek	Approximately 1,350 feet downstream of Yorkshire Drive	+897	City of Woodstock, Cherokee County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 4,900 feet upstream of Flood Retarding Structure No. 17.	+944	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.
[1] The existing elevation data included on the effective FIRM is printed in the elevation datum of the National Geodetic Vertical Datum of 1929 (NGVD29). In order to convert this printed elevation data from the NGVD29 datum to the NAVD88 datum, please add 0.10 feet.

ADDRESSES

Cherokee County (Unincorporated Areas)

Maps are available for inspection at 130 East Main Street, Suite 106, Canton, Georgia.

City of Woodstock

Maps are available for inspection at 103 Arnold Mill Road, Woodstock, Georgia.

Gwinnett County, Georgia and Incorporated Areas
Docket No.: FEMA–B–7457

Alcovy River	At the county boundary	+784	Gwinnett County (Unincorporated Areas).
	Approximately 4,420 feet upstream of Old Fountain Road	+1074	
Tributary A	At the confluence with Alcovy River	+795	Gwinnett County (Unincorporated Areas).
	Approximately 3,615 feet upstream of Callie Still Road	+844	
Tributary B	At the confluence with Alcovy River	+989	Gwinnett County (Unincorporated Areas).
	Approximately 2,055 feet upstream of Hood Road	+1,012	
Apalachee River	At the county boundary	+823	Gwinnett County (Unincorporated Areas).
	Approximately 12,240 feet upstream of Old Fountain Road	+1,107	
Tributary No. 1	At the county boundary	+826	Gwinnett County (Unincorporated Areas).
	Approximately 4,615 feet upstream of Bold Springs Road	+992	
Tributary No. 3	At the confluence with Apalachee River	+887	Gwinnett County (Unincorporated Areas).
	Approximately 2,325 feet upstream of Old Freemans Mill Road	+942	
Tributary No. 4	At the confluence with Apalachee River	+908	Gwinnett County (Unincorporated Areas).
	Approximately 5,900 feet upstream of Bailey Road	+966	
Bay Creek	At the county boundary	+794	Gwinnett County (Unincorporated Areas).
	Approximately 590 feet upstream of Briscoe Road	+960	
Beaver Ruin Creek	At the confluence with Sweetwater Creek	+862	Gwinnett County (Unincorporated Areas).
	Approximately 2,690 feet upstream of Everglades Trail	+978	
Tributary No. 1	At the confluence with Beaver Ruin Creek	+905	City of Norcross, Gwinnett County (Unincorporated Areas).
	Approximately 200 feet upstream of Live Oak Parkway	+983	
Tributary No. 2	At the confluence with Beaver Ruin Creek	+933	City of Norcross, Gwinnett County (Unincorporated Areas).
	Approximately 150 feet upstream of North Norcross Tucker Road.	+963	
Bell Creek	At the confluence with Suwanee Creek	+926	City of Suwanee, Gwinnett County (Unincorporated Areas).
	Approximately 1,280 feet upstream of Lake Louella Dam	+974	
Berkeley Lake (Mill Creek Tributary (Stream 6.1)).	Entire shoreline	+977	City of Berkeley Lake.
Big Haynes Creek	At the county boundary	+849	City of Snellville, Gwinnett County (Unincorporated Areas).
	Approximately 100 feet upstream of Hillside Drive	+956	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Tributary A	At the confluence with Big Haynes Creek	+883	City of Snellville, Gwinnett County (Unincorporated Areas).
	Approximately 1,490 feet upstream of Athens Highway/U.S. Highway 78/State Highway 10.	+945	
Bromolow Creek	At the confluence with Beaver Ruin Creek	+866	City of Duluth, Gwinnett County (Unincorporated Areas).
	Approximately 5,450 feet upstream of Old Norcross Road	+979	
Tributary No. 1	At the confluence with Bromolow Creek	+889	Gwinnett County (Unincorporated Areas).
	Approximately 1,560 feet upstream of U.S. Highway 231/State Highway 13/Buford Highway.	+979	
Tributary No. 1.1	At the confluence with Bromolow Creek Tributary No. 1	+913	Gwinnett County (Unincorporated Areas).
	Approximately 200 feet upstream of Bailey Drive	+963	
Brushy Creek	Approximately 3,080 feet upstream of the confluence with the Chattahoochee River.	+910	City of Suwanee, Gwinnett County (Unincorporated Areas).
	Approximately 130 feet upstream of Suwanee Dam Road Northwest.	+1,014	
Brushy Fork Creek	At the confluence with Big Haynes Creek	+850	Gwinnett County (Unincorporated Areas).
	Approximately 1,890 feet upstream of Athens Highway/U.S. Highway 78/State Highway 10.	+980	
Tributary A	At the confluence with Brushy Creek	+915	Gwinnett County (Unincorporated Areas).
	Approximately 1,650 feet upstream of SCS Dam 22	+949	
Camp Creek	Approximately 600 feet upstream of the confluence with Jackson Creek.	+869	City of Lilburn, Gwinnett County (Unincorporated Areas).
	At the county boundary	+947	
Tributary No. 1	At the confluence with Camp Creek	+909	City of Lilburn, Gwinnett County (Unincorporated Areas).
	Approximately 320 feet upstream of Harmony Grove Road	+950	
Cedar Creek Northwest	At the confluence with Alcovy River	+952	Gwinnett County (Unincorporated Areas).
	Just upstream of Progress Center Avenue	+1,000	
Cedar Creek Northwest Tributary.	At the confluence with Cedar Creek Northwest	+989	City of Lawrenceville, Gwinnett County (Unincorporated Areas).
	Approximately 4,950 feet above the confluence with Cedar Creek Northwest.	+1,012	
Cedar Creek Southeast	At the county boundary	+793	Gwinnett County (Unincorporated Areas).
	Approximately 1,555 feet upstream of New Hope Road	+891	
Centerville Creek	Approximately 560 feet upstream of the confluence with the Yellow River.	+748	Gwinnett County (Unincorporated Areas).
	Approximately 770 feet upstream of Johnson Drive	+857	
Crooked Creek	At the county boundary	+887	Gwinnett County (Unincorporated Areas).
	Approximately 3,280 feet upstream of Peachtree Corners Circle.	+912	
Tributary A	At the confluence with Crooked Creek	+896	Gwinnett County (Unincorporated Areas).
	Approximately 4,520 feet upstream of Jones Mill Road	+941	
Tributary No. 1	At the confluence with Crooked Creek	+902	Gwinnett County (Unincorporated Areas).
	Approximately 1,900 feet upstream of the confluence with Crooked Creek.	+918	
Tributary No. 2	Approximately 200 feet upstream of the confluence with Crooked Creek.	+906	Gwinnett County (Unincorporated Areas).
	Approximately 600 feet upstream of Engineering Drive	+958	
Tributary No. 2.1	At the confluence with Crooked Creek Tributary No. 2	+923	City of Norcross, Gwinnett County (Unincorporated Areas).
	Approximately 515 feet upstream of Sunset Drive (upstream crossing).	+971	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Tributary No. 2.1.1	At confluence with Crooked Creek Tributary No. 2.1	+944	City of Norcross.
	Approximately 2,000 feet upstream of Olde Town Park Drive	+986	
Do Little Creek	At the confluence with No Business Creek	+760	Gwinnett County (Unincorporated Areas).
	Approximately 655 feet upstream of Snow Trail	+854	
Doc Moore Branch	At the confluence with No Business Creek	+746	Gwinnett County (Unincorporated Areas).
	Approximately 450 feet upstream of Brittan Glade Trail	+814	
Drowning Creek (Apalachee River Tributary No. 2).	At the confluence with Apalachee River	+858	City of Dacula, Gwinnett County (Unincorporated Areas).
	Just upstream of State Highway 316	+1,001	
Duncan Creek	Approximately 260 feet downstream of the Gwinnett/Barrow County boundary.	+816	Town of Braselton, Gwinnett County (Unincorporated Areas).
	Approximately 2,290 feet upstream of East Rock Quarry Road	+1,080	
Garner Creek	At the confluence with the Yellow River	+826	Gwinnett County (Unincorporated Areas).
	Approximately 250 feet upstream of Lilburn Stone Mountain Road.	+988	
Tributary No. 1	At the confluence with Garner Creek	+939	Gwinnett County (Unincorporated Areas).
	Approximately 940 feet upstream of Breathitt Drive	+981	
Tributary No. 2	Approximately 60 feet upstream of the confluence with Garner Creek.	+963	Gwinnett County (Unincorporated Areas).
	Approximately 1,635 feet upstream of the confluence with Garner Creek.	+982	
Hale Creek	At the confluence with Garner Creek	+864	City of Lilburn, Gwinnett County (Unincorporated Areas).
	Approximately 440 feet upstream of Lilburn Stone Mountain Road.	+935	
Hale Creek Tributary	At the confluence with Hale Creek	+870	Gwinnett County (Unincorporated Areas).
	Approximately 980 feet upstream of Baltimore Avenue	+908	
Hopkins Creek	At the confluence with Alcovy River	+871	City of Dacula, Gwinnett County (Unincorporated Areas).
	Approximately 1,320 feet upstream of Fence Road	+1,009	
Ivy Creek	At the confluence with Suwanee Creek	+956	City of Suwanee, Gwinnett County (Unincorporated Areas).
	Approximately 160 feet upstream of Thompson Mill Road	+1,121	
Ivy Creek Tributary	At the confluence with Ivy Creek	+1,044	Gwinnett County (Unincorporated Areas).
	Approximately 160 feet upstream of Camp Branch Road	+1,129	
Jacks Creek	At the confluence with the Yellow River	+788	Gwinnett County (Unincorporated Areas).
	Approximately 620 feet upstream of Parkwood Drive	+954	
Garner Creek Tributary No. 2	Approximately 60 feet upstream of the confluence with Garner Creek.	+963	Gwinnett County (Unincorporated Areas).
	Approximately 1,635 feet upstream of the confluence with Garner Creek.	+982	
Hale Creek	At the confluence with Garner Creek	+864	City of Lilburn, Gwinnett County (Unincorporated Areas).
	Approximately 440 feet upstream of Lilburn Stone Mountain Road.	+935	
Hale Creek Tributary	At the confluence with Hale Creek	+870	Gwinnett County (Unincorporated Areas).
	Approximately 980 feet upstream of Baltimore Avenue	+908	
Hopkins Creek	At the confluence with Alcovy River	+871	City of Dacula, Gwinnett County (Unincorporated Areas).
	Approximately 1,320 feet upstream of Fence Road	+1,009	
Ivy Creek	At the confluence with Suwanee Creek	+956	City of Suwanee, Gwinnett County (Unincorporated Areas).
	Approximately 160 feet upstream of Thompson Mill Road	+1,121	
Ivy Creek Tributary	At the confluence with Ivy Creek	+1,044	Gwinnett County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 160 feet upstream of Camp Branch Road	+1,129	
Jacks Creek	At the confluence with the Yellow River	+788	Gwinnett County (Unincorporated Areas).
	Approximately 620 feet upstream of Parkwood Drive	+954	
Jackson Creek	At the confluence with Sweetwater Creek	+858	City of Lilburn, Gwinnett County (Unincorporated Areas).
	Just upstream of Old Norcross Tucker Road	+960	
Tributary No. 1	At the confluence with Jackson Creek	+893	Gwinnett County (Unincorporated Areas).
	Approximately 275 feet upstream of Button Gwinnett Place	+935	
Tributary No. 2	At the confluence with Jackson Creek	+903	Gwinnett County (Unincorporated Areas).
	Just upstream of Meadow Brook Drive	+957	
Knox Branch	At the confluence with Sweetwater Creek	+939	City of Duluth, Gwinnett County (Unincorporated Areas).
	Just downstream of Lake Norman Dam	+962	
Lake Norman (Knox Branch)	Entire shoreline	+992	City of Duluth.
Lake No. 1 (Little Suwanee Creek Tributary No. 1).	Entire shoreline	+989	Gwinnett County (Unincorporated Areas).
Lake No. 2 (Sweetwater Creek)	Entire shoreline	+961	Gwinnett County (Unincorporated Areas).
Lanier Creek	At the confluence with Bromolow Creek	+866	Gwinnett County (Unincorporated Areas).
	Approximately 375 feet upstream of Interstate Highway 85	+926	
Lee Daniel Creek	At the confluence with Sweetwater Creek	+879	Gwinnett County (Unincorporated Areas).
	Approximately 520 feet upstream of Sugarloaf Parkway	+987	
Tributary No. 1	At the confluence with Lee Daniel Creek	+884	Gwinnett County (Unincorporated Areas).
	Approximately 270 feet upstream of Duluth Highway/State Highway 120.	+953	
Tributary No. 1.1	Approximately 30 feet upstream of the confluence with Lee Daniel Creek Tributary No. 1.	+914	Gwinnett County (Unincorporated Areas).
	Approximately 870 feet upstream of Sugarloaf Parkway	+949	
Level Creek	Approximately 2,200 feet upstream of the confluence with the Chattahoochee River.	+915	City of Sugar Hill, City of Suwanee, Gwinnett County (Unincorporated Areas).
	Just upstream of Peachtree Industrial Boulevard	+1,048	
Tributary No. 1	At the confluence with Level Creek	+955	City of Suwanee, Gwinnett County (Unincorporated Areas).
	Just upstream of Suwanee Dam Road	+1,007	
Tributary No. 2	At the confluence with Level Creek	+973	City of Sugar Hill, Gwinnett County (Unincorporated Areas).
	Approximately 170 feet upstream of Sugar Ridge Drive	+1,022	
Little Ivy Creek	At the confluence with Ivy Creek	+1,023	Gwinnett County (Unincorporated Areas).
	Approximately 160 feet upstream of Ivy Lake Drive	+1,141	
Little Mulberry River	Approximately 160 feet downstream of the county boundary	+833	Gwinnett County (Unincorporated Areas).
	Approximately 350 feet upstream of Millwater Crossing	+988	
Tributary A	At the confluence with Little Mulberry River	+844	Gwinnett County (Unincorporated Areas).
	Approximately 260 feet upstream of Mineral Springs Road	+987	
Tributary B	At the confluence with Little Mulberry River	+847	Gwinnett County (Unincorporated Areas).
	Approximately 165 feet upstream of Hog Mountain Road	+931	
Tributary C	At the confluence with Little Mulberry River	+857	Gwinnett County (Unincorporated Areas).
	Approximately 545 feet upstream of Hog Mountain Road	+885	
Tributary D	At the confluence with Little Mulberry River	+894	Gwinnett County (Unincorporated Areas).
	Approximately 260 feet upstream of Hog Mountain Road	+898	
Tributary E	At the confluence with Little Mulberry River	+894	Gwinnett County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 560 feet upstream of Patrick Road	+932	
Little Suwanee Creek	At the confluence with Yellow River	+933	City of Lawrenceville, Gwinnett County (Unincorporated Areas).
	Approximately 590 feet upstream of Buford Drive/State Highway 20.	+1,072	
Tributary No. 1	At the confluence with Little Suwanee Creek	+954	Gwinnett County (Unincorporated Areas).
	Just downstream of SCS Dam Y–16	+966	
Lucky Shoals Creek	At the confluence with Jackson Creek	+930	Gwinnett County (Unincorporated Areas).
	Just upstream of Old Norcross Tucker Road	+952	
Mill Creek	At the confluence with Suwanee Creek	+929	City of Suwanee, Gwinnett County (Unincorporated Areas).
	Just upstream of Satellite Boulevard	+991	
Mill Creek (Stream 6)	Approximately 930 feet upstream of the confluence with the Chattahoochee River.	+898	Gwinnett County (Unincorporated Areas).
	Just upstream of Bush Road	+913	
Mill Creek Tributary (Stream 6.1).	Approximately 140 feet upstream of the confluence with Mill Creek (Stream 6).	+898	City of Berkeley Lake, Gwinnett County (Unincorporated Areas).
	Approximately 260 feet upstream of Bayway Circle	+975	
Mitchell Creek	At the county boundary	+1,014	Gwinnett County (Unincorporated Areas).
	Approximately 910 feet upstream of South Puckett Lane	+1,133	
No Business Creek	Approximately 895 feet downstream of the county boundary	+741	Gwinnett County (Unincorporated Areas).
	Approximately 840 feet upstream of Scenic Highway/State Highway 124.	+1,010	
Tributary No. 1	Approximately 900 feet upstream of the confluence with No Business Creek.	+900	City of Snellville, Gwinnett County (Unincorporated Areas).
	Approximately 280 feet upstream of Green Valley Road	+930	
North Fork Peachtree Creek	At the county boundary	+931	Gwinnett County (Unincorporated Areas).
	Approximately 1,370 feet upstream of Greenwood Drive	+980	
Palm Creek	At the confluence with Alcovy River	+796	Gwinnett County (Unincorporated Areas).
	Approximately 3,410 feet upstream of Brooks Road	+960	
Tributary A	At the confluence with Palm Creek	+851	Gwinnett County (Unincorporated Areas).
	Approximately 1,690 feet upstream of Brooks Road	+926	
Pew Creek	Approximately 200 feet upstream of the confluence with Yellow River.	+874	City of Lawrenceville, Gwinnett County (Unincorporated Areas).
	Approximately 150 feet upstream of Stone Mountain Street	+1,012	
Tributary No. 1	At the confluence with Pew Creek	+962	City of Lawrenceville.
	Approximately 330 feet upstream of Scenic Highway/State Highway 124.	+991	
Pounds Creek	At the confluence with the Yellow River	+815	Gwinnett County (Unincorporated Areas).
	Approximately 1,290 feet upstream of Brownlee Road	+958	
Redland Creek	At the confluence with Pew Creek	+889	City of Lawrenceville, Gwinnett County (Unincorporated Areas).
	Approximately 280 feet upstream of Northdale Road/Redland Court.	+1,029	
Richland Creek	Approximately 160 feet upstream of the confluence with the Chattahoochee River.	+918	City of Buford, City of Sugar Hill, Gwinnett County (Unincorporated Areas).
	Just upstream of Cole Road	+1,095	
Tributary No. 1	At the confluence with Richland Creek	+952	Gwinnett County (Unincorporated Areas).
	Just upstream of Stewart Road	+1,013	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Tributary No. 2	At the confluence with Richland Creek	+1,008	City of Buford, Gwinnett County (Unincorporated Areas).
	Just upstream of Pine Hollow Way	+1,036	
Rock Creek	At the county boundary	+960	Gwinnett County (Unincorporated Areas).
	Approximately 5,080 feet upstream of Bailey Road	+1,000	
Rogers Creek	Approximately 1,940 feet upstream of the confluence with the Chattahoochee River.	+903	City of Duluth, Gwinnett County (Unincorporated Areas).
	Approximately 4,375 feet upstream of Bridlewood Drive	+1,035	
Salmon Branch	At the confluence with Pounds Creek	+827	Gwinnett County (Unincorporated Areas).
	Approximately 610 feet upstream of Ridgeland County	+870	
Sherwood Creek	At the county boundary	+921	Gwinnett County (Unincorporated Areas).
	Approximately 1,950 feet upstream of West Rock Quarry Road	+963	
Shetley Creek	At the confluence with Bromolow Creek	+893	Gwinnett County (Unincorporated Areas).
	Approximately 260 feet upstream of Castlerock Drive	+940	
Shoal Creek	At the confluence with Alcovy River	+832	City of Lawrenceville, Gwinnett County (Unincorporated Areas).
	Approximately 1,980 feet upstream of Ezzard Street	+986	
Singleton Creek	At the confluence with Sweetwater Creek	+885	Gwinnett County (Unincorporated Areas).
	Approximately 4,970 feet upstream of Duluth Highway/State Highway 120.	+947	
Stream 1	Approximately 550 feet upstream of the confluence with the Chattahoochee River.	+887	Gwinnett County (Unincorporated Areas).
	Approximately 500 feet upstream of Allenhurst Drive	+931	
Stream 2	Approximately 510 feet upstream of the confluence with the Chattahoochee River.	+889	Gwinnett County (Unincorporated Areas).
	Approximately 2,500 feet upstream of Jones Bridge Circle	+949	
Stream 3	Approximately 1,540 feet upstream of the confluence with the Chattahoochee River.	+892	Gwinnett County (Unincorporated Areas).
	Approximately 3,115 feet upstream of Edgerton Drive	+942	
Stream 4	Approximately 900 feet upstream of the confluence with the Chattahoochee River.	+894	Gwinnett County (Unincorporated Areas).
	Approximately 440 feet upstream of Avala Park Lane	+957	
Stream 5	Approximately 1,640 feet upstream of the confluence with the Chattahoochee River.	+898	Gwinnett County (Unincorporated Areas).
	Approximately 265 feet upstream of Bush Road	+918	
Stream 8	Approximately 1,030 feet upstream of the confluence with the Chattahoochee River.	+900	Gwinnett County (Unincorporated Areas).
	Just upstream of Howell Springs Drive	+970	
Stream 10	Approximately 1,540 feet upstream of the confluence with the Chattahoochee River.	+908	City of Duluth, Gwinnett County (Unincorporated Areas).
	Approximately 2,310 feet upstream of Buford Highway/U.S. Highway 23/State Highway 13.	+1,025	
Sugar Lake (Singleton Creek)	Entire shoreline	+949	Gwinnett County (Unincorporated Areas).
Suwanee Creek	Approximately 3,300 feet upstream of the confluence with the Chattahoochee River.	+908	City of Buford, City of Rest Haven, City of Suwanee, Gwinnett County (Unincorporated Areas).
	At the county boundary	+1,113	
Tributary No. 1	At the confluence with Suwanee Creek	+911	City of Duluth, Gwinnett County (Unincorporated Areas).
	Approximately 590 feet upstream of Buford Highway/U.S. Highway 231/State Highway 13.	+942	
Tributary No. 2	Approximately 700 feet upstream of the confluence with Suwanee Creek.	+997	City of Buford.
	Just upstream of Buford Highway/State Highway 13	+1,024	
Tributary No. 3	At the confluence with Suwanee Creek	+1,025	City of Buford.
	Approximately 170 feet upstream of Roberts Street	+1,071	
Tributary No. 4	At the confluence with Suwanee Creek	+1,059	City of Buford, City of Rest Haven.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	At the county boundary	+1,081	
Sweetwater Creek	At the confluence with the Yellow River	+855	Gwinnett County (Unincorporated Areas).
	Just upstream of Bristol Lane	+961	
Tributary No. 1	At the confluence with Sweetwater Creek	+864	Gwinnett County (Unincorporated Areas).
	Approximately 355 feet upstream of Cruse Road	+891	
Tributary No. 2	At the confluence with Sweetwater Creek	+874	Gwinnett County (Unincorporated Areas).
	Approximately 1,300 feet upstream of Sweetwater Road	+887	
Swilling Creek	Approximately 1,600 feet upstream of the confluence with the Chattahoochee River.	+899	City of Duluth.
	Approximately 1,620 feet upstream of Tree Summit Parkway	+976	
Swilling Creek Tributary	At the confluence with Swilling Creek	+927	City of Duluth.
	Approximately 140 feet upstream of South Whippoorwill Drive	+972	
Tribble Creek	At the confluence with Alcovy River	+807	Gwinnett County (Unincorporated Areas).
	Approximately 1,520 feet upstream of Leach Drive	+932	
Tributary A	At the confluence with Tribble Creek	+896	Gwinnett County (Unincorporated Areas).
	Approximately 2,690 feet upstream of Chandler Road	+929	
Tributary B	At the confluence with Tribble Creek	+932	Gwinnett County (Unincorporated Areas).
	Approximately 145 feet upstream of McConell Road	+957	
Turkey Creek	At the confluence with the Yellow River	+836	Gwinnett County (Unincorporated Areas).
	Approximately 530 feet upstream of Highpoint Road	+950	
Unnamed Tributary to North Fork Peachtree Creek.	Approximately 1,525 feet downstream of Crescent Drive	+934	Gwinnett County (Unincorporated Areas).
	Approximately 2,375 feet upstream of Best Friend Road	+965	
Watson Creek	At the confluence with the Yellow River	+834	City of Snellville, Gwinnett County (Unincorporated Areas).
	Approximately 7,040 feet upstream of Bruckner Boulevard	+999	
Watson Creek Tributary	At the confluence with Watson Creek	+907	Gwinnett County (Unincorporated Areas).
	Approximately 360 feet upstream of Highpoint Road	+945	
Wheeler Creek	Approximately 320 feet downstream of the county boundary	+837	Gwinnett County (Unincorporated Areas).
	Approximately 420 feet upstream of Flowery Branch Road	+930	
Wildcat Creek	Approximately 980 feet downstream of Russell Road	+969	Gwinnett County (Unincorporated Areas).
	Approximately 300 feet upstream of Russell Road	+980	
Wolf Creek	At the confluence with the Yellow River	+903	Gwinnett County (Unincorporated Areas).
	Approximately 560 feet upstream of Tab Roberts Road	+963	
Yellow River	At the county boundary	+744	City of Lawrenceville, Gwinnett County (Unincorporated Areas).
	Approximately 165 feet upstream of Azalea Drive	+1,087	
Tributary No. 1	At the confluence with the Yellow River	+856	Gwinnett County (Unincorporated Areas).
	Approximately 965 feet upstream of Shannon Way	+932	
Tributary No. 2	At the confluence with the Yellow River	+857	Gwinnett County (Unincorporated Areas).
	Approximately 225 feet upstream of Innsfail Drive	+981	
Tributary No. 3	At the confluence with the Yellow River	+870	Gwinnett County (Unincorporated Areas).
	Approximately 210 feet upstream of Sugarloaf Parkway	+978	
Tributary No. 3.1	At the confluence with the Yellow River Tributary No. 3	+892	Gwinnett County (Unincorporated Areas).
	Approximately 305 feet upstream of Rocky Road	+938	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected

[1] The existing elevation data included on the effective FIRM is printed in the elevation datum of the National Geodetic Vertical Datum of 1929 (NGVD29). In order to convert this printed elevation data from the NGVD29 datum to the NAVD88 datum please add 0.118 feet.

ADDRESSES

City of Berkeley Lake
Maps are available for inspection at City Hall, 4040 South Berkeley Lake Road, Berkeley Lake, Georgia.
Town of Braselton
Maps are available for inspection at Braselton Town Hall, 4982 Highway 53, Braselton, Georgia.
City of Buford
Maps are available for inspection at City Hall, 95 Scott Street, Buford, Georgia.
City of Dacula
Maps are available for inspection at Dacula City Hall, 442 Harbins Road, Dacula, Georgia.
City of Duluth
Maps are available for inspection at the Planning Department, 3578 West Lawrenceville Street, Duluth, Georgia.

Gwinnett County (Unincorporated Areas)

Maps are available for inspection at Gwinnett County, One Justice Square, 446 West Crogan Street, Suite 275, Lawrenceville, Georgia.
City of Lawrenceville
Maps are available for inspection at 70 South Clayton Street, Lawrenceville, Georgia.
City of Lilburn
Maps are available for inspection at 76 Main Street, Lilburn, Georgia.
City of Norcross
Maps are available for inspection at City Hall—Community Development Department, 65 Lawrenceville Street, Norcross, Georgia.
City of Rest Haven
Maps are available for inspection at the City of Rest Haven, 101 City Hall Street, Buford, Georgia.
City of Snellville
Maps are available for inspection at the Planning Office, 2460 Main Street East, Snellville, Georgia.
City of Sugar Hill
Maps are available for inspection at Sugar Hill—Planning and Development, 4988 West Broad Street, Sugar Hill, Georgia.
City of Suwanee
Maps are available for inspection at the Planning and Community Development, 373 Highway 23, Suwanee, Georgia.

Hall County, Georgia and Incorporated Areas
Docket No.: FEMA–B–7457

Balus Creek Tributary No. 1	At confluence with Balus Creek	+1,101	City of Gainesville.
Duncan Creek	At the county boundary	+878	Hall County (Unincorporated Areas).
	Approximately 1,550 feet upstream of Spout Springs Road	+960	Town of Braselton.
Flat Creek Tributary No. 1	At confluence with Flat Creek	+1,158	Hall County (Unincorporated Areas), City of Gainesville.
	Approximately 340 feet upstream of the confluence with Flat Creek.	+1,158	
Sherwood Creek	Approximately 950 feet upstream of its confluence with Mulberry Creek.	+843	Hall County (Unincorporated Areas).
	At the county boundary	+922	
Suwanee Creek	At the county boundary	+1,112	Hall County (Unincorporated Areas).
	Approximately 105 feet upstream of the county boundary	+1,119	
Tributary No. 4	At the county boundary	+1,082	Hall County (Unincorporated Areas), Town of Rest Haven.
	Approximately 300 feet upstream of the county boundary	+1,082	

Depth in feet above ground.
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ADDRESSES

Town of Braselton
Maps are available for inspection at Braselton Town Hall, 4982 Highway 53, Braselton, Georgia.
City of Gainesville
Maps are available for inspection at the Department of Public Works, 300 Green Street, Suite 300, Gainesville, Georgia.

Hall County (Unincorporated Areas)

Maps are available for inspection at the Hall County Engineer Division, 300 Green Street, Room 309, Gainesville, Georgia.
City of Oakwood

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected

Maps are available for inspection at City Hall, 4035 Walnut Circle, Oakwood, Georgia.

City of Rest Haven

Maps are available for inspection at the City of Rest Haven, 101 City Hall, Buford, Georgia.

Paulding County, Georgia and Incorporated Areas
Docket No.: FEMA–B–7456

McClendon Creek	At the confluence with Tallapoosa River and Mud Creek	+1,133	Paulding County (Unincorporated Areas).
	Approximately 300 feet upstream of confluence with Tallapoosa River and Mud Creek.	+1,133	

Depth in feet above ground.
* National Geodetic Vertical Datum
+ North American Vertical Datum:
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ADDRESSES

Unincorporated areas of Paulding County

Maps are available for inspection at the Paulding County Planning and Zoning Department, 25 Courthouse Square, Dallas, Georgia 30132.

Dekalb County, Indiana and Incorporated Areas
Docket No.: FEMA–B–7457

Cedar Creek	County Road 72	+816	DeKalb County (Unincorporated Areas) City of Auburn, Town of Waterloo.
	Approximately 1,700 feet upstream of County Road 20	+905	
St. Joe River	Approximately 10,400 feet downstream of County Road 68	+791	Dekalb County (Unincorporated Areas).
	Approximately 7,600 feet upstream of County Road 79	+813	Town of St. Joe.
Little Cedar Creek	Approximately 1,800 feet downstream of County Road 327	+818	Dekalb County (Unincorporated Areas).
	Approximately 2,000 feet upstream of confluence Harvey Guthrie Ditch.	+857	
Black Creek	Approximately 800 feet upstream of confluence with Little Cedar Creek.	+830	Dekalb County (Unincorporated Areas).
	Approximately 3,600 feet upstream of State Road 3	+853	
Fish Creek	Approximately 5,000 feet downstream of County Road 79	+840	Dekalb County (Unincorporated Areas).
	Approximately 4,000 feet upstream of County Road 65A	+884	
Peckhart Drain	Approximately at confluence with Diehl Drain	+861	Dekalb County (Unincorporated Areas).
	Approximately at County Road 40	+877	City of Auburn
Diehl Drain	Approximately at confluence with Cedar Creek	+847	Dekalb County (Unincorporated Areas).
	Approximately 100 feet upstream of County Road 15	+878	City of Auburn, City of Garrett.

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

DeKalb County

Maps available for inspection at DeKalb County Planning Commission, 301 S. Union Street, Auburn, Indiana.

Town of Hamilton

Maps are available for inspection at the Zoning Administrator's Office, 7750 South Wayne Street, Hamilton, Indiana.

City of Auburn

Maps available for inspection at the Building, Planning and Development Department 210 Cedar Street, Auburn, Indiana.

City of Butler

Maps available for inspection at Butler City Utility Office, 201 South Broadway, Butler, Indiana.

City of Garrett

Maps available for inspection at Garrett Planning Department, 130 South Randolph Street, Garrett, Indiana.

Town of Corunna

Maps available for inspection at Corunna Town Hall, 102 N. Bridge Street, Corunna, Indiana.

Town of Waterloo

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected

Maps available for inspection at Town Hall, 280 N. Wayne Street, Waterloo, Indiana.

Town of St. Joe

Maps available for inspection at St. Joe Town Hall, 102 Third Street, St. Joe, Indiana.

Town of Ashley

Maps available for inspection at Clerk-Treasurer's Office, 500 S. Gonser Avenue, Ashley, Indiana.

Town of Altona

Maps available for inspection at Town Clerk-Treasurer's Office, 1202 W. Quincy Street, Garrett, Indiana.

Oakland County, Michigan and Incorporated Areas
Docket No.: FEMA–B–7453

Clinton River (near Grand Trunk Western R.R. and Maceday Lake).	Approximately 360 feet downstream of I–75	+1,010	Township of Independence and City of the Village of Clarkston.
	Approximately 70 feet upstream of Dixie Highway	+973	
Clinton River (near Sylvan Lake).	Approximately 3,100 feet upstream of Cooley Lake Rd	+934	Charter Township of Waterford, Township of West Bloomfield, City of Keego Harbor, and City of Pontiac.
	Upstream side of Dawson Millpond Dam	+928	
Clinton River (near Grand Trunk Western R.R. and Galloway Creek).	Approximately 700 feet downstream of Squirrel Road	+844	City of Auburn Hills.
	Approximately 50 feet upstream of Hamlin Road	+837	
Duck Creek	Approximately 40 feet downstream of Ortonville Rd. (2nd crossing).	+941	Village of Ortonville.
	At confluence with Kearsley Creek	+930	
Huron River	Approximately 1,600 feet upstream of Monteagle St	+904	Village of Milford.
	Approximately 1,900 feet downstream of Peters St	+902	
Kearsley Creek	Approximately 20 feet downstream of Granger Road	+941	Village of Ortonville.
	Approximately 10 feet upstream of Oakwood Road	+924	
Norton Creek	Approximately 3,800 feet downstream of I–96	+927	City of Wixom.
	Approximately 1,900 feet upstream of Buno Road	+907	
Pebble Creek	Approximately 60 feet upstream of Drakeshire Dr	+949	Township of West Bloomfield.
	Approximately 30 feet upstream of 14 Mile Road	+892	
Pettibone Creek	Approximately 2,000 feet upstream of Summit St	+949	Village of Milford.
	At confluence with Huron River	+902	
Quarton Branch	Approximately 160 feet downstream of Redding Street	+747	City of Birmingham.
	Upstream side of Quarton Lake Dam	+737	
Sargent Creek	Approximately 150 feet downstream of Heritage Hills Manor	+968	City of Rochester Hills.
	Approximately 130 feet downstream of Adams Road	+941	
Hummer Lake		+1,050	Township of Brandon.
Seymour Lake		+1,042	Township of Brandon.
Lake Louise		+965	Township of Brandon.
Bald Eagle		+970	Township of Brandon.
Square Lake		+992	Township of Orion.
Elkhorn Lake		+987	Township of Orion.
Tommys Lake		+987	Township of Orion.
Round Lake		+986	Township of Orion.
Lake Sixteen		+986	Township of Orion.
Voorheis Lake		+984	Township of Orion.
Judah Lake		+990	Township of Orion.
Lonesome Lake		+998	Township of Orion.
Long Lake		+968	Township of Orion.
Bunny Run Lake		+967	Township of Orion.
Buckhorn Lake		+989	Township of Orion.
Greens Lake		+998	Township of Orion.
Dark Lake		+1,001	Township of Orion.
Deer Lake		+973	Township of Independence and City of the Village of Clarkston.
Parke Lake		+991	Township of Independence and City of the Village of Clarkston.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Middle Lake		+973	Township of Independence and City of the Village of Clarkston.
Mill Lake	Downstream of Miller Road	+1,000	Township of Independence and City of the Village of Clarkston.
	Upstream of Miller Road	+1,002	
Mill Lake	Approximately 10 feet downstream of Baldwin Road	+983	Township of Orion.
	Approximately 1,700 feet downstream of Waldon Road	+981	
Lake Orion		+987	Village of Lake Orion and Township of Orion.
Sylvan Lake		+929	City of Keego Harbor, City of Pontiac, City of Sylvan Lake, and Charter Township of Waterford.
Cass Lake		+931	City of Keego Harbor, Township of West Bloomfield, Charter Township of Waterford, and City of Orchard Lake Village.
Dawson Mill Pond		+929	City of Pontiac.
Otter Lake		+929	Charter Township of Waterford.

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Oakland County (Unincorporated Areas)

Maps available for inspection at *http//www.co.oakland.mi.us/oss/*

Addison Township

Maps are available for inspection at Addison Township, 1440 Rochester Road, Leonard, MI.

Bloomfield Township

Maps are available for inspection at Water Department, 4200 Telegraph Road, Bloomfield Hills, MI 48302.

Brandon Township

Maps are available for inspection at Building Department, Brandon Township, 395 Mill Street, Ortonville, MI 48462.

City of Auburn Hills

Maps are available for inspection at Clerks Office, 1827 North Squirrel Road, Auburn Hills, MI 48326.

City of Birmingham

Maps are available for inspection at Municipal building, 151 Martin Street, Birmingham, MI 48012.

City of Bloomfield Hills

Maps are available for inspection at City of Bloomfield Hills, 45 East Long Lake Road, Bloomfield Hills, MI 48304.

City of Farmington

Maps are available for inspection at Public Service Department, 33720 West Nine Mile Road, Farmington, MI 48335.

City of Farmington Hills

Maps are available for inspection at City of Farmington Hills Engineering, 31555 West Eleven Mile Road, Farmington Hills, MI.

City of Keego Harbor

Maps are available for inspection at Keego Harbor City Hall, 2141 Cass Lake Road., Suite # 101, Keego Harbor, MI 48320.

City of Lake Angelus

Maps are available for inspection at City Hall, 45 Gallogly Road, Lake Angelus, MI 48326.

City of Northville

Maps are available for inspection at City Hall, 215 West Main Street, Northville, MI.

City of Orchard Lake Village

Maps are available for inspection at City Hall, 3955 Orchard Lake Road, Orchard Lake, MI.

City of Pontiac

Maps are available for inspection at City Engineering Department, 55 Wessen Street, Pontiac, MI and Community Development Office, 1200 Featherstone Road, Pontiac, MI.

City of Rochester

Maps are available for inspection at City Hall, 400 Sixth Street, Rochester, MI.

City of Rochester Hills

Maps are available for inspection at Department of Public Safety/Engineering Department, 1000 Rochester Hills Drive, Rochester Hills, MI 48309.

City of South Lyon

Maps are available for inspection at City of South Lyon, 335 South Warren Street, South Lyon, MI.

City of Southfield

Maps are available for inspection at Engineering Department, 26000 Evergreen Road, Southfield, MI.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected

City of Sylvan Lake
Maps are available for inspection at City Hall, 1820 Inverness Street, Sylvan Lake, MI.
City of The Village of Clarkston
Maps are available for inspection at City Office, 375 Depot Road, Clarkston, MI.
City of Troy
Maps are available for inspection at Engineering Department, 500 West Big Beaver Road, Troy, MI 48084.
City of Walled Lake
Maps are available for inspection at City Hall, 1499 East West Maple Road, Walled Lake, MI 48390.
City of Wixom
Maps are available for inspection at Building Department, 49045 Pontiac Tr., Wixom, MI.
Commerce Township
Maps are available for inspection at Commerce Building Department, 2840 Fisher Avenue, Commerce, MI 48390.
Groveland Township
Maps are available for inspection at 4695 Grange Hall Road, Holly, MI.
Highland Township
Maps are available for inspection at Charter Township of Highland Planning Department, 205 North John Street, Highland, MI.
Holly Township
Maps are available for inspection at Holly Township Hall, 102 Civic Drive, Holly, MI.
Independence Township
Maps are available for inspection at Assessing Department and Building Department, Independence Township 90 North Main Street, Clarkston, MI 48346.
Lyon Township
Maps are available for inspection at Giffels-Webster Engineers, Inc., 2871 Bond Street, Rochester Hills, MI 48309 and Charter of Lyon, 58000 Grand River Avenue, New Hudson, MI 48309.
Milford Township
Maps are available for inspection at Supervisors Office, 1100 Atlantic, Milford, MI 48381.
Novi Township
Maps are available for inspection at 4425 Chedworth Drive, Northville, MI 48167.
Oakland Township
Maps are available for inspection at Township Hall, 4393 Collins Road, Rochester, MI 48306.
Orion Township
Maps are available for inspection at Supervisors Office, 2525 Joslyn Road, Lake Orion, MI 48360.
Rose Township
Maps are available for inspection at Rose Township Hall, 204 Franklin Street, Holly, MI 48442.
Southfield Township
Maps are available for inspection at Township Hall, 18550 West Thirteen Mile Road, Southfield Township, MI 48025.
Village of Beverly Hills
Maps are available for inspection at Village of Beverly Hills, 18500 West Thirteen Mile Road, Beverly Hills, MI 48025.
Village of Bingham Farms
Maps are available for inspection at 24255 West Thirteen Mile Road, Suite 190, Bingham Farms, MI 48025.
Village of Franklin
Maps are available for inspection at Village Hall, 32325 Franklin Road, Franklin, MI 48025.
Village of Holly
Maps are available for inspection at Clerk-Treasurer, 202 South Saginaw Street, Holly, MI 48442.
Village of Lake Orion
Maps are available for inspection at Village of Orion, 37 East Flint Street, Lake Orion, MI 48362.
Village of Milford
Maps are available for inspection at Village Clerk, Ann Collins, 1100 Atlantic Street, Milford, MI 48381.
Village of Ortonville
Maps are available for inspection at 476 Mill Street, Ortonville, MI 48462.
Village of Wolverine Lake
Maps are available for inspection at Village Hall, 425 Glengary Road, Wolverine Lake, MI 48390.
Waterford Township
Maps are available for inspection at Building and Engineering Department, 5200 Civic Center Drive, Waterford, MI 48329.
West Bloomfield Township
Maps are available for inspection at West Bloomfield Township, 4550 Walnut Lake Road, West Bloomfield, MI 48325.
White Lake Township
Maps are available for inspection at Township Hall, Building Department, 7525 Highland Road, White Lake, MI 48383.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Chester County, Pennsylvania and Incorporated Areas Docket No. FEMA–B–7456			
Beaver Creek	Approximately at the Beaver Creek Dam	+503	Township of East Brandywine and Approximately 3,500 feet upstream from the Beaver Creek Dam Township of West Brandywine.
Boot Road Run	Approximately at Springton Lane	+418	Township of East Goshen.
	Approximately 100 feet upstream of Greenhill Road	+450	
Valley Creek	Approximately 1,750 feet upstream from the confluence of Valley Creek and East Branch Octoraro Creek.	+444	Township of West Sadsbury.
	Approximately 800 feet upstream from the confluence of Valley Creek and East Branch Octoraro Creek.	+444	
East Branch Octoraro Creek	Approximately 1,550 feet upstream from the confluence of Valley Creek and East Branch Octararo Creek.	+444	Township of West Sadsbury.
	Approximately 800 feet upstream from the confluence of Valley/Creek and East Branch Octararo.	+444	
Beaver Creek	Approximately at the Beaver Creek Dam	+503	Township of East Brandywine and Township of West Brandywine.
	Approximately 3,500 feet upstream from the Beaver Creek Dam.	+503	
Boot Road Run	Approximately at Springton Lane	+418	Township of East Goshen.
	Approximately 100 feet upstream of Greenhill Road	+450	
East Branch Octoraro Creek	Approximately 1,550 feet upstream from the confluence of Valley Creek and East Branch Octararo Creek.	+444	Township of West Sadsbury.
	Approximately 800 feet upstream from the confluence of Valley Creek and East Branch Octararo.	+444	
Hibernia Dam	Approximately at the Hibernia Dam	+588	Township of West Caln.
	Approximately 75 feet upstream from Martins Corner Road	+612	
Valley Creek	Approximately 1,750 feet upstream from the confluence of Valley Creek and East Branch Octoraro Creek.	+444	Township of West Sadsbury.
	Approximately 800 feet upstream from the confluence of Valley Creek and East Branch Octoraro Creek.	+444	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Township of East Brandywine
Maps are available for inspection at 110 Hopewell Road, Suite 2, Downingtown, Pennsylvania 19335.
Township of West Brandywine
Maps are available for inspection at West Brandywine Township Building, 198 Lafayette Road, Coatesville, Pennsylvania 19320.
Township of East Goshen
Maps are available for inspection at East Goshen Town Hall, 1580 Paoli Pike, West Chester, Pennsylvania 19380.
Township of West Caln
Maps are available for inspection at West Caln Township Building, 721 W. Kings Highway, Wagontown, PA 19736.
Township of West Sadsbury
Maps are available for inspection at West Sadsbury Township Municipal Building, 6400 N. Moscow Road, Parkesburg, Pennsylvania 19365.

Williamson County, Tennessee and Incorporated Areas Docket No.: FEMA–B–7454			
Aden Camp Branch	At the confluence of Aden Camp Branch with Little Turnbull Creek.	+664	Williamson County (Unincorporated Areas),City of Fairview.
	Approximately 400 feet upstream of Bethshears Road	+873	
Aenon Creek	At the confluence of West Fork Aenon Creek	+704	Williamson County (Unincorporated Areas).
	Approximately 900 feet upstream of confluence of West Fork Aenon Creek.	+707	
Arkansas Creek	At the confluence of Arkansas Creek with South Harpeth River	+633	Williamson County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 9,460 feet upstream of confluence of Harpendene Branch.	+700	
Arrington Creek	Approximately 4,100 feet upstream of the confluence with Harpeth River.	+682	Williamson County (Unincorporated Areas).
	Approximately 410 feet downstream of Sanford Road	+796	
Tributary 1	At confluence Arrington Creek Tributary 1 with Arrington Creek	+699	Williamson County (Unincorporated Areas).
	Approximately 1,950 feet upstream of the confluence of Arrington Creek Tributary 2.	+748	
Tributary 2	At confluence Arrington Creek Tributary 2 with Arrington Creek Tributary 1.	+734	Williamson County (Unincorporated Areas).
	Approximately 2,930 feet upstream of the confluence with Arrington Creek Tributary 1.	+760	
Tributary 3	At confluence Arrington Creek Tributary 3 with Arrington Creek	+736	Williamson County (Unincorporated Areas).
	Approximately 1,500 feet upstream of the confluence with Arrington Creek Tributary 5.	+758	
Tributary 4	At confluence Arrington Creek Tributary 4 with Arrington Creek Tributary 3.	+743	Williamson County (Unincorporated Areas).
	Approximately 3,310 feet upstream of the confluence with Arrington Creek Tributary 3.	+760	
Tributary 5	At confluence Arrington Creek Tributary 5 with Arrington Creek Tributary 3.	+747	Williamson County (Unincorporated Areas).
	Approximately 1,390 feet upstream of the confluence with Arrington Creek Tributary 3.	+760	
Big Turnbull Creek	Approximately 2,800 feet upstream of Old Cox Pike	+644	Williamson County (Unincorporated Areas).
	Approximately 2,240 feet upstream of Old Franklin Road	+685	
Brush Creek	Approximately 6,680 feet upstream of confluence of Brush Creek Tributary 1.	+676	Williamson County, (Unincorporated Areas), City of Fairview.
	Approximately 430 feet upstream of Jones Lane S.E	+820	
Tributary 1	Approximately 40 feet upstream of confluence with Brush Creek.	+616	Williamson County, (Unincorporated Areas), City of Fairview.
	Approximately 150 feet to the northwest of the intersection of Oak Tree Drive and Dody Drive.	+824	
Burke Branch	At the confluence of Burke Branch with Mayes Creek	+700	Williamson County (Unincorporated Areas).
	Approximately 2,240 feet upstream of Wilson Pike	+748	
Caney Fork Creek	At the confluence of Caney Fork Creek with South Harpeth River.	+619	Williamson County (Unincorporated Areas).
	Approximately 8,300 feet upstream of confluence with South Harpeth River.	+656	
Dry Branch	Just downstream of Mallory Station Road	+692	Williamson County (Unincorporated Areas), City of Brentwood, City of Franklin.
	Approximately 80 feet upstream of Moores Lane	+771	
Fivemile Creek	At the confluence of Fivemile Creek Tributary 1 with Fivemile Creek.	+680	Williamson County (Unincorporated Areas).
	Approximately 450 feet upstream of Pratt Lane	+711	
Tributary 1	At the confluence of Fivemile Creek Tributary 1 with Fivemile Creek.	+680	Williamson County (Unincorporated Areas).
	Approximately 2,930 feet upstream of Interstate 65	+746	
Flat Creek	Approximately 2,520 feet southeast of the intersection of Flat Creek Road and Reynolds Road.	+707	Williamson County (Unincorporated Areas).
	Approximately 1,370 feet southeast of the intersection of Cross Keys Road and Flat Creek Road.	+741	
Flat Rock Creek	Approximately 18,840 feet downstream of Horn Tavern Road	+567	Williamson County, (Unincorporated Areas), City of Fairview.
	Approximately 1,220 feet northwest of the intersection of Cox Pike North and Mary Susan Lane.	+807	
Tributary 1	At the confluence of Flat Rock Creek Tributary 1 with Flat Rock Creek.	718	City of Fairview.
	Approximately 1,880 feet upstream of Highway 96	+811	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Goose Creek	Approximately 700 feet upstream of confluence with Fivemile Creek.	669	Williamson County (Unincorporated Areas).
	Approximately 260 feet north of the intersection of Goose Creek Bypass and Snowbird Hollow Road.	+771	
Grassy Branch	Approximately 2,490 feet upstream of Duplex Road	711	City of Spring Hill.
	Approximately 2,280 feet upstream of the confluence of Grassy Branch Tributary 1.	+720	
Tributary 1	At the confluence of Grassy Branch Tributary 1 with Grassy Branch.	+712	City of Spring Hill.
	Approximately 480 feet upstream of the confluence with Grassy Branch.	+717	
Harpendene Branch	At the confluence of Harpendene Branch with Arkansas Creek	+638	Williamson County (Unincorporated Areas).
	Approximately 7,930 feet upstream of confluence with Arkansas Creek.	+695	
Harpeth River Tributary 1	Approximately 3,210 feet upstream of confluence with Harpeth River.	+678	Williamson County (Unincorporated Areas).
	Approximately 310 feet upstream of Murfreesboro Road	+709	
Harrison Branch Creek	Approximately 11,600 feet upstream of confluence with Brush Creek.	+668	Williamson County, (Unincorporated Areas), City of Fairview.
	Approximately 1,070 feet northwest of the intersection of Henderson Drive and Fairview Boulevard.	+767	
Hickman Branch	At the confluence of Hickman Branch with Little Turnbull Creek	+697	Williamson County, (Unincorporated Areas), City of Fairview.
	Approximately 80 feet northwest of the intersection of Master Shane Road & Cox Run Court.	+831	
Kelley Creek	At the confluence of Kelley Creek with South Harpeth Creek	+646	Williamson County (Unincorporated Areas).
	Approximately 220 feet upstream of Taylor Cemetery Road	+688	
Liberty Creek	Just downstream of Eddy Lane	+645	City of Franklin.
	Approximately 85 feet downstream of Hillhaven Lane	+700	
Lick Creek	Approximately 560 feet downstream of Porter Branch Road	+646	Williamson County (Unincorporated Areas).
	At the confluence of South Fork Lick Creek and North Fork Lick Creek.	+668	
Linton Branch	Approximately 14,000 feet southwest of the intersection of Natchez Bend Road and Pasquo Road.	+623	Williamson County (Unincorporated Areas).
	Approximately 9,400 feet southwest of the intersection of Natchez Bend Road and Pasquo Road.	+645	
Little Harpeth River	Approximately 410 feet downstream of Moores Lane	+708	City of Brentwood.
	Approximately 2,250 feet upstream of Carriage Hills Drive	+741	
Tributary 1	Approximately 840 feet upstream of confluence with Little Harpeth River.	+629	City of Brentwood.
	Approximately 1,355 feet upstream of River Oaks Road	+654	
Tributary 2	Approximately 240 feet upstream of Country Club Drive	+645	City of Brentwood.
	Approximately 30 feet downstream of Maryland Way	+710	
Tributary 3	At the confluence of Little Harpeth River Tributary 3 with Little Harpeth River Tributary 2.	+664	City of Brentwood.
	Approximately 35 feet downstream of Centerview Drive	+690	
Tributary 4	Approximately 1,590 feet upstream of confluence with Little Harpeth River.	+656	City of Brentwood.
	Approximately 480 feet upstream of Shenandoah Drive	+692	
Tributary 5	At the confluence of Little Harpeth River Tributary 5 with Little Harpeth River Tributary 4.	+660	City of Brentwood.
	Approximately 85 feet downstream of Mayfield Place	+708	
Tributary 6	At the confluence of Little Harpeth River Tributary 6 with Little Harpeth River Tributary 4.	+692	City of Brentwood.
	Approximately 1,455 feet upstream of Old Smyrna Road	+726	
Tributary 7	At the confluence of Little Harpeth River Tributary 7 and Little Harpeth River Tributary 8.	+676	City of Brentwood.
	Approximately 1,605 feet upstream of Wikle Road	+744	
Tributary 8	At the confluence of Little Harpeth River Tributary 7 and Little Harpeth River Tributary 8.	+676	Williamson County (Unincorporated Areas).
	Approximately 2,745 feet upstream of General Macarthur Drive	+722	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Tributary 9	At the confluence of Little Harpeth River Tributary 9 and Little Harpeth River Tributary 7.	+707	City of Brentwood.
	Approximately 850 feet upstream of Ashby Drive	+890	
Tributary 10	At the confluence of Little Harpeth River Tributary 10 and Little Harpeth River Tributary 7.	+679	City of Brentwood.
	Approximately 220 feet downstream of Vaden Drive	+744	
Tributary 11	At the confluence of Little Harpeth River Tributary 11 and Little Harpeth River Tributary 10.	+701	City of Brentwood.
	Approximately 4,520 feet upstream of Interstate 65	+754	
Little Turnbull Creek	Approximately 1,720 feet downstream of Crow Cut Road	+599	Williamson County (Unincorporated Areas), City of Fairview.
	Approximately 4,320 feet upstream of confluence of Little Turnbull Creek Tributary 1.	+822	
Tributary 1	At the confluence of Little Turnbull Creek Tributary 1 with Little Turnbull Creek.	+756	City of Fairview.
	Approximately 2,360 feet upstream of confluence with Little Turnbull Creek.	+819	
Mayes Creek	Just downstream of North Chapel Road	+664	Williamson County (Unincorporated Areas).
	Approximately 5,400 feet upstream of Tulloss Road	+753	
McCanless Branch	At the confluence of McCanless Branch with Arrington Creek	+734	Williamson County (Unincorporated Areas).
	Approximately 3,480 feet upstream of Old Horton Highway	+757	
McCrory Creek	Just downstream of McDaniel Road	+682	Williamson County (Unincorporated Areas).
	Approximately 300 feet upstream of Arno-College Grove Road	+733	
McCutcheon Creek	Approximately 740 feet downstream of Amacher Drive	+743	City of Spring Hill.
	Approximately 1,240 feet upstream of Amacher Drive	+760	
Mill Creek	Approximately 400 feet upstream of Rocky Fork Road	+612	Williamson County (Unincorporated Areas), Town of Nolensville.
	Approximately 11,080 feet upstream of Rocky Fork Road	+661	
North Fork Lick Branch	At the confluence with North Fork Lick Branch with Lick Creek	+668	Williamson County (Unincorporated Areas).
	Approximately 5,040 feet upstream of Old Lick Creek Road	+688	
Overall Creek	Approximately 1,320 feet upstream of confluence with Harpeth River.	+709	Williamson County (Unincorporated Areas).
	Approximately 720 feet upstream of Horton Highway	+769	
South Fork Lick Branch	At the confluence of South Fork Lick Branch with Lick Creek	+668	Williamson County (Unincorporated Areas).
	Approximately 210 feet upstream of South Lick Creek Road	+677	
South Harpeth Creek	At the confluence of South Harpeth Creek with South Harpeth River.	+633	Williamson County (Unincorporated Areas).
	At the confluence of Kelley Creek	+646	
South Harpeth Creek	Approximately 590 feet upstream of confluence of Caney Fork Creek.	+619	Williamson County (Unincorporated Areas).
	At the confluence of South Harpeth Creek	+633	
Starnes Creek	Just downstream of Arno Road	+675	Williamson County (Unincorporated Areas).
	Approximately 920 feet upstream of State Route 840	+755	
Unnamed Tributary 2 to Harpeth River.	Approximately 1,200 feet upstream of Eddy Lane	+640	City of Franklin.
	Approximately 580 feet upstream of Jordan Road	+680	
Unnamed Tributary to Mill Creek.	Approximately 1,270 feet upstream of confluence with Mill Creek.	+603	Williamson County (Unincorporated Areas), Town of Nolensville.
	Approximately 2,140 feet upstream of Clovercroft Road	+667	
West Fork Aenon Creek	At the confluence of West Fork Aenon Creek with Aenon Creek.	+704	Williamson County (Unincorporated Areas).
	Approximately 5,840 feet upstream of the confluence with Aenon Creek.	+721	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected

ADDRESSES

Unincorporated Areas of Williamson County

Maps are available for inspection at the Williamson County Complex, Planning Department, 1320 West Main Street, Suite 125, Franklin, TN 37064.

City of Brentwood

Maps are available for inspection at Brentwood City Hall, 5211 Maryland Way, Brentwood, TN 37027.

City of Fairview

Maps are available for inspection at Fairview City Hall, 1874 Fairview Boulevard, Fairview, TN 37062.

City of Franklin

Maps are available for inspection at Franklin City Hall, 109 Third Avenue South, Franklin, TN 37064.

Town of Nolensville

Maps are available for inspection at Nolensville Town Hall, 7240 Nolensville Road, Suite 102, Nolensville, TN 37135.

City of Spring Hill

Maps are available for inspection at Spring Hill City Hall, 199 Town Center Parkway, Spring Hill, TN 37174.

Fayette County, Texas and Incorporated Areas
Docket No.: FEMA–B–7457

Buckner's Creek	Confluence with Colorado River	+257	Fayette County (Unincorporated Areas).
	Approximately 250 feet upstream of the intersection of FM609 and Buckner's Creek.	*269	
Colorado River	Approximately 1500 feet downstream from the confluence with Duty's Creek.	+223	Fayette County (Unincorporated Areas).
	Approximately 2.74 miles upstream from the confluence with Benton's Creek.	*298	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Unincorporated Areas of Fayette County

Maps are available for inspection at 151 No. Washington Street, La Grange, TX 78945.

City of La Grange

Maps are available for inspection at 155 Colorado, La Grange, TX 78945.

Fayette Co. W.C.& I.D.—Monument Hill

Maps are available for inspection at 151 No. Washington Street, La Grange, TX 78945.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 6, 2006.

David I. Maurstad,

Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–19118 Filed 11–13–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Department of Homeland Security, Mitigation Division.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: *Effective Dates:* The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director has resolved any appeals resulting from this notification.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67. The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD) +Elevation in feet (NAVD) Modified
U.S. Virgin Islands Docket No.: FEMA–D–7660				
U.S. Virgin Islands		Atlantic Ocean—St. John	Approximately 1,800 feet west of the intersection of Caheel Trail and North Shore Road.	*6
			At Privateer Point	*25
		Caribbean Sea—St. John	Approximately 500 feet east of intersection of Pond Bay and Iguera Road.	*4
			At Dittlit Point	*25
		Pillsbury Sound—St. John	Approximately 250 feet west of the intersection of North Shore Road and Pocket Money Lane.	*6
			Approximately 600 feet south of the intersection of Idesephus Road and Azure Bay Road.	*25
		Atlantic Ocean—St. Thomas.	Thach Cay at Eva Point	*7
			Approximately 0.5 mile north of North Meander Place and Fortuna Road.	*25
		Caribbean Sea—St. Thomas.	Approximately 750 feet southwest of the intersection of Rue de Gregoire and Veteran Drive.	*5
			Approximately 0.5 mile south of North Meander Road and Fortuna Road.	*25
		Pillsbury Sound—St. Thomas.	Approximately 1,000 feet east of the intersection of Smith Bay Road and Pavillion Road.	*6
			Approximately 0.6 mile south of the intersection of Julian Jackson Road and Airport Road.	*25
		Leeward Passage—St. Thomas.	Approximately 1,200 feet east of the intersection of Suzzana Road and Smith Bay Road.	*8
			At Coki Point	*23
		Caribbean Sea—St. Thomas.	Approximately 0.6 mile southwest of the intersection of North Meander Road and Fortuna Road.	#3
		Caribbean Sea—St. Croix	At the intersection of Crab Lane and Dyers Climb.	*8
			At Protestant Cay	*19
		Gut No. 1	At confluence with Christiansted Harbor	*12
			Approximately 430 feet upstream of the confluence with Christiansted Harbor.	*17
		Gut No. 2	At confluence with Christiansted Harbor	*13

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD) +Elevation in feet (NAVD) Modified
			Approximately 880 feet upstream of the confluence with Christiansted Harbor.	*19
		Gut No. 3	At confluence with Christiansted Harbor	*11
			Approximately 800 feet upstream of the confluence with Christiansted Harbor.	*18
		Gut No. 4	At confluence with Altona Lagoon	*10
			Approximately 860 feet upstream of the confluence with Altona Lagoon.	*11
		Gut No. 5	At confluence with Caribbean Sea	*12
			Approximately 900 feet upstream of the confluence with Caribbean Sea.	*15
		Gut No. 6	At confluence with Caribbean Sea	*10
			Approximately 1,100 feet upstream of the confluence with Caribbean Sea.	*13
		Salt River	At confluence with Sugar Bay	*10
			Approximately 650 feet upstream of the confluence with Sugar Bay.	*10
		Turpentine Run	At confluence with Mangrove Lagoon	*11
			Approximately 960 feet upstream of the confluence with Mangrove Lagoon.	*11

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

U.S. Virgin Islands (Islands of St. Croix, St. Thomas, and St. John)

Maps available for inspection at the Office of the Tax Assessor and the Cadastral Section, 113 King Street, Christiansted, Virgin Islands.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
Granville County, North Carolina and Incorporated Areas Docket Nos.: FEMA–D–7660 and D–7574			
Aarons Creek	At the North Carolina/Virginia State boundary	+381	Granville County (Unincorporated Areas).
	Approximately 3.2 miles upstream of Grassy Creek Virgilina Road.	+414	
Aycock Creek	At the confluence with Johnson Creek	+317	Granville County (Unincorporated Areas).
	Approximately 1,880 feet upstream of Sanders Road	+360	
Bearskin Creek	At the confluence with Grassy Creek	+414	Granville County (Unincorporated Areas).
	Approximately 820 feet upstream of NC Highway 96	+443	
Beaverdam Creek	At the Granville/Wake County boundary	+262	Granville County (Unincorporated Areas).
	Approximately 600 feet upstream of NC 56	+318	
Tributary 3	At the confluence with Beaverdam Creek	+282	Granville County (Unincorporated Areas).
	Approximately 0.9 mile upstream of Side Road	+319	
Tributary 5	At the confluence with Beaverdam Creek	+305	Granville County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Beaverdam Creek.	+314	
Beech Creek	At the confluence with Kerr Reservoir (Johnson Creek)	+320	Granville County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Kerr Reservoir (Johnson Creek).	+320	
Blue Creek	At the confluence with Little Grassy Creek	+363	Granville County (Unincorporated Areas).
	Approximately 0.9 mile upstream of Sam Hall Road	+405	
Tributary 1	At the confluence with Blue Creek	+402	Granville County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
	Approximately 0.7 mile upstream of the confluence with Blue Creek.	+414	
Bollens Creek	At the confluence with Boul Creek	+321	Granville County (Unincorporated Areas).
	Approximately 0.6 mile upstream of U.S. HWY 15	+408	
Boul Creek	At the confluence with the Tar River	+317	Granville County (Unincorporated Areas).
	Approximately 1.3 miles upstream of the confluence of Bollens Creek.	+358	
Camp Creek	At the confluence with Knap of Reeds Creek	+376	Granville County (Unincorporated Areas).
	At the Granville/Durham County boundary	+427	
Cedar Branch	At the confluence with John H. Kerr Reservoir/Grassy Creek	+320	Granville County (Unincorporated Areas).
	Approximately 1.1 miles upstream of the North Carolina/Virginia State boundary.	+320	
Cedar Creek	At the confluence with Robertson Creek	+279	Granville County (Unincorporated Areas), City of Creedmoor.
	Approximately 1.3 miles upstream of Hayes Road	+313	
Coon Creek	Approximately 200 feet upstream of the confluence with Fishing Creek.	+343	Granville County (Unincorporated Areas), City of Oxford.
	Approximately 100 feet upstream of Winding Oak Road	+450	
Cozart Creek	Approximately 450 feet downstream of West B Street	+262	Granville County (Unincorporated Areas).
	Approximately 1,900 feet upstream of Coley Road	+272	
Tributary 1	Approximately 250 feet downstream of Roycroft Road	+262	Granville County (Unincorporated Areas).
	Approximately 1.5 miles upstream of U.S. 15	+282	
Tributary 2	At the confluence with Cozart Creek Tributary 1	+262	Granville County (Unincorporated Areas).
	Approximately 0.9 mile upstream of the confluence with Cozart Creek Tributary 1.	+278	
Tributary 3	At the confluence with Cozart Creek Tributary 2	+262	Granville County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Northside Road	+270	
Cub Creek	At the confluence with the Tar River	+432	Granville County (Unincorporated Areas).
	Approximately 600 feet upstream of George Sherman Road	+478	
Tributary 1	At the confluence with Cub Creek	+439	Granville County (Unincorporated Areas).
	At the Granville/Person County boundary	+477	
Deer Pond Branch	At the confluence with Spewmarrow Creek	+320	Granville County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Spewmarrow Creek.	+325	
Dickens Creek	At the confluence with Knap of Reeds Creek	+360	Granville County (Unincorporated Areas).
	Approximately 1,650 feet upstream of Little Mountain Road	+440	
Fishing Creek	Approximately 700 feet upstream of Knotts Grove Road	+375	Granville County (Unincorporated Areas), City of Oxford.
	Approximately 1,700 feet upstream of Interstate 85	+409	
Tributary 1	Approximately 200 feet upstream of U.S. HWY 15	+434	Granville County (Unincorporated Areas), City of Oxford.
	Approximately 50 feet upstream of Sunset Avenue	+457	
Fork Creek	At the confluence with the Tar River	+245	Granville County (Unincorporated Areas).
	Approximately 500 feet upstream of Old Mill Farm Road	+342	
Fox Creek	At the confluence with Shelton Creek	+433	Granville County (Unincorporated Areas).
	Approximately 3.4 miles upstream of Sunset Road	+491	
Gibbs Creek	At the confluence with the Tar River	+246	Granville County (Unincorporated Areas).
	Approximately 4.9 miles upstream of Gray Rock Road	+376	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
Grassy Creek	At the North Carolina/Virginia State boundary	+320	Granville County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Noel Tuck Road	+539	
Tributary 1	At the confluence with John H. Kerr Reservoir (Grassy Creek).	+320	Granville County (Unincorporated Areas).
	At the North Carolina/Virginia State boundary	+322	
Tributary 2	At the confluence with Grassy Creek	+475	Granville County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Grassy Creek.	+495	
Tributary 3	At the confluence with Grassy Creek	+497	Granville County (Unincorporated Areas).
	Approximately 1,000 feet upstream of Walnut Grove Road	+518	
Holman Creek	At Brogden Road	+288	Granville County (Unincorporated Areas), City of Creedmoor.
	Approximately 700 feet upstream of State Route 1136	+469	
Tributary 1	At the confluence with Holman Creek	+377	Granville County (Unincorporated Areas), Town of Stem.
	Approximately 2,000 feet upstream of Tally Ho Road	+436	
Tributary 2	At the confluence with Holman Creek	+395	Granville County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Holman Creek.	+428	
Tributary 3	At the confluence with Holman Creek	+309	Granville County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Holman Creek.	+330	
Howlett Creek	At the confluence with Little Island Creek	+363	Granville County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Little Island Creek.	+374	Granville County (Unincorporated Areas).
Island Creek	At the North Carolina/Virginia State boundary	+289	Granville County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Rockwell Road	+363	
Tributary 1	At the confluence with Island Creek	+289	Granville County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Island Creek.	+299	
Tributary 2	At the confluence with Island Creek	+297	Granville County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Island Creek.	+312	
Tributary 3	At the confluence with Island Creek	+332	Granville County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Island Creek.	+353	
Island Reservoir	Entire shoreline within Granville County	+289	Granville County (Unincorporated Areas).
Jackson Creek	At the confluence with the Tar River	+366	Granville County (Unincorporated Areas).
	Approximately 1.6 miles upstream of Old Route 75	+441	
John H. Kerr Reservoir	Entire shoreline within Granville County	+320	Granville County (Unincorporated Areas).
Johnson Creek (into Grassy Creek).	At the confluence with Grassy Creek	+320	Granville County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Lee Yancey Road	+336	
Johnson Creek (into Tar River).	Approximately 0.4 mile downstream of Tar River Road	+317	Granville County (Unincorporated Areas).
	Approximately 1,100 feet downstream of Interstate 85	+363	
Johnson Creek Tributary	Approximately 1,700 feet downstream of Tar River Road	+316	Granville County (Unincorporated Areas).
	Approximately 0.7 mile upstream of Tar River Road	+329	
Jordan Creek Tributary 1	At the confluence with Jordan Creek	+448	Granville County (Unincorporated Areas), City of Oxford.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
	Approximately 1.4 miles upstream of the confluence with Jordan Creek.	+480	
Tributary 2	At the confluence with Jordan Creek	+448	Granville County (Unincorporated Areas), City of Oxford.
	Approximately 0.7 mile upstream of the confluence with Jordan Creek.	+462	
Knap Creek Tributary	At the confluence with Lake Butner	+360	Granville County (Unincorporated Areas).
	Approximately 700 feet upstream of Roberts Chapel Road	+419	
Knap of Reeds Creek	At Roberts Chapel Road	+360	Granville County (Unincorporated Areas).
	Approximately 0.7 mile upstream of Enon Road	+452	
Tributary 1	At the confluence with Knap of Reeds Creek	+422	Granville County (Unincorporated Areas).
	Approximately 1.1 miles upstream of the confluence with Knap of Reeds Creek.	+459	
Tributary 2	At the confluence with Knap of Reeds Creek	+446	Granville County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Knap of Reeds Creek.	+456	
Knap Reed Tributary	At the confluence with Knap of Reeds Creek	+265	Granville County (Unincorporated Areas).
	Approximately 1,000 feet downstream of Amed Road	+265	
Ledge Creek	At the Granville/Wake County boundary	+263	Granville County (Unincorporated Areas), Town of Stem, City of Creedmoor.
	Approximately 0.6 mile upstream of Little Mountain Road	+472	
Tributary 2	At the confluence with Ledge Creek	+267	Granville County (Unincorporated Areas).
	Approximately 0.9 mile upstream of the confluence with Ledge Creek.	+280	
Tributary 3	At the downstream side of U.S. 15	+278	Granville County (Unincorporated Areas), City of Creedmoor.
	Approximately 0.4 mile upstream of U.S. 15	+311	
Tributary 4	Approximately 1,500 feet upstream of the confluence of Ledge Creek Tributary 3.	+279	Granville County (Unincorporated Areas), City of Creedmoor.
	Approximately 1,150 feet upstream of Charles Street	+314	
Lick Branch	At the confluence with Spewmarrow Creek	+320	Granville County (Unincorporated Areas).
	Approximately 1.2 miles upstream of Tilley Road	+325	
Little Grassy Creek	At the confluence with Grassy Creek	+335	Granville County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Gela Road	+417	
Little Island Creek	At the confluence with Island Creek	+363	Granville County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Hill Airy Road	+433	
Tributary 1	At the confluence with Little Island Creek	+372	Granville County (Unincorporated Areas).
	Approximately 640 feet upstream of Hill Airy Road	+405	
Little Johnson Creek	At the confluence with Johnson Creek	+321	Granville County (Unincorporated Areas).
	Approximately 1,400 feet upstream of Oak Hill Road	+394	
Michael Creek	At the Granville/Vance County boundary	+337	Granville County (Unincorporated Areas).
	Approximately 1.7 miles upstream of Rockwell Road	+387	
Mill Creek	At the confluence with New Light Creek and West Prong	+294	Granville County (Unincorporated Areas).
	Approximately 300 feet upstream of Woodland Church Road.	+343	
Mountain Creek	At the confluence with Grassy Creek	+355	Granville County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Cornwall Road	+412	
New Light Creek	At the Granville/Wake County boundary	+283	Granville County (Unincorporated Areas).
	At the confluence with Mill Creek and West Prong	+294	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
New Light Creek Tributary (Basin 3 Stream 8).	At the downstream Granville/Wake County boundary	+316	Granville County (Unincorporated Areas).
	At the upstream Granville/Wake County boundary	+358	
New Light Creek Tributary 4	At the Granville/Wake County boundary	+283	Granville County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the Granville/Wake County boundary.	+296	
North Fork Tar River	At the confluence with the Tar River	+397	Granville County (Unincorporated Areas).
	Approximately 1.1 miles upstream of the confluence of North Fork Tar River Tributary 2.	+468	
Tributary 1	At the confluence with North Fork Tar River	+397	Granville County (Unincorporated Areas).
	Approximately 2.9 miles upstream of the confluence with North Fork Tar River.	+459	
Tributary 2	At the confluence with North Fork Tar River	+445	Granville County (Unincorporated Areas).
	Approximately 1.0 mile upstream of Bodie Currin Road	+458	
Owen Creek	At the confluence with the Tar River	+387	Granville County (Unincorporated Areas).
	Approximately 2.1 miles upstream of Harper Renn Road	+436	
Picture Creek	At Central Avenue Extension	+283	Granville County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Picture Creek Tributary.	+344	
Picture Creek Tributary	At the confluence with Picture Creek	+316	Granville County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Picture Creek.	+339	
Reedy Branch	At the confluence with Beaverdam Creek	+271	Granville County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Country Lane	+333	
Robertson Creek	At the confluence with Beaverdam Creek	+262	Granville County (Unincorporated Areas), City of Creedmoor.
	Approximately 1.2 miles upstream of the confluence of Robertson Creek Tributary 2.	+308	
Tributary 1	At the confluence with Robertson Creek	+262	Granville County (Unincorporated Areas).
	Approximately 0.8 mile upstream of Dove Road	+277	
Tributary 2	At the confluence with Robertson Creek	+295	Granville County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Moss Back Road	+305	
Rocky Creek	At the confluence with the Tar River	+384	Granville County (Unincorporated Areas).
	Approximately 2.9 miles upstream of James Royster Road	+431	
Shelton Creek	At the confluence with the Tar River	+399	Granville County (Unincorporated Areas).
	Approximately 1,250 feet upstream of Goshen Road	+529	
Smith Creek	At the confluence with Beaverdam Creek	+262	Granville County (Unincorporated Areas).
	Approximately 2.3 miles upstream of Lawrence Road	+371	
Spewmarrow Creek	At the confluence with John H. Kerr Reservoir (Grassy Creek).	+320	Granville County (Unincorporated Areas).
	Approximately 1.1 miles upstream of Herbert Faucette Road	+330	
Tributary 1	At the confluence with Spewmarrow Creek	+320	Granville County (Unincorporated Areas).
	Approximately 1.2 miles upstream of the confluence with Spewmarrow Creek.	+339	
Syble Creek	At the Granville/Wake County boundary	+262	Granville County (Unincorporated Areas).
	Approximately 0.8 mile upstream of U.S. 15	+304	
Tabbs Creek	Approximately 400 feet upstream of Tom Parham Road	+419	Granville County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Tom Parham Road	+426	
Tar River	At the downstream County boundary	+245	Granville County (Unincorporated Areas).
	At Granville/Person County boundary	+500	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
Tributary 2	At the downstream side of Tom Hunt Road	+313	Granville County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Tom Hunt Road	+330	
Tributary 3	At the confluence with Tar River Tributary 2	+314	Granville County (Unincorporated Areas).
	Approximately 1.1 miles upstream of Tar River Tributary 2	+334	
Tributary 4	At the confluence with the Tar River	+449	Granville County (Unincorporated Areas).
	Approximately 1.2 miles upstream of Gene Hobgood Road	+493	
West Prong	At the confluence with New Light Creek and Mill Creek	+294	Granville County (Unincorporated Areas).
	Approximately 1.2 miles upstream of Graham Sherron Road	+357	
West Prong Tributary	At the confluence with West Prong	+305	Granville County (Unincorporated Areas).
	Approximately 650 feet upstream of Woodland Church Road.	+356	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

City of Creedmoor

Maps available for inspection at the City of Creedmoor Planning and Zoning Office, 111 Masonic Street, Creedmoor, North Carolina.

City of Oxford

Maps available for inspection at the City of Oxford Planning Department, 300 Williamsboro Street, Oxford, North Carolina.

Town of Stem

Maps available for inspection at the Town of Stem, 113 East Tally Ho Road, Stem, North Carolina.

Granville County (Unincorporated Areas)

Maps available for inspection at the Granville County Planning Department, 122 Williamsboro Street, Oxford, North Carolina.

Vance County, North Carolina and Incorporated Areas
Docket Nos.: FEMA–D–7660 and D–7550

Anderson Creek	At the confluence with John H. Kerr Reservoir	+320	Vance County (Unincorporated Areas).
	Approximately 1.7 miles upstream of Anderson Creek Road	+329	
Buffalo Creek (North)	At the confluence with Tar River	+228	Vance County (Unincorporated Areas).
	Approximately 2.3 miles upstream of Dick Smith Road	+266	
Cattail Creek	At the confluence with Sandy Creek	+329	Vance County (Unincorporated Areas).
	Approximately 1.1 miles upstream of the confluence with Sandy Creek.	+352	
Crooked Run	At the confluence with John H. Kerr Reservoir	+320	Vance County (Unincorporated Areas).
	Approximately 1.7 miles upstream of NC 39	+326	
Tributary 1	At the confluence with Crooked Run	+320	Vance County (Unincorporated Areas).
	Approximately 1.6 miles upstream of the confluence with Crooked Run.	+327	
Dickies Creek	At the confluence with Sandy Creek	+315	Vance County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with Sandy Creek.	+320	
Fishing Creek	At the Vance/Warren County boundary	+345	Vance County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the County boundary	+356	
Flat Creek	At the confluence with John H. Kerr Reservoir	+320	Vance County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Kelly Road	+331	
Gilliams Branch	At the Virginia/North Carolina State boundary	+289	Vance County (Unincorporated Areas).
	Approximately 2.1 miles upstream of the Virginia/North Carolina State boundary.	+295	
Indian Creek	At the confluence with John H. Kerr Reservoir	+320	Vance County (Unincorporated Areas), City of Henderson.

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
	Approximately 0.5 mile upstream of I–85	+502	
Island Creek	At the confluence with Island Reservoir	+289	Vance County (Unincorporated Areas).
	Approximately 700 feet upstream of the confluence of Michael Creek.	+303	
Island Reservoir	Entire shoreline within the County	+289	Vance County (Unincorporated Areas).
Joes Branch	At the confluence with Ruin Creek	+296	Vance County (Unincorporated Areas).
	Approximately 1.2 miles upstream of Old County Road	+396	
John H. Kerr Reservoir	Entire shoreline within the County	+320	Vance County (Unincorporated Areas).
Tributary 3D	At the confluence with John H. Kerr Reservoir	+320	Vance County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence of John H. Kerr Reservoir Tributary 3D–2.	+324	
Tributary 3D–2	At the confluence with John H. Kerr Reservoir 3D	+320	Vance County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with John H. Kerr Reservoir 3D.	+323	
Tributary 4	At the confluence with John H. Kerr Reservoir	+320	Vance County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with John H. Kerr Reservoir.	+322	
Tributary 3D–1	At the confluence with John H. Kerr Reservoir	+320	Vance County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with John H. Kerr Reservoir Tributary 3D.	+326	
Little Island Creek	At the confluence with Island Creek	+289	Vance County (Unincorporated Areas).
	Approximately 2.0 miles upstream of Rice Road	+339	
Tributary 1	At the confluence with Little Island Creek	+289	Vance County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Little Island Creek.	+300	
Long Creek	At the confluence with Tabbs Creek	+237	Vance County (Unincorporated Areas).
	Approximately 1.1 miles upstream of Kittrell College Road	+291	
Long Grass Branch	At the Virginia/North Carolina State boundary	+326	Vance County (Unincorporated Areas).
	Approximately 1,400 feet upstream of Virginia/North Carolina State boundary.	+346	
Lynch Creek	At the Franklin/Vance County boundary	+333	Vance County (Unincorporated Areas).
	Approximately 0.3 mile upstream of Gillburg Road	+347	
Martin Creek	At the confluence with Sandy Creek	+343	Vance County (Unincorporated Areas).
	Approximately 3.0 miles upstream of confluence with Sandy Creek.	+429	
Michael Creek	At the confluence with Island Creek	+301	Vance County (Unincorporated Areas).
	Approximately 2.9 miles upstream of the confluence with Island Creek.	+337	
Nutbrush Creek	At the confluence with John H. Kerr Reservoir	+320	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 0.8 mile upstream of I–85	+406	
Tributary 1	At the confluence with Nutbrush Creek	+331	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 1.2 miles upstream of the confluence with Nutbrush Creek.	+416	
Tributary 2	At the confluence with Nutbrush Creek	+346	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 1,700 feet upstream of I–85	+429	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
Tributary 2A	At the confluence with Nutbrush Creek Tributary 2	+360	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 0.6 mile upstream of the confluence with Nutbrush Creek Tributary 2.	+400	
Tributary 2B	At the confluence with Nutbrush Creek Tributary 2	+368	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 0.4 mile upstream of I–85	+466	
Tributary 3	At the confluence with Nutbrush Creek	+369	City of Henderson.
	Approximately 200 feet upstream of Granite Street	+444	
Tributary 3A	At the confluence with Nutbrush Creek Tributary 3	+375	City of Henderson.
	Approximately 0.4 mile upstream of Beckford Drive	+443	
Tributary 3B	At the confluence with Nutbrush Creek Tributary 3	+394	City of Henderson.
	Approximately 700 feet upstream of Parkway Drive	+440	
Red Bud Creek	At the confluence with Ruin Creek	+311	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 1.8 miles upstream of the confluence of Red Bud Creek Tributary.	+362	
Red Bud Creek Tributary	At the confluence with Red Bud Creek	+313	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 1.8 miles upstream of the confluence with Red Bud Creek.	+375	
Ruin Creek	At the confluence with Tabbs Creek	+261	Vance County (Unincorporated Areas).
	Approximately 1.7 miles upstream of the confluence of Red Bud Creek.	+344	
Sandy Creek	Approximately 0.5 mile downstream of the confluence of Weaver Creek.	+298	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 900 feet upstream of Highway 1	+448	
Tributary 11	At the confluence with Sandy Creek	+403	Vance County (Unincorporated Areas), City of Henderson.
	Approximately 700 feet upstream of Route 1	+421	
Tributary 12	At the confluence with Sandy Creek Tributary 11	+415	City of Henderson.
	Approximately 0.4 mile upstream of the confluence of Sandy Creek Tributary 11.	+424	
Tabbs Creek	Approximately 2.0 miles upstream of the confluence with Tar River.	+237	Vance County (Unincorporated Areas).
	Approximately 625 feet upstream of Old Watkins Road	+285	
Tar River	At the Franklin/Vance County boundary	+228	Vance County (Unincorporated Areas).
	Approximately 0.9 mile upstream of Green Hill Road	+245	
Weaver Creek	At the confluence with Sandy Creek	+309	Vance County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Vicksboro Road	+349	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Vance County (Unincorporated Areas)

Maps are available for inspection the Vance County Code Enforcement and Planning Department, 122 Young Street, Suite B, Henderson, North Carolina.

