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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.

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

DEPARTMENT OF ENERGY

10 CFR Parts 602, 710, 712, 725, 820, 824, 835, 850, 851, 852, 861, 862, 871, 1004, 1008, 1016, 1017, 1021, 1044, 1045, 1046, and 1049

RIN 1901–AB22

Technical Amendments: Transfer of Office Functions and Removal of Obsolete Regulations

AGENCY: Department of Energy (DOE).

ACTION: Final rule; technical amendment.

SUMMARY: DOE has created a new Office of Health, Safety and Security to strengthen and improve formulation and implementation of health, safety and security policy. Incident to creation of the new office, DOE has transferred certain health, safety and security functions to the new office that previously were carried out by the Office of Environment, Safety and Health and the Office of Security and Safety Performance Assurance. Certain functions related to DOE's responsibilities under the National Environmental Policy Act have been transferred to the Office of the General Counsel. Other functions outside of the core mission of health, safety and security have been transferred to other DOE offices performing similar or related functions. This notice of final rulemaking makes technical amendments to DOE's regulations to substitute the officials to whom or offices to which functions have been transferred pursuant to the reorganization of offices and functions. DOE also is removing Office of Environment, Safety and Health regulations in 10 CFR part 852 because Congress has transferred that authority to the Department of Labor. Today's regulatory amendments do not alter substantive rights or obligations under current law.

DATES: *Effective Date:* This rule is effective on November 28, 2006.

FOR FURTHER INFORMATION CONTACT: Stephen Duarte, Office of the General Counsel, GC–71, 1000 Independence Avenue, SW., Washington, DC 20585; *steve.duarte@hq.doe.gov*; 202–586–2951.

SUPPLEMENTARY INFORMATION:

I. Introduction

DOE has created a new office to strengthen and improve the health, safety, and security of DOE workers, facilities and the public. The new office, called the Office of Health, Safety and Security (HSS), will help formulate and implement health, safety, environmental, and security policy for DOE, provide assistance to DOE sites, conduct oversight through rigorous field inspections, and carry out enforcement activities previously carried out by the Offices of Environment, Safety and Health (EH) and Security and Safety Performance Assurance (SSA). HSS is led by a Chief Health, Safety and Security Officer who reports directly to the Secretary of Energy.

The HSS office has nine offices dedicated to health, safety and security, which include the Office of Health and Safety; Office of Nuclear Safety and Environment; Office of Corporate Safety Analysis; Office of Enforcement; Office of Independent Oversight; Office of Security Policy; Office of Security Technology and Assistance; Office of Classification; and the National Training Center. In addition, HSS now includes the Office of the Departmental Representative to the Defense Nuclear Facilities Safety Board and the Office of Security Operations.

Functions that were performed by EH or SSA but which are outside the core mission of health, safety and security have been transferred to other DOE program offices performing similar or related functions. The DOE Office of National Environmental Policy Act (NEPA) Policy and Compliance has been transferred to the Office of the General Counsel. DOE's continuity of government program and support for technical review of authorization basis documents, previously performed by SSA, has been transferred to DOE's National Nuclear Security Administration (NNSA). Support of safety regulations for newly constructed facilities and new start projects are now the responsibility of the Office of the Under Secretary for Energy, and for new NNSA facilities, the Office of the Under Secretary for Nuclear Security. Management of the Radiological Environment Science Laboratory has been transferred to the Office of Nuclear Energy and the management of the New Brunswick Laboratory has been transferred to the Office of Science to better align those activities with their current programmatic functions. The Office of Management will assume non-safety related quality assurance program elements and the management of DOE's foreign travel and exchange visitor program.

Certain of the functions that were transferred to HSS and the NEPA functions that were transferred to the Office of the General Counsel are subject to regulations in title 10 of the Code of Federal Regulations. As a result of the transfers, title 10 of the Code of Federal Regulations contains references to DOE program offices and positions that are no longer extant. Today's final rule amends title 10 of the Code of Federal Regulations to reflect DOE's new organizational structure and to update addresses that are no longer correct. In addition, DOE takes this opportunity to remove regulations in 10 CFR part 852 made obsolete by the repeal of the statute that authorized those regulations. None of the regulatory amendments in this notice of final rulemaking alter substantive rights or obligations under current law.

This final rule has been approved by the Office of the Secretary of Energy.

II. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be ''a significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless

the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies to ensure that the potential impacts of its draft rules on small entities are properly considered during the rulemaking process (68 FR 7990, February 19, 2003), and has made them available on the Office of General Counsel's Web site: *http://www.gc.doe.gov.*

The regulatory amendments in this notice of final rulemaking reflecting transfers of functions and address changes relate solely to internal agency organization, management or personnel, and as such, are not subject to the requirement for a general notice of proposed rulemaking under the Administrative Procedure Act (5 U.S.C. 553). Furthermore, it is unnecessary to propose removal of 10 CFR part 852 for public comment because the statutory authority for it has been repealed. Consequently, this rulemaking is exempt from the requirements of the Regulatory Flexibility Act.

C. Review Under the Paperwork Reduction Act

This final rule does not impose a collection of information requirement subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule amends existing regulations without changing the environmental effect of the regulations being amended, and, therefore, is covered under the Categorical Exclusion in paragraph A5 of Appendix A to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined today's rule and has determined that it does not preempt State law and does 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. No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995.

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to assess the effects of a Federal regulatory action on State, local, and tribal governments, and the private sector. DOE has determined that today's regulatory action does not impose a Federal mandate on State, local or tribal governments or on the private sector.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of

OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's final rule prior to the effective date set forth at the outset of this notice. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 801(2).

List of Subjects

10 CFR Part 602

Grant programs-health, Medical research, Occupational safety and health, Reporting and recordkeeping requirements.

10 CFR Part 710

Administrative practice and procedure, Classified information, Government contracts, Government employees, Nuclear materials.

10 CFR Part 712

Administrative practice and procedure, Alcohol abuse, Classified information, Drug abuse, Government contracts, Government employees, Health, Occupational safety and health, Radiation protection, Security measures.

10 CFR Part 725

Classified information, Nuclear materials, Reporting and recordkeeping requirements.

10 CFR Part 820

Administrative practice and procedure, Government contracts, Penalties, Radiation protection.

10 CFR Part 824

Administrative practice and procedure, Government contracts, Penalties, Radiation protection.

10 CFR Part 835

Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 850

Beryllium, Hazardous substances, Lung diseases, Occupational safety and health, Reporting and recordkeeping requirements.

10 CFR Part 851

Administrative practice and procedure, Government contracts, Hazardous substances, Reporting and recordkeeping requirements, Workers' compensation.

10 CFR Part 852

Administrative practice and procedure, Government contracts, Hazardous substances, Reporting and recordkeeping requirements, Workers' compensation.

10 CFR Part 861

Federal buildings and facilities, Penalties, Traffic regulations.

10 CFR Part 862

Aircraft, Federal buildings and facilities, Security measures.

10 CFR Part 871

Air transportation, Hazardous materials transportation, Plutonium, Radioactive materials.

10 CFR Part 1004

Freedom of information.

10 CFR Part 1008

Privacy.

10 CFR Part 1016

Classified information, Nuclear materials, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 1017

Administrative practice and procedure, Government contracts, National defense, Nuclear energy, Penalties, Security measures.

10 CFR Part 1021

Environmental impact statements.

10 CFR Part 1044

Administrative practice and procedure, Classified information, Government contracts, Whistleblowing.

10 CFR Part 1045

Classified information.

10 CFR Part 1046

Government contracts, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 1049

Federal buildings and facilities, Government contracts, Law enforcement, Security measures.

Issued in Washington, DC on November 20, 2006.

Glenn Podonsky,

Chief Health, Safety and Security Officer, Office of Health, Safety and Security.

David R. Hill,

General Counsel.

■ For the reasons set forth in the preamble, 10 CFR parts 602, 710, 712, 725, 820, 824, 835, 850, 851, 852, 861, 862, 871, 1004, 1008, 1016, 1017, 1021, 1044, 1045, 1046, and 1049 are amended as follows:

PART 602—EPIDEMIOLOGY AND OTHER HEALTH STUDIES FINANCIAL ASSISTANCE PROGRAM

■ 1. The authority citation for part 602 continues to read as follows:

Authority: 42 U.S.C. 2051; 42 U.S.C. 5817; 42 U.S.C. 5901–5920; 42 U.S.C. 7254 and 7256; 31 U.S.C. 6301–6308.