City of Henderson

Maps are available for inspection at the Henderson City Hall, 180 South Beckford Drive, Henderson, North Carolina.

Warren County, North Carolina and Incorporated Areas
Docket Nos.: FEMA–D–7560 and D–7660

Bens Creek	At the downstream county boundary	+187	Warren County (Unincorporated Areas).
	Approximately 850 feet upstream of Skinner Road	+265	
Big Branch	At the confluence with Little Fishing Creek and Walkers Creek.	+240	Warren County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
	Approximately 1.1 miles upstream of the confluence with Little Fishing Creek and Walkers Creek.	+250	
Big Stone House Creek	At the confluence with Lake Gaston	+203	Warren County (Unincorporated Areas).
	Approximately 3.2 miles upstream of Epworth Road	+240	
Blue Mud Creek	At the confluence with Terrapin Creek	+227	Warren County (Unincorporated Areas).
	At the confluence of West Branch	+274	
Tributary 1	At the confluence with Blue Mud Creek	+227	Warren County (Unincorporated Areas).
	Approximately 570 feet upstream of the confluence of Blue Mud Creek Tributary 1A.	+250	
Tributary 1A	At the confluence with Blue Mud Creek Tributary 1	+239	Warren County (Unincorporated Areas).
	Approximately 750 feet upstream of the confluence with Blue Mud Creek Tributary 1.	+244	
Bobs Branch	At the confluence with Fishing Creek	+176	Warren County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Fishing Creek Warren County (Unincorporated Areas)..	+180	
Bridle Creek	At the confluence with Fishing Creek	+238	Warren County (Unincorporated Areas).
	Approximately 3.2 miles upstream of the confluence with Fishing Creek.	+304	
Buffalo Branch	At the confluence with Shocco Creek	+254	Warren County (Unincorporated Areas).
	Approximately 1.5 miles upstream of the confluence with Shocco Creek.	+284	
Buffalo Creek	At the confluence with Fishing Creek	+192	Warren County (Unincorporated Areas).
	Approximately 1.2 miles upstream of Davis Bugg Road	+216	
Cabin Branch	At the confluence with Shocco Creek	+223	Warren County (Unincorporated Areas).
	Approximately 1.2 miles upstream of the confluence with Shocco Creek.	+242	
Cabin Branch (into Smith Creek).	At the confluence with Smith Creek	+240	Warren County (Unincorporated Areas).
	Approximately 1.3 miles upstream of the confluence with Smith Creek.	+257	
Coleman Branch	At the confluence with Hawtree Creek	+203	Warren County (Unincorporated Areas).
	Approximately 1.0 mile upstream of the confluence with Hawtree Creek.	+217	
Dowtins Creek	At the confluence with Walkers Creek	+261	Warren County (Unincorporated Areas).
	Approximately 1.7 miles upstream of the confluence with Walkers Creek.	+287	
Ellington Branch	At the confluence with Little Deep Creek	+253	Warren County (Unincorporated Areas).
	Approximately 1,200 feet upstream of the confluence with Little Deep Creek.	+256	
Fishing Creek	At the downstream county boundary	+165	Warren County (Unincorporated Areas).
	At the upstream county boundary	+345	
Gum Pond Branch	At the confluence with Fishing Creek	+200	Warren County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Fishing Creek.	+208	
Gunters Creek	At the confluence with Fishing Creek	+181	Warren County (Unincorporated Areas).
	Approximately 150 feet downstream of Tutelo Road	+198	
Hawtree Creek	Approximately 700 feet downstream of Peete Farm Road	+203	Warren County (Unincorporated Areas).
	Approximately 1,400 feet upstream of the confluence of Hawtree Creek Tributary 5.	+270	
Tributary 1	At the confluence with Hawtree Creek	+203	Warren County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
	Approximately 1.0 mile upstream with the confluence with Hawtree Creek.	+224	
Tributary 2	At the confluence with Hawtree Creek	+211	Warren County (Unincorporated Areas).
	Approximately 1,700 feet upstream of the confluence with Hawtree Creek.	+220	Warren County (Unincorporated Areas).
Tributary 3	At the confluence with Hawtree Creek	+229	Warren County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Hawtree Creek.	+243	
Tributary 4	At the confluence with Hawtree Creek	+243	Warren County (Unincorporated Areas).
	Approximately 1,400 feet upstream of Boyd Stegall Road	+250	
Tributary 5	At the confluence with Hawtree Creek	+264	Warren County (Unincorporated Areas).
	Approximately 430 feet upstream of Waviely Thompson Road.	+272	
Hogpen Branch	At the confluence with Fishing Creek	+176	Warren County (Unincorporated Areas).
	Approximately 1.2 miles upstream of the confluence with Fishing Creek.	+190	
Horse Creek	At the confluence with Fishing Creek	+251	Warren County (Unincorporated Areas).
	Approximately 0.3 mile upstream of the confluence with Fishing Creek.	+253	
Horsepen Branch	At the confluence with Shocco Creek	+242	Warren County (Unincorporated Areas).
	Approximately 1.2 miles upstream of the confluence with Shocco Creek.	+258	
Hubquarter Creek	At the confluence with Lake Gaston	+203	Warren County (Unincorporated Areas).
	Approximately 2.0 miles upstream of Flemming Mill Road	+254	
Tributary 1	At the confluence with Hubquarter Creek	+211	
	Approximately 1.5 miles upstream of Flemming Mill Road	+269	
John H. Kerr Reservoir	Entire shoreline within County	+320	Warren County (Unincorporated Areas).
Jordan Creek	At the confluence with Lake Gaston	+203	Warren County (Unincorporated Areas).
	Approximately 1.7 miles upstream of Wise Five-Forks Road	+251	
Keats Branch	At the confluence with John H. Kerr Reservoir	+320	Warren County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with John H. Kerr Reservoir.	+328	
Lake Gaston	Entire shoreline west of Eaton Ferry Road	+203	Warren County (Unincorporated Areas).
Lees Branch	At the confluence with Shocco Creek	+284	Warren County (Unincorporated Areas).
	Approximately 630 feet upstream of Pinnel Road	+324	
Little Deep Creek	At the confluence with Smith Creek	+230	Warren County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence of Ellington Branch.	+259	
Little Fishing Creek	Approximately 300 feet downstream of the confluence of Bens Creek.	+185	Warren County (Unincorporated Areas).
	At the confluence of Big Branch and Walkers Creek	+240	
Tributary 2	At the downstream county boundary	+241	Warren County (Unincorporated Areas).
	Approximately 0.3 mile upstream of the county boundary	+246	
Tributary 4	At the downstream county boundary	+190	Warren County (Unincorporated Areas).
	Approximately 930 feet upstream of Long School Road	+244	
Little Shocco Creek	At the confluence with Shocco Creek	+206	Warren County (Unincorporated Areas).
	Approximately 2.2 miles upstream of Rod Alston Road	+258	
Little Stone House Creek	At the upstream side of Shawspring Road	+258	Warren County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Shawspring Road	+214	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
Long Branch	At the confluence with Fishing Creek	+192	Warren County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Otis Clark Road	+217	
Maple Branch	At the confluence with Fishing Creek	+168	(Warren County Unincorporated Areas)
	Approximately 0.6 mile upstream of Maple Road	+206	
Matthews Creek	At the confluence with Fishing Creek	+291	Warren County (Unincorporated Areas).
	Approximately 1.7 miles upstream of Manson Axtell Road	+335	
Mill Branch	At the confluence with Fishing Creek	+207	Warren County (Unincorporated Areas).
	Approximately 800 feet upstream of Gum Pond Road	+213	
Mill Creek	At the confluence with Lake Gaston	+203	Warren County (Unincorporated Areas)
	At the North Carolina/Virginia border	+214	
Owens Creek	At the confluence with Fishing Creek	+268	Warren County (Unincorporated Areas).
	Approximately 2.3 miles upstream of Ridgeway Road	+358	
Phoebes Creek	At the confluence with Fishing Creek	+264	Warren County (Unincorporated Areas).
	Approximately 400 feet downstream of Martin Luther King Boulevard.	+210	
Porter Creek	At the county boundary	+228	Warren County (Unincorporated Areas).
	Approximately 0.3 mile upstream of the county boundary	+232	
Possumquarter Creek	At the confluence with Fishing Creek	+234	Warren County (Unincorporated Areas).
	Approximately 2.0 miles upstream of Baltimore Church Road.	+258	
Reedy Branch	At the confluence with Fishing Creek	+187	Warren County (Unincorporated Areas).
	Approximately 0.9 miles upstream of the confluence with Fishing Creek.	+196	
Reedy Creek	Approximately 100 feet upstream of the county boundary	+179	Warren County (Unincorporated Areas).
	Approximately 0.5 miles upstream of Airport Road	+367	
Reedy Creek (into John H. Kerr Reservoir).	At the North Carolina/Virginia border	+219	Warren County (Unincorporated Areas).
	Approximately 1.3 miles upstream of North Carolina/Virginia border.	+251	
Richneck Creek	At the confluence with Fishing Creek	+234	Warren County (Unincorporated Areas).
	Approximately 150 feet downstream of Limer Town Road	+277	
Tributary 1	At the confluence with Fishing Creek	+249	Warren County (Unincorporated Areas).
	Approximately 1.2 miles upstream of the confluence with Richneck Creek.	+283	
Roanoke River Tributary 18	At the confluence with Lake Gaston	+203	Warren County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Lake Gatson.	+250	
Rocky Branch	At the confluence with Hawtree Creek	+213	Warren County (Unincorporated Areas).
	Approximately 1.1 miles upstream of the confluence with Hawtree Creek.	+233	
Sandy Creek	At the downstream county boundary	+280	Warren County (Unincorporated Areas).
	At the upstream county boundary	+298	
Sauls Creek	At the confluence with Hawtree Creek	+224	Warren County (Unincorporated Areas).
	Approximately 0.5 miles upstream of the confluence with Hawtree Creek.	+231	
Shocco Creek	At the confluence with Fishing Creek	+166	Warren County (Unincorporated Areas).
	Approximately 2.7 miles upstream of Shepard Road	+313	
Tributary 1	At the confluence with Shocco Creek	+210	Warren County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground Modified	Communities affected
	Approximately 1.3 miles upstream of the confluence with Shocco Creek.	+232	
Sixpound Creek	At the confluence with Lake Gaston	+203	Warren County (Unincorporated Areas).
	Approximately 3.1 miles upstream of Wise Five-Forks Road	+253	
Smith Creek	Approximately 1,400 feet downstream of U.S. Route 1	+222	Warren County (Unincorporated Areas).
	Approximately 0.5 miles upstream of Ridgeway Drewry Road.	+308	
Tributary 1	At the confluence with Smith Creek	+224	Warren County (Unincorporated Areas).
	Approximately 2.2 miles upstream of the confluence with Smith Creek.	+253	
Tributary 1A	At the confluence with Smith Creek Tributary 1	+239	Warren County (Unincorporated Areas).
	Approximately 0.3 miles upstream of the confluence with Smith Creek Tributary 1.	+254	
Tributary 2	At the confluence with Smith Creek	+224	Warren County (Unincorporated Areas).
	Approximately 0.8 miles upstream of the confluence with Smith Creek.	+241	
Tributary 3	At the confluence with Smith Creek	+275	Warren County (Unincorporated Areas).
	Approximately 0.3 miles upstream of the confluence with Smith Creek.	+279	
Tributary 4	At the confluence with Smith Creek	+278	Warren County (Unincorporated Areas).
	Approximately 0.9 miles upstream of the confluence with Smith Creek.	+304	
Tributary 5	At the confluence with Smith Creek	+298	Warren County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Smith Creek.	+306	
Terrapin Creek	At the confluence with Smith Creek	+223	Warren County (Unincorporated Areas).
	Approximately 1,700 feet upstream of Beaver Dam Road	+260	
Tributary 1	At the confluence with Terrapin Creek	+223	Warren County (Unincorporated Areas).
	Approximately 1,200 feet upstream of the confluence with Terrapin Creek.	+229	
Walkers Creek	At the confluence with Little Fishing Creek and Big Branch	+240	Warren County (Unincorporated Areas).
	Approximately 700 feet upstream of Airport Road	+278	
Walkers Creek Tributary	At the confluence with Walkers Creek	+251	Warren County (Unincorporated Areas).
	Approximately 0.7 miles upstream of the confluence with Walkers Creek.	+267	
West Branch	At the confluence with Blue Mud Creek	+274	Warren County (Unincorporated Areas), Town of Norlina.
	Approximately 2.0 miles upstream of the confluence with Blue Mud Creek.	+349	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Town of Norlina

Maps are available for inspection at the Norlina Town Hall, 101 Main Street, Norlina, North Carolina.

Warren County (Unincorporated Areas)

Maps available for inspection at the Warren County Planning and Zoning Office, 542 West Ridgeway Street, Warrenton, North Carolina.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 6, 2006.

David I. Maurstad,

Director, Mitigation Division. Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–19114 Filed 11–13–06; 8:45 am]

BILLING CODE 9110–12–P

Proposed Rules

Federal Register
Vol. 71, No. 219
Tuesday, November 14, 2006

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–208270–86]

RIN 1545–AM12

Income and Currency Gain or Loss With Respect to a Section 987 QBU; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations concerning the determination of the items of income or loss of a taxpayer with respect to a section 987 qualified business unit, as well as the timing, amount, character and source of any section 987 gain or loss.

DATES: The public hearing, originally scheduled for November 21, 2006, at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Kelly Banks of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 622–0392 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Thursday, September 7, 2006 (71 FR 52876), announced that a public hearing was scheduled for November 21, 2006, at 10 a.m. in the IRS Auditorium, New Carrollton Federal Building, 5000 Ellin Road, Lanham, MD 20706. The subject of the public hearing is under section 987 of the Internal Revenue Code.

The public comment period expires on December 6, 2006. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit an outline of the topics to be addressed. As of Wednesday, November 1, 2006, no one has requested to speak. Therefore, the public hearing scheduled for November 21, 2006, is cancelled.

Cynthia Grigsby,

Senior Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E6–19138 Filed 11–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–D–7682]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Department of Homeland Security, Mitigation Division.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Caswell County, North Carolina and Incorporated Areas				
Bear Branch	At the confluence with Moon Creek	None	+426	Caswell County (Unincorporated Areas).
	Approximately 2.6 miles upstream of the confluence with Moon Creek.	None	+469	
Tributary 1	At the confluence with Bear Branch	None	+432	Caswell County (Unincorporated Areas).
	Approximately 900 feet upstream of the confluence with Bear Branch.	None	+432	
Tributary 2	At the confluence with Bear Branch	None	+457	Caswell County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Bear Branch.	None	+480	
Benaja Creek	At the confluence with South Country Line Creek	None	+430	Caswell County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with South Country Line Creek.	None	+437	
Burkes Creek	At the confluence with Penson Creek	None	+462	Caswell County (Unincorporated Areas).
	Approximately 150 feet upstream of Oakview Loop Road (SR 1156).	None	+570	
Burlington Reservoir	Backwater area approximately 0.8 mile west along Caswell/Alamance County boundary from Tom's Creek Crossing County boundary.	None	+579	Caswell County (Unincorporated Areas).
Byrds Creek	At the confluence with South Country Line Creek	None	+457	Caswell County (Unincorporated Areas).
	Approximately 2.6 miles upstream of Fitch Road (SR 1751).	None	+581	
Cane Creek	At the confluence with Dan River	None	+384	Caswell County (Unincorporated Areas).
	Approximately 250 feet upstream of Mountain Hill Road (SR 1527).	None	+384	
Cobbs Creek	At the Caswell/Person County boundary	None	+422	Caswell County (Unincorporated Areas).
	Approximately 75 feet upstream of Old Durham Road (SR 1700).	None	+536	
Tributary 1	At the confluence with Cobbs Creek	None	+436	Caswell County (Unincorporated Areas).
	Approximately 1.5 miles upstream of the confluence with Cobbs Creek.	None	+495	
Country Line Creek	Approximately 0.6 mile downstream of Broad Street	None	+377	Caswell County (Unincorporated Areas), Town of Milton, Town of Yanceyville.
	Approximately 1.4 miles upstream of Camp Springs Road (SR 1146).	None	+603	
Tributary 1	At the confluence with Country Line Creek	None	+377	Caswell County (Unincorporated Areas), Town of Milton.
	Approximately 0.5 mile upstream of Doll Branch Road (SR 1538).	None	+461	
Tributary 10	At the confluence with Country Line Creek	None	+426	Caswell County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Country Line Creek.	None	+447	
Tributary 11	At the confluence with Country Line Creek	None	+431	Caswell County (Unincorporated Areas).
	Approximately 2.1 miles upstream of NC Highway 62	None	+504	
Tributary 12	At the confluence with Country Line Creek	None	+499	Caswell County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
	Approximately 0.8 mile upstream of the confluence with Country Line Creek.	None	+499	
Tributary 13	At the confluence with Country Line Creek	None	+499	Caswell County (Unincorporated Areas).
	Approximately 1.8 miles upstream of the confluence with Country Line Creek.	None	+537	
Tributary 14	At the confluence with Country Line Creek	None	+500	Caswell County (Unincorporated Areas).
	Approximately 1.7 miles upstream of the confluence with Country Line Creek.	None	+557	
Tributary 15	At the confluence with Country Line Creek	None	+500	Caswell County (Unincorporated Areas).
	Approximately 1.4 miles upstream of the confluence with Country Line Creek.	None	+529	
Tributary 16	At the confluence with Country Line Creek	None	+511	Caswell County (Unincorporated Areas).
	Approximately 2.1 miles upstream of the confluence with Country Line Creek.	None	+586	
Tributary 16A	At the confluence with Country Line Creek Tributary 16	None	+518	Caswell County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Country Line Creek Tributary 16.	None	+548	
Tributary 17	At the confluence with Country Line Creek	None	+531	Caswell County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Country Line Creek.	None	+559	
Tributary 18	At the confluence with Country Line Creek	None	+538	Caswell County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Country Line Creek.	None	+561	
Tributary 19	At the confluence with Country Line Creek	None	+542	Caswell County (Unincorporated Areas).
	Approximately 1.1 miles upstream of the confluence with Country Line Creek.	None	+591	
Tributary 19A	At the confluence with Country Line Creek Tributary 19	None	+550	Caswell County (Unincorporated Areas).
	Approximately 1.3 miles upstream of the confluence with Country Line Creek Tributary 19.	None	+605	
Tributary 2	At the confluence with Country Line Creek	None	+377	Caswell County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Country Line Creek.	None	+378	
Tributary 3	At the confluence with Country Line Creek	None	+390	Caswell County (Unincorporated Areas).
	Approximately 1.4 miles upstream of the confluence with Country Line Creek.	None	+414	
Tributary 4	At the confluence with Country Line Creek	None	+392	Caswell County (Unincorporated Areas).
	Approximately 1.2 miles upstream of the confluence with Country Line Creek.	None	+409	
Tributary 5	At the confluence with Country Line Creek	None	+395	Caswell County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Country Line Creek.	None	+401	
Tributary 6	At the confluence with Country Line Creek	None	+407	Caswell County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Country Line Creek.	None	+409	
Tributary 7	At the confluence with Country Line Creek	None	+408	Caswell County (Unincorporated Areas).
	Approximately 1.4 miles upstream of the confluence with Country Line Creek.	None	+456	
Tributary 8	At the confluence with Country Line Creek	None	+412	Caswell County (Unincorporated Areas).
	Approximately 0.9 mile upstream of the confluence with Country Line Creek.	None	+432	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Tributary 9	At the confluence with Country Line Creek	None	+417	Caswell County (Unincorporated Areas).
	Approximately 1.4 miles upstream of the confluence with Country Line Creek.	None	+451	
Coy Creek	At the confluence with Dan River	None	+388	Caswell County (Unincorporated Areas).
	Approximately 1.1 miles upstream of the confluence with Dan River.	None	+392	
Dan River (downstream reach).	Approximately 250 feet downstream of North Broad Street (SR 57).	None	+378	Caswell County (Unincorporated Areas), Town of Milton.
	Approximately 1.0 mile upstream of the confluence of Hogans Creek.	None	+395	
Dan River (near Williamson Creek).	At the NC/VA State boundary	None	+466	Caswell County (Unincorporated Areas).
	At the Caswell/Rockingham County boundary	None	+470	
Dan River Tributary 1	At the North Carolina/Virginia State boundary	None	+466	Caswell County (Unincorporated Areas).
	Approximately 1.2 miles upstream of the North Carolina/Virginia State boundary.	None	+479	
East Prong Moon Creek	At the confluence with Moon Creek	None	+432	Caswell County (Unincorporated Areas).
	Approximately 2.7 miles upstream of Hodges Dairy Road.	None	+547	
Tributary 1	At the confluence with East Prong Moon Creek	None	+498	Caswell County (Unincorporated Areas).
	Approximately 400 feet upstream of James Foster Road (SR 1312).	None	+517	
Tributary 2	At the confluence with East Prong Moon Creek	None	+501	Caswell County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with East Prong Moon Creek.	None	+528	
Tributary 3	At the confluence with East Prong Moon Creek	None	+503	Caswell County (Unincorporated Areas).
	Approximately 2.4 miles upstream of the confluence with East Prong Moon Creek.	None	+570	
Glasby Branch	At the confluence with Cane Creek	None	+384	Caswell County (Unincorporated Areas).
	At the Caswell County, NC/Pittsylvania County, VA State boundary.	None	+408	
Grays Branch	At the confluence with Stony Creek	None	+619	Caswell County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Shaw Road	None	+738	
Hyco Creek Tributary 1	At the confluence with Hyco Creek	None	+522	Caswell County (Unincorporated Areas).
	Approximately 1.2 miles upstream of the confluence with Hyco Creek.	None	+586	
Hogans Creek	At the confluence with Dan River	None	+393	Caswell County (Unincorporated Areas).
	Approximately 1,000 feet upstream of the Rockingham/Caswell County boundary.	None	+476	
Hogans Creek Tributary 1	At the confluence with Hogans Creek	None	+397	Caswell County (Unincorporated Areas).
	Approximately 120 feet downstream of NC Highway 86	None	+418	
Tributary 1A	At the confluence with Hogans Creek Tributary 1	None	+399	Caswell County (Unincorporated Areas).
	Approximately 740 feet upstream of the confluence with Hogans Creek Tributary 1.	None	+404	
Tributary 2	At the confluence with Hogans Creek	None	+400	Caswell County (Unincorporated Areas).
	Approximately 0.4 mile upstream of NC Highway 86	None	+417	
Tributary 3	At the confluence with Hogans Creek	None	+420	Caswell County (Unincorporated Areas).
	Approximately 200 feet downstream of Chigger Ridge Road.	None	+420	
Tributary 4	At the Rockingham/Caswell County boundary	None	+476	Caswell County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
	Approximately 1,500 feet upstream of the Rockingham/Caswell County boundary.	None	+479	
Hostler Branch	At the confluence with Country Line Creek	None	+507	Caswell County (Unincorporated Areas).
	Approximately 4.9 miles upstream of NC Highway 150	None	+637	
Tributary 1	At the confluence with Hostler Branch	None	+531	Caswell County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Hostler Branch.	None	+556	
Hyco Creek	Approximately 1.9 miles downstream of the confluence with Kilgore Creek (into Hyco Creek).	None	+413	Caswell County (Unincorporated Areas).
	Approximately 2.0 miles upstream of Gunn Poole Road (SR 1767).	None	+572	
Hyco Lake	Entire shoreline within Caswell County	None	+413	Caswell County (Unincorporated Areas).
Kilgore Creek (into Country Line Creek).	At the confluence with Country Line Creek	None	+386	Caswell County (Unincorporated Areas).
	Approximately 1.2 miles upstream of Jack Pointer Road (SR 1557).	None	+430	
Kilgore Creek (into Hyco Creek).	At the confluence with Hyco Creek	None	+427	Caswell County (Unincorporated Areas).
	Approximately 2.1 miles upstream of U.S. 158	None	+562	
Little Wolf Island Creek	At the confluence with Wolf Island Creek	None	+472	Caswell County (Unincorporated Areas).
	Approximately 0.6 mile upstream of the confluence with Wolf Island Creek.	None	+475	
Lick Fork Creek	At the confluence with Hogans Creek	None	+470	Caswell County (Unincorporated Areas).
	At the Rockingham/Caswell County boundary	None	+470	
Little Rattlesnake Creek	At the confluence with Dan River	None	+383	Caswell County (Unincorporated Areas).
	Approximately 1,500 feet upstream of Old Saterfield Road (SR 1534).	None	+459	
Lynch Creek	At the confluence with Hyco Creek	None	+477	Caswell County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Dave Smith Road (SR 1771).	None	+565	
Tributary 1	At the confluence with Lynch Creek	None	+512	Caswell County (Unincorporated Areas).
	Approximately 2.1 miles upstream of the confluence with Lynch Creek.	None	+606	
Tributary 2	At the confluence with Lynch Creek	None	+536	Caswell County (Unincorporated Areas).
	At the Caswell/Alamance County boundary	None	+617	
Moon Creek	At the confluence with Dan River	None	+391	Caswell County (Unincorporated Areas).
	Approximately 700 feet upstream of Big Oak Farm Road (SR 1303).	None	+504	
Tributary 1	At the confluence with Moon Creek	None	+391	Caswell County (Unincorporated Areas).
	Approximately 1.2 miles upstream of the confluence with Moon Creek.	None	+514	
Tributary 2	At the confluence with Moon Creek	None	+393	Caswell County (Unincorporated Areas).
	Approximately 1,800 feet upstream of the confluence with Moon Creek.	None	+395	
Tributary 3	At the confluence with Moon Creek	None	+401	Caswell County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Moon Creek.	None	+436	
Tributary 4	At the confluence with Moon Creek	None	+403	Caswell County (Unincorporated Areas).
	Approximately 1,400 feet upstream of the confluence with Moon Creek.	None	+408	
Tributary 5	At the confluence with Moon Creek	None	+414	Caswell County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
	Approximately 0.6 mile upstream of the confluence with Moon Creek.	None	+435	
Tributary 6	At the confluence with Moon Creek	None	+415	Caswell County (Unincorporated Areas).
	Approximately 1,350 feet upstream of the confluence with Moon Creek.	None	+425	
Nats Fork	At the confluence with Country Line Creek	None	+500	Caswell County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Country Line Creek.	None	+503	
Negro Creek	At the confluence with Hyco Creek	None	+489	Caswell County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence of Negro Creek Tributary 2.	None	+617	
Tributary 1	At the confluence with Negro Creek	None	+499	Caswell County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Gunn Poole Road (SR 1767).	None	+635	
Tributary 2	At the confluence with Negro Creek	None	+592	Caswell County (Unincorporated Areas).
	Approximately 0.8 mile upstream of the confluence with Negro Creek.	None	+643	
North Fork Rattlesnake Creek.	At the confluence with Rattlesnake Creek	None	+389	Caswell County (Unincorporated Areas).
	Approximately 3.2 miles upstream of Slade Road	None	+543	
Panthers Branch	At the confluence with Hyco Creek	None	+475	Caswell County (Unincorporated Areas).
	Approximately 1.7 miles upstream of Barnwell Road (SR 1774).	None	+634	
Tributary 1	At the confluence with Panthers Branch	None	+500	Caswell County (Unincorporated Areas).
	Approximately 2.4 miles upstream of the confluence with Negro Creek.	None	+620	
Penson Creek	At the confluence with South Country Line Creek	None	+452	Caswell County (Unincorporated Areas).
	Approximately 0.9 mile upstream of Badgett Sisters Parkway (SR 1156).	None	+593	
Pumpkin Creek	At the North Carolina/Virginia State boundary	None	+443	Caswell County (Unincorporated Areas).
	Approximately 1.3 miles upstream of the North Carolina/Virginia State boundary.	None	+472	
Rattlesnake Creek	At the confluence with Dan River	None	+389	Caswell County (Unincorporated Areas).
	At the confluence of North Fork and South Fork Rattlesnake Creeks.	None	+389	
Tributary 1	At the confluence with Rattlesnake Creek	None	+389	Caswell County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Rattlesnake Creek.	None	+396	
Tributary 2	At the confluence with Rattlesnake Creek	None	+389	Caswell County (Unincorporated Areas).
	Approximately 1.9 miles upstream of the confluence with Rattlesnake Creek.	None	+436	
Tributary 2A	At the confluence with Rattlesnake Creek Tributary 2 ...	None	+389	Caswell County (Unincorporated Areas).
	Approximately 1.6 miles upstream of the confluence with Rattlesnake Creek Tributary 2.	None	+470	
Reedy Fork Creek	Approximately 1.2 miles downstream of the confluence with Reedy Fork Creek Tributary 1.	None	+413	Caswell County (Unincorporated Areas).
	Approximately 4.9 miles upstream of U.S. 158	None	+550	
Tributary 1	At the confluence with Reedy Fork Creek	None	+426	Caswell County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Reedy Fork Creek.	None	+451	
Tributary 2	At the confluence with Reedy Fork Creek	None	+437	Caswell County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
	Approximately 0.7 mile upstream of the confluence with Reedy Fork Creek.	None	+453	
South Country Line Creek ..	At the confluence with Country Line Creek	None	+426	Caswell County (Unincorporated Areas).
	Approximately 3.7 miles upstream of Rascoe Dameron Road (SR 1759).	None	+594	
Tributary 1	At the confluence with South Country Line Creek	None	+446	Caswell County (Unincorporated Areas).
	Approximately 875 feet upstream of the confluence with South Country Line Creek.	None	+446	
Tributary 2	At the confluence with South Country Line Creek	None	+450	Caswell County (Unincorporated Areas).
	Approximately 2.9 miles upstream of the confluence with South Country Line Creek.	None	+552	
Tributary 2A	At the confluence with South Country Line Creek Tributary 2.	None	+463	Caswell County (Unincorporated Areas).
	Approximately 1.8 miles upstream of the confluence with South Country Line Creek Tributary 2.	None	+536	
Tributary 2A1	At the confluence with South Country Line Creek Tributary 2A.	None	+476	Caswell County (Unincorporated Areas).
	Approximately 0.4 mile upstream of the confluence with South Country Line Creek Tributary 2A.	None	+506	
Tributary 3	At the confluence with South Country Line Creek	None	+486	Caswell County (Unincorporated Areas).
	Approximately 0.9 mile upstream of the confluence with South Country Line Creek.	None	+532	
Tributary 4	At the confluence with South Country Line Creek	None	+518	Caswell County (Unincorporated Areas).
	Approximately 1.4 miles upstream of the confluence with South Country Line Creek.	None	+574	
South Fork Rattlesnake Creek.	At the confluence with Rattlesnake Creek	None	+389	Caswell County (Unincorporated Areas), Town of Yanceyville.
	Approximately 600 feet downstream of Fire Tower Road.	None	+536	
South Hyco Creek	Approximately 1,300 feet downstream from the toe of South Hyco Dam.	None	+445	Caswell County (Unincorporated Areas).
	At the Caswell/Orange County boundary	None	+590	
Tributary 2	At the Caswell/Person County boundary	None	+553	Caswell County (Unincorporated Areas).
	Approximately 700 feet upstream of the Caswell/Person County boundary.	None	+572	
Sugartree Creek	At the confluence with South Hyco Creek	None	+486	Caswell County (Unincorporated Areas).
	Approximately 2.5 miles upstream of Wrenn Road	None	+599	
Tardy Branch	At the confluence with Wolf Island Creek	None	+468	Caswell County (Unincorporated Areas).
	Approximately 0.9 mile upstream of the confluence with Wolf Island Creek.	None	+480	
Toms Creek	Approximately 50 feet downstream of the Alamance/Caswell County boundary.	None	+596	Caswell County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Kerr's Chapel Road	None	+637	
West Prong Moon Creek	At the confluence with East Prong Moon Creek	None	+478	Caswell County (Unincorporated Areas).
	Approximately 250 feet upstream of Jones Road (SR 1315).	None	+531	
Wolf Island Creek	At the confluence with Dan River	None	+468	Caswell County (Unincorporated Areas).
	At the Caswell/Rockingham County boundary	None	+484	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Caswell County (Unincorporated Areas)

Maps are available for inspection at The Caswell County Planning Department, 144 Main Street, Yanceyville, North Carolina.
Send comments to Mr. Nathaniel Hall, Caswell County Commissioners Chairman, P.O. Box 98, Yanceyville, North Carolina 27379.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Town of Milton				
Maps are available for inspection at The Caswell County Planning Department, 144 Main Street, Yanceyville, North Carolina. Send comments to The Honorable Walter L. Thomas, IV, Mayor of the Town of Milton, P.O. Box 248, Milton, North Carolina 27305.				
Town of Yanceyville				
Maps are available for inspection at the City of Yanceyville Planning Office, 200 East Church Street, Yanceyville, North Carolina. Send comments to The Honorable Daniel Printz, Mayor of the City of Yanceyville, P.O. Box 918, Yanceyville, North Carolina 27379.				

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: November 6, 2006.

David I. Maurstad,

Director, Mitigation Division, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E6–19110 Filed 11–13–06; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition to List the Island Marble Butterfly (Euchloe ausonides insulanus) as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the island marble butterfly (*Euchloe ausonides insulanus*) under the Endangered Species Act of 1973, as amended (Act). After review of all available scientific and commercial information, we find that the petitioned action is not warranted. Furthermore, the Service and the National Park Service (NPS) have entered into a Conservation Agreement that implements conservation measures specifically addressing the needs of the island marble butterfly. We request that you submit any new information concerning the status of and threats to this subspecies whenever it becomes available. We will continue to collaborate with our partners to expand the conservation efforts that have been instituted by several landowners on currently occupied habitat.

DATES: The finding announced in this document was made on November 14, 2006.

ADDRESSES: You may send data, information, comments, or questions concerning this finding to Ken Berg, Attn: Island Marble Butterfly, Western Washington Fish and Wildlife Office, U.S. Fish and Wildlife Service, 510 Desmond Drive, SE., Suite 102, Lacey, WA 98503; or via fax to 360–753–9008. You may inspect the petition, administrative records, supporting information, and comments received by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ted Thomas or Jodi Bush at the Western Washington Fish and Wildlife Office (see **ADDRESSES**); or by telephone at 360–753–9440; or by fax at 360–753–9008; or by electronic mail at *islandmarble@fws.gov*.

SUPPLEMENTARY INFORMATION:

Background

On December 11, 2002, we received a petition dated December 10, 2002, requesting that we emergency list the island marble butterfly (*Euchloe ausonides insulanus*) as an endangered species, and that we designate critical habitat concurrently with the listing. The petition, submitted by the Xerces Society, Center for Biological Diversity, Friends of the San Juan, and Northwest Ecosystem Alliance, was clearly identified as a petition for a listing rule and contained the names, signatures, and addresses of the requesting parties. Included in the petition was supporting information regarding the species' taxonomy and ecology, historical and current distribution, present status, active imminent threats, and potential causes of decline.

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the Lists of Threatened and Endangered Wildlife and Plants that contains substantial scientific and commercial information that listing may be warranted, we make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is (a) Not warranted, (b) warranted, or (c) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether any species is threatened or endangered, and expeditious progress is being made to add or remove qualified species from the Lists of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(C) of the Act requires that a petition for which the requested action is found to be warranted but precluded be treated as though resubmitted on the date of such finding, i.e., requiring a subsequent finding to be made within 12 months. Each subsequent 12-month finding will be published in the **Federal Register**.

Previous Federal Action

On January 22, 2003, we sent a letter acknowledging receipt of the petition to Scott Hoffman Black, Executive Director of the Xerces Society. In our response, we advised the petitioners that we had insufficient funds to respond to the petition at that time and that we would not be able to begin processing the petition in a timely manner.

On April 5, 2004, we received a 60-day notice of intent to sue for three butterfly species, the Taylor's checkerspot (*Euphydryas editha taylori*), the mardon skipper (*Polites mardon*), and the island marble butterfly. On October 18, 2004, plaintiffs filed a complaint for declaratory and injunctive relief, which specifically addressed conservation actions needed for the island marble butterfly. Taylor's checkerspot and mardon skipper butterflies were not addressed in that complaint and are not assessed in this petition finding. We negotiated a stipulated settlement agreement for the island marble butterfly, dated February 28, 2005, in which we agreed to work cooperatively with our conservation

partners to conduct surveys and to assess the ecological needs of the subspecies during 2005. We also agreed to submit a 90-day petition finding to the **Federal Register** by February 5, 2006, and if necessary, submit a 12-month finding to the **Federal Register** by November 5, 2006.

A 90-day finding was published in the **Federal Register** on February 13, 2006 (71 FR 7497). We found that the petition presented substantial scientific information indicating that listing the island marble butterfly may be warranted. Therefore, we initiated a status review of the subspecies. A 60-day public comment period was opened, to allow the public to provide information for the status review. This document constitutes our 12-month finding on the island marble butterfly, and is submitted in fulfillment of the stipulated settlement agreement.

On October 31, 2006, the Service and the NPS entered into a ''Conservation Agreement and Strategy for the Island Marble Butterfly (*Euchloe ausonides insulanus*),'' that implements measures within San Juan Islands National Historical Park specifically addressing the conservation needs of the island marble butterfly.

Species' Description and Life History

The island marble butterfly is a member of the Pieridae family, subfamily Pierinae. The island marble butterfly is 1.75 inches (4.5 centimeters) long, creamy white (Pyle 2002, p. 142; Guppy and Sheppard 2001, p. 159), and is larger than other subspecies of the large marble butterfly (*Euchloe ausonides*). The yellow-green marbled pattern on the ventral hindwings and forewings characterizes adults of the subspecies (Pyle 2002, p. 142; Guppy and Sheppard 2001, p. 159).

The eggs of the island marble butterfly are bluish-greenish to cream when laid (Pyle 2002, p. 142; Guppy and Sheppard 2001, p. 159), and change to orange or red at maturity. Larvae have five instars (developmental stages between each molt) before over-wintering as pupae. Larvae are steely-blue above, transitioning to green below, with bright yellow stripes along the sides and back, and are peppered with small black spots (Pyle 2002, p. 142). Fifth-instar larvae walk about to find secure resting locations for pupation on the lower stem of food plants, where the pupae over-winter until emerging as adults the following spring. The island marble butterfly is univoltine (the subspecies has just one flight period per year) (Pyle 2002, p. 142; Pyle 2003, p. 34). The flight period of adult butterflies generally commences in early April and is completed by mid-June in the San Juan Islands, Washington (Miskelly 2005, p. 5). Eggs may be observed for a week beyond when adults are observed, and larvae have been observed until early July (Miskelly 2005, p. 5).

Distribution and Status

Historically, the island marble butterfly has always been rare (Guppy and Shepard 2001, p. 161). The subspecies was known from 14 museum records from collections made in British Columbia, Canada, from 1861 to 1908. The specimens are displayed in museum collections in British Columbia, Canada, and the Smithsonian Institution, Washington, DC. Historically, the island marble butterfly was only known from Vancouver Island and the Canadian Gulf Islands, which are part of the same geologic formation as the San Juan Archipelago. The island marble butterfly was last observed on Gabriola Island, Canada in 1908; has not been observed on Vancouver Island or the Canadian Gulf Islands since 1908; and was considered to be extirpated throughout its known range. The butterfly was discovered on San Juan Island, Washington, in 1998 by John Fleckenstein, a biologist with the Natural Heritage Program of the Washington Department of Natural Resources (WDNR); that discovery was published in 2001 by Guppy and Shepard (p. 160).

Taxonomy

The island marble butterfly is distinct from its nearest relative, the large marble butterfly (*Euchloe ausonides*), which is widespread in British Columbia east of the Coast Range, and in Washington and Oregon, where it is found exclusively east of the Cascade Mountains (Guppy and Shepard 2001, p. 160; Pyle 2002, p. 142). The large marble butterfly is not found in coastal or island locations. Because the island marble butterfly has distinct physical characteristics and its behavior is adapted to the mosaic of habitat conditions and plant assemblages specifically adapted to the San Juan Islands, the subspecies has likely existed there for well over a century, and perhaps since the last glaciation (R. M. Pyle, pers. comm., June 2006).

Habitat

The island marble butterfly was known to occur exclusively in grassland habitat that historically was dominated by the grasses *Festuca roemeri* (native bunchgrass), *Elymus glaucus* (blue wildrye), *Danthonia californica* (California oat-grass), and native forbs including *Camassia quamash* (common camas), *Fritillaria lanceolata* (chocolate lily), *Zygadenus venenosus* (death camas), and *Cerastium arvense* (field chickweed) (Lambert 2005c, p. 7). *Arabis* spp. (rockcress species) were likely food plants for the island marble butterfly (Guppy and Shepard 2001, p. 160); however, they are currently rare in much of the San Juan Islands.

Island marble butterfly larvae are currently known to feed on plants of the Brassicaceae (mustard) family in three types of habitat: (1) Native *Lepidium virginicum* var. *menziesii* (tall or Puget Sound peppergrass) found at the edge of coastal lagoons just above the marine shoreline of Griffin Bay, north of American Camp, a National Historic Park on San Juan Island (Lambert 2005c, p. 7; Miskelly 2005, p. 7); (2) nonnative, annual mustards such as *Brassica campestris* (field mustard) and *Sisymbrium altissimum* (tall tumble-mustard) in upland habitat; and (3) tall tumble-mustard in sand dune habitat. Adult island marble butterflies were most commonly observed nectaring on *Lepidium virginicum* var. *menziesii*, *Brassica campestris*, *Sisymbrium altissimum*, *Hypochaeris radicata* (hairy cat's ear), *Taraxacum officinale* (dandelion), and *Cakile edentula* (sea rocket) (Miskelly 2005, p. 6).

The use of native and non-native mustards by the island marble butterfly is likely a shift from the preferred larval food plants used historically. Guppy and Shepard (2001, p. 160) discuss several species of *Arabis*, *Descurainia*, and *Barbarea* (all members of the Brassicaceae (mustard) family) that were likely used by the island marble butterfly. Most of these plants are absent from San Juan and Lopez Islands, possibly due to the shift in dominance to pasture grasses and other sod-forming grasses associated with agricultural practices, which reduce the establishment and maintenance of native forb species. The island marble butterfly appears to have shifted its larval food preference to the nonnative species *Brassica campestris* and *Sisymbrium altissimum*, although the native *Lepidium virginicum* var. *menziesii* is currently used by island marble butterfly larvae in lagoon habitat. A similar shift to nonnative plants in situations where the preferred larval host plants no longer exist has been observed in long-term studies of checkerspot butterflies (Ehrlich and Hanski 2004, p. 131; Stinson 2005, p. 88). It is not known whether this shift to using nonnative plants by butterflies was brought on by butterfly preference or plant availability.

Nonnative mustard species are able to colonize disturbed areas. Many

temporary ground-disturbing activities have short-term effects that do not appear to result in long-term changes to island marble butterfly population numbers or distribution. Regardless of how this shift in host plants occurred, the use of nonnative plants such as *Brassica* and *Sisymbrium* has likely contributed to the survival of the island marble butterfly on grassland habitat found within San Juan County, Washington, and is expected to continue to play a significant role in the species' continued existence.

Surveys

In 2005 and 2006, we partnered with Washington Departments of Fish and Wildlife and Natural Resources (WDFW and WDNR), the NPS, the University of Washington, and the Xerces Society to survey for the presence of the island marble butterfly during the adult flight period and while eggs were being laid and larvae were active (early April through late June). Qualified observers conducted approximately 325 surveys at more than 150 distinct locations in 6 counties and on 16 islands. Surveys were conducted for adult butterflies from mid-April to mid-June; eggs and larvae were surveyed during an additional 2-week period after the primary adult flight period (A. Potter, Wildlife Biologist, WDFW, pers. comm. 2006; A. Lambert 2005c, p. 14; Miskelly 2006, p. 14). The survey period was initiated on April 10 in both survey years, and was timed to commence with the flight period of the three previous springs. Both surveys were conducted until the flight period was finished, which was June 28, 2005, and June 17, 2006. Based on an analysis of potential habitat using Geographic Information System (GIS) mapping, site visits, and field verification during 2005 and 2006, we surveyed 85 to 90 percent of the potential available island marble butterfly habitat.

All surveys were conducted using an Intuitive Controlled survey method (Thomas and Carey 1996, p. 152), in which the surveyor walks at a leisurely speed (about 200 meters (m) per 10 minutes), sweeping the grasses for hidden butterflies and closely examining specific areas of suitable habitat. A thorough search is also made in areas between suitable habitat and at the perimeter of the habitat patch.

The ability to detect the island marble butterfly, as with most butterflies, depends on the distribution and availability of host plants for egg laying, larval development, and maturation to adult stages. Island marble butterflies were found only where the host mustards were found. Recent research by Dorazio et al. (2006, p. 842, 852) predicted that species' occurrence and butterfly diversity could be predicted accurately through the careful location of surveys. They concluded that a reasonable estimate of abundance would be attained through a reduced survey effort when the plant community sampled was selected based on the known occurrence of the target butterfly species.

Surveys conducted in 2005 focused on areas with suitable habitat, which was defined by the presence of the three known larval food plants, *Brassica campestris*, *Sisymbrium altissimum*, and *Lepidium virginicum* var. *menziesii.* Sites with island marble butterfly detections in 2005 were revisited by survey teams more than 5 times in 2006.

Our survey efforts during 2006 focused on previously unsurveyed islands and suitable habitat patches composed of host mustards. An additional objective in 2006 was to survey appropriate habitat adjacent to sites on San Juan and Lopez Islands that were documented to be occupied by island marble butterflies in 2005. The 2005 survey sites were used as focal points, and surveys were expanded outward into adjacent suitable habitat with landowner permission. Only a few new subpopulations were documented in 2006.

During the 2-year survey period, 26 distinct locations occupied by the island marble butterfly were documented. Based on these surveys and the efforts of interested landowners, we have determined that up to five populations may exist on the two islands. These populations are identified as:

(1) American Camp and vicinity, which includes upland grassland habitat, lagoon, and sand dune habitat located on southern San Juan Island. The American Camp population is made up of lands managed by WDNR and NPS (566 acres (ac) (229 hectares (ha)) of occupied habitat), privately owned lands managed as rural residential that are relatively highly developed (199 ac (81 ha) of occupied habitat), and privately owned lands managed as rural farm and forest (66 ac (27 ha) of occupied habitat). This population is considered the core island marble butterfly population.

(2) The San Juan Valley subpopulation is located on privately owned lands managed for agricultural resources (33 ac (13 ha) of occupied habitat).

(3) The Northwest San Juan Island subpopulation is located on privately owned lands managed as rural farm and forest (6.5 ac (3 ha) of occupied habitat).

(4) The Central Lopez Island subpopulation is located on privately owned lands and lands owned by the local school district managed as rural farm and forest (241 ac (98 ha) of occupied habitat).

(5) The West Central Lopez Island subpopulation is located on private lands managed for agricultural resources (11 ac (5 ha) of occupied habitat).

Several other observations of dispersed or isolated individuals were made on Lopez and San Juan Islands. Because of the relatively low number of individuals found (compared to the sites identified above) and the distance from the populations identified above, these isolated individuals are not considered separate populations in the population count. Isolated sites, outside the locations described above, comprise an additional 2.5 ac (1 ha) of occupied habitat.

After two seasons of intensive survey effort, we concluded that many types of habitat that we originally suspected to be potentially suitable habitat are not being utilized because they do not provide the conditions necessary for the larval food plants. Areas occupied by trees, areas above approximately 300 feet (92 m) elevation, and barrens occupied by European rabbits (*Oryctolagus cuniculus*) did not provide suitable habitat conditions, and it is unlikely that they would be occupied by island marble butterflies in the future unless the rabbits were removed. Each of these habitat types has been surveyed and there have been no detections of island marble butterflies.

One habitat that may be suitable, but where we did not observe island marble butterflies, is grassland bald habitat (landforms with shallow soils, generally on south-facing, dry, often steep slopes and dominated by herbaceous vegetation, dwarf shrubs, or mosses and lichens) (WDNR 2006, p. 5). This habitat is found on many of the islands, and currently contains an assemblage of food plants used as adult nectar sources by the island marble butterfly. More importantly, grassland balds may be an appropriate habitat for native mustards such as rockcress (*Arabis* spp.), and particularly hairy rockcress (*Arabis hirsuta*), a larval food plant (Guppy and Shepard 2001, p. 158). *A. hirsuta* is now uncommon on many of the San Juan County islands and was not observed in any location where we found island marble butterflies. Despite our current lack of documented occupation, we believe that more study is needed before we can understand the value of grassland bald habitat to the island marble butterfly.

Population Size

The known population size for island marble butterflies is probably less than 500 butterflies, and possibly as low as 300 individuals, based on counts of adult butterflies from transect information collected over multiple years at American Camp, the core population. The transect counts completed at American Camp documented 270 adult butterflies in 2004, and 194 adult butterflies in 2005. Individual butterflies observed outside transects were added to the transect totals to give an estimate of the number of butterflies found at all American Camp locations, including private and public properties.

The populations found on San Juan Island appear to display classic metapopulation dynamics where a core population exists (American Camp) with several outlier subpopulations connected to it by migration (Ehrlich and Hanski 2004, p. 59). The peripheral subpopulations are made up of a few individuals that become established periodically in suitable habitat as individuals disperse from the core, and this habitat may or may not be occupied at all times. Peripheral locations of island marble butterflies appear to be connected to the core by habitat corridors that allow for dispersal and colonization.

During 2005 and 2006, when extensive searches were made to locate new populations, we found individuals at only a few locations outside of the core population at American Camp on San Juan Island. Most of these locations had fewer than 5 adults, and one was composed of only a few eggs and larvae. In 2006, new locations with individuals were found; however, no island marble butterfly adults, eggs, or larvae were detected at several of the outlier locations identified in 2005 (e.g., Lopez School and other private land holdings).

Population Structure

The core population of the Island Marble butterfly at American Camp on San Juan Island makes up the majority of the population. It contains as much as 75 percent of the total population, and 74 percent (832 ac (337 ha)) of the habitat occupied by the island marble butterfly. The remaining island marble butterflies are dispersed in subpopulations found on private lands on San Juan Island and in two subpopulations on Lopez Island. These peripheral subpopulations comprise approximately 20 percent of the total population. These peripheral subpopulations, along with isolated individual areas (5 percent of the total population), include an additional 294 ac (118 ha) of occupied habitat (26 percent of the total occupied habitat).

All subpopulations outside of the American Camp core population are small, and are found on mostly rural farms that are actively managed by the landowner and have suitable habitat containing the larval food plants. Because small-scale farming regularly disturbs the soil and creates habitat for host plants, these farms provide suitable habitat for the butterfly. The pattern of disturbances on public and private properties are expected to ensure that a mosaic of larval host plants and adult nectar sources will continue to be present within the core area for the butterfly and at dispersed locations on the islands.

In coordination with the WDFW, the WDNR, and NPS, and with support from Washington State University Extension Service, we held meetings with local communities on San Juan and Lopez Islands in March 2006. More than 50 people attended these workshops, during which the biology of the island marble butterfly and conservation actions that could be implemented to promote suitable habitat were discussed. These meetings provided opportunities for surveying additional areas and provided habitat enhancement guidance for those landowners wanting to share in the conservation of the butterfly.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533), and implementing regulations at 50 CFR part 424, set forth procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a) of the Act, we may list a species on the basis of any of five factors, as follows: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. In making this finding, information regarding the status of, and threats to, the island marble butterfly in relation to the five factors provided in section 4(a)(1) of the Act follows.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Residential development, road construction and decommissioning, road maintenance activities, the use of herbicides, prescribed fire, and European rabbits may impact the island marble butterfly in its current range on San Juan and Lopez Islands of San Juan County, Washington.

Development

Residential development occurs on both San Juan and Lopez Islands. In particular, the Cattle Point Estate and Eagle Cove developments on private lands adjacent to NPS lands at American Camp threaten Island Marble butterfly habitat and increase mortality by increasing roads and traffic. These residential areas contain approximately 199 ac (81 ha) of the habitat occupied by island marble butterfly, constituting 18 percent of the total estimated occupied habitat. Approximately 50 percent of the habitat at American Camp proper (566 ac (229 ha)), including the NPS and WDNR lands will be managed in a natural condition, which is compatible with the conservation of the island marble butterfly.

Development is occurring less rapidly to the north and west of American Camp and on Lopez Island, where small, rural farms with pastures and low-density private residences exist. Current management in these areas is compatible with management of the island marble butterfly habitat. These areas contain about 361 ac (146 ha), constituting 32 percent of habitat known to be occupied by island marble butterflies.

Road Construction

A planned road relocation project by the Federal Highway Administration (FHA) will result in short-term adverse affects to the island marble butterfly. This project is planned for Cattle Point Road, the single access to American Camp, the Cattle Point Estates (a residential area east of American Camp), and a WDNR parcel known as the Cattle Point Natural Resource Conservation Area. The existing road, which covers about 3 ac (1 ha) is eroding. The slumping (deep-seated rotational failure) of the sandy soil is displacing the high bluff directly below the current road grade.

Impacts of the road relocation could include temporary loss of as much as 13 ac (5 ha) of island marble butterfly habitat due to road construction activities and clearing, and removal of the subspecies' larval food plants and adult nectar sources. Approximately 3 ac (1 ha) of habitat could be lost in the short term, if the preferred alternative is implemented. The NPS is planning to restore the decommissioned area using native grasses and forbs (P. Dederich, NPS Superintendent, pers. comm. 2006;

NPS Pacific West Region Directive 063), and as a result there would be no net loss of habitat from the road relocation over the long term.

Consistent with their resource management policy, the NPS will require the use of native grasses and forbs for restoration of any disturbed areas (NPS Management Policy 1988, Section 4.4.1.2). The nonnative field mustard and tumble-mustard, which are primary larval host plants and adult nectar plants of the island marble butterfly in upland habitat, will likely become established on the disturbed ground because their plentiful seed will germinate the first year after ground disturbance (mustards are generally annual species with high seed production).

Construction of the road will require the completion of an Environmental Impact Statement (EIS) under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and funding from the FHA. No schedule for the EIS or expected funding was available at the time this notice was written. However, based on information from the FHA, a draft EIS is expected by 2007. There appears to be no island marble butterfly breeding habitat along the proposed route for the Cattle Point highway realignment in the Park (Pyle 2006). While some individuals and host plants may occur, the road-building planning process and construction may proceed with little likelihood of mortality to these butterflies.

Road Maintenance Activities

Adults, eggs, and larvae of the island marble butterfly were observed in 2005, at the Fisherman's Bay tombolo (a narrow beach landform that connects the mainland to an island) on Lopez Island. In July 2005, the habitat was buried by sand by the road maintenance crews to make the vegetation less flammable for a July 4th fireworks display, likely killing any larvae or eggs that may have been present. When the larval food plants subsequently resprouted, they were mowed during routine road maintenance, likely removing habitat for eggs and larval development in 2006. This site was visited four times in 2005, and six times in 2006, and no adult butterflies, eggs, or larvae were observed. After discussions with San Juan County highway officials at the March 2006 workshop, and again in June 2006, the County agreed to address our concerns regarding their road maintenance activities and management of habitat for the island marble butterfly (Ruth Milner, WDFW, in litt. 2006)

Grassland Restoration

Grassland restoration activities being implemented by NPS to restore historic grassland conditions in San Juan Islands National Historical Park (SJINHP) have improved habitat for island marble butterflies. Nonnative vegetation targeted for removal includes pasture grasses and woody shrubs. In 2005, NPS implemented grassland restoration activities that included the planting of native species and the removal of invasive vegetation through the application of herbicides and prescribed fire. Based on these activities, especially the successful combination of herbicide and prescribed fire at American Camp, we anticipate that long-term positive effects of habitat restoration will significantly outweigh short-term impacts. A more robust island marble butterfly population is expected as a result of restoration activities due to an increase in the establishment of larval food plants and native nectar sources, and a reduction in competing weedy forb vegetation and encroaching woody shrubs and trees. The results of the restoration efforts implemented in 2005 at American Camp have produced high quality habitat for the island marble butterfly, increasing by approximately four times the number of host plants in the restoration area.

Herbicides have been used in small experimental applications to test methods for reducing the distribution and spread of nonnative grasses at American Camp. In July 2005, herbicides were applied to approximately 3.7 ac (1.5 ha) of the 600 ac (243 ha) of grassland habitat at American Camp (William Gleason, Chief, Resource Management, SJINHP, pers. comm. 2005). Herbicide treatment was followed by a prescribed fire on the same footprint of land. Because these activities occurred prior to the end of the flight period, they likely harmed eggs, larvae, and adult island marble butterflies that were utilizing the food plants and grassland ecosystem. While many of the plants occupied by larvae were removed from the site prior to the herbicide treatment by volunteers and NPS personnel and relocated elsewhere (Lambert 2005b, p. 11), some may have been missed because of the difficulty in locating larvae.

The herbicide and prescribed fire treatments were conducted in a test area as preparation for a larger scale restoration project that NPS plans for restoring the native grassland plant community at American Camp. Disturbances produced by the herbicides and fire treatments also create suitable areas for the establishment of mustards. Based on discussions with us and other interested parties, NPS has agreed to implement restoration activities at a time outside of the flight period of the island marble butterfly. In 2006, a year after the experimental treatment, the grassland area was recovering and providing significantly higher-quality habitat for the island marble butterfly than was present prior to the management action. More than 480 tumble-mustard plants were counted in May 2006, and nearly 20 percent (91 plants) of the plants had island marble butterfly eggs or larvae attached. This is approximately four times the number of mustard plants found previously at this same location (T. Thomas, pers. observation, 2006).

Grassland restoration activities can have short-term detrimental effects to the island marble butterfly; however, they appear insignificant when compared to the long-term benefits.

European Rabbits

The European rabbit is a nonnative, burrowing species common on San Juan Island, and at American Camp in San Juan Island National Historical Park. Hall (1977, p. 293) summarized the history of the European rabbit on San Juan Island. Currently, more than 1,000 rabbits (Agee and West 2002, p. 3) consume all vegetation within approximately 180 ac (73 ha) of formerly grassland habitat at American Camp. However, the rabbit population does not appear to be expanding, and planning is underway by NPS to reduce its population size over time.

Summary of Factor A

The core of the population at American Camp is protected from development. Road construction and maintenance activities are not considered to be current threats to the island marble butterfly or its habitat. Grassland restoration activities (including herbicide treatments and prescribed fire) have shown success in increasing habitat and host plants and European rabbits do not appear to be a threat to the subspecies. Thus, we have determined that the present or threatened destruction, modification, or curtailment of the island marbled butterfly's habitat or range do not constitute a threat to the subspecies such that listing under the Act is warranted.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The NPS has not observed butterfly collecting at American Camp, or other locations where the island marble

butterfly is present. Under NPS regulations, the collection of living or dead wildlife, fish, or plants, or the parts or products thereof, is prohibited on lands under NPS jurisdiction without a permit (36CFR 2.1(a)(1)(i) and (a)(1)(ii)). A verbal request was made by one individual for permission to collect this species (Rolfs, pers. comm. 2004). After discussions with conservation partners, the individual agreed to withdraw his request. Given the small number of island marble butterflies that remain in the wild, any collection of butterflies is likely to increase its extinction risk. However, at this time we do not believe that overutilization for commercial, recreational, scientific, or educational purposes is a significant threat to the island marble butterfly such that listing under the Act is warranted.

C. Disease or Predation

While predation by paper wasps (members of the Ichneumonidae, Vespidae, and Thomisidae families) and by crab spiders (*Diaea* spp.) has been documented for the island marble butterfly (A. Lambert, NPS Science Day Conference, June 23, 2006), neither is considered to be a significant threat to the subspecies.

D. The Inadequacy of Existing Regulatory Mechanisms

As mentioned previously in this finding, under NPS regulations, the collection of living or dead wildlife, fish, or plants, or the parts or products thereof, is prohibited on lands under NPS jurisdiction without a permit (36 CFR 2.1(a)(1)(i) and (a)(1)(ii)).

Washington State has designated the island marble butterfly as a candidate species, and identified the species as critically imperiled in its Comprehensive Wildlife Conservation Strategy (WDFW 2005, pp. 219, 314, 336–337). In this strategy, the WDFW identified several specific conservation actions for island marble butterfly management, including continuing to search for new populations and monitoring known sites, and protecting and restoring island marble butterfly habitat.

Under San Juan County's Critical Area Ordinance, or San Juan County Code (SJCC 18.30.160.B2.c and SJCC 18.30.160.D.b.iv.), the County defers to State guidance for management recommendations for any State-designated priority habitat or species. However, the comprehensive plan for San Juan County requires concentration of development in specific areas and maintains a rural farm landscape elsewhere on the islands. This has been relatively successful in concentrating the high-density development outside of island marble butterfly population areas, and maintaining suitable habitat on Lopez and San Juan Islands.

Based on the aforementioned regulatory protections, we have determined that the inadequacy of existing regulatory mechanisms does not constitute a threat to the island marble butterfly such that listing under the Act is warranted.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Natural threats to the island marble butterfly include the browsing of larval food plants by deer, and impacts of storm tides and tidal surges. Recreational trail use was identified in the petition as a threat; however, there is no evidence that this activity affects island marble butterflies.

Black-tailed deer (*Odocoileus columbianus*) browse on larval food plants and adult nectar plants at most locations occupied by island marble butterflies (Miskelly 2005, p. 16), but the browsing does not appear to be at a level that significantly affects the butterflies.

On February 4, 2006, a storm event with high tides and strong, gusty winds from the north created tidal surges in Griffin Bay, and the coastal lagoon habitat of the island marble butterfly was inundated with water. Logs that had been cast ashore in previous storms, and that provided anchors and structure for the establishment of vegetation, were floated and displaced, and coarse sediments were deposited on the beach, burying food plants and winter pupation sites for the island marble butterfly. Approximately 5 percent of the habitat available to the subspecies was buried, killing any pupae that were present. During the spring of 2006, several adult island marble butterflies were observed in this area (A. Lambert, pers. comm. 2006). Although the new substrate, deposited in February 2006, has become populated by a high density of Puget Sound peppergrass (R.M. Pyle, pers. comm. 2006), no butterfly reproduction was documented in the lagoon habitat during 2006, possibly due to the timing of the revegetation, which occurred after the flight period of the island marble butterfly. The tidal surge was measured as a typical 5- to 10-year event based on a 100-year record; however, the combination of tidal surge and wind gusts greater than 34 mph (54 km/h) created beach-altering conditions that were relatively uncommon. We expect that this site will be colonized by island marble butterflies in 2007.

The natural factors listed above likely do not significantly impact the island marble butterfly population. Therefore, we have determined that there are no other natural or manmade factors that threatened the island marble butterfly such that its listing under the Act is warranted.

Finding

We assessed the best scientific and commercial information available regarding the threats faced by the island marble butterfly. We have reviewed the petition, information available in our files, and information submitted to us during the public comment period following our 90-day petition finding (71 FR 7497; February 13, 2006). We also consulted with recognized butterfly experts, Federal and State resource agencies, and non-governmental organizations with butterfly expertise, and we collected additional survey data.

Actions that may impact island marble butterflies include development for housing, road construction, road maintenance, collisions with vehicles, storm and tidal surges that inundate and bury habitat, herbivory of host plants by deer, loss of habitat to nonnative rabbits, and succession of grassland habitat to shrubs and trees. However, most, if not all, of these impacts are localized. Due to the island marble butterfly's reliance on nonnative mustard species that experience resurgence after ground-disturbing activities, many temporary ground-disturbing activities have short-term effects that do not appear to result in negative long-term impacts to population numbers or distribution.

While the island marble butterfly population has likely always been low (having not been observed prior to 1998), the subspecies has evidently been present on San Juan Island, and possibly Lopez Island, for the past century. This persistence has occurred without deliberate management meant to sustain the butterfly. This suggests that the butterfly has managed to either persist as several small populations or as one core population in the American Camp area for many years, with individual butterflies migrating and establishing satellite populations elsewhere on San Juan Island and on Lopez Island.

Long-term threats are limited to less than 18 percent of the occupied area. The remaining 82 percent of the area occupied by the island marble butterfly is subject to short-term impacts that typically result in increased habitat of non-native mustards through ground disturbance, and increased use by island marble butterflies. This pattern of periodic disturbances is generally

compatible with sustaining the subspecies in the longterm.

The current threats analysis supports a determination that listing the island marble butterfly under the Act is not warranted. We will continue to assess the status of the butterfly by working with NPS, WDFW, conservation organizations, faculty and students from the University of Washington, the Washington State University Extension Service, and all private landowners with an interest in contributing to the conservation of this species. In addition, we will continue to work with the NPS on implementation of the Conservation Agreement for the butterfly. Although we did not rely on efforts identified in this new agreement as a basis for our determination, we anticipate that these efforts will enhance the conservation of the subspecies.

Based on an analysis of the current status and threats to the subspecies, we find that listing the island marble butterfly under the Act is not warranted. We request that you submit any new information concerning the status of or threats to this species to our Western Washington Fish and Wildlife Office (see **ADDRESSES** section) whenever it becomes available. New information will help us monitor the species and encourage its conservation. If an emergency situation develops for this or any other candidate species or species of concern, we will act to provide immediate protection.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Western Washington Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this document is Ted Thomas, U.S. Fish and Wildlife Service, Western Washington Fish and Wildlife Office (see **ADDRESSES** section).

Authority

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

Dated: November 3, 2006.

Marshall P. Jones, Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. E6–19064 Filed 11–13–06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 060621175–6175–01; I.D. 101805A]

Endangered and Threatened Wildlife and Plants; 90–Day Finding for a Petition to List the Kennebec River Population of Anadromous Atlantic Salmon as Part of the Endangered Gulf Of Maine Distinct Population Segment

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

ACTION: Notice of 90–day petition finding; request for information.

SUMMARY: We, NMFS, announce a 90–day finding on a petition to list the Kennebec River population of anadromous Atlantic salmon (*Salmo salar*) as endangered under the Endangered Species Act (ESA) of 1973, as amended. We find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. This normally initiates a formal status review, but as described below under Summary of Previous ESA Actions, in this case, we and the U.S. Fish and Wildlife Service (USFWS) had already initiated a status review of this and other populations, resulting in NMFS' announcement of the completed status review report on September 22, 2006.

DATES: The finding announced in this document was made on November 14, 2006.

FOR FURTHER INFORMATION CONTACT: Mary Colligan, NMFS Northeast Region, 978–281–9116; or Marta Nammack, NMFS Office of Protected Resources, 301–713–1401, ext. 180.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the ESA requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial information to indicate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of receipt of the petition, and the finding is to be published promptly in the **Federal Register**.

In determining whether a petition contains substantial information, we take into account information submitted with and referenced in the petition and all other information readily available in our files. We do not conduct additional research at this point, nor do we subject the petition to critical review. Our ESA implementing regulations at 50 CFR 424.14(b)(1) define ''substantial information'' as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. If the petition is found to present such information, the Secretary of Commerce (Secretary) must conduct a status review of the involved species. In making a finding on a petition to list a species, the Secretary must consider whether such a petition (i) clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (ii) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (iii) provides information regarding the status of the species over all or a significant portion of its range; and (iv) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

In a petition submitted on May 11, 2005, Timothy Watts, Douglas Watts, Ed Friedman, and Kathleen McGee requested that we and the USFWS declare the Kennebec River population of anadromous Atlantic salmon endangered under the ESA and presented the following three main areas of evidence to support their request: (1) historic information on the presence of Atlantic salmon; (2) information on other native migratory fish populations in the Kennebec; and (3) microsatellite DNA analysis of Atlantic salmon in the Kennebec. It is the petitioners' contention that historic observations of Kennebec River Atlantic salmon from the 18th century to the present demonstrate that there was no period in the 19th and 20th centuries during which Atlantic salmon were absent from the Kennebec River. The petition states that populations of native migratory fish species have also persisted in the Kennebec despite being subjected to the same environmental pressures as Atlantic salmon. The petition also contends that microsatellite DNA analysis of tissue samples from 180 wild Atlantic salmon captured in the Kennebec River by the USFWS from 1994 to the present show that wild Kennebec River salmon are

genetically distinct from other hatchery and wild populations of Atlantic salmon in Maine.

Under the ESA, a listing determination can address a species, subspecies, or distinct population segment (DPS) of a vertebrate species (16 U.S.C. 1532(15)). The petition requests protecting the Kennebec River population of Atlantic salmon in addition to the existing Gulf of Maine (GOM) DPS that was previously delineated and listed under the ESA as endangered. A DPS is a vertebrate population that is discrete in relation to the remainder of the species to which it belongs and significant to the species (61 FR 4722; February 7, 1996). We interpret the petition to request listing the Kennebec River population as part of the existing GOM DPS.

We evaluated whether the information provided or cited in the petition met the ESA's standard for ''substantial information.'' We reviewed the information presented in the petition and other readily available biological information on anadromous Atlantic salmon in the Kennebec River to determine whether the petitioned action may be warranted.

General Biology and Status of the Species

The Atlantic salmon, Salmo salar, is in the order Salmoniformes and family Salmonidae. Atlantic salmon is one of only two members of the genus *Salmo* found in North America. The Atlantic salmon is an anadromous fish, spending its first 2 to 3 years in freshwater, migrating to the ocean where it spends typically 2 years, and returning to its natal river to spawn. A non-anadromous variety (recognized in the past by some taxonomists as the subspecies *S. salar sebago*) is found in some lakes and rivers. The other member of the genus *Salmo* is *Salmo trutta*, brown trout, which was introduced from Europe.

Atlantic salmon have a fusiform body shape (i.e., like a spindle, rounded, broadest in the middle and tapering at each end). The shape is somewhat flattened towards the sides and typical of salmonids in general. The head is relatively small, comprising approximately one-fifth of body length. Ventral paired fins are prominent, especially on juveniles.

Parr (juvenile salmon before they enter salt water) have eight to eleven vertical dark bars (known as ''parr marks'') on silvery sides. After smoltification (the physiological process that enables juvenile salmon to transition from freshwater to salt water and enter the sea), the typical silver coloration with small, dark dorsal spots of the sea-run pre-adult predominates. Spawning adults darken to a bronze color after entering freshwater and darken further after spawning. They are often referred to as ''black salmon'' at this stage. The silver coloring returns after re-entering the sea.

Outmigrating Atlantic salmon smolts in Maine average 14 to18 centimeters (cm) in length. The size of returning adults depends on the time spent at sea. Grilse, young salmon returning to freshwater after 1 winter at sea (1SW), average 50 to 60 cm and weigh 1 to 2 kilograms (kg) while 2SW salmon (adult salmon returning after 2 years at sea) range from 70 to 80 cm and 3.5 to 4.5 kg. Salmon that are 3SW (adult salmon returning after 3 years at sea) are 80 to 90 cm long and often weigh more than 7 kg (Baum, 1997).

Historically, the geographic range of the GOM DPS within the United States extended from the Androscoggin River in the south of Maine, northward to the mouth of the St. Croix River on the United States-Canada border (NMFS and USFWS, 1999). This delineation was based on examination of life history, biogeographical, genetic, and environmental information. Zoogeographic maps helped identify boundaries between areas that likely exert different selective pressures on Atlantic salmon populations and have substantial differences in riverine-marine ecosystem structure and function. Key elements to the delineation included: (1) spatial arrangements of river systems to create isolation, and (2) watershed location within ecological provinces and subregions that affect the productivity and ecology of riverine-marine ecosystem complexes (NMFS and USFWS, 1999).

Summary of Previous ESA Actions

In response to a petition submitted in 1993 to list Atlantic salmon under the ESA, NMFS and the USFWS (the Services) completed a review of the species' status in 1995 (USFWS and NMFS, 1999). The Services concluded that the GOM DPS was likely to become endangered. Later in 1995, the Services published a proposed rule to list a GOM DPS of Atlantic salmon in seven Maine rivers as threatened (60 FR 50530; Sept. 29, 1995). In that proposed rule, the State of Maine was invited to prepare a plan to eliminate, minimize, and mitigate threats to Atlantic salmon and their habitat. On December 18, 1997, the Services withdrew the proposed rule to designate the Atlantic salmon GOM DPS as threatened (62 FR 66325; Dec. 18, 1997). The withdrawal was based on an evaluation of the information then known about the biological status of the species, as well as consideration of ongoing actions by international, State, Federal, and private entities, including the State's Atlantic Salmon Conservation Plan for Seven Maine Rivers (Conservation Plan) (MASCP, 1997). The Services committed to review this decision on an annual basis.

In January 1999, the Services received the State of Maine's 1998 Annual Progress Report on implementation of the Conservation Plan (ASC, 1998). After review of the Annual Report, public comments, and a 1999 Atlantic salmon status review report (NMFS and USFWS, 1999), the Services determined that the species' status was more precarious than indicated by the available information at the time of the December 1997 determination not to list the species (64 FR 62627). On November 17, 1999, the Services proposed to list the Atlantic salmon GOM DPS, this time as an endangered species. After review of public comments and consideration of the best available scientific and commercial information and data, the Services published a final rule on November 17, 2000, listing the Atlantic salmon GOM DPS as an endangered species (65 FR 69459).

The GOM DPS includes all naturally reproducing wild populations and those river-specific hatchery populations of Atlantic salmon having historical, river-specific characteristics found north of and including tributaries of the lower Kennebec River, to, but not including, the mouth of the St. Croix River at the United States-Canada border. The Penobscot and its tributaries downstream from the site of the Bangor Dam are included in the range of the GOM DPS (65 FR 69459; November 17, 2000). At the time of the listing, there were at least eight rivers within the geographic range of the GOM DPS that still contained functioning wild salmon populations, although at substantially reduced abundance levels (65 FR 69459; November 17, 2000). These remnant populations are located in the Dennys, East Machias, Machias, Pleasant, Narraguagus, Ducktrap, and Sheepscot rivers and in Cove Brook, Maine (65 FR 69459; November 17, 2000). Salmon from the GOM DPS taken for hatchery rearing and broodstock purposes, and any captive progeny of these salmon, are included as part of the GOM DPS. In the final rule listing the Atlantic salmon GOM DPS (65 FR 69459), the Services deferred the determination of inclusion of fish that inhabit the mainstem and tributaries of the Penobscot River (above the site of the former Bangor Dam (65 FR 69459 at 69464; November 17, 2000)) and other rivers, which are outside the

range of the GOM DPS. The deferred decision reflected the need for further analysis of scientific information, including a detailed genetic characterization of the Penobscot population.

In response to the availability of new genetic data, the Services convened a Biological Review Team (BRT) to conduct a review of that new information and to determine the status of Atlantic salmon in the Penobscot River, Kennebec River, and other rivers not currently included in the GOM DPS. The BRT, consisting of biologists from the Maine Atlantic Salmon Commission, the Penobscot Indian Nation, NMFS, and USFWS, prepared a written draft status review report for the Services. The information presented in the petition, along with all other relevant scientific data, was examined by the BRT in its preparation of a status review report. We announced the availability of the completed status review report on September 22, 2006 (71 FR 55431), after the draft status review report had been peer reviewed and peer review comments had been addressed.

A status review report is an evaluation of the available information about the biological vulnerability of a species, subspecies, or DPS. Information considered during a status review includes demographic information such as abundance, reproductive success, age structure, and distribution. A status review report considers both historical and recent trends in these parameters, to the extent that this information is available. The status review report must also evaluate the current and potential threats facing the species and ongoing efforts to protect the species, subspecies, or DPS.

The Petition

The petition requested that the Services protect the Kennebec River population of anadromous Atlantic salmon under the ESA. Although we have already conducted a status review of this and other populations (71 FR 55431; September 22, 2006), the ESA requires that we respond to a petition by publishing a **Federal Register** notice with our finding on the petition.

The Services examined the information contained in the petition as well as other genetic data readily available to the Services. This petition presents historic information to support its contention that anadromous Atlantic salmon have persisted in the Kennebec River since the 18th century. The information presented includes, but is not limited to, historical newspaper reports; summaries collected by historians on anecdotal reports pertaining to the presence of Atlantic salmon in the drainage; historic personal diaries; historic Maine statutes; historic petitions to the Maine legislature regarding Atlantic salmon fisheries; and more contemporary biological studies (Atkins, 1867; Ulrich, 1990; Havey, 1968; Foye *et al.*, 1969; Beland, 1986; Buckley, 1998; King *et al.*, 1999). The petition also cites observations made by the National Academy of Sciences (NAS) in 2004 that wild Atlantic salmon are recolonizing the Kennebec mainstem. The NAS cites National Research Council (NRC, 2002) data and associated reports as the basis for these conclusions.

The second area of information presented in the petition to support the petitioners' request is the persistence of other native migratory fish species in the Kennebec River. The petition specifically discusses Atlantic sturgeon, sea lamprey, shortnose sturgeon, striped bass, white perch, American shad, rainbow smelt, tomcod, alewives, and blueback herring. The petition asserts that the Kennebec River population of anadromous Atlantic salmon must have persisted if these native anadromous fish species have been able to persist over time while being subjected to the same environmental pressures as native Atlantic salmon. With respect to dams, the petition cites studies by Yoder *et al.* (2004) and Squiers (1988) that demonstrate that other native migratory fish populations have persisted despite manmade obstructions to passage. The petition asserts that it is highly unlikely that Atlantic salmon populations would be completely extirpated as a result of dams when other fish species have been able to persist. The same rationale is presented as support for the persistence of Atlantic salmon in the Kennebec River with respect to other threats such as degraded water quality.

Genetic analysis used to characterize Atlantic salmon in the Kennebec River is the third area for which the petition presents information to support the assertion that the Kennebec River population of anadromous Atlantic salmon should be listed under the ESA as endangered. The petition presents information from the NRC report on the genetic status of Maine's salmon. The NRC report presents results of genetic assignment tests that were performed on Atlantic salmon from different Maine drainages. The petition asserts that these data show that the salmon populations of the Kennebec drainage are more distinct than are those of the current GOM DPS rivers. Therefore, the petition interprets the NRC report to suggest that there is a remnant population of wild salmon in the Kennebec that should be incorporated into any restoration effort. The petition asserts that the data collected from the assignment testing contradict the hypothesis that Kennebec salmon are simply strays from the Penobscot or progeny of strays from the Penobscot. The petition also states that ''The assignment test results of King et al. (1999) show that the Kennebec collection is no less distinct than any other Maine river collection studied [and that] the Kennebec collection appears at least or more ''distinct'' as any other Maine collection studied except for the Penobscot.'' The petition also cites a memo from T. King to J. Marancik and Kings' genetics data from 1999 and 2000 as support for its assertion that there is a stable reproducing population in the Kennebec that is not simply representative of strays from the Penobscot. The petition asserts that if the Kennebec collection was comprised solely of Penobscot strays or their offspring, then it is likely that fish in the Kennebec would be genetically indistinguishable from Penobscot strays.

Assessment of Petition

The primary request of the petitioners appears to be that Atlantic salmon in the Kennebec River warrant protection under the ESA. We interpret the petition to request listing the Kennebec River population of anadromous Atlantic salmon as part of the existing GOM DPS, previously listed as endangered under the ESA. The petition includes scientific data, primarily genetic analysis regarding the Kennebec River population, that has become available since the 1999 status review and subsequent listing determination for the GOM DPS in 2000. Further, the petitioners provide information that the Kennebec River population may be part of the existing GOM DPS. We specifically consider the genetic analysis presented in the petition to represent substantial scientific information. After reviewing the information contained in the petition, as well as other scientific information readily available to us, we have determined that the petition presents substantial scientific information indicating that the petitioned action may be warranted.

As stated previously, the status review report prepared by the BRT examined the information contained in the petition, along with all other relevant scientific data. We made this status review report available to the public on September 22, 2006 (71 FR 55431). The Services jointly administer the ESA as it applies to anadromous Atlantic salmon. NMFS, having received

the status review from the BRT, is responsible for determining and preparing any appropriate action under the ESA. NMFS is currently considering the information presented in the status review, the comments from peer reviewers, and the response of the BRT to the peer reviewers to determine if action under the ESA is warranted.

Authority

The authority for this action is the ESA, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 7, 2006.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E6–19194 Filed 11–13–06; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 71, No. 219

Tuesday, November 14, 2006

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

November 7, 2006.

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) 720–8681.

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.

Forest Service

Title: Public Attitudes, Beliefs, and Values about National Forest System Land.

OMB Control Number: 0596–NEW.

Summary of Collection: The National Environmental Policy Act of 1969, the National Forest Management Act of 1976, and the 2005 NFMA Planning Guide give legal authority for information collection in support of the forest plan revision process in the Southwestern Region. The purpose of this survey is to provide Southwestern Region natural forest land managers and planners with scientifically credible information from a broad and diverse representation of the public, as well as from specific stakeholder groups.

Need and Use of the Information: Information collected will focus on public attitudes, beliefs, and values that people have for public land and public land use, how those values are affected by public land management, and acceptable tradeoffs in developing alternative management plans. This information is critical to planning and implementing public policy related to national forests in the Southwestern Region. Data collected with these survey instruments will provide a baseline from which to monitor national forest use and management as affected by changes in social and economic conditions.

Description of Respondents: Individuals or households.

Number of Respondents: 20,202.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 10,101.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–19131 Filed 11–13–06; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of a Request for Extension of a Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice announces the Foreign Agricultural Service's intention to request an extension for a currently approved information collection in support of the regulations governing the entry of raw cane sugar under the tariff-rate quota (TRQ) into the United States.

DATES: Comments on this notice must be received by January 16, 2006 to be assured of consideration.

Additional Information and Comments:

Contact Ron Lord, Deputy Director, Import Policies and Programs Division, AgStop 1021, U.S. Department of Agriculture, Washington, DC 20250–1021 or telephone (202) 720–2916, fax to (202) 720–0876, or e-mail *Ronald.Lord@fas.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Certificate for Quota Eligibility.

OMB Number: 0551–0014.

Expiration Date of Approval: March 31, 2007.

Type of Request: Extension of a currently approved information collection.

Abstract: The Harmonized Tariff Schedule of the United States (HTS) authorizes the Secretary of Agriculture to establish the quantity of raw cane sugar, which may be entered at the TRQ duty rates. The terms under which Certificates for Quota Eligibility (CQEs) will be issued to foreign countries that have been allocated a share of the TRQ are set forth in 15 CFR Part 2011, Allocation of Tariff-rate Quota on Imported Sugars, Syrups, and Molasses, Subpart A—Certificates of Quota Eligibility. The authority for issuing CQEs is Additional U.S. Note 5(b)(iv) to chapter 17 of the HTS. The regulation, promulgated by the United States Trade Representative, provides for the issuance of CQEs by the Secretary of Agriculture, and in general prohibits sugar subject to the TRQ from being imported into the United States or withdrawn from a warehouse for consumption at the TRQ duty rates unless such sugar is accompanied by a CQE. CQEs are issued to foreign countries by the Director of the Import Policies and Programs Division, Foreign Agriculture Service, or his or her designee. The issuance of CQEs is in such amounts and at such times as the

Director determines are appropriate to enable the foreign country to fill its quota allocation for such quota period in a reasonable manner, taking into account traditional shipping patterns, harvesting period, U.S. import requirements, and other relevant factors. The information required to be collected on the CQE is used to monitor and control the imports of raw can sugar. Proper completion of the CQE is mandatory for those foreign governments that are eligible and elect to export raw cane sugar to the United States under the TRQ.

Estimate of burden: The public reporting burden for the collection varies in direct relation to the number of CQEs issued.

Respondents: Foreign governments.

Estimated number of respondents: 40 (i.e., number of countries receiving a TRQ allocation).

Estimated number of responses per respondent: 30 per fiscal year.

Estimated total annual reporting burden: 200 hours.

Requests for Comments: Send comments regarding (a) Whether the information collection 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 the burden of the collection of information including validity of the methodology and assumption used; (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 those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Copies of this information collection may be obtained from Tamoria Thompson-Hall, the Agency Information Collection Coordinator, at (202) 690–1690.

Comments may be sent to Ron Lord, Deputy Director, Import Policies and Programs Division, AgStop 1021, U.S. Department of Agriculture, Washington, DC 20250–1021 or telephone (202) 720–2916 or e-mail *Ronald.Lord@fas.usda.gov.* All comments received will be available for public inspection in room 5531–S at the above address. Persons with disabilities who require an alternative means of communication for information (Braille, large print, aduiotape, etc.) should contact USDA's target center at (202) 720–2600 (voice and TDD). All responses to this notice will be summarized and included in the request for OMB approval. All comments also will become a matter of public record.

FAS is committed to complying with the Government Paperwork Elimination Act which requires Government agencies, to the maximum extent feasible, to provide the public the option of electronically submitting information collection. CQEs permit exporters to ship raw cane sugar to the United States at the U.S. price, which is significantly higher than the world price for raw cane sugar. Therefore, in contrast to most information collection documents, CQEs have a monetary value equivalent to the substantial profits to exporters who can fill their raw cane sugar allocations under the TRQ. CQEs have always been carefully handled as secure documents, and issues only to foreign government-approved certifying authorities. The Department does not plan to make CQEs available electronically in order to prevent a potential proliferation of invalid CQEs, which could undermine the integrity of the TRQ system.

Dated: Signed at Washington, DC on November 7, 2006.

Michael W. Yost,

Administrator, Foreign Agricultural Service.

[FR Doc. 06–9190 Filed 11–13–06; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF COMMERCE

International Trade Administration

A–588–804

Ball Bearings and Parts Thereof from Japan: Notice of Court Decision Not in Harmony

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 23, 2006, the United States Court of International Trade affirmed the Department of Commerce's (the Department's) redetermination on remand of the final results of the administrative review of the antidumping duty order on ball bearings and parts thereof from Japan. *See NSK Ltd., et al., v. United States*, Court No. 04–00519, slip op. 06–157 (CIT 2006). This case arises from the Department's final results of *Antifriction Bearings and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part, and Determination To Revoke Order in Part*, 69 FR 55574 (September 15, 2004) (*Final Results*). The Department is now issuing this notice of court decision not in harmony with the Department's Final Results.

EFFECTIVE DATE: November 14, 2006.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0410 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 15, 2004, the Department published the final results of the administrative review of the antidumping duty order on ball bearings and parts thereof from Japan for the period May 1, 2002, through April 30, 2003. See *Final Results*, 69 FR 55574. Koyo Seiko Co., Ltd., and Koyo Corp. of U.S.A. (hereafter ''Koyo'') filed a lawsuit challenging the final results. On January 31, 2006, the United States Court of International Trade (CIT) remanded the Department's determination and ordered the Department to not treat Koyo's positive lump–sum billing adjustments differently than Koyo's negative lump–sum billing adjustments. See *NSK Ltd., et al., v. United States*, 416 F. Supp. 2d 1334 (CIT 2006) (*NSK*). In accordance with the CIT's remand order, the Department filed its remand redetermination on March 31, 2006. On October 23, 2006, the CIT affirmed the Department's remand results.

Decision Not in Harmony

Although the CIT ruled that our decision in the *Final Results* to treat Koyo's positive lump–sum billing adjustments differently than Koyo's negative lump–sum billing adjustments was not in accordance with law, the CIT affirmed our decision in the remand redetermination to deny all of Koyo's lump–sum billing adjustments.

The changes to our calculations with respect to Koyo resulted in a change in the weighted–average margin for ball bearings and parts thereof from 5.56 percent to 5.55 percent for the period of review. Accordingly, absent an appeal or, if appealed, upon a ''conclusive'' decision by the Court, we will amend our final results of this review to reflect the recalculation of the margin for Koyo.

Suspension of Liquidation

The United States Court of Appeals for Federal Circuit (CAFC) has held that the Department must publish notice of a decision of the CIT or the CAFC which is not in harmony with the Department's determination. See *The Timken*

Company v. United States, 893 F.2d 337, 341 (Fed. Cir. 1990). Publication of this notice fulfills that obligation. The CAFC also held that, in such a case, the Department must suspend liquidation until there is a ''conclusive'' decision in the action. *Id.* Therefore, the Department must suspend liquidation pending the expiration of the period to appeal the CIT's October 23, 2006, decision or pending a final decision of the CAFC if that decision is appealed.

Because entries of ball bearings and parts thereof from Japan produced by, exported to, or imported into the United States by Koyo are currently being suspended pursuant to the court's injunction order, the Department does not need to order U.S. Customs and Border Protection to suspend liquidation of affected entries. The Department will not order the lifting of the suspension of liquidation on entries of ball bearings and parts thereof made during the review period before a court decision in this lawsuit becomes final and conclusive.

We are issuing and publishing this notice in accordance with section 516A(c)(1) of the Tariff Act of 1930, as amended.

Dated: November 6, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–19186 Filed 11–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–846)

Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On May 8, 2006, the Department of Commerce (''the Department'') published the preliminary results of the 2004/2005 administrative and new shipper reviews of the antidumping duty order on brake rotors from the People's Republic of China (PRC). *See Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the 2004/2005 Administrative Review and Preliminary Notice of Intent to Rescind the 2004/2005 New Shipper Review*, 71 FR 26736 (May 8, 2006) (''*Preliminary Results/Intent to Rescind*''). At that time, we invited interested parties to comment on our preliminary results and preliminary notice of intent to rescind the new shipper review. Based on our analysis of the comments received, we have made certain changes to our calculations. The final dumping margins for these reviews are listed in the ''Final Results of Review'' section below.

EFFECTIVE DATE: November 14, 2006.

FOR FURTHER INFORMATION CONTACT: Erin Begnal or Michael Quigley, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1442 and (202) 482–4047, respectively.

SUPPLEMENTARY INFORMATION:

Background

The period of review (''POR'') is April 1, 2005, through March 31, 2006. We published the preliminary results in the 2004/2005 administrative review and preliminary intent to rescind the new shipper review in the **Federal Register** on May 8, 2006. *See Preliminary Results/Intent to Rescind*, 71 FR 26736.

On June 19, 2006, we received a case brief on behalf of the petitioner, the Coalition for the Preservation of American Brake Drum and Rotor After Market Manufacturers (''petitioner''). In addition, we received a case brief on behalf of respondents China National Industrial Machinery Import & Export Corporation (''CNIM''), Qingdao Gren (''Group'') Co. (''Gren''), Shanxi Fengkun Metallurgical Limited Company and Shanxi Fengkun Foundry Limited Company (''Fengkun''), Shenyang Yinghao Machinery Co., Ltd. (''Yinghao''), Laizhou Auto Brake Equipment Company (''LABEC''), Yantai Winhere Auto–Part Manufacturing Co., Ltd. (''Winhere''), Longkou Haimeng Machinery Co., Ltd. (''Haimeng''), Laizhou Luqi Machinery Co., Ltd. (''Luqi''), Laizhou Hongda Auto Replacement Parts Co. (''Hongda''), Hongfa Machinery (''Dalian'') Group Co., Ltd. (''Hongfa''), Qingdao Meita Automotive Industry Co., Ltd. (''Meita''), and Shandong Huanri (''Group'') General Company, Shandong Huanri Group Co., Ltd., and Laizhou Huanri Automobile Parts Co., Ltd. (''Huanri''). Additionally, we received a case brief on behalf of Wecly International, an importer of subject merchandise, on June 19, 2006.

On June 22, 2006, we requested that all mandatory respondents in the administrative and new shipper reviews submit consumption data, for the POR, for both bentonite and coal powder. On July 5, 2006, we received responses to our June 22, 2006, questionnaire from Haimeng, Xiangfen Hengtai Brake System Co., Ltd. (''Hengtai''), Hongfa, Meita, Winhere and Shanxi Zhongding Auto Parts Co., Ltd. (''SZAP''). On July 11, 2006, we received rebuttal briefs from the petitioners and from LABEC, Winhere, Haimeng, Luqi, Hongda, Hongfa, Meita, and Huanri (collectively, the ''Trade Pacific respondents'').

On July 10, 2006, we issued a request for comments on the Department's proposed methodology to value bentonite and coal powder as direct materials, as well as the consumption data obtained from respondents. On July 17, 2006, the Trade Pacific respondents and the petitioner each filed comments. On July 24, 2006, both the Trade Pacific respondents and the petitioner filed rebuttal comments.

In the case and rebuttal briefs received from the parties after the *Preliminary Results/Intent to Rescind*, we received extensive comments on the Department's decision to select respondents via sampling. For further details on these comments, as well as others, and the Department's positions on each, please see the memorandum to David M. Spooner, Assistant Secretary for Import Administration, from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, regarding *Issues and Decision Memorandum for the Final Results in the 2004/2005 Administrative Review and New Shipper Review of Brake Rotors from the People's Republic of China* (November 6, 2006) (''*Decision Memorandum*'') and the company–specific analysis memoranda, which are on file in Import Administration's Central Records Unit, room B–099 of the Department of Commerce building. The *Decision Memorandum* is also available at http://ia.ita.doc.gov.

Scope of the Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters) and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all–terrain vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi–finished rotors are those on which the surface is not entirely smooth, and have

undergone some drilling. Unfinished rotors are those that have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') that produces vehicles sold in the United States. (*e.g.*, General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are currently classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* (''HTSUS'').[1] Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Partial Rescission of Administrative Review

We are rescinding the administrative review with respect to Longkou Jinzheng Machinery Co., Ltd.; Xianghe Xumingyuan Auto Parts Co.; National Automotive Industry Import & Export Corporation or China National Automotive Industry Import & Export Corporation, and manufactured by any company other than Shandong Laizhou Capco Industry; Shandong Laizhou Capco Industry, and manufactured by any company other than Shandong Laizhou Capco Industry; Laizhou Luyuan Automobile Fittings Co., and manufactured by any company other than Laizhou Luyuan Automobile Fittings Co. or Shenyang Honbase Machinery Co., Ltd.; Shenyang Honbase Machinery Co., Ltd., and manufactured by any company other than Laizhou Luyuan Automobile Fittings Co., or Shenyang Honbase Machinery Co., Ltd.; Dixion Brake System (Longkou) Ltd.; and Laizhou Wally Automobile Co., Ltd. We are rescinding these reviews either because we found no evidence that any of these companies made shipments of the subject merchandise during the POR, in accordance with 19 CFR 351.213(d)(3), or these companies consented to a rescission of the administrative review pursuant to 19 CFR 351.214(j).

Bona Fide Sale Analysis—SZAP

For the reasons stated below, we continue to find that SZAP's reported U.S. sale during the POR does not appear to be a *bona fide* sale, based on the totality of the facts on the record. *See, e.g., Glycine From The People's Republic of China: Rescission of Antidumping Duty New Shipper Review of Hebei New Donghua Amino Acid Co., Ltd.*, 69 FR 47405, 47406 (August 5, 2004). In examining the totality of the circumstances, the Department examines whether the transaction is ''commercially reasonable'' or ''atypical.'' *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty New Shipper Review and Final Rescission of Antidumping Duty New Shipper Review*, 68 FR 1439, 1440 (January 10, 2003). Atypical or non–typical in this context means unrepresentative of a normal business practice. *See Am. Silicon Techs. v. United States*, 110 F. Supp. 2d 992, 995 (CIT 2000). The Department considers a number of factors in its *bona fides* analysis, ''all of which may speak to the commercial realities surrounding an alleged sale of subject merchandise.'' *See Hebei New Donghua Amino Acid Co., Ltd. v. United States*, 374 F. Supp. 2d 1333, 1342, (CIT 2005) (''*New Donghua*'') (citation omitted).

Although some *bona fides* issues may share commonalities across various Department cases, the Department examines the *bona fide* nature of a sale on a case–by-case basis, and the analysis may vary with the facts surrounding each sale. *See Tianjin Tiancheng Pharmaceutical Co., Ltd. v. United States*, 366 F. Supp. 2d 1246, 1260 (CIT 2005) (''TTPC'') (citing *Certain Preserved Mushrooms From the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 68 FR 41304 (July 11, 2003), and accompanying Issues and Decision Memorandum at 20). In *TTPC*, the court affirmed the Department's practice of considering that ''any factor which indicates that the sale under consideration is not likely to be typical of those which the producer will make in the future is relevant,'' and that ''the weight given to each factor investigated will depend on the circumstances surrounding the sale.'' *Id.*, 366 F. Supp. 2d at 1250, 1263. In *New Donghua*, the court upheld the Department's practice of ''examin{ing} objective, verifiable factors to ensure that a sale is not being made to circumvent an antidumping duty order.'' *New Donghua*, 374 F. Supp. 2d at 1339.

In examining the *bona fide* nature of SZAP's sale, we find that: 1) the difference in the sales price of SZAP's single POR sale as compared to the prices of its subsequent sales; 2) the quantity of its single POR sale as compared to its subsequent sales; 3) questionable sales documentation pertaining to SZAP's U.S. sale; and finally, 4) other indicia of a non–*bona fide* transaction, all demonstrate that the single sale under review was not *bona fide*. *See* Memorandum to James C. Doyle through Christopher D. Riker from Erin C. Begnal regarding *Bona Fides Analysis and Intent to Rescind New Shipper Review of Brake Rotors from the People's Republic of China for Shanxi Zhongding Auto Parts Co., Ltd.* (May 1, 2006). Therefore, we find that this sale does not provide a reasonable or reliable basis for calculating a dumping margin.

For the reasons mentioned above, the Department continues to find that SZAP's sole U.S. sale during the POR was not a *bona fide* commercial transaction and is rescinding the new shipper review of SZAP. *See Decision Memorandum*, at Comment 10.

Separate Rates

In our *Preliminary Results*, we found that all respondents except Huanri, Qingdao Rotec Auto Parts Co., Ltd. (''Rotec''), and China National Machinery & Equipment Import & Export (Xianjiang) Corporation's exports except for those produced by Zibo Botai Manufacturing Co., Ltd. (''Xianjiang/Other than Zibo''), qualified for separate rates. *Preliminary Results*, 71 FR at 26741.

On March 8, 2006, Huanri filed a letter with the Department indicating that it wished to cancel the scheduled verification before it began. Huanri acknowledged in this letter that it understood, because of the verification cancellation, that the Department may find that Huanri did not cooperate to the best of its ability, pursuant to section 776(b) of the Tariff Act of 1930, as amended (''the Act''). Therefore, in the preliminary results, the Department found that Huanri did not demonstrate a *de facto* absence of government control with respect to making its own decisions in key personnel selections, the use of its profits from the proceeds of export sales, and the authority to

[1] As of January 1, 2005, the HTS classification for brake rotors (discs) changed from 8708.39.50.10 to 8708.39.50.30. *See HTSUS (2005)*, available at *www.usitc.gov*.

negotiate and sign contracts and other agreements. This is consistent with the Department's practice. *See Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586 (May 2, 1994). Huanri is therefore not entitled to a separate rate. *See Decision Memorandum*, at Comment 11; see also *Preliminary Results*, 71 FR at 26741. Because Rotec and Xianjiang/Other than Zibo failed to respond to the quantity and value questionnaire and did not participate further in this review, we did not have the necessary information to determine their separate rate status. Therefore, we find that Rotec and Xianjiang/Other than Zibo are not eligible to receive separate rates. Because we continue to find that Huanri, Rotec, and Xianjiang/Other than Zibo do not qualify for separate rates, these respondents are deemed to be part of the PRC–wide entity and thus, are subject to the PRC–wide rate.

The PRC–wide rate will apply to all entries of subject merchandise except for entries from PRC producers/exporters that have their own calculated rate.

Adverse Facts Available

Section 776(a)(1) of the Act provides that, when necessary information is not available on the record, the Department may use the facts otherwise available (''FA'') to reach a determination. Section 776(a)(2) of the Act provides that, if an interested party or any other person: (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable results under this title.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department shall promptly inform the party submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that party with an opportunity to remedy or explain the deficiency. Section 782(d) further states that, if the party submits further information that is unsatisfactory or untimely, the administering authority may, subject to subsection (e), disregard all or part of the original and subsequent responses. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to make a determination but does not meet all the applicable requirements established by the administering authority if (1) the information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable results; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority with respect to the information; and (5) the information can be used without undue difficulties.

Section 776(b) of the Act provides that, in selecting from among the FA, the Department may use an inference that is adverse to the interests of the respondent if it determines that a party has failed to cooperate to the best of its ability. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See Statement of Administrative Action* (''SAA'') accompanying the URAA, H. Doc. No. 316, 103d Cong., 2d Session, at 870 (1994).

In determining whether a party failed to cooperate to the best of its ability, the Department considers whether a party could comply with the request for information, and whether a party paid insufficient attention to its statutory duties. *See Pacific Giant, Inc. v. United States*, 223 F. Supp. 2d 1336, 1342 (August 6, 2002). The focus of section 776(b) of the Act is on a respondent's failure to cooperate to the best of its ability, rather than just its failure to provide the requested information. *See Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed. Cir. 2003). An adverse inference may include reliance on information derived from the petition, the final results in the investigation, any previous review, or any other information placed on the record. See Section 776(b) of the Act.

Hengtai

Hengtai withheld and failed to provide information concerning its relationship with SZAP, as well as sales and FOP information for its sales of merchandise produced by SZAP. Moreover, by providing information that was contradicted by evidence discovered at the verification of another company (*i.e.*, SZAP), Hengtai significantly impeded the Department's ability to calculate a relevant and meaningful margin. Therefore, application of facts available is warranted pursuant to sections 776(a)(2)(A), (B), and (C) of the Act. Additionally, because Hengtai failed to cooperate to the best of its ability by withholding necessary information in its possession in response to the Department's specific questions, the application of adverse facts available, pursuant to section 776(b) of the Act, is also warranted. *See* Memorandum to James C. Doyle, Director, AD/CVD Operations, Group 9, through Christopher D. Riker, Program Manager, AD/CVD Operations, Group 9, from Erin C. Begnal, Case Analyst, AD/CVD Operations, Group 9, regarding *2004/2005 Antidumping Administrative Review of Brake Rotors from the People's Republic of China: Preliminary Application of Adverse Facts Available to Xiangfen Hengtai Brake System Co., Ltd.* (May 1, 2006).

PRC–Wide Entity

In the initiation notice, the Department stated that if one of the companies on which we initiated a review does not qualify for a separate rate, all other exporters of brake rotors from the PRC who have not qualified for a separate rate will be deemed to be covered by this review as part of the single PRC–wide entity of which the named exporter is a part. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 30694 (May 27, 2005). For these final results, Rotec, Xianjiang/Other than Zibo, and Huanri are not eligible to receive separate rates and are thus considered to be part of the PRC–wide entity, subject to the PRC–wide rate.

As explained above, the PRC–wide entity (including Rotec, Xianjiang/Other than Zibo, and Huanri) did not respond to the Department's requests for information and precluded the Department from verifying information that was submitted. Therefore, we find that the PRC–wide entity withheld requested information from the Department and did not cooperate to the best of its ability. Because the PRC–wide entity did not cooperate to the best of its ability in the proceeding, the Department finds it necessary, pursuant to sections 776(a)(2)(A) and (D), and 776(b) of the Act, to use adverse facts available as the basis for these final results of review for the PRC–wide entity.

Corroboration

In accordance with the Department's practice, we have assigned the rate for the PRC–wide entity to Hengtai as adverse facts available. *See, e.g., Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review: Brake Rotors from the People's Republic of China* , 64 FR 61581 (November 12, 1999), and accompanying Issues and Decision Memorandum, at comment 1.

In selecting a rate for adverse facts available, the Department selects a rate that is sufficiently adverse ''as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Final Results of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). Consistent with section 776(c) of the Act, this rate is the highest dumping margin from any segment of this proceeding and was established in the less–than-fair–value investigation based on information contained in the petition, and corroborated in the final results of the first administrative review. *See Brake Rotors From the People's Republic of China: Rescission of Second New Shipper Review and Final Results and Partial Rescission of First Antidumping Duty Administrative Review*, 64 FR 61581, 61585 (November 12, 1999).

For the reasons stated in the *Preliminary Results*, the Department continues to find this rate to be both reliable and relevant, and, therefore, to have probative value in accordance with the SAA. *See* SAA, at 870; *see also Preliminary Results*. We received no comments on our preliminary analysis of this rate for purposes of these final results. Therefore, we determine that the rate of 43.32 percent is still reliable, relevant, and, has probative value within the meaning of section 776(c) of the Act. Accordingly, for these final results we continue to assign the rate of 43.32 percent to Hengtai and the PRC–wide entity (including Rotec, Xianjiang/Other than Zibo and Huanri) as adverse facts available.

Analysis of Comments Received

A list of the issues that parties raised, and to which we responded in the *Decision Memorandum*, accompanies this notice and is attached as Appendix 1. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on the comments received from the interested parties, the Department has made company–specific changes to the margin calculation for Hongfa. Additionally, based on information submitted since the *Preliminary Results*, some surrogate values have changed. Specifically, we have revised the surrogate values for steel scrap, cartons, bentonite, coal powder and pallet wood. *See Decision Memorandum* at comments 4, 5, 6, 7, and 8.

Final Results of Review

We determine that the following percentage margins exist on exports of brake rotors from the PRC for the period April 1, 2004, through March 31, 2005:

BRAKE ROTORS FROM THE PRC

Individually Reviewed Exporters 2004/2005 Administrative Review	Weighted–Average Margin (Percent)
Longkou Haimeng Machinery Co., Ltd.	5.29
Xiangfen Hengtai Brake System Co., Ltd.	43.32
Hongfa Machinery (Dalian) Co., Ltd.	13.59
Qingdao Meita Automotive Industry Company, Ltd.	0.03 (*de minimis*)
Yantai Winhere Auto–Part Manufacturing Co., Ltd.	0.01 (*de minimis*)

''Sample Rate'' Exporters 2004/2005 Administrative Review	''Sample Rate'' Margin (Percent)
China National Industrial Machinery Import & Export Corporation	8.90
Laizhou Automobile Brake Equipment Co., Ltd.	8.90
Laizhou Hongda Auto Replacement Parts Co., Ltd.	8.90
Laizhou City Luqi Machinery Co., Ltd.	8.90
Longkou TLC Machinery Co., Ltd.	8.90
Qingdao Gren (Group) Co.	8.90
Shanxi Fengkun Metallurgical Limited Company	8.90
Shenyang Yinghao Machinery Co.	8.90
Zibo Golden Harvest Machinery Limited Company	8.90
Zibo Luzhou Automobile Parts Co., Ltd.	8.90

PRC–Wide Rate	Margin (Percent)
PRC–Wide Rate	43.32

[2] The PRC-wide entity includes Rotec, Xianjiang/Other than Zibo, and Huanri.

For details on the calculation of the antidumping duty weighted–average margin for each company, see the respective company's *Analysis Memorandum for the Final Results of the 2004/2005 Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China*, November 6, 2006.

Assessment Rates

The Department shall determine, and US Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we calculated importer- or customer–specific ad valorem duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. Where the respondent did not report actual entered value, we calculated individual importer- or customer–specific assessment rates by aggregating the dumping margins calculated for all of the U.S. sales examined and dividing that amount by the total quantity of the sales examined.

In accordance with 19 CFR 351.106(c)(2), we will instruct CBP to liquidate, without regard to antidumping duties, all entries of subject merchandise during the POR for which the importer–specific assessment rate is zero or *de minimis (i.e.*, less than 0.50 percent). To determine whether the per–unit duty assessment rates are *de minimis*, we calculated importer- or customer- specific ad valorem ratios based on export prices. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of these final results of review.

The following deposit rates shall be required for merchandise subject to the order, entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(1) and (a)(2)(B) of the Act: (1) the cash deposit rate for Meita and Winhere will be zero; (2) the cash deposit rate for Haimeng, Hentai, Honfa, and the ''sample rate'' exporters will be the rate indicated above; (3) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (4) the cash deposit rate for

the PRC NME entity will continue to be the PRC–wide rate (*i.e.*, 43.32 percent); and (5) the cash deposit rate for non–PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC producer that supplied the exporter.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice serves as the final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and in the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

These results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 6, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I

List of Issues in Decision Memorandum

General Issues

Comment 1: Sampling Methodology
A. The Department's Decision to Sample
B. Probability–Proportional-to–Size Methodology
C. Including Adverse Facts Available in the Sample Rate
D. Sampling's Effect on Revocation and Cash Deposit Rates
Comment 2: Surrogate Value for Labor Rate
Comment 3: Surrogate Value for Pig Iron
Comment 4: Surrogate Value for Steel Scrap

Comment 5: Surrogate Value for Plywood
Comment 6: Surrogate Value for Cartons
Comment 7: Bentonite and Carbon Powder as Raw Materials or Overhead Expense

Company–Specific Issues

Comment 8: Hongfa - Pallet Wood
Comment 9: Haimeng - Valuation of Components Supplied by U.S. Customers

Comment 10: SZAP - Bona Fides of New Shipper Sale
Comment 11: Hengtai, Rotec and Xianjiang - Denial of Separate Rates
Comment 12: Meita - Valuation of Ferro–Manganese
Comment 13: Cash Deposit Rate for Xianjiang

[FR Doc. E6–19187 Filed 11–13–06; 8:45 am]

Billing Code: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–868)

Folding Metal Tables and Chairs from the People's Republic of China: Notice of Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 14, 2006.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Matthew Quigley, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–4243 or (202) 482–4551, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 21, 2005, the Department of Commerce (''the Department'') published the initiation of the administrative review of the antidumping duty order on folding metal tables and chairs from the People's Republic of China (''PRC''). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 42028 (July 21, 2005). On July 10, 2006, the Department published the preliminary results. *See Folding Metal Tables and Chairs from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 38852 (July 10, 2006). This review covers the period June 1, 2004, through May 31, 2005. The final results are currently due by November 7, 2006.

Extension of Time Limit for Final Results of Review

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), the Department shall make a final determination in an administrative review of an antidumping duty order within 120 days after the date on which the preliminary determination is published. The Act further provides, however, that the Department may extend that 120-day period to 180 days if it determines it is not practicable to complete the review within the foregoing time period.

The Department finds that it is not practicable to complete the final results of the administrative review of folding metal tables and chairs from the PRC within the 120-day period due to complex issues the parties have raised regarding the proper treatment of certain U.S. transactions. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for completion of the final results of this review to 144 days until December 1, 2006.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: November 3, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–19183 Filed 11–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–890

Notice of Extension of Time Limit for Final Results of New Shipper Reviews of Wooden Bedroom Furniture from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 14, 2006.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6412.

SUPPLEMENTARY INFORMATION:

Background

On July 6, 2006, the Department of Commerce (''the Department'') published the preliminary results of the new shipper reviews of the antidumping duty order on wooden bedroom furniture (''WBF'') from the People's Republic of China (''PRC''), covering the period June 24, 2004, through June 30, 2005, and the following exporters: Shenyang Kunyu Wood Industry Co., Ltd., Dongguan Landmark Furniture Products Ltd., Meikangchi (Nantong) Furniture Company Ltd, and WBE Industries (Hui–Yang) Co., Ltd. *See Wooden Bedroom Furniture from the People's Republic of China: Preliminary Results of 2004–2005 Semi–Annual New Shipper Reviews and Notice of Final Rescission of One New Shipper Review*, 71 FR 38373 (July 6, 2006) (''*Preliminary Results*''). On September 27, 2006, the Department published in the **Federal Register** a notice extending the time limit for the final results of the new shipper reviews from September 25, 2006, to November 9, 2006. *See Notice of Extension of Time Limit for Final Results of New Shipper Reviews of Wooden Bedroom Furniture from the People's Republic of China*, 71 FR 56475 (September 27, 2006).

Extension of Time Limits for Final Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.214(i)(1) require the Department to issue the final results of a new shipper review within 90 days after the date on which the preliminary results were issued. The Department may, however, extend the time period for completion of the final results of a new shipper review to 150 days if it determines that the case is extraordinarily complicated. *See* section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).

As a result of extraordinarily complicated issues raised in the review segment, specifically the multiple issues raised with regard to the calculation of the surrogate financial ratios based on the financial statements of seven surrogate companies, it is not practicable to complete these new shipper reviews within the current time limit. Accordingly, the Department is fully extending the time period for completion of the final results to 150 days, pursuant to section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(I)(2). Therefore, the final results are now due no later than November 24, 2006.

We are issuing and publishing this notice in accordance with section 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: November 6, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–19184 Filed 11–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–890

Wooden Bedroom Furniture from the People's Republic of China: Notice of Initiation and Preliminary Results of Changed Circumstances Review, and Intent to Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 14, 2006.

SUMMARY: On September 20, 2006, the Department of Commerce (the ''Department'') received a request on behalf of the petitioners, the American Furniture Manufacturers Committee for Legal Trade and its individual members (the ''AFMC''), for a changed circumstances review and a request to revoke, in part, the antidumping duty (''AD'') order on wooden bedroom furniture from the People's Republic of China with respect to cheval style mirrored jewelry cabinets. In its September 20, 2006, submission, AFMC stated that it no longer has any interest in seeking antidumping relief from imports of such cheval style mirrored jewelry cabinets with respect to the subject merchandise defined in the ''Scope of the Order'' section below. Interested parties are invited to comment on these preliminary results.

FOR FURTHER INFORMATION CONTACT: Eugene Degnan or Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0414 and (202) 482–3434, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 2005, the Department published the *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order on Wooden Bedroom Furniture from the People's Republic of China*,(70 FR 329). On September 20, 2006, AFMC requested revocation in part of the AD order pursuant to sections 751(b)(1) and 782(h) of the Tariff Act of 1930, as amended (''the Act''), with respect to cheval style mirrored jewelry cabinets, as described below.

Scope of the Order

The product covered is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, oriented strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non–wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand–alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe–type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests–on-chests[1], highboys[2], lowboys[3], chests of drawers[4],

[1] A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

[2] A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

[3] A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

[4] A chest of drawers is typically a case containing drawers for storing clothing.

chests[5], door chests[6], chiffoniers[7], hutches[8], and armoires[9]; (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand–up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non–bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate[10]; (9) jewelry armories[11]; (10) cheval mirrors[12] (11) certain metal parts[13] (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser–mirror set.

Imports of subject merchandise are classified under subheading 9403.50.9040 of the Harmonized Tariff Schedule of the United States (''HTSUS'') as ''wooden...beds'' and under subheading 9403.50.9080 of the HTSUS as ''other...wooden furniture of a kind used in the bedroom.'' In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9040 of the HTSUS as ''parts of wood'' and framed glass mirrors may also be entered under subheading 7009.92.5000 of the HTSUS as ''glass mirrors...framed.'' This order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Initiation and Preliminary Results of Changed Circumstances Review, and Intent to Revoke Order in Part

At the request of AFMC, and in accordance with sections 751(d)(1) and 751(b)(1) of the Act and 19 CFR 351.216, the Department is initiating a changed circumstances review of the AD order on wooden bedroom furniture from the People's Republic of China to determine whether partial revocation of the order is warranted with respect to cheval style mirrored jewelry cabinets. Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i) provide that the Department may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order, in whole or in part. In addition, in the event that the Department determines that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

In accordance with section 751(b) of the Act, and 19 CFR 351.222(g)(l)(i) and 351.221(c)(3), we are initiating this changed circumstances review and have determined that expedited action is warranted. In accordance with 19 CFR 351.216(c), we find that the petitioners' affirmative statement of no interest constitutes good cause for the conduct of this review. Additionally, our decision to expedite this review stems from the domestic industry's lack of interest in applying the AD order to the specific wooden bedroom furniture (*i.e.*, cheval style mirrored jewelry cabinets) covered by this request.

Based on the petitioners' expression of no interest and absent any objection by any other domestic interested parties, we have preliminarily determined that substantially all of the domestic producers of the like product have no interest in the continued application of the AD order on wooden bedroom furniture as it applies to the merchandise subject to this request. Therefore, we are notifying the public of our intent to revoke, in part, the AD order as it relates to imports of the cheval style mirrored jewelry cabinets from the People's Republic of China.

Accordingly, we intend to amend the exclusionary language of the scope on wooden bedroom furniture from the People's Republic of China to read as follows:

> Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, *i.e.*, a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor–standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet lined with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth.

Public Comment

Interested parties are invited to comment on these preliminary results. Written comments may be submitted no later than 14 days after the date of publication of these preliminary results. Rebuttals to written comments, limited to issues raised in such comments, may be filed no later than 21 days after the date of publication. The Department

[5] A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

[6] A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

[7] A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

[8] A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

[9] An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

[10] As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. See Customs' Headquarters' Ruling Letter 043859, dated May 17, 1976.

[11] Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24'' in width, 18'' in depth, and 49'' in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. See Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, Issues and Decision Memorandum Concerning Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China dated August 31, 2004. *See also Wooden Bedroom Furniture from the People's Republic of China: Notice of Final Results of Changed Circumstances Review and Revocation in Part*, (71 FR 38621) (July 7, 2006).

[12] Cheval mirrors, *i.e.*, any framed, tiltable mirror with a height in excess of 50'' that is mounted on a floor-standing, hinged base.

[13] Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.*, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under HTSUS subheading 9403.90.7000.

will issue the final results of this changed circumstances review, which will include the results of its analysis raised in any such written comments, no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary results. *See* 19 CFR 351.216(e).

If final revocation occurs, we will instruct U.S. Customs and Border Protection to end the suspension of liquidation for the merchandise covered by the revocation on the effective date of the notice of revocation and to release any cash deposit or bond. *See* 19 CFR 351.222(g)(4). The current requirement for a cash deposit of estimated AD duties on all subject merchandise will continue unless and until it is modified pursuant to the final results of this changed circumstances review.

This initiation and preliminary results of review and notice are in accordance with section 751(b) of the Act and 19 CFR 351.216, 351.221, and 351.222.

Dated: November 6, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–19185 Filed 11–13–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110806A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

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

ACTION: Notification of a proposal for an exempted fishing permit to conduct experimental fishing; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator) has made a preliminary determination that the subject exempted fishing permit (EFP) application submitted by Truex Enterprises contains all the required information and warrants further consideration. This proposed EFP was first published for public comment on June 16, 2006. Due to changes in the EFP proposal from that previously published, the notice and comment period is re-initiated. The proposed EFP would test the safety and efficacy of harvesting surfclams and ocean quahogs from the Atlantic surfclam and ocean quahog Georges Bank (GB) Closure Area using a harvesting protocol developed by state and Federal regulatory agencies and endorsed by the U.S. Food and Drug Administration (FDA). The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Atlantic Surfclam and Ocean Quahog regulations and Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow one commercial fishing vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would allow for an exemption from the Atlantic surfclam and ocean quahog GB Closure Area. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before November 29, 2006.

ADDRESSES: Comments on this notice may be submitted by e-mail. The mailbox address for providing e-mail comments is *DA6114B@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: ''Comments on GB PSP Closed Area Exemption.'' Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on GB PSP Closed Area Exemption.'' Comments may also be sent via facsimile (fax) to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Tobey Curtis, Fishery Management Specialist, phone 978–281–9273.

SUPPLEMENTARY INFORMATION: Truex Enterprises of New Bedford, MA, submitted an application for an EFP on March 30, 2006. Additional information was received on April 19, 2006, completing the application. This proposed EFP was first published in the **Federal Register** on June 19, 2006 (71 FR 35254). On October 2, 2006, the applicant submitted additional information seeking to add states where the product harvested under the EFP could be landed. The experimental fishing application requests authorization to allow the catch and retention for sale of Atlantic surfclams and ocean quahogs from within the Atlantic surfclam and ocean quahog GB Closure Area. This area, located east of 69°00 W. long. and south of 42°20 N. lat., was closed on May 25, 1990. This closure was implemented based on advice from the FDA after samples of surfclams from the area tested positive for the toxins (saxotoxins) that cause Paralytic Shellfish Poisoning (PSP). These toxins are produced by the algae *Alexandrium fundyense* which can form blooms commonly referred to as red tides. Red tide blooms, also known as harmful algal blooms (HABs), can produce toxins that accumulate in filter-feeding shellfish. Shellfish contaminated with the saxotoxin, if eaten in large enough quantity, can cause illness or death from PSP. Due, in part, to the inability to test and monitor this area for the presence of PSP, this closure was made permanent through Amendment 12 to the FMP in 1999.

The primary goal of the study is to test the efficacy of the Protocol for Onboard Screening and Dockside Testing for PSP Toxins in Molluscan Shellfish (Protocol) developed by state and Federal regulatory agencies to test for presence of saxotoxins in shellfish. This protocol would facilitate the harvest of shellfish from waters susceptible to HABs, which produce the saxotoxins, but that are not currently under rigorous water quality monitoring programs by either state or Federal management agencies. The Protocol details procedures and reporting for harvesting, testing, and landing of shellfish harvested from areas that are susceptible to HABs prior to the shellfish from entering commerce. A copy of the Protocol is available from the NMFS Northeast Region website: *http://www.nero.noaa.gov/sfd/clams*.

The proposed project would conduct a trial for the sampling protocol in an exemption zone within the larger 1990 GB Closure Area with the F/V Seawatcher. The exemption zone would not include any Northeast multispecies or essential fish habitat year-round closure areas. This proposed exempted fishing activity would occur from approximately December 2006 through March 2007, using surfclam and ocean quahog quota allocated to Truex Enterprises under the Federal individual transferable quota (ITQ) program. The applicant has estimated a harvest of 176,000 bushels (9,370,240 L) of surfclams and 80,000 bushels (4,259,200 L) of ocean quahogs from the

exemption area. The exemption area was tested in cooperation with the FDA in the winter of 2006. No samples collected during that time were above acceptable levels for saxotoxins (80μg toxin/100g of shellfish). In order for the proposed EFP to be issued, the applicant would be required to obtain an endorsement from the state in which it intends to land the product harvested under the EFP. The initial application, submitted on March 30, 2006, only listed Massachusetts as a possible state for landing the product. The revised application includes the initial preferred state of landing, Massachusetts, as well as Rhode Island, New Jersey, and Delaware as possible states where shellfish harvested under the EFP could be landed. Each state would be required to endorse and/or otherwise explicitly permit the F/V Seawatcher to land product harvested under the conditions of the EFP in order for the EFP to be valid, as each state is responsible for regulating the molluscan shellfish industry within its jurisdiction and ensuring the safety of shellfish harvested within or entering its borders. This EFP would allow for an exemption from the Atlantic surfclam and ocean quahog GB Closure Area specified at 50 CFR 648.73(a)(4).

During the comment period for the initial proposed EFP, NMFS received five comments. One comment was against the concept of the EFP in general. Three comments were opposed to the issuance of the EFP until concerns regarding the dockside sampling protocol could be resolved. One comment, from the Massachusetts Division of Marine Fisheries, was in support of the comments regarding the dockside sampling protocol submitted by the Massachusetts Department of Public Health. Although adherence to the dockside monitoring protocol would be a condition of the EFP, NMFS is not the author of the protocol, nor the Federal agency responsible for matters of public health, thus NMFS defers response to issues regarding the dockside monitoring protocol to the FDA. However, since the initial public notification of this EFP, the FDA has amended the Protocol in response to concerns raised by state shellfish control authorities. The Protocol and the pilot project that would be authorized by this EFP have also since been endorsed by the executive board of the Interstate Shellfish Sanitation Conference.

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

Dated: November 8, 2006.

James P. Burgess,

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

[FR Doc. E6–19190 Filed 11–13–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110206D]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Issuance of scientific research permits.

SUMMARY: Notice is hereby given that NMFS has issued Permit 1045 Modification 1 to Dr. Michael H. Fawcett (M. Fawcett) in Bodega, CA; and Permit 1046 Modification 2 to the National Park Service (NPS) in Point Reyes, CA. This notice is relevant to federally endangered Central California Coast coho salmon (*Oncorhynchus kisutch*), threatened California Coastal Chinook salmon (*O. tshawytscha*), threatened Northern California steelhead (*O. mykiss*), and threatened Central California Coast steelhead (*O. mykiss*).

ADDRESSES: The applications, permits, and related documents are available for review by appointment at: Protected Resources Division, NMFS, 777 Sonoma Avenue, Room 315, Santa Rosa, CA 95404 (ph: 707–575–6097, fax: 707–578–3435, e-mail at: *Jeffrey.Jahn@noaa.gov*).

FOR FURTHER INFORMATION CONTACT: Jeffrey Jahn at 707–575–6097, or e-mail: *Jeffrey.Jahn@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Authority

The issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations (50 CFR parts 222–226) governing listed fish and wildlife permits.

Species Covered in This Notice

This notice is relevant to federally endangered Central California Coast coho salmon (*Oncorhynchus kisutch*), threatened California Coastal Chinook salmon (*O. tshawytscha*), threatened Northern California steelhead (*O. mykiss*), and threatened Central California Coast steelhead (*O. mykiss*).

Permits Issued

Permit 1045 Modification 1 was issued to M. Fawcett on October 30, 2006, authorizing capture (by seine), handling, sampling and marking (by collection of fin-clips), and release of juvenile Central California Coast coho salmon, California Coastal Chinook salmon, Northern California steelhead, and Central California Coast steelhead. Permit 1045 Modification 1 is for research to be conducted in the Russian River and Salmon Creek watersheds in Sonoma County, California, as well as numerous coastal streams between Gualala River and Estero Americano in Sonoma County, California. Permit 1045 Modification 1 does not authorize take of adult ESA-listed salmonids or intentional lethal take of ESA-listed salmonids. Permit 1045 Modification 1 authorizes unintentional lethal take of juvenile ESA-listed salmonids associated with research activities not to exceed 1 percent of ESA-listed salmonids captured. The purpose of the research is to provide scientific information on the ecology, distribution, population genetics, and population abundance of Central California Coast coho salmon, California Coastal Chinook salmon, Northern California steelhead, and Central California Coast steelhead. Permit 1045 Modification 1 expires on February 28, 2012.

Permit 1046 Modification 2 was issued to NPS on October 30, 2006, authorizing capture (by pipe-trap, fyke-net trap, electrofishing, dip-net, or seine), handling, sampling (by collection of fin-clips, scales, or stomach contents), marking (using fin-clips, fin dye, passive integrated transponder (PIT) tags, or visible implant elastomer (VIE) tags), and release of juvenile Central California Coast coho salmon, California Coastal Chinook salmon, and Central California Coast steelhead; and capture (by weir-trap), handling, marking (using spaghetti-tags), and release of adult Central California Coast coho salmon, California Coastal Chinook salmon, and Central California Coast steelhead.

Permit 1046 Modification 2 also authorizes NPS to capture, handle, sample (by collection of scales, fin-clips, or other tissue), mark, and release adult carcasses of Central California Coast coho salmon, California Coastal Chinook salmon, and Central California Coast steelhead. Permit 1046 Modification 2 is for research to be conducted in the following watersheds within or proximate to NPS lands: Olema Creek, Lagunitas Creek, Pine Gulch, Redwood Creek, and Easkoot Creek in Marin County, California; West Union Creek, Martini Creek, San Vicente Creek, and Denniston Creek in San Mateo County, California; and Alhambra Creek and Franklin Creek in Contra Costa County, California. Permit 1046 Modification 2 does not authorize intentional lethal take of ESA-listed salmonids. Permit 1046 Modification 2 authorizes unintentional lethal take of ESA-listed salmonids associated with research activities not to exceed: 5 percent of juvenile ESA-listed salmonids captured, 1 percent of adult Central California Coast coho salmon captured, 2 percent of adult California Coastal Chinook salmon captured, and 2 percent of Central California Coast steelhead captured. The purpose of the research is to support NPS' obligations as a federal agency to identify and promote the conservation of all federally listed threatened, endangered, or candidate species within park boundaries and their critical habitats. Permit 1046 Modification 2 expires on February 29, 2012.

Dated: Novemebr 7, 2006.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–19192 Filed 11–13–06; 8:45 am]

BILLING CODE 3510–22–S

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

[OJP (OJJDP) Docket No. 1463]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Coordinating Council on Juvenile Justice and Delinquency Prevention.

ACTION: Notice of meeting.

SUMMARY: The Coordinating Council on Juvenile Justice and Delinquency Prevention (Council) is announcing its November 30 to December 1, 2006 meeting and planning session.

DATES: Thursday, November 30, 2006, 9 a.m.–5:30 p.m.; and Friday, December 1, 2006, 9 a.m.–3:30 p.m.

ADDRESSES: The meeting will take place at the University of Maryland, College Park, Maryland in the Adele H. Stamp Student Union building, Prince George's Room, located on Campus Drive, College Park, MD 20742.

FOR FURTHER INFORMATION CONTACT: Robin Delany-Shabazz, Designated Federal Official, by telephone at 202–307–9963 [**Note:** this is not a toll-free telephone number], or by e-mail at *Robin.Delany-Shabazz@usdoj.gov.*

SUPPLEMENTARY INFORMATION: The Coordinating Council on Juvenile Justice and Delinquency Prevention, established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App. 2) will meet to carry out its advisory functions under Section 206 of the Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. 5601, *et seq.* Documents such as meeting announcements, agendas, minutes, and interim and final reports will be available on the Council's Web page at *http://www.JuvenileCouncil.gov.* (You may also verify the status of the meeting at that Web address.)

Although designated agency representatives may attend, the Council membership is composed of the Attorney General (Chair), the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Administrator of the Office of Juvenile Justice and Delinquency Prevention (Vice Chair), the Director of the Office of National Drug Control Policy, the Chief Executive Officer of the Corporation for National and Community Service, and the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement. Nine additional members are appointed by the Speaker of the House of Representatives, the Senate Majority Leader, and the President of the United States.

Meeting Agenda

Two separate sessions will be held. The open session and public meeting will take place on Thursday, November 30, 2006, from 9 a.m. to 11 a.m. The agenda for the public meeting will include: (a) Discussion of child fatality review teams; (b) review of past Council planning efforts and results; (c) legislative, program and agency updates; and (d) other business and announcements.

The planning session, which is closed to the public, will be held on Thursday, November 30, from 11:30 a.m. to 5:30 p.m. and on Friday, December 1, from 9 a.m. to 3:30 p.m.

Registration

For security purposes, members of the public who wish to attend the meeting must pre-register online at *http://www.juvenilecouncil.gov/* or by fax to: 301–945–4295 [Daryel Dunston at 240–221–4343 or e-mail, *ddunston@edjassociates.com* for questions], no later than Wednesday, November 22, 2006. [**Note:** these are not toll-free telephone numbers.] Additional identification documents may be required. Space is limited.

Note: Photo identification will be required for admission to the meeting.

Written Comments: Interested parties may submit written comments by Wednesday, November 22, 2006, to Robin Delany-Shabazz, Designated Federal Official for the Coordinating Council on Juvenile Justice and Delinquency Prevention, at *Robin.Delany-Shabazz@usdoj.gov.* The Coordinating Council on Juvenile Justice and Delinquency Prevention expects that the public statements presented will not repeat previously submitted statements. Written questions and comments from the public may be invited at this meeting.

Dated: November 7, 2006.

J. Robert Flores,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. E6–19134 Filed 11–13–06; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent to Prepare an Environmental Impact Statement for the Air Education and Training Command Common Battlefield Airman Training Program

AGENCY: Department of the Air Force, Air Education and Training Command.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA, 42 United States Code [U.S.C.] 4321–4347), the Council on Environmental Quality (CEQ) NEPA Regulations (40 Code of Federal Regulations [CFR] Parts 1500–1508), and the United States Air Force's (USAF) Environmental Impact Analysis Process (EIAP, 32 CFR Part 989), the Air Force is preparing an EIS to consider the proposed action of establishing the CBAT program. This NOI describes the

Air Force's proposed alternatives, scoping process, and identifies the Air Force's point of contact. As part of the proposal, the Air Force will analyze potential environmental impacts associated with the proposed development of administrative, instructional, and living areas (referred to as the CBAT Campus) for CBAT students and instructors, as well as utilization of areas for ground training operations.

Purpose: The purpose of this action is for AETC to establish a CBAT course in order to further expand ground combat skills and give all Airmen a baseline or common skill set. The course would be implemented in three Phases, beginning with Phase I, which would train approximately 1,353 Airmen. Phase II would add 6,365 students, and Phase III provides training for an additional 6,692 Airmen. Full implementation of CBAT would result in training approximately 14,410 Airmen annually in combat small arms firing, basics of land navigation, small unit tactics, and combative skills, along with a daily physical training regimen. The average daily number of personnel that would be present for CBAT at full implementation (to include instructors, base support, and students) would be approximately 2,600. CBAT would be held year-round, with each course lasting 25 days, 10 hours per day, Monday through Friday. Throughout the initial implementation of each phase, personnel, facilities and infrastructure, and field training areas would be added to the selected installation. The end of Phase III would include a total of 166 new buildings at 124,192 square meters added to the installation. Additionally, by Phase III, approximately 9,000 acres (approximately 36.5 square km) of land would be required for CBAT field training in standardized basic small unit tactics, such as how to react to an enemy ambush (which would include the use of blank-fire ammunition and simulated munitions) and practical day and night land navigation training.

Alternatives: The Air Force used a multi-disciplined team (*e.g.*, trainers, civil engineers, environmental engineers, and attorneys) to develop criteria for choosing where the CBAT course would be located. Applying the selection criteria in stages narrowed the alternatives first to 64 and later to just 3 Air Force installations located within the Continental United States. Those 3 installations are Arnold Air Force Base (AFB) in Tennessee, Barksdale AFB in Louisiana, and Moody AFB in Georgia. These three bases and the no action alternative are the alternatives that will be evaluated in the EIS. There is sufficient area on Arnold AFB and Barksdale AFB to support the campus and field training areas. There is insufficient land available to support the field training requirements on Moody AFB, so selection of Moody would necessitate acquiring additional land by purchase or lease. The no action alternative will evaluate current conditions and trends, projected into the future, for comparative purposes.

Scoping: In order to effectively define the full range of issues to be evaluated in the EIS, the Air Force will determine the scope of the document (*i.e.*, what will be covered, and in what detail) by soliciting scoping comments from interested state and Federal agencies and the interested public via this **Federal Register** and notices in the local areas of concern. Comments should be forwarded to the address below, by the date indicated. The Air Force will also hold a series of scoping meetings to further solicit input concerning the scope of the proposed action and alternatives.

DATES: The scheduled dates, times, locations, and addresses for the scoping meetings are as follows:

1. December 5, 2006—Tuesday, 6–8 pm; Tullahoma, TN; Coffee County Administrative Plaza, Community Room, 1329 MacArthur Street, Manchester, TN.

2. December 7, 2006—Thursday, 6–8 pm; Valdosta, GA; Valdosta City Hall Annex 300 N. Lee St., Valdosta, GA.

3. December 12, 2006—Tuesday, 6–8 pm; Shreveport, LA; Holiday Inn, 2015 Old Minden Road, Bossier City, LA.

No additional scoping meetings are scheduled at this time. In addition to comments received at the scoping meetings, any written comments on the scope of the EIS received at the address below by December 16, 2006, will be considered in the preparation of this EIS. All comments received through the scoping process will be evaluated and adjudicated to identify which issues are in fact significant and which ones are not. Issues that are determined to be less important will be addressed in the EIS by a brief discussion of why they were not examined in depth.

FOR FURTHER INFORMATION CONTACT: Ms. Debra Harkiewicz, HQ AETC/A7CVI, 266 F Street West, Bldg 901, Randolph, AFB, TX 78150, (210) 652–3959.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E6–19143 Filed 11–13–06; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for Homeporting Additional Surface Ships at Naval Station Mayport, FL, and To Announce a Public Scoping Meeting

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to Section (102)(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), the Department of Navy (Navy) announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate the potential environmental consequences of constructing and operating the facilities and infrastructure associated with homeporting additional surface ships at Naval Station (NAVSTA) Mayport, FL. The Navy proposes to review and assess homeporting additional Atlantic Fleet surface ships at NAVSTA Mayport including cruisers, destroyers, frigates, amphibious assault ships, amphibious transport docks, dock landing ships, and/or a nuclear-powered aircraft carrier. Ultimately the homeporting could involve the relocation of existing ships to NAVSTA Mayport or the assignment of newly acquired ships to NAVSTA Mayport. The proposal includes only those required activities necessary to prepare and operate NAVSTA Mayport for the proposed homeporting and does not include actions at other Navy bases. The EIS study area is NAVSTA Mayport, the Mayport turning basin, the entrance channel, and a portion of the main shipping channel. NAVSTA Mayport covers 3,409 acres and is homeport for 22 ships, five helicopter squadrons, and approximately 16,010 sailors and civilians making it the third largest naval facility in the continental U.S. The scope of actions to be analyzed in this EIS includes homeporting of various classes of surface ships and construction to include dredging, infrastructure and wharf improvements, and construction of nuclear-powered aircraft carrier propulsion plant maintenance facilities (depot-level maintenance facilities including a controlled industrial facility, ship maintenance facility, and maintenance support facility).

Dates and Addresses: One public scoping meeting will be held in Jacksonville, FL, to receive written comments on environmental concerns

that should be addressed in the EIS. The public scoping open house will be held on December 5, 2006, from 4 p.m. to 8:30 p.m. at the Wilson Center of the Florida Community College at Jacksonville, South Campus, 11901 Beach Boulevard, Jacksonville, FL.

FOR FURTHER INFORMATION CONTACT: Mr. Will Sloger, Naval Facilities Engineering Command Southeast, 2155 Eagle Drive, North Charleston, SC 29406; telephone 843–820–5797; facsimile 843–820–5848.

SUPPLEMENTARY INFORMATION: The purpose of the proposed action is to ensure effective support of Fleet operational requirements through efficient use of waterfront and shoreside facilities at NAVSTA Mayport.

The EIS will evaluate the environmental effects associated with: Water resources; air quality; biological resources, including threatened and endangered species; land use; socioeconomic resources; infrastructure; and cultural resources. The analysis will include an evaluation of direct and indirect impacts, and will account for cumulative impacts from other relevant activities in the Mayport area. The Navy will analyze alternatives that include cruisers, destroyers, frigates, amphibious assault ships, amphibious transport docks, dock landing ships, and/or a nuclear-powered aircraft carrier. No decision will be made to implement any alternative until the EIS process is completed and a Record of Decision is signed by the Assistant Secretary of the Navy (Installations and Environment).

The Navy is initiating the scoping process to identify community concerns and local issues to be addressed in the EIS. Federal agencies, State agencies, local agencies, and interested persons are encouraged to provide written comments to the Navy to identify specific issues or topics of environmental concern that should be addressed in the EIS. Written comments must be postmarked by December 29, 2006 and should be mailed to: Naval Facilities Engineering Command Southeast, 2155 Eagle Drive, North Charleston, SC 29406, Attn: Code EV21 (Mr. Will Sloger), telephone 843–820–5797, facsimile 843–820–5848.

Dated: November 1, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E6–19163 Filed 11–13–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Invention

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy. Navy Case No. 83,562: Making it Possible to Use a Human Similarity Measure in a Face Recognition System.//Navy Case No. 83,817: Fiber FTIR in the Mid-Wave-IR and Long-Wave-IR Spectral Region.//Navy Case No. 84,353: Ultrathin, Conformal Polymer Coatings as Separators at Nanostructured Metal Oxides Used for Energy Storage.//Navy Case No. 84,425: Smoke Detector System Alarm Activation Via 85 Decibel Acoustic Horn from any Detector Location.//Navy Case No. 84,558: Method and Apparatus for Passive Acoustic Ranging in Shallow Water.//Navy Case No. 84,812: Tri-Axial Hybrid Vibration Isolator.//Navy Case No. 84,925: Carbon Nanoarchitectures with Ultrathin, Conformal Polymer Coatings for Electrochemical Capacitors.//Navy Case No. 95,807: CMOS Analog-to-Digital Converter with Arbel Channel.//Navy Case No. 95,924: Detector of Slow-Moving Targets in High-Resolution Sea.//Navy Case No. 95,959: Hybrid Cat's Eye Modulating Retro-Reflector with Coarse Pointing Element.//Navy Case No. 95,978: 3–D SAR Sub-Pixel Resolution.//Navy Case No. 95,988: TiO2 Aerogel-Based Photoboltaic Electrodes and Solar Cells.//Navy Case No. 96,014: Controller for Event-Based Statistical Covert Channels.//Navy Case No. 96,139: CNT-Based Nanocomposite for Hydrogen Storage and Fuel Cell Applications.// Navy Case No. 96,148: Gas Filled Hollow Core Chalcogenide Photonic Bandgap Fiber Raman Device and Method.//Navy Case No. 96,182: All Electronic Isolator Using Negative Refractive Fixed Heterostructure Bi-Crystal or Ferroelectric Heterostructure Bi-Crystal or Ferroelectric Heterostructure Bi-Crystal.//Navy Case No. 96,194: IR Supercontinuum Source.//Navy Case No. 96,231: Doppler-Sensitive Adaptive Coherence Estimate Detector.//Navy Case No. 96,301: Scale Adaptive Filtering.//Navy Case No. 96,318: Wafer Bonded High Voltage Power Switch.//Navy Case No. 96,353: Dual Large Area Plasma Processing System.//Navy Case No. 96,365: One-Dimensional Iris Signature for Iris Identification.//Navy Case No. 96,406: Laser Filament Imager.//Navy Case No. 96,499: Thermally Reflective Encapsulated Phase Change Pigment.// Navy Case No. 96,578: Method of Fabrication MgB2 Superconductors by Hot Rolling.//Navy Case No. 96,583: Secure Agent Software Development System.//Navy Case No. 96,585: Magnetically Directed Self-Assembly of Molecular Electronic Junctions.//Navy Case No. 96,612: Silicon Nitride Passivation with Ammonia Plasma Pretreatment for Improving Reliability of A1GaN/GaN HEMTs.//Navy Case No. 96,613: A Conducting Polymer Switch for Proteins—Control of Protein Activity Using Doped and Dedoped States of Highly Conducting Hydroxylated Poly (3,4 Ethylenedioxythiophene).//Navy Case No. 96,628: Method of Controlling Quantum Dot Photoluminescence and Other Intrinsic Properties Through Biological Specificity.//Navy Case No. 96,629: Multistatic Radar Adaptive Pulse Compressor.//Navy Case No. 96,691: Method and Apparatus for Generating Power from Voltage Gradients at Sediment-Water Interfaces Using Active Transport of Sediment Porewater.//Navy Case No. 96,695: Pattern Assessment Methodology Using Spatial Analysis.//Navy Case No. 96,740: Metal Vapor Vacuum Arc (MeVVa) Eight-Element Pulsed Ion Source.//Navy Case No. 96,769: Securerun, an XML Based Scripting Framework For Interactive, Semi-Automated, Automated, and Distributed Applications.//Navy Case No. 96,775: Magnesium Aluminate Transparent Ceramic Having Low Scattering and Absorption Loss.//Navy Case No. 96,776: Optical Fiber Clad-Protective Terminations.//Navy Case No. 96,826: Novel Biodegradable Biofouling Control Coating and Method of Formulator.// Navy Case No. 96,834: Impact Tensile Test Machine.//Navy Case No. 96,837: Low Loss VIS–IR (0.5–5.0um) Transmitting Ceramic Alon—Glass Composite Windows and Domes.//Navy Case No. 96,839: Low Loss VIS–IR (0.5–5.0 um) Transmitting Glass—Ceramic Spinel Composite Windows and Domes.//Navy Case No. 96,866: Composition and Method for Making a Solvent Free, Self Polishing Poly-Urethane Matrix for Use in Solvent Free Antifoulings with Much Enhanced Mechanical Properties and Expected Life Term.//Navy Case No. 96,921: LiF Coated Magnesium Aluminate.//Navy Case No. 96,928: Narrow Band Notch Filter with Multiple Signal Path.//Navy Case No. 96,943: Optical Interrogation of

Micro-Mechanical Sensors Using Microcavity Interferometry.//Navy Case No. 97,019: Electrospray Coating of Aerosols On-the-Fly for Fluorescent Labeling and Identification.//Navy Case No. 97,081: Poly-En-Urea, A Novel Solvent Free Weatherable Coating.// Navy Case No. 97,123: Reaction of Inorganic-Organic Linear Hybrid with Metal Salts and Metal Complexes Producing the Metallic Adduct of the Acetylenic Unit and Thermoset Formation Thereof.//Navy Case No. 97,124: Ceramic Compositions Formulated from Thermal Conversion of Thermosets Produced from Inorganic-Organic Linear Hybrid with Metal Salts and Metal Complexes of the Acetylenic Units.//Navy Case No. 97,197: Microarray-Based Detection and Molecular Characterization of Human Pathogenic Vibrio SPP.//Navy Case No. 97,200: Composite Battery Electrodes for High Rate Applications and Rapid Recharging.//Navy Case No. 97,294: Method of Transferring a Ultra-Thin Layer of Crystalline Material with High Crystalline Quality (#1).//Navy Case No. 97,295: Method of Transferring a Ultra-Thin Layer of Crystalline Material with High Crystalline Quality (#2).//Navy Case No. 97,316: A General Method for Stacking Thermal Actuators.//Navy Case No. 97,318: Non-Conductive Magnetic and Semiconductor Tunable Composite Negative Refractive Index Composite.// Navy Case No. 97,333: Radar Pulse Repetition Interval (PRI) Tracking Algorithm, or Radar Radio Frequency (RF) Tracking Algorithm.//Navy Case No. 97,413: Multi-Channel Carrier Suppression and Extraction Technique.//Navy Case No. 97,444: Volume Sensor: Data Fusion-Based, Multi-Sensor System for Advanced Damage Control.//Navy Case No. 97,454: Interferometer Based Chromatic Dispersion Monitor.//Navy Case No. 97,461: Novel Biodegradable Biofouling Control Coating and Method of Formulator.//Navy Case No. 97,486: Processing Semantic Markups in Web Ontology Language (OWL) with an Universal Description, Discovery and Integration (UDDI) Registry.//Navy Case No. 97,493: A Novel Method for the Bottom-Seeded Growth of Potassium Lead Chloride Crystals from Polycrystalline Seeds.//Navy Case No. 97,494: Compression Assembly of Spatial Heterodyne Spectrometer (SHS).//Navy Case No. 97,497: Thioacetate De-protection Method Using Catalytic Quaternary Ammonia Cyanide in Combination with a Protic Solvent.// Navy Case No. 97,498: Incorporation of 18 Oxygen into Peptide Mixtures for Differential Protein Expression Analysis by Mass Spectrometry.//Navy Case No. 97,499: Fiber Microstructure for Coupling a Plurality of Single Mode Fibers Onto One or More, High Bandwidth Photo-Detector(s) for Communications, Sensor, or Signal Processing Applications.//Navy Case No. 97,522: Long Range Active Thermal Imaging Using a Microwave or Millimeter-Wave Beam.//Navy Case No. 97,527: Controlled Actuated Membranes and Method of Making Same.//Navy Case No. 97,581: System and Method for Estimating Ocean Height and Current on a Personal Computer with Hurricane Module.//Navy Case No. 97,613: Passaged Neural Stem Cell-Derived Neuronal Networks as Sensing Elements for Detection of Environmental Threats.//Navy Case No. 97,614: Weighted, Summing Photonic Digital-to-Analog Conversion.//Navy Case No. 97,625: Thermoset Material Made From Siloxane-Acetylene Polymer Containing Metal-Acetylene.//Navy Case No. 97,661: Method and Apparatus for Three Dimensional Blending (TDB).// Navy Case No. 97,662: Integrally Gated Carbon Nanotube Field Ionizer Device and Method of Manufacture Therfor.// Navy Case No. 97,693: Technique for Detecting Damage-Induced Nonlinearities in Structures in the Absence of Baseline Data.//Navy Case No. 97,698: A Method and Apparatus for Attaching a Fluid Cell to a Planar Substrate.//Navy Case No. 97,705: Tri-Axial Hybrid Vibration Isolator.//Navy Case No. 97,713: Coating of Polymeric Fibers with Inorganic-Organic Hybrid Polymers for Environmental and Oxidative Protection.//Navy Case NO. 97,717: Remote Laser Assisted Biological Aerosol Standoff Detection in Atmosphere.//Navy Case No. 97,718: Multi-Core Optical Fiber Design for Distributed Sensing of Twist and Bend by Internal Strain Measurements.//Navy Case No. 97,725: Technique for Transformation of Universal Transverse Mercator Projected Raster Images into a Geodetic Projection.//Navy Case No. 97,727: System and Method for Analysis of Partial Iris Recognition.//Navy Case No. 97,738: Mosaic, Suppression of Edge Delamination Through Meso-Scale Structuring.//Navy Case No. 97,740: Advance Metoc Broker.//Navy Case No. 97,741: Iris Pattern Extraction Using Bit Planes and Standard Deviations.//Navy Case No. 97,745: Algorithm and System for Retrieving Ionospheric Parameters from Disk-Viewing Ultraviolet Airglow Data.//Navy Case No. 97,789: Crystalline III–V Nitride Films on Refractory Metal Substrates for High-Power Device Application.//Navy Case No. 97,792: Vacuum Wave Maker System.//Navy Case No. 97,793: Tactical Pocket Knife with Prying Protrusion, Boot-Shaped Lock, and Rotating Clip.//Navy Case No. 97,886: Adding Semantic Support to Existing UDDI Infrastructure.//Navy Case No. 97,893: Use of SiGe HBT to Moderate Light Through its Carrier Plasma.//Navy Case No. 97,911: Self Decontaminating Surfaces.//Navy Case No. 97,922: SOFC Cathode Containing Lanthanum Nickelate (La2Ni04+d).// Navy Case No. 97,925: Advanced Metoc Broker.//Navy Case No. 97,949: Feature Selection and Pattern Recognition Methods for Toxic Industrial Chemical and Fire Detection Using Cermet Sensors.//Navy Case No. 98,043: Secure Middleware.//Navy Case No. 98,052: Trifluoromethylcarbinol Terminated Alkanethiols.//Navy Case No. 98,059: A Configuration that Combines a Contra-Rotating Pair of Single-Blade Wing/ Rotors and a Tilting Canard Wing/ Propeller Unit into a Stop-Rotor Converting Rotor-Wings/Fixed-Wings Hybrid Micro-Air Vehicle with Full 3-Axis Control in all Modes of Flight.// Navy Case No. 98,063: Active-Twist Airfoil System.//Navy Case No. 98,070: IR Fiber Parametric Amplifier and Source.//Navy Case No. 98,071: Poled IR Fiber Parametric Amplifier and Source.//Navy Case No. 98,079: Functional Polymers Via Surface Modifying Agents, and Method for Polymeric Surface Modification.//Navy Case No. 98,082: Automated Discovery, Binding, and Integration of Non-Registered Geospatial Web Services.// Navy Case No. 98,094: Novel, Single Domain Antibody Libraries to Provide Heat Stable, High Affinity, Recombinant Recognition Elements.//Navy Case No. 98,095: Multi-Sensor Display System.// Navy Case No. 98,096: Manual FACS Coding Tool.//Navy Case No. 98,117: Polymerizable Sulfonate Ionic Liquids and Liquid Polymers Therefrom.//Navy Case No. 98,168: Infrared Transfer of Functionalized Nanoparticles.//Navy Case No. 98,185: Materials and Structures Thereof Useful as Electrocatalysts.//Navy Case No. 98,212: Applications of the Binding Interaction of Proanthocyanidins with Bacteria and Bacterial Components.//Navy Case No. 98,214: Calibrated Impact Hammer.// Navy Case No. 98,254: Optically Clear Monolith with Embedded Molecularly Imprinted Periodic Mesoporous Organosilicas (PMOs) as Selective Sorbents, Pre-Concentrators, and/or as Recognition Elements for Optical Sensors.//Navy Case No. 98,258: Self Calibration Devices for Chemical and Bio Analyte Trace Detectors.//Navy Case No. 98,286: An Ensemble Approach to Robust Classifier Fusion.//Navy Case

No. 98,287: Electroless Deposition of Nanoscale Manganese Oxide on Ultraporous Carbon Nanoarchitectures for Electrochemical Capacitor Applications.//Navy Case No. 98,288: Graphical Representation of Facial Movements, Body Movements and Speech Over Time.//Navy Case No. 98,316: Mobile Self-Spreading Biocides.//Navy Case No. 98,325: Design and Selection of Genetic Targets for Sequence Resolved Organism and Identification.//Navy Case No. 98,346: Method of Making a Nanostructured Electrode.//Navy Case No. 98,347: Catalyst Nanoparticle.//Navy Case No. 98,387: Secure Digital Communications Using Chaotic Signals: An Attractor-Based Approach.//Navy Case No. 98,404: High Performance Chirped Electrode Design for Cat's Eye Retro-Reflector Modulators and any continuations, continuations-in-part divisionals or re-issues thereof.

ADDRESSES: Requests for copies of the inventions cited should be directed to the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone (202) 767–7230. Due to temporary U.S. Postal Service delays, please fax (202) 404–7920, e-mail: *techtran@utopia.nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR Part 404)

Dated: November 7, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E6–19155 Filed 11–13–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Visitors of Marine Corps University

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meeting.

SUMMARY: The Board of Visitors of the Marine Corps University (BOV MCU) will meet to review, develop, and provide recommendations on all aspects of the academic and administrative policies of the University; examine all aspects of professional military education operations; and provide such oversight and advice, as is necessary, to facilitate high educational standards and cost-effective operations. The Board will be focusing primarily on the University's Expeditionary Warfare School. All sessions of the meeting will be open to the public.

DATES: The meeting will be held on Wednesday, November 29, 2006, from 8 a.m. to 4 p.m. and on Thursday, November 30, 2006, from 8 a.m. to 11:30 a.m.

ADDRESSES: The meeting will be held at the Expeditionary Warfare School Director's Conference Room. The address is: Expeditionary Warfare School, 2077 Geiger Road, Quantico, Virginia 22134.

FOR FURTHER INFORMATION CONTACT: Mary Lanzillotta, Executive Secretary, Marine Corps University Board of Visitors, 2076 South Street, Quantico, Virginia 22134, telephone number 703–784–4037.

Dated: October 19, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E6–19141 Filed 11–13–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education; Overview Information; Teacher Incentive Fund; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2006

Catalog of Federal Domestic Assistance (CFDA) Number: 84.374A.

DATES: *Applications Available:* November 14, 2006.

Deadline for Notice of Intent to Apply: December 29, 2006.

Deadline for Transmittal of Applications: February 12, 2007.

Deadline for Intergovernmental Review: April 13, 2007.

Eligible Applicants: Local educational agencies (LEAs), including charter schools that are LEAs in their State; State educational agencies (SEAs); or partnerships of (a) an LEA, an SEA, or both, and (b) at least one non-profit organization.

Estimated Available Funds: $43,000,000.

Contingent upon the availability of funds and the receipt of a sufficient number of high-quality applications, we may make additional awards, using FY 2007 funds, from the rank-ordered list of unfunded applications from this competition.

Estimated Range of Awards: $100,000—$10,000,000.

Estimated Average Size of Awards: $3,500,000.

Estimated Number of Awards: 10—20.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Description of Program: This competition is a reopening of a competition run by the Department of Education for FY 2006 Teacher Incentive Program funds. Sixteen awards were made on November 1, 2006. At that time, applicants who were not awarded funding were notified. We encourage applicants who applied previously for this competition and did not receive funding to revise their applications and to reapply. All other eligible applicants are also encouraged to apply.

Purpose of Program: The purpose of the Teacher Incentive Fund, authorized as part of the FY 2006 Department of Education Appropriations Act, Public Law 109–149, is to support programs that develop and implement performance-based teacher and principal compensation systems in high-need schools.

The specific goals of the Teacher Incentive Fund include: Improving student achievement by increasing teacher and principal effectiveness; reforming teacher and principal compensation systems so that teachers and principals are rewarded for increases in student achievement; increasing the number of effective teachers teaching poor, minority, and disadvantaged students in hard-to-staff subjects; and creating sustainable performance-based compensation systems.

Priorities: We are establishing these priorities for the FY 2006 grant competition (including any awards we make, using FY 2007 funds, from the list of unfunded applications from this competition), in accordance with section 437(d)(1) of the General Education Provisions Act.

Absolute Priority: For the FY 2006 grant competition (including any awards we may make, using FY 2007 funds, from the list of unfunded applications from this competition), this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

Consistent with the program purpose, the grantee must establish a system that provides teachers and principals, or principals only, serving in high-need schools with differentiated levels of compensation based primarily on student achievement gains at the school

and classroom levels. This performance-based compensation system must also (a) consider classroom evaluations conducted multiple times during each school year and (b) provide educators with incentives to take on additional responsibilities and leadership roles.

Competitive Preference Priorities: For the FY 2006 grant competition (including any awards we make, using FY 2007 funds, from the list of unfunded applications from this competition), these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 5 points to an application, depending on the extent to which the application meets the priority.

These priorities are:

Competitive Preference Priority 1: We will award up to an additional 5 points depending on the extent to which the applicant documents or provides a plan to establish ongoing support for and commitment to the performance-based compensation system from a significant proportion of the teachers, the principal, and the community, including the applicable governing authority or LEA, for each participating high-need school.

Competitive Preference Priority 2: We will award up to an additional 5 points depending on the extent to which the applicant will provide differentiated levels of compensation, which may include incentives, to recruit or retain effective teachers and principals (as measured by student achievement gains) in high-need urban and rural schools, and/or in hard-to-staff subject areas such as mathematics and science.

Definitions: The following definitions apply:

A high-need school means a school with more than 30 percent of its enrollment from low-income families, based on eligibility for free and reduced price lunch subsidies or other poverty measures that the State permits the LEAs to use. A middle or high school may be determined to meet this definition on the basis of poverty data from feeder elementary schools.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities, definitions, cost-sharing requirements, selection criteria, and performance measures. Section 437(d)(1) of the General Education Provisions Act (20 U.S.C. 1232(d)(1)), however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program authorized as part of the FY 2006 Department of Education Appropriations Act, Public Law 109–149, and therefore these rules qualify for this exemption. To ensure timely grant awards, the Secretary has decided, under section 437(d)(1), to forego public comment on the priorities, definitions, cost-sharing requirements, selection criteria, and performance measures. These priorities, definitions, cost-sharing requirements, selection criteria, and performance measures will apply to the FY 2006 grant competition (including any awards we make, using FY 2007 funds, from the list of unfunded applications from this competition).

Program Authority: Pub. L. No. 109–149, 119 Stat. 2864–65.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 97, 98, and 99.

II. Award Information

Type of Award: Discretionary grant.

Estimated Available Funds: $43,000,000.

Contingent upon the availability of funds and the receipt of a sufficient number of high-quality applications, we may make additional awards, using FY 2007 funds, from the rank-ordered list of unfunded applications from this competition.

Estimated Range of Awards: $100,000–$10,000,000.

Estimated Average Size of Awards: $3,500,000.

Estimated Number of Awards: 10–20.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* LEAs, including charter schools that are LEAs in their State; SEAs; or partnerships of (a) an LEA, an SEA, or both, and (b) at least one non-profit organization.

2. *Cost-Sharing:* The grantee must ensure that, in each applicable budget year, an increasing share of funds from sources other than this grant will be used to pay for earned differential compensation costs as they are phased in during the performance period. In the final year of the performance period, the grantee must ensure that at least 75 percent of the differentiated compensation costs are not paid from this grant.

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. Fax: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *http://www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.374A.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting one of the individuals listed under **FOR FURTHER INFORMATION CONTACT** in section VII. of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Notice of Intent to Apply: We will be able to develop a more efficient process for reviewing grant applications if we have a better understanding of the number of entities that intend to apply for funding.

Therefore, we strongly encourage each potential applicant to send a notification of its intent to apply for funding to the following e-mail address: *TIF@ed.gov.* The notification of intent to apply for funding is optional and should not include information regarding the proposed application.

Page Limit: Applicants are strongly encouraged to limit their application to 40 pages.

3. *Submission Dates and Times:*

Applications Available: November 14, 2006.

Deadline for Notice of Intent to Apply: December 29, 2006.

Deadline for Transmittal of Applications: February 12, 2007.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the application requirements.

Deadline for Intergovernmental Review: April 13, 2007.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

6. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under this competition-CFDA Number 84.374A must be submitted electronically using the Grants.gov Apply site at: *http://www.grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the TIF program at: *http://www.grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted, and must be date/time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date/time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date/time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*
- To submit your application via Grants.gov, you must complete all of the steps in the Grants.gov registration process (see *http://www.Grants.gov/GetStarted*). These steps include (1) registering your organization, (2) registering yourself as an Authorized Organization Representative (AOR), and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/assets/GrantsgovCoBrandBrochure8X11.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to successfully submit an application via Grants.gov.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information typically included on the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified above or submit a password protected file, we will not review that material.
- Your electronic application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues With the Grants.gov System: If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically, or by hand delivery. You also may mail your application by following the mailing instructions as described elsewhere in this notice. If you submit an application after 4:30 p.m., Washington, DC time, on the deadline date, please contact the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT**, and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number (if available). We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: Extensions referred to in this section apply only to the unavailability of or

technical problems with the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: April Lee, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W229, Washington, DC 20202–6200. Fax: (202) 205–4921.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier), your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.374A), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.374A), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.374A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (ED 424) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are as follows:

(a) *Need* (5 points).

The extent to which the applicant describes the scope and size of the project and the need for the project, including information on student academic achievement and the quality of the teachers and principals in the LEA(s) and high-need schools that will be served by the project.

(b) *Project Design* (50 points).

(1) The extent to which the performance-based compensation system will reward teachers and principals who raise student academic achievement.

(2) The extent to which the applicant describes the performance-based teacher and principal compensation system that the applicant proposes to develop, implement, or expand, including the extent to which the applicant will build the capacity of teachers and principals through activities such as professional development to raise student achievement and to provide students with greater access to rigorous coursework.

(3) The extent to which the applicant's proposed project includes valid and reliable measures of student achievement—including statewide assessment scores as appropriate for this purpose—as the primary indicator of teacher and principal effectiveness in the proposed performance-based compensation system.

(4) The extent to which the applicant proposes to develop and implement a fair, rigorous and objective process to evaluate teacher and principal performance multiple times throughout the school year.

(c) *Adequacy of Resources* (20 points).

(1) The extent to which the applicant provides a thorough explanation of how the applicant will use funds awarded under the grant together with the required matching funds to carry out the program purpose.

(2) The extent to which the applicant provides a detailed plan, including documentation of resources, for sustaining its performance-based compensation system after the grant period ends.

(3) The extent to which the applicant includes a thorough description of its current data-management capacity and proposed areas of data management development in order to implement a performance-based compensation system in which differentiated

compensation is based primarily on student academic achievement.

(d) *Quality of the Management Plan and Key Personnel* (15 points).

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, milestones, and processes for continuous improvement to accomplish project tasks.

(2) The qualifications, including experience, education, and training of proposed key personnel.

(e) *Evaluation* (10 points).