§ 602.1 [Amended]

■ 2. Section 602.1 is amended by removing ''Office of Environment, Safety and Health'' and adding in its place ''Office of Health, Safety and Security''.

§ 602.4 [Amended]

■ 3. Section 602.4(a) is amended by removing ''Assistant Secretary for Environment, Safety and Health'' and adding in its place ''DOE Chief Health, Safety and Security Officer''.

§ 602.5 [Amended]

■ 4. Section 602.5(a) is amended by removing ''Office of Environment, Safety and Health'' and adding in its place ''Office of Health, Safety and Security''.

§ 602.7 [Amended]

■ 5. Section 602.7(c) is amended by removing ''Office of Epidemiology and Health Surveillance (EH–42), U.S. Department of Energy, Washington, DC 20585, (301) 903–5926)'' and adding in its place ''Office of Illness and Injury Prevention Programs, HS–13/ Germantown Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–1290, 301–903–4501''.

§ 602.9 [Amended]

■ 6–7. Section 602.9 is amended as follows:

■ A. In paragraph (b), by removing ''Office of Environment, Safety and Health'' and adding in its place ''Office of Health, Safety and Security''; and

■ B. In paragraph (g), by removing ''Office of Environment, Safety and Health'' and adding in its place ''Office of Health, Safety and Security'', and by

removing ''Office of Environment, Safety and Health's'' and adding in its place ''Office of Health, Safety and Security's''.

§ 602.10 [Amended]

■ 8. Section 602.10 is amended in paragraphs (b) and (c) by removing ''Office of Epidemiology and Health Surveillance, (EH–42), U.S. Department of Energy, Washington, DC 20585'' and adding in its place ''Office of Illness and Injury Prevention Programs, HS–13/ Germantown Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–1290''.

§ 602.16 [Amended]

■ 9. Section 602.16 is amended by removing ''Director of Declassification'' and adding in its place ''Director, Office of Classification''; by removing ''U.S. Department of Energy, Attn: Director of Declassification, NN–50, Washington, DC 20585'' and adding in its place ''U.S. Department of Energy, Attn: Director of Classification, HS–90, P.O. Box A, Germantown, MD 20875''; by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Security Operations''; and by removing ''Division of Safeguards and Security''.

§ 602.17 [Amended]

■ 10. Section 602.17(a)(1) is amended by removing ''Office of Environment, Safety and Health'' and adding in its place ''Office of Health, Safety and Security''.

PART 710—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SPECIAL NUCLEAR MATERIAL

■ 11. The authority citation for part 710 is revised to read as follows:

Authority: 42 U.S.C. 2165, 2201, 5815, 7101, *et seq.*, 7383h–1; 50 U.S.C. 2401, *et seq.*; E.O. 10450, 3 CFR 1949–1953 comp., p. 936, as amended; E.O. 10865, 3 CFR 1959–1963 comp., p. 398, as amended, 3 CFR Chap. IV; E.O. 12958, as amended by E.O.13292, 68 FR 15315, 3 CFR 2004 Comp., p. 196; E.O. 12968, 3 CFR 1995 Comp., p. 391.

§ 710.4 [Amended]

■ 12. Section 710.4(g) is amended by removing ''Office of Safeguards and Security,'' in the first sentence and by adding in its place ''Office of Personnel Security'' and by removing '', Office of Safeguards and Security,'' in the second sentence.

■ 13–14. Section 710.5 (a) is amended by revising the definition for ''Local Director of Security'' to read as set forth below, and in the definition for ''Operations Office Manager or Manager'', by removing ''Operations Office Manager or'', and by removing ''Safeguards and Security'' and adding in its place ''Personnel Security''.

§ 710.5 Definitions.

(a) * * *

Local Director of Security means the individual with primary responsibility for safeguards and security at the Chicago, Idaho, Oak Ridge, Richland, and Savannah River Operations Offices and the Pittsburgh and Schenectady Naval Reactors Offices; the Manager, National Nuclear Security Administration (NNSA) Service Center; for Washington, DC area cases, the Director, Office of Security Operations; and any person designated in writing to serve in one of the aforementioned positions in an acting capacity.

* * * * *

§ 710.6 [Amended]

■ 15–16. Section 710.6 is amended as follows:

■ A. In paragraph (b), by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security''; and

■ B. In paragraph (c) , in the first sentence by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security'' and in the second sentence by removing '', Office of Safeguards and Security,''.

§ 710.9 [Amended]

■ 17. Section 710.9 is amended in:

■ a. Paragraph (c) by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security, DOE Headquarters''.

■ b. Paragraph (d) by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security''.

■ c. Paragraph (e) by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security'' and by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security''.

§ 710.10 [Amended]

■ 18. Section 710.10 is amended in:

■ a. Paragraph (d), first sentence, by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security, DOE Headquarters''; and in the second sentence by removing ''Office of Safeguards and Security''.

■ b. Paragraph (e) introductory text, by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security''.

■ c. Paragraph (f) by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security''; and by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security''.

§ 710.21 [Amended]

■ 19. Section 710.21(a) is amended by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security, DOE Headquarters''.

§ 710.22 [Amended]

■ 20. Section 710.22 is amended in:

■ a. Paragraphs (b) and (c) introductory text by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security, DOE Headquarters''.

■ b. Paragraph (c)(2) by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security''.

■ c. Paragraph (c)(3) by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security, DOE Headquarters''.

§ 710.23 [Amended]

■ 21. Section 710.23 is amended by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security, DOE Headquarters''.

§ 710.26 [Amended]

■ 22. Section 710.26(j) is amended by removing ''Operations Office'' in the second sentence.

§ 710.27 [Amended]

■ 23. Section 710.27(d) is amended by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security, DOE Headquarters''.

§ 710.28 [Amended]

■ 24. Section 710.28 is amended in:

■ a. Paragraphs (a) introductory text, (a)(3), (b)(1), (b)(2), (c)(1), and (c)(3) by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security, DOE Headquarters''.

■ b. Paragraph (c)(2) by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security''; and by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security, DOE headquarters''.

■ c. Paragraph (d) by removing ''Office of Safeguards and Security'' and adding

in its place ''Office of Personnel Security''.

§ 710.29 [Amended]

■ 25. Section 710.29 is amended in:
■ a. Paragraph (a) by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security'' and by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security''.
■ b. Paragraphs (b) and (d) by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security''.
■ c. Paragraph (c) by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security'' and by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security''.
■ d. Paragraph (f) by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security'' the first time it appears and by removing ''the Director, Office of Security Affairs'' and adding in its place ''he'' the second time it appears.
■ e. Paragraph (g) by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security'' and by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security''.
■ f. Paragraph (h) by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security''; by removing ''Director may'' and adding in its place ''Deputy Chief for Operations may''; and by removing ''Director, Office of Security Affairs, shall'' and adding in its place ''Deputy Chief for Operations, shall''.
■ g. Paragraph (i) by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security''; by removing ''Director may'' and adding in its place ''Deputy Chief for Operations may''; and by removing ''Director, Office of Security Affairs, shall'' and adding in its place ''Deputy Chief for Operations shall''.

§ 710.30 [Amended]

■ 26. Section 710.30 is amended in:
■ a. Paragraphs (a) and (b) introductory text by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security, DOE Headquarters'' .
■ b. Paragraph (b)(2) by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security'' in the first sentence and by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations'' in the second sentence.

§ 710.31 [Amended]

■ 27. Section 710.31 is amended in:
■ a. Paragraph (a) by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security'' in both places that it appears.
■ b. Paragraph (b) by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security''.
■ c. Paragraph (d) by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security''.

§ 710.32 [Amended]

■ 28. Section 710.32 is amended in:
■ a. Paragraph (c) by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security'' in the first sentence and by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations'' in the second sentence.
■ b. Paragraphs (d) introductory text and (d)(2) by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security, DOE Headquarters''.

§ 710.36 [Amended]

■ 29. Section 710.36 is amended by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security, DOE headquarters''; by removing ''Director, Office of Security Affairs'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security''; and by removing ''the Deputy Director, Office of Security Affairs'' and adding in its place ''his designee''.