(1) The extent to which the applicant's evaluation plan includes the use of objective measures that are clearly related to the goals of the project to raise student achievement and increase teacher effectiveness, including the extent to which the evaluation will produce quantitative and qualitative data.

(2) The extent to which the applicant includes adequate evaluation procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(3) The extent to which the applicant commits to participating in a rigorous national evaluation that will provide a common design methodology, data collection instruments, and performance measures for all grantees funded under this competition.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of the project period, recipients must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* Pursuant to the Government Performance and Results Act (GPRA), the Department has established the following performance measures that it will use to evaluate the overall effectiveness of the grantee's project, as well as the TIF program as a whole:

(1) Changes in LEA personnel deployment practices, as measured by changes over time in the percentage of teachers and principals in high-need schools who have a record of effectiveness; and

(2) Changes in teacher and principal compensation systems in participating LEAs, as measured by the percentage of a district's personnel budget that is used for performance-related payments to effective (as measured by student achievement gains) teachers and principals.

All grantees will be expected to submit an annual performance report documenting their success in addressing these performance measures. The Department will use the applicant's performance data for program management and administration, in such areas as determining new and continuation funding and planning technical assistance.

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: April Lee, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W229, Washington, DC 20202–6200. Telephone number: (202) 205–5224 or by e-mail: *tif@ed.gov* or by Internet at the following Web site: *http://www.ed.gov/programs/teacherincentive/index.html*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the individuals listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Dated: November 8, 2006.

Henry L. Johnson,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. E6–19193 Filed 11–13–06; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Information Collection; Study of the Feasibility and Advisability of Establishing a Program of Free Return or Reduced Postage for Absentee Ballots—Focus Groups

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice; request for comments.

SUMMARY: The EAC, as part of its continuing effort to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995, invites the general public and other Federal agencies to take this opportunity to comment on a proposed information collection. 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, including the validity of the methodology and assumptions used; (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. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

DATES: Written comments must be submitted on or before January 11, 2007.

ADDRESSES: Submit comments and recommendations on the proposed information collection in writing to the U.S. Election Assistance Commission, 1225 New York Avenue, NW., Suite 1100, Washington, DC 20005, Attn: Ms.

Laiza N. Otero (or via the Internet at *lotero@eac.gov*).

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the Focus Group Discussion Guide, please, write to the above address or call Ms. Laiza N. Otero at (202) 566–3100. You may also view the proposed collection instrument by visiting our Web site at *http://www.eac.gov.*

SUPPLEMENTARY INFORMATION:

Title: Study of the Feasibility and Advisability of Establishing a Program of Free Return or Reduced Postage for Absentee Ballots—Focus Groups

OMB Number: Pending.

Type of Review: Regular submission.

Needs and Uses: Sec. 246 of the Help America Vote Act requires the Election Assistance Commission (EAC), in consultation with the United States Postal Service, to conduct a study on the feasibility and advisability of establishing a program under which the U.S. Postal Service shall waive or otherwise reduce the amount of postage applicable with respect to absentee ballots returned by voters in general elections for Federal office. This study does not address the cost to the U.S. Postal Service for free postage for sending absentee ballots but may consider costs to election officials that are related to implementing such a program including the costs of sending absentee ballots to voters. It also does not include consideration of the 39 U.S.C. 3406 provisions for the mailing of balloting materials for military and overseas absentee voters. As part of the study the Commission is directed to conduct a nationwide survey of potential beneficiaries, including the elderly and disabled, and to take into account the results of this survey in determining the feasibility and advisability of establishing such a program. This survey will be supplemented by focus groups among potential beneficiaries—elderly, disabled, low-income—to obtain more specific information on the challenges these populations face when participating in election and to assess the potential benefit these populations might receive from a program of free return or reduced postage for absentee ballots.

At the conclusion of the study effort, EAC is required to submit a report to Congress with recommendations for such legislative and administrative action as EAC determines appropriate. The report shall contain an analysis of the feasibility of implementing such a program and an estimate of the costs. It is required to specifically contain recommendations regarding the elderly and disabled populations, including ways a free absentee ballot return postage program would target these populations and identify methods to increase the number of such individuals who vote in elections for Federal office.

Affected Public: Citizens.

Number of Respondents: 36.

Responses per Respondent: 1.

Estimated Burden per Response: 1.25 hours.

Estimated Total Annual Burden Hours: 45 hours.

Information will be collected through a series of three focus groups comprised of potential beneficiaries of a free and/or discounted absentee ballot postage program: One focus group will be dedicated to issues confronting the elderly population; one focus group will be dedicated to issues confronting disabled people; and one focus group will be dedicated to issues confronting the low-income citizens. At least one official from the United States Postal Service will observe each planned focus group. The topics that will be explored include:

1. The challenges that the particular population faces when participating in elections.

a. Information on respondents' previous experiences with voting in Federal elections. Information on any difficulties encountered in the process of voting and how the issues were resolved.

2. The concerns members of the particular population have about voting (e.g. voter intimidation, voter confidentiality, security, use of ballots).

a. Information on particular incidents that has prevented respondent from being able to vote.

3. The possible remedies to those challenges that would likely increase the rates of voter participation in the particular population (e.g. relaxed absentee voting laws, better accessibility to polling places, voter education).

a. Information on respondents' interest in absentee ballot voting.

4. The likelihood that a free or discounted absentee ballot postage program would assist the particular population.

a. Information on respondents' interest in a program of free or discounted postage for absentee ballots.

5. How the program could possibly be implemented to target the particular population.

a. Information on creating and implementing the program to ensure that it benefits the particular population.

6. The factors that would make reaching the particular population difficult.

a. Information on advertising such a program to the particular population so that they can take advantage of the change.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 06–9191 Filed 11–13–06; 8:45 am]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

November 6, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER01–205–014; ER98–2640–012; ER98–4590–010; ER99–1610–018.

Applicants: Xcel Energy Services Inc.; Northern States Power Company; Northern States Power Company (Wisconsin); Public Service Company of Colorado; Southwestern Public Service Company.

Description: Xcel Energy Services Inc. on behalf of Northern States Power Co submits a change in status report to NSP's market-based rate authority.

Filed Date: 11/02/2006.

Accession Number: 20061102–5052.

Comment Date: 5 p.m. Eastern Time on Friday, November 24, 2006.

Docket Numbers: ER03–985–001.

Applicants: El Cap II, LLC.

Description: El Cap II, LLC submits its Triennial Updated Market Power Analysis Report.

Filed Date: 10/30/2006.

Accession Number: 20061101–0147.

Comment Date: 5 p.m. Eastern Time on Monday, November 20, 2006.

Docket Numbers: ER06–451–010.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits revisions to its Open Access Transmission Tariff effective 2/1/07.

Filed Date: 11/02/2006.

Accession Number: 20061103–0103.

Comment Date: 5 p.m. Eastern Time on Friday, November 24, 2006.

Docket Numbers: ER07–115–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc submits its 2007 Capital Budget and Capital Budget Quarterly Filing for the Third Quarter of 2006.

Filed Date: 10/31/2006.

Accession Number: 20061102–0072.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: ER07–118–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc submits an informational filing which clarifies the treatment of Hydro-Quebec Interconnection Capability Credit.
Filed Date: 10/31/2006.
Accession Number: 20061102–0073.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: ER07–119–000.
Applicants: Central Hudson Gas & Electric Corporation.
Description: Central Hudson Gas & Electric Corp submits an executed Interconnection Agreement with the City of New York dated 10/31/06.
Filed Date: 10/31/2006.
Accession Number: 20061102–0074.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: ER07–120–000.
Applicants: Western Electricity Coordinating Council.
Description: Western Electricity Coordinating Council submits Sixth Amendment to the Reliability Criteria Agreement with Arizona Electric Power Cooperative, Inc, *et al.*
Filed Date: 10/31/2006.
Accession Number: 20061102–0075.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: ER07–121–000.
Applicants: Allegheny Energy, Inc.; Monongahela Power Company; Allegheny Energy Supply Company, LLC.
Description: Allegheny Energy, Inc, Monongahela Power Co and Allegheny Energy Supply Co, LLC to submit a request for waivers of certain code of conduct requirements.
Filed Date: 10/31/2006.
Accession Number: 20061102–0077.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: ER07–122–000.
Applicants: Interstate Power and Light Company.
Description: Interstate Power and Light Co submits a request to change rates charged to its jurisdictional customers in Iowa, Illinois and Minnesota.
Filed Date: 10/31/2006.
Accession Number: 20061102–0078.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: ER07–123–000.
Applicants: LSP South Bay, LLC.
Description: LSP South Bay, LLC submits revisions to certain Reliability Must-Run Rate Schedules of its Reliability Must Run Agreement with the California Independent System Operator Corp.
Filed Date: 10/31/2006.
Accession Number: 20061102–0076.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: ER07–125–000.
Applicants: Keystone Energy Partners, LP.
Description: Keystone Energy Partners, LP submits a Petition for Acceptance of Initial Tariff, Waiver and Blanket Authority.
Filed Date: 10/31/2006.
Accession Number: 20061102–0181.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: ER07–126–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits an executed service agreement for Firm Point-To-Point Transmission Service with Kansas City Power and Light Company.
Filed Date: 11/02/2006.
Accession Number: 20061102–0183.
Comment Date: 5 p.m. Eastern Time on Friday, November 24, 2006.

Docket Numbers: ER07–127–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corp submits an Amended Outage Report to its Tariff.
Filed Date: 10/31/2006.
Accession Number: 20061102–0182.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: ER07–128–000.
Applicants: Wisconsin Public Service Corporation.
Description: Wisconsin Public Service Co submits three revised service agreements with Manitowoc Public Utilities et al., effective 1/1/07.
Filed Date: 10/31/2006.
Accession Number: 20061102–0178.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: ER07–129–000.
Applicants: Atlantic Path 15, LLC.
Description: Atlantic Path 15, LLC submits revisions to its Transmission Owner Tariff, FERC Electric Tariff Original Volume No 1.
Filed Date: 10/31/2006.
Accession Number: 20061102–0180.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: ER07–130–000.
Applicants: CalPeak Power-Vaca Dixon LLC.
Description: CalPeak Power-Vaca Dixon LLC submits the notice canceling Must-Run Service Agreement with California Independent System Operator Corporation, Inc, Rate Schedule No. 2.
Filed Date: 10/31/2006.
Accession Number: 20061102–0176.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: ER07–131–000; ER07–132–000; ER07–133–000.
Applicants: CalPeak Power-El Cajon LLC; Calpeak Power-Border, LLC; Calpeak Power-Enterprise, LLC.
Description: CalPeak Power LLC on behalf of CalPeak Entities submits modifications to certain schedules contained in the Reliability Must-Run Service Agreement with the California Independent System Operator Corp.
Filed Date: 10/31/2006.
Accession Number: 20061102–0177.
Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: ER07–134–000.
Applicants: Entergy Services, Inc.
Description: Entergy Services Inc submits Rate Schedule, First Revised Rate Schedule 170, for cost-based power sales for full requirements service to Brazos Electric Power Cooperative Inc.
Filed Date: 11/01/2006.
Accession Number: 20061103–0107.
Comment Date: 5 p.m. Eastern Time on Wednesday, November 22, 2006.

Docket Numbers: ER07–135–000.
Applicants: Entergy Services, Inc.
Description: Entergy Services, Inc on behalf of Entergy Gulf States, Inc, et al., submits EAI–EGS and EAI–EMI 2007 Bridge Contracts.
Filed Date: 11/01/2006.
Accession Number: 20061103–0113.
Comment Date: 5 p.m. Eastern Time on Wednesday, November 22, 2006.

Docket Numbers: ER07–137–000.
Applicants: Entergy Services, Inc.
Description: Entergy Services, Inc submits its third revised Network Integration Transmission Service Agreement w/ Louisiana Generating LLC.
Filed Date: 11/01/2006.
Accession Number: 20061103–0166.
Comment Date: 5 p.m. Eastern Time on Wednesday, November 22, 2006.

Docket Numbers: ER07–138–000.
Applicants: Central Vermont Public Service Corporation.
Description: Central Vermont Public Service Corp submits a notice of cancellation and cancelled rate schedule sheet terminating its Transmission and Interconnection Service Agreement with Morrisville Water & Light Department.
Filed Date: 11/01/2006.
Accession Number: 20061103–0162.
Comment Date: 5 p.m. Eastern Time on Wednesday, November 22, 2006.

Docket Numbers: ER07–139–000.

Applicants: Oklahoma Gas and Electric Company.

Description: Oklahoma Gas and Electric Co submits a notice of cancellation of a portion of its Rate Schedule 147, Agreement for Scheduling Exchange Service with Oklahoma Municipal Power Authority.

Filed Date: 11/01/2006.

Accession Number: 20061103–0163.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 22, 2006.

Docket Numbers: ER07–140–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits its revised rate sheets to the Amended & restated Eldorado System Conveyance and Co-Tenancy Agreement with Nevada Power Company et al.

Filed Date: 11/01/2006.

Accession Number: 20061103–0164.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 22, 2006.

Docket Numbers: ER07–141–000.

Applicants: Florida Power Corporation.

Description: Florida Power Corp submits a cost-based power sales agreement with the City of Mount Dora, Florida.

Filed Date: 11/01/2006.

Accession Number: 20061103–0165.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 22, 2006.

Docket Numbers: ER07–142–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits amendments to its tariff that modify the assignment of costs associated with energy exported from Participating Intermittent Resource Program.

Filed Date: 11/01/2006.

Accession Number: 20061103–0167.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 22, 2006.

Docket Numbers: ER07–143–000.

Applicants: Duke Energy Carolina, LLC.

Description: Duke Energy Carolinas, LLC submits its 10/27/06 confirmation with North Carolina Electric Membership Corporation, effective 1/1/07.

Filed Date: 11/01/2006.

Accession Number: 20061103–0168.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 22, 2006.

Docket Numbers: ER07–144–000.

Applicants: Central Vermont Public Service Corporation; Green Mountain Power Corporation.

Description: Central Vermont Public Service Corp et al. submit a revision to the Transmission Service Agreement designated as First Revised Rate Schedule 132 and First Revised Rate Schedule 188.

Filed Date: 11/01/2006.

Accession Number: 20061103–0169.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 22, 2006.

Docket Numbers: ER07–145–000.

Applicants: Arizona Public Service Company.

Description: Arizona Public Service Co submits a Long-Term Power Transaction Agreement with PacifiCorp, Rate Schedule 182.

Filed Date: 11/01/2006.

Accession Number: 20061103–0170.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 22, 2006.

Docket Numbers: ER07–146–000.

Applicants: Wabash Valley Energy Marketing, Inc.

Description: Wabash Valley Energy Marketing, Inc submits an application for acceptance of initial market-based rate tariff, waivers, and blanket authority, FERC Electric Original Volume No 1.

Filed Date: 11/01/2006.

Accession Number: 20061103–0160.

Comment Date: 5 p.m. Eastern Time on Wednesday, November 22, 2006.

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. E6–19121 Filed 11–13–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

November 6, 2006.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC07–12–000; ER07–117–000.

Applicants: AEP Operating Companies.

Description: AEP Operating Companies submit a request for disclaimer of jurisdictional or, in the alternative, applications for approval under Sections 203 and 205 of the Federal Power Act.

Filed Date: 10/31/2006.

Accession Number: 20061103–0062.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG07–7–000.

Applicants: BTEC New Albany LLC.

Description: BTEC New Albany LLC submits a notice of self-certification of exempt wholesale generator status.

Filed Date: 10/31/2006.

Accession Number: 20061102–0174.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Docket Numbers: EG07–8–000.

Applicants: BTEC Southhaven LLC.

Description: BTEC Southaven, LLC submits a notice of self-certification of Exempt Wholesale Generator Status.

Filed Date: 10/31/2006.

Accession Number: 20061102–0175.

Comment Date: 5 p.m. Eastern Time on Tuesday, November 21, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER00–2391–007; ER00–3068–007; ER01–1071–007; ER01–1710–009; ER01–1972–007; ER01–2074–007; ER01–2139–010; ER01–838–007; ER02–1838–007; ER02–1903–006; ER02–2018–007; ER02–2120–005; ER02–2166–006; ER02–2559–006; ER02–669–007; ER03–1103–003; ER03–1104–003; ER03–1105–003; ER03–1332–003; ER03–1333–004; ER03–1375–003; ER03–155–006; ER03–179–007; ER03–34–006; ER03–623–007; ER04–127–005; ER04–187–004; ER04–290–002; ER04–947–005; ER05–1281–003; ER05–222–003; ER05–236–005; ER05–487–003; ER06–9–002; ER97–3359–010; ER98–2076–010; ER98–2494–011; ER98–3511–011; ER98–3563–011; ER98–3564–011; ER98–3566–014; ER98–4222–006; ER99–2917–008;

Applicants: Doswell Limited Partnership; FPL Energy Cape, LLC; Badger Windpower LLC; Mill Run Windpower, LLC; Gray County Wind Energy, LLC; Calhoun Power Company LLC; Somerset Windpower, LLC; FPL Energy Vansycle LLC; FPL Energy Seabrook, LLC; FPL Energy Marcus Hook, L.P.; Blythe Energy, LLC; FPLE Rhode Island State Energy, LP; Pennsylvania Windfarms, Inc.; Backbone Mountain Windpower LLC; Bayswater Peaking Facility, LLC; FPL Energy South Dakota Wind, LLC; FPL Energy North Dakota Wind, LLC; FPL Energy North Dakota Wind, LLC; FPL Energy Oklahoma Wind, LLC; FPL Energy Sooner Wind, LLC; Waymart Wind Farm L.P.; High Winds, LLC; FPL Energy New Mexico Wind, LLC; FPL Energy Hancock County Wind, LLC; Jamaica Bay Peaking Facility, LLC; FPL Energy Green Power Wind, LLC; North Jersey Energy Associates, a L.P.; Meyersdale Windpower, LLC; POSDEF Power Company, LP; FPL Energy Duane Arnold, LLC; Diablo Winds, LLC; Northeast Energy Associates, LP; FPL Energy Cowboy Wind, LLC; FPL Energy Burleigh County Wind, LLC; Florida Power & Light Company; HAWKEYE POWER PARTNERS LLC; ESI VANSYCLE PARTNERS LP; FPL Energy Maine Hydro, LLC; FPL Energy Wyman LLC; FPL Energy Wyman IV LLC; FPL Energy Power Marketing, Inc.; LAKE BENTON POWER PARTNERS II LLC; FPL Energy MH50, L.P.;

Description: Notice of Termination of Affiliate Status of FPL Group, Inc. under ER97–3359, et al.

Filed Date: 10/27/2006.

Accession Number: 20061027–5017.

Comment Date: 5 p.m. Eastern Time on Friday, November 17, 2006.

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. E6–19122 Filed 11–13–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2006–0566; FRL–8241–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Assessment of EPA Partnership Programs; EPA ICR No. 2225.01

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA)(44 U.S.C. 3501 et seq.), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request for a new collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before December 14, 2006.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OA–2006–0566, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *oei.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, OEI Docket, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jamie Burnett, Office of Policy, Economics, and Innovation, Mail Code: 1807T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC, 20460; telephone number: (202) 566–2205; fax number: (202) 566–2200; e-mail address: *burnett.jamie@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On July 10, 2006 (71 FR 38878), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received one comment during the period that were not relevant to the ICR. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OA–2006–0566, which is available for online viewing at *www.regulations.gov,* or in person viewing at the OEI Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the OEI Docket is 202–566–1752.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Assessment of EPA Partnership Programs.

ICR numbers: EPA ICR No. 2225.01.

ICR Status: This ICR is for a new information collection activity. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Environmental Protection Agency (EPA) is seeking approval for a three-year generic clearance from the Office of Management and Budget (OMB) to develop a generic ICR to collect data to be used for performance measurement of EPA Partnership Programs. This will be a voluntary collection of information to assess the activities of EPA Partnership Programs. Performance measurement data collected will detail awareness of associated environmental results. EPA proposes to administer surveys and questionnaires to assess activities for program purpose and design, strategic planning, program management, and program results to determine if the goals of the program are being met.

All assessments undertaken under this ICR will follow stringent procedures to ensure that data are collected and used properly and efficiently. This ICR will provide anecdotal data for the purpose of informing EPA of the perceived effectiveness of partnership programs and will also allow partnership programs to collect data on the environmental results of partner activities due to participation. The information collection is voluntary, and will be limited to non-sensitive data concerning participation in partnership programs.

To help fulfill the broad mandate of protecting human health and the environment, EPA works with businesses, communities, state and local governments, and other organizations to achieve environmental goals through partnership programs. Partnership programs provide organizations with the information and assistance necessary to achieve and maintain various environmental goals.

EPA believes that measuring the performance of partnership programs is important to ensure that partnership programs are reaching the intended audience, providing valuable resources, and achieving the desired environmental results. Understanding this will allow EPA to better design and manage these partnership programs to meet the needs of the participants and to meet EPA's environmental goals. A generic ICR will significantly increase the ability of EPA Partnership Programs to: Determine and evaluate the effectiveness of these partnership programs as well as help the programs obtain data to successfully complete PART reviews; increase the consistency of program performance data as an alternative/adjunct to traditional regulatory approaches for achieving environmental results; minimize approval burden on OMB as submissions will be shorter and of higher quality via the generic ICR process; and reduce burden on potential respondents by limiting the number of requests for information.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2.2 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Participants in all of EPA's Partnership Programs, including businesses, governments, and members of the community.

Estimated Number of Respondents: 5,334.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 11,556 hours.

Estimated Total Annual Cost: $769,702, which includes $0 capital and O&M.

Dated: October 31, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–19172 Filed 11–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8241–6]

Agency Information Collection Activities; OMB Responses Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: The Environmental Protection Agency published a document in the **Federal Register** of October 25, 2006, concerning OMB's responses. This document contained incorrect information.

FOR FURTHER INFORMATION CONTACT: Susan Auby at (202) 566–1672.

Correction

In the **Federal Register** of October 25, 2006, in FR Doc. E6–17876, on page 62439, at the middle of the second column, correct the EPA ICR No. to read:

EPA ICR No. 0663.09; NSPS for Beverage Can Surface Coating

(Renewal); in 40 CFR part 60, subpart WW; was approved 10/03/2006; OMB Number 2060–0001; expires 10/31/2009.

Dated: November 1, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–19174 Filed 11–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2006–0870; FRL–8102–7]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held from December 12, 2006–December 14, 2006, in Alexandria, VA. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of AEGLs for the following chemicals: Allyl alcohol, carbon disulfide, carbonyl fluoride, ethyl benzene, mercury vapor, methacrylaldehyde, methyl vinyl ketone, *N*,*N*-dimethylformamide, oxygen difluoride, phosphorus trichloride, propargyl alcohol, selenium hexafluoride, stibine, sulfur dioxide, and thionyl chloride. In addition, proposed AEGL chemicals listed for public comment in the October 12, 2006 **Federal Register** (71 FR 60141–60143) (FRL–8095–1) will be considered for elevation from Proposed to Interim AEGL chemicals.

DATES: A meeting of the NAC/AEGL Committee will be held from 10 a.m. to 5 p.m. on December 12, 2006, from 8:30 a.m. to 5:30 p.m. on December 13, 2006, and from 8 a.m. to 12:30 p.m. on December 14, 2006.

ADDRESSES: The meeting will be held at the Hilton Alexandria Old Town, 1767 King St., Alexandria, VA (King St. Metro stop).

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

For technical information contact: Paul S. Tobin, Designated Federal Officer (DFO), Economics, Exposure, and Technology Division (7406M), Office of Pollution Prevention and Toxics, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8557; e-mail address: *tobin.paul@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2006–0870. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket in the EPA Docket Center (EPA/DC). The EPA/DC suffered structural damage due to flooding in June 2006. Although the EPA/DC is continuing operations, there will be temporary changes to the EPA/DC during the clean-up. The EPA/DC Public Reading Room, which was temporarily closed due to flooding, has been relocated in the EPA Headquarters Library, Infoterra Room (Room Number 3334) in EPA West, located at 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. EPA visitors are required to show photographic identification and sign the EPA visitor log. Visitors to the EPA/DC Public Reading Room will be provided with an EPA/DC badge that must be visible at all times while in the EPA Building and returned to the guard upon departure. In addition, security personnel will escort visitors to and from the new EPA/DC Public Reading Room location. Up-to-date information about the EPA/DC is on the EPA website at *http://www.epa.gov/epahome/dockets.htm*.

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

II. Meeting Procedures

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals to be discussed at the meeting, contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical-specific information should be directed to the DFO.

III. Future Meetings

Another meeting of the NAC/AEGL Committee is scheduled for March 2007. In order to provide some advance notice of future chemicals for AEGL development, this notice provides names of those chemicals that at the present time are most likely to be addressed, although these priorities may change before the March 2007 meeting date. A subsequent **Federal Register** notice for that meeting will provide the final list of chemicals for AEGL development to be included in that future meeting. The chemicals are as follows: Allyl chloride; boron tribromide; bromine chloride; diketene; ethylene fluorohydrin; osmium tetroxide; pentaborane; silicon tetrachloride; silicon tetrafluoride; tetrachloroethylene; 1,1,1-trichloroethane; and toluene.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: November 3, 2006.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. E6–19166 Filed 11–13–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8241–9]

Science Advisory Board Staff Office; Notification of Two Public Teleconferences of the Science Advisory Board

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a consultation via two public teleconferences to provide input on the Agency's proposed Risk and Technology Review (RTR) assessment methodology.

DATES: The SAB will hold two public teleconferences on December 7, 2006 and December 19, 2006. Each teleconference will begin at 1 p.m. and end at 5 p.m. (Eastern Time).

Location: Telephone conference call only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain general information concerning this public teleconference or should contact Dr. Sue Shallal, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343–9977; fax: (202) 233–0643; or e-mail at: *shallal.suhair@epa.gov*. General information concerning the EPA Science Advisory Board can be found on the EPA Web site at: *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the EPA SAB will hold a consultation via public teleconference to provide input on EPA's proposed RTR risk assessment methodology. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: Section 112(f)(2) of the CAA requires EPA to determine, for each section 112(d) source category, if the promulgation of additional standards is required to provide an ''ample margin of safety to protect public health''. EPA also has the discretion to impose a more stringent emissions standard to prevent adverse environmental effect if such action is justified in light of costs, energy, safety, and other relevant factors. EPA is proposing a risk assessment methodology aimed at satisfying these obligations in a streamlined and efficient manner.

EPA's Office of Air and Radiation (OAR) has requested that the Science Advisory Board (SAB) review its proposed Risk and Technology Review (RTR) Assessment plan. As a part of the technical basis for rulemaking in the EPA's RTR effort, EPA seeks input on whether its proposed assessment plan (emission data; dispersion and exposure modeling; risk characterization) is adequate to provide the basis for regulatory decisions concerning specific source categories. In sum, EPA is using a new approach to perform an assessment with the goal of characterizing the exposures and risks associated with the emissions of hazardous air pollutants (HAP) from approximately 30 different industrial source categories. These categories have previously been subjected to national emission standards, and the purpose of characterizing their risks now is to determine whether those emission standards (which were based on emission control technologies, work practices and other control measures available at the time they were promulgated) are adequate to protect public health with an adequate margin of safety and prevent adverse environmental effects.

In response to OAR's request, the SAB is convening an *Ad Hoc* consultative panel comprised of members of the SAB and its committees to provide advice on the proposed plan. The purpose of the first public teleconference is to receive a briefing on the proposed plan and to clarify the charge to the panel. During the second teleconference, the panel will provide input and comments on the proposed assessment plan.

Availability of Materials: The draft agendas and other materials will be posted on the SAB Web site at: *http://www.epa.gov/sab* prior to each teleconference. For questions and information concerning the Agency's proposed plan, please contact Dr. Dave Guinnup, at (919) 541–5368, or *guinnup.dave@epa.gov*.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB to consider during the public teleconference and/or meeting. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public SAB teleconference will be limited to three minutes per speaker, with no more than a total of one-half hour for all speakers. To be placed on the public speaker list, interested parties should contact Dr. Sue Shallal, DFO, in writing (preferably via e-mail), by November 30, 2006 for the first teleconference and by December 12, 2006 for the second teleconference, at the contact information noted above. *Written Statements:* Written statements should be received in the SAB Staff Office in accordance with the dates mentioned above so that the information may be made available to the SAB for their consideration prior to each teleconference. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Sue Shallal at (202) 343–9977 or *shallal.suhair@epa.gov*. To request accommodation of a disability, please contact Dr. Shallal preferably at least ten days prior to the teleconference, to give EPA as much time as possible to process your request.

Dated: November 8, 2006.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. E6–19168 Filed 11–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8241–8]

Science Advisory Board Staff Office; Notification of a Public Teleconference and Meeting of the Science Advisory Board

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public teleconference and meeting of the Ethylene Oxide (EtO) Review Panel to review the Agency's draft assessment, ''Evaluation of the Carcinogenicity of Ethylene Oxide''.

DATES: The SAB will hold the public teleconference on December 8, 2006. The teleconference will begin at 1 p.m. and end at 4 p.m. (Eastern Time). A face-to-face meeting will be held on January 18, 2007 from 9 a.m. to 5 p.m. (Eastern Time) and will continue on January 19, 2007 from 8:30 a.m. to 4 p.m. (Eastern Time).

Location: Telephone conference will be conducted by phone only. The venue for the January 18–19, 2007 face-to-face meeting will be announced on the SAB Web site (*http://www.epa.gov/sab*).

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain general information concerning this public teleconference or meeting should contact Dr. Sue Shallal, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343–9977; fax: (202) 233–0643; or e-mail at: *shallal.suhair@epa.gov*. General information concerning the EPA Science Advisory Board can be found on the SAB Web site at: *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the EPA SAB will hold a public teleconference to review a draft EPA assessment. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: EPA's Office of Research and Development (ORD) has requested that the Science Advisory Board (SAB) review this draft entitled ''Evaluation of the Carcinogenicity of Ethylene Oxide''. EPA last published a health assessment of the potential carcinogenicity of ethylene oxide (EtO) in 1985 (U.S. EPA, 1985). EPA has now completed a review of the more recent database on the carcinogenicity of EtO, pertinent data from the 1985 assessment, and several reviews and assessments issued by other organizations. This draft assessment focuses on lifetime cancer risk from inhalation exposure. In response to EPA's request, the SAB Staff Office formed a SAB Review Panel for EtO. Background information on the formation of the SAB EtO Review Panel can be found in the **Federal Register** Vol. 71, Number 40, page 10500–10501. This panel will provide advice and recommendations to EPA through the Chartered SAB and comply with the provisions of the Federal Advisory Committee Act (FACA) and all appropriate SAB procedural policies. The SAB Ethylene Oxide Review Panel is being asked to comment on the scientific soundness of this carcinogenicity assessment. The purpose of the public teleconference is to receive a briefing on the assessment and to clarify the charge to the panel. During the face-to-face meeting, the panel will review the assessment.

Availability of Materials: The draft agendas and other materials will be posted on the SAB Web site at: *http://www.epa.gov/sab* prior to each meeting. For questions and information concerning the Agency's draft assessment (*http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=157664*), please contact Dr. Henry Kahn, at (202) 564–3269, or *kahn.henry@epa.gov*.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB to consider during the public teleconference and/or meeting. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public SAB teleconference will be limited to three minutes per speaker, with no more than a total of one-half hour for all speakers. At the face-to-face meeting, presentations will be limited to five minutes, with no more than a total of one hour for all speakers. To be placed on the public speaker list, interested parties should contact Dr. Sue Shallal, DFO, in writing (preferably via e-mail), by December 1, 2006 for the teleconference and by January 8, 2007 for the face-to-face meeting, at the contact information noted above. *Written Statements:* Written statements should be received in the SAB Staff Office by December 1, 2006, so that the information may be made available to the SAB for their consideration prior to this teleconference or by January 8, 2007 for their consideration prior to the face-to-face meeting. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Sue Shallal at (202) 343–9977 or *shallal.suhair@epa.gov*. To request accommodation of a disability, please contact Dr. Shallal preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: November 8, 2006.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. E6–19170 Filed 11–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8241–7]

Science Advisory Board Staff Office; Notification of a Public Meeting of the Science Advisory Board Hypoxia Advisory Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA's Science Advisory Board (SAB) Staff Office is announcing a public meeting of the SAB Hypoxia Advisory Panel.

DATES: The meeting will be held from 9 a.m. (EST) December 6, 2006 to 1 p.m. December 8, 2006.

ADDRESSES: The meeting will be held at the Doubletree Hotel located at 1515 Rhode Island Avenue, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding the public meeting may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), U.S. EPA Science Advisory Board Staff Office by telephone/voice mail at (202) 343–9867, or via e-mail at *stallworth.holly@epa.gov*. The SAB mailing address is: US EPA, Science Advisory Board (1400F), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. General information about the SAB, as well as any updates concerning the meeting announced in this notice, may be found in the SAB Web site at: *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby

given that the SAB Hypoxia Advisory Panel will hold a public meeting to develop a report that details advancements in the state of the science regarding hypoxia in the Northern Gulf of Mexico. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: EPA participates with other Federal agencies, states and tribes in the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force. In 2001, the Task Force released the Action Plan for Reducing, Mitigating and Controlling Hypoxia in the Northern Gulf of Mexico (or Action Plan available at *http://www.epa.gov/msbasin/taskforce/actionplan.htm*). The Action Plan was informed by the science described in An Integrated Assessment of Hypoxia in the Northern Gulf of Mexico (or Integrated Assessment available at *http://www.noaa.gov/products/hypox_finalfront.pdf*) developed by the National Science and Technology Council, Committee on Environment and Natural Resources. Six technical reports provided the scientific foundation for the Integrated Assessment and are available at *http://www.nos.noaa.gov/products/pub_hypox.html*. The aforementioned documents provide a comprehensive summary of the state-of-the-science for the Gulf of Mexico hypoxic zone through about the year 2000.

EPA's Office of Water has requested that the SAB develop a report that evaluates the state-of-the-science regarding the causes and extent of hypoxia in the Gulf of Mexico, as well as the scientific basis of possible management options in the Mississippi River Basin. The SAB is asked to focus on scientific advances since 2000 that may have increased scientific understanding and control options in three general areas.

1. *Characterization of the Cause(s) of Hypoxia.* The physical, biological and chemical processes that affect the development, persistence and extent of hypoxia in the northern Gulf of Mexico.

2. *Characterization of Nutrient Fate, Transport and Sources.* Nutrient loadings, fate, transport and sources in the Mississippi River that impact Gulf Hypoxia.

3. *Scientific Basis for Goals and Management Options.* The scientific basis for, and recommended revisions to, the goals proposed in the Action Plan; and the scientific basis for the efficacy of recommended management actions to reduce nutrient flux from point and nonpoint sources.

In response to EPA's request, the SAB Staff Office formed the SAB Hypoxia Advisory Panel. Background on the Panel formation process was provided in a **Federal Register** notice published on February 17, 2006 (71 FR 8578–8580). The SAB Hypoxia Advisory Panel met on September 6–7, 2006 to plan its work and organized itself into three subgroups corresponding to the three general areas described above. Background for the first meeting of the Hypoxia Advisory Panel was provided in a **Federal Register** published on August 9, 2006 (71 FR 45543–45544). The three subgroups of the Panel have held multiple public teleconferences to begin developing the Panel's report. Background information for the subgroup teleconferences was provided in **Federal Register** notices published on September 25, 2006 (71 FR 55786–55787) and October 6, 2006 (71 FR 59107). Information about the SAB Hypoxia Advisory Panel is available on the SAB Web site at: *http://www.epa.gov/sab.*

Availability of Meeting Materials: Materials in support of this meeting will be placed on the SAB Web site *http://www.epa.gov/sab/* in advance of the meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Dr. Stallworth, DFO, at the contact information noted above, no later than November 28, 2006, to be placed on the public speaker list for the December 6–8, 2006 meeting. *Written Statements:* Written statements should be received in the SAB Staff Office no later than November 28, 2006 so that the information may be made available to the SAB for their consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature, and one electronic copy via e-mail to *stallworth.holly@epa.gov* (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Meeting Access: For information on access or services for individuals with disabilities, please contact Dr. Stallworth at (202) 343–9867 or *stallworth.holly@epa.gov.* To request accommodation of a disability, please contact Dr. Stallworth, preferably at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: November 7, 2006.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. E6–19171 Filed 11–13–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 8, 2006.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000

Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Whitney Holding Corporation, New Orleans, Louisiana; to merge with Signature Financial Holdings, Inc., and thereby acquire Signature Bank, both of St. Petersburg, Florida.

Board of Governors of the Federal Reserve System, November 8, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–19200 Filed 11–13–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services' claims collection regulations (45 CFR Part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the ''Schedule of Certified Interest Rates with Range of Maturities.'' This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the **Federal Register**.

The Secretary of the Treasury has certified a rate of 12⅜% for the quarter ended September 30, 2006. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: November 1, 2006.

Jean Augustine,

Director, Office of Financial Policy and Reporting.

[FR Doc. 06–9187 Filed 11–13–06; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–07–06AW]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 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

Supplement to the National Birth Defects Prevention Study: Qualitative Assessment of the Attitudes Mothers Have Toward Collecting Biological Specimens on their Infants and Young Children to Study Risk Factors for Birth Defects and Preterm Delivery—New—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC), has been conducting the National Birth Defects Prevention Study (OMB number 0920–0010, Exp. 5/31/2009) since 1997. The NBDPS is a case-control study of major birth defects that includes cases identified from existing birth defect surveillance registries in nine states, including metropolitan Atlanta. Control infants are randomly selected from birth certificates or birth hospital records. Mothers of case and control infants are interviewed using a computer-assisted telephone interview. Parents are asked to collect cheek cells from themselves and their infants for DNA testing. Information gathered from both the interviews and the DNA specimens will be used to study independent genetic and environmental factors as well as gene-environment interactions for a broad range of carefully classified birth defects.

This proposed supplement to the National Birth Defects Prevention Study will use qualitative research to provide data on the barriers to participation in the collection of biological specimens by mothers on themselves, their infants, and young children. It is costly to implement the collection of biological specimens into an interview/questionnaire-based study. However, an ever-increasing number of studies include the examination of environmental and genetic interactions to help medical and public health professionals' better target appropriate interventions. A critical component for studies of gene variants is the collection of biological specimens. Participation and non-participation in the collection of biological specimens is not fully understood. We will conduct multiple well-designed focus groups to assess the attitudes of both mothers who participated and mothers who did not participate in the collection of biological specimens to increase the effectiveness of these studies. This information will be useful to many groups at the CDC who are currently collecting biological specimens from infants and their families but with less than optimal response rates and those who are working to implement studies that include the use of biological specimens.

Scientists from the National Birth Defects Prevention Study (NBDPS) in NCBDDD, the Pregnancy Risk Assessment Monitoring System (PRAMS) in NCCDPHP, and the Office of Genomics and Disease Prevention (OGDP) have received Collaborative Initiative intramural funding to conduct focus groups aimed at gaining insight into the barriers and motivations women have for participating in the collection of biological specimens. Among the three collaborating Centers within the Coordinating Center for Health Promotion, NCBDDD's National Birth Defects Prevention Study provides a unique opportunity for exploring the barriers and motivations toward collection of genetic material. This focus group project will recruit mothers who participated in the maternal interview for the National Birth Defects Prevention Study (NBDPS). There are no costs to the respondents other than their time. The total estimated annualized burden hours are 214.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Frequency of response	Avg. burden/ response (in hours)	Annual burden (in hours)
Focus group Participants	72	1	2.5	180

Dated: November 6, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–19144 Filed 11–13–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–07–0217]

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 404–639–5960 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

Vital Statistics Training Application, OMB No. 0920–0217—Extension—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In the United States, legal authority for the registration of vital events, *i.e.*, births, deaths, marriages, divorces, fetal deaths, and induced terminations of pregnancy, resides individually with the States (as well as cities in the case of New York City and Washington, DC) and Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. These governmental entities are the full legal proprietors of vital records and the information contained therein. As a result of this State authority, the collection of registration-based vital statistics at the national level, referred to as the U.S. National Vital Statistics System (NVSS), depends on a cooperative relationship between the States and the Federal Government. This data collection, authorized by 42 U.S.C. 242k, has been carried out by NCHS since it was created in 1960.

NCHS assists in achieving the comparability needed for combining data from all States into national statistics, by conducting a training program for State and local vital statistics staff to assist in developing expertise in all aspects of vital registration and vital statistics. The training offered under this program includes courses for registration staff, statisticians, and coding specialists, all designed to bring about a high degree of uniformity and quality in the data provided by the States. This training program is authorized by 42 U.S.C. 242b, section 304(a). In order to offer the types of training that would be most useful to vital registration staff members, NCHS requests information from State and local vital registration officials about their projected needs for training. NCHS also asks individual candidates for training to submit an application form containing name, address, occupation, work experience, education, and previous training. These data enable NCHS to determine those individuals whose needs can best be met through the available training resources. NCHS is requesting 3 years of OMB clearance for this project. There is no cost to respondents in providing these data.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
State, local, and Territory Registration Officials	57	1	20/60	19
Training applicants	100	1	15/60	25
Total				44

Dated: November 6, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–19145 Filed 11–13–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–06–05CH]

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 404–639–5960 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

An assessment of the determinants of HIV risk factors for African-American and Hispanic women in the southeastern United States—New—The National Center for HIV/AIDS, STD and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting OMB approval to administer a questionnaire and rapid oral test for HIV in heterosexual African American and Hispanic women at three sites in the southeastern United States. This proposed data collection will occur over 3 years.

This study is designed to assess risk factors for HIV infection in these women and addresses goals of CDC's ''HIV Prevention Strategic Plan Through 2005''. CDC plans to meet specific goals by (1) decreasing the number of women at high risk of acquiring or transmitting HIV infection; (2) increasing the proportion of HIV-infected women who know they are infected; (3) increasing the number of HIV-infected women who are linked to appropriate prevention, care, and treatment services; and (4) strengthening the capacity nationwide to monitor the HIV epidemic. In addition, project data will provide important epidemiologic information useful for the development and targeting of future HIV prevention activities.

To identify recruitment venues, 250 African American and 125 Hispanic women (n = 375) will be recruited to take part in an anonymous one-time 3-minute intercept interview. (Data on the table below are shown annualized over the 3 year period for this project.) About 2025 women, recruited directly from the selected venues (e.g. health clinics, beauty salons, laundromats, etc.) and by word of mouth using a respondent-driven sampling (RDS) approach, will be asked to complete a 10-minute eligibility screening interview. We estimate that 80% of screened women will be eligible for our study. Among the estimated 1620 eligible women about 270 women are anticipated to decline participation in the study. To get a better understanding of the reasons for declining participation, those 270 women will be asked to complete a 10-minute questionnaire. The remaining 1350 eligible participants (850 African American and 500 Hispanic) that are at risk for HIV infection will be enrolled. They will respond to a one-time, 45-minute computerized questionnaire capturing information on demographic, psychological, behavioral, sociocultural, and environmental/contextual dimensions relevant for understanding risk for contracting HIV infection. They will also receive rapid oral HIV testing and counseling. The HIV counseling and testing will take an additional 45 minutes to complete. Each woman will receive 10-minute RDS training on how they can tell other women in their social networks about the study. A sub-sample of 40 African American and 20 Hispanic women (n = 60) will also take part in separate qualitative interviews. The one-hour qualitative interview will be scheduled for a different day that is convenient for the women.

The total response burden for the three-year period is estimated to be 2711.25 hours (904 annualized burden hours). There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Activity with women volunteers	Number of respondents	Number of responses per respondent	Average burden per response (hours)	Hours
Venue intercept interview	125	1	3/60	6.25
Eligibility screening interview	675	1	10/60	112.5
Refusal questionnaire	90	1	10/60	15
ACASI survey interview	450	1	45/60	337.5
HIV Testing & Counseling	450	1	45/60	337.5
RDS Training	450	1	10/60	75
Qualitative interview	20	1	1	20
Total				903.75

Dated: November 6, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–19146 Filed 11–13–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–07–0604]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 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

School Associated Violent Death Surveillance System—Extension—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. The total estimated annualized burden hours are 70.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden/response (in hours)
School Officials	35	1	1
Police Officials	35	1	1

Dated: November 7, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E6–19147 Filed 11–13–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Injury Prevention and Control: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Advisory Committee for Injury Prevention and Control, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through October 28, 2008.

For information, contact Amy Harris, Executive Secretary, Advisory Committee for Injury Prevention and Control, Centers for Disease Control and Prevention, Department of Health and Human Services, 1600 Clifton Road, NE., Mailstop K61, Atlanta, Georgia 30333, telephone 770/488–1484 or fax 770/488–4222.

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 the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: November 6, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–19151 Filed 11–13–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0329]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Medicated Feed Mill License Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by December 14, 2006

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of the Chief Information Officer (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Medicated Feed Mill Licensing Application—21 CFR Part 515 (OMB Control No. 0910–0337)—Extension

The Animal Drug Availability Act (ADAA) of October 9, 1996, amended section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) to replace the system for the approval of specific medicated feed with a general licensing system for feed mills. Before passage of the ADAA, medicated feed manufacturers were required to obtain approval of Medicated Feed Applications (MFAs) in order to manufacture certain types of medicated feeds. An individual approved MFA was required for each and every applicable medicated feed. The ADAA streamlined the paperwork process for gaining approval to manufacture medicated feeds by replacing the MFA system with a facility license for each medicated feed manufacturing facility. Implementing regulations are at part 515 (21 CFR part 515).

In the **Federal Register** of August 25, 2006 (71 FR 50433), FDA solicited comments on the information collection provisions of this proposed collection. In response to that request, FDA received no comments.

Description of Respondents: Medicated feed manufacturers.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
515.10(b)	7	1	7	0.25	1.75
515.11(b)	100	1	100	0.25	25
515.23	25	1	25	0.25	6.25
515.30(c)	0.15	1	0.15	24	3.6
Total					36.6

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
510.305	1,070	1	1,070	0.03	32.10

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated annual reporting burden on industry is 36.6 hours as shown in table 1 of this document. Industry estimates it takes about 1/4 hour to submit the application. We estimate 132 original and supplemental applications, and voluntary revocations for a total of 33 hours (132 submissions x 1/4 hour). An additional 3.6 hours is added for the rare notice of opportunity for a hearing to not approve or revoke an application. Finally, we estimate 36 hours for maintaining and retrieving labels as required by 21 CFR 510.305. We estimated .03 hours for each of approximately 1,070 licensees. Thus, the total burden for recordkeeping requirements is 32.10 hours (1,070 x 0.03).

Dated: November 7, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–19152 Filed 11–13–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0441]

Draft Guidance for Industry: Protocols for the Conduct of Method Transfer Studies for Type C Medicated Feed Assay Methods; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of draft guidance for industry (#136) entitled ''Protocols for the Conduct of Method Transfer Studies for Type C Medicated Feed Assay Methods.'' This draft guidance provides our recommendations for protocols for conducting the transfer study of a single-laboratory validated Type C medicated feed assay method to laboratories that have no experience with the test method.

DATES: Submit written or electronic comments on this draft guidance by January 29, 2007, to ensure their adequate consideration in preparation of the final document. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests.

Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the full title of the draft guidance and the docket number found in brackets in the heading of this document. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Rebecca L. Owen, Center for Veterinary Medicine (HFV–141), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–9842, e-mail: *rebecca.owen@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 512(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) establishes the requirements for a new animal drug approval. FDA regulations specify the information you (the sponsor) must submit as part of your new animal drug application (NADA) and the proper format for the NADA submission (§ 514.1 (21 CFR 514.1)). As part of your NADA submission, you must describe analytical procedures capable of determining the active component(s) of the new animal drug within a reasonable degree of accuracy and of assuring the identity of such components (21 CFR 514.1(b)(5)(vii)). This includes a description of practicable methods of analysis (assay methods) that have adequate sensitivity to determine the amount of the new animal drug in the final dosage form (21 CFR 514.1(b)(5)(vii)(a)). In the case of a Type A medicated article, the Type C medicated feed is a final dosage form used to treat the animal. Thus as part of the NADA review process, FDA looks at assay methods for determining the amount of a new animal drug in Type C medicated feed.

This draft guidance provides our (the Office of New Animal Drug Evaluation or ONADE) recommendations for protocols for conducting the transfer study of a single-laboratory validated Type C medicated feed assay method to laboratories that have no experience with the test method. Many testing laboratories, including state feed laboratories and contract laboratories, use Type C medicated feed assay methods to determine whether the drug in a medicated feed is within the assay limits. The term ''assay limits'' refers to the amount of the drug detected when a Type B/C feed is assayed. The limit is a range that is codified at 21 CFR 558.4(d). When feed assay values fall within this range, it indicates that the feed has been prepared with the correct amount of Type A medicated article. Because many different laboratories use medicated feed assays, it is important that the assay methods are reproducible. Sponsors should conduct method transfer studies to evaluate reproducibility. A method transfer study is part of the evaluation process for a Type C medicated feed assay method and demonstrates the transferability of the feed assay method among different laboratories by comparing the results each laboratory obtains when using the method to analyze a specific set of feed samples. Sponsors may expand the method transfer study to include other medicated feed products, such as Top Dress Type C, Free-Choice Type C, and Type B medicated feeds.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in § 514.1 have been approved under OMB control nos. 0910–0032 and 0910–0154.

III. Significance of Guidance

This draft level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This draft guidance, when finalized, will represent the agency's current thinking on the topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternate method may be used as long as it satisfies the requirements of applicable statutes and regulations.

IV. Comments

This draft guidance is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this draft guidance document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

V. Electronic Access

Electronic comments may be submitted on the Internet at *http://www.fda.gov/dockets/ecomments*. Copies of the draft guidance document entitled ''Protocols for the Conduct of Method Transfer Studies for Type C Medicated Feed Assay Methods'' may be obtained from the CVM Home Page (*http://www.fda.gov/cvm*) and from the Division of Dockets Management Web site (*http://www.fda.gov/ohrms/dockets/default.htm*).

Dated: November 7, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–19204 Filed 11–13–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0419]

Draft Voluntary National Retail Food Regulatory Program Standards; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Voluntary National Retail Food

Regulatory Program Standards'' (the Program Standards). The Program Standards are intended to help state, local, and tribal regulators design and manage a retail food regulatory program that is focused on the reduction of foodborne illness risk factors.

DATES: Submit written or electronic comments concerning the draft Program Standards document and its recommendations for collection of information by January 16, 2007.

ADDRESSES: Submit written requests for single copies of the draft Program Standards document to Glenda R. Lewis, Center for Food Safety and Applied Nutrition (HFS–626), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2150. Send one self-addressed adhesive label to assist that office in processing your request. Submit written comments concerning the draft Program Standards document and its recommendations for collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments on the draft Program Standards document and its recommendations for collection of information to *http://www.fda.gov/dockets/ecomments*. All comments should be identified with the docket number found in brackets in the heading of this document. See the SUPPLEMENTARY INFORMATION section for electronic access to the draft manuals and received comments.

FOR FURTHER INFORMATION CONTACT: Glenda R. Lewis, Center for Food Safety and Applied Nutrition (HFS–626), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–2150.

SUPPLEMENTARY INFORMATION:

I. Background

While the responsibility for regulating retail and foodservice establishments lies primarily with state, local, and tribal jurisdictions, FDA provides assistance to these jurisdictions through multiple means including, but not limited to, training and technical assistance. Authority for providing such assistance is derived from section 311 of the Public Health Service Act (42 U.S.C. 243). In addition, FDA's mission under section 903(b)(2)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 393(b)(2)(A)) includes ensuring that foods are safe, wholesome, and sanitary, and section 903(b)(4) of the act directs FDA to cooperate with food retailers, among others, in carrying out this part of its mission.

The Centers for Disease Control and Prevention has identified the major contributing factors associated with foodborne illness outbreaks. Five of these contributing factors directly relate to retail and foodservice establishments and are called ''foodborne illness risk factors'' by FDA. In an effort to assist state, local, and tribal regulators and the retail and food service entities they regulate, FDA developed draft Program Standards.

The Program Standards were developed to address the need for national uniformity among retail food regulatory programs, to promote uniform application of the FDA Food Code, and to reduce the occurrence of foodborne illness risk factors. The Program Standards were developed with extensive input from state, tribal, and local regulatory authorities. They capture the best management practices currently in use by those authorities and are intended to help those authorities design and manage a retail food regulatory program that is focused on the reduction of foodborne illness risk factors.

The incorporation of a risk-based methodology into regulatory inspection programs is an important element in reaching the goals established by the President's Council on Food Safety in the document entitled ''Food Safety Strategic Plan'' released in January 2001 (available at *http://www.foodsafety.gov/~fsg/cstrpl–4.html*) as well as FDA's food safety program goals.

II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection 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 through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Voluntary National Retail Food Regulatory Program Standards

In the **Federal Register** of May 9, 2001 (66 FR 23715), a 60-day notice was published soliciting comments on FDA's collection of information from local, state and tribal authorities concerning their use of or planned use of FDA's Program Standards. No comments were received in response to that notice. The agency has decided to reissue this 60-day notice for further comment because the Program Standards have been revised since the previous notice. The January 2005 revision of the Program Standards is available in draft for comment on FDA's Web site at *http://www.cfsan.fda.gov/~dms/ret3toc.html*.

The Program Standards define nine essential elements of an effective regulatory program for retail food establishments, establish basic quality control criteria for each element, and provide a means of recognition for those state, local, and tribal regulatory programs that meet the Program Standards. The program elements addressed by the Program Standards are as follows: (1) Regulatory foundation, (2) trained regulatory staff, (3) inspection program based on HACCP principles, (4) uniform inspection program, (5) foodborne illness and food security preparedness and response, (6) compliance and enforcement, (7) industry and community relations, (8) program support and resources, and (9) program assessment. Each standard includes a list of records needed to document compliance with the standard (referred to in the Program Standards document as ''quality records'') and has one or more corresponding appendices that contain forms and worksheets to facilitate the collection of information needed to assess a retail program under that standard. The respondents are State, local and tribal government agencies. Regulatory agencies may use existing, available records or may choose to develop and use alternate forms and worksheets that capture the same information.

In the course of their normal activities, state, local, and tribal

regulatory agencies already collect and keep on file many of the records needed as quality records to document compliance with the end of each Program Standard by jurisdictions that enroll. Although the detail and format in which this information is collected and recorded may vary by jurisdiction, records that are kept as a usual and customary part of normal agency activities include inspection records, written quality assurance procedures and records of quality assurance checks, staff training certificates and other training records, a log or database of food-related illness or injury complaints, records of investigations resulting from such complaints, an inventory of inspection equipment, records of outside audits, and records of outreach efforts (e.g., meeting agendas and minutes, documentation of food safety education activities). No new recordkeeping burden is associated with these existing records, which are already a part of usual and customary program recordkeeping activities by state, local, and tribal regulatory agencies, and which can serve as quality records under the Program Standards.

State, local, and tribal regulatory agencies that enroll in the Program Standards and seek listing in the FDA National Registry are required to report to FDA on the completion of the following three management tasks outlined in the Program Standards: (1) Conducting a program self assessment; (2) conducting a baseline survey of the regulated industry; and (3) obtaining an independent outside audit (verification audit). All three tasks must be completed within a 3-year time span. The results are reported to FDA on Form FDA 3519, ''FDA National Registry Report,'' and Form FDA 3520, ''Permission to Publish in National Registry.'' These forms are located in Appendix I of the Program Standards. If a regulatory agency follows all the recordkeeping recommendations in the individual standards and their appendices, it will have all the information needed to complete the forms. The time required to complete the forms is minimal.

Recordkeeping

FDA's recordkeeping burden estimate includes time required for a state, local, or tribal agency to review the instructions in the Program Standards, compile information from existing sources, and create any records recommended in the Program Standards that are not already kept in the normal course of the agency's usual and customary activities. Worksheets (Appendices) are provided to assist in this compilation. In estimating the time needed for the program self-assessment (Program Standards 1–8, shown in chart 1 of this document), FDA considered responses from four state and three local jurisdictions that participated in an FDA Program Standards Pilot study. Chart 2 of this document shows the estimated recordkeeping burden for the completion of the baseline data collection and chart 3 of this document shows the estimated recordkeeping burden for the verification audit. The overall program improvement cycle is a 3-year period for completion of all three management tasks.

CHART 1.—YEAR ONE—SELF ASSESSMENT

Standard	Recordkeeping Activity	Hours per Recordkeeper (Year One)
No. 1 Regulatory Foundation	Self Assessment: (Appendix A[1]) Completion of worksheet recording results of evaluations and comparison on worksheets	16
No. 2 Trained Regulatory Staff	Self Assessment: (Appendix B[1]) Completion of summary worksheet of each employee training records[2]	19
No. 3 HACCP Principles	Self Assessment: (Appendix C[1]) Completion of worksheet documentation	4
No. 4 Uniform Inspection Program	Self Assessment: (Appendix D[1]) Completion of worksheet documentation of jurisdiction's quality assurance procedures[2]	19
No. 5 Foodborne Illness and Food Security Preparedness and Response	Self Assessment: (Appendix E[1]) Completion of worksheet documentation	5
No. 6 Compliance Enforcement	Self Assessment: (Appendix F[1]) Selection and review of 20 to 70 establishment files @ 25 minutes per file. Estimate is based on a mean number of 45. Completion of worksheet	19
No. 7 Industry and Community Relations	Self Assessment: (Appendix G[1]) Completion of worksheet	2
No. 8 Program Support and Resources	Self Assessment: (Appendix H[1]) Selection and review of establishment files	8
Subtotal		92

[1]Or comparable documentation.
[2]Estimates will vary depending on the number of regulated food establishments and the number of inspectors employed by the jurisdiction.

CHART 2.—YEAR TWO—BASELINE DATA COLLECTION

Standard	Recordkeeping Activity	Hours Per Recordkeeper (Year Two)
No. 9 Program Assessment	Baseline Data Collection (Appendices I and J). Selection and inspection of randomly selected statistical sample of 9 to 87 establishments from each of 9 facility types[1]	333

[1]Calculation based on mean sample size of 39 and average FDA inspection time for each establishment type. Estimates will vary depending on the number of regulated food establishments within a jurisdiction and the number of inspectors employed by the jurisdiction.

CHART 3.—YEAR THREE—VERIFICATION AUDIT

Standard	Recordkeeping Activity	Hours per Recordkeeper (Year Three)
9	Verification Audit (Appendices I and J)[1]	46

[1]We estimate that no more than 50 percent of time spent to complete self assessment of all nine Standards is spent completing verification audit worksheets. Time will be considerably less if less than nine standards require verification audits.

FDA estimated the annual hours per recordkeeper (i.e., per enrolled jurisdiction) in table 1 of this document by adding the recordkeeping estimates for the management tasks of self assessment, baseline data collection, and verification audit (charts 1, 2, and 3 of this document) that enrolled jurisdictions must perform during a 3-year cycle, then dividing the total by three to obtain an annual average.

The estimates in tables 1 and 2 of this document are based on the estimated participation of 500 regulatory jurisdictions in the Program Standards. There are approximately 3,000 jurisdictions in the United States and its territories that have retail food regulatory programs. Enrollment in the Program Standards is voluntary, and therefore FDA does not expect all jurisdictions to participate in the near future. In its 2002 operational plan, the FDA National Retail Food Team established a goal of enrolling 15 percent of eligible agencies, or 450 programs, in the Program Standards by the year 2010. For purposes of this burden estimate, it is reasonable to take into account the possibility that this goal could be exceeded by approximately 10 percent, for a total of approximately 500 participating agencies.

Thus, FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

FDA Worksheets[2]	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
Appendices A through J	500	1	500	157	78,500
Total Burden Hours					78,500

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.
[2]Or comparable documentation.

Reporting

Based on the number and nature of the items that need to be completed, FDA estimates a total of 12 minutes annually for each enrolled jurisdiction to complete both FDA Form 3519, ''FDA National Registry Report,'' and Form 3520, ''Permission to Publish in National Registry.'' Form 3519 requires the name and address of the jurisdiction; completion dates for the self assessment, baseline survey (original and update), and verification audit; names of the person(s) who completed the self-assessment, verification audit, baseline survey, baseline survey update, and action plan; signature of the program manager; and date the form was completed. Form 3520 requires the name of the jurisdiction, completion date of the self assessment, date of the verification audit report, name of the auditor, signature and title of the official completing the form, and date the form was completed. As explained previously in this document, FDA estimates that 500 regulatory jurisdictions will enroll in the Program Standards. The reporting burden in table 2 of this document includes only the time necessary to fill out and send the forms, as compiling the underlying information (including self-assessment reports, baseline surveys, outside audits, and supporting documentation) is accounted for under the recordkeeping estimates in table 1 of this document.

Thus, FDA estimates the burden for this collection of information as follows:

TABLE 2.—ESTIMATED ANNUAL REPORTING BURDEN[1]

FDA Forms	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
3519	500	1	500	6 min	50 hours
3520	500	1	500	6 min	50 hours

TABLE 2.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

FDA Forms	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Total Burden Hours					100 hours

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the draft Program Standards document and its recommendations for collection of information. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft Program Standards document and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the draft Program Standards document at *http://www.cfsan.fda.gov/~dms/ret3toc.html*.

Dated: October 31, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–19195 Filed 11–13–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[DHS–2006–0070]

Data Privacy and Integrity Advisory Committee

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: This notice announces the date, time, location, and agenda for the next meeting of the Department of Homeland Security Data Privacy and Integrity Advisory Committee. This meeting will be open to the public, with the exception of a one-hour administrative session.

DATES: The meeting will be held from 8 a.m. to 11:15 a.m. and 12:15 p.m. to 2:30 p.m. on Wednesday, December 6, 2006, in Miami Beach, Florida.

ADDRESSES: The Department of Homeland Security Data Privacy and Integrity Advisory Committee meeting will be held in the Key Biscayne A room of the Eden Roc Hotel, 4525 Collins Avenue, Miami Beach, Florida 33140. Persons wishing to make comments or who are unable to attend or speak at the meeting may submit comments at any time. All submissions received must include the docket number: DHS–2006–0070 and may be submitted by any one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow instructions for submitting comments on the Web site.
- *E-mail: PrivacyCommittee@dhs.gov.* Include docket number in the subject line of the message.
- *Fax:* (571) 227–4171.
- *Mail:* Ms. Rebecca J. Richards, Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Mail Stop D–3, Arlington, Virginia 22202.

Instructions: All submissions received must include the docket number: DHS–2006–0070. Comments received will also be posted without alteration at *www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the DHS Data Privacy and Integrity Committee, go to *www.regulations.gov.* Comments received will be posted without alteration at *http://www.dhs.gov/privacy*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Hugo Teufel III, Chief Privacy Officer, or Rebecca J. Richards, Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Arlington, Virginia 22202, by telephone (571) 227–3813, by fax (571) 227–4171, or by e-mail *PrivacyCommittee@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Data Privacy and Integrity Advisory Committee (''Privacy Advisory Committee'') will be meeting on Wednesday, December 6, 2006, in the Key Biscayne A room of the Eden Roc Hotel, 4525 Collins Avenue, Miami Beach, Florida 33140. The meeting will be held from 8 a.m. to 11:15 a.m. and 12:15 p.m. to 2:30 p.m.

During the meeting, the DHS Chief Privacy Officer will provide an update on the activities of the DHS Privacy Office. The Subcommittees will update the Committee on the work currently being conducted. In the morning and afternoon sessions, invited speakers will discuss data integrity and credentialing programs. A tentative agenda has been posted on the Privacy Advisory Committee Web site at *http://www.dhs.gov/privacy.*

Public comments will be accepted during the meeting between 2 p.m. and 2:30 p.m. All those who wish to make public comments during this time may register in advance or sign-up on the day of the meeting. In order to allow as many people as possible to testify, witnesses should limit their remarks to three minutes. For those wishing to make written comments, please follow the procedure noted above.

Public attendance is encouraged. Any member of the public who wishes to attend the public session is requested to provide his or her name and affiliation no later than 2 p.m. EST, Friday, December 1, 2006, to Rebecca J. Richards via e-mail at *PrivacyCommittee@dhs.gov*, or via telephone at (571) 227–3813. This will assist with the preparation of name badges, meeting materials and seating arrangements. Everyone who plans to attend is respectfully requested to be present and seated by 7:45 a.m. for the morning session and by 12 p.m. for the afternoon session.

Persons with disabilities who require special assistance should indicate this in their admittance request and are encouraged to identify anticipated special needs as early as possible.

Although every effort will be made to accommodate all members of the public, seating is limited and will be allocated on a first-come, first-served basis.

Hugo Teufel III,

Chief Privacy Officer.

[FR Doc. E6–19173 Filed 11–13–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Withdrawal of Notice of Availability of a Technical Agency Draft Recovery Plan for the Puerto Rican Parrot

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice, withdrawal.

SUMMARY: We, the Fish and Wildlife Service, withdraw the notice of availability of the revised technical agency draft recovery plan for the Puerto Rican Parrot (*Amazona vittata vittata*). The Puerto Rican parrot, largely green with a red forehead and blue flight feathers, is one of nine extant Amazona parrots occurring in the West Indies. The notice (71 FR 58426, October 3, 2006) was released in error, however, we anticipate announcing the current revision of the recovery plan in fiscal year 2007, which incorporates new information, describes actions considered necessary for the conservation of this species, establishes criteria (important milestones) for recognizing the recovery levels for downlisting from endangered to threatened, and estimates the time and cost for implementing the recovery measures needed.

ADDRESSES: Copies of the original recovery plan are available by request from the Boquerón Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (telephone 787/851–7297) or by visiting our Web site at *http://endangered.fws.gov/recovery/index.html*.

FOR FURTHER INFORMATION CONTACT: Field Supervisor at the above address.

SUPPLEMENTARY INFORMATION:

Background

The Puerto Rican parrot is presently considered one of the 10 most endangered birds in the world. Since 1973, the number of wild parrots has never surpassed 47 birds, and currently stands at a minimum of 28 individuals mostly confined within the Caribbean National Forest boundaries in the Luquillo Mountains.

The Puerto Rican parrot is a fruit-eating cavity nester seldom seen far from forests. The decline of the parrot and its restricted distribution are due to many factors, mostly the widespread habitat loss (*e.g.*, deforestation.) The extant parrot population may have retreated to the Luquillo Mountains because preferred lowland habitat was destroyed. Due to its nesting requirements, it depends on mature forests with large cavity-forming trees. Many stands of cavity-forming trees are old enough to meet nesting requirements in the Caribbean National Forest. Parrots concentrate their use of habitat within the largest remaining area of essentially unmodified forest. However, some observations suggest that the parrots are using private areas bordering the southern and northern parts of the Caribbean National Forest.

Despite the present low numbers and limited distribution, many of the historical threats, such as nest competition and predation of eggs and chicks by pearly-eyed thrashers (*Margarops fuscatus*), predation of fledglings and adults by red-tailed hawks (*Buteo jamaicensis*), predation by rats (*Rattus rattus* and *R. norvegicus*), parasitism by warble flies (*Philornis pici*), and the impact of hurricanes and competition for cavities with European and Africanized honeybees (*Apis mellifera*), have been controlled through management strategies.

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the endangered species program. To help guide the recovery effort, we are preparing recovery plans for most listed species. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for downlisting or delisting, and estimate time and cost for implementing recovery measures.

The Act requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act requires us to provide a public notice and an opportunity for public review and comment during recovery plan development. When we announce the availability of the current revision of the recovery plan in fiscal year 2007, we will provide opportunity for public review and comment.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: October 12, 2006.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E6–19162 Filed 11–13–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent to Prepare an Environmental Impact Statement for the Ginn Company Battle Mountain Habitat Conservation Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: Under the National Environmental Policy Act (NEPA), the U.S. Fish and Wildlife Service (Service) advises the public that we intend to gather information necessary to prepare, in coordination with the Ginn Company (Applicant), an Environmental Impact Statement (EIS) for the Battle Mountain Habitat Conservation Plan (HCP) in accordance with section 10(a)(1)(B) of the Endangered Species Act. The Service provides this notice to—(1) Describe the proposed actions and possible alternatives; (2) advise other Federal and State agencies, affected Tribes, and the public of our intent to prepare an EIS; (3) announce the initiation of a public scoping period; and (4) obtain suggestions and information on the scope of issues and alternatives to be included in the EIS.

DATES: Written comments should be received on or before December 14, 2006.

ADDRESSES: Information, written comments, or questions related to the preparation of the EIS and the NEPA process should be submitted to Al Pfister, Western Colorado Field Office, 764 Horizon Drive, Building B, Grand Junction, Colorado 81506–3964 or via fax to (970) 245–6933. Comments may be submitted by e-mail to the following address: *GinnHCP_scoping@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Al Pfister, Western Colorado Project Leader, at the above address, or telephone 970–243–2778, extension 29.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Endangered Species Act (Act) (16 U.S.C. 1538) and Federal regulations prohibit the ''take'' of a fish or wildlife species listed as threatened or endangered. Under the Act, the following activities are defined as take: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or to attempt to engage in such conduct (16 U.S.C. 1532). However, under section 10(a)(1)(B) of the Act, we may issue permits to authorize ''incidental take'' of listed species. ''Incidental take'' is defined by the regulations that

implement the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened species and endangered species are at 50 CFR 17.32 and 50 CFR 17.22, respectively.

The EIS would analyze the Service's potential issuance of an Incidental Take Permit (ITP) to the Applicant for its proposed Battle Mountain development. Should a permit be issued, the permit may include assurances under the Service's ''No Surprises'' regulations.

The Applicant's proposed development project for private land on Battle Mountain includes a resort and an accompanying private ski area between the towns of Minturn and Red Cliff in Eagle County, Colorado. The project area encompasses approximately 1,943 hectares (ha) (4,800 acres (ac)). The residential development will include approximately 480 single and multiple family homes and 250 condo-style units. The ski area will include trails for all ability levels, creating approximately 445 ha (1,100 ac) of skiing, and will include skier services and amenities. The project is divided into three character areas for purposes of a conceptual plan.

The Holy Cross Character Area consists of approximately 512 ha (1,265 ac). It will principally contain single-family homes on 0.4- and 0.8-ha (1- and 2-ac) lots and will interface with the ski area development to create ski in/out lodging. Approximately 62 dwelling units are proposed in this area. Approximately 438 ha (1,081 ac) of land in this character area will be designated recreation open space, which allows for year-round activities, including hiking, biking, and skiing.

The Rock Creek Character Area consists of approximately 522 ha (1,290 ac) and is proposed to contain primarily single-family homes (up to 306 units) on varying lot sizes that also will interface with ski area development. This area will contain the Bolts Lake Gondola terminal for the top of the mountain, which will be utilized for services and passenger transport. This building will be associated with some skier services and amenities. Approximately 327 ha (807 ac) of this character area will be designated recreation open space, which allows for year-round activities, including hiking, biking, and skiing.

The Willow Creek Character Area consists of approximately 457 ha (1,130 ac) and is proposed to contain primarily multiple-family units (up to 265), with approximately 84 single-family homes on 0.2-ha (0.5-ac) lots. This area will contain the resort core buildings that also will interface with ski area development. The Bolts Lake gondola will terminate at the icon building in Willow Creek, which contains the majority of skier services and amenities, including restaurants and the beginner ski area with teaching terrain. Approximately 392 ha (968 ac) of this character area will be designated recreation open space, which allows for year-round activities, including hiking, biking, and skiing.

The following four species are proposed to be addressed in the HCP: Canada lynx (*Lynx canadensis*), bald eagle (*Haliaetus leucocephalus*), boreal toad (*Bufo boreas boreas*) (not a listed species), and slender moonwort (*Botrychium lineare*). Each of these species may be directly or indirectly affected by the Applicant's proposed development.

The proposed HCP and ITP would cover incidental take associated with the construction, operation, and maintenance of the Battle Mountain residential resort and ski area, including—(1) Vegetation clearing in areas of suitable Canada lynx habitat; (2) construction and increased human activity within the project area; and (3) increased vehicle traffic on both I–70 and Highway 24, as well as within the project area.

The draft HCP, prepared by the Applicant in support of the ITP application, will describe the impacts of take on proposed covered species, and will propose a conservation strategy to minimize and mitigate those impacts to the maximum extent practicable. The Applicant will develop habitat conservation measures for these species, with assistance from the Service.

The Applicant is currently considering the following conservation measures as part of the HCP—(1) Creation of suitable winter forage habitat for lynx; (2) designing and implementing a traffic management plan to address increased vehicular traffic; (3) creating a fund for habitat protection and enhancement opportunities in the Eagle River Basin; and (4) financial support of Canada lynx reintroduction programs by the Colorado Division of Wildlife. The Applicant and the Service will assess the implementation of these conservation measures for the duration of the HCP and term of the ITP. Implementation of the HCP would include monitoring compliance and regular reporting to the Service.

Environmental Impact Statement

The Service and the Applicant will select an environmental consulting firm to prepare the draft EIS to be prepared in accordance with NEPA. Although consultants will prepare the EIS, we will supervise the scope and content of the document for NEPA purposes. The EIS will consider the proposed action and a reasonable range of alternatives. A detailed description of the proposed action and alternatives will be included in the EIS. It is anticipated that several alternatives will be developed, which may vary by level of conservation, impacts caused by the proposed activities, permit area, or a combination of these factors. These alternatives will address alternative actions that can achieve some or all of the proposed action's purposes and needs. Additionally, we will evaluate a No-Action alternative. Under the No-Action alternative, we would not issue a section 10(a)(1)(B) permit.

The EIS also will evaluate potentially significant impacts on biological resources, land use, and socioeconomic and other environmental issues that could occur directly or indirectly with implementation of the proposed action and alternatives. For all potential impacts, the EIS will identify mitigation measures, where feasible, to reduce these impacts to a level below significance.

We will conduct an environmental review of the EIS in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*), its implementing regulations (40 CFR parts 1500–1508), other applicable regulations, and our procedures for compliance with those regulations. We are furnishing this notice in accordance with 40 CFR 1501.7 of the NEPA implementing regulations, to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS. The primary purpose of the scoping process is to identify important issues raised by the public that are related to the proposed action. We invite written comments from interested parties to help us identify the full range of issues related to the proposed action. You may submit written comments by mail or facsimile transmission (see **ADDRESSES**). All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

The Service requests that comments be specific. In particular, we request information regarding—direct, indirect, and cumulative impacts that implementation of the proposed HCP or other alternatives could have on endangered and threatened and other covered species, and their communities and habitats; other possible alternatives that meet the purpose and need of the proposed HCP; potential adaptive management and/or monitoring

provisions; funding issues; existing environmental conditions in the plan area; other plans or projects that might be relevant to this proposed project; permit duration; maximum acreage that should be covered; specific species that should or should not be covered; specific landforms that should or should not be covered; and minimization and mitigation efforts. The Service estimates that the draft EIS will be available for public review in the spring of 2007.

Dated: October 4, 2006.

James J. Slack,

Deputy Regional Director, Region 6.

[FR Doc. E6–19142 Filed 11–13–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–964–1410–HY–P; F–21963, F–21966, F–21967, F–22006, F–22862, F–21945, F–21937]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface and subsurface estates in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Bering Straits Native Corporation. The lands are in the vicinity of Wales and White Mountain, Alaska.

Notice of the decision will also be published four times in the Nome Nugget.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until December 14, 2006 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION, CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Dina L. Torres,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E6–19149 Filed 11–13–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–964–1410–KC–P; F–14844–A]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface and subsurface estates in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Ahtna, Incorporated, successor in interest to Cantwell Yedatene-Na Corporation.

The lands are in the vicinity of Cantwell, Alaska, and are located in:

U.S. Survey No. 3229, Alaska Containing 5.00 acres.

Notice of the decision will also be published four times in the Fairbanks Daily News-Miner.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until December 14, 2006 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Jennifer L. Noe,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E6–19150 Filed 11–13–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

5-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Programs for 2002–2007 and 2007–2012; OCS Lease Sale 201 and Proposed Lease Sale 205, Central Gulf of Mexico; Draft Environmental Impact Statement (EIS) for 5-Year Leasing Program for 2007–2012

AGENCY: Minerals Management Service, Interior.

ACTION: Revision of 5-Year Leasing Program and Request for Comment.

SUMMARY: On October 24, 2006, the Department of Interior/MMS and the State of Louisiana announced the settlement of the case of *Blanco, et al.*, v. *Burton, et al.* The District Court approved the settlement and dismissed the case on October 24, 2006. As a result of the settlement agreement, the MMS proposes to expand Lease Sale 205, scheduled in the Proposed 5-Year Program for 2007–2012 and accompanying Draft EIS, from the currently proposed program area (Map 1) to include all available acreage in the Central Gulf of Mexico Planning Area as proposed in the new program for subsequent Central Gulf sales (Map 2). The MMS is providing a 45-day comment period to specifically address this proposed change. The earlier comment periods on the Proposed 5-Year Program and Draft EIS, remain as announced on August 25, 2006. The comment period on the Program closes on November 24, 2006, and on the Draft EIS on November 22, 2006.

DATES: MMS is accepting comments regarding this newly proposed change for the Proposed 5-Year OCS Program for 2007–2012 and accompanying Draft EIS until December 29, 2006. Note that the comment periods for the earlier proposed 5-Year OCS Program for 2007–2012 and the Draft EIS remain the same as previously announced. This new 45-day comment period is for comments associated with the change identified here as a result of the settlement with Louisiana.

ADDRESSES: If you wish to comment, you may submit your comments by one of two methods. You may comment electronically using MMS's Public Connect online commenting system. This is the preferred method for commenting. This system can be accessed at *http://www.mms.gov/5-year/2007–2012main.htm*. From the Public Connect ''Welcome'' screen, search for ''Proposed 5-Year OCS Oil and Gas Program Revisions and Draft EIS'' or select it from the ''Projects Open for Comment'' menu.

You may also mail comments. Please label your comments and the packaging in which they are submitted according to the subject matter. For those pertaining to program preparation, label as ''Comments on Revisions to Proposed 5-Year Program for 2007–2012'' and mail to: Ms. Renee Orr, 5-Year Program Manager, Minerals Management Service (MS–4010), Room 3120, 381 Elden Street, Herndon, Virginia 20170–4817. For those pertaining to EIS preparation, label as ''Comments on 2007–2012 Oil and Gas Program Revisions for Draft Environmental Impact Statement'' and mail to: Mr. James F. Bennett, Chief, Branch of Environmental Assessment, 381 Elden Street, Mail Stop 4042, Herndon, Virginia 20170–4817. If you submit any privileged or proprietary information to be treated as confidential, please mark the envelope, ''Contains Confidential Information.''

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so. However, we will not consider anonymous comments. Except for proprietary information, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Ms. Renee Orr, Minerals Management Service, Chief, Leasing Division, at (703) 787–1215; or Mr. James Bennett, Chief, Environmental Assessment Branch, at (703) 787–1660.

SUPPLEMENTARY INFORMATION: On July 20, 2006, the State of Louisiana filed a lawsuit in U.S. District Court for the Eastern District of Louisiana under the Administrative Procedures Act alleging that MMS violated the terms of the National Environmental Policy Act, the Coastal Zone Management Act, and the OCS Lands Act. The court denied the State of Louisiana's request to enjoin holding Lease Sale 200 as scheduled on August 16, 2006, and opening the bids or awarding any leases, and set the case for trial on November 13, 2006. Lease Sale 200 was held as scheduled.

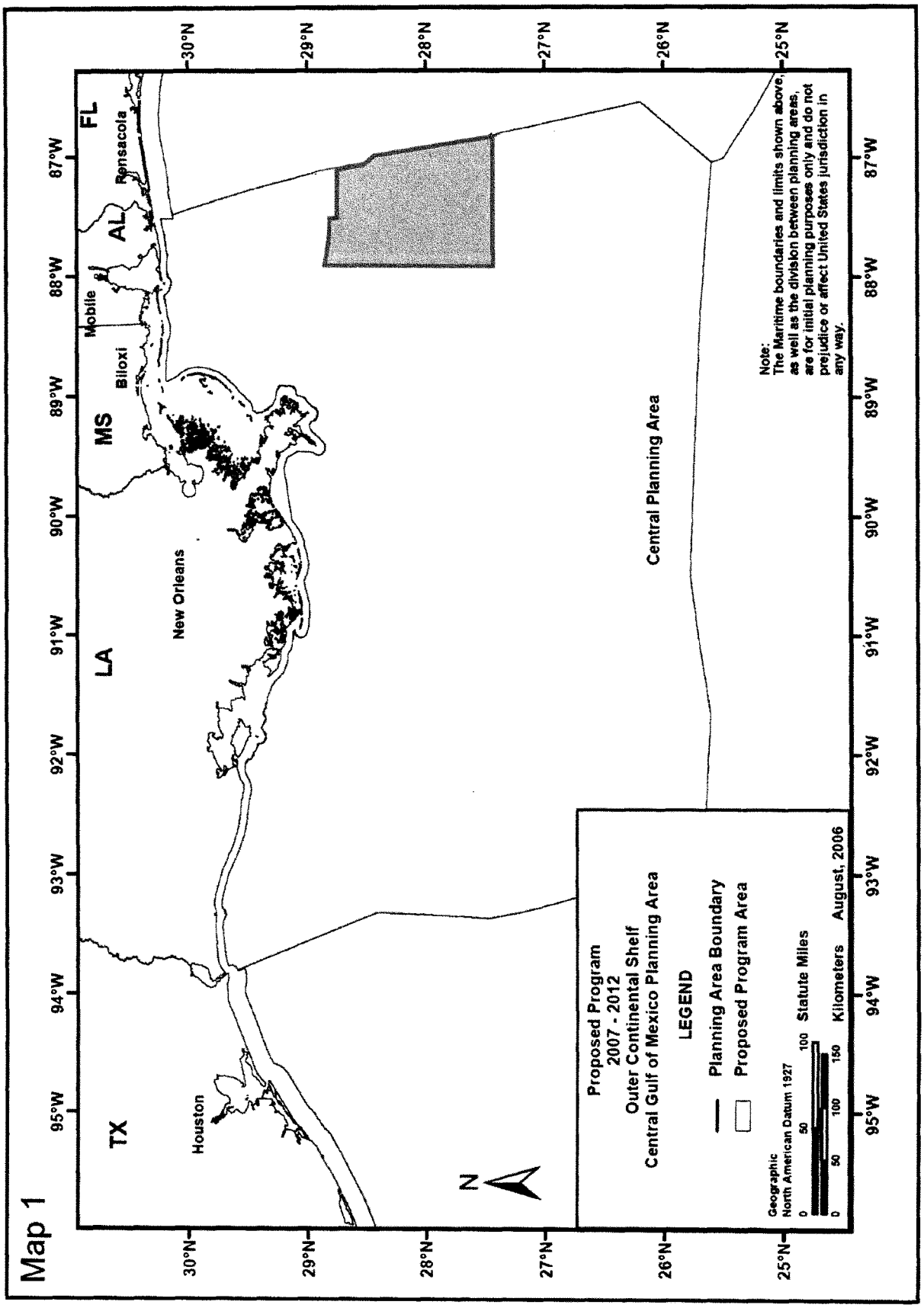
The MMS and the State have entered into a Settlement Agreement. Under this settlement, MMS has agreed to prepare an EIS before conducting the next sale in the Gulf of Mexico. As a result, MMS is canceling Lease Sale 201, scheduled for March 2007 in the current 5-year program for 2002–2007. We also propose to enlarge Lease Sale 205 from that in the proposed 5-year program for 2007–2012, released for comment on August 25, 2006, to include all of the available acreage comprising the Central Gulf of Mexico Planning Area, as proposed in the new program for subsequent Central Gulf sales (Map 2). In effect, this change simply postpones for several months the estimated effects of Sale 201. The environmental impacts of this change are not significant beyond the change in timing of the offering.

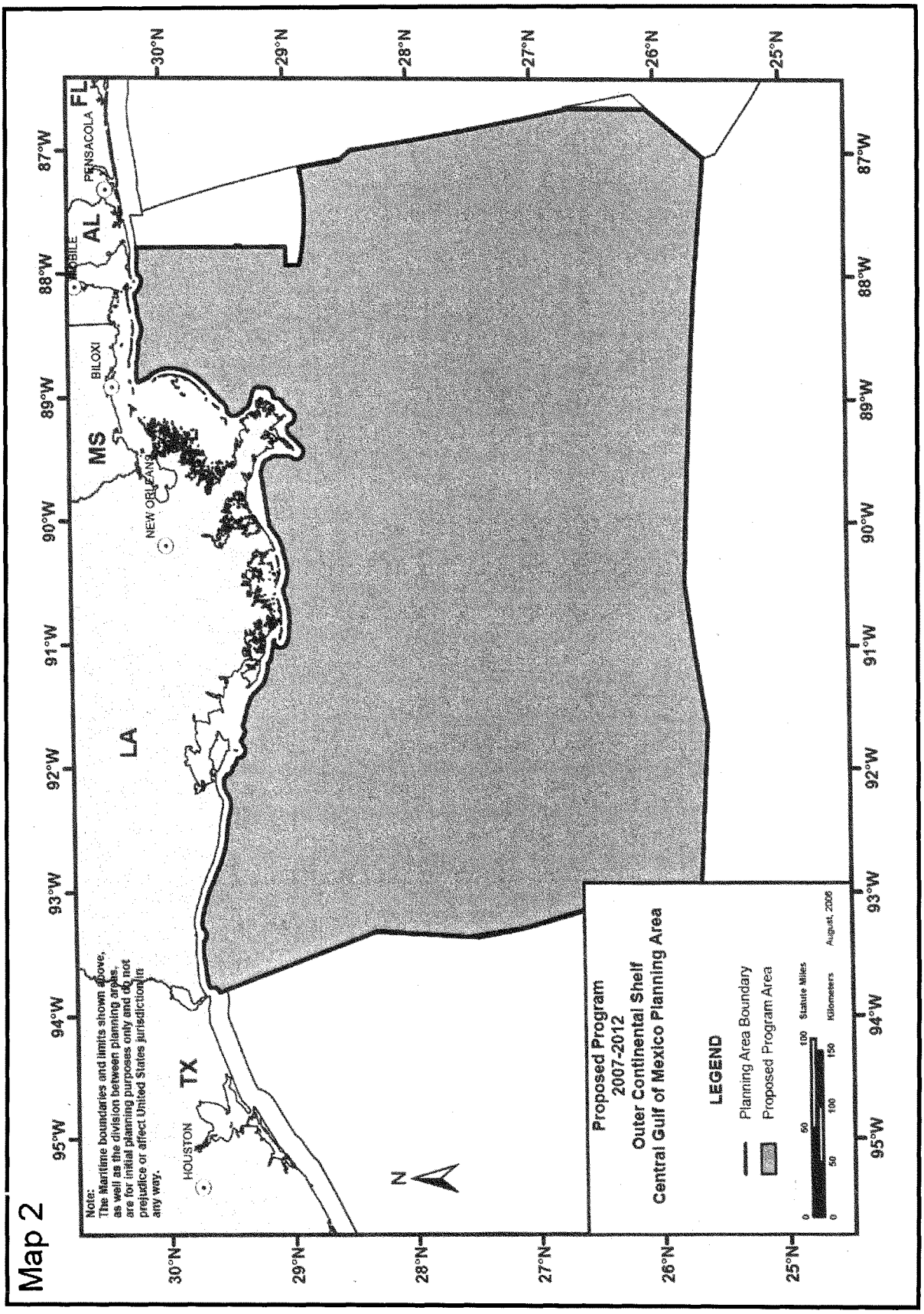
Dated: November 6, 2006.

R.M. ''Johnnie'' Burton,

Director, Minerals Management Service.

BILLING CODE 4310–MR–P


Map 1
TX
LA
MS
AL
FL
Houston
New Orleans
Biloxi
Mobile
Pensacola
Central Planning Area
Note:
The Maritime boundaries and limits shown above, as well as the division between planning areas, are for initial planning purposes only and do not prejudice or affect United States jurisdiction in any way.
Proposed Program
2007 - 2012
Outer Continental Shelf
Central Gulf of Mexico Planning Area
LEGEND
Planning Area Boundary
Proposed Program Area
Geographic
North American Datum 1927
0 50 100 Statute Miles
0 50 100 150 Kilometers
August, 2006
N
30°N
29°N
28°N
27°N
26°N
25°N
95°W
94°W
93°W
92°W
91°W
90°W
89°W
88°W
87°W



[FR Doc. 06–9192 Filed 11–13–06; 8:45 am]

BILLING CODE 4310–MR–C

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Scoping for Completion of El Portal Road Rehabilitation; Yosemite National Park, Mariposa County, CA

SUMMARY: Notice is hereby given, in accord with the provisions of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) that public scoping has been initiated for a conservation planning and environmental impact analysis process for the completion of road improvements to the El Portal Road in Yosemite National Park. The purpose of the scoping process is to elicit public comment regarding applicable issues and concerns, a suitable range of alternatives, and the nature and extent of potential environmental impacts and appropriate mitigating measures which should be addressed. This project would result in completion of the Highway 140 improvements which began in 1997 following floods which extensively damaged the road. The proposed reconstruction would improve the one mile segment of the El Portal Road from the intersection of the Big Oak Flat Road (Highway 120) and the El Portal Road (Highway 140) to the west, and Pohono Bridge to the east (also known as Segment D). The pending environmental analysis will evaluate alternatives, including a no-action alternative, and one or more action alternatives. Some of the project elements that may be evaluated include:

- Reconstructing failing retaining walls and undercut road sections;
- Altering the lane and/or the shoulder to enhance traffic safety;
- Replacing portions of the existing stone wall with a reinforced concrete guardwall;
- Improving the El Portal Road-Big Oak Flat Road intersection;
- Improving, relocating, and/or removing some parking spaces;
- Improving road drainage with new culverts and drainage ditches;
- Repaving road surfaces; and
- Maintaining the road's essential historic character as a winding, narrow mountain road.

Public Involvement: As noted, the NPS will conduct an environmental review of feasible alternatives and potential impacts on rehabilitation of segment of road corridor. At this time, it has not been determined whether an Environmental Assessment or an Environmental Impact Statement will be prepared, however, this scoping process will aid in the preparation of either document. This environmental review of a reasonable range of alternatives for rehabilitation this segment of the El Portal Road is being conducted by Yosemite National Park. As a key step for initiating this environmental review, the park invites the public, other Federal agencies, American Indian tribes, State and local governments, and all other interested parties to participate in the initial scoping and alternative development process. For initial scoping and alternatives development, the most useful comments are those which aid the park in identifying environmental issues, public concerns, and pertinent information that can be used to help:

- Determine resource issues and visitor concerns that may need to be evaluated;
- Formulate alternatives for fulfilling the purpose and need for the proposed project; and/or
- Identify potential cumulative actions and/or appropriate mitigation strategies which should be considered.

Responses to this Scoping Notice will also be used to establish a mailing list of people and organizations interested in receiving further information as the environmental document is developed. Please contact the park by mail, e-mail, or fax (see below) to request placement on the mailing list; for all types of requests please be sure to include your full mailing address. In addition to direct mailings, additional information about this conservation planning and environmental impact analysis process will be regularly distributed via regional and local news media and by posting to the Yosemite National Park Web page (*http://www.nps.gov/yose/planning*).

The public scoping period for this Segment D environmental review will be open for 45 days from the date of publication of this Scoping Notice in the Federal Register—immediately upon confirmation of this date it will be announced on the park's Web site. Scoping meetings and public open houses will be held on a regular basis in Yosemite National Park, California. Specific locations and dates for these meetings will be announced in local and regional media and via direct mailings. Interested individuals, organizations, and agencies wishing to provide written comments on issues and concerns or provide pertinent information may by mail to: Superintendent, ATTN: El Portal Road Rehabilitation, Yosemite National Park, PO Box 577, Yosemite National Park, CA 95389; via Fax at (209) 379–1294; or electronically via *yose_planning@nps.gov.*

Our practice is to make comments, including names, home addresses, home phone numbers, and e-mail addresses of respondents, available for public review. Individual respondents may request that we withhold their names and/or home addresses, etc., but if you wish us to consider withholding this information you must state this prominently at the beginning of your comments. In addition, you must present a rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Decision Process: Availability of the forthcoming environmental document for public review and written comment will be announced by local and regional news media, via the above listed Web site, and by direct mailing. At this time, the document is anticipated to be available for public review and comment in summer of 2007. All comments received will be duly considered in the environmental decision-making process and responded to as appropriate. At this time, it is anticipated that a final decision will be recommended during autumn of 2007. The official responsible for the decision is the Regional Director, Pacific West Region, National Park Service; subsequently, the official responsible for implementation is the Superintendent, Yosemite National Park.

Dated: August 29, 2006.

Jonathan B. Jarvis,

Regional Director, Pacific West Region.

[FR Doc. 06–9188 Filed 11–13–06; 8:45 am]

BILLING CODE 4312–FY–M

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

Privacy Act of 1974; Systems of Records

AGENCY: Foreign Claims Settlement Commission; Justice.

ACTION: Revisions of Notice of Privacy Act Systems of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, notice is given that the Foreign Claims Settlement Commission proposes to modify all of its Privacy Act Systems of Records, as identified in the revised

Table of Contents set forth below, to include a new routine use that allows disclosure to appropriate persons and entities for purposes of response and remedial efforts in the event that there has been a breach of the data contained in the systems. This routine use will facilitate an effective response to a confirmed or suspected breach by allowing for disclosure to those individuals affected by the breach, as well as to others who are in a position to assist in the Department's response efforts, either by assisting in notification to affected individuals or otherwise playing a role in preventing, minimizing, or remedying harms from the breach.

In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment; and the Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act, requires a 40-day period in which to conclude its review of the systems. Therefore, please submit any comments by December 26, 2006. The public, OMB, and the Congress are invited to submit any comments to David E. Bradley, Chief Counsel, Foreign Claims Settlement Commission, Washington, DC 20579 (Room 6002, Bicentennial Building). In accordance with 5 U.S.C. 552a(r), the Commission has provided a report to OMB and the Congress.

This Notice also includes an updated Table of Contents of the Commission's Privacy Act Systems of Records, in order to reflect the deletion of four of its records systems: Justice/FCSC–2, Bulgaria, Claims Against (2nd Program); Justice/FCSC–13, Italy, Claims Against (2nd Program); Justice/FCSC–18, Rumania, Claims Against (2nd Program); and Justice/FCSC–20, Yugoslavia, Claims Against (2nd Program), due to the release of the records in those systems to the National Archives for permanent retention.

1. Accordingly, pursuant to the provisions of 5 U.S.C. 552a, the Foreign Claims Settlement Commission hereby publishes notice of its proposal to supplement the list of Routine Uses of the Records Maintained in each of its Privacy Act Systems of Records, including the Categories of Users and the Purposes of Such Uses, by including the following additional Routine Use: ''Release to appropriate agencies, entities, and persons when (1) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Commission or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.''

2. In addition, the Commission hereby publishes a revised Table of Contents of the systems of records as currently maintained by the agency, as set forth below. This Table of Contents replaces the Table of Contents included as part of the Privacy Act Systems of Records Notice published by the Foreign Claims Settlement Commission in the **Federal Register** on June 10, 1999 (64 FR 31296). With the exception of the deletions reflected in this revised Table of Contents, the information in that Notice remains accurate and up-to-date.

Table of Contents (Revised)

Justice/FCSC–1, Indexes of Claimants (Alphabetical)
Justice/FCSC–3, Certifications of awards
Justice/FCSC–4, China, Claims Against
Justice/FCSC–5, Civilian Internees (Vietnam)
Justice/FCSC–6, Correspondence (General)
Justice/FCSC–7, Correspondence (Inquiries Concerning Claims in Foreign Countries)
Justice/FCSC–8, Cuba, Claims Against
Justice/FCSC–9, Czechoslovakia, Claims Against (2nd Program)
Justice/FCSC–10, East Germany, Registration of Claims Against
Justice/FCSC–11, Federal Republic of Germany, Questionnaire Inquiries from
Justice/FCSC–12, Hungary, Claims Against (2nd Program)
Justice/FCSC–14, Micronesia, Claims Arising in
Justice/FCSC–16, Prisoners of War (Pueblo)
Justice/FCSC–17, Prisoners of War (Vietnam)
Justice/FCSC–19, Soviet Union, Claims Against
Justice/FCSC–21, German Democratic Republic, Claims Against
Justice/FCSC–23, Vietnam, Claims for Losses Against
Justice/FCSC–24, Ethiopia, Claims for Losses Against
Justice/FCSC–25, Egypt, Claims Against
Justice/FCSC–26, Albania, Claims Against
Justice/FCSC–27, Germany, Holocaust Survivors' Claims Against
Justice/FCSC–28, Iraq, Registration of Potential Claims Against

Mauricio J. Tamargo,

Chairman.

[FR Doc. E6–19061 Filed 11–13–06; 8:45 am]

BILLING CODE 4410–BA–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection for the ETA 218, Benefit Rights and Experience; Comment Request

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)(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 Employment and Training Administration is soliciting comments concerning the proposed extension of the ETA 218, Benefits Rights and Experience. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSEES** section of this notice or by accessing: *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm.*

DATES: Submit comments on or before January 16, 2007.

ADDRESSES: Send comments to: Subri Raman, U.S. Department of Labor, Employment and Training Administration, Room S–4231, 200 Constitution Ave., NW., Washington, DC 20210. Phone number: 202–693–3058. (This is not a toll free number.) E-mail: *raman.subri@dol.gov.* Fax: 202–693–3229.

SUPPLEMENTARY INFORMATION:

I. Background

Attachment to the labor force, usually measured as amount of past wages earned, is used to determine eligibility for State unemployment compensation programs. The data in the ETA 218, Benefit Rights and Experience Report, includes numbers of individuals who were and were not monetarily eligible, those eligible for the maximum benefits, those eligible based on classification by potential duration categories, and those exhausting their full entitlement as classified by actual duration categories. These data are used by the National

Office in solvency studies, cost estimating and modeling, and assessment of State benefit formulas.

II. Desired Focus of Comments

Currently, the Department of Labor is soliciting comments concerning the proposed extension for the collection of the ETA 218, Benefit Rights and Experience report. Comments are requested 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 submissions of responses.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above in the **ADDRESSES** section of this notice.

III. Current Actions

Type of Review: Extension without change.

Agency: Employment and Training Administration, Office of Workforce Security.

Title: Benefit Rights and Experience.

OMB Number: 1205–0177.

Agency Number: ETA 218.

Recordkeeping: 3 year record retention.

Affected Public: State governments.

Cite/Reference/Form/etc: Social Security Act, Section 303(a)(6).

Total Respondents: 53.

Frequency: Quarterly.

Total Responses: 216.

Average Time per Response: .5 hour.

Estimated Burden Hours:

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Burden
ETA 218 Regular	53	Quarterly	212	.5 hour	106 hrs.
ETA 218 Extended Benefits	2	Quarterly	4	.5 hour	2 hrs.
Totals			216		108 hrs.

Total Burden Cost (operating/maintaining): $0.

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 information collection request; they will also become a matter of public record.

Dated: November 6, 2006.

Cheryl Atkinson,

Administrator, Office of Workforce Security.

[FR Doc. E6–19176 Filed 11–13–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Design of Federal YouthBuild Grants

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of request for public comments and announcement of public meetings.

SUMMARY: On September 22, 2006, President Bush signed into law the YouthBuild Transfer Act (Pub. L. 109–281) which transfers the YouthBuild program from the Department of Housing and Urban Development (HUD) to the Department of Labor (DOL). YouthBuild provides education and occupational skills training for at-risk youth age 16–24. The purpose of this Notice is to announce public meetings and a Webinar [1] to discuss the transition of the YouthBuild program to DOL and to announce an open comment period for comments on a variety of issues about YouthBuild program design. The purposes of the public meetings and the Webinar are twofold: To provide basic information on the legislative changes to the YouthBuild program and DOL program management of YouthBuild; and to collect feedback on several program design elements listed below.

KEY DATES: Submit comments on or before December 15, 2006.

The public meeting dates are:

1. November 30, 2006 from 8:30 a.m. to 4:30 p.m., Los Angeles, CA.
2. December 6, 2006 from 8:30 a.m. to 4:30 p.m., Pittsburgh, PA.
3. December 13, 2006 from 2 p.m. to 4 p.m. EST, a Webinar.

ADDRESSES: Submit your comments by e-mail to *youth.build@dol.gov.* Comments can also be mailed or hand delivered to the Employment and Training Administration, Office of Workforce Investment, Division of Youth Services, Room N–4511, 200 Constitution Avenue, NW., Washington, DC 20210. A summary of all comments received will be made available to the public on the Employment and Training Administration's Web site at *http://www.doleta.gov.*

The meeting locations are:

1. Los Angeles—Westin Bonaventure Hotel, 404 South Figueroa Street, Los Angeles, CA 90071.
2. Pittsburgh—Omni William Penn, 530 William Penn Place, Pittsburgh, PA 15219.
3. Webinar—For additional details on the Webinar, please visit *http://www.workforce3one.org/.*

FOR FURTHER INFORMATION CONTACT: Anne Stom via e-mail at *stom.anne@dol.gov* or via telephone at (202) 693–3377. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

A. Meeting Information

A small block of hotel rooms for both of these events has been reserved under DOL YouthBuild. More information on these meetings can be found at *http://www.doleta.gov/youth_services.* These meetings are open to the public. However, attendees must register in advance at *http://www.doleta.gov/youth_services.*

B. Background

In 1978, YouthBuild began in East Harlem, NY, as a program to teach youth construction skills while renovating and building homes for low-income families. It was replicated in five locations in New York City during the 1980s. In 1990, YouthBuild USA was founded to implement YouthBuild nationally. In 1993, the YouthBuild program was established by federal statute and HUD was designated as the agency

[1] A Webinar is an interactive seminar or meeting conducted over the Internet.

responsible for administering the program.

In addition to teaching construction skills to youth, YouthBuild is an alternative education program that assists youth who are often significantly behind in basic skills with obtaining a high school diploma or GED credential. The primary target populations for YouthBuild are youth offenders, youth in or aging out of foster care, and out-of-school youth. There are currently over 200 YouthBuild programs operating throughout the United States. YouthBuild grants administered by HUD have funded approximately 120 programs through annual competitions.

In 2003, the *White House Task Force Report on Disadvantaged Youth* recommended that the YouthBuild program be transferred from HUD to DOL for greater consistency of agency mission and other efficiencies. The federal departments agreed and enactment of the YouthBuild Transfer Act represents the successful implementation of that recommendation. DOL will run its first YouthBuild competition for funds appropriated for YouthBuild in Fiscal Year (FY) 2007. This grant competition represents the first funding cycle for which DOL assumes full responsibility of the YouthBuild program. Grants awarded prior to FY 2007 will continue to be administered by HUD until the authority to expend the funds has expired. The President's FY 2007 budget request for the YouthBuild program is $50 million.

In administering the YouthBuild program, DOL expects to: (1) Increase coordination between YouthBuild sites and the workforce investment system; (2) align the program with the Federal Shared Youth Vision [2] which emphasizes strong educational and employment outcomes; and (3) promote the YouthBuild model for other youth programs. In order to ensure that programs are designed to reach these goals, DOL is seeking public input and observations on the YouthBuild program, particularly in the following areas:

1. *Awards:* As we consider the length and amount of YouthBuild awards, we are interested in comments and observations on the optimal length of an award (for example one-year grants v. multi-year funding), the optimal amount of an award, and the minimal amount of funding necessary to sustain a viable local program. As we consider the criteria to be applied to the selection of YouthBuild grantees, we are interested in comments and observations on the organizational attributes required for operating an effective YouthBuild program, including prior program experience.

2. *Outcomes:* We are interested in comments and observations on ways to ensure that YouthBuild programs meet educational and employment outcomes and on ways to measure those outcomes. Given the outcomes that YouthBuild programs will be required to meet as part of DOL's Common Measures for employment and training programs (gains in literacy and numeracy skills; successful placement in post-secondary education or employment; and diploma and industry recognized certificate attainment), we seek public input into the types of DOL technical assistance that will support programs in improving these educational and career track employment outcomes for YouthBuild participants, and in ways to strengthen the connections that YouthBuild programs make with apprenticeship programs, construction firms, and other high-growth, high-demand jobs. We are interested in comments and observations on methods to support increased placements of YouthBuild participants into apprenticeship programs, construction firms, and other high-growth, high-demand jobs.

3. *Capacity Building:* In the past, through the HUD Demonstration Act of 1993, HUD has awarded a separate set of YouthBuild grants for capacity building. We are interested in learning whether the capacity building grants awarded by HUD helped to strengthen YouthBuild programs. In addition, we are interested in comments and observations on ways that capacity building grants can be used to support shifting YouthBuild programs to diploma granting programs, or adding new career tracks in industries other than construction, and are interested in other ideas for uses of capacity building grants.

4. *Other Comments:* DOL welcomes comments and suggestions on improving any other aspects of the federal YouthBuild program.

Signed at Washington, DC, this 6th day of November, 2006.

Emily Stover DeRocco,

Assistant Secretary.

[FR Doc. E6–19177 Filed 11–13–06; 8:45 am]

BILLING CODE 4510–30–P

[2] Information on the Federal Shared Youth Vision is available at *http://www.doleta.gov/ryf/WhiteHouseReport/VMO.cfm.*

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

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)(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 Employment Standards Administration is soliciting comments concerning the proposed collection: Certification by School Official (CM–981). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before January 16, 2007.

ADDRESSES: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0418, fax (202) 693–1451, Email *bell.hazel@dol.gov*. Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. Background

In order to qualify as a dependent that is eligible for black lung benefits, a child aged 18 to 23 must be a full-time student as described in the Black Lung Benefits Act, 30 U.S.C. 901 *et seq.* and attending regulations 20 CFR 725.209. The CM–981 is partially completed by the appropriate district office so that the school official or registrar's office will know for which student and time period the information is being requested and is also used to verify the full-time student status. This information collection is currently approved for use through May 31, 2007.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- 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 submissions of responses.

III. Current Actions

The Department of Labor seeks approval for the extension of this information collection in order to determine the continued eligibility of the student.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Certification by School Official.

OMB Number: 1215–0061.

Agency Number: CM–981.

Affected Public: Individuals or households, Not-for-profit institutions, State, Local or Tribal Government.

Total Respondents: 400.

Total Responses: 400.

Time per Response: 10 minutes.

Frequency: On occasion.

Estimated Total Burden Hours: 67.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

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 information collection request; they will also become a matter of public record.

Hazel Bell,

Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E6–19156 Filed 11–13–06; 8:45 am]

BILLING CODE 4510–CK–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

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)(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 Employment Standards Administration is soliciting comments concerning the proposed collection: Claim for Compensation by Dependents Information Reports (CA–5, CA–5b, CA–1031, CA–1074, Letter of Compensation Due at Death and Letter of Student/Dependency). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before January 16, 2007.

ADDRESSES: Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0418, fax (202) 693–1451, Email *bell.hazel@dol.gov*. Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. Background

The forms included in this package are forms used by Federal employees and their dependents to claim benefits, to prove continued eligibility for benefits, to show entitlement to remaining compensation payments of a deceased employee and to show dependency under the Federal Employees' Compensation Act. There are six forms in this information collection request. The information collected by Forms CA–5, is used by dependents for claiming compensation for the work related death of a Federal Employee and CA–5b is used by other survivors. Form CA–1032501 is used in disability cases and provides information to determine whether a claimant is actually supporting a dependent and is entitled to additional compensation. Form CA–1074 is a follow up to CA–5b to request clarification of any information that is unclear and incomplete in the CA–5b. The letter of ''Compensation Due at Death'' is used to request information necessary to distribute compensation due when an employee dies who was receiving or who was entitled to compensation at the time of death for either disability benefits or a scheduled award. The letter of ''Student/Dependency'' is used to obtain information regarding the student status of a dependent. When a child reaches 18 years of age, they are no longer considered an eligible dependent unless they are a full time student or incapable of self-support. This information collection is currently approved for use through May 31, 2007.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- 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 submissions of responses.

III. Current Actions

The Department of Labor seeks extension of approval to collect this information in order to carry out its responsibility to meet the statutory requirements of the Federal Employees' Compensation Act. The information contained in these forms is used by the Division of Federal Employees Compensation to determine entitlement to benefits under the Act, to verify dependent status, and to initiate,

continue, adjust, or terminate benefits based on eligibility criteria.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Claim for Compensation by Dependents Information Reports.

OMB Number: 1215–0155.

Agency Number: CA–5, CA–5b, CA–1031, CA–1074, Letter of Compensation Due at Death and Letter of Student/Dependency.

Affected Public: Individuals or households.

Total Respondents: 1,880.

Total Responses: 1,880.

Forms	Respondents	Frequency	Minute per form	Burden hours
CA–5	150	Once	90	225
CA–5b	20	Once	90	30
CA–1031	150	Annually	15	37
CA–1074	10	Once	60	10
Student/Dependency	1,050	Semiannually	30	525
Compensation Due at Death	500	Once	30	250
Total	1,880			1,077

Estimated Total Burden Hours: 1,077.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $452.

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 information collection request; they will also become a matter of public record.

Hazel Bell,

Acting Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. E6–19157 Filed 11–13–06; 8:45 am]

BILLING CODE 4510–CH–P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

Time and Date: 9 a.m., Thursday, November 16, 2006.

Place: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

Status: Open.

Matters to be Considered:

1. NCUA's 2007 Annual Performance Budget.
2. NCUA's 2007/2008 Operating Budget.
3. NCUA's Overhead Transfer Rate.
4. NCUA's 2007 Operating Fee Scale.
5. Final Rule: Part 740 of NCUA's Rules and Regulations, Accuracy of Advertising and Notice of Insured Status.

Recess: 10:15 a.m.

Time and Date: 10:30 a.m., Thursday, November 16, 2006.

Place: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

Status: Closed.

Matters to be Considered:

1. One (1) Insurance Appeal. Closed pursuant to Exemption (6).

For Further Information Contact: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Secretary of the Board.

[FR Doc. 06–9208 Filed 11–9–06; 2:51 pm]

BILLING CODE 7535–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of November 20, 2006:

A closed meeting will be held on Monday, November 20, 2006 at 2 p.m.

Commissioners, Counsels to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B) and (10) and 17 CFR 200.402(a) (3), (5), (7), (9)(ii), and (10) permit consideration of the scheduled matters at the closed meeting.

Commissioner Casey, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting scheduled for Monday, November 20, 2006 will be:

Formal orders of investigation;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature;

Amicus consideration;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: November 9, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. 06–9213 Filed 11–9–06; 3:47 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54714]

Order Granting National Securities Exchanges a Limited Exemption From Rule 612 of Regulation NMS Under the Securities Exchange Act of 1934 To Permit Acceptance by Exchanges of Certain Sub-Penny Orders

November 6, 2006.

I. Introduction

The Securities and Exchange Commission (''Commission'') is granting national securities exchanges a limited exemption from Rule 612 [1] of Regulation NMS under the Securities Exchange Act of 1934 (''Exchange Act'') to permit them to accept certain cross orders priced in sub-penny increments, subject

[1] 17 CFR 240.612.

to the conditions described below. Rule 612 prohibits a national securities exchange (among other entities) from displaying, ranking, or accepting a bid or offer, an order, or indication of interest in any national market system (''NMS'') stock [2] that is priced in an increment smaller than $0.01 per share, unless the price of the bid or offer, order, or indication of interest is priced less than $1.00 per share.[3] If the bid or offer, order, or indication of interest is priced less than $1.00 per share, the minimum allowable increment is $0.0001 per share.[4]

Recently, the Commission approved a number of SRO rule changes that, subject to the Commission's grant of exemptive relief, envision the acceptance of certain cross orders arranged by members in sub-penny prices.[5] A cross transaction involves a buy order and sell order for the same security at the same price that are pre-matched by an exchange member, whether as principal or agent, and submitted to the exchange for execution.[6] In absence of an exemption from the Rule 612, an exchange is prohibited from accepting cross orders priced above $1.00 per share in sub-penny increments,[7] even if such orders are immediately executed and printed by the exchange. However, pursuant to Rule 612(c), the Commission, by order, may exempt from the provisions of Rule 612, either unconditionally or on specified terms and conditions, any person, security, quotation, or order (or any class or classes of persons, securities, quotations, or orders) if the Commission determines that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

II. Discussion

After careful consideration, the Commission hereby grants the national securities exchanges a limited exemption from Rule 612 permitting them to accept certain sub-penny cross orders. This exemption is limited to the acceptance by national securities exchanges of cross orders arranged by members that are priced in sub-penny increments and immediately executed against each other,[8] and otherwise accepted and handled in accordance with rules approved or established pursuant to Section 19(b) of the Exchange Act.[9]

Among other things, Rule 612 is designed to limit the ability of a market participant to gain execution priority over a competing limit order by an economically insignificant amount. The Commission noted that, ''[i]f investors' limit orders lose execution priority for a nominal amount, investors may over time decline to use them, thus depriving the markets of liquidity.'' [10] In addition, Rule 612 is intended to reduce the incidence of quote flickering, which makes it more difficult for market participants to identify the best price available in the national market system at a given moment, and to prevent excessive reduction of depth at the best inside quotation.[11] In adopting Rule 612, the Commission explicitly declined to prohibit sub-penny executions, provided such executions do not result from an impermissible sub-penny orders or quotations.[12] The Commission observed that sub-penny trading ''does not raise the same concerns as sub-penny quoting. Sub-penny executions do not cause quote flickering and do not decrease depth at the inside quotation. Nor do they require the same systems capacity as would sub-penny quoting. In addition, sub-penny executions due to price improvement are generally beneficial to retail investors.'' [13]

The Commission believes that this exemption is consistent with the protection of investors because allowing the exchanges to accept sub-penny cross orders for the limited purpose of immediately executing them is akin to a sub-penny execution and should not implicate any of the problems with sub-penny quoting identified by the Commission in adopting Rule 612. Because these sub-penny cross orders are prohibited from being displayed, they will not cause quote flickering, decrease depth at the inside quotation, or degrade systems capacity. Furthermore, because this exemption applies only to pre-arranged cross orders, these sub-penny orders will not gain any execution advantage over resting limit orders on the book.[14]

Furthermore, the Commission believes that this exemption is necessary or appropriate in the public interest to facilitate the execution of pre-arranged cross orders on the exchanges. When the Commission adopted Rule 612, exchange rules did not contemplate sub-penny crosses, which therefore could occur only in the over-the-counter (''OTC'') market. Since that time, some exchanges have proposed to offer such execution services.[15] In the OTC market, a broker-dealer could execute a sub-penny cross without the two orders involved having to be accepted by any entity subject to Rule 612. The broker-dealer could simply arrange the trade at the sub-penny price, as principal or agent, and report the execution to the

[2] An NMS stock is any non-option security for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan. *See* 17 CFR 242.600(b)(46) and (b)(47).

[3] *See* 17 CFR 242.612(a).

[4] *See* 17 CFR 242.612(b).

[5] *See, e.g.*, Securities Exchange Act Release No. 54550 (September 29, 2006), 71 FR 59563 (October 10, 2006) (SR–CHX–2006–05) (approving, among other things, rules permitting cross transactions in increments as small as $0.000001); Securities Exchange Act Release No. 54538 (September 28, 2006), 71 FR 59184 (October 6, 2006) (SR–Phlx–2006–43) (approving, among other things, benchmark orders that could be priced in increments as small as $0.0001).

[6] For example, a member could pair together a customer market order to buy and a customer market order to sell at the midpoint between the exchange's best bid and offer (''BBO''), which would result in a sub-penny execution (*e.g.*, $17.895) if the BBO were an odd number of cents wide (*e.g.*, $17.89 × $17.90). In addition, a member could offer sub-penny price improvement when trading as principal with a customer order.

[7] An exchange may, consistent with Rule 612(b) of Regulation NMS, establish rules that permit it to accept orders that are priced less than $1.00 per share in increments as small as $0.0001, whether or not as part of a cross transaction.

[8] Therefore, if an exchange accepts two sub-penny orders that are not immediately executed against each other, the exchange must immediately cancel both orders or be in violation of Rule 612. If the exchange ranked or displayed either sub-penny order, it also would be in violation of Rule 612, as this exemption extends only to the acceptance of such orders. For purposes of this exemption, a cross order is immediately executed if the exchange automatically executes the cross with no delay other than for confirming that the conditions for the cross imposed by the exchange's rules are satisfied.

[9] 15 U.S.C. 78s(b).

[10] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37551 (June 29, 2005) (''Regulation NMS Adopting Release'').

[11] *See id.* at 37752.

[12] *See id.* at 37556. A sub-penny execution could result, for example, from a midpoint or volume-weighted trading algorithm or from price improvement that a broker-dealer provides to a customer order.

[13] *Id.*

[14] Nothing in this exemption relieves a national securities exchange of the requirement to establish all rules, including its rules related to cross transactions, in a manner consistent with Section 19(b) of the Exchange Act, 15 U.S.C. 78s(b), and Rule 19b–4 thereunder, 17 CFR 240.19b–4, before accepting sub-penny orders in reliance on this exemption. In reviewing proposed rules relating to cross transactions, the Commission would evaluate, among other things, whether cross orders could gain execution priority over resting limit orders in a manner inconsistent with the Exchange Act. *See, e.g.*, Securities Exchange Act Release No. 54391 (August 31, 2006), 71 FR 52836 (September 7, 2006) (SR–NSX–2006–08) (approving, among other things, NSX Rule 11.12(b), which permits crosses that are priced at least $0.01 better than any displayed order on the book, and Rule 11.12(c), which permits midpoint crosses); Securities Exchange Act Release No. 54422 (September 11, 2006), 71 FR 54537 (September 15, 2006) (SR–CBOE–2004–21) (approving, among other things, CBOE Rule 52.11, which permits crosses to occur at the same price as displayed orders on the book if the cross transaction: (1) Is for at least 5000 shares; (2) is for a principal amount of at least $100,000; and (3) is greater in size than any single public customer order displayed on the book at the proposed cross price).

[15] *See supra* note 5.

NASD.[16] To execute the same trade on an exchange, however, the exchange's systems might require the broker-dealer to enter matching buy and sell orders that are explicitly priced in a sub-penny increment that, absent an exemption, would not be permitted by Rule 612. The Commission does not believe that Rule 612 should preclude an immediate sub-penny execution on an exchange that results from the submission by a member of a cross order arranged by that member that otherwise is in accordance with exchange rules established consistent with Section 19(b) of the Exchange Act. The Commission believes, therefore, that this exemption is consistent with the public interest because it will level the playing field between the exchanges and the OTC market as venues for sub-penny crossing transactions.[17]

For these reasons, the Commission concludes that this limited exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.

III. Conclusion

It is hereby ordered, pursuant to Rule 612(c) of Regulation NMS, that a national securities exchange may accept cross orders priced in sub-penny increments, provided that:

(1) The orders are immediately executed against each other; and

(2) The cross transaction is effected in accordance with exchange rules approved or established pursuant to Section 19(b) of the Exchange Act.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Nancy M. Morris,

Secretary.

[FR Doc. E6–19120 Filed 11–13–06; 8:45 am]

BILLING CODE 8011–01–P

[16] While a broker-dealer may execute a cross at a sub-penny price without violating Rule 612, the broker-dealer may not accept a sub-penny order. For example, the broker-dealer could accept a market order to buy, internalize it, and give the customer an execution at $10.001 (assuming such execution is consistent with all applicable Commission and SRO rules including, for example, rules relating to best execution and order protection). Rule 612 prohibits the broker-dealer from accepting a limit order to buy that the customer has explicitly priced at $10.001.

[17] However, as with sub-penny crosses arranged in the OTC market, nothing in this exemption permits a broker-dealer itself to accept a limit order that a customer has explicitly priced in an increment not permitted by Rule 612.

[18] 17 CFR 200.30–3(a)(83).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54715; File No. SR–NASD–2006–108]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to a Proposed Rule Change Relating to an NASD Trade Reporting Facility Established in Conjunction With the National Stock Exchange, Inc.

November 6, 2006.

I. Introduction

On September 14, 2006, the National Association of Securities Dealers, Inc. (''NASD'') 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 establish an NASD trade reporting facility (the ''NASD/NSX TRF'') in conjunction with the National Stock Exchange, Inc. (''NSX''). The proposed rule change was published for comment in the **Federal Register** on September 27, 2006.[3] The Commission received one comment letter regarding the proposal.[4] The NASD filed Amendment No. 1 to the proposed rule change on November 2, 2006.[5] This order approves the proposal, as amended. In addition, the Commission is publishing notice to solicit comments on, and is simultaneously approving, on an accelerated basis, Amendment No. 1.

II. Description of the Proposal

A. NASD/NSX TRF

NASD proposes to establish a new trade reporting facility, the NASD/NSX TRF, that will provide NASD members with an additional facility for reporting transactions in NMS stocks, as defined in Rule 600(b)(47) of Regulation NMS under the Act,[6] that are effected otherwise than on an exchange. The NASD/NSX TRF will be operated by the NASD/NSX Trade Reporting Facility LLC (''NASD/NSX TRF LLC''). The NASD/NSX TRF structure and rules are substantially similar to the trade reporting facility established by the NASD and the Nasdaq Stock Market, Inc. (the ''NASD/Nasdaq TRF''), which the Commission approved in June 2006.[7]

The NASD/NSX TRF will be a facility, as defined under the Act,[8] of the NASD, subject to regulation by the NASD and to the NASD's registration as a national securities association. NASD members [9] that match and/or execute orders internally or through proprietary systems may submit reports of these trades, with appropriate information and modifiers, to the NASD/NSX TRF, which will then report them to the appropriate exclusive securities information processor (''SIP'').[10] NASD/NSX TRF transaction reports disseminated to the media will include a modifier indicating the source of the transactions that will distinguish them from transactions executed on or through the NSX. The NASD/NSX TRF will provide the NASD with a real-time copy of each trade report for regulatory review purposes. At the option of the participant, the NASD/NSX TRF may provide the necessary clearing information regarding transactions to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 54479 (September 21, 2006), 71 FR 56573 (''Notice'').

[4] *See* letter from Alden Adkins, Executive Vice President, Boston Stock Exchange, Inc. (''BSE''), to Nancy N. Morris, Secretary, Commission, dated October 17, 2006 (''BSE Letter'').

[5] In Amendment No. 1, NASD proposes to: (1) Allow members to report transactions in all NMS stocks, as defined in Rule 600(b)(47) of Regulation NMS under the Act; (2) designate NASD Rule 5140 regarding multiple Market Participant Symbols (''MPIDs'') as a pilot set to expire on January 26, 2007 and add language to IM–5140 regarding members' obligations when using multiple MPIDs for quoting and trade reporting purposes; (3) implement the NASD/NSX TRF in two phases; and (4) reflect final approval of the proposed rule change by the NASD Executive Committee of the Board of Governors.

[6] *See* Amendment No. 1, *supra* note 5.

[7] *See* Securities Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (''NASD/Nasdaq TRF Approval Order''). NASD has proposed to amend the NASD/Nasdaq TRF to permit NASD members to report transactions in NMS Stocks as defined in Rule 600 of Regulation NMS under the Act. Currently, the NASD/Nasdaq TRF only accepts transaction reports in Nasdaq Global Market and Nasdaq Capital Market securities and convertible bonds listed on The NASDAQ Stock Market LLC (''Nasdaq Exchange''). *See* Securities Exchange Act Release No. 54451 (September 15, 2006), 71 FR 55243 (September 21, 2006) (''Pending NASD/Nasdaq TRF Proposal'').

[8] 15 U.S.C. 78c(a)(2).

[9] Only NASD members in good standing may participate in the NASD/NSX TRF. *See* NASD Rule 6120C(a)(1). NASD/NSX TRF participants also must meet the minimum requirements set forth in NASD Rule 6120C, including the execution of, and continuing compliance with, a Participant Application Agreement; membership in, or maintenance of, an effective clearing arrangement with a participant of a registered clearing agency registered pursuant to the Act; and the acceptance and settlement of each trade that the NASD/NSX TRF identifies as having been effected by the participant.

[10] The NASD/NSX TRF will have controls in place to ensure that transactions reported to the NASD/NSX TRF that are significantly away from the current market will not be submitted to the SIP. The NASD represented that this is consistent with current practice and noted that the Alternative Display Facility (''ADF'') and the NASD/Nasdaq TRF currently do not submit such trades to the SIP.

the National Securities Clearing Corporation.

B. Limited Liability Company Agreement of the NASD/NSX TRF LLC

The NASD and NSX will jointly own the NASD/NSX TRF LLC, which will operate the NASD/NSX TRF. The NASD has filed the Limited Liability Company Agreement of the NASD/NSX TRF LLC (the ''LLC Agreement'') as part of the current proposal. The LLC Agreement recognizes the NASD as having sole regulatory responsibility for the NASD/NSX TRF. The NASD, as the ''SRO Member'' under the LLC Agreement, will perform the ''SRO Responsibilities'' [11] for the NASD/NSX TRF. The NSX, as the ''Business Member'' under the LLC Agreement, will be primarily responsible for the management of the facility's business affairs to the extent those activities are not inconsistent with the regulatory and oversight functions of the NASD. NSX will pay the cost of regulation and provide systems to enable NASD members to report trades to the NASD/NSX TRF. NSX will be entitled to the profits and losses, if any, derived from the operation of the NASD/NSX TRF.[12] Under Section 9(d) of the LLC Agreement, each Member agrees to comply with the federal securities laws and the rules and regulations thereunder and to cooperate with the Commission pursuant to its regulatory authority and the provisions of the LLC Agreement.

The NASD/NSX TRF LLC will be managed by, or under the direction of, a Board of Directors to be established by the NASD and NSX. The NASD will have the right to designate at least one Director, the SRO Member Director, to the NASD/NSX TRF LLC Board of Directors. The SRO Director must approve, by consent, all ''Major Actions,'' as defined in Section 10(e) of the LLC Agreement. In addition, each Director agrees to comply with the federal securities laws and the rules and regulations thereunder and to cooperate with the Commission and the SRO Member pursuant to their regulatory authority.[13] Further, when discharging his or her duties as a member of the Board of Directors, each Director must take into consideration whether his or her actions as a Director would cause the NASD/NSX TRF or either Member to engage in conduct that would be inconsistent with the purposes of the Act.[14]

The initial term of the LLC Agreement is three years. During that time, until the NASD/NSX TRF reaches ''Substantial Trade Volume'' (defined as 250,000 trades or more per day for three consecutive months), NSX may terminate the arrangement for convenience. After the NASD/NSX TRF reaches Substantial Trade Volume, either Member may terminate the LLC Agreement by providing to the other Member prior written notice of at least one year. In addition, the NASD may terminate in the event its status or reputation as an SRO is called into jeopardy by the actions of NSX or the NASD/NSX TRF LLC. If the NASD/NSX TRF LLC arrangement is terminated, the NASD represented that it would be able to fulfill all of its regulatory obligations with respect to over-the-counter (''OTC'') trade reporting through its other facilities, including the NASD/Nasdaq TRF and the ADF.

C. NASD/NSX TRF Rules

1. NASD Rule 4000C and 6000C Series

The NASD proposes to adopt the NASD Rule 4000C Series, ''The NASD/NSX Trade Reporting Facility,'' and 6000C Series, ''NASD/NSX Trade Reporting Facility Systems and Programs,'' to establish, respectively, trade reporting and clearing and comparison rules for the NASD/NSX TRF.[15] The NASD Rule 4000C and 6000C Series are substantially similar to the NASD Rule 4000 and 6000 Series governing the NASD/Nasdaq TRF.[16]

The NASD also proposes to adopt a new rule relating to give up agreements and provisions designed to clarify the reporting of riskless principal transactions.[17] Specifically, the NASD proposes to adopt NASD Rule 4632C(g), which states that a member may agree to allow an NASD/NSX TRF participant to report trades on its behalf, provided that both parties have completed an agreement to that effect (a ''give up agreement'') and submitted the agreement to the NASD/NSX TRF. The NASD also proposes to adopt NASD Rule 4632C(d)(3)(B), which sets forth the procedures for reporting riskless principal transactions. Specifically, NASD Rule 4632C(d)(3)(B) provides that when the media leg of a riskless principal transaction is reported to the NASD/NSX TRF, the second, non-media leg also must be reported to the NASD/NSX TRF. When the media leg of the riskless principal transaction has been reported previously by an exchange, a member would be permitted, but not required to report the second, non-media leg to the NASD/NSX TRF. To avoid double reporting of the same transaction, NASD Rule 4632C(e)(6) provides that transactions reported on or through an exchange shall not be reported to the NASD/NSX TRF for purposes of publication.

In Amendment No. 1, NASD proposes additional changes to its rules to reflect that the NASD/NSX will also accept trade reports in non-Nasdaq exchange-listed securities. Specifically, NASD proposes to amend (e) of Rule 4632C to prohibit members from reporting the following transactions: (1) The acquisition of securities by a member as principal in anticipation of making an immediate exchange distribution or exchange offering on an exchange; and (2) purchases of securities off the floor of an exchange pursuant to a tender offer.[18] These exclusions are currently set forth in NASD Rule 6420(e)(6) and (7). In addition, NASD made some clarifying changes to reflect that the NASD/NSX TRF will accept certain trade reports in bonds.

2. Amendments to Existing NASD Rules

The NASD proposes to amend certain NASD rules to reflect the operation of more than one trade reporting facility. Specifically, the NASD proposes to amend NASD Rule 5100, ''Short Sale Rule,'' and IM–5100, ''Short Sale Rule,'' to refer to ''a'' trade reporting facility, rather than ''the'' trade reporting facility to clarify that the rules apply to trades reported to any trade reporting facility established by the NASD.

In addition, the NASD proposes to amend NASD Rule 6120, ''Trade Reporting Participation Requirements,'' to provide that participation in the

[11] The LLC Agreement defines ''SRO Responsibilities'' as those duties or responsibilities of a self-regulatory organization (''SRO'') pursuant to the Act and the rules promulgated thereunder, including but not limited to those set out in Section 9(a) of the LLC Agreement. *See* Schedule A of the LLC Agreement.

[12] *See* Section 15 of the LLC Agreement.

[13] *See* Section 10(b) of the LLC Agreement.

[14] *Id.*

[15] The NASD notes that all other NASD rules that apply to OTC trading generally will apply to trades reported to the NASD/NSX TRF.

[16] Some differences between the rules governing the NASD/NSX TRF and the NASD/Nasdaq TRF result from differences between the trade reporting systems of the facilities. For example, because the NASD/NSX TRF has no trade comparison functionality, the rules governing the NASD/NSX TRF contain no provisions relating to trade matching, trade acceptance, or aggregate volume matching. Similarly, because the NASD/NSX TRF will not be able to support trade reporting for certain transactions on its first day of operation, NASD Rules 4632C(a)(2) and (a)(7) indicate that certain types of transactions may not be reported through the NASD/NSX TRF and must be reported to the NASD via an alternative electronic mechanism.

[17] The NASD has proposed similar provisions for the NASD/Nasdaq TRF. *See* Pending NASD/Nasdaq TRF Proposal, *supra* note 7.

[18] *Id.*

System [19] is mandatory for any member with an obligation to report OTC trades to the NASD, unless the member has an alternative electronic mechanism pursuant to NASD rules for reporting and clearing the transaction. Thus, for example, participation in the System would not be mandatory for purposes of reporting OTC trades in exchange-listed securities for a member that is a participant in the NASD/NSX TRF.

3. New NASD Rule 5140 and IM–5140

The NASD proposes to adopt NASD Rule 5140 and accompanying IM–5140 on a pilot basis through January 26, 2007.[20] NASD Rule 5140 and IM–5140 will allow participants in any NASD trade reporting facility to request the use of more than one MPID for purposes of reporting trades to a trade reporting facility.[21] The NASD will require members to provide bona fide business and/or regulatory reasons for requesting an additional MPID, and the NASD will carefully consider such reasons in determining whether to issue additional MPIDs to a member.[22] The NASD stated that it believes that the proposed rules are important to ensure that the NASD has a consolidated process for issuing and tracking the MPIDs used for each NASD trade reporting facility.

D. Implementation

In light of the systems changes necessary for the NASD to implement the NASD/NSX TRF for non-Nasdaq exchange-listed securities, the NASD proposes to implement the proposal in two phases.[23] Specifically, the NASD proposes to implement the proposed rule change with respect to Nasdaq-listed equity securities on the first day of operation of the NASD/NSX TRF, and to implement the proposed rule change with respect to non-Nasdaq exchange-listed securities at a later date.

The NASD will announce the implementation of the first phase of the proposed rule change no later than 30 days following Commission approval of the proposal, and the second phase no later than 90 days following Commission approval.[24]

III. Summary of Comments

The Commission received one comment letter regarding the proposal.[25] The commenter supports the proposal and noted that it has proposed to develop a trade reporting facility with the NASD.[26] The commenter, however, argues that the Commission needs to consider the fair competition requirements of Section 11A(a)(1)(C)(ii) of the Act [27] when deciding whether and on what terms and conditions to approve the NASD/NSX TRF proposal. The commenter believes that this section of the Act requires the Commission to approve multiple trade reporting facilities, assuming the facilities are otherwise consistent with the Act.[28]

The commenter argues that the Commission should delay the effectiveness of the NASD/NSX TRF to allow the Commission to determine whether Section 11A(a)(1)(C)(ii) of the Act requires multiple non-Nasdaq trade reporting facilities.[29] Even if the Commission does decide to permit multiple non-Nasdaq trade reporting facilities, the commenter argues that the Commission should delay effectiveness of the NASD/NSX TRF because the commenter believes that the NASD/NSX TRF would obtain a competitive advantage if it were able to begin operating prior to the NASD/BSE TRF.[30] The commenter recommends that the Commission approve the NASD/NSX TRF but delay the effectiveness of its approval until the Commission has determined whether, and on what terms, multiple non-Nasdaq trade reporting facilities are appropriate and consistent with the Act.[31]

IV. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[32] In particular, the Commission finds that the proposed rule change, as amended, is consistent with Section 15A(b)(6) of the Act [33] in that it is designed to prevent fraudulent and manipulative acts and practices, 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.

The NASD/NSX TRF will provide NASD members with an additional mechanism for reporting transactions in exchange-listed securities effected otherwise than on an exchange. Rule 601 of Regulation NMS requires the NASD to file a transaction reporting plan regarding transactions in listed equity and Nasdaq securities that are executed by its members otherwise than on a national securities exchange.[34] Under Rule 603 of Regulation NMS,[35] national securities exchanges and national securities associations act jointly pursuant to an effective national market system plan to disseminate consolidated information, including a national best bid and offer, and quotations for and transactions in NMS stocks. Today, NASD operates the ADF,[36] NASD/Nasdaq TRF [37] and the

[19] NASD Rule 6110(m) defines ''System'' to mean the NASD/Nasdaq Trade Reporting Facility, the trade reporting service of the ITS/CAES System, and the OTC Reporting Facility.

[20] The NASD also has established a pilot program through January 26, 2007, to allow electronic communications networks (''ECNs'') to use multiple MPIDs for purposes of quoting and trade reporting on the ADF. *See* Securities Exchange Act Release No. 54307 (August 11, 2006), 71 FR 47551 (August 17, 2006) (notice of filing and immediate effectiveness of File No. SR–NASD–2006–096).

[21] Although the NASD trade reporting facilities are mechanisms used solely for trade reporting and do not permit quoting, a member could report a trade to a trade reporting facility as the result of a quotation posted on a NASD facility such as the ADF. In that instance, the member would be required to use the same MPID for quoting and trade reporting purposes (*e.g.*, a member that is both a trade reporting facility participant and a Registered Reporting ADF ECN would be required to use the same MPID when reporting a trade that resulted from its posted quotation on the ADF). *See* IM–5140 and Amendment No. 1, *supra* note 5.

[22] The NASD noted that one bona fide reason for using multiple MPIDs would be to facilitate back office operations. For example, a member might have multiple MPIDs for trade reporting purposes if it clears trades through multiple clearing firms. *See* Amendment No. 1, *supra* note 5.

[23] *See* Amendment No. 1, *supra* note 5.

[24] *See* Amendment No. 1, *supra* note 5.

[25] *See* BSE Letter, *supra* note 4.

[26] *See* Securities Exchange Act Release No. 54591 (October 12, 2006), 71 FR 61519 (October 18, 2006) (''NASD/BSE TRF Proposal'').

[27] 15 U.S.C. 78k–1(a)(1)(C)(ii).

[28] *See* BSE Letter, *supra* note 4.

[29] *See* BSE Letter, *supra* note 4.

[30] *See* BSE Letter, *supra* note 4.

[31] *See* BSE Letter, *supra* note 4.

[32] In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f)

[33] 15 U.S.C. 78o–3(b)(6).

[34] Under Rule 601(b) of Regulation NMS, broker-dealers are prohibited from executing a transaction otherwise than on a national securities exchange unless there is an effective transaction reporting plan. NASD Rule 5000 requires NASD members to report transactions in exchange-listed securities effected otherwise than on an exchange to NASD.

[35] 17 CFR 242.603.

[36] Currently, the ADF only accepts quotes and trades in Nasdaq-listed securities. The Commission recently approved a proposal to extend the ADF to non-Nasdaq exchange-listed securities. *See* Securities Exchange Act Release No. 54537 (September 28, 2006), 71 FR 59173 (October 6, 2006).

[37] Currently, the NASD/Nasdaq TRF only accepts trade reports in Nasdaq-listed securities. As noted above, the NASD has proposed to amend the NASD/Nasdaq TRF to accept transaction reports in non-Nasdaq exchange-listed securities. *See* Pending NASD/Nasdaq TRF Proposal, *supra* note 7.

ITS/CAES System [38] for collecting transaction reports. In addition, NASD is a participant in the Nasdaq UTP Plan [39] with regard to transaction reports in Nasdaq-listed securities, and the CTA Plan [40] with regard to securities listed on exchanges other than Nasdaq.

Upon approval of the NASD/NSX TRF, the NASD will operate another facility for the purposes of accepting transaction reports from its members. The Commission has previously recognized that the Act does not prohibit the NASD from establishing multiple facilities for fulfilling its regulatory purposes.[41] Indeed, as noted above, the NASD currently operates multiple facilities for fulfilling its regulatory obligations. Therefore, the Commission believes that it is consistent with the Act for the NASD to establish the NASD/NSX TRF for purposes of fulfilling its regulatory obligations. The NASD represented that if the NASD/NSX TRF LLC arrangement is terminated, the NASD will be able to fulfill all of its regulatory obligations with respect to OTC trade reporting through its other facilities, including the NASD/Nasdaq TRF and the ADF.

The NASD represented that it will have an integrated audit trail of all trade reporting facilities, ADF, and ITS/CAES System transactions, and will have integrated surveillance capabilities.[42] NASD has represented that it expects to automate its integrated audit trail and surveillance by the end of the fourth quarter of 2006 for Nasdaq-listed securities and by the end of the first quarter of 2007 for non-Nasdaq exchange-listed securities. The Commission believes that an integrated audit trail and integrated surveillance capabilities are important to the NASD's ability to conduct effective surveillance of OTC trading in exchange-listed securities when transactions in those securities can be reported to one of the NASD's trade reporting facilities, the ADF, or the ITS/CAES System.

A commenter suggested that the Commission approve the current proposal but delay the effectiveness of its approval until the Commission has determined whether multiple non-Nasdaq trade reporting facilities are appropriate and consistent with the Act.[43] In the NASD/Nasdaq TRF Approval Order, the Commission noted that the NASD/Nasdaq LLC Agreement specifically contemplated that the NASD could enter into similar arrangements with other national securities exchanges. In addition, the Commission noted that the NASD has represented that it was prepared to implement a trade reporting facility with any exchange based on technology available to the exchange. The Commission noted this provision and representation when addressing competitive concerns raised by commenters to the NASD/Nasdaq TRF. The Commission specifically found that the NASD/Nasdaq TRF did not impose an unfair burden on competition and that the "* * * Act does not prevent any other party, including an exchange, from developing similar technology for use as a NASD facility." Accordingly, the Commission does not require additional time to determine whether multiple non-Nasdaq trade reporting facilities are consistent with the Act and thus declines to delay the effectiveness of the NASD/NSX TRF.

The commenter also argues that NASD/NSX TRF could obtain a competitive advantage if it commences operations prior to the NASD/BSE TRF, with the potential to "permanently lessen the likelihood of multiple Trade Reporting Facilities having a fair chance to obtain enough initial print volume to allow them to survive long enough to offer the competitive benefits that presumably would underlie any Commission decision to allow multiple non-Nasdaq Trade Reporting Facilities." [44] The Commission does not believe that it should delay the operation of the NASD/NSX TRF until other trade reporting facilities are ready to operate. The Commission believes that approving the NASD/NSX TRF and allowing it to begin operations immediately could enhance competition by providing a new facility, in addition to those that are operating currently, for reporting OTC trades in exchange-listed securities.

A. NASD/NSX TRF Rules

Most of the provisions in the new NASD Rule 4000C and 6000C Rule Series, which establish the trade reporting and clearing and comparison rules for the NASD/NSX TRF, are substantially similar to the NASD Rule 4000 and 6000 Series that the Commission approved for the NASD/Nasdaq TRF,[45] or to existing NASD Rules.[46] Accordingly, the Commission finds that the NASD Rule 4000C and 6000C Series are consistent with Act. In addition, the Commission finds that new NASD Rule 4632C(g), relating to give up agreements, and NASD Rule 4632C(d)(3)(B), regarding the reporting of riskless principal transactions, are consistent with the Act because they clarify the requirements for and operation of these procedures. In this regard, NASD Rule 4632C(g) requires, among other things, that give up agreements be filed with NASD. In addition, NASD Rule 4632C(g) notes that both the member with the reporting obligation and the member submitting the trade to the NASD/NSX TRF are responsible for ensuring that the information submitted is in compliance with all applicable rules and regulations.

Similarly, NASD Rule 4632C(d)(3)(B) clarifies the procedures for reporting riskless principal transactions and should facilitate the accurate reporting of these transactions. Specifically, NASD Rule 4632C(d)(3)(B) provides that when the media leg of a riskless principal transaction is reported to the NASD/NSX TRF, the second, non-media leg also must be reported to the NASD/NSX TRF. When the media leg of the riskless principal transaction has been reported previously by an exchange, a member would be permitted, but not required to report the second, non-media leg to the NASD/NSX TRF. In addition, to avoid double reporting of the same transaction, NASD Rule 4632C(e)(6) prohibits the reporting of transactions reported on or through an exchange to the NASD/NSX TRF for purposes of publication.

[38] The ITS/CAES System provides a means by which NASD and its members can comply with the terms of the Intermarket Trading System Plan ("ITS Plan"). The ITS/CAES System reports trades in non-Nasdaq exchange-listed securities that are effected in the ITS/CAES System or in NASD members' proprietary systems. The NASD has proposed to amend the ITS/CAES System to reflect the operation of the Nasdaq Exchange as a national securities exchange. *See* Pending NASD/Nasdaq TRF Proposal, *supra* note 7.

[39] Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis ("Nasdaq UTP Plan").

[40] Consolidated Tape Association Plan ("CTA Plan").

[41] *See* NASD/Nasdaq TRF Approval Order, *supra* note 7.

[42] *See* Amendment No. 1, *supra* note 5.

[43] *See* BSE Letter, *supra* note 4.

[44] *See* BSE Letter, *supra* note 4.

[45] *See* NASD/Nasdaq TRF Approval Order, *supra* note 7.

[46] In this regard, the NASD proposes in Amendment No. 1 to adopt NASD Rule 4632C(e)(7) and (e)(8), which will provide that the following categories of transactions may not be reported to the NASD/NSX TRF for purposes of publication: (1) The acquisition of securities by a member as principal in anticipation of making an immediate exchange distribution or exchange offering on an exchange; and (2) purchases of securities off the floor of an exchange pursuant to a tender offer. These provisions are identical to current NASD Rule 6420(e)(6) and (e)(7). In addition, NASD has proposed to add the same provision to the NASD/Nasdaq TRF rules. *See* Pending NASD/Nasdaq TRF Proposal, *supra* note 7.

The Commission finds that the amendments to NASD Rule 5100 and IM–5100 and NASD Rule 6120 are consistent with the Act because they revise the NASD's rules to reflect the operation of multiple trade reporting facilities. In this regard, the amendments to NASD Rule 5100 and IM–5100 make clear that these provisions apply to trades reported to any trade reporting facility established by the NASD. Similarly, the amendments to NASD Rule 6120 clarify that a member with an obligation to report an OTC transaction to the NASD must participate in the System [47] unless the member has an alternative electronic mechanism pursuant to NASD rules for reporting and clearing such a transaction. Thus, participation in the System under NASD Rule 6120 for purposes of reporting transactions in exchange-listed securities would not be mandatory for a member that is a participant in the NASD/NSX TRF.

The NASD proposes to adopt NASD Rule 5140 and accompanying IM–5140 on a pilot basis through January 26, 2007. NASD Rule 5140 and IM–5140 will allow participants in any NASD trade reporting facility to request the use of more than one MPID for purposes of reporting trades to a trade reporting facility so long as the participant has a bona fide business and/or regulatory reason for using multiple MPIDs.[48]

The Commission finds that NASD Rule 5140 and IM–5140 are consistent with Section 15A(b)(6) of the Act because they will permit the use of multiple MPIDs for bona fide business and/or regulatory reasons while providing safeguards designed to address potential misuse of multiple MPIDs. In this regard, trade reporting facility participants must submit written requests and obtain NASD approval for the use of multiple MPIDs. Trade reporting facility participants must identify the purpose(s) and system(s) for which the multiple MPIDs will be used.[49] If the NASD determines that the use of multiple MPIDs is detrimental to the marketplace, or that a trade reporting facility participant is using one or more additional MPIDs improperly or for other than the purpose(s) identified by the participant, the NASD retains the discretion to limit or withdraw its grant of the additional MPIDs to the participant.[50] Similarly, if a participant misuses its MPID on one NASD facility, including the ADF, or on the facility of another SRO, the NASD retains the discretion to limit or withdraw the grant of the MPID for trade reporting purposes through any NASD trade reporting facility.[51] Finally, the NASD would consider the misuse of an MPID for quoting purposes through another system to be grounds for withdrawal of the MPID for trade reporting through a trade reporting facility.[52]

B. NASD/NSX TRF LLC

The NASD and NSX will jointly own the NASD/NSX TRF LLC, which will operate the NASD/NSX TRF. The NASD has filed the LLC Agreement as part of the current proposal.[53] The LLC Agreement is substantially similar to the limited liability company agreement of the NASD/Nasdaq TRF LLC (''NASD/Nasdaq TRF LLC Agreement'') that the Commission approved in the NASD/Nasdaq TRF Approval Order.[54] Accordingly, for the reasons discussed in the NASD/Nasdaq TRF Approval Order with respect to the NASD/Nasdaq TRF LLC Agreement, the Commission finds that the LLC Agreement is consistent with the Act.[55]

The Commission notes that the NASD/NSX TRF LLC, as the operator of an NASD facility, is an integral part of a SRO registered pursuant to the Act and, as such, is subject to obligations imposed by the Act. The Commission underscores that these obligations endure so long as the NASD/NSX TRF LLC operates an NASD facility.

The Commission believes that the LLC Agreement makes clear that the NASD will have sole regulatory responsibility for the activities of NASD members related to the facility operated by the NASD/NSX TRF LLC and provides the NASD with certain rights that are intended to preserve its regulatory authority and control.[56] The Commission believes that the provisions of the LLC Agreement will allow the NASD to carry out its self-regulatory responsibilities with respect to its facility and that both the Commission and the NASD will have sufficient regulatory jurisdiction over the controlling parties of the NASD/NSX TRF LLC to carry out their responsibilities under the Act.

For example, under the LLC Agreement, each Member and each director of the NASD/NSX TRF LLC agrees to comply with the federal securities laws and rules and regulations thereunder and to cooperate with the Commission pursuant to its regulatory authority and the provisions of the LLC Agreement. In addition, the NASD and NSX acknowledge in the LLC Agreement that—to the extent directly related to the NASD/NSX TRF LLC's activities—their books, records, premises, officers, directors, governors, agents, and employees will be deemed to be the books, records, premises, officers, directors, governors, agents, and employees of the NASD itself and its affiliates for the purposes of, and subject to oversight pursuant to, the Act. This provision will reinforce the Commission's ability to exercise its authority under Section 19(h)(4) of the Act [57] with respect to the officers and directors of the NASD/NSX TRF LLC because all such officers and directors—to the extent that they are acting in matters related to the NASD/NSX TRF LLC's activities—would be deemed to be the officers and directors of the NASD itself. Furthermore, under the LLC Agreement, the records of the NASD and NSX, to the extent that they are related to the NASD/NSX TRF LLC's activities, are deemed to be records of the NASD itself and are subject to the

[47] *See supra* note 19.

[48] The NASD notes that one bona fide reason for using multiple MPIDs would be to facilitate back office operations. For example, a member might have multiple MPIDs for trade reporting purposes if it clears trades through multiple clearing firms. *See* Amendment No. 1, *supra* note 5.

[49] *See* IM–5140. The NASD contemplates that a member that participates in more than one trade reporting facility would use the same MPIDs across trade reporting facilities as well as the ADF, if the member is also a participant in the ADF. However, the NASD believes that it could be appropriate for a member to obtain, for example, one MPID for exclusive use on the NASD/Nasdaq TRF and another MPID for exclusive use on the NASD/NSX TRF. As part of the NASD Rule 5140 process, the member would be required to specify the system(s) for which the MPIDs would be used and the NASD would determine whether such use of multiple MPIDs was appropriate under the facts and circumstances. *See* Amendment No. 1, *supra* note 5.

[50] *See* IM–5140.

[51] *See* Amendment No. 1, *supra* note 5.

[52] *See* Amendment No. 1, *supra* note 5.

[53] The Commission notes that any changes to the LLC Agreement that are stated policies, practices, or interpretations of the NASD, as defined in Rule 19b–4 under the Act, must be filed with the Commission pursuant to Section 19(b) of the Act and Rule 19b–4 thereunder.

[54] *See supra* note 7.

[55] The Commission incorporates by reference the discussion and analysis of the NASD/Nasdaq TRF LLC and NASD/Nasdaq TRF LLC Agreement set forth in the NASD/Nasdaq TRF Approval Order, *supra* note 7.

[56] For example, pursuant to the LLC Agreement, the NASD must consent before certain ''Major Actions,'' as defined in the LLC Agreement, with respect to the NASD/NSX TRF LLC are effective.

[57] 15 U.S.C. 78s(h)(4). Section 19(h)(4) of the Act authorizes the Commission, by order, to remove from office or censure any officer or director of an SRO if it finds after notice and an opportunity for hearing that such officer or director has: (1) Willfully violated any provision of the Act or the rules and regulations thereunder, or the rules of such SRO; (2) willfully abused his or her authority; or (3) without reasonable justification or excuse, has failed to enforce compliance with any such provision by a member or person associated with a member of the SRO.

Commission's examination authority under Section 17(b)(1) of the Act.[58]

The LLC Agreement also provides that the NASD and NSX, and each officer, director, agent, and employee thereof, irrevocably submits to the jurisdiction of the U.S. federal courts, the Commission, and the NASD for the purpose of any suit, action, or proceeding pursuant to the U.S. federal securities laws and the rules and regulations thereunder arising from, or relating to, the NASD/NSX TRF LLC's activities.

The Commission also believes that the requirements of Section 19(b) of the Act and Rule 19b–4 thereunder provide the Commission with sufficient authority over changes in control of the NASD/NSX TRF LLC to enable the Commission to carry out its regulatory oversight responsibilities with respect to the NASD and its facilities.

The Commission notes that the NASD is required to enforce compliance with the provisions of the LLC Agreement because they are ''rules of the association'' within the meaning of Section 3(a)(27) of the Act.[59] A failure on the part of the NASD to enforce its rules could result in a suspension or revocation of its registration pursuant to Section 19(h)(1) of the Act.[60]

C. Accelerated Approval of Amendment No. 1

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** In Amendment No. 1, the NASD proposes to expand the NASD/NSX TRF to accept transaction reports in non-Nasdaq exchange-listed securities. The NASD had noted its intention to accept for these trades in the NASD/NSX TRF in its Notice. Because the NASD is obligated to collect these transaction reports, and allowing the NASD/NSX TRF to accept these trade reports may increase competition among the trade reporting facilities operated by the NASD, the Commission believes there is good cause to accelerate approval of this change to the NASD/NSX TRF. Second, the NASD proposes to implement the NASD/NSX TRF in two phases to allow it to make necessary systems changes. The Commission finds that good cause exists to accelerate approval of this implementation schedule as it will allow NASD to incrementally begin operations of this new trade reporting facility, as its systems are ready. The Commission notes that NASD stated that it expects to announce the implementation date of the first phase no later than 30 days following approval and the second phase no later than 90 days following approval. Finally, NASD proposes to designate its Rule 5140 and IM–5140 regarding multiple MPIDs as a pilot that would expire on January 26, 2007 and to add language to clarify that members that use an MPID for quoting purposes must use the same MPID for trade reporting purposes for transactions that result from the member's quotation. Because the changes to its Rule 5140 and IM–5140 are designed to prevent potential misuse of MPIDs, the Commission believes that good cause exists to accelerate approval of the changes proposed in Amendment No. 1. Accordingly, the Commission finds that it is consistent with Sections 6(b)(5) and 19(b) of the Act to approve Amendment No. 1 on an accelerated basis.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether Amendment No. 1 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–2006–108 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2006–108. 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 the 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–NASD–2006–108 and should be submitted on or before December 5, 2006.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[61] that the proposed rule change (SR–NASD–2006–108), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[62]

Nancy M. Morris,

Secretary.

[FR Doc. E6–19167 Filed 11–13–06; 8:45 am]

BILLING CODE 8011–01–P

[58] *See* Section 17(c) of the LLC Agreement.

[59] 15 U.S.C. 78c(a)(27).

[60] 15 U.S.C. 78s(h)(1).

[61] 15 U.S.C. 78s(b)(2).

[62] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54713; File No. SR–NYSE–2006–98]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of a Proposed Rule Change Regarding the Amendment of NYSE Rule 300 Relating to Trading Licenses and the Deletion of NYSE Rule 300T

November 6, 2006.

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 November 3, 2006, the New York Stock Exchange LLC (''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 NYSE. 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 NYSE Rule 300 relating to trading

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

licenses to charge a fixed price of $50,000 for calendar year 2007 trading licenses that are purchased during the 2006 offering period, rather than using an auction to determine the trading license price as was done for calendar year 2006. The Exchange is also proposing to modify the fee relating to the approval of any new member or pre-qualified substitute. The Exchange is also deleting NYSE Rule 300T, which is no longer necessary.

The text of the proposed rule change is available on NYSE's Web site at *http://www.nyse.com*, at NYSE'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, NYSE included statements concerning the purpose of, and basis for, the proposed rule change 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. 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Rule 300 relating to trading licenses to charge a fixed price of $50,000 for calendar year 2007 trading licenses that are purchased during the 2006 offering period, rather than using an auction to determine the trading license price as was done for calendar year 2006. The Exchange is also proposing to modify the fee relating to the approval of any new member or pre-qualified substitute. The Exchange is also deleting NYSE Rule 300T, which is no longer necessary.

The auction process used in anticipation of the merger between New York Stock Exchange, Inc. and Archipelago Holdings, Inc. in March 2006 produced a trading license price of $49,290. The Exchange believes that this is evidence that a $50,000 annual fee for a trading license is fair and reasonable. The Exchange believes that moving to a fixed price for trading licenses will also simplify the process under which member organizations obtain trading licenses, and that certainty regarding the price for a trading license will be a benefit to both its member organizations and the Exchange.

Because there will be no chance of an unexpectedly high purchase price, as was the case when the price was set by auction, the Exchange believes that there is no need to provide for a re-pricing if fewer than 1,000 trading licenses are applied for. The Exchange also notes that since 1,279 trading licenses were purchased last year at $49,290, there is no reason to believe that a price of $50,000 would substantially reduce the number of trading licenses sold for calendar year 2007.

Nonetheless, to insure fairness in the allocation of trading licenses among those desiring them, the Exchange will retain certain restrictions imposed this past year. Accordingly, member organizations would initially be limited to applying for a number of licenses equal to the greater of 35 or 125% of the number of trading licenses they used in 2006. So that member organizations would not be affected by end-of-year fluctuations in the number of licenses held, the 125% will be calculated with reference to the greatest number of licenses held by the member organization during calendar year 2006. For example, if a member organization had, at its highest point in 2006, 36 trading licenses issued to it, the member organization would be entitled to apply for 45 trading licenses for 2007, even if at the time of the 2006 offering period, the member organization only held 32 trading licenses. In no event would the total number of trading licenses issued by the Exchange exceed 1,366, and if in the offering more than 1,366 licenses are applied for, the Exchange would allow member organizations to purchase up to the greatest number they used in calendar year 2006, with the additional trading licenses up to 1,366 apportioned among interested member organizations by lottery.

Since there is no longer a need to encourage participation in an auction, the Exchange would eliminate the requirement that trading licenses purchased after the annual offering pay a 10% premium. As was the case this year, the purchase price for all trading licenses would be paid in monthly installments, and early terminations would pay a termination fee equal to one month's installment of the purchase price.

The Exchange also proposes to modify the fee relating to the approval of any new member or pre-qualified substitute. Currently, the Exchange charges a fee of $1,000 for the approval of new trading license holders or pre-qualified substitutes. The fee does not apply to current trading license holders who are approved for trading floor access. Based on its experience with the administration of the approval process during 2006, the Exchange proposes to increase this fee from $1,000 to $5,000. The Exchange believes that the increase is appropriate to defray the administrative expenses associated with the approval of new members and pre-qualified substitutes, and notes that it is in line with the $5,000 fee the Exchange charged prior to the merger for transfers of memberships.

Finally, the Exchange is eliminating NYSE Rule 300T, which was needed only with respect to the auction conducted in 2006, the year in which the merger between New York Stock Exchange, Inc. and Archipelago Holdings, Inc. occurred.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(4) of the Act [3] that a national securities exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members 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

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 NYSE 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.

[3] 15 U.S.C. 78f(b)(4).

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–2006–98 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–98. 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 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–2006–98 and should be submitted on or before December 5, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Nancy M. Morris,

Secretary.

[FR Doc. E6–19165 Filed 11–13–06; 8:45 am]

BILLING CODE 8011–01–P

[4] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2006–0095]

No Fear Act Notice

AGENCY: Social Security Administration.

ACTION: Notice.

SUMMARY: The Social Security Administration is required to provide notice to all of its employees, former employees, and applicants for Federal employment in order to inform them of applicable rights and remedies available under the Federal antidiscrimination and whistleblower Protection Laws. The notice is set forth below.

DATES: This notice will be effective on November 1, 2006.

FOR FURTHER INFORMATION CONTACT: Chester Kleinman, Senior Advisor, by mail at Office of Civil Rights and Equal Opportunity, Social Security Administration, P.O. Box 17712, Baltimore, Maryland 21235–7712; or by telephone at 410–965–0697.

SUPPLEMENTARY INFORMATION: On May 15, 2002, Congress enacted the ''Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,'' which is now known as the No FEAR Act. One purpose of the Act is to ''require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws.'' Public Law 107–174, Summary. In support of this purpose, Congress found that ''agencies cannot be run effectively if those agencies practice or tolerate discrimination.'' Public Law 107–174, Title I, General Provisions, section 101(1).

The Act also requires this agency to provide this notice to Federal employees, former Federal employees and applicants for Federal employment to inform you of the rights and protections available to you under Federal antidiscrimination and whistleblower protection laws.

Antidiscrimination Laws

A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes: 5 U.S.C. 2302(b)(1), 29 U.S.C. 206(d), 29 U.S.C. 631, 29 U.S.C. 633a, 29 U.S.C. 791 and 42 U.S.C. 2000e-16.

This agency also prohibits discrimination based on parental status and sexual orientation. Executive Order 13152 states explicitly that discrimination based upon an individual's status as a parent is prohibited within the Executive Branch of the Federal Government. The right to address sexual orientation discrimination derives from Agency policy.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin, disability, parental status or sexual orientation you must contact an Equal Employment Opportunity (EEO) counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with the Agency. *See e.g.* 29 CFR 1614. If you believe that you have been the victim of unlawful discrimination on the basis of age, you must either contact an EEO counselor as noted above or give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 calendar days of the alleged discriminatory action. If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (*see* contact information below). In the alternative (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through the Agency's administrative or negotiated grievance procedures, if such procedures apply and are available.

Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of

national defense or the conduct of foreign affairs.

Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC–11) with the U.S. Office of Special Counsel at 1730 M Street, NW., Suite 218, Washington, DC 20036–4505 or online through the OSC Web site—*http://www.osc.gov*.

Retaliation for Engaging in Protected Activity

A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal antidiscrimination or whistleblower protection laws listed above. If you believe that you are the victim of retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Antidiscrimination Laws and Whistleblower Protection Laws sections or, if applicable, the administrative or negotiated grievance procedures in order to pursue any legal remedy.

Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal Antidiscrimination and Whistleblower Protection Laws up to and including removal. If OSC has initiated an investigation under 5 U.S.C. 1214, however, according to 5 U.S.C. 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

Additional Information

For further information regarding the No FEAR Act regulations, refer to 5 CFR Part 724. You may also contact the Office of Civil Rights and Equal Opportunity (Headquarters), the appropriate Civil Rights and Equal Opportunity office (Regions), or the Civil Rights and Equal Opportunity Manager (Office of Disability Adjudication and Review). Additional information regarding Federal antidiscrimination, whistleblower protection and retaliation laws can be found at the EEOC Web site—*http://www.eeoc.gov* and the OSC Web site—*http://www.osc.gov*.

Existing Rights Unchanged

Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands or reduces any rights otherwise available to any employee, former employee or applicant under the laws of the United States, including the provisions of law specified in 5 U.S.C. 2302(d).

Dated: October 25, 2006.

Mark A. Anderson,

Associate Commissioner, Office of Civil Rights and Equal Opportunity.

[FR Doc. E6–19140 Filed 11–13–06; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5590]

Advisory Committee on International Economic Policy; Notice of Open Meeting

The Advisory Committee on International Economic Policy (ACIEP) will meet from 1:30 p.m. to 4:30 p.m. on Wednesday, November 29, 2006, in Room 1107, U.S. Department of State, 2201 C Street, NW., Washington, DC. The meeting will be hosted by Assistant Secretary of State for Economic and Business Affairs Daniel S. Sullivan and Committee Chairman R. Michael Gadbaw. The ACIEP serves the U.S. Government in a solely advisory capacity concerning issues and problems in international economic policy. The meeting will focus on transformational economic diplomacy, including a discussion of U.S. international economic objectives in South and Central Asia.

This meeting is open to the public as seating capacity allows. Entry to the building is controlled; to obtain pre-clearance for entry, members of the public planning to attend should provide, by November 24, 2006, their name, professional affiliation, valid government-issued ID number (i.e., U.S. government ID (agency), U.S. military ID (branch), passport (country), or driver's license (state)), date of birth, and citizenship to La Keisha Barner by fax (202) 647–5936, e-mail (*BarnerLR@state.gov*), or telephone (202) 647–0847. One of the following forms of valid photo identification will be required for admission to the State Department building: U.S. driver's license, passport, or U.S. Government identification card. Enter the Department of State from the C Street lobby. In view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins.

For additional information, contact David Freudenwald, Office of Economic Policy and Public Diplomacy, Bureau of Economic and Business Affairs, at (202) 647–2231 or *FreudenwaldDJ@state.gov*.

Dated: November 7, 2006.

David R. Burnett,

Office Director, Office of Economic Policy Analysis and Public Diplomacy, Department of State.

[FR Doc. E6–19178 Filed 11–13–06; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice 5592]

Announcement of Meetings of the International Telecommunication Advisory Committee

SUMMARY: This notice announces meetings of the International Telecommunication Advisory Committee (ITAC) to continue to prepare advice on the U.S. position on ITU budget shortfalls and related matters.

The International Telecommunication Advisory Committee (ITAC) will meet to continue to prepare advice on the U.S. position on ITU budget shortfalls, their impact on the structure of the ITU study programs, and the impact on the U.S. preparatory process on December 1, 2006 from 9:30 to noon Eastern Time at a location in the metropolitan Washington area. A conference bridge will be provided.