PART 712—HUMAN RELIABILITY PROGRAM

■ 30. The authority citation for part 712 continues to read as follows:

Authority: 42 U.S.C. 2165; 42 U.S.C. 2201; 42 U.S.C. 5814–5815; 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; E.O. 10450, 3 CFR 1949–1953 Comp., p. 936, as amended; E.O. 10865, 3 CFR 1959–1963 Comp., p. 398, as amended; 3 CFR Chap. IV.

§ 712.3 [Amended]

■ 31. Section 712.3 is amended by:
■ a. Removing ''Deputy Assistant Secretary for Health'' and adding in its place ''Director, Office of Health and Safety'' and moving the definition to follow the definition of ''Diagnostic and Statistical Manual of Mental Disorders''.
■ b. By removing ''Deputy Assistant Secretary for Health'' in the definitions of ''Designated Physician''and ''Designated Psychologist''and adding in its place ''Director, Office of Health and Safety''.
■ c. By removing ''Manager of the Rocky Flats Office;'' in the definition of ''Manager''; and by removing ''Director, Office of Security'' in the definition of ''Manager'' and adding in its place ''Deputy Chief for Operations, Office of Health, Safety and Security''.

§ 712.10 [Amended]

■ 32. Section 712.10(b) is amended by removing ''Director, Office of Security'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 712.12 [Amended]

■ 33. Section 712.12 is amended in:
■ a. Paragraphs (c)(1) and (d) by removing ''Director, Office of Security'' and adding in its place ''Chief Health, Safety and Security Officer''.
■ b. Paragraph (e) introductory text by removing ''Security Policy Staff, within the Office of Security'' and adding in its place ''Office of Policy''.
■ c. Paragraph (f)(1) by removing ''Security Policy Staff'' and adding in its place ''Office of Policy''.

§ 712.14 [Amended]

■ 34. Section 712.14 paragraphs (f)(1) and (f)(3) are amended by removing ''Deputy Assistant Secretary for Health'' and adding in its place ''Director, Office of Health and Safety''.

§ 712.22 [Amended]

■ 35. Section 712.22 is amended by removing ''Director, Office of Security''in the first and third sentences and adding in both places ''Chief Health, Safety and Security Officer''.

§ 712.23 [Amended]

■ 36. Section 712.23 is amended by removing ''Director, Office of Security's'' and adding in its place ''Chief Health, Safety and Security Officer's''.

§ 712.34 [Amended]

■ 37. Section 712.34, paragraphs (a), (b) introductory text, (c) and (d) are

amended by removing ''Deputy Assistant Secretary for Health'' and adding in its place ''Director, Office of Health and Safety''.

■ 38. Section 712.35 is amended by revising the section heading to read as set forth below, and the introductory text is amended by removing ''Deputy Assistant Secretary for Health'' and add in its place ''Director, Office of Health and Safety''.

§ 712.35 Director, Office of Health and Safety.

* * * * *

§ 712.36 [Amended]

■ 39. Section 712.36, paragraphs (d)(1) and (d)(3) are amended by removing ''Deputy Assistant Secretary for Health'' and adding in its place ''Director, Office of Health and Safety''.

PART 725—PERMITS FOR ACCESS TO RESTRICTED DATA

■ 40. The authority citation for part 725 is revised to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954, as amended, 68 Stat. 943, 42 U.S.C. 2201.

§ 725.1 [Amended]

■ 41. Section 725.1 is amended by removing ''Administrator'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 725.3 [Amended]

■ 42. Section 725.3(d) is amended by removing ''Administrator'' and adding in its place ''Chief Health, Safety and Security Officer'' and by removing ''Administrator of the Department of Energy'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 725.4 [Amended]

■ 43. Section 725.4 is amended by removing ''Administrator'' and adding in its place ''Chief Health, Safety and Security Officer''.

■ 44. Section 725.5 is revised to read as follows:

§ 725.5 Communications.

All communications concerning this part should be addressed to the Chief Health, Safety and Security Officer, HS–1/Forrestal Building, U.S. Department of Energy, 1000 Independence Ave, SW., Washington, DC 20585.

§ 725.7 [Amended]

■ 45. Section 725.7 is amended by removing ''Administrator'' and adding in its place ''Chief Health, Safety and Security Officer''.

■ 46. Section 725.11(a) is revised to read as follows:

§ 725.11 Applications.

(a) Any person desiring access to Restricted Data pursuant to this part should submit an application (Form 378), in triplicate, for an access permit to the Chief Health, Safety and Security Officer, HS–1/Forrestal Building, U.S. Department of Energy, 1000 Independence Ave, SW., Washington, DC 20585.

* * * * *

§ 725.13 [Amended]

■ 47. Section 725.13 is amended by removing ''Administrator'' in both places and adding in both places ''Chief Health, Safety and Security Officer''.

§ 725.21 [Amended]

■ 48. Section 725.21 is amended in:
■ a. Paragraph (a) by removing ''Administrator'' and adding in its place ''Chief Health, Safety and Security Officer''.
■ b. Paragraph (b) by removing ''795 of this chapter'' and adding in its place ''1016 of this title''.

§ 725.23 [Amended]

■ 49. Section 725.23 is amended in:
■ a. Paragraph (b) by removing ''Administrator'' and adding in its place ''Chief Health, Safety and Security Officer''.
■ b. Paragraph (c)(1) by removing ''795 and 810 of this chapter'' and adding in its place ''810 and 1016 of this title''.
■ c. Paragraph (c)(4) by removing ''Administrator of Energy Research and Development'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 725.24 [Amended]

■ 50. Section 725.24 is amended in:
■ a. The introductory text by removing ''cognizant Operations Office'' and adding in its place ''Chief Health, Safety and Security Officer will designate a DOE or National Nuclear Security Administration office which''.
■ b. Paragraph (b) by removing ''795 of this chapter'' and adding in its place ''1016 of this title''.

§ 725.25 [Amended]

■ 51. Section 725.25(b) is amended by removing ''Administrator'' and adding in its place ''Chief Health, Safety and Security Officer''.

■ 52. Section 725.28 is amended by revising the section heading to read as set forth below, and by removing ''Administrator'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 725.28 Action on application to renew or amend.

* * * * *

§ 725.29 [Amended]

■ 53. Section 725.29 is amended by removing ''Administrator'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 725.30 [Amended]

■ 54. Section 725.30 is amended by removing ''Administrator'' and adding in its place ''Chief Health, Safety and Security Officer''.

Appendix B to Part 725 [Removed]

■ 55. Appendix B to Part 725 is removed.

PART 820—PROCEDURAL RULES FOR DOE NUCLEAR ACTIVITIES

■ 56. The authority citation for part 820 continues to read as follows:

Authority: 42 U.S.C. 2201, 2282(a), 7191; 28 U.S.C. 2461 note.

§ 820.1 [Amended]

■ 57. Section 820.1(c) is amended by removing ''Assistance Secretary'' and adding in its place ''Administrator''.

§ 820.2 [Amended]

■ 58–59. Section 820.2 is amended in the definition of ''*Director*'' by removing ''Assistant Secretary'' and adding in its place ''Administrator,'' and by revising the definition of ''Secretarial Officer'' to read as set forth below:

§ 820.2 Definitions.

* * * * *

Secretarial Officer means an individual who is appointed to a position in the Department by the President of the United States with the advice and consent of the Senate or the head of a departmental element who is primarily responsible for the conduct of an activity under the Act. With regard to activities and facilities covered under E.O. 12344, 42 U.S.C. 7158 note, pertaining to Naval nuclear propulsion, Secretarial Officer means the Deputy Administrator for Naval Reactors.

* * * * *

Appendix A [Amended]

■ 60. Appendix A to Part 820 is amended in:
■ a. Section IX.1.a. by adding ''and Environment'' after ''Office of Nuclear Safety'';
■ b. Section IX.9., paragraph e.(1), by removing ''Office of Environment, Safety and Health'' and adding in its place ''Office of Health, Safety and Security'' and by adding ''and

Environment'' after ''Office of Nuclear Safety''.

■ c. Section XIII.b. by removing ''Office of Investigation and Enforcement'' and adding in its place ''Office of Enforcement''.