This meeting is open to the public. Further information may be obtained from the secretariat *minardje@state.gov*, telephone 202 647–3234.

Dated: November 7, 2006.

James G. Ennis,

Foreign Affairs Officer, International Communications & Information Policy, Multilateral Affairs, Department of State.

[FR Doc. E6–19181 Filed 11–13–06; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Notice and Request for Comments

ACTION: 30-Day Notice of Information Collection Under Review: Maps in Abandonment Exemption Proceedings.

SUMMARY: The Surface Transportation Board (Board), as part of its continuing

effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* (PRA), has submitted a request to the Office of Management and Budget (OMB) for an extension of approval for the currently approved collection of maps in abandonment exemption proceedings. The Board previously published a notice about these collections in the **Federal Register** on July 12, 2006, at 71 FR 39395. That notice allowed for a 60-day public review and comment period. No comments were received.

The purpose of the current notice is to allow an additional 30 days for public comment to satisfy the requirements of the PRA, 44 U.S.C. 3507(b). Comments are sought from interested persons concerning (1) whether the collection of maps is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology when appropriate.

Description of Collection

Title: Maps Required in Abandonment Exemption Proceedings.

OMB Control Number: 2140–0008.

Form Number: None.

Type of Review: Extension without change.

Respondents: Railroads initiating abandonment exemption proceedings.

Number of Respondents: 91.

Estimated Time Per Response: 1 hour, based on average time reported in informal survey of respondents conducted in 2003.

Frequency of Response: 1.

Total Annual Burden Hours: 91.

Total Annual ''Non-Hour Burden'' Cost: None has been identified.

Needs and Uses: Under 49 CFR 1152.50(d)(2) and 1152.60(b), the Board requires in each abandonment exemption proceeding a detailed map of the rail line, depicting the line's relation to other rail lines, roads, water routes, and population centers. The Board uses this information to determine the scope and the impact of the proposed abandonment. In addition, this information is posted on the Board's Web site and serves as a form of notice to current and/or potential shippers, and to persons who might want either to continue rail service under 49 U.S.C. 10904; to acquire the line as a trail under the National Trails System Act, 16 U.S.C 1247(d); or to acquire the line for another public purpose under 49 U.S.C. 10905.

Deadline: Comments on this information collection should be submitted by December 14, 2006.

ADDRESSES: Comments should be in writing and directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Surface Transportation Board Desk Officer, Room 10235, 725 17th Street, NW., Washington, DC 20503, or to *Alexander_T._Hunt@omb.eop.gov*. Comments should be identified as ''Paperwork Reduction Act Comments, Surface Transportation Board, Maps Submitted in Abandonment Proceedings, OMB Control Number 2140–0008.''

FOR FURTHER INFORMATION CONTACT: A copy of the regulations pertaining to this information collection may be obtained by contacting Barbara G. Saddler at (202) 565–1656 or *saddlerb@stb.dot.gov*. These rules can also be found on the Board's Web site at *http://www.stb.dot.gov* by searching under ''E-Library,'' and then ''Research Aids.''

SUPPLEMENTARY INFORMATION: Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. Collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: November 14, 2006.

Vernon A. Williams,

Secretary.

[FR Doc. E6–19179 Filed 11–13–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Notice and Request for Comments

ACTION: 30-Day Notice of Information Collection Under Review: System Diagram Maps.

SUMMARY: The Surface Transportation Board (Board), as part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* (PRA), has submitted a request to the Office of Management and Budget (OMB) for an extension of approval for the currently approved collection of rail system diagram maps. The Board previously published a notice about these collections in the **Federal Register** on July 21, 2006, at 71 FR 41513. That notice allowed for a 60-day public review and comment period. One comment was received. As pertinent here, the commenter emphasized the importance of the Board's collection of system diagram maps in providing advance notice to the public about rail service that is likely to be abandoned, especially in light of the importance of that notice to the viability of the Board's feeder-line program, 49 U.S.C. 10907, which enables shippers and communities to acquire marginal rail lines that are likely to be downgraded or abandoned.

The purpose of the current notice is to allow an additional 30 days for public comment to satisfy the requirements of the PRA, 44 U.S.C. 3507(b). Comments are sought from rail carriers that have recently filed amended or new system diagram maps (or, in the case of small carriers, the alternative narrative description of rail system), as well as from members of the shipping public who may make use of these maps, concerning (1) whether the particular collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology when appropriate.

Description of Collection

Title: System Diagram Maps.

OMB Control Number: 2140–0003.

Form Number: None.

Type of Review: Extension without change.

Respondents: Common carrier freight railroads that are either new or reporting changes in the status of one or more of their rail lines.

Number of Respondents: 4.

Estimated Time per Response: 4.5 hours, based on average time reported in informal survey of respondents conducted in 2003.

Frequency of Response: 1.

Total Annual Burden Hours: 18 hours (4 respondents × 4.5 hours).

Total Annual ''Non-Hour Burden'' Cost: Range is between $.50 and $2,550, depending on size and class of carrier.

Needs and Uses: Under 49 U.S.C. 10903(c)(2) and 49 CFR 1152.10–1152.13, all rail carriers subject to the Board's jurisdiction are required to maintain, publish, and submit to the Board a complete diagram of the transportation system operated. These carriers are also required to publish and submit any amendments to their system diagram maps (SDMs) as necessary to keep the SDMs current. Under the Board's regulations, 49 CFR 1152.10(a), a Class III carrier (a carrier with assets of not more than $20 million in 1991 dollars), may submit the same information in narrative form. The information sought in this collection identifies all lines in a particular railroad's system, categorized to indicate the likelihood that service on a particular line will be abandoned and/or whether service on a line is currently provided under the financial assistance provisions of 49 U.S.C. 10904. This information constitutes advance notice to the Board and the public about likely decreases in the availability of rail service and provides a valuable planning tool for the Board and the shipping public. It facilitates informed decision making by the Board, and permits shippers and communities to participate in Board proceedings that may affect them, to submit timely proposals for continuing rail service under the feeder-line acquisition program (49 U.S.C. 10907(b)(i)), and/or to plan for alternative means of transportation.

Deadline: Persons wishing to comment on this information collection should submit comments by December 14, 2006.

ADDRESSES: Written comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Surface Transportation Board Desk Officer, Room 10235, 725 17th Street, NW., Washington, DC 20503, or to *Alexander_T._Hunt@omb.eop.gov*. Comments should be identified as ''Paperwork Reduction Act Comments, Surface Transportation Board, System Diagram Map, OMB Control Number 2140–0003.''

FOR FURTHER INFORMATION CONTACT: A copy of the regulations pertaining to this information collection may be obtained by contacting Barbara G. Saddler at (202) 565–1656 or *saddlerb@stb.dot.gov*. These rules can also be found on the Board's Web site at *http://www.stb.dot.gov* by searching under ''E-Library,'' and then ''Research Aids.''

SUPPLEMENTARY INFORMATION: Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. Collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: November 14, 2006.

Vernon A. Williams,

Secretary.

[FR Doc. E6–19180 Filed 11–13–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 281X); STB Docket No. AB–290 (Sub-No. 270X)]

Yadkin Railroad Company—Abandonment Exemption—in Stanly County, NC; Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Stanly County, NC

Yadkin Railroad Company (Yadkin) and Norfolk Southern Railway Company (NSR) (collectively, applicants), have jointly filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* for Yadkin to abandon, and for NSR to discontinue service over, a 4.14-mile line of railroad between milepost N 27.50 in North Albemarle and milepost N 31.64 in Albemarle, Stanly County, NC. The line traverses United States Postal Service Zip Code 28001. The line includes the former stations of North Albemarle and Albemarle.

Applicants have 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 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 of 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance 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 14, 2006, 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 24, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 4, 2006, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representative: James R. Paschall, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Applicants have filed environmental and historic reports which address the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by November 17, 2006. 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

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[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 was increased to $1,300 effective on April 19, 2006. *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2006 Update,* STB Ex Parte No. 542 (Sub-No. 13) (STB served Mar. 20, 2006).

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), Yadkin 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 Yadkin's filing of a notice of consummation by November 14, 2007, 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: November 3, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E6–19036 Filed 11–13–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 7, 2006.

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 14, 2006 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1546.

Type of Review: Extension.

Title: Revenue Procedure 97–33, EFTPS (Electronic Federal Tax Payment System).

Description: Some taxpayers are required by regulations issued under Sec. 6302(h) of the Internal Revenue Code to make Federal Tax Deposits (FTDs) using the Electronic Federal Tax Payment System (EFTPS). Other taxpayers may choose to voluntarily participate in EFTPS. EFTPS requires that a taxpayer complete an enrollment form to provide the information the IRS needs to properly credit the taxpayer's account. Revenue 97–33 provides procedures and information that will help taxpayers to electronically make FTDs and tax payments through EFTPS.

Respondents: Businesses, farms, and not-for-profit institutions.

Estimated Total Burden Hours: 278,622 hours.

OMB Number: 1545–0052.

Type of Review: Extension.

Title: Form 990–PF, Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation, and Form 4720, Return of Certain Excise Taxes on Charities.

Form: 990–PF and 4720.

Description: IRC section 6033 requires all private foundations, including section 4947(a)(1) trusts treated as private foundations, to file an annual information return. Section 53.4940–1(a) of the Income Tax Regulations requires that the tax on net investment income be reported on the return filed under section 6033. Form 990–PF is used for this purpose. Section 6011 requires a report of taxes under Chapter 42 of the Code for prohibited acts by private foundation and certain related parties. Form 4720 is used by foundations and/or related persons to report prohibited activities in detail and pay the tax on them.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 11,029,293 hours.

OMB Number: 1545–0687.

Title: Exempt Organization Business Income Tax Return.

Type of Review: Extension.

Form: 990–T.

Description: Form 990–T is needed to compute the section 511 tax on unrelated business income of a charitable organization. IRS uses the information to enforce the tax.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 5,271,224 hours.

OMB Number: 1545–2020.

Title: Information Returns Required with Respect to Certain Foreign Corporations and Certain Foreign-Owned Domestic Corporations.

Type of Review: Extension.

Description: This document contains final and temporary regulations that provide guidance under section 6038 and 6038A of the Internal Revenue Code. The final regulations under Sec. 1.6038–2 are revised to remove and replace obsolete references to a form and IRS offices. The temporary regulations clarify the information required to be furnished regarding certain related party transactions of certain foreign corporations and certain foreign-owned domestic corporations. Specifically, in addition to the types of transactions listed in Sec. 1.6038–2(f)(11) taxpayers are required to report the sales of tangible property other than stock in trade on Form 5471.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 1,250 hours.

OMB Number: 1545–0212.

Title: Application for Extension of Time to File Certain Employee Plan Returns.

Type of Review: Extension.

Form: 5558.

Description: This form is used by employers to request an extension of time to file the employee plan annual information return/report (Form 5500 series) or employee plan excise tax return (Form 5330). The data supplied on Form 5558 is used to determine if such extension of time is warranted.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 185,724 hours.

OMB Number: 1545–0028.

Title: Employer's Annual Federal Unemployment (FUTA) Tax Return (Form 940).

Type of Review: Revision.

Form: 940.

Description: IRC section 3301 imposes a tax on employees based on the first $7,000 of taxable annual wages paid to each employee. IRS uses the information reported on Forms 940 and 940–PR (Puerto Rico) to ensure that employers have reported and figured the correct FUTA Wages and tax. There is a decrease in burden due to the net decrease of 25 line items from Form 940 and an increase of 6 line items on the 940 worksheet.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 16,695,730 hours.

OMB Number: 1545–0123.

Title: Form 1120, U.S. Corp. Income Tax Return, Schedule D, Capital Gains and Losses, Schedule H, Section 280H Limitations for a Personal Service Corporation (PSC).

Type of Review: Extension.

Form: 1120.

Description: Form 1120 is used by corporations to compute their taxable income and tax liability. Schedule D (Form 1120) is used by corporations to report gains and losses from the sale of capital assets. Schedule PH (Form 1120) is used by personal holding companies to figure the personal holding company tax under section 541. Schedule H (Form 1120) is used by personal service corporations to determine if they have met the minimum distribution requirements of section 280H. Schedule N (1120) is used by corporations that have assets in or business operations in a foreign country or a U.S. possession. The IRS uses these forms to determine corporate tax liability.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 370,939,155 hours.

OMB Number: 1545–0196.

Title: Split-Interest Trust Information Return.

Type of Review: Extension.

Form: 5227.

Description: The data reported is used to verify that the beneficiaries of a charitable remainder trust include the correct amounts in their tax returns, and that the split-interest trust is not subject to private foundation taxes.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 10,051,150 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.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E6–19119 Filed 11–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8879–S

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8879–S, IRS e-file Signature Authorization for Form 1120S.

DATES: Written comments should be received on or before January 16, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: IRS e-file Signature Authorization for Form 1120S.

OMB Number: 1545–1863.

Form Number: 8879–S.

Abstract: Form 8879–S authorizes an officer of a corporation and an electronic return originator (ERO) to use a personal identification number (PIN) to electronically sign a corporation's electronic income tax return and, if applicable, Electronic Funds Withdrawal Consent.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 11,360.

Estimated Time per Respondent: 6 hours, 32 minutes.

Estimated Total Annual Burden Hours: 74,181.

The following paragraph applies to all of the collections of information covered by this notice: 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.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: October 24, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–19124 Filed 11–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4506

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4506, Request for Copy or Transcript of Tax Form.

DATES: Written comments should be received on or before January 16, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, or at Internal Revenue Service, room 6516, 1111 Constitution

Avenue, NW., Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request for Copy or Transcript of Tax Form.

OMB Number: 1545–0429.

Form Number: Form 4506.

Abstract: Internal Revenue Code section 7513 allows taxpayers to request a copy of a tax return or related documents. Form 4506 is used for this purpose. The information provided will be used for research to locate the tax form and to ensure that the requestor is the taxpayer or someone authorized by the taxpayer to obtain the documents requested.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, farms, and Federal, State, local, or tribal governments.

Estimated Number of Respondents: 325,000.

Estimated Time Per Respondent: 48 min.

Estimated Total Annual Burden Hours: 260,000.

The following paragraph applies to all of the collections of information covered by this notice:

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. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: October 23, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–19126 Filed 11–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE–178–78]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, EE–178–78 (TD 7898), Employers' Qualified Educational Assistance Programs (Section 1.127–2).

DATES: Written comments should be received on or before January 16, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to R. Joseph Durbala at (202) 622–3634, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Employers' Qualified Educational Assistance Programs.

OMB Number: 1545–0768.

Regulation Project Number: EE–178–78.

Abstract: Internal Revenue Code section 127(a) provides that the gross income of an employee does not include amounts paid or expenses incurred by an employer if furnished to the employee pursuant to a qualified educational assistance program. This regulation requires that a qualified educational assistance program must be a separate written plan of the employer and that employees must be notified of the availability and terms of the program. Also, substantiation may be required to verify that employees are entitled to exclude from their gross income amounts paid or expenses incurred by the employer.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 5,200.

Estimated Time per Respondent: 7 minutes.

Estimated Total Annual Burden Hours: 615.

The following paragraph applies to all of the collections of information covered by this notice:

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. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: October 25, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–19127 Filed 11–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–OID

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–OID, Original Issue Discount.

DATES: Written comments should be received on or before January 16, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Original Issue Discount.

OMB Number: 1545–0117.

Form Number: 1099–OID.

Abstract: Form 1099–OID is used for reporting original issue discount as required by section 6049 of the Internal Revenue Code. It is used to verify that income earned on discount obligations is properly reported by the recipient.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Responses: 5,906,965.

Estimated Time Per Response: 12 min.

Estimated Total Annual Burden Hours: 1,142,324.

The following paragraph applies to all of the collections of information covered by this notice:

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. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: October 23, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–19128 Filed 11–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for REG–166012–02

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning REG–166012–02, Notional Principal Contracts; Contingent Nonperiodic Payments.

DATES: Written comments should be received on or before January 16, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notional Principal Contracts; Contingent Nonperiodic Payments.

OMB Number: 1545–1876.

Form Number: REG–166012–02.

Abstract: The collection of information in the proposed regulations is in § 1.446–3(g)(6)(vii) of the Income Tax Regulations, requiring Taxpayers to maintain in their books and records a description of the method used to determine the projected amount of a contingent payment, the projected payment schedules, and the adjustments taken into account under the proposed regulations. The information is required by the IRS to verify compliance with section 446 of the Internal Revenue Code and the method of accounting described in § 1.446–3(g)(6). This information will be used to determine whether the amount of tax has been calculated correctly. The collection of information is required to properly determine the amount of income or deduction to be taken into account. The respondents are sophisticated investors that enter into notional principal contracts with contingent nonperiodic payments.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 4,250.

Estimated Time Per Respondent: 6 hours.

Estimated Total Annual Burden Hours: 25,500.

The following paragraph applies to all of the collections of information covered by this notice:

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. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: October 23, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–19129 Filed 11–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–C

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453–C, U.S. Corporation Income Tax Declaration for an IRS e-file Return.

DATES: Written comments should be received on or before January 16, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, at (202)–622–3634, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Corporation Income Tax Declaration for an IRS e-file Return.

OMB Number: 1545–1866.

Form Number: 8453–C.

Abstract: Form 8453–C is necessary to enable the electronic filing of Form 1120, U.S. Corporation Income Tax Return. The form is created to meet the stated Congressional policy that paperless filing is the preferred and most convenient means of filing Federal tax and information returns.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 2,000.

Estimated Time per Respondent: 7 hours, 1 minute.

Estimated Total Annual Burden Hours: 14,040.

The following paragraph applies to all of the collections of information covered by this notice:

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. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: October 24, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–19136 Filed 11–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–80–93]

Proposed Collection; Comment Request for Regulation Project.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–80–93 (TD 8645), Rules for Certain Rental Real Estate Activities (Section 1.469–9).

DATES: Written comments should be received on or before January 16, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to R. Joseph Durbala, at (202) 622–3634, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Rules for Certain Rental Real Estate Activities.

OMB Number: 1545–1455.

Regulation Project Number: PS–80–93.

Abstract: This regulation provides rules relating to the treatment of rental

real estate activities of certain taxpayers under the passive activity loss and credit limitations of Internal Revenue Code section 469.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 20,100.

Estimated Time per Respondent: 9 minutes.

Estimated Total Annual Burden Hours: 3,015 hours.

The following paragraph applies to all of the collections of information covered by this notice.

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. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: October 23, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–19137 Filed 11–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13803

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13803, Income Verification Express Service Application and Employee Delegation Form.

DATES: Written comments should be received on or before January 16, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Income Verification Express Service Application and Employee Delegation Form.

OMB Number: 1545–2032.

Form Number: Form 13803.

Abstract: Form 13803, Income Verification Express Service Application and Employee Delegation Form, is used to submit the required information necessary to complete the e-services enrollment process for IVES users and to identify delegates receiving transcripts on behalf of the principle account user.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

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. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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.

Approved: October 23, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–19139 Filed 11–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held December 6, 2006.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held on

December 6, 2006, in Room 4200E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, C:AP:AS, 1099 14th Street, NW., Washington, DC 20005. Telephone (202) 435–5609 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., that a closed meeting of the Art Advisory Panel will be held on December 6, 2006, in Room 4200E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7), and that the meeting will not be open to the public.

Sarah Hall Ingram,

Chief, Appeals.

[FR Doc. E6–19130 Filed 11–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted via teleconference. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, December 6, 2006, at 1 p.m., Eastern Time.

FOR FURTHER INFORMATION CONTACT: Barbara Toy at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Wednesday, December 6, 2006, at 1 p.m. Eastern Time via a telephone conference call. If you would like to have the Joint Committee of TAP consider a written statement, please call 1–888–912–1227 or (414) 231–2360, or write Barbara Toy, TAP Office, MS–1006–MIL, P.O. Box 3205, Milwaukee, WI 53203–2221, or FAX to (414) 231–2363, or you can contact us at *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Barbara Toy. Ms. Toy can be reached at 1–888–912–1227, or (414) 231–2360, or by FAX at (414) 231–2363.

The agenda will include the following: Monthly committee summary report, discussion of issues brought to the joint committee, office report, and discussion of next meeting.

Dated: October 30, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–19125 Filed 11–13–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Rehabilitation Research and Development Service Scientific Merit Review Board; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Rehabilitation Research and Development Service Scientific Merit Review Board will be held on December 11–12, 2006, at the Sofitel Lafayette Hotel, 806 15th Street, NW., Washington, DC. The meeting sessions will begin at 8 a.m. and end at 5:30 p.m. each day.

The purpose of the Board is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service, regarding their funding.

The meeting will be open to the public on December 11, 2006 from 8 a.m. to 9 a.m. for the discussion of administrative matters, the general status of the program and the administrative details of the review process. The meeting will be closed on December 11, 2006 from 9 a.m. to 5:30 p.m. and on December 12, 2006 from 8 a.m. to 5:30 p.m. for the Board's review of research and development applications.

This review involves oral comments, discussion of site visits, staff and consultant critiques of proposed research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance, and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Disclosure would also reveal research proposals and research underway which could lead to the loss of these projects to third parties and thereby frustrate future agency research efforts. Thus, the closing in accordance with 5 U.S.C. 552b(c)(6), and (c)(9)(B) and the determination of the Secretary of the Department of Veterans Affairs under Section 10(d) of Public Law 92–463 as amended by Section 5(c) of Public Law 94–409.

Those who plan to attend the open session should contact Denise Burton, PhD, Federal Designated Officer, Portfolio Manager, Rehabilitation Research and Development Service (122), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, at (202) 254–0268.

Dated: October 31, 2006.

By direction of the Secretary

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 06–9184 Filed 11–13–06; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Tuesday,
November 14, 2006

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Astragalus brauntonii and Pentachaeta lyonii; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU51

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Astragalus brauntonii and Pentachaeta lyonii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are designating critical habitat for the *Astragalus brauntonii* (Braunton's milk-vetch) and *Pentachaeta lyonii* (Lyon's pentachaeta) pursuant to the Endangered Species Act of 1973, as amended (Act). For *A. brauntonii*, approximately 3,300 acres (ac) (1,337 hectares (ha)) fall within the boundaries of the critical habitat designation. The critical habitat for *A. brauntonii* is located in Ventura, Los Angeles, and Orange Counties, California. For *P. lyonii*, approximately 3,396 ac (1,372 ha) fall within the boundaries of the critical habitat designation. The critical habitat for *P. lyonii* is located in Ventura and Los Angeles Counties, California.

DATES: This rule becomes effective on December 14, 2006.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, are available for public inspection, by appointment, during normal business hours, in the branch of Endangered Species, at the Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003. The final rule, economic analysis, and map are also available on the Internet at *http://www.fws.gov/ventura.*

FOR FURTHER INFORMATION CONTACT: Diane Noda, Field Supervisor, Ventura Fish and Wildlife Office, at the address in **ADDRESSES** (telephone 805/644–1766; facsimile 805/644–3958). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339, 7 days a week and 24 hours a day.

SUPPLEMENTARY INFORMATION:

Role of Critical Habitat in Actual Practice of Administering and Implementing the Act

Attention to and protection of habitat are paramount to successful conservation actions. The role that designation of critical habitat plays in protecting habitat of listed species, however, is often misunderstood. As discussed in more detail below in the discussion of exclusions under section 4(b)(2) of the Act, there are significant limitations on the regulatory effect of designation under section 7(a)(2) of the Act. In brief, (1) designation provides additional protection to habitat only where there is a federal nexus; (2) the protection is relevant only when, in the absence of designation, destruction or adverse modification of the critical habitat would in fact take place (in other words, other statutory or regulatory protections, policies, or other factors relevant to agency decision-making would not prevent the destruction or adverse modification); and (3) designation of critical habitat triggers the prohibition of destruction or adverse modification of that habitat, but it does not require specific actions to restore or improve habitat.

Currently, only 476 species, or 36 percent of the 1,311 listed species in the United States under the jurisdiction of the Service, have designated critical habitat. We address the habitat needs of all 1,311 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, the section 10 incidental take permit process, and cooperative, nonregulatory efforts with private landowners. The Service believes that it is these measures that may make the difference between extinction and survival for many species.

In considering exclusions of areas originally proposed for designation, we evaluated the benefits of designation in light of *Gifford Pinchot Task Force* v. *United States Fish and Wildlife Service, 378 F.3d 1059 (9th Cir 2004) (hereinafter Gifford Pinchot).* In that case, the Ninth Circuit invalidated the Service's regulation defining ''destruction or adverse modification of critical habitat.'' In response, on December 9, 2004, the Director issued guidance to be considered in making section 7 adverse modification determinations. This critical habitat designation does not use the invalidated regulation in our consideration of the benefits of including areas in this final designation. The Service will carefully manage future consultations that analyze impacts to designated critical habitat, particularly those that appear to be resulting in an adverse modification determination. Such consultations will be reviewed by the Regional Office prior to finalizing to ensure that an adequate analysis has been conducted that is informed by the Director's guidance.

On the other hand, to the extent that designation of critical habitat provides protection, that protection can come at significant social and economic cost. In addition, the mere administrative process of designation of critical habitat is expensive, time-consuming, and controversial. The current statutory framework of critical habitat, combined with past judicial interpretations of the statute, make critical habitat the subject of excessive litigation. As a result, critical habitat designations are driven by litigation and courts rather than biology, and made at a time and under a time frame that limits our ability to obtain and evaluate the scientific and other information required to make the designation most meaningful.

In light of these circumstances, the Service believes 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.

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 the Service 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 the Service 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, the Service's 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 the Service with limited ability to provide for 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, and is expensive, thus diverting resources from conservation actions that may provide relatively more benefit to imperiled 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; U.S.C. 4371 et seq.). These costs, which are not required for many other conservation actions, directly reduce the funds available for direct and tangible conservation actions.

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat in this rule. For more information on *Astragalus brauntonii* and *Pentachaeta lyonii,* refer to the proposed critical habitat published in the **Federal Register** on November 10, 2005 (70 FR 68982), and the final listing rule published on January 29, 1997 (62 FR 4172).

Previous Federal Actions

For more information concerning previous Federal actions concerning *Astragalus brauntonii* and *Pentachaeta lyonii*, refer to the proposed designation of critical habitat published in the **Federal Register** on November 10, 2005 (70 FR 68982). On January 27, 2003, our decision not to designate critical habitat for *A. brauntonii* and *P. lyonii* was challenged in *Center for Biological Diversity* v. *Norton* (Case No. 03–CV–0198–IEG (S.D.Cal.). On July 28, 2003, the Court entered a settlement agreement, in which the Service agreed to submit for publication a proposal to withdraw the existing ''not prudent'' determination together with a new proposed critical habitat determination for both species by November 1, 2005. On November 10, 2005, we published a proposed rule to designate approximately 3,638 ac (1,471 ha) of critical habitat in 6 units in Ventura, Los Angeles, and Orange Counties, California, for *A. brauntonii*, and approximately 4,212 ac (1,703 ha) of critical habitat in 7 units in Ventura and Los Angeles Counties, California for *P. lyonii* (70 FR 68982). On July 21, 2006, we published a notice announcing the availability of the draft economic analysis (DEA), and reopening of the public comment period (71 FR 41410). This comment period closed on August 21, 2006.

Summary of Comments and Recommendations

We requested written comments from the public on the proposed designation of critical habitat for *Astragalus brauntonii* and *Pentachaeta lyonii* in the proposed rule published on November 10, 2005 (70 FR 68982). We also contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule. The initial comment period ended January 9, 2006. We published newspaper notices on July 6, 2006, in the Ventura County Star, Ventura, California; and in the Yorba Linda Star, Orange County, California, inviting public comment on the economic analysis and proposed critical habitat designation. We did not receive any requests for a public hearing.

During the comment period that opened on November 10, 2005, and closed on January 9, 2006, we received 10 comments directly addressing the proposed critical habitat designation: 5 from peer reviewers, 1 from a Federal agency, and 4 from organizations or individuals. During the comment period that opened on July 21, 2006, and closed on August 21, 2006, we received five comments directly addressing the proposed critical habitat designation and the draft economic analysis. Of these latter comments, one was from a Federal agency, one was from a State agency, and three were from organizations or individuals. Fourteen commenters supported the designation of critical habitat for *Astragalus brauntonii* and *Pentachaeta lyonii*, and one commenter did not express support or opposition to the designation but requested that the lands under their ownership be excluded from the designation of critical habitat under section 4(b)(2) of the Act. All comments and new information relating to the proposed critical habitat designation for *A. brauntonii* and *P. lyonii* are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from seven knowledgeable individuals with scientific expertise that included familiarity with the species, the geographic region in which the species occurs, and conservation biology principles. We received responses from five of the peer reviewers. The peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve the final critical habitat rule. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

We reviewed all comments received from the peer reviewers and the public for substantive issues and new information regarding critical habitat for *Astragalus brauntonii* and *Pentachaeta lyonii*, and address them in the following summary.

Peer Reviewer Comments

1. *Comment:* A peer reviewer disagreed with our assertion that fire suppression was a threat to *Astragalus brauntonii* and *Pentachaeta lyonii.* He stated that despite efforts to suppress fires in coastal southern California, the present frequency of fires, which is every 15 years or less, is substantially higher than historically, which is thought to be every 50 to 100 years. This current fire frequency has resulted in displacing native shrubs with non-native grasses that are competitively superior to *A. brauntonii* and *P. lyonii.* Therefore, he recommended that management of critical habitat areas emphasize the need for preventing excessive fires.

Our Response: We agree that excessive fires should be prevented in critical habitat areas. We note that *Astragalus brauntonii* responds favorably to fire because it triggers germination of dormant seeds. However, if fires are too frequent, this benefit may be outweighed by the risk of conversion to non-native grasslands. We recognize that the long dormant period for seeds suggests that frequent fires are not necessary to ensure persistence, and thus frequent fires should not be encouraged. Instead, the management goal should be to maintain those conditions to which the species is adapted. Contrary to the reviewer's assertion, we did not list fire suppression as a threat to *Pentachaeta lyonii.* Invasion of non-native plants and annual grasses is a major threat to both species, and therefore, excessive fires should be prevented in critical habitat for *both species.* We have removed fire suppression as a threat to *A. brauntonii* in the final designation.

2. *Comment:* A peer reviewer disagreed with the Service's statement that ''critical habitat provides relatively little additional protection to listed species,'' because designation of critical habitat includes information about the primary constituent elements the species needs for persistence and

recovery. This information can be used by Federal and non-Federal agencies to develop a basic landscape scale long-term conservation strategy for the species.

Our Response: The section referenced by the reviewer is intended to be a general statement regarding our position on the designation of critical habitat. As discussed in the preamble of this and other critical habitat designation rules, we believe that, in most cases, conservation mechanisms provided through section 7, the section 4 recovery planning process, the section 9 protective prohibitions of unauthorized take, section 6 funding to the States, the section 10 incidental take permit process, and cooperative programs with private and public landowners and Tribes provide greater incentives and conservation benefits than does the designation of critical habitat. Furthermore, while we agree critical habitat designations include species specific information that can be used by Federal and non-Federal agencies to develop a basic landscape scale long-term conservation strategy for a species, agencies may obtain similar types of information from other Service documents, such as species recovery plans.

3. *Comment:* A peer reviewer commented that the proposed critical habitat rule did not discuss the Incidental Take permit for *Pentachaeta lyonii* pursuant to Fish and Game Code Section 1081 that is currently being processed for the Lake Sherwood Area Plan in Ventura County. The peer reviewer stated that most of the western portion of Unit 3c is addressed in the plan.

Our Response: We are aware of the State of California's pending Incidental Take permit for the Lake Sherwood Area Plan. However, as of this final designation, the plan is not finished and thus has not yet been approved. Therefore, we did not consider the potential impacts of the proposed activities on *Pentachaeta lyonii* or critical habitat within the Lake Sherwood Area Plan for this designation.

4. *Comment:* A peer reviewer stated that we did not include in our records a location of *Astragalus brauntonii* that occurs on the ''old Ahmanson property.''

Our Response: The reviewer is referring to occurrence number 29 in the California Natural Diversity Database (CNDDB) record for *Astragalus brauntonii.* The exact location of this occurrence is not known. After careful review and inquiries to several individuals who are familiar with the occurrences for this species, we have concluded that this occurrence is probably incorrect and may not exist. We welcome any further information about this occurrence.

5. *Comment:* A peer reviewer stated that the ''historic Stunt Ranch site'' should be included for recovery purposes for potential reintroduction. The reviewer is referring to occurrence number 3 in the CNDDB database record for *Pentachaeta lyonii.*

Our Response: We did not include this occurrence because it currently does not appear to be suitable habitat for *Pentachaeta lyonii.* The species has not been present on the site since it burned in 1993. The soil in that area has been heavily disturbed by gophers, and this has made the area very favorable for non-native annual grasses. Despite the fact that this occurrence was not included in critical habitat, we recognize that there may be reintroduction potential for this site, and would consider this a valid recovery effort for the species.

6. *Comment:* A peer reviewer thought that the designation of critical habitat for *Astragalus brauntonii* should be postponed until the portions of proposed critical habitat that were burned by a wildfire in 2005 (subunits 1a–1d and subunits 2a–2f) could be surveyed. The fires may have stimulated dormant seeds of *A. brauntonii* in areas where the plant was not known to occur. The purpose of these surveys would be to determine if there are additional areas that contain *A. brauntonii* for inclusion into critical habitat.

Our Response: We were unable to postpone designation of critical habitat to wait for the results of post-fire surveys because a July 28, 2003, settlement agreement and resulting court order mandated that we propose critical habitat by November 1, 2005, and finalize the critical habitat designation by November 1, 2006. However, we did fund post-fire surveys for *Astragalus brauntonii* in those areas that were burned. The results of those surveys revealed several new locations of *A. brauntonii* outside of proposed critical habitat. One location was found along a firebreak extending up to 2,297 feet (ft) (700 meters (m)) from subunit 2a in Oakbrook Regional Park, and at least four new locations were found between subunits 2d and 2e. These locations are within areas similar in habitat, and within the known distribution of the species. This highlights the difficulty in determining every occurrence of the species because the locations of dormant seeds may be unknown until a disturbance occurs. However critical habitat does not reflect every population or occurrence of *A. brauntonii.* We are designating habitat that we have determined contains the physical and biological features essential to the conservation of the species arranged in the quantity and spatial characteristics necessary for conservation (see section titled ''Critical Habitat'' below for more information on the determination of critical habitat).

7. *Comment:* A peer reviewer thought that PCE 1 for *Astragalus brauntonii*, which was ''carbonate limestone soils derived from marine sediment,'' was not the best description of the soil type associated with the plant. A recent study in which soil samples were taken at most locations of *A. brauntonii* revealed that the plant occurs in areas with calcium carbonate soils (a broader range of soils), and not necessarily where soils are derived from limestone (Landis 2005). The reviewer suggested that the original PCE could lead researchers to only look for *A. brauntonii* in soils that are obviously derived from limestone.

Our Response: We have changed this PCE by removing the reference to limestone soils and adding calcium carbonate to the soils description. This change is also reflected in ''Areas that Provide the Basic Requirements for Growth (Such as Water, Light, and Minerals).''

8. *Comment:* A peer reviewer commented that he is aware of occurrences of *Astragalus brauntonii* between Units 3 and 4 but is unable to disclose the locations because he entered into a ''confidentiality clause'' with the clients that commissioned surveys.

Our Response: We are not entirely surprised that additional populations occur in the area between units 3 and 4, because this intervening area has similar features and PCEs to the two units. The Service has made a diligent effort to gather all sources of information concerning the distribution of this species, including surveys and other studies, biological assessments, other unpublished materials, and the personal knowledge of experts. Our proposed critical habitat was based on the best information available to us at the time.

9. *Comment:* A peer reviewer wanted to know why there were discussions of 4 PCEs for *Astragalus brauntonii* and *Pentachaeta lyonii* throughout the proposed rule, but only 3 PCEs were listed in the PCE section of the proposed rule.

Our Response: Only three PCEs were included in the proposed rule. The reference to 4 PCEs in the proposed rule

was an error, which has been corrected in this final rule.

10. *Comment:* One peer reviewer suggested that a population viability analyses would assist us in designing critical habitat units that are large enough to assure persistence of sufficiently sized populations. Another peer reviewer thought that most of the units are too small and should be increased in size to reduce potential impacts of Argentine ant invasions on pollinators. Argentine ants are associated with manmade structures, and research has shown that they reduce native arthropod populations (e.g., bees and wasps) up to 656 ft (200 m) from their nests. The peer reviewer commented that Argentine ants could threaten the persistence of the plants because they would be expected to displace the pollinator community and suggested that we should include an additional ''ant buffer'' of 656 ft (200 m) around each unit, which would make the minimum unit size about 180 ac (73 ha).

Our Response: We used the best scientific information available for this designation, and the Service does not typically conduct population viability analyses to assist in determining critical habitat. We acknowledge the potential indirect negative impacts of Argentine ants on the pollinators of these plant species and agree that a 656-ft (200-m) distance from the nearest edge of manmade structure may reduce any potential impacts. The impacts of Argentine ants on a rare native plant were discussed in a study by Conservation Biology Institute (2000). However, critical habitat, within the geographical range occupied by the species at the time it was listed, is defined by those physical and biological features essential to the conservation of the species (see Primary Constituent Elements section) which may require special management or protection. Physical and biological features essential to the conservation means PCEs arranged in the quantity and spatial characteristics necessary for conservation of the species. Critical habitat is not intended to create a preserve or other conservation area, or to include buffers in order to reduce impacts from manmade structures. The potential direct and indirect impacts to critical habitat and listed plants as a result of development of manmade structures would presumably be addressed through section 7 or other regulatory means. Therefore, while we recognize the reviewer's position, we believe that any identifiable impacts will be addressed through other regulatory means.

Comments From the State

Section 4(i) of the Act states, ''the Secretary shall submit to the State agency a written justification for failure to adopt regulations consistent with the agency's comments or petition.'' California Department of Fish and Game (CDFG) provided the following comments concerning the proposed critical habitat designation for *Astragalus brauntonii* and *Pentachaeta lyonii.*

11. *Comment:* CDFG provided several corrections to our habitat description for *Pentachaeta lyonii.* They stated that *P. lyonii* is not always confined to flat slopes but is known to occur on slopes 20–30 percent or greater, and said it can occur on thin volcanic surface soils underlaid by near-surface volcanic rock, and in localized flat areas on steep slopes, dirt hiking trails, and old roadbeds.

Our Response: We based our habitat description on the best available information to us at the time, but acknowledge that *Pentachaeta lyonii* may occur in a broader range of habitat preferences than was described in the proposed critical habitat.

12. *Comment:* CDFG stated that PCE 2 for *Astragalus brauntonii*, ''Low proportion (<10%) of shrub cover directly around the plant,'' was not entirely correct because the species may persist in the form of dormant seeds within mature stands of chaparral between episodes of fire. Therefore, occupied habitat would only contain PCE 2 at some points in successional time.

Our Response: We recognize that *Astragalus brauntonii* occurrences may not contain PCE 2 all of the time, but this PCE is essential for the plant to be able to complete a necessary life history component—seed germination and plant growth. It is not necessary for all three PCEs to be present at a site at all times for it to be considered critical habitat.

13. *Comment:* CDFG said that we were incorrect in stating that *Pentachaeta lyonii* does not maintain a dormant seed bank, and that the species responds to favorable growing conditions with dramatic increases in population numbers and occupied acreage, suggesting that the species maintains some type of seed bank between years.

Our Response: Keeley (1995) found that seeds buried more that ¼ inch under the soil for more than 6 months did not germinate, leading to his conclusion that the species does not maintain a dormant seed bank. However, in a later study, he acknowledged that seeds likely remain dormant during drought years (Fotheringham and Keeley 1998), and hypothesized that seeds may need to be buried less than ¼ inch to germinate following long-term dormancy periods. This hypothesis contradicted his previous conclusion that the species does not maintain a seed bank. We have corrected the final rule to reflect this information.

14. *Comment:* CDFG employees have observed *Pentachaeta lyonii* in habitat that does not appear to contain a biotic crust, so biotic crust should not be considered essential for all populations. In this critical habitat designation, PCE 2 is listed as ''Exposed soils that exhibit a microbiotic crust which may inhibit invasion by other plant competitors.''

Our Response: Although there has not been a specific study on biotic crusts and *Pentachaeta lyonii*, the habitat of this species was characterized in the listing rule by ''a low percentage of total plant cover and exposed soils with a microbiotic crust, partially assisting with reducing competition with other species.'' Crusts can be seen at many occupied sites of *P. lyonii*, and it is believed that these crusts reduce the ability of other plants to invade areas where *P. lyonii* occurs. We believe that this is an important PCE because it highlights a special management consideration for this species, which is that disturbance of the soil's surface crust should be avoided to prevent invasion by other plant species. We recognize that not every occurrence may contain microbiotic crusts, and it is not necessary for all three PCEs to be present at a site for it to be considered critical habitat.

15. *Comment:* CDFG noted that the minimum distance from one edge of a proposed unit to the other edge is insufficient to reduce potential adverse edge effects. They stated that Argentine ants, which are associated with manmade structures, are known to reduce native arthropod populations, including known insect pollinators of these species, such as bees and wasps. According to research, a distance of 328–656 ft (100–200 m) from the urban edge to core habitat is needed to ensure that core habitats remain free of Argentine ants.

Our Response: As discussed in our response to comment 10, we acknowledge that there is the potential for indirect negative impacts of Argentine ants associated with manmade structures on the pollinators of these plant species, and agree that an additional 328–656 ft (100–200 m) distance beyond the proposed units and from the nearest urban edge may reduce

these impacts. However, in defining critical habitat, we believe that we have identified those areas that contain the PCEs essential to the conservation of the species which may require special management considerations or protections. The potential direct and indirect impacts to critical habitat and listed plants as a result of development of manmade structures would presumably be addressed through section 7 or other regulatory means.

16. *Comment:* CDFG commented that the true distribution of *Astragalus brauntonii* is not known because of the species' dormant seeds that may persist undetected in the soil for many years, and recommended using soil and geologic maps to capture additional potentially suitable habitat in the vicinity of known locations.

Our Response: We included additional suitable habitat up to 935 ft (285 m) from known occurrences in order to capture areas that are likely to contain an undetected seed bank and to allow for genetic exchange between patches. We did not include habitat beyond the 935 ft (285 m) distance, because those areas are not known to be occupied by the species nor do we have evidence to support that this habitat is essential to the conservation of the species. We recognize that designation of critical habitat may not include all of the habitat areas that may ultimately be necessary for the recovery of the species, and therefore, critical habitat designations do not signal that habitat outside the designation is unimportant or not required for recovery.

17. *Comment:* CDFG commented that many of the units for both species lack connectivity to other units; suggested connecting units where there is potentially suitable geology or soils; and gave specific examples of units that could be connected.

Our Response: We connected occurrences that were within 1,968 ft (600 m) of each other into single units to allow for genetic exchange between populations. We did not connect occurrences beyond that distance because they were not likely to be genetically connected. In some cases, units closer than 1,968 ft (600 m) from each other were not connected because the intervening habitat was developed and lacked the PCEs.

Public Comments on the Process of Designating Critical Habitat

18. *Comment:* One commenter stated that the ''historic Stunt Ranch site'' should be included for recovery purposes for potential reintroduction. This commenter is referring to occurrence number 3 in the CNDDB database record for *Pentachaeta lyonii.*

Our Response: As explained in our response to peer review comment 5, we did not include this occurrence because it currently does not appear to be suitable habitat for *Pentachaeta lyonii.* Despite the fact that this occurrence was not included in critical habitat, we recognize that there may be reintroduction potential for this site, and would consider reintroduction to be a valid recovery effort for the species.

19. *Comment:* One commenter disagreed with the Service's statement that ''critical habitat provides relatively little additional protection to listed species'' and asserted that critical habitat designations include information about the primary constituent elements the species needs for persistence and recovery. This information can be used by Federal and non-Federal agencies to develop a basic landscape scale long-term conservation strategy for the species.

Our Response: As discussed in our response to peer review comment 2, the section referenced by the commenter is intended to be a general statement regarding our position on the designation of critical habitat. Although it is our position that the conservation and recovery of listed species are better served through other conservation mechanisms, we agree with the commenter's assertion that the information contained in this designation can be used to develop long-term conservation strategies for the species.

20. *Comment:* Several commenters thought that many of the units for both species were too small for a variety of reasons. They commented that we failed to account for areas needed for pollinator reproduction, which are different from pollinator foraging areas and may require larger patch sizes to support the pollinator population. One commenter asserted that additional area is needed to provide for pollinator persistence and pollinator linkages between populations of *Pentachaeta lyonii*, and that the minimum size needed to ensure persistence depends on local habitat conditions and the degree of isolation between patch sizes. The commenter noted that *P. lyonii* requires a low proportion of vegetative cover to persist, suggesting that patches should be larger to contain enough flowering plants to support pollinators. Similarly, a commenter thought critical habitat should be enlarged and merged to include appropriate soils and potential habitat and provide opportunities for pollinator dispersal. In the opinion of the commenter, this would provide corridors of connectivity, reducing habitat fragmentation and genetic isolation. Larger areas would also better support populations that shift in time and space, allow for ecosystem processes (including fire or fire-like disturbances) to function at appropriate scales, and minimize edge effects.

Our Response: We generally agree with the conservation biology principles and rationale presented by the commenters. However, the Act states that critical habitat is ''the specific areas within the geographical area occupied by the species * * * on which are found those physical or biological features essential to the conservation of the species'' (i.e., PCEs (see Primary Constituent Elements section)). Furthermore, based on the Act, we only designate critical habitat in areas outside the geographical area occupied by the species at the time of listing when the best available information indicates that it is essential to the conservation of the species.

We used the best scientific information available to determine the necessary habitat to ensure persistence of individual populations. In order to reduce fragmentation and preserve genetic connectivity, we connected populations within 1,968 ft (600 m) of each other because they are likely to be visited by the same pollinators. We also designated suitable habitat to allow for important life-history functions such as seed dispersal and presence of pollinators, and included areas that likely contain a seed bank and/or unmapped patches within populations. We believe that our critical habitat design captures the areas essential to the conservation to the species based on the best scientific information currently available. We believe that by capturing entire populations within single critical habitat units and by connecting populations within 1,968 ft (600 m) of each other into single units, the species will persist and pollination will continue.

21. *Comment:* One commenter thought that surveys should be conducted for *Astragalus brauntonii* and *Pentachaeta lyonii* because of a wildfire that burned areas within the known distribution of the species, and any additional locations discovered should be included in critical habitat.

Our Response: As discussed in our response to comment 6, we were unable to postpone our proposed designation of critical habitat further to incorporate the results of these surveys, although we funded post-fire surveys for *Astragalus brauntonii* in those areas that were burned and found additional locations

of the species. We determined that the fire did not burn within the known distribution of *Pentachaeta lyonii*, so there was no need for post-fire surveys.

22. *Comment:* One commenter thought that PCE 1 for *Astragalus brauntonii,* ''carbonate limestone soils derived from marine sediment,'' was not the best description of the soil type associated with the plant. A recent study in which soil samples were taken at locations of *A. brauntonii* revealed that the plant occurs with calcium carbonate soils (a broader range of soils), and not necessarily with limestone-derived soils (Landis 2005). The PCE as originally proposed could lead researchers to only look for *A. brauntonii* on soils that are obviously derived from limestone.

Our Response: As stated in our response to comment 7, we have changed this PCE by removing the reference to limestone soils and adding calcium carbonate to the soils description. This change is also reflected in ''Areas that Provide the Basic Requirements for Growth (Such as Water, Light, and Minerals)''.

23. *Comment:* Two commenters thought that an occurrence of *Astragalus brauntonii* located within the City of Oak Park should have been included within critical habitat because it contains the largest known seed bank in the Simi Hills. The commenters noted that inclusion of this occurrence, if a 3,281-ft (1,000-m) zone to protect pollinator habitat was incorporated, would link units 2c and 2d. In addition, one of the commenters stated that a ''Rare Plant Conservation Plan'' is in effect in the Oak Park area that covers three tiny preserves within open space and a ''demonstration garden'' that contains *A. brauntonii,* on land owned and managed by the Rancho Simi Recreation and Parks District. The commenter states that the plan does not adequately ensure the conservation and persistence of *A. brauntonii,* and should not be used as a basis to exclude this occurrence from critical habitat.

Our Response: The commenters are referring to occurrence 20 in the CNDDB record for *Astragalus brauntonii.* We did not include this occurrence because it does not contain the PCEs. A large portion of this occurrence was removed by Rancho Simi Recreation and Parks District to create a city park, other portions were removed by urban development, and very small remaining portions are surrounded by or directly adjacent to urban development. It is difficult to determine the size of a seed bank, and there is no clear evidence that this occurrence contains the largest known seed bank in the Simi Hills, although small numbers of plants and a seed bank may remain within open space areas along the periphery of developed areas. Remaining portions of this occurrence are almost completely surrounded by urban development; therefore, we would be unable to link units 2c and 2d because we do not intentionally include developed areas such as buildings, paved areas, and other areas that lack the PCEs. Because this occurrence does not contain the PCEs, we did not evaluate the existing conservation plan as a basis for excluding this occurrence from critical habitat.

24. *Comment:* Several commenters identified portions of *Pentachaeta lyonii* populations that were not included in the designation (e.g., in subunit 2a, and Unit 4), and also thought that intervening habitat between subunits should have been included (e.g., between subunits 2b and 2c, and between the two parts of subunit 3c).

Our Response: We do not intentionally include developed areas such as buildings, paved areas, and other areas that lack the PCEs in our critical habitat designations. Based on aerial photos of those areas (PhotoMapper 3.50, AirPhoto USA, NW Los Angeles Map 1999), we determined that those portions of populations and intervening habitat were previously removed by urban development.

25. *Comment:* A commenter thought we should have included *Pentachaeta lyonii* occurrences 9 and 19 from the CNDDB records in critical habitat.

Our Response: We only included extant occurrences that contain the PCEs within critical habitat. We did not include occurrence 9 within the nearby Unit 7 (Malibu Lake unit) because, based on the CNDDB records, this occurrence has been extirpated since 1992. We did not include occurrence 19 because three of the four patches of *Pentachaeta lyonii* within this occurrence were removed by construction of a golf course. The fourth and only remaining patch is within approximately a 500 square-foot (46-square-meter) area, and is surrounded by the golf course. We believe that this remaining occurrence contains a population size of fewer than 10 individuals and may have even been extirpated. This location lacks the PCEs and has little recovery or conservation value; therefore, it was not included in the critical habitat designation.

26. *Comment:* There were several suggestions of simple management strategies for protecting both species that would not result in economic hardship on any jurisdiction or management agency, as well as suggestions for additional new criteria for delisting. For *Astragalus brauntonii,* suggested management techniques include: Lifting the blade of bulldozers at least 18 inches in the air when clearing roads or creating firebreaks; using weed-whackers to clear weeds around the plant; and leaving cut stalks and seedpods on the side of the road rather than removing *A. brauntonii* plant material. For *Pentachaeta lyonii,* suggested management techniques include routing roads around critical habitat areas and controlling non-native weeds invading critical habitat areas without the use of herbicides and without disturbing the soil. For both species, suggested management techniques include not transplanting plants as a conservation tool because both species are dependent on specific soil characteristics and performing road maintenance, fuel modification, and other management activities after fruiting.

Our Response: We have incorporated some of the management strategies into the section titled ''Special Management Considerations or Protections'' in this rule. We may also provide these suggestions, in the form of best management practices, to local agencies when we provide technical assistance regarding ways to reduce impacts to listed species, and to Federal agencies through the section 7 consultation process. The suggested new criteria for delisting are valid recovery actions that we may attempt to accomplish in future recovery actions for the species. These criteria may also be incorporated into a revised recovery plan at some point in the future.

27. *Comment:* One commenter thought that the proposed critical habitat only maintains both species at their current level with no opportunity for recovery because we do not propose unoccupied suitable habitat. Other commenters thought that we should have included unoccupied suitable habitat on land owned by the National Park Service (NPS) or by local open space agencies because they represent opportunities for population expansion for the species. They noted that an experimental population of *Pentachaeta lyonii* was recently introduced at Paramount Ranch on NPS land, illustrating the potential for reintroductions into other areas.

Our Response: We disagree with the commenter that our proposal and designation do not provide opportunities for recovery of the species. Our critical habitat designation noted the fact that both plants occur in patchy distributions both physically and temporally. In order to incorporate

entire populations, we conducted a nearest neighbor analysis and determined that the average distance between patches of plants was 275 m (902 ft) for *Pentachaeta lyonii* and 285 m (935 ft) for *Astragalus brauntonii.* Therefore, in areas where the habitat was contiguous and PCEs were present, we included suitable habitat up to 275 m (902 ft) and 285 m (935 ft) from known patches of *P. lyonii* and *A. brauntonii,* respectively, to ensure that we captured the entire population (including the seed bank) within one critical habitat unit and minimized fragmentation. Furthermore, where we had populations within 600 m (1,968 ft) of one another and the habitat was contiguous and contained the PCEs, we connected those populations together in one unit to facilitate genetic exchange between populations through pollinator activity. We expect that these areas contain a seed bank, and/or additional suitable habitat for population expansion through seed dispersal. Both of these strategies capture recovery opportunities for the species and, through these strategies, we believe we have captured the entire area necessary to ensure persistence of the species. For further information, please refer to the ''Criteria Used to Identify Critical Habitat'' section. Although we did not designate specific areas of unoccupied habitat for potential reintroductions, we believe that this can be an important recovery tool for *P. lyonii,* particularly on Federal Lands, and we support these types of actions. We recognize that designation of critical habitat may not include all of the habitat areas that are necessary for the recovery of the species, and therefore, critical habitat designations do not signal that habitat outside the designation is unimportant or not required for recovery.

28. *Comment:* A researcher commented that we were incorrect in stating that *Pentachaeta lyonii* does not maintain a dormant seed bank. Surveys conducted in multiple years at the same site show large fluctuations in population size, and this would likely be impossible unless the species maintains a seed bank for at least 5 to 10 years.

Our Response: As discussed in our response to comment 13 from the State, we have corrected the final rule to reflect this information.

29. *Comment:* A researcher commented that the role of biotic crusts is unsupported by data and that this should not be used for PCE 2 for *Pentachaeta lyonii* because it suggests that crust is a required element for *P. lyonii* habitat. In the proposed designation, PCE 2 was listed as ''Exposed soils that exhibit a microbiotic crust which may inhibit invasion by other plant competitors.''

Our Response: As discussed in our response to comment 14, we recognize that not every occurrence may contain microbiotic crusts, and it is not necessary for all three PCEs to be present at a site for it to be considered critical habitat.

30. *Comment:* A researcher commented that PCE 3 for *Pentachaeta lyonii* should focus on the presence of bare ground rather than on proportion of vegetative cover. In the proposed designation, PCE 3 was listed as ''low proportion of total vegetative cover (<25%).'' The commenter asserted that this PCE can be misleading because, based on research, *P. lyonii* is found in areas with 20 to 60 percent cover of native vegetation at a larger scale (i.e., 538 to 2,153 square foot patch sizes (50 to 200 square meter)). Although the species can be found in areas with a larger proportion of total vegetative cover, there needs to be small openings of bare ground for the plant to grow in (i.e., > 10% bare ground on a small scale of less than approximately 3 ft (1 m) because it does not compete well with other species. In addition, the researcher found that plant litter accumulation associated with annual grass invasion reduces *P. lyonii* populations. The commenter indicated that this finding further highlights that bare ground is an essential component of this species' habitat.

Our Response: We agree with the researcher's comment, and have changed *P. lyonii* PCE 3 to read: ''a mosaic of bare ground (>10%) patches in an area with less than 60 percent cover.'' We believe this more accurately reflects the physical and biological needs essential to the conservation of the species.

31. *Comment:* A researcher commented that we should have a PCE that addresses habitat quality based on presence of *Pentachaeta lyonii*-associated native plant species and the absence of non-native invasive plants. *P. lyonii* habitat that is in decline shows increased presence of non-native species, build-up of litter cover and loss of bare ground, and slow loss of associated species.

Our Response: We agree that presence of non-native invasive plants indicates poor habitat quality for *Pentachaeta lyonii,* and that presence of some associated native species can be a good indicator of good habitat quality, and this concept was discussed in the proposed and final rule. However, we believe that PCEs 2 and 3 adequately capture habitat quality, because it is unlikely that either PCE would exist if the unit became overtaken with non-native invasive plants.

Comments Related to the Draft Economic Analysis

32. *Comment:* Two commenters stated that economic analysis overestimates the cost of critical habitat designation because it will affect real estate development on private lands only where there is a Federal nexus. Such a nexus will not exist for most projects in the area proposed as critical habitat.

Our Response: We recognize that real estate development on private lands does not come under the purview of the section 7 consultation process unless there is a Federal nexus. However, it is difficult to predict which future actions may bare a Federal nexus. The methodology of the analysis quantifies future costs when it is possible to isolate and measure them and then calculates the economic surplus resulting from future activities that may take place within proposed critical habitat. This approach avoids speculation about regulatory impacts. It is, however, possible to calculate the value added from development activities within areas of critical habitat. By using this methodology, we believe we have appropriately captured potential costs to the real estate development sector.

33. *Comment:* One commenter stated that costs that occurred prior to designation should not be included in the cost of critical habitat designation.

Our Response: Based on the 10th Circuit Court's ruling in *New Mexico Cattle Growers Association* v. *U.S. Fish and Wildlife Service, 248 F.3d 1277, 128 (10th Cir. 2001)* the Service conducts a full analysis of all the economic impacts of a critical habitat designation, regardless of whether those impacts are attributable co-extensively to other causes. Accordingly, here, the economic analysis specifies that it considers the future economic impacts associated with critical habitat designation and past costs that have resulted from efforts to conserve the species within areas of critical habitat. As explained in section III.1, past costs are defined as costs that occurred between when the species was listed under the Endangered Species Act and the present. These past costs are not attributable to critical habitat.

34. *Comment:* One commenter suggested that past development projects in areas of critical habitat should be analyzed to determine the limitations on development arising from critical habitat.

Our Response: The economic analysis uses consultation history to determine how many future development projects

will have a Federal nexus and what the recommended restriction on development will be. For both species in question, the number of available consultations on private development projects is highly limited or nonexistent. The available evidence, however, suggests that total avoidance of the species has been required in the past; for example, the 1999 consultation with Lennar Homes referenced in the report.

35. *Comment:* One commenter stated that that local zoning and other restrictions limit the pace of development, thus reducing the costs of critical habitat.

Our Response: We agree that local regulation plays a large role in determining the timing and intensity of development. The development projections from the Southern California Association of Governments (SCAG) that form the basis of the economic modeling incorporate these restrictions.

36. *Comment:* One commenter stated that there are many additional benefits of critical habitat designation beyond just the conservation of habitat for the listed species, and that these should be included in the economic analysis.

Our Response: In the context of a critical habitat designation, the primary purpose of the rulemaking (i.e., the direct benefit) is to designate areas in need of special management that contain the features that are essential to the conservation of listed species.

The designation of critical habitat may result in two distinct categories of benefits to society: (1) Use; and (2) non-use benefits. Use benefits are simply the social benefits that accrue from the physical use of a resource. Visiting critical habitat to see endangered species in their natural habitat would be a primary example. Non-use benefits, in contrast, represent welfare gains from ''just knowing' that a particular listed species'' natural habitat is being specially managed for the survival and recovery of that species. Both use and non-use benefits may occur unaccompanied by any market transactions.

A primary reason for conducting this analysis is to provide information regarding the economic impacts associated with a proposed critical habitat designation. Section 4(b)(2) of the Act requires the Secretary to designate critical habitat based on the best scientific data available after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. Economic impacts can be both positive and negative and by definition, are observable through market transactions.

Where data are available, the analysis attempt to recognize and measure the net economic impact (i.e., the increased regulatory burden less any discernable offsetting market gains), of species conservation efforts imposed on regulated entities and the regional economy.

Under Executive Order 12866, OMB directs Federal agencies to provide an assessment of both the social costs and benefits of proposed regulatory actions. OMB's Circular A–4 distinguishes two types of economic benefits: direct benefits and ancillary benefits. Ancillary benefits are defined as favorable impacts of a rulemaking that are typically unrelated, or secondary, to the statutory purpose of the rulemaking. In the context of critical habitat, the primary purpose of the rulemaking (i.e., the direct benefit) is the potential to enhance conservation of the species. The published economics literature has documented that social welfare benefits can result from the conservation and recovery of endangered and threatened species. In its guidance for implementing Executive Order 12866, OMB acknowledges that it may not be feasible to monetize, or even quantify, the benefits of environmental regulations due to either an absence of defensible, relevant studies or a lack of resources on the implementing agency's part to conduct new research. Rather than rely on economic measures, the Service believes that the direct benefits of the proposed rule are best expressed in biological terms that can be weighed against the expected cost impacts of the rulemaking.

We have accordingly considered, in evaluating the benefits of excluding versus including specific areas, the biological benefits that may occur to a species from designation (see below, Exclusions Under section 4(b)(2) of the Act), but these biological benefits are not addressed in the economic analysis.

37. *Comment:* One commenter stated that Section 9 of the ESA is flawed, and allows extirpation of plants in areas outside federal jurisdiction. The comment asserts that critical habitat is important to the conservation of the species by prohibiting take, requiring mitigation and facilitating the development of recovery plans.

Our Response: Critical habitat does not prohibit take of plants on private lands, or require mitigation for private activities. Critical Habitat only affects private activities when a project requires a Federal permit, approval or funding. The Act requires the Service to develop recovery plans independent of critical habitat designations.

38. *Comment:* One commenter thought that the cost estimated in the economic analysis was too high because it includes costs attributable to listing as opposed to costs of critical habitat designation. A second commenter asserted that it was unlawful to report the coextensive costs of conserving the species and that only the incremental costs resulting from critical habitat should be reported.

Our Response: The primary purpose of the economic analysis is to estimate the potential economic impacts associated with the designation of critical habitat for these two species. We interpret the Act to require that the economic analysis include all of the economic impacts associated with the conservation of the species, which may include some of the effects associated with listing. We note that the Act generally requires critical habitat to be designated at the time of listing, and if we had conducted an economic analysis at that time, the impacts associated with listing would not be readily distinguishable from those associated with critical habitat designation.

39. *Comment:* One commenter indicated that the majority of lands designated as critical habitat are already conserved as open space and thus not likely to be developed.

Our Response: We agree that a significant amount of land within the areas proposed as critical habitat has been conserved as open space via long-term agreements. We have detailed these agreements for each unit of proposed critical habitat. Projected development in the economic analysis is limited to areas that fall outside these conservation commitments.

40. *Comment:* One commenter asserted that SCAG projections are inadequate since they fail to consider local zoning requirements and capture only the potential for development in various regions.

Our Response: The SCAG development projections are the best information available on the extent, timing and placement of real estate development in the Los Angeles metropolitan region. These forecasts are based on aggregate projections of economic activity and employment, as well as location-specific factors such as zoning and other local factors.

41. *Comment:* One commenter stated that the costs presented in Table 1 of the Draft Economic Analyses are overstated because portions of proposed critical habitat are public lands.

Our Response: The totals presented in Table 1 are associated with development occurring on private land only.

42. *Comment:* One public comment stated that there is a discrepancy in the ''Surplus per Developed Acre'' between Table 1 and the text.

Our Response: Table 1 is correct, however, the corresponding figure presented in the text ($2,714,359) is not. This has been corrected in the final economic analysis.

43. *Comment:* One commenter stated that the small business analyses are incomplete.

Our Response: These sections have been expanded in the final economic analyses.

44. *Comment:* One commenter stated that it is unclear how the IMPLAN (economic modeling software) analyses calculated such a high number when the designation of critical habitat does not prevent development.

Our Response: The regional economic analysis considers the secondary effects of housing construction within the areas proposed as critical habitat. We note, however, that estimated secondary effects are small when considered as a fraction of the total contribution of the housing industry to the Southern California economy.

45. *Comment:* One commenter stated that it is unclear how the IMPLAN Analyses evaluates the secondary effects of critical habitat designation on other industries.

Our Response: Section V Regional Economic Impacts contains an explanation of how IMPLAN, which is an input-output model, computes indirect and induced effects. See also Table 3, which breaks down the secondary effects of designation to each industry.

46. *Comment:* One commenter asserted that the costs presented in Table 1 are significantly higher than they should be because they are associated with the designation on public and private lands.

Our Response: The costs presented in the reports are estimated based on the private land projected for development, not the public and private land proposed for critical habitat designation.

47. *Comment:* One commenter stated that there are other discrepancies between the text and Table 1, including the ''Projected Households''.

Our Response: Table 1 presents the projected households, which is consistent with the projected households in the text. Table 3 presents the households allowed by zoning, which is also consistent with the zoning allowances in the text.

48. *Comment:* One commenter requested to be excluded under 4(b)(2) of the Act based on economic impacts of critical habitat on their property. The landowner owns the property within the proposed Unit 6 for *Pentachaeta lyonii* and has proposed to develop 81 residential units on the property.

Our Response: Section 4(b)(2) of the Act requires the Secretary to designate critical habitat based on the best 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. We received additional information from the landowner in a Memorandum, dated March 3, 2006, which estimated that the lost revenue as a result of critical habitat on their proposed development, if they avoided impacts to the species, would be approximately $78 million. As a result, Unit 6 in its entirety has been excluded from the final rule. See Exclusions Under Section 4(b)(2) of the Act section below for more details.

Summary of Changes From Proposed Rule

(1) We modified our criteria for delineating the outer boundaries of each unit resulting in minor reductions in unit sizes. In the proposed rule, the outer boundaries of each unit or subunit extended to 984 ft (300 m) on all sides of each mapped patch, which would presumably incorporate the minimum size habitat necessary to support associated insect pollinators. However, *A. brauntonii* and *P. lyonii* are known to be pollinated by several insect pollinators, and nonspecific pollinators are not a Primary Constituent Element (PCE) for either species. Upon further consideration, we felt we needed to better define and map the critical habitat boundaries. In looking at the mapping information from all mapped records (i.e., from the CNDDB database and from records collected from other sources), we noticed that the distribution of plants was often patchy, both at any one moment in time and over time. In other words, the plants were often expressed at different locations within a single area or population. This evidence supports the presence of a seed bank. In order to define when patches were within a single population and include areas with a seed bank, we conducted a nearest neighbor analysis for both species using all available mapped occurrences. To do this, we used GIS to determine the distance from the centroid of each mapped occurrence or ''patch'' to the centroid of the nearest mapped occurrence. We determined that the average distance between patches within populations was 935 ft (285 m) for *Astragalus brauntonii* and 902 ft (275 m) for *Pentachaeta lyonii*. Therefore, in the final designation, we designated additional suitable habitat up to 935 ft (285 m) from each mapped patch of *A. brauntonii* to incorporate the patchy expression of populations in space and over time, include unmapped patches within populations, incorporate the existing seed bank, and include areas for seed dispersal and genetic exchange through pollinator activity. For *P. lyonii*, we designated additional suitable habitat up to 902 ft (275 m) from each mapped patch to incorporate the patchy expression of the plant in space and time, include unmapped patches within populations, incorporate the existing seed bank, and include areas for seed dispersal and genetic exchange through pollinator activity. See the Criteria Used to Identify Critical Habitat section for details on the revised criteria. Table 1 for *A. brauntonii* and Table 3 for *P. lyonii* shows the proposed and final acreages of each unit that were changed based on the new criteria.

(2) We made corrections on ownership of lands within several units. The ownership of subunit 1c for *Pentachaeta lyonii* was misidentified as being entirely owned by Calleguas Municipal Water District. We determined that, in the proposed rule, the ownership of the land within this subunit is 49 ac (19 ha) of private land and only 2 ac (1 ha) of land owned by Calleguas Municipal Water District. After applying the revised criteria, in this final rule, the entire unit (33 ac (13 ha)) is on private land. The ownership of subunit 2b for *P. lyonii* was misidentified as 31 ac (13 ha) owned by Conejo Open Space Conservation Agency (COSCA), and 16 ac (6 ha) of private land; after identifying the correct ownership and applying the revised criteria, 22 ac (9 ha) is owned by COSCA and 18 ac (7 ha) is on private land. The ownership of subunit 1d for *Astragalus brauntonii* was misidentified as being owned by Rocketdyne. However, Rocketdyne sold this property to Boeing. In addition, it was determined that a small portion of this subunit is owned by a local agency. After identifying the correct ownership and applying the revised criteria, 68 ac (27 ha) is owned by Boeing and 2 ac (1 ha) is owned by a local agency (Santa Monica Mountains Conservancy). The ownership of subunit 2a for *A. brauntonii* was misidentified as 235 ac (95 ha) owned by COSCA, and 217 ac (88 ha) of private land; after identifying the correct ownership and applying the revised criteria, 118 ac (48 ha) is owned by the State, 221 ac (89 ha) is owned by COSCA, and 71 ac (29 ha) is on private land.

(3) We corrected the reference to soils in PCE 1 for *Astragalus brauntonii* from ''carbonate limestone soils derived from marine sediment'' to ''calcium carbonate soils derived from marine sediment,'' because we believe that this is a more accurate description of the soil type. A recent study in which soil samples were taken at most locations of *A. brauntonii* revealed that the plant occurs in areas with calcium carbonate soils (a broader range of soils), and not necessarily where soils are derived from limestone (Landis 2005). This correction is also reflected in the discussion of Areas that Provide the Basic Requirements for Growth (Such as Water, Light, and Minerals).

(4) We changed PCE 3 for *Pentachaeta lyonii* from ''low proportion of total vegetative cover (<25%)'' to ''a mosaic of bare ground (>10%) patches in an area with less than 60 percent cover,'' because we believe that this is a more accurate and complete description of the habitat. This is based on a recent habitat study of the species conducted by Santa Monica Mountains National Recreation Area. This correction is also reflected in the discussion of Areas that Provide the Basic Requirements for Growth (Such as Water, Light, and Minerals).

(5) We changed PCE 3 *Astragalus brauntonii* from ''periodic disturbances that stimulate seed germination (e.g., fire, flooding, erosion) and reduce vegetative cover'' to ''chaparral and coastal sage scrub communities characterized by periodic disturbances that stimulate seed germination (e.g., fire, flooding, erosion) and reduce vegetative cover,'' because we believe that a PCE should not be a physical process, but a habitat condition that occurs in part as a result of the physical process. The revised PCE allows for easier identification of its presence because it would be expected to be present at any point in time, whereas the original PCE is more difficult to identify because it occurs only periodically.

(6) We excluded Unit 6 for *Pentachaeta lyonii* (223 ac (94 ha)) under section 4(b)(2) of the Act from the final critical habitat designation based on economic impacts to the landowner. See Exclusions Under Section 4(b)(2) of the Act section for a detailed discussion.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the 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 a species at the time it is listed, upon a determination that such areas have features that are essential for the conservation of the species. Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management, such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

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 are likely to 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. Section 7 is a purely protective measure and does not require implementation of restoration, recovery, or enhancement measures.

To be included in a critical habitat designation, the habitat within the 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)).

Habitat occupied at the time of listing may be included in critical habitat only if the essential features thereon may require special management or protection. Areas outside of the geographic area occupied by the species at the time of listing may only be included in critical habitat if they are essential for the conservation of the species. Accordingly, when the best available scientific data do not demonstrate that the conservation needs of the species require additional areas, we will not designate critical habitat in areas outside the geographical 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, but not always, be essential to the conservation of the species and, therefore, typically included in the critical habitat designation.

The Service's 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 decisions made by the Service represent the best scientific data available. They require Service 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 are critical habitat, 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 the best scientific data available. 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 and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, 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.

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 consider those physical and biological features (PCEs) that are essential to the conservation of the species, and within areas occupied by the species at the time of listing, 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, and 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.

The specific PCEs required for *Astragalus brauntonii* and *Pentachaeta lyonii* are derived from the physical and biological features that are essential to the conservation of the species as described below.

Astragalus brauntonii

Space for Individual and Population Growth, Including Sites for Germination, Pollination, Reproduction, and Seed Bank

Seeds of *Astragalus brauntonii* are enclosed in dense hairy pods and require heat or physical scarification (breaking, scratching, or mechanically altering the seed coat) to germinate. Disturbances such as fire, erosion, and human activities such as mechanical scraping of soil (e.g., during road or trail maintenance) are known to stimulate germination (Fotheringham and Keeley 1998). Each seed pod produces between three and six seeds, and each plant may support upwards of several hundred flowers (Barneby 1964). Therefore, plants may produce a large number of seeds before dying back, depositing a seed ''bank'' in the soil that has the ability to remain dormant for many years until the next disturbance. Plant seeds are frequently dispersed by a variety of vectors, some which result in short-distance dispersal, and others which result in long-distance dispersal (Cain *et al.* 2000; Nathan and Muller-Landau 2000). Because the seeds of *A. brauntonii* have no specialized adaptations to facilitate seed dispersal by wind, it is likely that most seed fall within a short distance of the parent plant (Cain *et al.* 2000). Long-distance dispersal, however, is likely achieved by water (during rainstorms), and by transport of seeds by wildlife. Seeds from species within the Fabaceae family are known to be transported by small seed-eating mammals, including ground squirrels (*Citellus* sp.) pocket mice (*Perognathus* sp.), kangaroo rats (*Dipodomys* sp.), and birds, including quail (*Lophortyx* sp.) (Martin *et al.* 1961). Small mammals facilitate seed dispersal through consumption and elimination of undigested seed and through seed caching (Cain *et al.* 2000; Sieg 1987).

The presence of a persistent seed bank makes it difficult to determine the complete distribution of the species at any one point in time. Where a dormant seed bank is present, *Astragalus brauntonii* establishes quickly after a disturbance that removes other plant competitors and stimulates germination of dormant seeds (Fotheringham and Keeley 1998). Individual plants have a lifespan of two to three years, although some individuals may live five years or more if conditions are favorable, and then plants may not be visible again until the next disturbance (Fotheringham and Keeley 1998).

Like many other *Astragalus* species, *Astragalus brauntonii* is self-fertile, and also produces seed through cross-pollination (Fotheringham and Keeley 1998). Insect pollinators of *A. brauntonii* are polylectic, meaning that they utilize several plant species within an area (Karron 1987), and a variety of plants may be necessary to sustain populations of pollinators. Insect visitors include megachilid bees and bumblebees (Fotheringham and Keeley 1998). Gathmann and Tscharntke (2002) determined that maximum foraging distance of several species of solitary bees was positively correlated with body length. The body length of megachilid bees ranges 0.24–0.47 inches (in) (6–12 millimeters (mm)). Based on the linear regression model calculated by Gathmann and Tscharntke (2002), the maximum foraging distance of megachilid bees is 492–1,968 ft (150–600 m). The body length of bumblebees (*Bombus* sp.) ranges 0.51–0.98 in (13–25 mm), giving them a maximum foraging distance of 1,968–3,937 ft (600–1,200 m) (Gathmann and Tscharntke 2002). Therefore, known pollinators of *P. lyonii* have the ability to pollinate individual plants up to 1,968 ft (600 m) from the pollen source, suggesting that genetic connectivity can occur between populations that are up to 1,968 ft (600 m) apart from each other.

Areas That Provide the Basic Requirements for Growth (Such as Water, Light, and Minerals)

Astragalus brauntonii may be limited to shallow calcium carbonate soils derived from marine substrates (Mistretta 1992, Fotheringham and Keeley 1998, Betsey Landis, California Native Plant Society, in litt. 2005). It occasionally occurs on non-carbonate soils at down-wash sites near other known occurrences, although survivorship of plants may be reduced on non-carbonate soils (Fotheringham and Keeley 1998; B. Landis, in litt. 2005).

Habitat of *Astragalus brauntonii* has been described as scrub dominated by chaparral with a high overall percentage (<80%) of vegetative cover, however, the species does not tolerate shading and is associated with bare ground directly around the plant (Carroll 1987, Fotheringham and Keeley 1998). It may persist for several years on sites where microsite conditions inhibit or are hostile to shrub growth, or it may be gradually crowded out by more robust and tough-woody chaparral plants until the next disturbance event that removes plant cover (Carroll 1987; Fotheringham and Keeley 1998). Common species associated with chaparral communities in this region of California are chamise (*Adenostoma fasciculatum*), California lilacs (*Ceanothus* spp.), manzanitas (*Arctostaphylos* spp.), sages (*Salvia* spp.), California buckwheat (*Eriogonum fasciculatum*), laurel sumac (*Malosma laurina*), sugar bush (*Rhus ovata*), and yucca (*Yucca whipplei*) (Hanes 1988). Common species associated with coastal sage scrub are California sagebrush (*Artemisia californica*), sages, California buckwheat, lemonade berry (*Rhus integrifolia*), encelia (Encelia californica), and goldenbush (*Isocoma menziesii*) (Mooney 1988). The above-ground expression of *A. brauntonii* populations are patchy over time and space as a result of the dormant seed

bank and dynamic habitat conditions and physical processes where it occurs.

Primary Constituents for Astragalus brauntonii

Pursuant to our regulations, we are required to identify the known physical and biological features (PCEs) essential to the conservation of *Astragalus brauntonii*. All areas designated as critical habitat for *A. brauntonii* are occupied, within the species' historic geographic range, and contain sufficient PCEs to support at least one life history function.

Based on our current knowledge of the life history, biology, and ecology of the species and the requirements of the habitat to sustain the essential life history functions of the species, we have determined that the PCEs for *Astragalus brauntonii* are:

(1) Calcium carbonate soils derived from marine sediment;

(2) Low proportion (<10%) of shrub cover directly around the plant; and

(3) Chaparral and coastal sage scrub communities characterized by periodic disturbances that stimulate seed germination (e.g., fire, flooding, erosion) and reduce vegetative cover.

This designation is designed for the conservation of those areas containing PCEs necessary to support the life history functions that were the basis for the proposal. Because not all life history functions require all the PCEs, not all critical habitat will contain all of the PCEs.

Units are designated based on sufficient PCEs being present to support one or more of the species's life history functions. Some units contain all PCEs and support multiple life processes, while some units contain only a portion of the PCEs necessary to support the species' particular use of that habitat. Where a subset of the PCEs is present at the time of designation, this rule protects those PCEs and thus the conservation function of the habitat.

Pentachaeta lyonii

Space for Individual and Population Growth, Including Sites for Germination, Pollination, Reproduction, and Seed Bank

Pentachaeta lyonii is an annual plant that may exhibit large fluctuations in population size between years (Keeley and Baer-Keeley 1992). Population boundaries exhibit annual fluctuations, although the plants generally remain within core areas that contain suitable microsite characteristics (Keeley and Baer-Keeley 1992). Each flower produces 30 or more seed heads, and each seed head produces 20 to 40 seeds; therefore, in a favorable year, an individual plant may produce on the order of 1,000 seeds. The seeds likely persist in the soil for several years during extended dry spells (Fotheringham and Keeley 1998). Plant seeds are frequently dispersed by a variety of vectors, some which result in short-distance dispersal, and others which result in long-distance dispersal (Cain *et al.* 2000; Nathan and Muller-Landau 2000). The presence of deciduous pappus bristles on the seeds indicates that the plant does not exhibit long-distance dispersal by wind, as do many other species in this family, reducing the likelihood of colonization of new areas and contributing to the limited distribution by this method (Keeley and Baer-Keeley 1992; Fotheringham and Keeley 1998). Long-distance dispersal, however, is likely achieved by transport of seeds by wildlife. Seeds from species within the Asteraceae family are known to be transported by small seed-eating mammals, including ground squirrels (Citellus sp.) pocket mice (Perognathus sp.), kangaroo rats (Dipodomys sp.), and birds, including quail (Lophortyx sp.) (Martin *et al.* 1961). Small mammals facilitate seed dispersal through consumption and elimination of undigested seed and through seed caching (Cain *et al.* 2000; Sieg 1987).

Pentachaeta lyonii is not capable of self-pollination, but is dependent upon insect pollinators for successful seed production (Fotheringham and Keeley 1998). Pollinators of *P. lyonii* include digger bees, andrenid bees, and megachilid bees (Braken and Verhoeven 1998; Fotheringham and Keeley 1998). These pollinators are polylectic, meaning that they utilize several plant species within an area (Braken and Verhoeven 1998), and a variety of plants are necessary to sustain pollinator populations. Based on the linear regression model calculated by Gathmann and Tscharntke (2002), the maximum foraging distance of digger bees (body length 0.51–0.75 in; 13–19 mm) is approximately 1,968 ft (600 m), and the maximum foraging distance of megachilid bees (body length 0.24–0.47 in; 6–12 mm) is 492–1,968 ft (150–600 m). The maximum foraging distance of andrenid bees is 853–1,640 ft (260–500 m) (Gathmann and Tscharntke 2002). Therefore, known pollinators of *P. lyonii* have the ability to pollinate individual plants up to 1,968 ft (600 m) from the pollen source, suggesting that genetic connectivity occurs between populations that are up to 1,968 ft (600 m) apart from each other.

Areas That Provide the Basic Requirements for Growth (Such as Water, Light, and Minerals)

Pentachaeta lyonii tends to occur on rocky clay soils of volcanic origin (Baier & Associates 1991; Impact Sciences 2003). It has been recorded in areas with a large percentage of bare ground (>60%), a low proportion of vegetative cover (<25%), and it does not compete well with dense annual grasses or shrubs (Keeley 1995, Fotheringham and Keeley 1998). *P. lyonii* will persist in stable populations without disturbance if site conditions such as exposed soils that exhibit a microbiotic crust (Belnap 1990) inhibit invasion by shrubs and annual grasses, or it may require periodic disturbances to remove plant competitors (Fotheringham and Keeley 1998). The chaparral and coastal sage plant communities are similar to those described above for *Astragalus brauntonii*. The pocket grasslands within these shrub communities that support *P. lyonii* are comprised of native and nonnative grasses including purple needlegrass (Nassella pulchra), wild oat (Avena spp.), and bromes (*Bromus* spp.); as well as a variety of herbs.

Primary Constituents for Pentachaeta lyonii

Pursuant to our regulations, we are required to identify the known physical and biological features (PCEs) essential to the conservation of *Pentachaeta lyonii*. All areas designated as critical habitat for *P. lyonii* are occupied, within the species' historic geographic range, and contain sufficient PCEs to support at least one life history function.

Based on our current knowledge of the life history, biology, and ecology of the species and the requirements of the habitat to sustain the essential life history functions of the species, we have determined that the PCEs for *Pentachaeta lyonii* are:

(1) Clay soils of volcanic origin;

(2) Exposed soils that exhibit a microbiotic crust which may inhibit invasion by other plant competitors; and

(3) A mosaic of bare ground (>10%) patches in an area with less than 60 percent cover.

This designation is designed for the conservation of the PCEs necessary to support the life history functions that were the basis for the proposal. Because not all life history functions require all the PCEs, not all critical habitat will contain all of the PCEs.

Units are designated based on sufficient PCEs being present to support one or more of the species's life history functions. Some units contain all PCEs and support multiple life processes,

while some units contain only a portion of the PCEs necessary to support the species' particular use of that habitat. Where a subset of the PCEs is present at the time of designation, this rule protects those PCEs and thus the conservation function of the habitat.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(1)(A) of the Act, we use the best scientific and commercial data available in determining areas that contain the features that are essential to the conservation of *Astragalus brauntonii* and *Pentachaeta lyonii.* We have also reviewed available information that pertains to the habitat requirements of these species. This includes information from Service documents, including the final rule listing these taxa as endangered (62 FR 4172; January 29, 1997) and the recovery plan (USFWS 1999); information from the CNDD (2003); data in reports submitted during section 7 consultations; recent biological surveys; regional GIS coverages; information from research published in peer-reviewed articles and presented in agency reports; aerial photos; and discussions with botanical experts. We designated no areas outside the geographic area presently occupied by the species.

We used agency and academic reports to describe the ecology, habitat, and pollination biology of *Astragalus brauntonii* and other related *Astragalus* species (Carroll 1987; Karron 1987; Fotheringham and Keeley 1998; Gathmann and Tscharntke 2002). We used agency and academic reports to describe the ecology, habitat, and pollination biology of *Pentachaeta lyonii* (Belnap 1990; Keeley and Baer-Keeley 1992; Keeley 1995; Braker and Verhoeven 1998; Fotheringham and Keeley 1998; Gathmann and Tscharntke 2002).

We designated critical habitat on lands that were occupied at the time of listing, are currently known to be occupied, and contain sufficient PCEs to support life history functions essential for the conservation of *Astragalus brauntonii* and *Pentachaeta lyonii*, and may be in need of special management considerations or protections. In a few instances, we designated occupied areas that were identified after listing, but which we determined to be essential to the conservation of *A. brauntonii* and *P. lyonii.*

We reevaluated the proposed designations based on public comment, peer review, the economic analysis of the proposed rule, public comments on the economic analysis, and other available and new information to ensure that the designation accurately reflects habitat containing the physical and biological features essential to the conservation of *Astragalus brauntonii* and *Pentachaeta lyonii.*

Astragalus brauntonii

We designated critical habitat for *Astragalus brauntonii*—supporting areas that were known to be occupied at the time of listing and contain the features essential to the conservation of the species. We also designated occurrences not known to be occupied at the time of listing but which are currently occupied, and were determined to be essential to the conservation of the species. We included occurrences not known to be occupied at the time of listing because this species is extremely limited in distribution and often occurs in very small disjunct populations, making it particularly vulnerable to extinction. According to Noss *et al.* (1997), a species distributed across multiple sites within its range is less susceptible to extinction than another similar species confined to far fewer sites. As a result, being restricted to small, isolated locations makes the species more vulnerable to threats such as loss of genetic variation, extremely small or declining population sizes, and increased vulnerability to stochastic (i.e., random or less predictable) events. Inclusion of all known occurrences that still contain the PCEs was deemed necessary in this instance to reduce fragmentation and helps to maintain genetic connectivity between populations and increase the chance of recolonization from neighboring patches if one patch becomes extirpated.

We designated critical habitat for *Astragalus brauntonii* in areas that contained known populations and additional surrounding suitable habitat that likely supports unmapped or unknown patches present but missed during surveys within populations, and likely incorporates the existing seed bank. We included patches of surrounding suitable habitat, using the method described below, around known plant locations because of the difficulty of knowing the full distribution given the long dormancy of this species' seed bank and the aboveground expression of the plant in different portions of the species' range over time. Inclusion of this surrounding suitable habitat allows for necessary life history functions such as seed dispersal, support of associated insect pollinators, and appropriate periodic ground disturbances in order to stimulate dormant seeds within the soil to germinate. We also connected units within close geographic proximity to each other to maintain genetic connectivity between populations, reduce fragmentation, and to include contiguous habitat for pollinators and seed dispersal. A detailed description of how we determined areas appropriate for inclusion follows.

We used a multi-step process to map critical habitat units. First, we mapped all CNDDB records of *Astragalus brauntonii* in a GIS format. These data consist of polygons (figures made up of several line segments) depicting the results of field surveys for *A. brauntonii.* Additional records from recent surveys that are not in the CNDDB records were also mapped in a GIS format. To determine areas where unmapped or unknown patches within populations are likely to occur, and to include areas that contain an unknown or unexpressed seed bank, we measured the distance from the centroid of each known occurrence or ''patch'' to the centroid of the nearest neighboring patch, and found that the average distance between nearest patches was 935 ft (285 m). Therefore, we included additional suitable habitat up to 935 ft (285 m) from known occurrences to incorporate entire populations that are patchy in time and space.

Then, we connected areas that were within 1,968 ft (600 m) of each other, because this is the distance between populations that could be traversed by important insect pollinators, and this approach allows for genetic exchange and connectivity between populations and reduces fragmentation. As discussed in the PCEs section, known pollinators of *Astragalus brauntonii* include megachilid bees and bumblebees. Based on body length, foraging ranges are approximately 492–1,968 ft (150–600 m) for megachilid bees and 1,968–3,937 ft (600–1,200 m) for bumblebees (Gathmann and Tscharntke 2002). We chose 1,968 ft (600 m) as the maximum distance to connect known populations because 1,968 ft (600 m) is the minimum foraging range for bumblebees, and megachilid bees also fall within this foraging range. Plant communities between these areas would also support insect pollinators and seed dispersers of *A. brauntonii,* and may also contain unknown or unmapped populations and/or a dormant seed bank.

Pentachaeta lyonii

We designated critical habitat for areas that support occurrences of *Pentachaeta lyonii* that were known to be occupied at the time of listing and contain the features essential to the conservation of the species. We also designated occurrences not known to be

occupied at the time of listing but which are currently occupied; however, these occurrences are within the geographic range of occurrences known to be occupied at the time of listing and contain the features essential to the conservation of the species. With the exception of Unit 6, we included all known occurrences that still contain the PCEs because this species is extremely limited in distribution, and patches exhibit large annual fluctuations in population numbers and area, making it particularly vulnerable to extinction. According to Noss *et al.* (1997), a species distributed across multiple sites within its range is less susceptible to extinction than another similar species confined to far fewer sites. As a result, being restricted to small, isolated locations makes the species more vulnerable to threats such as loss of genetic variation, extremely small or declining population sizes, and increased vulnerability to stochastic (i.e., random or less predictable) events. Inclusion of all known occurrences, with the exception of Unit 6, that still contain the PCEs reduces fragmentation, maintains genetic connectivity between populations, and increases the chance of recolonization from neighboring patches if one patch becomes extirpated.

We designated critical habitat for *Pentachaeta lyonii* in areas that contained known populations and additional surrounding suitable habitat that likely includes unmapped or unknown patches present but missed during surveys within populations, and incorporates the existing seed bank. We included surrounding habitat around known plant locations, using the method described below, because the boundaries of patches fluctuate between years, and this species' ability to maintain a seed bank during extended dry spells makes it difficult to know the full distribution of the species. Inclusion of surrounding suitable habitat allows for support of associated insect pollinators. We also connected units within close geographic proximity to each other to maintain genetic connectivity between populations, reduce fragmentation, and include contiguous habitat for pollinators and allow for population boundaries to expand.

We used a multi-step process to map critical habitat units. First, we mapped all CNDDB records of *Pentachaeta lyonii* in a GIS format. These data consist of polygons depicting the results of field surveys for *P. lyonii.* Additional records from recent surveys that are not in the CNDDB records were also mapped in a GIS format. To determine areas where unmapped or unknown patches within populations are likely to occur, and to include areas that contain an unknown or unexpressed seed bank, we measured the distance from the centroid of each known occurrence or ''patch'' to the centroid of the nearest neighboring patch, and found that the average distance between nearest patches was 902 ft (275 m). Therefore, we included additional suitable habitat up to (902 ft (275 m) from known occurrences. Population boundaries are known to fluctuate, so this approach also includes areas into which populations could expand.

Then, we connected areas that were within 1,968 ft (600 m) of each other because this is the distance between populations that could be traversed by important insect pollinators, and this approach allows for genetic exchange and connectivity between populations and reduces fragmentation. As discussed in the PCEs section, known pollinators of *Pentachaeta lyonii* include digger bees, megachilid bees, and andrenid bees. Based on body length, foraging ranges are approximately 1,968 ft (600 m) for digger bees, 492–1,968 ft (150–600 m) for megachilid bees and 853–1,640 ft (260–500 m) for andrenid bees (Gathmann and Tscharntke 2002). We chose 1,968 ft (600 m) as the maximum distance to connect known populations because 1,968 ft (600 m) is the foraging range for digger bees, and megachilid bees, and andrenid bees also fall within this foraging range. Plant communities between these areas would also support insect pollinators, include areas for population boundaries to expand, and may also contain unknown or unmapped populations and/or a seed bank.

When determining final critical habitat boundaries, we made every effort to avoid including developed areas such as buildings, paved areas, and other structures that lack PCEs for *Astragalus brauntonii* and *Pentachaeta lyonii.* Because of their small scale, the maps prepared under the parameters for publication within the *Code of Federal Regulations* may not reflect the exclusion of such developed areas. Any such structures and the land under them inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text and are not designated as critical habitat. Therefore, Federal actions limited to these excluded areas would not trigger section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

We are designating critical habitat in areas that contain sufficient primary constituent elements (PCEs) to support life history functions essential for the conservation of the species. Lands are proposed for designation based on sufficient PCEs being present to support the life processes of the species. Some lands contain all PCEs and support multiple life processes. Some lands contain only a portion of the PCEs necessary to support the particular use of that habitat.

A brief discussion of each area designated as critical habitat is provided in the unit descriptions below. Additional detailed documentation concerning the essential nature of these areas is contained in our supporting record for this rulemaking.

Special Management Considerations or Protections

When designating critical habitat, we assess whether the areas determined to be occupied at the time of listing and containing the PCEs may require special management considerations or protections. As discussed in the listing rule, throughout our proposed rule published on November 10, 2006 (70 FR 68982), and in this final rule, most of the known occurrences of *Astragalus brauntonii* and *Pentachaeta lyonii* occur within the direct vicinity of urban areas and are threatened by direct and indirect effects of habitat fragmentation and loss resulting from urban development. The most significant threat to both species is direct loss of plants from urban development. In addition, indirect effects associated with urban development include habitat fragmentation, which reduces gene flow between sites; reduction in insect pollinators; increases in nonnative plants and animals; and changes in local hydrology that affect plant communities (Conservation Biology Institute 2000).

Known threats to both species include but are not limited to: Weed control such as herbicide application, mowing, and direct removal of plants; increased fire frequencies associated with human activities that contribute to the conversion of native shrubland to grassland; competition from nonnative plant species; and cattle grazing and recreational activities such as off-road vehicle use and equestrian and foot traffic that results in trampling of plants. Other known threats specific to *Astragalus brauntonii* include land use activities that result in frequent disturbances and removal of plants before they replenish the seed bank, such as yearly road maintenance. Other known threats specific to *Pentachaeta lyonii* include soil-disturbing activities such as discing associated with fire suppression activities and changes to

the structure and composition of pocket grassland communities that displace *P. lyonii* (i.e., introduction of nonnative annual grasses, changes in local hydrology, and increased gopher activity). As such, we believe that each area designated as critical habitat may require some level of management and/or protection to address the current and future threats to the species. Threats specific to each unit that may require special management considerations or protection are further discussed in the Unit Descriptions section.

Critical Habitat Designation

We are designating 3,300 ac (1337 ha) within six units as critical habitat for *Astragalus brauntonii.* The critical habitat areas described below constitute our best assessment at this time of areas determined to be occupied at the time of listing, that contain the PCEs and may require special management, and those additional areas that were not known at the time of listing but were found to be essential to the conservation of *A. brauntonii.* With the exception of Units 1 and 3, all areas not known at the time of listing are within the same geographic areas and part of the same populations as those areas known at the time of listing. For reasons described previously (see Criteria Used To Identify Critical Habitat section), we have determined that inclusion of all known locations that still contain the PCEs, including those not known at the time of listing, is essential to the conservation of the species because this species is extremely limited in distribution, has a very small overall population size, and often occurs in very small disjunct populations, making it particularly vulnerable to extinction (Noss *et al.* 1997). Inclusion of these populations reduces fragmentation, prevents range collapse of the species, maintains genetic connectivity between populations, and increases the chance of recolonization from neighboring populations if one patch becomes extirpated (Noss *et al.* 1997).

Table 1 shows the proposed and final critical habitat units for *Astragalus brauntonii.* Table 2 shows the approximate area designated as critical habitat for *A. brauntonii* by land ownership.

TABLE 1.—PROPOSED AND FINAL CRITICAL HABITAT UNITS FOR ASTRAGALUS BRAUNTONII (AC (HA))

Critical habitat units/subunits	County	Proposed rule (Nov. 10, 2005) ac (ha)	Final rule ac (ha)
Unit 1: Northern Simi Hills	Ventura	471 (191)	434 (175)
Subunit 1a		196 (79)	183 (74)
Subunit 1b		80 (32)	73 (29)
Subunit 1c		118 (48)	108 (44)
Subunit 1d		77 (32)	70 (28)
Unit 2: Southern Simi Hills	Ventura/Los Angeles	1,128 (456)	1,019 (414)
Subunit 2a		452 (183)	410 (166)
Subunit 2b		1 (0.5)	1 (0.5)
Subunit 2c		173 (70)	144 (58)
Subunit 2d		121 (49)	111 (45)
Subunit 2e		157 (63)	146 (60)
Subunit 2f		224 (90)	207 (84)
Unit 3: Santa Monica Mountains	Los Angeles	243 (98)	228 (93)
Unit 4: Pacific Palisades	Los Angeles	577 (233)	505 (205)
Unit 5: Monrovia	Los Angeles	331 (134)	282 (114)
Unit 6: Coal Canyon	Orange	889 (360)	832 (336)
Total		3,639 (1,472)	3,300 (1,337)

TABLE 2.—APPROXIMATE ACREAGE BY LAND OWNERSHIP CATEGORIES WITHIN CRITICAL HABITAT UNITS/SUBUNITS FOR ASTRAGALUS BRAUNTONII (AC (HA))

Critical habitat unit and subunit	Federal	State	Local agency	Private	Total
Unit 1: Northern Simi Hills	0 (0)	0 (0)	21 (9)	413 (166) 4	34 (175)
Subunit 1a	0 (0)	0 (0)	19 (8)	164 (66)	183 (74)
Subunit 1b	0 (0)	0 (0)	0 (0)	73 (29)	73 (29)
Subunit 1c	0 (0)	0 (0)	0 (0)	108 (44)	108 (44)
Subunit 1d	0 (0)	0 (0)	2 (1)	68 (27)	70 (28)
Unit 2: Southern Simi Hills	196 (80)	118 (48)	427 (173)	278 (113)	1,019 (414)
Subunit 2a	0 (0)	118 (48)	221 (89)	71 (29)	410 (166)
Subunit 2b	0 (0)	0 (0)	1 (0.5)	0 (0)	1 (0.5)
Subunit 2c	0 (0)	0 (0)	144 (58)	0 (0)	144 (58)
Subunit 2d	111 (45)	0 (0)	0 (0)	0 (0)	111 (45)
Subunit 2e	85 (35)	0 (0)	61 (25)	0 (0)	146 (60)
Subunit 2f	0 (0)	0 (0)	0 (0)	207 (84)	207 (84)
Unit 3: Santa Monica Mountains	172 (70)	0 (0)	0 (0)	56 (23)	228 (93)
Unit 4: Pacific Palisades	0 (0)	439 (178)	0 (0)	66 (27)	505 (205)
Unit 5: Monrovia	0 (0)	0 (0)	218 (88)	64 (26)	282 (114)
Unit 6: Coal Canyon	0 (0)	589 (238)	0 (0)	243 (98)	832 (336)
Total	368 (150)	1,146 (464)	666 (270)	1,120 (453)	3,300 (1,337)

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for *Astragalus brauntonii,* below.

Unit 1: Northern Simi Hills Unit

This unit is located south of Simi Valley in the northern Simi Hills in Ventura County and consists of 21 ac (9 ha) of local agency land (Rancho Simi Recreation and Parks District) and 413 ac (166 ha) of private lands. It is divided into four subunits mapped from occurrences identified after the time of listing but currently occupied; all occur within 1.5 mi (2.5 km) of each other. Unit 1, inclusive of the four subunits, is located within the same physiographic area (the Simi Hills) as Unit 2. This unit is essential because it represents a previously unknown portion of the species' range north of Unit 2, and inclusion of multiple populations within the entire range increases a species' chance of persistence (Noss *et al.* 1997). These subunits are occupied and contain one or more of the PCEs. Threats that may require special management in this unit include road maintenance, which could result in disturbances that are too frequent and prevent replenishment of the seed bank, invasion of nonnative plants which could crowd out *A. brauntonii*, cattle grazing, and recreation activities such as equestrian and foot traffic, which could result in trampling of plants.

Subunit 1a: This subunit consists of 19 ac (8 ha) of local agency land in Challenger Park owned by Rancho Simi Recreation and Parks District and 164 ac (66 ha) of private land within dedicated open space managed by the Bridle Path Homeowner's Association. It occurs along Bus Canyon. This subunit contains at least two of the PCEs (2 and 3); whether it contains PCE 1 is unknown. This subunit supports a population as evidenced by three plants observed in three separate locations in 1998.

Subunit 1b: This subunit consists of 73 ac (29 ha) of private land that may be threatened by urban development. It occurs near the end of Peter Place Road in Simi Valley, which is north of Bus Canyon at the edge of an urban development. This subunit contains at least two of the PCEs (2 and 3); whether it contains PCE 1 is unknown. This subunit supports a population of at least three plants observed in 2000.

Subunit 1c: This subunit consists of 108 ac (44 ha) of private land within dedicated open space managed by the Bridle Path Homeowner's Association. It occurs along a ridge between Bus Canyon and Runkel Canyon above a fire road. This subunit contains all of the PCEs. This subunit supports a population of approximately 66 plants observed in 2004.

Subunit 1d: This subunit consists of 68 ac (27 ha) of private land owned by Boeing and 2 ac (1 ha) of local agency lands (Santa Monica Mountains Conservancy). This subunit contains at least two of the PCEs (2 and 3); whether it contains PCE 1 is unknown. Several hundred plants were reported at this location after a fire in 2006 (Lopez 2006).

Unit 2: Southern Simi Hills Unit

This unit is located along the southern Simi Hills in Ventura and Los Angeles Counties and consists of 196 ac (80 ha) of Federal lands, 118 ac (48 ha) of State land, 427 ac (173 ha) of local agency lands (Conejo Open Space Conservation Authority (COSCA), City of Thousand Oaks, Santa Monica Mountains Conservancy, and Rancho Simi Recreation and District), and 278 ac (113 ha) of private land. This unit is divided into six subunits mapped from records known at the time of listing and occurrences identified after listing. These subunits are all within 3.2 mi (5.2 km) of each other and occur along the southern perimeter of the geologic Chatsworth Formation. Overall, these subunits contain all of the PCEs, provide connectivity between several occurrences known at the time of listing, and represent the southernmost portion of the species' range within the Simi Hills. Inclusion of these subunits reduces fragmentation, maintains genetic connectivity between populations, and increases the chance of recolonization from neighboring populations if one patch becomes extirpated (Noss *et al.* 1997). Threats that may require special management in this unit include road and trail maintenance that could result in disturbances that are too frequent and prevent replenishment of the seed bank, invasion of nonnative plants that could crowd out *Astragalus brauntonii,* edge effects from urban development, and recreation activities such as off-road vehicles and equestrian and foot traffic, which could result in trampling of plants.

Subunit 2a: This subunit consists of 118 ac (48 ha) of State land managed by COSCA, 221 ac (89 ha) of local agency lands designated as open space in Oakbrook Regional Park and owned and managed by COSCA, and 71 ac (29 ha) of private land. This subunit is mapped from occurrences known at the time of listing and it contains all of the PCEs. It includes small numbers of plants found in several locations along a ridge; we believe a seed bank exists within and between known occurrences because the locations are near each other and the habitat is contiguous between them and close enough for genetic connectivity through insect pollination.

Subunit 2b: This subunit consists of 1 ac (0.5 ha) of local agency land owned by the City of Thousand Oaks. This subunit occurs within a Southern California Edison easement and adjacent to a trail in Conejo Open Space District surrounded by a residential neighborhood. It is mapped from an occurrence identified after listing and it contains all of the PCEs. Despite the small size of the subunit, it likely contains a relatively large population; approximately 68 plants were observed at this location in 2003. The population is enclosed by permanent fencing, and the area receives periodic vegetation clearing for fire control.

Subunit 2c: This subunit consists of 144 ac (58 ha) of local agency land in Oak Canyon Community Park owned and managed by Rancho Simi Recreation and Parks District. This subunit is mapped from an occurrence known at the time of listing and it contains all of the PCEs. It includes plants found in several locations along both sides of Medea Creek and contains a relatively large area. Approximately 400 plants were observed in this area in 1993, although few plants have been observed since then. This subunit is threatened by additional park development, which may require special management.

Subunit 2d: This subunit consists of 111 ac (45 ha) of Federal land within the Santa Monica Mountains National Recreation Area. It includes plants that were found at two separate locations on both sides of Palo Comado Canyon, and is mapped from an occurrence known at the time of listing. Fewer than 30 plants were observed in this area in 1987, and fewer than 10 plants at a time have been observed since then, however, the unit continues to remain occupied and contains a seed bank. This subunit contains all of the PCEs.

Subunit 2e: This subunit consists of 85 ac (35 ha) of Federal land within the Santa Monica Mountains National Recreation Area, and 61 ac (25 ha) of local agency land owned and managed as open space by Santa Monica Mountains Conservancy. This subunit is located on the east side of Cheseboro Canyon in an area that is relatively isolated from urban development. It is mapped from an occurrence identified after listing. Approximately 30 plants were observed at this location in 2000, hundreds of plants were observed

during post-fire surveys in 2006, and this subunit contains all of the PCEs.

Subunit 2f: This subunit consists of 207 ac (84 ha) of private land located east of the City of Chatsworth along Dayton Canyon in the eastern Simi Hills. It is mapped from one occurrence known at the time of listing and additional occurrences identified since the time of listing, although these occurrences are within the same population. A portion of one of the populations was removed during development in 1999. This subunit contains all of the PCEs. Approximately 14 plants were observed in this area in 1999, and 27 plants were observed during post-fire surveys in 2006.

Unit 3: Santa Monica Mountains Unit

This unit is located in the eastern Santa Monica Mountains in upper Zuma Canyon, north of Point Dume in Los Angeles County. It consists of 172 ac (70 ha) of Federal land within the Santa Monica Mountains National Recreation Area, and 56 ac (23 ha) of private land. It includes an area where more than 300 plants were found in 1999 after a prescribed burn, and the entire unit is mapped from an occurrence identified after listing. This unit contains all of the PCEs, is occupied, is the only known location in the western Santa Monica Mountains, and represents the western edge of the species' range. We also believe this area supports a large seed bank based on the observed post-fire germination that occurred here in 1999. This unit is essential because it represents a previously unknown portion of the species' range, and inclusion of multiple populations within the entire range increases a species' chance of persistence (Noss *et al.* 1997). Threats that may require special management in this unit include road maintenance that could result in disturbances that are too frequent, preventing establishment or replenishment of the seed bank.

Unit 4: Pacific Palisades Unit

This unit is located in the Santa Ynez Canyon north of Pacific Palisades in Los Angeles County and consists of 439 ac (178 ha) of State lands within Topanga State Park and 66 ac (27 ha) of private land. It includes plants found in three separate locations that are part of a single population complex, and is mapped from occurrences known at the time of listing. This is thought to be a large population; over 1,000 plants were observed at one of these locations in 1998. That site is cleared annually for a powerline and fuel break, a disturbance that likely causes large numbers of plants to germinate each year. This unit contains all of the PCEs, represents the eastern edge of the species' range within the Santa Monica Mountains, provides connectivity between the three separate locations, is a relatively large good-quality site, and the area likely incorporates a large existing seed bank. Threats that may require special management in this unit include road maintenance that could result in disturbances that are too frequent, preventing establishment or replenishment of the seed bank, and growth of nonnative plants that could crowd out *Astragalus brauntonii*.

Unit 5: Monrovia Unit

This unit is located in the San Gabriel Mountains in the City of Monrovia in Los Angeles County and consists of 218 ac (88 ha) of local agency land owned by the City of Monrovia and managed as open space (Monrovia Wilderness Preserve) and 64 ac (26 ha) of private land. It includes plants found in several locations that are part of a single population complex, and is mapped from an occurrence known at the time of listing. This is a large population; approximately 700 plants were observed in this area in 2004. This unit contains all of the PCEs, represents a unique and disjunct (separated) piece of the species' range, is a relatively large, good-quality site, and the area likely incorporates a large existing seed bank. Threats that may require special management in this unit include maintenance of fire roads, the growth of nonnative plants that could crowd out *Astragalus brauntonii*, and recreation activities such as foot and bicycle traffic, which could result in trampling of plants.

Unit 6: Coal Canyon Unit

This unit is located south of the City of Yorba Linda in Coal Canyon and Gypsum Canyon in Orange County and consists of 589 ac (238 ha) of State land (Chino Hills State Park and California Department of Fish and Game—Coal Canyon Ecological Reserve) and 243 ac (98 ha) of private land. This unit includes plants found in several locations that are part of a large population complex, and is mapped from occurrences known at the time of listing. This population was very small and declining until a fire in 2003, after which more than 5,000 plants were reported. This unit contains all of the PCEs, represents a disjunct portion of the species' range, is a relatively large area isolated from urban development, and provides genetic connectivity between plants found at several locations within the unit. We also believe the site supports a large seed bank, based on the post-fire germination that occurred here in 2003. Threats that may require special management in this unit include maintenance of fire roads and the growth of shrubs and nonnative plants, which could crowd out *Astragalus brauntonii*.

Pentachaeta lyonii

We are designating 3,396 ac (1,372 ha) within 6 units as critical habitat for *Pentachaeta lyonii* in Los Angeles and Ventura Counties. The units described below constitute our best assessment currently of areas determined to be occupied at the time of listing, that contain the PCEs and that may require special management, and those additional areas that were not known at the time of listing but were found to be essential to the conservation of *P. lyonii*. All areas not known at the time of listing are in the same geographic area and within the range of those areas determined to be occupied at the time of listing. For reasons described previously (see Criteria Used To Identify Critical Habitat section), we have determined that inclusion of all known locations, with the exception of Unit 6, that still contain the PCEs is essential to the conservation of the species because this species is extremely limited in distribution, has a very small overall population size, and often occurs in very small disjunct populations, making it particularly vulnerable to extinction (Noss *et al.* 1997). Inclusion of these populations reduces fragmentation, maintains genetic connectivity between populations, prevents range collapse of the species, and increases the chance of recolonization from neighboring populations if one patch becomes extirpated (Noss *et al.* 1997).

Table 3 shows the differences in acreage between the proposed and final rule, and Table 4 provides the approximate area designated as critical habitat by land ownership.

TABLE 3.—PROPOSED AND FINAL CRITICAL HABITAT UNITS FOR PENTACHAETA LYONII (AC (HA))

Critical habitat units/subunits	County	Proposed rule (Nov. 10, 2005) ac (ha)	Final rule ac (ha)
Unit 1: Simi Valley	Ventura	458 (185)	390 (157)
Subunit 1a		283 (114)	245 (99)
Subunit 1b		19 (8)	18 (7)
Subunit 1c		50 (20)	33 (13)
Subunit 1d		106 (43)	94 (38)
Unit 2: Montclef Ridge	Ventura	1,317 (533)	1,157 (468)
Subunit 2a		1,196 (485)	1,051 (425)
Subunit 2b		47 (19)	40 (16)
Subunit 2c		74 (29)	66 (27)
Unit 3: Thousand Oaks	Ventura/Los Angeles	1,470 (594)	1,259 (510)
Subunit 3a		236 (96)	212 (86)
Subunit 3b		75 (30)	64 (26)
Subunit 3c		1,159 (468)	983 (398)
Unit 4: Triunfo Canyon	Los Angeles	236 (95)	206 (83)
Unit 5: Mulholland Drive	Los Angeles	396 (160)	292 (117)
Subunit 5a		82 (33)	68 (27)
Subunit 5b		163 (66)	107 (43)
Subunit 5c		78 (31)	62 (25)
Subunit 5d		73 (30)	55 (22)
Unit 6: Cornell Road	Los Angeles	233 (94)	0 (0)
Unit 7: Malibu Lake	Los Angeles	102 (41)	92 (37)
Total		4,212 (1,704)	3,396 (1,372)

TABLE 4.—APPROXIMATE ACREAGE BY LAND OWNERSHIP CATEGORIES WITHIN CRITICAL HABITAT UNITS/SUBUNITS FOR PENTACHAETA LYONII (AC (HA))

Critical habitat unit and subunit	Federal	State	Local agency	Private	Total
Unit 1: Simi Valley	0 (0)	0 (0)	0 (0)	390 (157)	390 (157)
Subunit 1a	0 (0)	0 (0)	0 (0)	245 (99)	245 (99)
Subunit 1b	0 (0)	0 (0)	0 (0)	18 (7)	18 (7)
Subunit 1c	0 (0)	0 (0)	0 (0)	33 (13)	33 (13)
Subunit 1d	0 (0)	0 (0)	0 (0)	94 (38)	94 (38)
Unit 2: Montclef Ridge	0 (0)	0 (0)	892 (361)	265 (107)	1,157 (468)
Subunit 2a	0 (0)	0 (0)	862 (349)	189 (76)	1,051 (425)
Subunit 2b	0 (0)	0 (0)	22 (9)	18 (7)	40 (16)
Subunit 2c	0 (0)	0 (0)	8 (3)	58 (24)	66 (27)
Unit 3: Thousand Oaks	0 (0)	0 (0)	671 (272)	588 (238)	1,259 (510)
Subunit 3a	0 (0)	0 (0)	149 (60)	63 (26)	212 (86)
Subunit 3b	0 (0)	0 (0)	26 (11)	38 (15)	64 (26)
Subunit 3c	0 (0)	0 (0)	496 (201)	487 (197)	983 (398)
Unit 4: Triunfo Canyon	0 (0)	0 (0)	197 (80)	9 (3)	206 (83)
Unit 5: Mulholland Drive	105 (42)	0 (0)	0 (0)	187 (75)	292 (117)
Subunit 5a	0 (0)	0 (0)	0 (0)	68 (27)	68 (27)
Subunit 5b	105 (42)	0 (0)	0 (0)	2 (1)	107 (43)
Subunit 5c	0 (0)	0 (0)	0 (0)	62 (25)	62 (25)
Subunit 5d	0 (0)	0 (0)	0 (0)	55 (22)	55 (22)
Unit 6: Cornell Road	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Unit 7: Malibu Lake	0 (0)	58 (23)	0 (0)	34 (14)	92 (37)
Total	105 (42)	58 (23)	1,760 (713)	1,473 (594)	3,396 (1,372)

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for *Pentachaeta lyonii*, below.

Unit 1: Simi Valley Unit

This unit is located east of Moorpark and west of Simi Valley in Ventura County and consists of 390 ac (157 ha) of private land. This unit is divided into four subunits and mapped from occurrences known at the time of listing. The subunits are in the same geographic area; they are all within 2.5 mi (4000 m) of each other. These subunits are included because they contain features that are essential to the conservation of the species, contain at least two of the PCEs (1 and 3), and the unit as a whole represents the northernmost edge of the species' range. Inclusion of these subunits reduces fragmentation, maintains genetic connectivity between populations, and increases the chance of recolonization from neighboring populations if one patch becomes extirpated (Noss *et al.* 1997). Soils have not been sampled for microbiotic crusts at all locations, so it is unknown if every subunit contains PCE 2. Threats that may require special management in this unit include the invasion of annual grasses and nonnative plants that could crowd out *P. lyonii*, and grazing, edge effects from urban development, road maintenance,

and vehicle traffic, which could result in removal or trampling of plants.

Subunit 1a: This subunit is located east of Moorpark in the Tierra Rejada Hills and consists of 245 ac (99 ha) of private land. This subunit includes several patches within a single population complex; at least 1200 plants were recorded in this area in 1995. This subunit contains at least two of the PCEs (1 and 3); soils have not been sampled for microbiotic crusts, so whether it contains PCE 2 is unknown.

Subunit 1b: This subunit is located in eastern Moorpark and consists of 18 ac (7 ha) of private land within the Tierra Rejada Vernal Pool Preserve owned by Serenata Homeowners association and managed by Mountains Recreation and Conservation Authority. It includes one of the largest known populations of *Pentachaeta lyonii*, and is fenced and monitored annually. This subunit contains at least two of the PCEs (1 and 3); soils have not been sampled for microbiotic crusts, so whether it contains PCE 2 is unknown.

Subunit 1c: This subunit is located in western Simi Valley near Wood Ranch Reservoir and consists of 33 ac (13 ha) of private land. It includes at least two separate patches of plants within the same population complex. This subunit contains at least two of the PCEs (1 and 3); soils have not been sampled for microbiotic crusts, so whether it contains PCE 2 is unknown.

Subunit 1d: This subunit is located in western Simi Valley directly adjacent to Ronald Reagan Presidential Library. It consists of 94 ac (38 ha) of private land and includes at least two separate patches of plants within the same population complex. This subunit contains at least two of the PCEs (1 and 3); soils have not been sampled for microbiotic crusts, so whether it contains PCE 2 is unknown.

Unit 2: Montclef Ridge Unit

This unit is located along Montclef Ridge, northwest of Newbury Park in Ventura County. It consists of 892 ac (361 ha) of local agency land (Lynmere, Wildwood Park, and Mount Clef Ridge) owned and managed by COSCA and Conejo Recreation and Parks District, and 265 ac (107 ha) of private land. This unit is divided into three subunits that occur within the same geographic area, and are mapped from occurrences known at the time of listing and one occurrence identified after listing. These subunits are included because they contain features that are essential to the conservation of the species, contain all of the PCEs, and represent a large proportion of the species' range. Inclusion of these subunits reduces fragmentation, maintains genetic connectivity between populations, and increases the chance of recolonization from neighboring populations if one patch becomes extirpated (Noss *et al.* 1997). Threats that may require special management include invasion by annual grasses and nonnative plants that could crowd out *P. lyonii*; recreation, including equestrian activities, foot traffic, and off-road vehicles, which could result in trampling of plants; illegal dumping, urban development, which could result in removal of plants; and edge effects from existing urban development.

Subunit 2a: This subunit includes a large population complex with patches of plants from multiple locations, and is mapped from several occurrences known at the time of listing and one occurrence identified after listing, and consists of 862 ac (349 ha) of local agency land (Lynmere, Wildwood Park, and Mount Clef Ridge) designated as open space and owned by COSCA and Conejo Recreation and Parks District and 189 ac (76 ha) of private land. The occurrence identified after listing is known to be occupied, and provides connectivity between occurrences known at the time of listing. This subunit consists of a relatively large contiguous area with multiple populations of *Pentachaeta lyonii*, and it contains all of the PCEs.

Subunit 2b: This subunit includes at least two separate patches of plants within the same population complex and is mapped from an occurrence known at the time of listing. It consists of 22 ac (9 ha) of local agency land designated as open space and owned by COSCA, and 18 ac (7 ha) of private land, 6 ac (2 ha) of which is owned by California Lutheran University. This subunit contains all of the PCEs.

Subunit 2c: This subunit includes at least two separate patches of plants within the same population complex and is mapped from an occurrence known at the time of listing. It consists of 8 ac (3 ha) of local agency land designated as open space and owned by COSCA, and 58 ac (24 ha) of private land, 34 ac (14 ha) of which is owned by California Lutheran University. This subunit contains all of the PCEs.

Unit 3: Thousand Oaks Unit

This unit is located in Thousand Oaks near Lake Sherwood in Ventura and Los Angeles Counties. It consists of 671 ac (272 ha) of local agency land (COSCA, Las Virgenes Metropolitan Water District, and Mountain Resources Conservation Authority) and 588 ac (238 ha) of private land. This unit is divided into three subunits mapped from occurrences known at the time of listing and two occurrence identified after listing. These subunits are included because they contain features that are essential to the conservation of the species, contain at least two of the PCEs (1 and 3), and represent a large proportion of the species' range. Inclusion of these subunits reduces fragmentation, maintains genetic connectivity between populations, and increases the chance of recolonization from neighboring populations if one patch becomes extirpated (Noss *et al.* 1997). Soils have not been sampled for microbiotic crusts, so whether the subunits contain PCE 2 is unknown. Threats that may require special management include edge effects from urban development, removal of plants for urban development or fuel management, invasion by annual grasses and nonnative plants that could crowd out *Pentachaeta lyonii,* and equestrian and foot traffic that could result in trampling of plants.

Subunit 3a: This subunit is located north of Lake Sherwood and consists of 149 ac (60 ha) of local agency land designated as open space owned by COSCA, and 63 ac (26 ha) of private land. It is mapped from a relatively large population (11,000 plants in 1991) known at the time of listing. This subunit contains at least two of the PCEs (1 and 3); soils have not been sampled for microbiotic crusts, so whether it contains PCE 2 is unknown.

Subunit 3b: This subunit is located on the north side of Lake Sherwood and consists of 26 ac (11 ha) of local agency land owned by COSCA and 38 ac (15 ha) of private land. It is mapped from an occurrence known at the time of listing. Two of the three patches within this population were removed by development in 1997; the only remaining patch of occupied habitat has been designated. This subunit contains at least two of the PCEs (1 and 3); soils have not been sampled for microbiotic crusts, so whether it contains PCE 2 is unknown.

Subunit 3c: This subunit is located south of Lake Sherwood and consists of 496 ac (201 ha) of local agency land designated as open space owned by COSCA, and 487 ac (197 ha) of private land. It is mapped from occurrences known at the time of listing and two occurrences identified after listing, and includes numerous patches of plants within one population complex. Overall, this subunit contains at least 16 known populations of *Pentachaeta lyonii.* This subunit contains at least two of the PCEs (1 and 3); soils have not been sampled for microbiotic crusts, so whether it contains PCE 2 is unknown.

Unit 4. Triunfo Canyon Unit

This unit is located in unincorporated Los Angeles County. It consists of 197 ac (80 ha) of local agency land owned by Mountains Recreation and Conservation Authority, and 9 ac (3 ha) of private land. It is mapped from an occurrence known at the time of listing and includes multiple patches within a large, single population complex. This unit is included because it contains the features essential to the conservation of the species, contains all of the PCEs, is currently occupied, and represents a relatively large population complex of *Pentachaeta lyonii* (37,300 individuals estimated in 2000), and is a good-quality site. Inclusion of this unit reduces fragmentation, maintains genetic connectivity between populations, and increases the chance of recolonization from neighboring populations if one patch becomes extirpated (Noss *et al.* 1997). Threats that may require special management include invasion by annual grasses and nonnative plants, which could crowd out *P. lyonii*, fuel management, which could result in removal of plants, and foot traffic, which could result in trampling of plants.

Unit 5: Mullholland Drive Unit

This unit is located in the Santa Monica Mountains in Los Angeles County and consists of 105 ac (42 ha) of Federal land (Santa Monica Mountains National Recreation Area) and 187 ac (75 ha) of private land. It is divided into 4 subunits mapped from occurrences known at the time of listing and occurrences identified after listing. These subunits are included because they contain features essential to the conservation of the species, are currently occupied, contain at least two of the PCEs (1 and 3), and represent the southernmost locations within the species' range. Inclusion of these subunits reduces fragmentation, maintains genetic connectivity between populations, and increases the chance of recolonization from neighboring populations if one patch becomes extirpated (Noss *et al.* 1997). Soils have not been sampled for microbiotic crusts, so whether these subunits contain PCE 2 is unknown. Threats that may require special management include the potential for development, which could result in removal of plants; fuel management, which could also result in removal of plants; and invasion by annual grasses and nonnative plants, which could crowd out *Pentachaeta lyonii*.

Unit 5a: This subunit consists of 68 ac (27 ha) of private land along the south side of Mulholland Drive. It is mapped from an occurrence known at the time of listing. This population contained at least 3000 individual plants in 2000. This subunit contains at least two of the PCEs (1 and 3); soils have not been sampled for microbiotic crusts, so whether it contains PCE 2 is unknown.

Unit 5b: This subunit consists of 105 ac (42 ha) of Federal land (Santa Monica Mountains National Recreation Area) in Rocky Oaks Park and 2 ac (1 ha) of private land on the west side of Kanan Road. This subunit contains at least two remaining patches of plants within a population complex. One patch within this population was extirpated by equestrian activities (although the habitat remains), so the remaining patches have been fenced. It is mapped from an occurrence known at the time of listing. This subunit contains at least two of the PCEs (1 and 3); soils have not been sampled for microbiotic crusts, so whether it contains PCE 2 is unknown.

Unit 5c: This subunit consists of 62 ac (25 ha) of private land designated as open space and managed by Santa Monica Mountains Conservancy on Mulholland Drive. It includes at least two patches of plants within a single population complex, and is mapped from an occurrence identified after listing. This subunit is occupied and contains at least two of the PCEs (1 and 3); soils have not been sampled for microbiotic crusts, so whether it contains PCE 2 is unknown.

Unit 5d: This subunit consists of 55 ac (22 ha) of private land on Kanan Road. It is mapped from an occurrence identified after listing. This subunit is occupied and contains at least two of the PCEs (1 and 3); soils have not been sampled for microbiotic crusts, so whether it contains PCE 2 is unknown.

Unit 6: Cornell Road Unit

All essential lands in Unit 6 are excluded from critical habitat designation under section 4(b)(2) of the Act for economic reasons (see the Exclusions Under Section 49b)(2) of the Act section). This unit is located in the Santa Monica Mountains in Los Angeles County and consists of 233 ac (94 ha) of private land. It includes plants found in several locations and is mapped from an occurrence known at the time of listing. This unit contains all of the PCEs, represents one of the southernmost locations within the species' range, contains numerous distinct patches and a very large population of individuals (> 3 million plants estimated in 1999), is genetically distinct from the other populations, and contains more genetic variability than the other populations. Threats that may require special management include the potential for grading and development, which could result in removal of plants, edge effects from nearby developments, and invasion by annual grasses and nonnative plants, which could crowd out *P. lyonii*.

Unit 7: Malibu Lake Unit

This unit is located in the Santa Monica Mountains in Los Angeles County and consists of 58 ac (23 ha) of State land (Malibu Creek State Park) and 34 ac (14 ha) of private land. It is mapped from an occurrence known at the time of listing. This unit is included because it contains features that are essential to the conservation of the species, contains at least two of the PCEs (PCEs 1 and 3), represents the easternmost known location within the species' range, is currently occupied, and contains a relatively large population (100,000–200,000 plants estimated in 1998). Inclusion of this unit reduces fragmentation, maintains genetic connectivity between populations, and increases the chance of recolonization from neighboring populations if one patch becomes extirpated (Noss *et al.* 1997). Soils have not been sampled for microbiotic crusts, so whether the subunits contain PCE 2 is unknown. Threats that may require special management include recreation activities such as foot traffic, which may result in trampling of plants.

Effects 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 402.02, 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.'' However, recent decisions by the 5th and 9th Circuit Court of Appeals have invalidated this definition. Pursuant to current national policy and the statutory provisions of the Act, destruction or adverse modification is determined on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve the

intended conservation role for the species.

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. This is a procedural requirement only. However, once a proposed species becomes listed, or proposed critical habitat is designated as final, the full prohibitions of section 7(a)(2) apply to any Federal action. The primary utility of the conference procedures is to maximize the opportunity for a Federal agency to adequately consider proposed species and critical habitat and avoid potential delays in implementing their proposed action because of the section 7(a)(2) compliance process, should those species be listed or the critical habitat designated.

Under conference procedures, the Service may provide advisory conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The Service may conduct either informal or formal conferences. Informal conferences are typically used if the proposed action is not likely to have any adverse effects to the proposed species or proposed critical habitat. Formal conferences are typically used when the Federal agency or the Service believes the proposed action is likely to cause adverse effects to proposed species or critical habitat, inclusive of those that may cause jeopardy or adverse modification.

The results of an informal conference are typically transmitted in a conference report, while the results of a formal conference are typically transmitted in a conference opinion. Conference opinions on proposed critical habitat are typically prepared according to 50 CFR 402.14, as if the proposed critical habitat were designated. We may adopt the conference opinion 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)). As noted above, any conservation recommendations in a conference report or opinion are strictly advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act 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. As a result of this consultation, compliance with the requirements of section 7(a)(2) will be documented through the Service's issuance of: (1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or (2) a biological opinion for Federal actions that may affect, but are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to a listed species or 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 jeopardy to the listed species or 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 a new species is listed or critical habitat is subsequently designated that may be affected 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 with us on actions for which formal consultation has been completed, if those actions may affect subsequently listed species or designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect *Astragalus brauntonii* and *Pentachaeta lyonii* or its designated critical habitat will require section 7 consultation under the Act. Activities on State, Tribal, local or private lands requiring a Federal permit (such as a permit from the Corps under section 404 of the Clean Water Act or a permit under section 10(a)(1)(B) of the Act from the Service) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) will also be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local or private lands that are not federally-funded, authorized, or permitted, do not require section 7 consultations.

Application of the Jeopardy and Adverse Modification Standards for Actions involving Effects to Astragalus brauntonii and Pentachaeta lyonii and Their Critical Habitat

Jeopardy Standard

Prior to and following designation of critical habitat, the Service has applied an analytical framework for *Astragalus brauntonii* and *Pentachaeta lyonii* jeopardy analyses that relies heavily on the importance of core area populations to the survival and recovery of *A. brauntonii* and *P. lyonii.* The section 7(a)(2) analysis is focused not only on these populations but also on the habitat conditions necessary to support them.

The jeopardy analysis usually expresses the survival and recovery needs of the *Astragalus brauntonii* and *Pentachaeta lyonii* in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, if a proposed Federal action is incompatible with the viability of the affected core area population(s), inclusive of associated habitat conditions, a jeopardy finding is warranted because of the relationship of each core area population to the survival and recovery of the species as a whole.

Adverse Modification Standard

For the reasons described in the Director's December 9, 2004 memorandum the key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional

(or retain the current ability for the primary constituent elements to be functionally established) to serve the intended conservation role for the species. Generally, the conservation role of *A. brauntonii* and *P. lyonii* critical habitat units are to support viable core area populations.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat may also jeopardize the continued existence of the species.

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 *Astragalus brauntonii* or *Pentachaeta lyonii* is appreciably reduced. However, as discussed in the PCE section for *A. brauntonii*, periodic disturbances that stimulate seed germination (e.g., fire, flooding, erosion) and reduce vegetative cover are characteristic of the species' habitat. Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore result in consultation for *A. brauntonii* and *P. lyonii* include, but are not limited to:

(1) Removing, thinning, or destroying *A. brauntonii* and *P. lyonii* plants. This may occur through burning, mechanical, chemical, or other means, including plowing, grading, livestock grazing, construction, road building, mechanical weed control, herbicide application, and firefighting activities;

(2) Activities that appreciably degrade or destroy *A. brauntonii* or *P. lyonii* habitat (and its PCEs). Such activities include, but are not limited to: livestock grazing, clearing, discing, farming, residential or commercial development, introducing or encouraging the spread of nonnative species, off-road vehicle use;

(3) Activities that appreciably diminish habitat value or quality through indirect effects (e.g., edge effects, invasion of exotic plants or animals, or fragmentation) due to construction of buildings or roads;

(4) Any activity, including the regulation of activities by the Corps of Engineers under section 404 of the Clean Water Act or activities carried out by or licensed by the Environmental Protection Agency (EPA), that could alter watershed or soil characteristics in ways that would appreciably alter or reduce the quality or quantity of surface and subsurface flow of water needed to maintain *A. brauntonii* or *P. lyonii.* These activities include, but are not limited to: Altering the natural fire regime by using prescribed fires that are too frequent or poorly-timed; development, including road building and other direct or indirect activities; agricultural activities; livestock grazing; and vegetation manipulation such as clearing or grubbing in the watershed upslope from *A. brauntonii* or *P. lyonii.*

(5) Road construction and maintenance, right-of-way designation, and regulation of agricultural activities, or any activity funded or carried out by the Department of Transportation or Department of Agriculture that could result in excavation, or mechanized land clearing of *A. brauntonii* or *P. lyonii* habitat; and

(6) Licensing of construction of communication sites by the Federal Communications Commission or funding of construction or development activities by the U.S. Department of Housing and Urban Development that could result in excavation, or mechanized land clearing, of *A. brauntonii* or *P. lyonii* habitat.

We consider all of the units designated as critical habitat, as well as those that have been excluded or not included, to contain features essential to the conservation of the species. All units are within the geographical area of the species and are currently occupied. Four of the six units for *Astragalus brauntonii* were occupied at the time of listing, although three subunits within Unit 2 contain additional populations not known at the time of listing but are currently occupied. Units 1 and 4 were not known to be occupied at the time of listing but are currently occupied. All seven units for *Pentachaeta lyonii* were occupied at the time of listing, although four subunits within these units contain additional populations not known at the time of listing but are currently occupied. Federal agencies already consult with us on activities in areas currently occupied by *A. brauntonii* and *P. lyonii*, or if the species may be affected by the action, to ensure that their actions do not jeopardize the continued existence of *A. brauntonii* or *P. lyonii.*

Exclusions Under Section 4(b)(2) of the Act

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 after taking into consideration the economic impact, national security impact, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless [s]he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the Secretary is afforded broad discretion and the Congressional record is clear that in making a determination under the section the Secretary has discretion as to which factors and how much weight will be given to any factor.

Under section 4(b)(2), in considering whether to exclude a particular area from the designation, we must identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, determine whether the benefits of exclusion outweigh the benefits of inclusion. If an exclusion is contemplated, then we must determine whether excluding the area would result in the extinction of the species. In the following sections, we address a number of general issues that are relevant to the exclusions we considered.

Application of Section 4(b)(2) of the Act for Astragalus brauntonii

Pursuant to section 4(b)(2) of the Act, we must consider relevant impacts in addition to economic ones. We determined that the lands within the designation of critical habitat for *Astragalus brauntonii* are not owned or managed by the Department of Defense, there are currently no habitat conservation plans for *A. brauntonii*, and the designation does not include any Tribal lands or trust resources. We anticipate no impact to national security, Tribal lands, partnerships, or habitat conservation plans from this critical habitat designation. Based on the best available information including the prepared economic analysis, we believe that all of these units contain the features that are essential for the conservation of this species. Our economic analysis indicates an overall low cost resulting from the designation. Therefore, we have found no areas for which the benefits of exclusion outweigh the benefits of inclusion, and so have not excluded any areas from this designation of critical habitat for *A. brauntonii* based on economic impacts. As such, we have considered but not excluded any lands from this designation for *A. brauntonii* based on the potential impacts to these factors.

Application of Section 4(b)(2) of the Act for Pentachaeta lyonii

Conservation Partnerships on Non-Federal Lands

Most federally listed species in the United States will not recover without the cooperation of non-federal landowners. More than 60% of the United States is privately owned (National Wilderness Institute 1995) and at least 80% of endangered or threatened occur either partially or solely on private lands (Crouse *et al.* 2002). Stein *et al.* (1995) found that only about 12% of listed species were found almost exclusively on Federal lands (90 to 100% of their known occurrences restricted to Federal lands) and that 50% of federally listed species are not known to occur on Federal lands at all.

Given the distribution of listed species with respect to land ownership, conservation of listed species in many parts of the United States is dependent upon working partnerships with a wide variety of entities and the voluntary cooperation of many non-federal landowners (Wilcove and Chen 1998, Crouse *et al.* 2002, James 2002). Building partnerships and promoting voluntary cooperation of landowners is essential to understanding the status of species on non-federal lands and is necessary to implement recovery actions such as reintroducing listed species, habitat restoration, and habitat protection.

Many non-Federal landowners derive satisfaction in contributing to endangered species recovery. The Service promotes these private-sector efforts through the Four Cs philosophy—conservation through communication, consultation, and cooperation. This philosophy is evident in Service programs such as HCPs, Safe Harbor Agreements, Candidate Conservation Agreements, Candidate Conservation Agreements with Assurances, and conservation challenge cost-share. Many private landowners, however, are wary of the possible consequences of encouraging endangered species to their property, and there is mounting evidence that some regulatory actions by the Federal government, while well-intentioned and required by law, can under certain circumstances have unintended negative consequences for the conservation of species on private lands (Wilcove *et al.* 1996, Bean 2002, Conner and Mathews 2002, James 2002, Koch 2002, Brook *et al.* 2003). Many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. Consequently, harboring endangered species is viewed by many landowners as a liability, resulting in anti-conservation incentives because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main *et al.* 1999, Brook *et al.* 2003).

The purpose of designating critical habitat is to contribute to the conservation of threatened and endangered species and the ecosystems upon which they depend. The outcome of the designation, triggering regulatory requirements for actions funded, authorized, or carried out by Federal agencies under section 7 of the Act, can sometimes be counterproductive to its intended purpose on non-Federal lands. According to some researchers, the designation of critical habitat on private lands significantly reduces the likelihood that landowners will support and carry out conservation actions (Main *et al.* 1999, Bean 2002, Brook *et al.* 2003). The magnitude of this negative outcome is greatly amplified in situations where active management measures (e.g., reintroduction, fire management, control of invasive species) are necessary for species conservation (Bean 2002).

The Service believes that the judicious use of excluding specific areas of non-federally owned lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation than critical habitat alone. The Department of Interior Four C's philosophy—conservation through communication, consultation, and cooperation—is the foundation for developing the tools of conservation. These tools include conservation grants, funding for Partners for Fish and Wildlife Program, the Coastal Program, and cooperative-conservation challenge cost-share grants. Our Private Stewardship Grant program and Landowner Incentive Program provide assistance to private landowners in their voluntary efforts to protect threatened, imperiled, and endangered species, including the development and implementation of HCPs.

Conservation agreements with non-Federal landowners (*e.g.*, Habitat Conservation Plans (HCPs), contractual conservation agreements, easements, and stakeholder-negotiated State regulations) enhance species conservation by extending species protections beyond those available through section 7 consultations. In the past decade we have encouraged non-Federal landowners to enter into conservation agreements, based on a view that we can achieve greater species conservation on non-Federal land through such partnerships than we can through coercive methods (61 FR 63854; December 2, 1996).

General Principles of Section 7 Consultations Used in the 4(b)(2) Balancing Process

The most direct, and potentially largest, regulatory benefit of critical habitat is that federally authorized, funded, or carried out activities require consultation pursuant to section 7 of the Act to ensure that they are not likely to destroy or adversely modify critical habitat. There are two limitations to this regulatory effect. First, it only applies where there is a Federal nexus—if there is no Federal nexus, designation itself does not restrict actions that destroy or adversely modify critical habitat. Second, it only limits destruction or adverse modification. By its nature, the prohibition on adverse modification is designed to ensure those areas that contain the physical and biological features essential to the conservation of the species or unoccupied areas that are essential to the conservation of the species are not eroded. Critical habitat designation alone, however, does not require specific steps toward recovery.

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 would be 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.

We also note that for 30 years prior to the Ninth Circuit Court's decision in *Gifford Pinchot*, the Service equated the

jeopardy standard with the standard for destruction or adverse modification of critical habitat. The Court ruled that the Service could no longer equate the two standards and that adverse modification evaluations require consideration of impacts on the recovery of species. Thus, under the *Gifford Pinchot* decision, critical habitat designations may provide greater benefits to the recovery of a species. However, we believe the conservation achieved through implementing habitat conservation plans (HCPs) or other habitat management plans is typically greater than would be achieved through multiple site-by-site, project-by-project, section 7 consultations involving consideration of critical habitat. Management plans commit resources to implement long-term management and protection to particular habitat for at least one and possibly other listed or sensitive species. Section 7 consultations only commit Federal agencies to prevent adverse modification to critical habitat caused by the particular project, and they are not committed to provide conservation or long-term benefits to areas not affected by the proposed project. Thus, any HCP or management plan which considers enhancement or recovery as the management standard will always provide as much or more benefit than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision.

Educational Benefits of Critical Habitat

A benefit of including lands in critical habitat is that the designation of critical habitat serves to educate landowners, State and local governments, and the public regarding the potential conservation value of an area. This helps focus and promote conservation efforts by other parties by clearly delineating areas of high conservation value for *Pentachaeta lyonii*. In general the educational benefit of a critical habitat designation always exists, although in some cases it may be redundant with other educational effects. For example, HCPs have significant public input and may largely duplicate the educational benefit of a critical habitat designation. This benefit is closely related to a second, more indirect benefit: That designation of critical habitat would inform State agencies and local governments about areas that could be conserved under State laws or local ordinances.

However, we believe that there would be little additional informational benefit gained from the designation of critical habitat for the exclusion we are making in this rule because the area being excluded was included in the proposed rule as having habitat containing the features essential to the conservation of the species. Consequently, we believe that the informational benefits are already provided even though this area is not designated as critical habitat. Additionally, the purpose normally served by the designation, that of informing State agencies and local governments about areas that would benefit from protection and enhancement of habitat for *Astragalus brauntonii* and *Pentachaeta lyonii* is already well established among State and local governments and Federal agencies in those areas that we are excluding from critical habitat in this rule on the basis of other existing habitat management protections.

Section 4(b)(2) of the Act allows the Secretary to take into consideration potential economic impacts of a critical habitat designation and to exclude areas from critical habitat for economic reasons if he determines that the benefits of such exclusion exceed the benefits of designating the area as critical habitat, unless the exclusion will result in the extinction of the species concerned. This is a discretionary authority Congress has provided to the Secretary with respect to critical habitat. Although economics may not be considered when listing a species, Congress has expressly required this consideration when designating critical habitat.

In conducting economic analyses, we are guided by the Tenth Circuit Court of Appeal's ruling in the *New Mexico Cattle Growers Association* case (248 F.3d at 1285), which directed us to consider all impacts, ''regardless of whether those impacts are attributable co-extensively to other causes.'' The Ninth Circuit has recently ruled (*Gifford Pinchot*, 378 F.3d at 1071) that the Service's regulations defining ''adverse modification'' of critical habitat are invalid because they define adverse modification as affecting both survival and recovery of a species. The Court directed us to consider that determinations of adverse modification should be focused on impacts to recovery. While we have not yet proposed a new definition for public review and comment, compliance with the Court's direction may result in additional costs associated with the designation of critical habitat (depending upon the outcome of the rulemaking). In light of the uncertainty concerning the regulatory definition of adverse modification, our current methodological approach to conducting economic analyses of our critical habitat designations is to consider all conservation-related costs. This approach would include costs related to sections 4 and 7 of the Act, as well as other protections under State and local laws and regulations, and should encompass costs that would be considered and evaluated in light of the *Gifford Pinchot* ruling.

Unit 6, the Cornell Road Unit, includes approximately 233 ac (94 ha) in an unincorporated area of Los Angeles County, California. The land within this unit is owned and managed by Sage Community Group (''Sage''), a private landowner. Sage has proposed to build 81 homes on approximately 40 ac (16 ha) of their 320-acre (129.5 ha) property, and all of these homes would occur within the proposed critical habitat unit. Since July 5, 2005, the Service has been in formal consultation with the U.S. Army Corps of Engineers to address impacts to *Pentachaeta lyonii* that may occur on the property as a result of this proposed development. Sage has proposed to preserve approximately 280 ac (113 ha) of the property in open space, and the majority of the existing *P. lyonii* on the property will be protected in perpetuity and managed within this open space area. The management plan for the property will address management of the open space areas, fuel modification zones around the proposed homes, and landscaping activities on the private lots. In addition, a memorandum to CRA International, the economic contractor for the Service, dated March 3, 2006, Sage stated the potential cost to them of designating their lands in Unit 6 as critical habitat for *Pentachaeta lyonii* could be as high as $78 million. Therefore, we are excluding the Cornell Road Unit (Unit 6) under section 4(b)(2).

Benefits of Inclusion of Lands Within Unit 6: Cornell Road

The area excluded in Unit 6 is currently occupied by *Pentachaeta lyonii*. The potential benefits of inclusion of lands within Unit 6 in the critical habitat designation are discussed above in the ''General Principles of Section 7 Consultations Used in the 4(b)(2) Balancing Process'' and ''Educational Benefits of Critical Habitat'' sections.

The designation of Unit 6 as critical habitat could result in approximately $78 million in costs, the majority of which are directly related to residential development impacts. Any decrease in residential housing development that might occur as a result of the designation of critical habitat for *Pentachaeta lyonii* in Unit 6 could minimize impacts to and potentially

provide incrementally greater protection to the species and to the physical and biological features essential to the species' conservation (i.e., the primary constituent elements). A decrease in residential housing development would directly translate into a potential benefit to the species that would result from this designation.

In summary, we believe that inclusion of Unit 6 as critical habitat could provide some additional Federal regulatory benefits for the species. However, that benefit is limited to some degree by the fact that the areas within Unit 6 are occupied by the species and, therefore, consultation with the Service for any Federal action that may affect the species in Unit 6 is already now required. The additional educational benefits that might arise from critical habitat designation are largely accomplished through the multiple opportunities for public notice-and-comment, which accompanied the development of this regulation; publicity associated with prior litigation; and public outreach associated with the development and the implementation of the Recovery Plan for *Pentachaeta lyonii.*

Benefits of Exclusion of lands Within Unit 6: Cornell Road

The development of a conservation strategy for the lands within Unit 6 has been a collaborative effort that has promoted the development of a positive relationship between the Service and Sage Community Group. The Service believes that exclusion of Unit 6 will allow us to continue working with Sage in a spirit of cooperation and partnership. In addition the designation of Unit 6 as critical habitat could result in approximately $78 million in costs to the landowner. By excluding Unit 6, some of these costs may be avoided.

The development of a conservation strategy through the section 7 consultation that is already in process will create a tangible and quantifiable benefit within the 233 ac (94 ha) unit. The unit will be placed in a conservation easement with funding for managing the easement in perpetuity. The management of this easement will include control of non-native plants and restricted access to human activities (i.e., no ORVs or horses). The conservation strategy will also provide a commitment by Sage and Service to review the management periodically to determine if the strategy is successful and determine if there are additional protective measures that need to be added.

We also believe that the benefits of excluding these lands from the designation of critical habitat and thereby avoiding the potential economic costs of designation, exceed the educational and regulatory benefits that could result from including those lands in this designation of critical habitat.

We also believe that excluding these lands, and thus helping the landowner to avoid the additional costs that would result from the designation, will contribute to a more positive climate for HCPs and other active conservation measures that provide greater conservation benefits than would result from designation of critical habitat—even in the post-Gifford Pinchot environment—which requires only that there be no destruction or adverse modification resulting from actions with a Federal nexus. We, therefore, find that the benefits of excluding Unit 6 from this designation of critical habitat outweigh the benefits of including it in the designation.

Benefits of Exclusion Outweigh the Benefits of Inclusion of Unit 6: Cornell Road

We believe that the recovery planning process has already provided information about habitat that contains those features considered essential to the conservation of *Pentachaeta lyonii* and has facilitated conservation efforts through heightened public awareness of the plight of the listed species to the public, State and local governments, scientific organizations, and Federal agencies. The Recovery Plan contains explicit objectives for ongoing public education, outreach, and collaboration at local, State, and Federal levels, and between the private and public sectors, in recovering *P. lyonii.*

In conclusion, we have evaluated the potential benefits that will result from the section 7 process and conservation strategy for the lands within Unit 6 and determined that the benefit of exclusion outweighs the benefit of inclusion. We also evaluated and considered the potential economic costs relative to the potential benefit for *Pentachaeta lyonii* and its primary constituent elements derived from the designation of critical habitat. We believe that the potential economic cost of approximately $78 million significantly outweighs the potential conservation and protective benefits for the species and its primary constituent elements derived from avoiding residential development as a result of this designation. Therefore, for these reasons we have excluded Unit 6 from critical habitat for *P. lyonii.*

Exclusion Will Not Result in Extinction of the Species

Because lands excluded from within this unit are considered occupied habitat, actions that might adversely affect *Pentachaeta lyonii* are expected to have a Federal nexus, and thus would trigger a section 7 consultation with the Service. The jeopardy standard of section 7 of the Act, and routine implementation of habitat preservation through the section 7 process, as discussed in the economic analysis, would be applied. The section 7 consultation with the Service that is already in process regarding potential impacts of the proposed development project on *P. lyonii* will ensure the continued persistence of the species within Unit 6. As part of this consultation, the landowner has proposed to preserve the majority of the *P. lyonii* that occurs on the property in open space, in perpetuity, and implement a management plan to ensure the continued persistence of the species.

The total 233 acres (94 ha) of critical habitat excluded from within Unit 6 is small relative to the 3,396 ac (1,372 ha) which would remain designated as critical habitat. This unit also represents a small proportion of the species' range. This small proportion, together with the protections afforded to *Pentachaeta lyonii* due to designation of critical habitat on other lands, and protections afforded to *P. lyonii* through the draft management plan and through the section 7 process already initiated in Unit 6, leads us to conclude that exclusion of this unit will not result in extinction of the species.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific information available and to consider the economic 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 concerned.

Following the publication of the proposed critical habitat designation, we conducted economic analyses to estimate the potential economic effects of the designation. The draft analyses were made available for public review on July 21, 2006 (71 FR 41410). We accepted comments on the draft analysis until August 21, 2006.

The primary purpose of the economic analyses is to estimate the potential economic impacts associated with the designation of critical habitat for *Astragalus brauntonii* and *Pentachaeta lyonii.* This information is intended to assist the Secretary in making decisions about whether the benefits of excluding particular areas from the designation outweigh the benefits of including those areas in the designation. This economic analysis considers the economic efficiency effects that may result from the designation, including habitat protections that may be co-extensive with the listing of the species. It also addresses distribution of impacts, including an assessment of the potential effects on small entities and the energy industry. This information can be used by the Secretary to assess whether the effects of the designation might unduly burden a particular group or economic sector.

This analysis focuses on the direct and indirect costs of the rule. However, economic impacts to land use activities can exist in the absence of critical habitat. These impacts may result from, for example, local zoning laws, State and natural resource laws, and enforceable management plans and best management practices applied by other State and Federal agencies. Economic impacts that result from these types of protections are not included in the analysis as they are considered to be part of the regulatory and policy baseline.

We received comments on the draft economic analysis of the proposed designation. Following the close of the comment period, we reviewed and considered the public comments and information we received and prepared responses to those comments (see Responses to Comments section above) or incorporated the information or changes directly into this final rule or our final economic analysis.

The July 21, 2006, notice (71 FR 41410) provides a detailed economics section that identifies a total surplus (sum of producer and consumer surplus), from housing development forecasted to be built within the area of *Astragalus brauntonii* proposed critical habitat, of approximately $91.87 million over a 20-year period (approximately $8.11 million annually at a 7 percent discount rate, or approximately $5.99 million annually at a 3 percent discount rate). A total surplus (sum of producer and consumer surplus), from housing development forecasted to be built within the area of *Pentachaeta lyonii* proposed critical habitat of approximately $121.21 million over a 20-year period, (approximately $10.69 million annually at a 7 percent discount rate, or $7.91 million annually at a 3 percent discount rate) was also identified. We evaluated the potential economic impact of this designation as identified in the draft analysis. Based on this evaluation, we believe that there are no disproportionate economic impacts that warrant exclusion pursuant to section 4(b)(2) of the Act at this time.

A copy of the final economic analyses with supporting documents are included in our administrative record and may be obtained by contacting U.S. Fish and Wildlife Service, Branch of Endangered Species (see **ADDRESSES** section) or for downloading from the Internet at *http://www.fws.gov/ventura.*

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule in that it may raise novel legal and policy issues. However, because the final economic analysis indicates the potential economic surplus from lands contained within these units is $92 million over a 20-year period for *Astragalus brauntonii* and $121 million over a 20-year period for *Pentachaeta lyonii,* and the economic impact of designating critical habitat would be only a fraction of this amount, we do not anticipate that this final rule will 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) did not formally review this rule. The availability of the draft economic analysis was announced in the Federal Register on July 21, 2006 (71 FR 41410), and was made available for public review and comment.

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

Under the Regulatory Flexibility Act (RFA) (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 effect of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a statement of factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA also amended the RFA to require a certification statement.

Small entities include small organizations, such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; as well as small businesses. 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 consider the types of activities that might trigger regulatory impacts under this rule, as well as the 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 the rule could significantly affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (e.g., housing development, grazing, oil and gas production, timber harvesting). We apply the ''substantial number'' test individually to each industry to determine if certification is appropriate. However, the SBREFA does not explicitly define ''substantial number'' or ''significant economic impact.'' Consequently, to assess whether a ''substantial number'' of small entities is affected by this designation, this analysis considers the relative number of small entities likely to be impacted in an area. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the number of small entities potentially affected, we also consider whether their activities have any Federal involvement.

Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies. Some kinds of activities are unlikely to have

any Federal involvement and so will not be affected by critical habitat designation. In areas where the species is present, Federal agencies already are required to consult with us under section 7 of the Act on activities they fund, permit, or implement that may affect *Astragalus brauntonii* and *Pentachaeta lyonii.* Federal agencies also must consult with us if their activities may affect critical habitat. Designation of critical habitat, therefore, could result in an additional economic impact on small entities due to the requirement to reinitiate consultation for ongoing Federal activities.

To determine if the proposed designation of critical habitat for *Astragalus brauntonii* and *Pentachaeta lyonii* 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.

In our economic analyses of the final critical habitat designation, we evaluate the potential economic effects on small business entities resulting from conservation actions related to the listing of *Astragalus brauntonii* and *Pentachaeta lyonii* and proposed designation of critical habitat. We determined from our analyses that the small business entities that may be affected are firms in the new home construction sector. Small business effects have been calculated on the total surplus generated from new housing construction within critical habitat. This assumption is conservative because it is the worst-case scenario of how critical habitat will affect small businesses. In the event that conservation is achieved without requiring developers to completely avoid critical habitat, impacts on small businesses will be lower.

To estimate the number of firms potentially affected, these analyses use the following steps. First, they calculate the number of homes built by small businesses annually. Average revenues for a small construction firm are $694,000 annually. The mean new home price for the study area of these analyses is approximately $970,000 for *Astragalus brauntonii* and $920,000 for *Pentachaeta lyonii.* Small construction firms are assumed to build one new home per year. Second, they calculate the proportion of new home construction that would be undertaken by small businesses. Prior analyses of permitting data in Sacramento County found that 22 percent of building permits for single family dwellings were issued to builders classified as small businesses. A total of 156 new homes are projected to be built within *Astragalus brauntonii* proposed critical habitat over the next 20 years. Accordingly, 34 are projected to be built by small businesses. Since each firm builds one home per year, 34 small firms are potentially affected within *Astragalus brauntonii* proposed critical habitat over the 20-year time frame of this analysis. A total of 222 new homes are projected to be built within *Pentachaeta lyonii* proposed critical habitat over the next 20 years. Accordingly, 49 are projected to be built by small businesses. Since each firm builds one home per year, 49 small firms are potentially affected within *Pentachaeta lyonii* proposed critical habitat over the 20-year time frame of this analysis. These firms may be affected by activities associated with the conservation of *Astragalus brauntonii* and *Pentachaeta lyonii,* inclusive of activities associated with listing, recovery, and critical habitat. Critical habitat is not expected to result in significant small business impacts.

In general, two different mechanisms in section 7 consultations could lead to additional regulatory requirements for the approximately four small businesses, on average, that may be required to consult with us each year regarding their projects impacts on *Astragalus brauntonii* and *Pentachaeta lyonii* and its habitat. First, if we conclude, in a biological opinion, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer ''reasonable and prudent alternatives.'' Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or result in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless it obtains an exemption the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives.

Second, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal or plant species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through nondiscretionary terms and conditions. We may also identify discretionary conservation recommendations designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to develop information that could contribute to the recovery of the species.

Based on our experience with consultations under section 7 of the Act for all listed species, virtually all projects—including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. We can only describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule and this critical habitat designation. Within the final critical habitat units, the types of Federal actions or authorized activities that we have identified as potential concerns are:

(1) Regulation of activities affecting waters of the United States by the U.S. Army Corps Engineers under section 404 of the Clean Water Act;

(2) Regulation of water flows, damming, diversion, and channelization implemented or licensed by Federal agencies;

(3) Regulation of fire management plans by the NPS;

(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 (FEMA); and

(6) Activities regulated or funded by the EPA, U.S. Department of Energy, the FAA, or any other Federal agency.

It is likely that a developer or other project proponent could modify a project or take measures to protect *Astragalus brauntonii* and *Pentachaeta lyonii.* The kinds of actions that may be included if future reasonable and prudent alternatives become necessary include conservation set-asides, management of competing nonnative species, restoration of degraded habitat, and regular monitoring. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule and proposed critical habitat designation. These measures are not likely to result in a significant economic impact to project proponents.

In summary, we have considered whether this would result in a significant economic effect on a substantial number of small entities. We have determined, for the above reasons and based on currently available information, that it is not likely to affect a substantial number of small entities. Federal involvement, and thus section 7 consultations, would be limited to a subset of the area designated. The most likely Federal involvement could include U.S. Army Corps of Engineers permits and FHA funding for road improvements. A regulatory flexibility analysis is not required.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 et seq.)

Under SBREFA, this rule is not a major rule. Our detailed assessment of the economic effects of this designation is described in the economic analysis. Based on the effects identified in the economic analysis, we believe that this rule will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Refer to the final economic analysis for a discussion of the effects of this determination.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) 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. There are transmission power lines within at least two units for *Astragalus brauntonii;* however, this final rule to designate critical habitat for *A. brauntonii* and *Pentachaeta lyonii* 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.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make 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, or 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 who receive Federal funding, assistance, or permits or 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) We do not believe that this rule will significantly or uniquely affect small governments because it will not produce a Federal mandate of $100 million or greater in any year; that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments. As such, a Small Government Agency Plan is not required.

Federalism

In accordance with Executive Order 13132 (Federalism), the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with the Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, this final critical habitat designation with appropriate State resource agencies in California. The designation of critical habitat in areas currently occupied by *Astragalus brauntonii* and *Pentachaeta lyonii* may impose nominal additional regulatory restrictions to those currently in place and, therefore, may have little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas that contain the features essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the conservation of the species 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 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Endangered Species Act. This final rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of *Astragalus brauntonii* and *Pentachaeta lyonii.*

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. 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)].

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no tribal lands occupied by *Astragalus brauntonii* or *Pentachaeta lyonii* at the time of listing that contain the features essential for conservation of either species, and there are no tribal lands that contain unoccupied areas for either species that are essential for the conservation of these species. Therefore, critical habitat for *A. brauntonii* and *P. lyonii* has not been designated on Tribal lands.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the Field Supervisor, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this package is the Ventura Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

■ Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

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 § 17.12(h), revise the entries for ''*Astragalus brauntonii*'' and ''*Pentachaeta lyonii*'' under ''Flowering Plants,'' to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Astragalus brauntonii	Braunton's milk-vetch.	U.S.A. (CA)	Fabaceae	E	606	17.96(a)	NA
*	*	*	*	*	*	*	
Pentachaeta lyonii ...	Lyon's pentachaeta	U.S.A. (CA)	Asteraceae	E	606	17.96(a)	NA
*	*	*	*	*	*	*	

■ 3. In § 17.96(a), add critical habitat for *Pentachaeta lyonii*, in alphabetical order under Family Asteraceae, and add critical habitat for *Astragalus brauntonii* in alphabetical order under Family Fabaceae, to read as follows:

§ 17.96 Critical habitat—plants.

(a) *Flowering Plants.*

* * * * *

Family Asteraceae: *Pentachaeta lyonii* (Lyon's pentachaeta)

(1) Critical habitat units are depicted for Ventura and Los Angeles Counties, California, on the maps below.

(2) Critical habitat includes the plant communities within the range of *Pentachaeta lyonii* that are characterized by the following primary constituent elements:

(i) Clay soils of volcanic origin;

(ii) Exposed soils that exhibit a microbiotic crust, which may inhibit invasion by other plant competitors; and

(iii) A mosaic of bare ground (>10%) patches in an area with less than 60 percent cover.

(3) Critical habitat does not include manmade 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) Data layers defining map units were created on base maps using the following aerial imagery: For eastern Ventura County, we used Air Photo USA, Inc., aerial imagery captured in October 2002; for westernmost Los Angeles county populations, we used Air Photo USA, Inc., aerial imagery captured in August 1999. Both were projected to Universal Transverse Mercator (UTM) zone 11, North American Datum (NAD) 1927.

(5) Index map for *Pentachaeta lyonii* (Map 1) follows:

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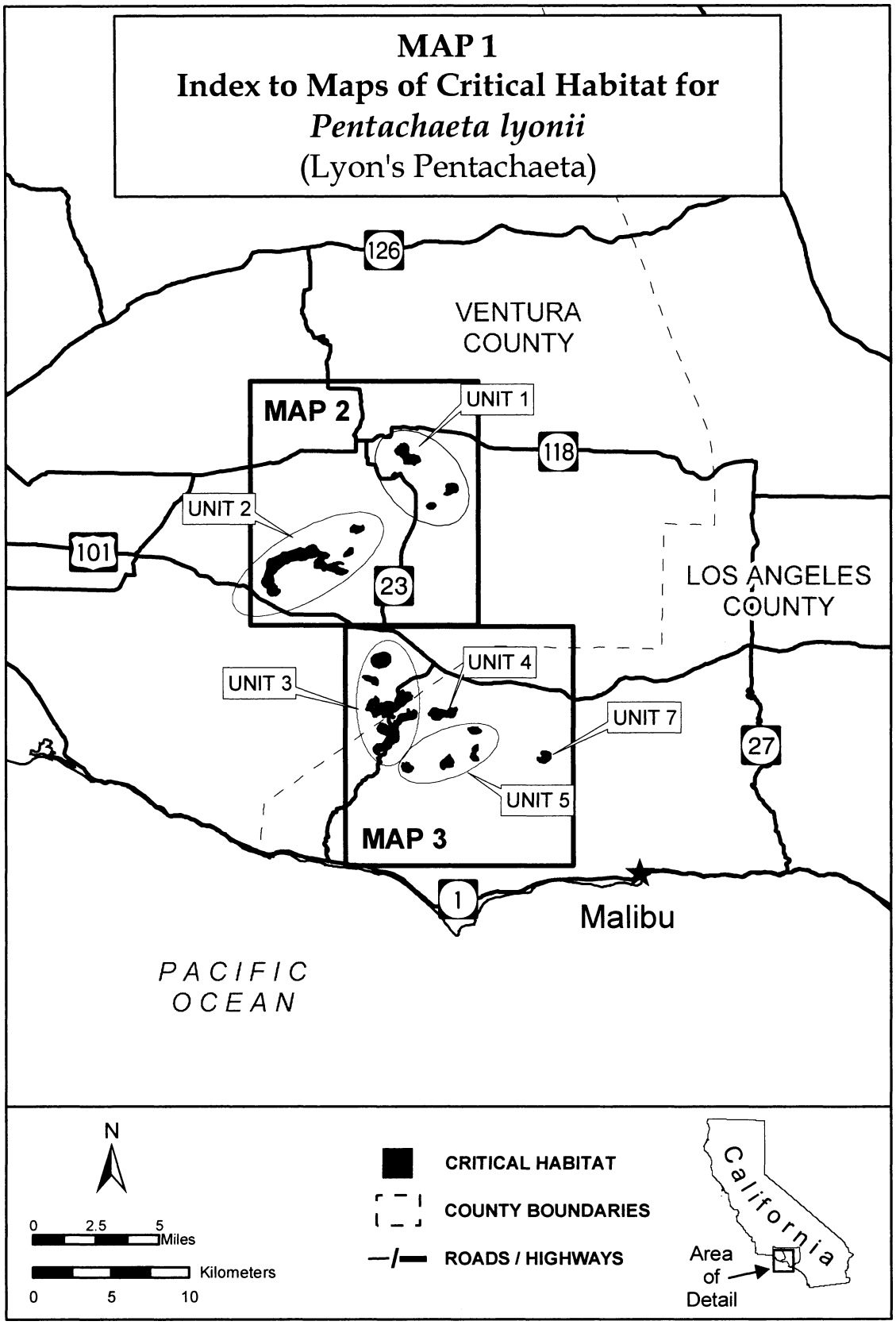


BILLING CODE 4310–55–C

(6) Unit 1 for *Pentachaeta lyonii:* Simi Valley Unit, Ventura County, California.