PART 824—PROCEDURAL RULES FOR THE ASSESSMENT OF CIVIL PENALTIES FOR CLASSIFIED INFORMATION SECURITY VIOLATIONS

■ 61. The authority citation for part 824 continues to read as follows:

Authority: 42 U.S.C. 2201, 2282b, 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*

Appendix A to Part 824 [Amended]

■ 62. Appendix A to Part 824 is amended in:

■ a. Section IV.b. by removing ''10 CFR part 824.6'' and adding in its place ''§ 824.6''.

■ b. Section VIII.9., paragraph e.(1) by removing ''and Performance Assurance''.

PART 835—OCCUPATIONAL RADIATION PROTECTION

■ 63. The authority citation for part 835 continues to read as follows:

Authority: 42 U.S.C. 2201; 7191.

§ 835.1 [Amended]

■ 64. Section 835.1(b)(2) is amended by removing ''Director, Naval Nuclear Propulsion Program'' and by adding in its place ''Deputy Administrator for Naval Reactors''.

■ 65. Section 835.2(a) is amended by adding the definition of ''Secretarial Officer'' to read as follows:

§ 835.2 Definitions.

* * * * *

Secretarial Officer means an individual who is appointed to a position in the Department of Energy by the President of the United States with the advice and consent of the Senate or the head of a departmental element who is primarily responsible for the conduct of an activity under the Act. With regard to activities and facilities covered under E.O. 12344, 42 U.S.C. 7158 note, pertaining to Naval nuclear propulsion, Secretarial Officer means the Deputy Administrator for Naval Reactors.

* * * * *

PART 850—CHRONIC BERYLLIUM DISEASE PREVENTION PROGRAM

■ 66. The authority citation for part 850 continues to read as follows:

Authority: 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 29 U.S.C. 668; 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*, E.O. 12196, 3 CFR 1981 comp., at 145 as amended.

§ 850.10 [Amended]

■ 67. Section 850.10(b)(2) is amended by removing ''Assistant Secretary for Environment, Safety and Health'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 850.39 [Amended]

■ 68–69. Section 850.39 is amended in paragraph (a) by removing ''Assistant Secretary for Environment, Safety and Health'' and adding in its place ''Chief Health, Safety and Security Officer'', and in paragraph (h) , by removing ''DOE Office of Epidemiologic Studies with the Office of Environment, Safety and Health'' and adding in its place ''Office of Illness and Injury Prevention Programs, Office of Health, Safety and Security''.

PART 851—WORKER SAFETY AND HEALTH PROGRAM

■ 70. The authority citation for part 851 continues to read as follows:

Authority: 42 U.S.C. 2201(i)(3), (p); 42 U.S.C. 2282c; 42 U.S.C. 5801 *et seq.*; 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*

§ 851.8 [Amended]

■ 71–72. Section 851.8 is amended in paragraph (b) by removing ''Office of Environment, Safety and Health, Office of Health (EH–5)'' and adding in its place ''Office of Health, Safety and Security'', and in paragraph (c) , by removing ''Office of Environment, Safety and Health, Office of Price-Anderson Enforcement (EH–6)'' and adding in its place ''Office of Health, Safety and Security, Office of Enforcement, HS–40,''.

§ 851.11 [Amended]

■ 73. Section 851.11(b)(2) is amended by removing ''Assistant Secretary for Environment, Safety and Health'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 851.27 [Amended]

■ 74. Section 851.27(a)(2)(ii) is amended by removing ''Office of Environment, Safety and Health'' and adding in its place ''Office of Health, Safety and Security''.

§ 851.30 [Amended]

■ 75. Section 851.30(a) is amended by removing ''Assistant Secretary for Environment, Safety and Health'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 851.31 [Amended]

■ 76–78. In § 851.31, paragraphs (a)(1), (a)(2), and (a)(3) are amended by removing ''Assistant Secretary for Environment, Safety and Health'' and adding in its place ''Chief Health, Safety and Security Officer'', paragraph (b) introductory text is amended by removing ''Assistant Secretary for Environment, Safety and Health to be incomplete, the Assistant Secretary'' and adding in its place ''Chief Health, Safety and Security Officer to be incomplete, the Chief Health, Safety and Security Officer'', and paragraph (c)(5) is amended by removing ''Assistant Secretary for Environment, Safety and Health'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 851.32 [Amended]

■ 79–80. Section 851.32 is amended in:

■ a. Paragraph (a)(1) by removing ''Assistant Secretary for Environment, Safety and Health recommends approval of a variance application, the Assistant Secretary'' and adding in its place ''Chief Health, Safety and Security Officer recommends approval of a variance application, the Chief Health, Safety and Security Officer''.

■ b. Paragraph (a)(2) by removing ''Assistant Secretary for Environment, Safety and Health'' and adding in its place ''Chief Health, Safety and Security Officer'' and by removing ''Office of Price–Anderson Enforcement'' and adding in its place ''Office of Enforcement''.

■ c. Paragraph (a)(4), by removing ''Assistant Secretary for Environment, Safety and Health'' and adding in its place ''Chief Health, Safety and Security Officer''.

■ d. Paragraph (c)(1), by removing ''Assistant Secretary for Environment, Safety and Health recommends denial of a variance application, the Assistant Secretary'' and adding in its place ''Chief Health, Safety and Security Officer recommends denial of a variance application, the Chief Health, Safety and Security Officer''.

■ e. Paragraphs (c)(2)(i) and (c)(2)(ii), by removing ''Assistant Secretary'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 851.34 [Amended]

■ 81. In § 851.34, paragraphs (a) and (c) are amended by removing ''Assistant Secretary for Environment, Safety and Health'' and adding in its place ''Chief Health, Safety and Security Officer''.

PART 852—GUIDELINES FOR PHYSICIAN PANEL DETERMINATIONS ON WORKER REQUESTS FOR ASSISTANCE IN FILING FOR STATE WORKERS' COMPENSATION BENEFITS

■ 82–83. Part 852 is removed.

PART 861—CONTROL OF TRAFFIC AT NEVADA TEST SITE

■ 84. The authority citation for part 861 is revised to read as follows:

Authority: 42 U.S.C. 2201.

§ 861.3 [Amended]

■ 85. Section 861.3(c) is amended by removing ''Operations'' and adding in its place ''Site''.

PART 862—RESTRICTIONS ON AIRCRAFT LANDING AND AIR DELIVERY AT DEPARTMENT OF ENERGY NUCLEAR SITES

■ 86. The authority citation for part 862 continues to read as follows:

Authority: 42 U.S.C. 2201(b), 2201(i) and 2278(a).

§ 862.3 [Amended]

■ 87. Section 862.3(f) is amended by removing ''Manager of a DOE Operations Office'' and adding in its place ''manager of a DOE field office'' and by removing ''Director of the Office of Safeguards and Security'' and adding in its place ''Chief Health, Safety and Security Officer''.

PART 871—AIR TRANSPORTATION OF PLUTONIUM

■ 88. The authority citation for part 871 continues to read as follows:

Authority: Pub. L. 94–187, 88 Stat. 1077, 1078 (42 U.S.C. 2391 *et seq.*); Energy Reorganization Act, Pub. L. 93–438, 88 Stat. 1233 (42 U.S.C. 5801 *et seq.*); secs. 2, 3, 91, 123, and 161 of the Atomic Energy Act of 1954, as amended.

■ 89. Section 871.1, paragraph (b) introductory text is revised, and the undesignated concluding paragraph of the section is amended by removing ''They'' at the beginning of each sentence and adding in its place ''The Deputy Administrator for Defense Programs''.

The revision reads as follows:

§ 871.1 National security exemption.

* * * * *

(b) The Deputy Administrator for Defense Programs may authorize air shipments falling within paragraph (a)(1) of this section, on a case-by-case basis: *Provided*, That the Deputy Administrator for Defense Programs determines that such shipment is required to be made by aircraft either because:

* * * * *

§ 871.2 [Amended]

■ 90. Section 871.2 is amended by removing ''Managers of DOE's Albuquerque, San Francisco, Oak Ridge, Savannah River, Nevada, Chicago, Idaho and Richland Operations Offices'' and adding in its place ''Deputy Administrator for Defense Programs'' and by removing ''they determine'' and adding in its place ''the Deputy Administrator determines''.

§ 871.3 [Amended]

■ 91. Section 871.3 is amended by removing ''authorizing officials'' and by adding in its place ''Deputy Administrator for Defense Programs'' and by removing ''Assistant Administrator for National Security'' and adding in its place ''Administrator of the National Nuclear Security Administration''.

§ 871.4 [Amended]

■ 92. Section 871.4 is amended by removing ''Assistant Administrator for National Security'' and adding in its place ''Administrator of the National Nuclear Security Administration''.

PART 1004—FREEDOM OF INFORMATION

■ 93. The authority citation for part 1004 continues to read as follows:

Authority: 5 U.S.C. 552.

■ 94. Section 1004.2(h) and (p) are revised to read as follows:

§ 1004.2 Definitions.

* * * * *

(h) *Freedom of Information Officer* means the person designated to administer the Freedom of Information Act at the following DOE offices:

(1) Bonneville Power Administration, P.O. Box 3621–KDP–7, Portland, OR 97232.

(2) Carlsbad Field Office, P.O. Box 3090, Carlsbad, NM 88221.

(3) Chicago Office, 9800 S. Cass Avenue, Argonne, IL 60439.

(4) Environmental Management Consolidated Business Center, 250 East 5th Street, Suite 500, Cincinnati, OH 45202.

(5) Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401.

(6) Headquarters, Department of Energy, Washington, DC 20585.

(7) Idaho Operations Office, 1955 Fremont Avenue, MS 1203, Idaho Falls, ID 83401.

(8) National Nuclear Security Administration Service Center, P.O. Box 5400, Albuquerque, NM 87185–5400.

(9) National Nuclear Security Administration Nevada Site Office, P.O. Box 98518, Las Vegas, NV 89193–3521.

(10) National Energy Technology Laboratory, 3610 Collins Ferry Road, Morgantown, WV 26507–0800.

(11) Oak Ridge Office, P.O. Box 2001, Oak Ridge, TN 37831.

(12) Office of Scientific and Technical Information, P.O. Box 2001, Oak Ridge, TN 37831.

(13) Pacific Northwest Site Office, P.O. Box 350, Mail Stop K8–50, Richland, WA 99352.

(14) Pittsburgh Naval Reactors, P.O. Box 109, West Mifflin, PA 15122–0109.

(15) Richland Operations Office, P.O. Box 550, Mail Stop A7–75, Richland, WA 99352.

(16) Savannah River Operations Office, P.O. Box A, Aiken, SC 29801.

(17) Schenectady Naval Reactors, P.O. Box 1069, Schenectady, NY 12301.

(18) Southeastern Power Administration, 1166 Athens Tech Road, Elberton, GA 30635–6711.

(19) Southwestern Power Administration, One West Third, S1200, Tulsa, OK 74103.

(20) Strategic Petroleum Reserve Project Management Office, 900 Commerce Road East–MS FE–455, New Orleans, LA 70123.

(21) Western Area Power Administration, 12155 W. Alameda Parkway, P.O. Box 281213, Lakewood, CO 80228–8213.

* * * * *

(p) *Secretarial Officer* means the Under Secretary; Under Secretary for Science; Administrator, Energy Information Administration; Administrator, National Nuclear Security Administration; Assistant Secretary for Congressional and Intergovernmental Affairs; Assistant Secretary for Energy Efficiency and Renewable Energy; Assistant Secretary for Environmental Management; Assistant Secretary for Fossil Energy; Assistant Secretary for Policy and International Affairs; Assistant Secretary for Nuclear Energy; Chief Financial Officer; Chief Health, Safety and Security Officer; Chief Human Capital Officer; Chief Information Officer; Director, Office of Civilian Radioactive Waste Management; Director, Office of Economic Impact and Diversity; Director, Office of Electricity Delivery and Energy Reliability; Director, Office of Hearings and Appeals; Director, Office of Legacy Management; Director, Office of Management; Director, Office of Public Affairs; Director, Office of

Science; General Counsel; Inspector General; and Senior Intelligence Officer.

* * * * *

PART 1008—RECORDS MAINTAINED ON INDIVIDUALS (PRIVACY ACT)

■ 95. The authority citation for part 1008 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; 5 U.S.C. 552a.

■ 96. Section 1008.2(c) is revised to read as follows:

§ 1008.2 Definitions.

* * * * *

(c) *DOE locations* means each of the following DOE components:

(1) Bonneville Power Administration, P.O. Box 3621–KDP–7, Portland, OR 97232.

(2) Carlsbad Field Office, P.O. Box 3090, Carlsbad, NM 88221.

(3) Chicago Office, 9800 S. Cass Avenue, Argonne, IL 60439.

(4) Environmental Management Consolidated Business Center, 250 East 5th Street, Suite 500, Cincinnati, OH 45202.

(5) Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401.

(6) Headquarters, Department of Energy, Washington, DC 20585.

(7) Idaho Operations Office, 1955 Fremont Avenue, MS 1203, Idaho Falls, ID 83401.

(8) National Nuclear Security Administration Service Center, P.O. Box 5400, Albuquerque, NM 87185–5400.

(9) National Nuclear Security Administration Nevada Site Office, P.O. Box 98518, Las Vegas, NV 89193–3521.

(10) National Energy Technology Laboratory, 3610 Collins Ferry Road, Morgantown, WV 26507–0800.

(11) Oak Ridge Office, P.O. Box 2001, Oak Ridge, TN 37831.

(12) Office of Scientific and Technical Information, 175 S. Oak Ridge Turnpike, P.O. Box 62, Oak Ridge, TN 37830.

(13) Pacific Northwest Site Office, P.O. Box 350, Mail Stop K8–50, Richland, WA 99352.

(14) Pittsburgh Naval Reactors, P.O. Box 109, West Mifflin, PA 15122–0109.

(15) Richland Operations Office, P.O. Box 550, Mail Stop A7–75, Richland, WA 99352.

(16) Savannah River Operations Office, P.O. Box A, Aiken, SC 29801.

(17) Schenectady Naval Reactors, P.O. Box 1069, Schenectady, NY 12301.

(18) Southeastern Power Administration, 1166 Athens Tech Road, Elberton, GA 30635–6711.

(19) Southwestern Power Administration, One West Third, S1200, Tulsa, OK 74103.

(20) Strategic Petroleum Reserve Project Management Office, 900 Commerce Road East–MS FE–455, New Orleans, LA 70123.

(21) Western Area Power Administration, 12155 W. Alameda Parkway, P.O. Box 281213, Lakewood, CO 80228–8213.

* * * * *

PART 1016—SAFEGUARDING OF RESTRICTED DATA

■ 97. The authority citation for part 1016 is revised to read as follows:

Authority: Sec. 161i of the Atomic Energy Act of 1954, 68 Stat. 948 (42 U.S.C. 2201).

§ 1016.3 [Amended]

■ 98. Section 1016.3(o) is amended by removing ''Executive Order 12356 of April 2, 1982, 'National Security Information' '' and adding in its place ''Executive Order 12958, as amended'', ''Classified National Security Information'' and Executive Order 13292 ''Further Amendment to Executive Order 12958, as Amended, Classified National Security Information'''''.

■ 99. Section 1016.4 is revised to read as follows:

§ 1016.4 Communications.

Communications concerning rulemaking, i.e., petition to change part 1016, should be addressed to the Chief Health, Safety and Security Officer, HS–1/Forrestal Building, Office of Health, Safety and Security, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All other communications concerning the regulations in this part should be addressed to the cognizant DOE or National Nuclear Security Administration (NNSA) office.

§ 1016.31 [Amended]

■ 100. Section 1016.31(b) is amended by removing ''DOE Operations Offices administering the permit as set forth in appendix B of part 725'' and adding in its place ''the cognizant DOE or NNSA office''.

§ 1016.32 [Amended]

■ 101. Section 1016.32(a) is amended by removing ''Operations Office administering the permit'' and adding in its place ''cognizant DOE or NNSA office'' and by removing ''U.S. DOE, Washington, DC 20545'' and adding in its place ''HS–90/Germantown Building, Office of Health, Safety and Security, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–1290''.

§ 1016.36 [Amended]

■ 102. Section 1016.36 is amended by removing ''DOE Operations Offices administering the permit; or U.S. DOE, Washington, DC 20545, Attention: Office of Classification'' and adding in its place ''cognizant DOE or NNSA office or Office of Classification, HS–90/Germantown Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–1290''.