(i) Subunit 1a: From USGS 1:24,000 scale quadrangle Simi. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 329277, 3794756; 329285, 3794822; 329318, 3794831; 329332, 3794857; 329491, 3794890; 329464, 3795033; 329514, 3795052; 329552, 3795059; 329610, 3795117; 329654, 3795148; 329703, 3795171; 329756, 3795183; 329827, 3795184; 329893, 3795174; 329960, 3795146; 330015, 3795107; 330062, 3795053; 330093, 3794995; 330111, 3794926; 330113, 3794872; 330099, 3794802; 330070, 3794739; 330169, 3794478; 330260, 3794458; 330323, 3794428; 330386, 3794441; 330429, 3794445; 330501, 3794440; 330581, 3794421; 330703, 3794370; 330747, 3794338; 330772, 3794313; 330817, 3794247; 330849, 3794174; 330865, 3794090; 330651, 3793969; 330487, 3793935; 330497, 3793889; 330511, 3793869; 330501, 3793823; 330338, 3793940; 330301, 3793941; 329854, 3793954; 329852, 3794025; 329850, 3794079; 329805, 3794148; 329811, 3794213; 329768, 3794273; 329576, 3794445; 329558, 3794507; 329442, 3794481; 329388, 3794513; 329337, 3794563; 329301, 3794626; 329283, 3794687; returning to 329277, 3794756.

(ii) Subunit 1b: From USGS 1:24,000 scale quadrangle Simi. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 328955, 3793028; 329079, 3793108; 329065, 3793154; 329075, 3793194; 329151, 3793294; 329199, 3793334; 329213, 3793342; 329235, 3793310; 329338, 3793280; 329368, 3793229; 329386, 3793188; 329255, 3793079; 329165, 3793021; 329111, 3793000; 329057, 3792995; 328958, 3792998; returning to 328955, 3793028.

(iii) Subunit 1c; From USGS 1:24,000 scale quadrangle Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 331295, 3791187; 331295, 3791210; 331330, 3791275; 331362, 3791302; 331444, 3791341; 331497, 3791349; 331712, 3791342; 331763, 3791351; 331806, 3791304; 331842, 3791246; 331852, 3791219; 331641, 3791016; 331597, 3791023; 331461, 3791044; 331335, 3791130; returning to 331295, 3791187.

(iv) Subunit 1d; From USGS 1:24,000 scale quadrangle Simi. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 332406, 3791975; 332519, 3792037; 332583, 3792085; 332606, 3792133; 332606, 3792174; 332583, 3792177; 332569, 3792227; 332623, 3792286; 332635, 3792347; 332558, 3792379; 332554, 3792419; 332553, 3792470; 332570, 3792525; 332599, 3792563; 332653, 3792568; 332706, 3792563; 332748, 3792551; 332789, 3792575; 332853, 3792600; 332905, 3792612; 332941, 3792615; 333048, 3792601; 333098, 3792582; 333144, 3792554; 333183, 3792517; 333234, 3792451; 333261, 3792385; 333270, 3792331; 333265, 3792260; 333242, 3792181; 333216, 3792134; 333172, 3792083; 333091, 3792116; 333051, 3792116; 333025, 3792111; 332985, 3792088; 332921, 3792041; 332846, 3792013; 332827, 3792000; 332805, 3791981; 332800, 3791967; 332616, 3791898; 332577, 3791898; 332524, 3791910; 332452, 3791942; returning to 332406, 3791975.

(v) Note: Unit 1 for *Pentachaeta lyonii* is depicted on Map 2—see paragraph (a)(7)(iv) of this section.

(7) Unit 2 for *Pentachaeta lyonii:* Montclef Ridge Unit, Ventura County, California.

(i) *Subunit 2a;* From USGS 1:24,000 scale quadrangle Newbury Park. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 320757, 3786338; 320759, 3786395; 320768, 3786445; 320784, 3786492; 320806, 3786536; 320864, 3786609; 321086, 3787190; 321083, 3787252; 321091, 3787318; 321068, 3787390; 321061, 3787460; 321065, 3787514; 321081, 3787584; 321104, 3787635; 321132, 3787681; 321169, 3787720; 321217, 3787759; 321248, 3787777; 321299, 3787796; 321382, 3787807; 321935, 3788068; 321973, 3788114; 322015, 3788151; 322063, 3788181; 322115, 3788203; 322167, 3788216; 322218, 3788222; 322272, 3788219; 322321, 3788209; 322913, 3788371; 322947, 3788402; 322993, 3788431; 323043, 3788453; 323095, 3788465; 323160, 3788468; 323214, 3788459; 323280, 3788438; 323338, 3788405; 323380, 3788417; 323436, 3788426; 323518, 3788421; 323565, 3788467; 323629, 3788506; 323672, 3788542; 323725, 3788570; 323756, 3788601; 323800, 3788633; 323870, 3788663; 323940, 3788677; 324012, 3788673; 324069, 3788656; 324118, 3788634; 324162, 3788602; 324209, 3788548; 324245, 3788474; 324286, 3788420; 324308, 3788371; 324388, 3788292; 324434, 3788259; 324667, 3788223; 324708, 3788206; 324672, 3788145; 324747, 3788150; 324770, 3788180; 325020, 3788065; 324898, 3787879; 324839, 3787849; 324733, 3787850; 324577, 3787713; 324716, 3787572; 324832, 3787428; 324845, 3787362; 325048, 3787448; 325169, 3787468; 325297, 3787527; 325410, 3787537; 325521, 3787580; 325597, 3787587; 325717, 3787590; 325849, 3787553; 325894, 3787510; 325885, 3787482; 325790, 3787526; 325534, 3787512; 325442, 3787433; 325513, 3787354; 325683, 3787214; 325703, 3787231; 325819, 3787188; 325815, 3787138; 325887, 3787125; 325937, 3787145; 325982, 3787128; 326178, 3787035; 326145, 3786988; 326097, 3786938; 326053, 3786907; 326018, 3786889; 325956, 3786865; 325861, 3786842; 325732, 3786836; 325687, 3786838; 325572, 3786861; 325514, 3786882; 325468, 3786911; 325396, 3786978; 324815, 3787144; 324735, 3787089; 324647, 3787055; 324638, 3787071; 324526, 3787250; 324442, 3787263; 324152, 3787281; 324122, 3787369; 324111, 3787460; 324120, 3787553; 324149, 3787640; 324197, 3787721; 324259, 3787787; 324337, 3787840; 324424, 3787874; 324377, 3787917; 324346, 3787960; 324318, 3788027; 324304, 3788112; 324284, 3788124; 324264, 3788094; 324227, 3788055; 324156, 3788006; 324112, 3787983; 324020, 3787949; 323930, 3787931; 323803, 3787926; 323719, 3787933; 323678, 3787883; 323605, 3787826; 323533, 3787792; 323472, 3787779; 323428, 3787754; 323351, 3787724; 323298, 3787715; 323244, 3787717; 323166, 3787735; 323108, 3787763; 322524, 3787671; 322414, 3787565; 322318, 3787523; 322221, 3787562; 321715, 3787174; 321691, 3787100; 321654, 3787044; 321486, 3786890; 321401, 3786883; 321382, 3786733; 321407, 3786714; 321440, 3786486; 321455, 3786312; 321426, 3786200; 321452, 3786148; 321520, 3786182; 321595, 3786032; 321665, 3786035; 321698, 3785934; 321660, 3785903; 321679, 3785865; 321725, 3785853; 321880, 3785811; 321872, 3785762; 321860, 3785728; 321835, 3785681; 321813, 3785652; 321769, 3785609; 321717, 3785573; 321665, 3785520; 321608, 3785485; 321523, 3785626; 321467, 3785627; 321419, 3785719; 321373, 3785722; 321377, 3785628; 321385, 3785572; 321432, 3785450; 321370, 3785460; 321304, 3785487; 321274, 3785507; 321227, 3785549; 321185, 3785598; 321142, 3785681; 321125, 3785744; 321117, 3785816; 321127, 3785920; 321117, 3786000; 321070, 3786002; 321021, 3786011; 320974, 3786027; 320914, 3786059; 320862, 3786102; 320829, 3786140; 320793, 3786197; 320774, 3786244; 320762, 3786292; returning to 320757, 3786338.

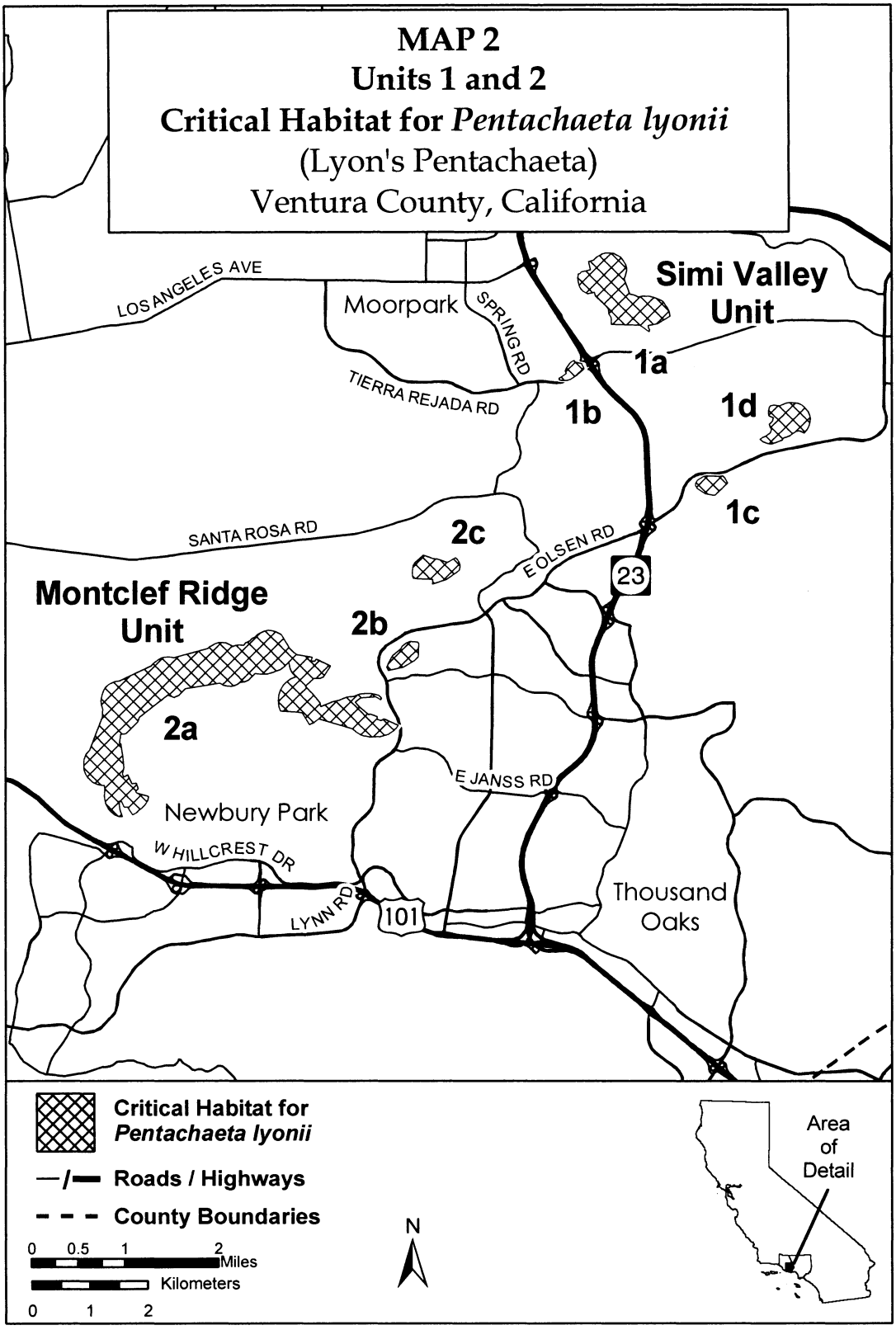
(ii) *Subunit 2b:* From USGS 1:24,000 scale quadrangle Newbury Park. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 325989, 3788043; 326019, 3788123; 326091, 3788240; 326227, 3788353; 326250, 3788403; 326324, 3788464; 326386, 3788484; 326514, 3788481; 326536, 3788451; 326532, 3788204; 326524,

3788204; 326477, 3788163; 326370, 3788097; 326277, 3788045; 326016, 3787984; returning to 325989, 3788043.

(iii) *Subunit 2c:* From USGS 1:24,000 scale quadrangles Newbury Park and Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 326429, 3789621; 326431, 3789704; 326432, 3789786; 326434, 3789791; 326465, 3789836; 326496, 3789863; 326625, 3789975; 326793, 3789915; 326860, 3789913; 327037, 3789851; 327170, 3789936; 327203, 3789898; 327221, 3789867; 327241, 3789818; 327251, 3789778; 327236, 3789712; 327019, 3789561; 326772, 3789480; 326771, 3789566; 326524, 3789567; 326447, 3789579; returning to 326429, 3789621.

(iv) Note: Unit 2 for *Pentachaeta lyonii* is depicted on Map 2, which follows:

BILLING CODE 4310–55–P



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(8) Unit 3 for *Pentachaeta lyonii*: Thousand Oaks Unit, Ventura and Los Angeles Counties, California.

(i) *Subunit 3a:* From USGS 1:24,000 scale quadrangle Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 327757, 3781188; 327763, 3781472; 327769, 3781489; 327794, 3781536; 327828, 3781578; 327855, 3781602; 327960, 3781663; 328124, 3781731; 328228, 3781763; 328344, 3781771; 328413, 3781781; 328587, 3781782; 328721, 3781760; 328755, 3781748; 328802, 3781723; 328856, 3781676; 328888, 3781632; 328926, 3781543; 328940, 3781472; 328940, 3781436; 328929, 3781344; 328909, 3781262; 328891, 3781214; 328810, 3781152; 328769, 3781055; 328742, 3781034; 328712, 3781014; 328629, 3780971; 328578, 3780955; 328421, 3780930; 328338, 3780900; 328240, 3780880; 328187, 3780882; 328048, 3780909; 327956, 3780939; 327896, 3780978; 327806, 3781078; 327781, 3781125 returning to 327757, 3781188.

(ii) *Subunit 3b:* From USGS 1:24,000 scale quadrangle Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 327196, 3780235; 327199, 3780252; 327212, 3780261; 327243, 3780279; 327299, 3780302; 327352, 3780314; 327424, 3780315; 327464, 3780310; 327537, 3780289; 327636, 3780240; 327681, 3780211; 327737, 3780220; 327827, 3780225; 327881, 3780220; 327915, 3780210; 327965, 3780188; 328020, 3780152; 328059, 3780115; 328081, 3780087; 328106, 3780039; 328122, 3779988; 328127, 3779934; 328120, 3779865; 328104, 3779813; 328079, 3779765; 328057, 3779739; 328002, 3779771; 327815, 3779812; 327801, 3779852; 327736, 3779926; 327751, 3779983; 327645, 3779966; 327555, 3779999; 327434, 3780068; 327338, 3780132; 327305, 3780172; returning to 327196, 3780235.

(iii) *Subunit 3c (western portion):* From USGS 1:24,000 scale quadrangle Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 327396, 3778203; 327408, 3778287; 327447, 3778379; 327461, 3778440; 327532, 3778533; 327578, 3778594; 327605, 3778648; 327610, 3778680; 327641, 3778709; 327649, 3778743; 327691, 3778780; 327753, 3778799; 327794, 3778817; 327872, 3778831; 327910, 3778850; 327928, 3778830; 327932, 3778806; 327926, 3778765; 327916, 3778737; 327892, 3778695; 327857, 3778658; 327846, 3778629; 327817, 3778591; 327826, 3778565; 327891, 3778516; 327883, 3778465; 327877, 3778451; 327865, 3778434; 327819, 3778410; 327788, 3778387; 327771, 3778373; 327755, 3778351; 327816, 3778259; 327877, 3778169; 327908, 3778135; 327964, 3778215; 327986, 3778235; 328041, 3778408; 328011, 3778500; 327980, 3778599; 327990, 3778640; 328023, 3778696; 328033, 3778731; 328022, 3778796; 328025, 3778837; 328007, 3778882; 327993, 3778920; 327980, 3779003; 328028, 3778975; 328102, 3778910; 328133, 3778866; 328160, 3778800; 328170, 3778729; 328160, 3778658; 328130, 3778583; 328112, 3778552; 328081, 3778514; 328065, 3778492; 328059, 3778465; 328072, 3778393; 328160, 3778487; 328171, 3778505; 328218, 3778530; 328305, 3778555; 328359, 3778557; 328418, 3778550; 328470, 3778535; 328513, 3778512; 328571, 3778584; 328613, 3778618; 328644, 3778636; 328677, 3778650; 328730, 3778662; 328847, 3778668; 328900, 3778659; 329018, 3778625; 329065, 3778600; 329105, 3778568; 329118, 3778549; 329022, 3778458; 329113, 3778394; 329152, 3778431; 329247, 3778487; 329263, 3778533; 329287, 3778569; 329306, 3778708; 329296, 3778761; 329301, 3778793; 329311, 3778820; 329383, 3778893; 329400, 3778943; 329408, 3779001; 329427, 3779030; 329444, 3779045; 329490, 3779073; 329526, 3779088; 329531, 3779148; 329546, 3779199; 329575, 3779253; 329605, 3779295; 329644, 3779331; 329739, 3779397; 329838, 3779285; 329839, 3779285; 329870, 3779235; 329901, 3779225; 329917, 3779225; 330001, 3779225; 330001, 3779244; 330186, 3779218; 330199, 3779172; 330196, 3779100; 330324, 3779030; 330304, 3778967; 330291, 3778864; 330186, 3778781; 330029, 3778696; 329967, 3778657; 329918, 3778611; 329796, 3778488; 329768, 3778464; 329722, 3778435; 329592, 3778380; 329510, 3778323; 329433, 3778215; 329217, 3778063; 329172, 3778065; 329073, 3777994; 329078, 3777947; 329065, 3777920; 329063, 3777872; 329085, 3777817; 329142, 3777731; 329190, 3777706; 329148, 3777617; 329126, 3777608; 329085, 3777627; 329047, 3777666; 329017, 3777707; 329007, 3777729; 328967, 3777758; 328963, 3777772; 328967, 3777811; 328945, 3777844; 328891, 3777860; 328853, 3777860; 328802, 3777844; 328740, 3777780; 328688, 3777740; 328513, 3777659; 328476, 3777715; 328447, 3777801; 328443, 3777873; 328457, 3777950; 328420, 3777928; 328370, 3777909; 328317, 3777900; 328277, 3777900; 328227, 3777861; 328189, 3777838; 328139, 3777819; 328094, 3777811; 328050, 3777753; 328013, 3777723; 327933, 3777739; 327916, 3777711; 327884, 3777723; 327844, 3777749; 327834, 3777887; 327789, 3777917; 327781, 3777953; 327780, 3777984; 327611, 3778114; 327401, 3778151; returning to 327396, 3778203.

(iv) *Subunit 3c (eastern portion):* From USGS 1:24,000 scale quadrangles Thousand Oaks and Point Dume. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 327881, 3775578; 327888, 3775677; 327911, 3775745; 327942, 3775796; 327976, 3775838; 328032, 3775884; 328099, 3775921; 328151, 3775937; 328235, 3775945; 328289, 3775939; 328350, 3775920; 328407, 3775947; 328456, 3775959; 328753, 3776379; 328780, 3776511; 328313, 3776697; 328244, 3776736; 328193, 3776788; 328169, 3776823; 328153, 3776859; 328141, 3776901; 328135, 3776940; 328142, 3777020; 328154, 3777061; 328172, 3777096; 328217, 3777156; 328278, 3777202; 328330, 3777225; 328397, 3777237; 328464, 3777234; 328522, 3777217; 328576, 3777187; 328628, 3777139; 329046, 3776893; 329096, 3777123; 329161, 3777223; 329179, 3777242; 329206, 3777246; 329244, 3777250; 329262, 3777272; 329235, 3777307; 329228, 3777342; 329223, 3777395; 329199, 3777423; 329195, 3777440; 329212, 3777453; 329238, 3777447; 329263, 3777440; 329287, 3777438; 329315, 3777432; 329339, 3777447; 329366, 3777477; 329380, 3777522; 329380, 3777550; 329434, 3777608; 329445, 3777701; 329445, 3777773; 329607, 3777846; 329988, 3777882; 330019, 3777911; 330048, 3777935; 330049, 3777994; 330035, 3778082; 330037, 3778129; 330054, 3778161; 330071, 3778180; 330092, 3778181; 330120, 3778146; 330166, 3778048; 330194, 3777983; 330321, 3777987; 330370, 3778025; 330388, 3778069; 330417, 3778116; 330461, 3778107; 330508, 3778102; 330547, 3778075; 330551, 3778059; 330536, 3777988; 330543, 3777968; 330554, 3777961; 330574, 3777959; 330619, 3777961; 330594, 3777814; 330563, 3777726; 330535, 3777680; 330511, 3777653; 330484, 3777629; 330438, 3777601; 330377, 3777578; 330324, 3777569; 330270, 3777571; 330201, 3777589; 329628, 3777445; 329620, 3777399; 329608, 3777365; 329592, 3777333; 329565, 3777294; 329524, 3777246; 329467, 3777199; 329437, 3777179; 329388, 3777157; 329398, 3776787; 329433, 3776728; 329452, 3776662; 329454, 3776584; 329435, 3776511; 329456, 3776439; 329462, 3776377; 329460, 3776334; 329451, 3776284; 329435, 3776237; 329403, 3776177; 329373, 3776138; 329337,

3776103; 329263, 3776055; 329193, 3776077; 329011, 3776090; 328911, 3776079; 328757, 3776035; 328685, 3775801; 328675, 3775764; 328677, 3775688; 328681, 3775635; 328688, 3775608; 328661, 3775594; 328617, 3775599; 328202, 3775501; 328159, 3775259; 328129, 3775265; 328050, 3775303; 327982, 3775354; 327939, 3775411; 327895, 3775508; returning to 327881, 3775578.

(v) Note: Unit 3 for *Pentachaeta lyonii* is depicted on Map 3—see paragraph (a)(12)(ii) of this section.

(9) Unit 4 for Pentachaeta lyonii: Triunfo Canyon Unit, Los Angeles County, California.

(i) *Unit 4:* From USGS 1:24,000 scale quadrangles Thousand Oaks and Point Dume. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 331377, 3777912; 331406, 3777957; 331557, 3778148; 331611, 3778195; 331665, 3778224; 331749, 3778248; 331803, 3778250; 331847, 3778243; 331869, 3778239; 331996, 3778182; 332097, 3778144; 332192, 3778116; 332404, 3778078; 332519, 3778051; 332592, 3778045; 332671, 3778027; 332717, 3778041; 332732, 3778075; 332724, 3778098; 332686, 3778135; 332671, 3778195; 332794, 3778230; 332809, 3778107; 332859, 3778111; 332861, 3778240; 332899, 3778243; 332935, 3778196; 333040, 3778224; 333177, 3778261; 333181, 3778243; 333186, 3778172; 333173, 3778096; 333135, 3778008; 333100, 3777961; 333095, 3777904; 333072, 3777836; 333044, 3777790; 333007, 3777751; 332963, 3777720; 332931, 3777704; 332845, 3777680; 332774, 3777680; 332704, 3777699; 332629, 3777743; 332583, 3777732; 332513, 3777729; 332460, 3777738; 332408, 3777758; 332311, 3777716; 332257, 3777704; 332211, 3777644; 332136, 3777584; 332062, 3777545; 332010, 3777529; 331956, 3777524; 331921, 3777526; 331885, 3777533; 331836, 3777552; 331796, 3777526; 331646, 3777565; 331598, 3777666; 331538, 3777747; 331494, 3777785; 331398, 3777791; 331398, 3777855; returning to 331377, 3777912.

(ii) Note: Unit 4 for *Pentachaeta lyonii* is depicted on Map 3—see paragraph (a)(12)(ii) of this section.

(10) Unit 5 for Pentachaeta lyonii: Mulholland Drive Unit, Los Angeles County, California.

(i) *Subunit 5a:* From USGS 1:24,000 scale quadrangle Point Dume. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 329661, 3774511; 329686, 3774511; 329694, 3774579; 329707, 3774627; 329733, 3774681; 329759, 3774721; 329840, 3774646; 329898, 3774637; 329982, 3774727; 330035, 3774723; 330098, 3774711; 330117, 3774666; 330130, 3774615; 330149, 3774542; 330263, 3774514; 330333, 3774476; 330389, 3774437; 330369, 3774370; 330346, 3774325; 330306, 3774270; 330270, 3774236; 330215, 3774197; 330165, 3774174; 330104, 3774158; 330044, 3774152; 330001, 3774154; 329952, 3774163; 329904, 3774179; 329844, 3774211; 329792, 3774254; 329759, 3774292; 329723, 3774349; 329704, 3774395; 329689, 3774462; returning to 329686, 3774511.

(ii) *Subunit 5b:* From USGS 1:24,000 scale quadrangle Point Dume. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 332156, 3774563; 332160, 3774661; 332179, 3774731; 332214, 3774793; 332339, 3774915; 332457, 3774998; 332632, 3775179; 332675, 3775210; 332724, 3775233; 332741, 3775237; 332789, 3775072; 332829, 3775010; 332930, 3774876; 332955, 3774819; 332955, 3774772; 332911, 3774777; 332907, 3774668; 332913, 3774512; 332757, 3774458; 332433, 3774465; 332364, 3774314; 332308, 3774334; 332249, 3774374; 332201, 3774428; 332170, 3774492; returning to 332156, 3774563.

(iii) *Subunit 5c:* From USGS 1:24,000 scale quadrangle Point Dume. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 334109, 3775136; 334111, 3775191; 334129, 3775261; 334166, 3775325; 334191, 3775353; 334227, 3775384; 334293, 3775418; 334255, 3775484; 334239, 3775536; 334234, 3775572; 334235, 3775615; 334243, 3775663; 334260, 3775708; 334280, 3775745; 334329, 3775800; 334389, 3775840; 334458, 3775864; 334535, 3775868; 334529, 3775752; 334504, 3775732; 334507, 3775641; 334513, 3775577; 334512, 3775562; 334452, 3775507; 334383, 3775373; 334360, 3775305; 334385, 3775186; 334429, 3775162; 334491, 3775098; 334533, 3775067; 334559, 3774932; 334512, 3774904; 334460, 3774884; 334406, 3774875; 334334, 3774880; 334281, 3774896; 334227, 3774925; 334178, 3774970; 334146, 3775014; 334118, 3775082; returning to 334109, 3775136.

(iv) *Subunit 5d:* From USGS 1:24,000 scale quadrangle Point Dume. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 333938, 3776910; 333946, 3776963; 333984, 3776973; 334040, 3776976; 334158, 3777014; 334515, 3777025; 334545, 3776941; 334561, 3776863; 334655, 3776845; 334747, 3776778; 334693, 3776730; 334628, 3776698; 334447, 3776638; 334394, 3776629; 334196, 3776640; 334145, 3776656; 334082, 3776692; 334031, 3776743; 333997, 3776802; 333973, 3776871; returning to 333938, 3776910.

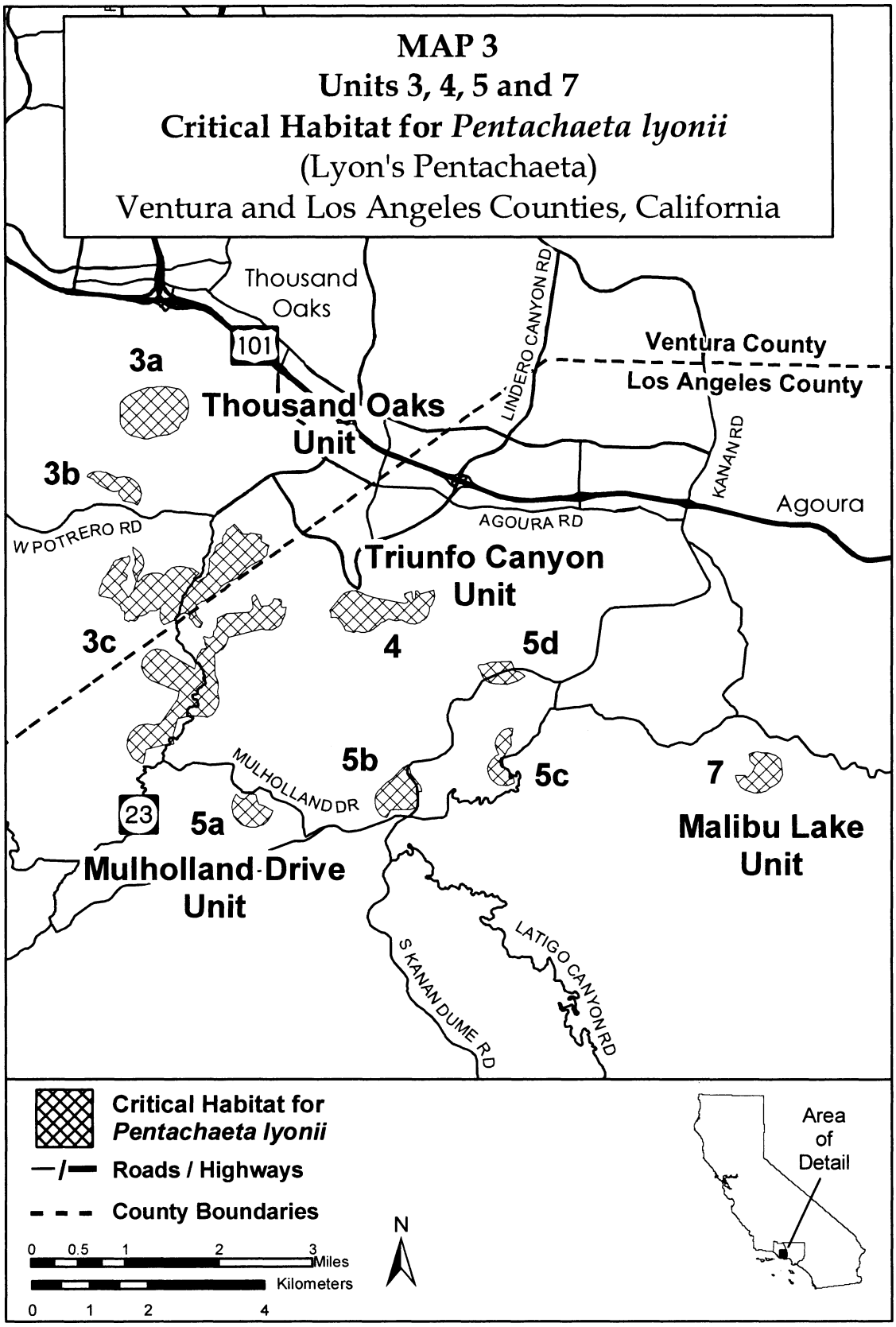
(v) Note: Unit 5 for *Pentachaeta lyonii* is depicted on Map 3—see paragraph (a)(12)(ii) of this section.

(11) Unit 7 for *Pentachaeta lyonii:* Malibu Lake Unit, Los Angeles County, California.

(i) *Unit 7:* From USGS 1:24,000 scale quadrangles Point Dume and Malibu Beach. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 338380, 3775057; 338535, 3775051; 338571, 3775034; 338597, 3775025; 338662, 3775115; 338692, 3775172; 338711, 3775200; 338713, 3775218; 338701, 3775240; 338626, 3775315; 338619, 3775330; 338616, 3775391; 338606, 3775424; 338663, 3775446; 338720, 3775457; 338774, 3775459; 338827, 3775450; 338841, 3775446; 338893, 3775451; 338929, 3775449; 339016, 3775428; 339080, 3775397; 339134, 3775349; 339155, 3775323; 339164, 3775290; 339178, 3775202; 339185, 3775064; 339166, 3775015; 339138, 3774969; 339092, 3774917; 339036, 3774874; 338990, 3774847; 338942, 3774829; 338892, 3774791; 338831, 3774764; 338760, 3774750; 338689, 3774755; 338590, 3774784; 338541, 3774804; 338510, 3774822; 338469, 3774856; 338434, 3774898; 338401, 3774959; 338386, 3775011; returning to 338380, 3775057.

(ii) Note: Unit 7 for *Pentachaeta lyonii* is depicted on Map 3, which follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

* * * * *

Family Fabaceae: *Astragalus brauntonii* (Braunton's milk-vetch).

(1) Critical habitat units are depicted for Ventura, Los Angeles, and Orange Counties, California, on the maps below.

(2) The primary constituent elements of critical habitat for *Astragalus brauntonii* are the habitat components that provide:

(i) Calcium carbonate soils derived from marine sediment;

(ii) Low proportion (less than 10 percent) of shrub cover directly around the plant; and

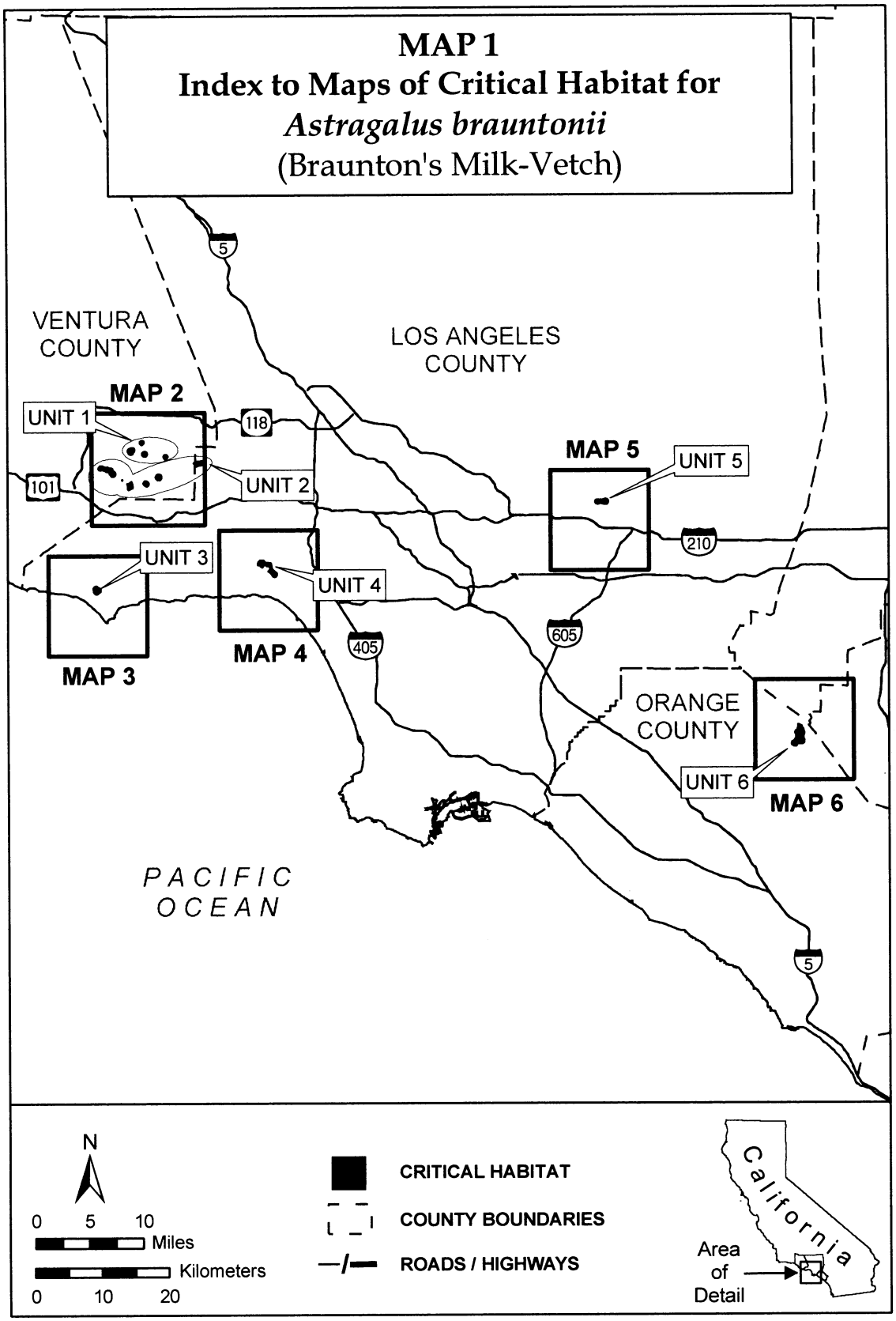
(iii) Chaparral and coastal sage scrub communities characterized by periodic disturbances that stimulate seed germination (e.g., fire, flooding, erosion) and reduce vegetative cover,

(3) Critical habitat does not include manmade 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) Critical habitat units are described below. Data layers defining map units were created on base maps using the following aerial imagery: For eastern Ventura County, we used AirPhotoUSA, Inc., aerial imagery captured in October 2002; for western-most Los Angeles county populations, we used AirPhotoUSA, Inc., aerial imagery captured in August 1999; for populations near the City of Monrovia, in Los Angeles County, and for the population in Orange County, we used USGS Digital Orthophoto Quarter Quadrangles captured in the mid-1990's. All were projected to UTM zone 11, NAD27.

(5) Note: Index map for *Astragalus brauntonii* (Map 1) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(6) Unit 1 for *Astragalus brauntonii*, Northern Simi Hills Unit, Ventura County, California.

(i) *Subunit 1a:* From USGS 1:24,000 scale quadrangle Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 336376, 3789405; 336383, 3789477; 336415, 3789572; 336456, 3789634; 336519, 3789691; 336595, 3789729; 336688, 3789746; 336768, 3789741; 336813, 3789801; 336869, 3789850; 336949, 3789890; 337019, 3789906; 337075, 3789908; 337121, 3789902; 337174, 3789890; 337209, 3789876; 337252, 3789851; 337295, 3789816; 337320, 3789788; 337348, 3789743; 337375, 3789676; 337387, 3789605; 337385, 3789549; 337369, 3789478; 337339, 3789411; 337294, 3789352; 337220, 3789297; 337154, 3789268; 337167, 3789198; 337160, 3789100; 337136, 3789029; 337106, 3788977; 337083, 3788948; 337037, 3788905; 336990, 3788875; 336937, 3788856; 336874, 3788845; 336795, 3788849; 336741, 3788861; 336674, 3788890; 336628, 3788922; 336581, 3788973; 336551, 3789021; 336532, 3789073; 336521, 3789138; 336484, 3789165; 336437, 3789215; 336408, 3789263; 336388, 3789315; returning to 336376, 3789405.

(ii) *Subunit 1b:* From USGS 1:24,000 scale quadrangles Thousand Oaks and Calabasas. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 338171, 3790635; 338173, 3790693; 338187, 3790754; 338211, 3790807; 338247, 3790857; 338290, 3790898; 338343, 3790930; 338398, 3790951; 338459, 3790961; 338518, 3790959; 338575, 3790945; 338631, 3790920; 338679, 3790886; 338721, 3790841; 338752, 3790791; 338774, 3790733; 338783, 3790675; 338782, 3790616; 338768, 3790556; 338743, 3790502; 338708, 3790452; 338665, 3790412; 338612, 3790379; 338557, 3790358; 338496, 3790349; 338437, 3790351; 338380, 3790364; 338324, 3790389; 338276, 3790424; 338233, 3790469; 338202, 3790519; 338181, 3790576; returning to 338171, 3790635.

(iii) *Subunit 1c:* From USGS 1:24,000 scale quadrangles Thousand Oaks and Calabasas. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 338516, 3788952; 338527, 3789021; 338550, 3789087; 338594, 3789158; 338643, 3789208; 338700, 3789248; 338764, 3789277; 338832, 3789293; 338931, 3789297; 339000, 3789287; 339065, 3789263; 339137, 3789219; 339187, 3789171; 339227, 3789114; 339256, 3789050; 339272, 3788982; 339274, 3788912; 339263, 3788843; 339240, 3788777; 339196, 3788706; 339147, 3788656; 339090, 3788616; 339026, 3788587; 338959, 3788571; 338883, 3788566; 338808, 3788573; 338742, 3788594; 338680, 3788626; 338619, 3788676; 338591, 3788708; 338563, 3788751; 338534, 3788814; 338519, 3788882; returning to 338516, 3788952.

(iv) *Subunit 1d:* From USGS 1:24,000 scale quadrangle Calabasas. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 341703, 3788492; 341705, 3788551; 341719, 3788610; 341743, 3788663; 341777, 3788710; 341819, 3788750; 341869, 3788781; 341925, 3788802; 341983, 3788812; 342041, 3788810; 342098, 3788797; 342151, 3788773; 342201, 3788737; 342240, 3788695; 342271, 3788645; 342292, 3788591; 342302, 3788531; 342300, 3788473; 342286, 3788416; 342262, 3788363; 342226, 3788312; 342184, 3788274; 342135, 3788243; 342080, 3788223; 342013, 3788212; 341962, 3788215; 341905, 3788228; 341852, 3788252; 341805, 3788286; 341765, 3788329; 341733, 3788380; 341712, 3788435; returning to 341703, 3788492.

(v) Note: Unit 1 for *Astragalus brauntonii* is depicted on Map 2—see paragraph (a)(7)(vii) of this section.

(7) Unit 2 for *Astragalus brauntonii*, Southern Simi Hills Unit, Ventura County and Los Angeles County, California.

(i) *Subunit 2a:* From USGS 1:24,000 scale quadrangle Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 331967, 3786775; 332010, 3786796; 332036, 3786818; 332059, 3786815; 332143, 3786838; 332153, 3786872; 332032, 3786908; 332054, 3786949; 332107, 3787022; 332203, 3787105; 332274, 3787160; 332410, 3787127; 332550, 3787113; 332640, 3787122; 332652, 3787061; 333232, 3786946; 333316, 3786954; 333372, 3786949; 333423, 3786936; 333470, 3786916; 333531, 3786876; 333609, 3786872; 333661, 3786859; 333701, 3786843; 333773, 3786857; 333842, 3786856; 333914, 3786837; 333976, 3786804; 334019, 3786769; 334050, 3786734; 334079, 3786687; 334093, 3786652; 334106, 3786602; 334110, 3786554; 334104, 3786498; 334093, 3786456; 334138, 3786438; 334206, 3786397; 334285, 3786328; 334431, 3786159; 334452, 3786128; 334484, 3786061; 334504, 3785989; 334509, 3785940; 334508, 3785877; 334487, 3785777; 334454, 3785711; 334418, 3785666; 334377, 3785628; 334330, 3785598; 334277, 3785578; 334203, 3785566; 334148, 3785564; 334092, 3785573; 334017, 3785596; 333953, 3785634; 333914, 3785669; 333797, 3785891; 333752, 3785877; 333747, 3785883; 333691, 3786002; 333674, 3786074; 333668, 3786139; 333626, 3786150; 333575, 3786173; 333495, 3786232; 333453, 3786253; 333371, 3786305; 333326, 3786302; 333270, 3786305; 333210, 3786317; 333158, 3786337; 333126, 3786356; 333082, 3786391; 333024, 3786464; 332440, 3786601; 332403, 3786580; 332351, 3786561; 332296, 3786552; 332259, 3786552; 332186, 3786566; 332089, 3786613; 332046, 3786649; 332022, 3786677; 331988, 3786728; returning to 331967, 3786775.

(ii) *Subunit 2b:* From USGS 1:24,000 scale quadrangle Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 335530, 3784984; 335546, 3785093; 335565, 3785110; 335590, 3785102; 335569, 3784979; 335559, 3784977; 335546, 3784977; returning to 335530, 3784984.

(iii) *Subunit 2c:* From USGS 1:24,000 scale quadrangle Thousand Oaks. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 336280, 3784509; 336387, 3784488; 336664, 3784616; 336909, 3784789; 336942, 3784722; 336957, 3784641; 336984, 3784596; 336999, 3784562; 337017, 3784484; 337019, 3784432; 337084, 3784382; 337100, 3784363; 337093, 3784348; 337094, 3784270; 337026, 3784217; 337038, 3784151; 337045, 3784086; 337153, 3784041; 337115, 3784014; 337064, 3783816; 337012, 3783819; 336983, 3783806; 336973, 3783806; 336958, 3783843; 336954, 3783873; 336871, 3784003; 336869, 3784037; 336879, 3784082; 336883, 3784153; 336859, 3784238; 336838, 3784256; 336820, 3784262; 336755, 3784266; 336676, 3784283; 336658, 3784311; 336640, 3784317; 336613, 3784299; 336603, 3784281; 336603, 3784268; 336629, 3784222; 336640, 3784120; 336755, 3784049; 336844, 3783987; 336848, 3783952; 336883, 3783901; 336903, 3783853; 336873, 3783853; 336849, 3783833; 336856, 3783796; 336847, 3783768; 336850, 3783748; 336832, 3783715; 336793, 3783703; 336741, 3783721; 336686, 3783722; 336628, 3783708; 336647, 3783616; 336513, 3783551; 336338, 3783761; 336349, 3783854; 336373, 3783924; 336406, 3783980; 336412, 3784049; 336431, 3784110; 336393, 3784146; 336371, 3784176; 336344, 3784225; 336332, 3784261; 336320, 3784331; 336294, 3784396; 336281, 3784468; returning to 336280, 3784509.

(iv) *Subunit 2d:* From USGS 1:24,000 scale quadrangle Calabasas. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 338707, 3784551; 338713, 3784618; 338729, 3784672; 338760, 3784729; 338796, 3784772; 338850, 3784817; 338900, 3784844; 338968, 3784864; 339024,

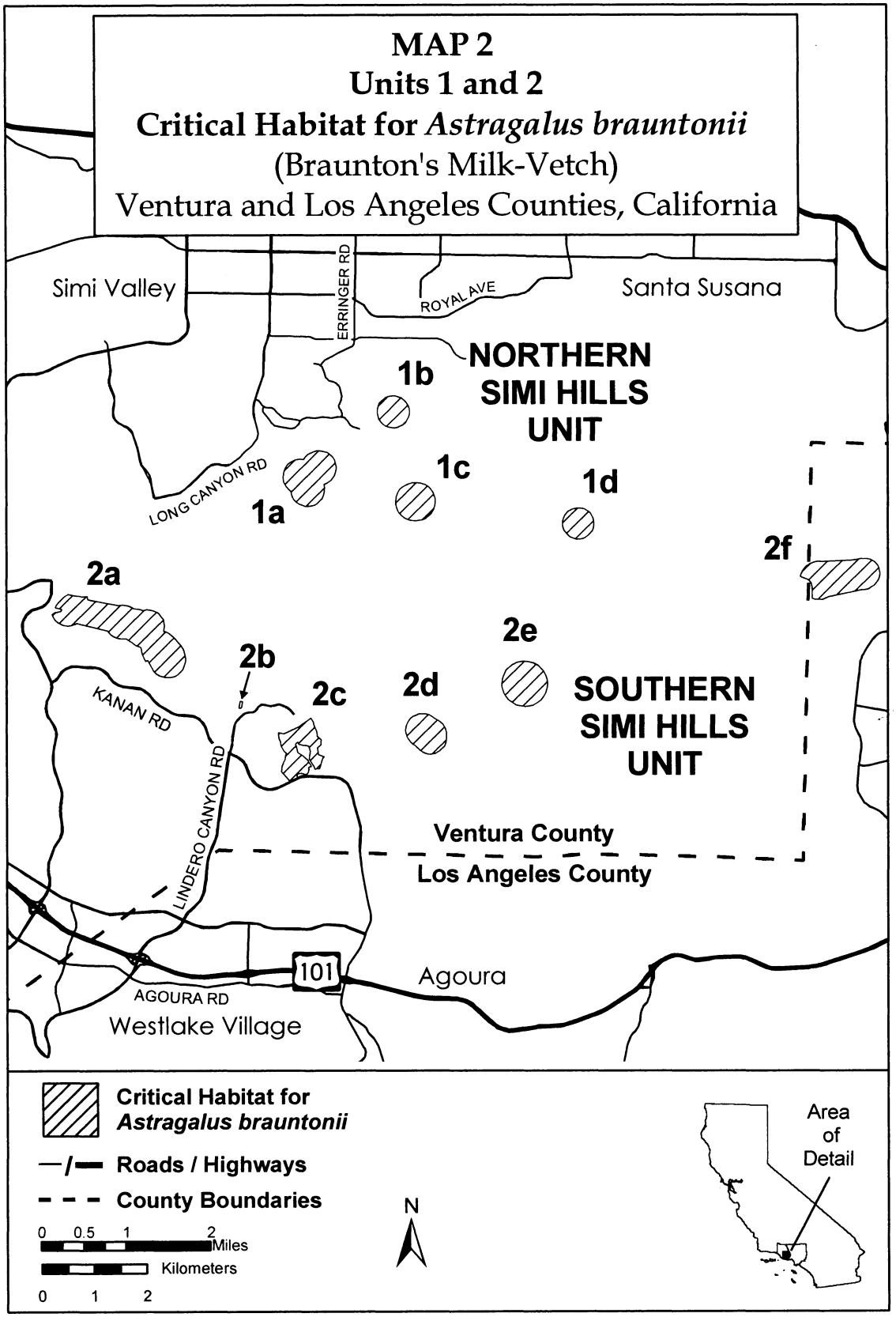
3784870; 339079, 3784864; 339147, 3784845; 339196, 3784818; 339259, 3784771; 339311, 3784751; 339359, 3784721; 339422, 3784659; 339459, 3784595; 339482, 3784509; 339485, 3784401; 339473, 3784323; 339444, 3784254; 339403, 3784198; 339347, 3784149; 339281, 3784116; 339193, 3784098; 339137, 3784099; 339071, 3784115; 339020, 3784138; 338981, 3784163; 338941, 3784201; 338911, 3784242; 338843, 3784285; 338802, 3784323; 338755, 3784387; 338729, 3784442; 338712, 3784496; returning to 338707, 3784551.

(v) *Subunit 2e:* From USGS 1:24,000 scale quadrangle Calabasas. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 340541, 3785437; 340548, 3785524; 340571, 3785601; 340615, 3785684; 340666, 3785746; 340738, 3785805; 340810, 3785843; 340887, 3785867; 340964, 3785875; 341051, 3785869; 341133, 3785846; 341214, 3785804; 341274, 3785757; 341337, 3785683; 341376, 3785611; 341403, 3785522; 341410, 3785442; 341403, 3785361; 341376, 3785272; 341338, 3785201; 341288, 3785138; 341216, 3785078; 341145, 3785040; 341069, 3785016; 340985, 3785006; 340894, 3785013; 340820, 3785035; 340734, 3785079; 340671, 3785130; 340612, 3785202; 340574, 3785273; 340550, 3785351; returning to 340541, 3785437.

(vi) *Subunit 2f:* From USGS 1:24,000 scale quadrangle Calabasas. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 346217, 3787493; 346231, 3787542; 346250, 3787586; 346281, 3787636; 346314, 3787675; 346353, 3787709; 346396, 3787737; 346477, 3787770; 346546, 3787782; 346630, 3787779; 347234, 3787813; 347300, 3787832; 347365, 3787835; 347416, 3787843; 347492, 3787839; 347529, 3787829; 347580, 3787805; 347626, 3787772; 347653, 3787745; 347687, 3787699; 347710, 3787647; 347720, 3787610; 347725, 3787554; 347720, 3787497; 347710, 3787460; 347687, 3787409; 347665, 3787377; 347622, 3787330; 347584, 3787298; 347541, 3787273; 347493, 3787256; 347443, 3787247; 347394, 3787247; 346752, 3787100; 346688, 3787072; 346639, 3787060; 346569, 3787054; 346500, 3787061; 346445, 3787077; 346445, 3787293; 346426, 3787376; 346382, 3787428 returning to 346217, 3787493.

(vii) Note: Unit 2 for *Astragalus brauntonii* is depicted on Map 2, which follows:

BILLING CODE 4310–55–P

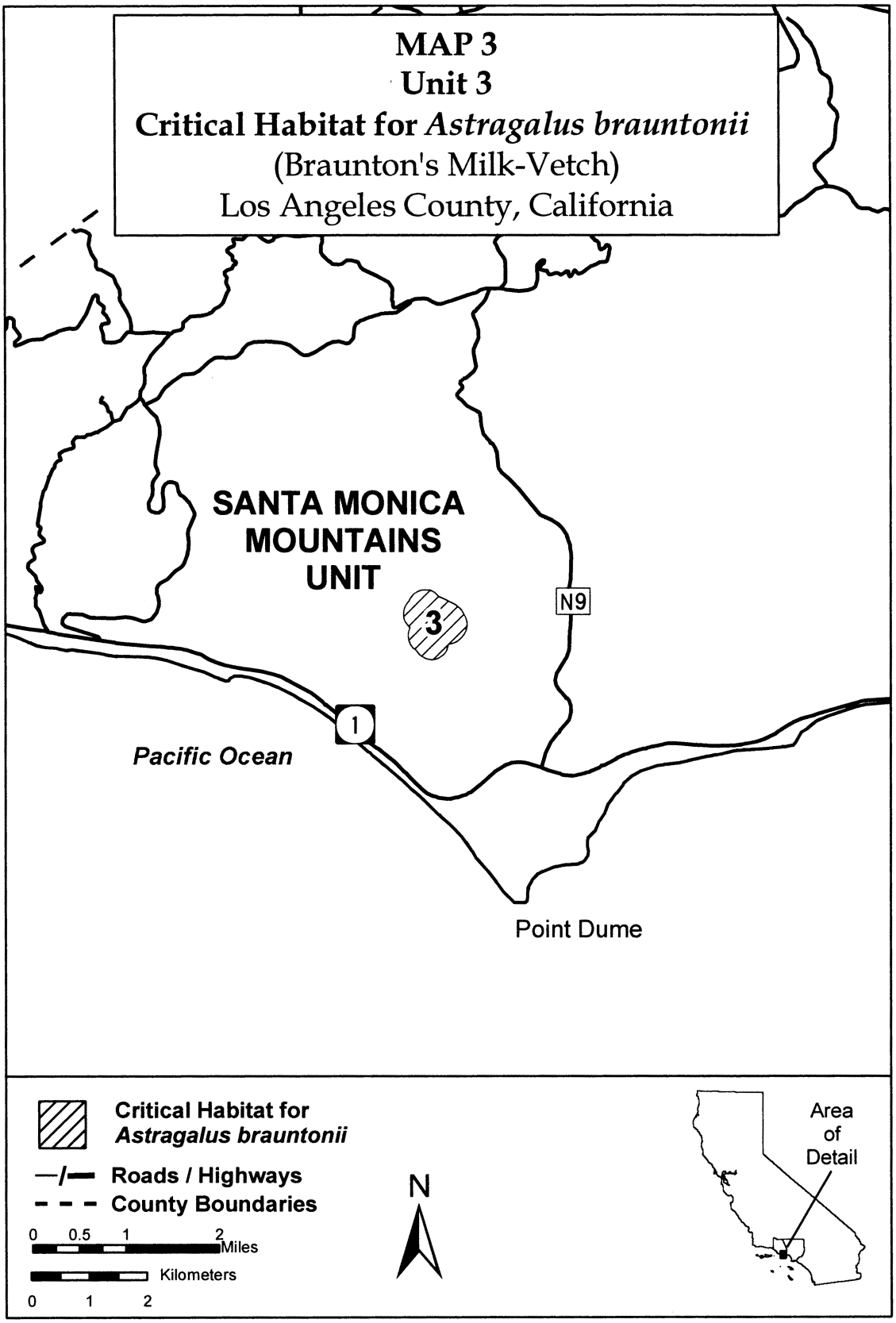


BILLING CODE 4310–55–C

(8) Unit 3 for *Astragalus brauntonii,* Santa Monica Mountains Unit, Los Angeles County, California.

(i) *Unit 3:* From USGS 1:24,000 scale quadrangle Point Dume. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 331185, 3768655; 331185, 3768730; 331205, 3768803; 331237, 3768861; 331285, 3768913; 331301, 3768954; 331331, 3769002; 331370, 3769043; 331416, 3769076; 331468, 3769100; 331523, 3769112; 331599, 3769112; 331636, 3769105; 331683, 3769088; 331738, 3769055; 331794, 3768997; 331912, 3768949; 332085, 3768851; 332146, 3768802; 332187, 3768757; 332226, 3768705; 332257, 3768644; 332280, 3768561; 332280, 3768490; 332263, 3768398; 332240, 3768347; 332189, 3768277; 332133, 3768228; 332072, 3768195; 332020, 3768176; 331959, 3768166; 331946, 3768100; 331922, 3768046; 331888, 3768000; 331838, 3767954; 331799, 3767931; 331759, 3767915; 331719, 3767905; 331677, 3767901; 331633, 3767903; 331591, 3767912; 331542, 3767931; 331504, 3767954; 331452, 3768000; 331411, 3768061; 331353, 3768103; 331309, 3768156; 331274, 3768232; 331263, 3768305; 331265, 3768351; 331272, 3768389; 331301, 3768458; 331255, 3768501; 331221, 3768547; 331198, 3768599; returning to 331185, 3768655.

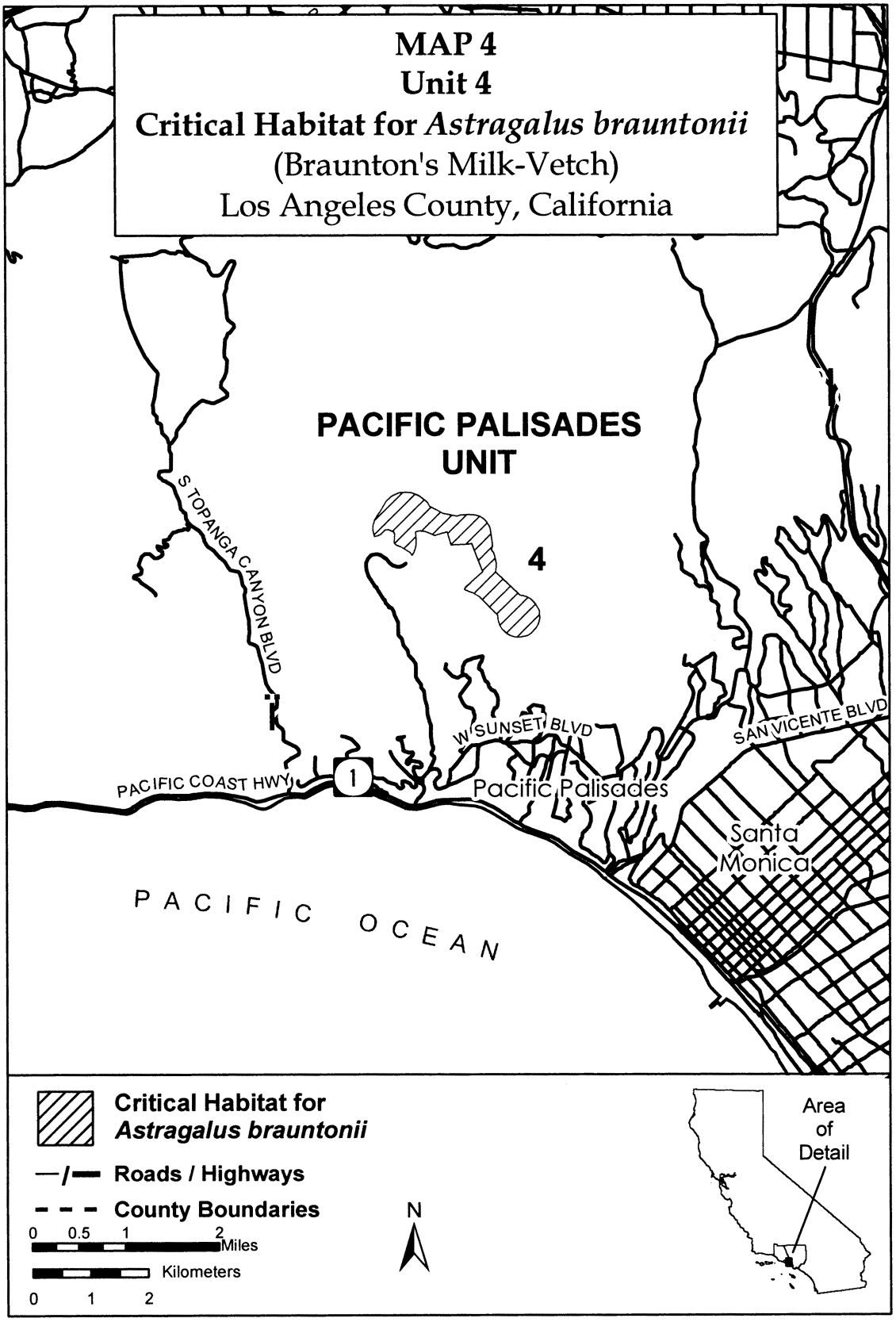
(ii) Note: Unit 3 (Map 3 for *Astragalus brauntonii*) follows:


MAP 3
Unit 3
Critical Habitat for *Astragalus brauntonii*
(Braunton's Milk-Vetch)
Los Angeles County, California
SANTA MONICA MOUNTAINS UNIT
3
N9
1
Pacific Ocean
Point Dume
Critical Habitat for *Astragalus brauntonii*
Roads / Highways
County Boundaries
0 0.5 1 2 Miles
0 1 2 Kilometers
N
Area of Detail

(9) Unit 4 for *Astragalus brauntonii:* Pacific Palisades Unit, Los Angeles County, California.

(i) *Unit 4:* From USGS 1:24,000 scale quadrangle Topanga. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 355707, 3772295; 355707, 3772369; 355733, 3772467; 355774, 3772545; 355824, 3772609; 355871, 3772707; 355937, 3772804; 356000, 3772868; 356030, 3772891; 356142, 3772948; 356215, 3772962; 356318, 3772958; 356373, 3772949; 356454, 3772921; 356508, 3772891; 356613, 3772818; 356651, 3772777; 356687, 3772716; 356782, 3772664; 356801, 3772649; 356910, 3772595; 357152, 3772547; 357212, 3772558; 357361, 3772565; 357479, 3772557; 357532, 3772541; 357596, 3772508; 357639, 3772473; 357679, 3772428; 357708, 3772381; 357732, 3772311; 357764, 3772063; 357762, 3772007; 357751, 3771955; 357779, 3771909; 357800, 3771861; 357828, 3771720; 357831, 3771654; 357816, 3771572; 358249, 3771162; 358310, 3771152; 358358, 3771135; 358420, 3771102; 358460, 3771071; 358519, 3771005; 358559, 3770927; 358573, 3770879; 358581, 3770827; 358582, 3770775; 358571, 3770706; 358554, 3770658; 358521, 3770596; 358477, 3770542; 358439, 3770508; 358379, 3770472; 358332, 3770452; 358282, 3770440; 358235, 3770434; 358176, 3770436; 358125, 3770446; 358077, 3770462; 358015, 3770495; 357975, 3770526; 357939, 3770563; 357891, 3770637; 357862, 3770718; 357854, 3770771; 357853, 3770817; 357544, 3771137; 357417, 3771216; 357337, 3771239; 357284, 3771268; 357300, 3771301; 357591, 3771565; 357405, 3772067; 357349, 3772049; 357156, 3772046; 357117, 3772046; 357055, 3772037; 356986, 3772275; 356772, 3772203; 356631, 3772270; 356516, 3772291; 356445, 3772271; 356455, 3772138; 356450, 3772044; 356441, 3771989; 356407, 3771903; 356383, 3771858; 356345, 3771904; 356275, 3771953; 356181, 3772007; 356092, 3772042; 356068, 3772088; 356078, 3772228; 356061, 3772271; 355979, 3772303; 355961, 3772306; 355929, 3772303; 355911, 3772295; 355883, 3772262; 355849, 3772233; 355792, 3772204; 355735, 3772187; 355723, 3772218; returning to 355707, 3772295.

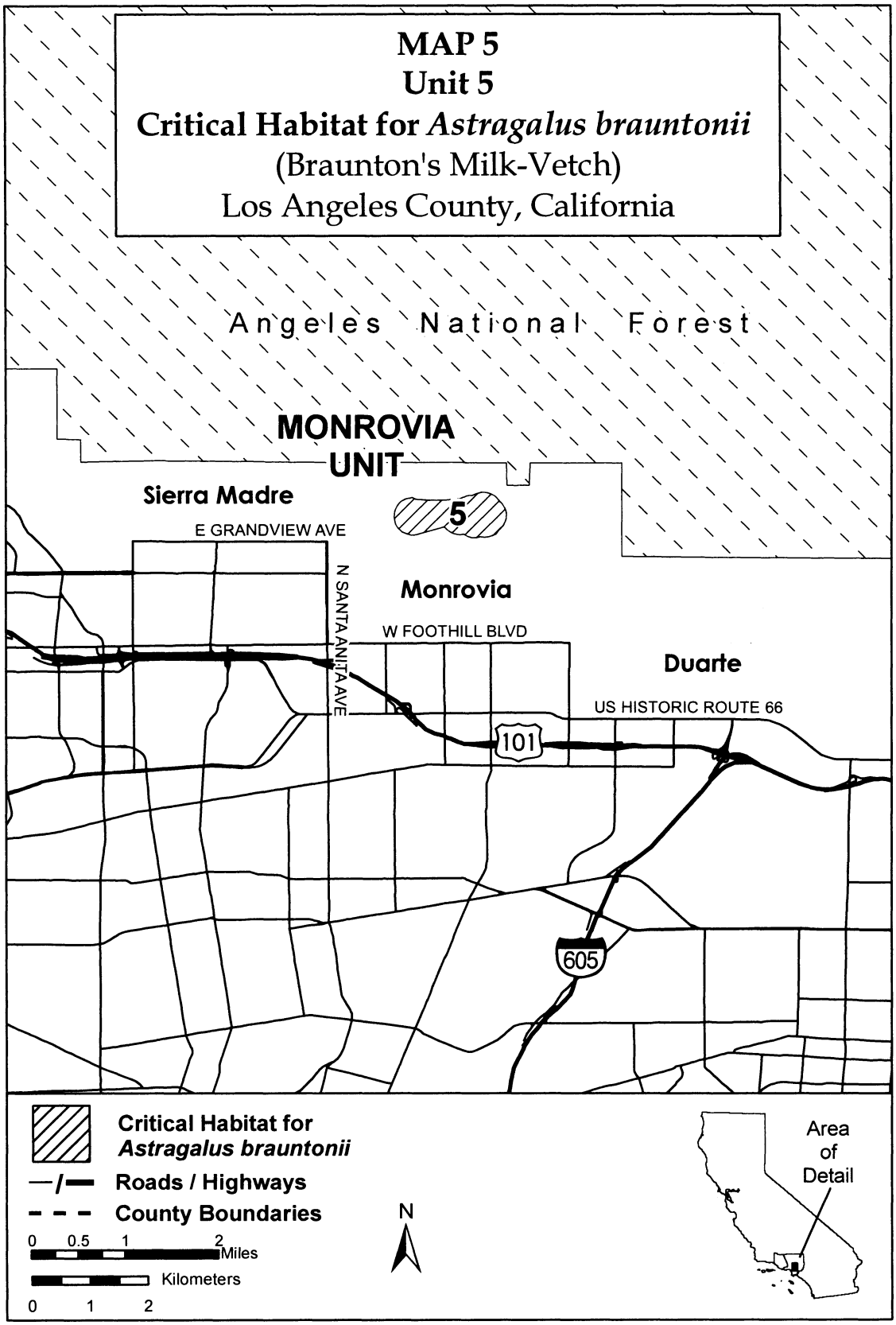
(ii) Note: Unit 4 (Map 4 for *Astragalus brauntonii*) follows:


MAP 4
Unit 4
Critical Habitat for *Astragalus brauntonii*
(Braunton's Milk-Vetch)
Los Angeles County, California
PACIFIC PALISADES UNIT
4
S TOPANGA CANYON BLVD
W SUNSET BLVD
SAN VICENTE BLVD
PACIFIC COAST HWY
1
Pacific Palisades
Santa Monica
PACIFIC OCEAN
Critical Habitat for *Astragalus brauntonii*
Roads / Highways
County Boundaries
0 0.5 1 2 Miles
Kilometers
0 1 2
N
Area of Detail

(10) Unit 5 for *Astragalus brauntonii:* Monrovia Unit, Los Angeles County, California.

(i) *Unit 5:* From USGS 1:24,000 scale quadrangle Azusa and Mount Wilson. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 405974, 3781576; 405979, 3781650; 405995, 3781703; 406022, 3781753; 406076, 3781819; 406120, 3781855; 406169, 3781881; 406204, 3781893; 406262, 3781902; 406287, 3781909; 406341, 3781880; 406556, 3781863; 406865, 3781863; 407128, 3781894; 407227, 3781943; 407278, 3781950; 407327, 3781948; 407390, 3781979; 407480, 3782002; 407536, 3782004; 407591, 3781995; 407643, 3781975; 407716, 3781930; 407757, 3781892; 407790, 3781845; 407847, 3781789; 407877, 3781742; 407900, 3781675; 407910, 3781613; 407905, 3781538; 407889, 3781485; 407858, 3781425; 407788, 3781337; 407734, 3781284; 407670, 3781247; 407605, 3781228; 407533, 3781222; 407466, 3781231; 407393, 3781212; 407319, 3781212; 407234, 3781235; 407173, 3781271; 407131, 3781265; 407075, 3781267; 406986, 3781289; 406937, 3781316; 406891, 3781351; 406858, 3781385; 406830, 3781398; 406785, 3781386; 406355, 3781261; 406281, 3781256; 406208, 3781270; 406109, 3781318; 406066, 3781353; 406041, 3781381; 406004, 3781446; 405989, 3781494; returning to 405974, 3781576.

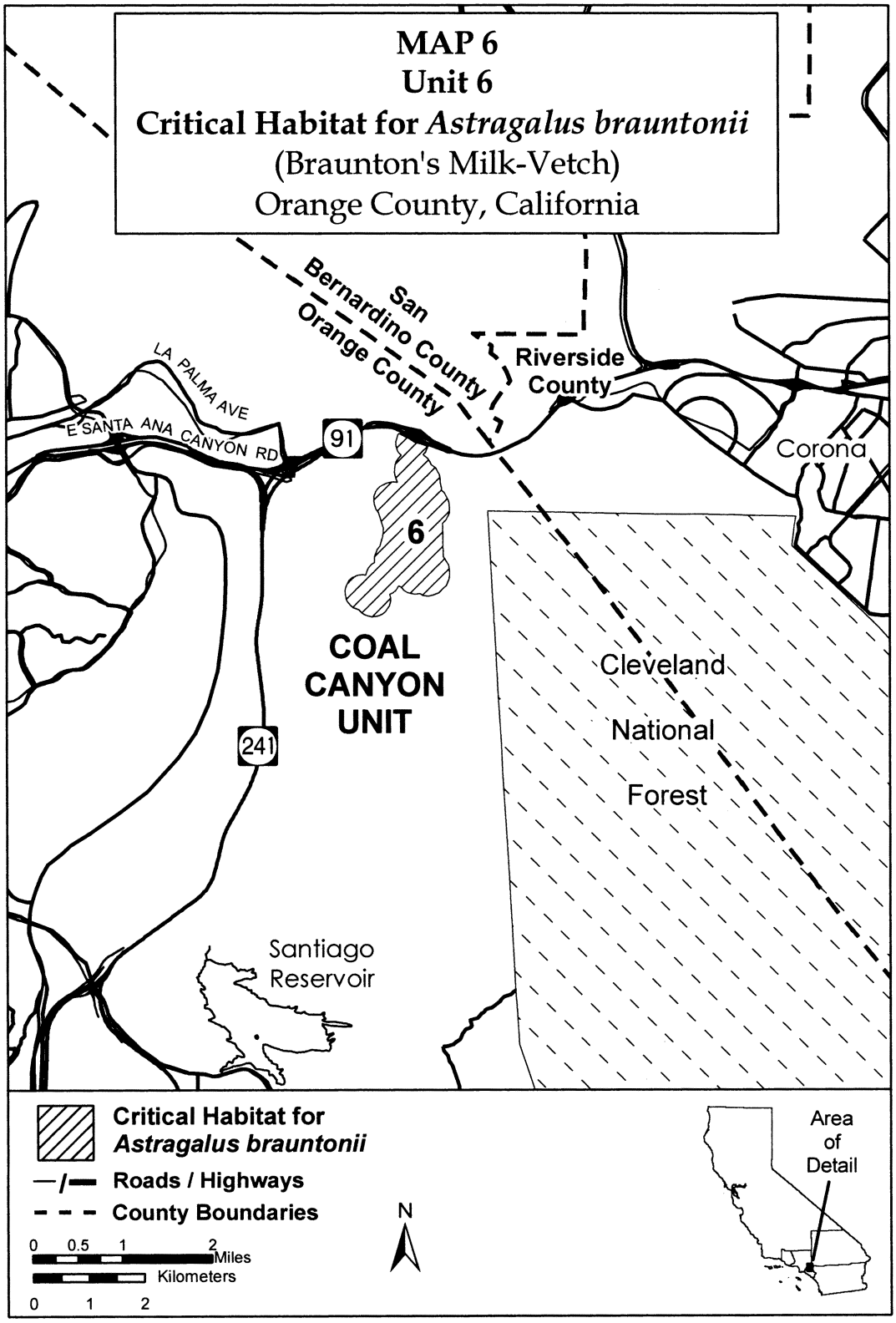
(ii) Note: Unit 5 (Map 5 for *Astragalus brauntonii*) follows:


MAP 5
Unit 5
Critical Habitat for *Astragalus brauntonii*
(Braunton's Milk-Vetch)
Los Angeles County, California
Angeles National Forest
MONROVIA UNIT
5
Sierra Madre
E GRANDVIEW AVE
N SANTA ANITA AVE
Monrovia
W FOOTHILL BLVD
Duarte
US HISTORIC ROUTE 66
101
605
Critical Habitat for *Astragalus brauntonii*
Roads / Highways
County Boundaries
0 0.5 1 2 Miles
Kilometers
0 1 2
N
Area of Detail

(11) Unit 6 for *Astragalus brauntonii,* Coal Canyon Unit, Orange County, California.

(i) *Unit 6:* From USGS 1:24,000 scale quadrangle Black Star Canyon. Land bounded by the following UTM zone 11, NAD83 coordinates (E, N): 435146, 3745336; 435148, 3745392; 435158, 3745441; 435178, 3745493; 435205, 3745541; 435241, 3745585; 435284, 3745620; 435343, 3745652; 435397, 3745668; 435464, 3745673; 435516, 3745669; 435536, 3745742; 435562, 3745791; 435608, 3745847; 435636, 3745872; 435675, 3745897; 435680, 3746003; 435692, 3746057; 435725, 3746124; 435780, 3746189; 435831, 3746385; 435841, 3746513; 435753, 3746808; 435709, 3746866; 435676, 3746949; 435666, 3747018; 435672, 3747092; 435696, 3747163; 435725, 3747210; 435782, 3747268; 435828, 3747301; 435879, 3747324; 435964, 3747349; 436020, 3747355; 436095, 3747350; 436066, 3747408; 436054, 3747444; 436047, 3747480; 436044, 3747530; 436050, 3747639; 436070, 3747711; 436107, 3747776; 436164, 3747831; 436126, 3747871; 436096, 3747919; 436076, 3747973; 436067, 3748023; 436069, 3748086; 436081, 3748141; 436105, 3748193; 436131, 3748231; 436428, 3748073; 436642, 3748002; 436631, 3747955; 436616, 3747919; 436593, 3747881; 436564, 3747846; 436645, 3747774; 436678, 3747729; 436703, 3747670; 436763, 3747625; 436798, 3747585; 436819, 3747554; 436842, 3747504; 436852, 3747464; 436859, 3747415; 436857, 3747352; 436880, 3747282; 436885, 3747245; 436884, 3747198; 436935, 3747153; 436986, 3747079; 437002, 3747040; 437019, 3746976; 437030, 3746895; 437023, 3746802; 437002, 3746738; 436963, 3746670; 436928, 3746629; 436902, 3746606; 436910, 3746001; 436959, 3745945; 437001, 3745869; 437017, 3745816; 437028, 3745730; 437028, 3745655; 437019, 3745600; 437001, 3745551; 436962, 3745475; 436939, 3745446; 436884, 3745392; 436831, 3745352; 436727, 3745306; 436691, 3745296; 436636, 3745291; 436562, 3745301; 436490, 3745331; 436443, 3745324; 436384, 3745323; 436311, 3745338; 436260, 3745361; 436220, 3745387; 436191, 3745409; 436154, 3745449; 436118, 3745474; 436097, 3745436; 436055, 3745385; 436012, 3745350; 435956, 3745321; 435966, 3745236; 435959, 3745173; 435940, 3745105; 435903, 3745041; 435864, 3745000; 435827, 3744971; 435778, 3744945; 435724, 3744929; 435626, 3744922; 435544, 3744938; 435468, 3744975; 435425, 3745011; 435396, 3745044; 435336, 3745064; 435286, 3745090; 435247, 3745121; 435209, 3745162; 435180, 3745209; 435165, 3745244; returning to 435146, 3745336.

(ii) Note: Unit 6 (Map 6 for *Astragalus brauntonii*) follows:



* * * * *

Dated: October 31, 2006.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 06–9089 Filed 11–13–06; 8:45 am]

BILLING CODE 4310–55–C

Federal Register

Tuesday,
November 14, 2006

Part III

Department of Labor

Delegation of Authority and Assignment of Responsibilities for Mine Safety and Health Programs; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 17–2006]

Delegation of Authority and Assignment of Responsibilities for Mine Safety and Health Programs

1. *Purpose.* To update the delegation of authority and assignment of responsibilities for the administration and enforcement of mine safety and health programs.

2. *Authority.* This Order is reissued pursuant to the following: Act of March 4, 1913, as amended, establishing the Department of Labor (DOL) (29 U.S.C. 551 *et seq.*); Act of August 12, 1958, as amended, setting forth the Secretary of Labor's authority to prescribe regulations (5 U.S.C. 301); Act of August 2, 1946, as amended, setting forth the power of an agency head to delegate authority (5 U.S.C. 302); and The Federal Mine Safety and Health Act of 1977 (Mine Act) (30 U.S.C. 801 *et seq.*), as amended and supplemented by The Mine Improvement and New Emergency Response Act of 2006 (MINER Act) (Pub. L. 109–236).

3. *Directives Affected.* Secretary's Order 04–1995 is canceled.

4. *Background.* The Mine Act provides authority and assigns responsibilities for mine safety and health to the Secretary and, except as specifically provided otherwise, authorizes and directs the Secretary to carry out functions under the Mine Act through the Mine Safety and Health Administration. The MINER Act, enacted on June 15, 2006, amended and supplemented the Mine Act for the purpose of further improving the safety of mines and mining.

5. *Delegation of Authority and Assignment of Responsibility.*

A. The Assistant Secretary for Mine Safety and Health is delegated authority and assigned responsibility for:

(1) Developing and administering all aspects of DOL's mine safety and health programs and activities under:

a. The Mine Act (except Title IV of such Act), including its amendments under the MINER Act.

b. The provisions of the MINER Act not otherwise codified in the Mine Act.

c. All other Federal statutes, Executive Orders, and regulations respecting mine safety and health for which the Secretary of Labor has responsibility.

(2) Performing after mine accidents and disasters Family Liaison responsibilities under Section 7 of the MINER Act by dispatching trained personnel to carry out temporary assignments as:

a. Liaison and Primary Communicator of information with the families of victims;

b. Primary Communicator with mine operators; and

c. Primary Communicator with the press and the public, consistent with Section 7 of the MINER Act, Secretary's Order 08–2006 and protocols developed by the Assistant Secretary for Public Affairs in consultation with the Assistant Secretary for Mine Safety and Health.

(3) Coordinating with other agencies having responsibilities affecting mine safety and health.

B. The Assistant Secretary for Public Affairs is responsible for establishing protocols in consultation with the Assistant Secretary for Mine Safety and Health to provide direction to the Primary Communicator in communicating with the press and the public.

C. The Chief Human Capital Officer is responsible for assisting, as needed and in accordance with 5 U.S.C. 1401(1), the Assistant Secretary for Mine Safety and Health in establishing qualifications and training requirements for MSHA personnel performing responsibilities under Section 7 of the MINER Act.

D. The Solicitor of Labor is responsible for providing legal advice and assistance to the Secretary, the Assistant Secretary for Mine Safety and Health, and to all other officers and employees of the Department relating to implementation and administration of all aspects of this Order. The Solicitor of Labor is also responsible for determining in each instance whether legal proceedings relating to mine safety and health issues and legal actions on behalf of, and representing the Secretary in civil proceedings, are appropriate.

6. *Reservation of Authority.* The following functions are reserved to the Secretary:

A. The submission of reports and recommendations to the President and the Congress concerning the administration of the Mine Act.

B. The authority under section 3(h) of the Mine Act to consider convenience of administration in determining what constitutes mineral milling.

7. *Redelegation of Authority.* The authorities delegated in this Order may be redelegated.

8. *Effective Date.* This Order is effective immediately.

Dated: November 1, 2006.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. E6–19175 Filed 11–13–06; 8:45 am]

BILLING CODE 4510–23–P

Federal Register

Tuesday,
November 14, 2006

Part IV

The President

Proclamation 8082—National Farm-City Week, 2006

Federal Register
Vol. 71, No. 219
Tuesday, November 14, 2006

Presidential Documents

Title 3—

The President

Proclamation 8082 of November 8, 2006

National Farm-City Week, 2006

By the President of the United States of America

A Proclamation

Throughout our history, America's farmers and ranchers have demonstrated the values of determination, faith, love of family, and patriotism. The contributions of America's farmers and ranchers help keep our economy moving forward, and during National Farm-City Week we underscore the vital partnership between America's rural and urban industries.

By providing raw materials, energy, and a safe and healthy food supply, our farmers and ranchers help enrich our lives and create economic opportunities across our Nation. As good stewards of the land, they help preserve the farming industry and way of life for future generations.

Farmers are playing an increasingly important role in reducing our dependence on foreign oil by growing crops such as soybeans and corn that can be used as alternative sources of energy. Our agricultural sector also cooperates with shippers, processors, marketers, transporters, and others to make these vital goods available to the public. My Administration is committed to helping these dedicated individuals succeed, and we must continue investing in agricultural research programs, working to reduce tariffs and other trade barriers, and opening up markets for American products overseas.

During National Farm-City Week, and throughout the year, we honor the farmers, ranchers, and all those working to build strong relationships between our rural and urban communities. Our economy is strong and growing, and behind the numbers are the stories of hard-working Americans who help spur our economic prosperity and feed our country and the world.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 17 through November 23, 2006, as National Farm-City Week. I encourage all Americans to join in recognizing farmers, ranchers, and other professionals who work to produce our agricultural abundance.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of November, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirty-first.

[FR Doc. 06–9214
Filed 11–13–06; 8:45 am]
Billing code 3195–01–P

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LIST OF PUBLIC LAWS

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