§ 1016.43 [Amended]

■ 103. Section 1016.43 is amended by removing ''E.O. 12356'' and adding in its place ''Executive Order 12958, as amended''.

PART 1017—IDENTIFICATION AND PROTECTION OF UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION

■ 104. The authority citation for part 1017 continues to read as follows:

Authority: 42 U.S.C. 2168; 28 U.S.C. 2461 note.

§ 1017.3 [Amended]

■ 105. Section 1017.3(u)(2)(iii) is amended by removing ''Assistant Secretary for Defense Programs'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 1017.7 [Amended]

■ 106. Section 1017.7(a)(2) is amended by removing ''Manager of a DOE Operations Office'' and adding in its place ''Manager of a DOE or NNSA field element''; and in paragraph (c) introductory text by removing ''Assistant Secretary for Defense Programs'' and adding in its place ''Director, Office of Classification''.

§ 1017.8 [Amended]

■ 107. Section 1017.8(c) is amended by removing ''Assistant Secretary for Defense Programs'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 1017.11 [Amended]

■ 108. Section 1017.11 is amended in the introductory text by removing ''Assistant Secretary for Defense Programs'' and adding in its place ''Director, Office of Classification'' and by removing ''Assistant Secretary for Defense Programs (refer to § 1017.16(b)(1) for the address)'' and adding in its place ''Director, Office of Classification, HS–90/Germantown Building, U.S. Department of Energy; 1000 Independence Avenue, SW., Washington, DC 20585–1290''.

§ 1017.16 [Amended]

■ 109. Section 1017.16 is amended in:

■ a. Paragraph (a)(5) by removing ''Assistant Secretary for Defense Programs'' and adding in its place ''Chief Health, Safety and Security Officer.''

■ b. Paragraph (b)(1) by removing ''Assistant Secretary for Defense Programs, U.S. Department of Energy, Washington, DC 20585'' and adding in its place ''Chief Health, Safety and Security Officer, HS–1/Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585''.

■ c. Paragraph (b)(3) introductory text and (c)(2) by removing ''Assistant Secretary for Defense Programs'' and adding in its place ''Chief Health, Safety and Security Officer.''

■ d. Paragraph (b)(4) by removing ''Assistant Secretary for Defense Programs'' and adding in its place ''Chief Health, Safety and Security Officer'' in both sentences.

§ 1017.17 [Amended]

■ 110. Section 1017.17(e)(2)(iv) is amended by removing ''Assistant Secretary for Defense Programs'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 1017.18 [Amended]

■ 111. Section 1017.18 is amended in:

■ a. Paragraphs (a) introductory text, (a)(1)(i) introductory text, (a)(1)(i)(C), (a)(1)(i)(D) both sentences, (a)(1)(i)(E), (a)(1)(ii), and (a)(1)(iii) by removing ''Assistant Secretary for Defense Programs'' and adding in its place ''Chief Health, Safety and Security Officer''.

■ b. Paragraph (a)(2) introductory text by removing ''Assistant Secretary for Defense Programs'' and adding in its place ''Chief Health, Safety and Security Officer'' in both the second and third sentences.

■ c. Paragraphs (a)(2)(v) and (a)(3) by removing ''Assistant Secretary for Defense Programs'' and adding in its place ''Chief Health, Safety and Security Officer''.

PART 1021—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

■ 112. The authority citation for part 1021 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.*; 42 U.S.C. 4321 *et seq.*; 50 U.S.C. 2401 *et seq.*

■ 113. Section 1021.105 is revised to read as follows:

§ 1021.105 Oversight of Agency NEPA activities.

The General Counsel, or his/her designee, is responsible for overall review of DOE NEPA compliance. Further information on DOE's NEPA process and the status of individual NEPA reviews may be obtained upon request from the Office of NEPA Policy and Compliance, GC–20, Office of the General Counsel, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0103.

PART 1044—SECURITY REQUIREMENTS FOR PROTECTED DISCLOSURES UNDER SECTION 3164 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

■ 114. The authority citation for part 1044 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.*, 7239, and 50 U.S.C. 2401 *et seq.*

§ 1044.07 [Amended]

■ 115. Section 1044.07 is amended by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Personnel Security''.

§ 1044.08 [Amended]

■ 116. Section 1044.08 is amended by removing ''Office of Nuclear and National Security Information'' and adding in its place ''Office of Classification''.

§ 1044.09 [Amended]

■ 117. Section 1044.09 is amended by removing ''Office of Nuclear and National Security Information'' and adding in its place ''Office of Classification''.

§ 1044.10 [Amended]

■ 118. Section 1044.10 is amended by removing ''Office of Nuclear and National Security Information'' and adding in its place ''Office of Classification''.

§ 1044.11 [Amended]

■ 119. Section 1044.11, paragraph (c) is amended by removing ''Office of Nuclear and National Security Information'' and adding in its place ''Office of Classification''; and paragraph (h) is amended by removing ''Office of Safeguards and Security'' and adding in its place ''Office of Health, Safety and Security''.

§ 1044.12 [Amended]

■ 120. Section 1044.12 is amended by removing ''U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–1017'' and adding in its place ''HG–1/L'Enfant Plaza Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–1615'' and by removing ''(202) 426–1415'' and adding in its place ''(202) 287–1415''.

PART 1045—NUCLEAR CLASSIFICATION AND DECLASSIFICATION

■ 121. The authority citation for part 1045 is revised to read as follows:

Authority: 42 U.S.C. 2011; E.O. 12958, 60 FR 19825, 3 CFR, 1995 Comp., p. 333; E.O. 13292, 68 FR 15315, 3 CFR 2004 Comp., p. 196.

§ 1045.3 [Amended]

■ 122. In § 1045.3:

■ a. The definition ''Director of Declassification'' is amended in the first sentence by removing ''Declassification'' and adding in its place ''Classification''; by removing ''Office of Declassification'' and adding in its place ''Office of Classification''; and in the second sentence by removing ''Director of Declassification'' and adding in its place ''Director of Classification'' and by removing ''Director of Security Affairs'' and adding in its place ''Chief Health, Safety and Security Officer''.

■ b. Remove the definition of ''Director of Security Affairs''.

■ c. Add the definition of ''Chief Health, Safety and Security Officer'' in alphabetical order to read as set forth below:

§ 1045.3 Definitions.

* * * * *

Chief Health, Safety and Security officer means the Department of Energy Chief Health, Safety and Security Officer, or any person to whom the Chief's duties are delegated.

* * * * *

§ 1045.4 [Amended]

■ 123. Section 1045.4 is amended in:

■ a. Paragraph (a) introductory text and (f)(4) by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.

■ b. Paragraph (b) introductory text by removing ''DOE Director of Security Affairs'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 1045.7 [Amended]

■ 124. Section 1045.7(a) is amended by removing ''Openness Coordinator, Department of Energy, Office of Declassification, 19901 Germantown Road, Germantown, Maryland 20874–1290'' and adding in its place ''Director, Office of Classification, HS–90/Germantown Building, U.S. Department

of Energy, 1000 Independence Avenue SW., Washington, DC 20585–1290''.

§ 1045.8 [Amended]

■ 125. Section 1045.8, paragraphs (a) and (b) are amended by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.

§ 1045.12 [Amended]

■ 126. Section 1045.12 is amended in:
■ a. Paragraph (a) by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.
■ b. Paragraphs (b), (c), and (d), by removing ''DOE Director of Security Affairs'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 1045.14 [Amended]

■ 127. Section 1045.14 is amended in:
■ a. Paragraph (a)(1) by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification'' in both places it appears.
■ b. Paragraph (a)(2) by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.
■ c. Paragraphs (b), (c), and (d) by removing ''DOE Director of Security Affairs'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 1045.15 [Amended]

■ 128. Section 1045.15, paragraphs (a), (d) introductory text, and (e) introductory text, are amended by removing ''DOE Directors of Declassification and Security Affairs'' and adding in its place ''Director of Classification and the Chief Health, Safety and Security Officer''.

§ 1045.16 [Amended]

■ 129. Section 1045.16 is amended in:
■ a. Paragraphs (a) and (b), by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification'' and by removing ''DOE Director of Security Affairs'' and adding in its place ''Chief Health, Safety and Security Officer''.
■ b. Paragraphs (c) and (d) introductory text, are amended by removing ''Directors of Declassification and Security Affairs'' and adding in its place ''Director of Classification and the Chief Health, Safety and Security Officer''.

§ 1045.17 [Amended]

■ 130. Section 1045.17, paragraphs (a) introductory text, (a)(1), (a)(2), (a)(3), and (b), are amended by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.

§ 1045.18 [Amended]

■ 131. Section 1045.18, paragraphs (a) and (b), are amended by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.

§ 1045.19 [Amended]

■ 132. Section 1045.19 is amended in:
■ a. Paragraph (a) by removing ''DOE Directors of Declassification and Security Affairs'' and adding in its place ''Director of Classification and the Chief Health, Safety and Security Officer'' in the first, second, and fourth sentences and by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.
■ b. Paragraph (b) by removing ''DOE Director of Declassification'' and in the first and second sentences adding in its place ''Director of Classification'' and by removing ''Department of Energy, Director of Declassification, 19901 Germantown Road, Germantown, Maryland 20874–1290'' and adding in its place ''Director Office of Classification, HS–90/Germantown Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–1290''.

§ 1045.20 [Amended]

■ 133. Section 1045.20 is amended by removing ''DOE Director of Security Affairs'' and adding in its place ''Chief Health, Safety and Security Officer'' and by removing ''Department of Energy, Director of Security Affairs'' and adding in its place ''Chief Health, Safety and Security Officer, HS–1/Forrestal Building, U.S. Department of Energy''.

§ 1045.22 [Amended]

■ 134. Section 1045.22(c) is amended by removing ''DOE Director of Security Affairs'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 1045.33 [Amended]

■ 135. Section 1045.33, paragraphs (a) and (b), are amended by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.

§ 1045.35 [Amended]

■ 136. Section 1045.35, paragraphs (b) and (c), are amended by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.

§ 1045.36 [Amended]

■ 137. Section 1045.36(b) is amended by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.

§ 1045.37 [Amended]

■ 138. Section 1045.37 is amended in:
■ a. Paragraph (a) by removing ''DOE Directors of Declassification and Security Affairs'' and adding in its place ''Director of Classification and the Chief Health, Safety and Security Officer''.
■ b. Paragraph (c) by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.

§ 1045.39 [Amended]

■ 139. Section 1045.39(b)(3) is amended by removing ''DOE Director of Declassification'' and adding ''Director of Classification'' in both places that it occurs in the first sentence and by removing ''DOE Director of Security Affairs'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 1045.42 [Amended]

■ 140. Section 1045.42 is amended in:
■ a. Paragraphs (b)(5)(i), (b)(5)(ii), (c)(1), and (c)(2) by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.
■ b. Paragraphs (d)(1) and (2), by removing ''DOE Director of Security Affairs'' and adding in its place ''Chief Health, Safety and Security Officer''.

§ 1045.43 [Amended]

■ 141. Section 1045.43 is amended in:
■ a. Paragraph (b) by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.
■ b. Paragraph (c) by removing ''Director of Declassification, Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290'' and adding in its place ''Director, Office of Classification, HS–90/Germantown Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–1290''.

§ 1045.45 [Amended]

■ 142. Section 1045.45(b) is amended by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.

§ 1045.52 [Amended]

■ 143. Section 1045.52(d) is amended by removing ''Department of Energy, Director of Declassification, 19901 Germantown Road, Germantown, Maryland 20874–1290'' and adding in its place ''Director, Office of Classification, HS–90/Germantown Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–1290''.

§ 1045.53 [Amended]

■ 144. Section 1045.53 is amended in:
■ a. Paragraph (b) by removing ''DOE Director of Declassification'' and adding in its place ''Director of Classification''.
■ b. Paragraph (c) by removing ''DOE Director of Security Affairs'' and adding in its place ''Chief Health, Safety and

Security Officer, HS–1/Forrestal Building''.

■ c. Paragraphs (d) and (e) by removing ''DOE Director of Security Affairs'' and adding in their place ''Chief Health, Safety and Security Officer''.

■ d. Paragraph (f) by removing ''DOE Director of Security Affairs''' and adding in its place ''Chief Health, Safety and Security Officer's''.

PART 1046—PHYSICAL PROTECTION OF SECURITY INTERESTS

■ 145. The authority citation for part 1046 continues to read as follows:

Authority: Sec. 2201, Pub. L. 83–703, 68 Stat. 919 (42 U.S.C. 2201 *et seq.*); sec. 7151, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*).

§ 1046.3 [Amended]

■ 146. Section 1046.3 is amended in the definition of ''Designated physician'' by removing ''Medical Director, Office of Operational and Environmental Safety, Headquarters'' and adding in its place ''Director, Office of Health and Safety'' and by removing ''Medical'' in the second sentence.

Appendix A to Subpart B of Part 1046 [Amended]

■ 147. Appendix A is amended in:

■ a. Section B.(9) by removing ''Director of Safeguards and Security, Headquarters,'' and adding in its place ''Chief Health, Safety and Security Officer''.

■ b. Section G.(1)(e) by removing ''Director of Safeguards and Security, DOE Headquarters,'' and adding in its place ''Chief Health, Safety and Security Officer''.

■ c. Section J.(5) by removing ''Director of Safeguards and Security, DOE Headquarters'' and adding in its place ''Chief Health, Safety and Security Officer''.

Appendix B to Subpart B of Part 1046 [Amended]

■ 148. Appendix B is amended in:

■ a. Section B.(1) by removing ''Central Training Academy (CTA)'' and adding in its place ''National Training Center,'' and by removing ''Director, Office of Safeguards and Security'' and adding in its place ''Chief Health, Safety and Security Officer''.

■ b. Section B.(9)(b) is amended by removing ''DOE Operations Office'' and adding in its place ''DOE field office''.

■ c. Section B.(9)(g) by removing ''Office of Safeguards and Security (SA–10)'' and adding in its place ''Chief Health, Safety and Security Officer''.

■ d. Section B.(9)(i) by removing ''Central Training Academy'' and adding in its place ''National Training Center''.

PART 1049—LIMITED ARREST AUTHORITY AND USE OF FORCE BY PROTECTIVE FORCE OFFICERS OF THE STRATEGIC PETROLEUM RESERVE

■ 149. The authority citation for part 1049 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.*

§ 1049.8 [Amended]

■ 150. Section 1049.8(a) is amended by removing ''Department of Energy Office of Safeguards and Security'' and adding in its place ''Chief Health, Safety and Security Officer''.

[FR Doc. E6–20104 Filed 11–27–06; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Neomycin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Sparhawk Laboratories, Inc. The ANADA provides for use of neomycin sulfate oral solution in livestock for the treatment and control of bacterial enteritis.

DATES: This rule is effective November 28, 2006.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0169, e-mail: *john.harshman@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Sparhawk Laboratories, Inc., 12340 Santa Fe Trail Dr., Lenexa, KS 66215, filed ANADA 200–379 for the use of Neomycin Liquid in cattle, swine, sheep, and goats for the treatment and control of bacterial enteritis. Sparhawk Laboratories, Inc.'s Neomycin Liquid is approved as a generic copy of Pharmacia &Upjohn Co.'s BIOSOL Liquid, sponsored by Pharmacia & Upjohn Co., a Division of Pfizer, Inc., under ANADA 200–113. The ANADA is approved as of October 24, 2006, and the regulations in 21 CFR 520.1484 are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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 520

Animal drugs.

■ 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 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

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

§ 520.1484 [Amended]

■ 2. In paragraph (b)(3) of § 520.1484, add ''058005,'' in numerical sequence.

Dated: November 16, 2006.

Bernadette Dunham,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. E6–20126 Filed 11–27–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 235

[DOD–2005–OS–0149]

RIN 0790–AH86

Sale or Rental of Sexually Explicit Material on DoD Property (DoD Instruction 4105.70)

AGENCY: Department of Defense.

ACTION: Final rule; correction.

SUMMARY: On Wednesday, November 15, 2006 (71 FR 66457), the Department of Defense published a final rule, ''Sale or Rental of Sexually Explicit Material on DoD Property (DoD Instruction 4105.70)''. This document corrects an error in the summary.

DATES: *Effective Date:* December 15, 2006.

FOR FURTHER INFORMATION CONTACT: Commander F. Stich, 703–602–4590.

Correction

In **Federal Register** at 71 FR 66457, the **SUMMARY** of the notice, ''10 U.S.C. 2489a'' is corrected to read ''10 U.S.C. 2495b''. All other information remains unchanged.

Dated: November 21, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 06–9417 Filed 11–27–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AM19

Medical: Informed Consent—Extension of Time Period and Modification of Witness Requirement for Signature Consent

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule the proposed rule amending the Department of Veterans Affairs (VA) medical regulations on informed consent. This final rule extends the period of time during which a signed consent form remains valid from 30 to 60 days and eliminates the requirement that a third-party witness the patient or surrogate and practitioner signing the consent form, except in those circumstances where the patient or surrogate signs with an ''X'' due to a debilitating illness or disability, *i.e.*, significant physical impairment and/or difficulty in executing a signature due to an underlying health condition(s), or is unable to read and write.

DATES: *Effective Date:* December 28, 2006.

FOR FURTHER INFORMATION CONTACT: Ruth Cecire, PhD., Policy Analyst, Ethics Policy Service, National Center for Ethics in Health Care (10E), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; 202–501–2012 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on March 9, 2006 (71 FR 5204), VA proposed to amend its medical regulations at 38 CFR 17.32 on informed consent. Specifically, it proposed to extend the time during which a signed consent form is valid from 30 to 60 days. Also, it proposed to eliminate the requirement that a consent form be witnessed, except in those situations where the patient or surrogate signs with an ''X'' due to a debilitating illness or disability. VA provided a 60-day comment period that ended on May 6, 2006. No comments were received. Based on the rationale set forth in the proposed rule and those contained in this document, we are adopting the provisions of the proposed rule as a final rule without change.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule has no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act of 1995

This rule contains no new collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521). The existing information collections associated with the informed consent procedures under § 17.32 have been approved by the Office of Management and Budget (OMB) under 2900–0583.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of specified conditions, including: having an annual affect on the economy of $100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. VA has examined the economic, legal, and policy implications of this final rule and concluded that it is a significant regulatory action because it raises novel policy issues.

Regulatory Flexibility Act

The Secretary hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The rule will affect only individuals and will not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; and 64.011, Veterans Dental Care.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: October 23, 2006.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, VA amends 38 CFR part 17 to read as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, and as stated in specific sections.

■ 2. Section 17.32 is amended by:

■ a. Revising the section heading.

■ b. In paragraph (a), in the definition of *signature consent,* removing ‘‘, *e.g.*, a published numbered VA form (OF 522) or comparable form approved by the local VA facility’’.

■ c. Revising paragraph (d)(2).

■ d. Revising the authority citation at the end of the section.

The revisions read as follows:

§ 17.32 Informed consent and advance care planning.

* * * * *

(d) * * *

(2) A patient or surrogate will sign with an ‘‘X’’ when the patient or surrogate has a debilitating illness or disability, *i.e.*, significant physical impairment and/or difficulty in executing a signature due to an underlying health condition(s), or is unable to read and write. When the patient’s or surrogate’s signature is indicated by an ‘‘X,’’ two adults must witness the act of signing. By signing, the witnesses are attesting only to the fact that they saw the patient or surrogate and the practitioner sign the form. The signed form must be filed in the patient’s medical record. A properly executed VA-authorized consent form is valid for a period of 60 calendar days. If, however, the treatment plan involves multiple treatments or procedures, it will not be necessary to repeat the informed consent discussion and documentation so long as the course of treatment proceeds as planned, even if treatment extends beyond the 60-day period. If there is a change in the patient’s condition that might alter the diagnostic or therapeutic decision, the consent is automatically rescinded.

* * * * *

(Authority: 38 U.S.C. 7331–7334)

[FR Doc. E6–20111 Filed 11–27–06; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2006–0577–200624(a); FRL–8248–9]

Approval and Promulgation of Implementation Plans; Georgia: Removal of Douglas County Transportation Control Measure

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On September 19, 2006, the State of Georgia’s Department of Natural Resources (DNR), through the Georgia Environmental Protection Division (GA EPD), submitted a final State Implementation Plan (SIP) revision to remove the transportation control measure (TCM) related to a compressed natural gas (CNG) refueling station/park and ride transportation center project in Douglas County, Georgia. This TCM was originally submitted by GA EPD for inclusion into the Atlanta portion of the Georgia SIP on August 29, 1997. EPA approved this TCM into the Georgia SIP through direct final rulemaking published in the **Federal Register** on June 24, 1998 (effective on August 10, 1998). Subsequently, the project sponsor determined that the equipment necessary to implement this project is no longer available, and thus this TCM cannot be implemented as originally anticipated. No SIP credit was claimed for this program, nor were emissions benefits ever realized for this TCM because it was never implemented. Through this rulemaking, EPA is approving the removal of this TCM from the Atlanta portion of the Georgia SIP because this SIP revision meets Clean Air Act (CAA) requirements.

DATES: This direct final rule is effective January 29, 2007 without further notice, unless EPA receives adverse comment by December 28, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–2006–0577, by one of the following methods:

1. *www.regulations.gov.:* Follow the on-line instructions for submitting comments.

2. E-mail: *Benjamin.lynorae@epa.gov.*

3. Fax: (404) 562–9019.

4. Mail: ‘‘EPA–R04–OAR–2006–0577,’’ Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

5. Hand Delivery or Courier: Lynorae Benjamin, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. ‘‘EPA–R04–OAR–2006–0577.’’ EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ‘‘anonymous access’’ system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other

information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

Lynorae Benjamin, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Benjamin can also be reached via electronic mail at *Benjamin.lynorae@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What Action Is EPA Taking?

EPA is approving the removal of the TCM (related to a CNG refueling station in Douglas County, Georgia) from the Atlanta portion of the Georgia SIP. This station would have provided a centralized fueling site for CNG-powered county fleet vehicles, transit vans, and buses for Douglas County.

II. What Is the Background for EPA's Action?

On August 29, 1997, the State of Georgia's DNR, through the GA EPD, submitted a SIP revision to include the TCM related to a CNG refueling station/park and ride transportation center project in Douglas County, Georgia. EPA evaluated this SIP revision and determined that it met the criteria for a TCM and all other SIP requirements. Consequently, EPA approved this TCM into the Atlanta portion of the Georgia SIP through direct final rulemaking on June 24, 1998, effective August 10, 1998 (see 63 FR 34300). This project has been referenced as DO–AR 211 in the Atlanta Regional Commission's (ARC) Transportation Improvement Program (TIP) and Regional Transportation Plan.

Project DO–AR 211 was a planned CNG refueling station that would have been located at the site of the Douglas County multimodal transportation center. This station would have provided a centralized fueling site for CNG–powered county fleet vehicles, transit vans, and buses. The project experienced delays in implementation that were addressed through the interagency consultation process. By the time these issues were fully resolved, production of 12- and 15-passenger CNG vans was being discontinued by Ford and General Motors; thus, Douglas County no longer considered the project viable. Project sponsors were informed through interagency consultation that until (or unless) the project was removed from the SIP, they needed to continue to show progress towards implementing the project.

In a letter dated March 28, 2006, from Mr. Tom Worthan of Douglas County to Mr. Charles ''Chick'' Krautler of ARC, Douglas County formally notified ARC of their complications for implementing this TCM. Additionally, this letter requested that ARC initiate the process to remove this TCM from the SIP. Based on the March 28, 2006, letter, ARC contacted the GA EPD and requested that a SIP revision be developed, for submittal to EPA, to remove this TCM from the Atlanta portion of the Georgia SIP.

III. What Is a TCM?

Pursuant to 40 CFR 93.101 (the Transportation Conformity Rule), a TCM is ''any measure that is specifically identified and committed to in the applicable implementation plan (SIP) that is either one of the types listed in section 108 of the CAA, or any other measure for the purposes of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions.'' Section 108(3) of the CAA provides air quality planning guidance for the development and implementation of transportation and other measures necessary to demonstrate and maintain attainment of the national ambient air quality standards (NAAQS). Section 108(f)(1)(A) of the CAA lists sixteen TCMs for consideration by states and planning agencies to reduce emissions and maintain the NAAQS. Programs to reduce motor vehicle emissions consistent with title II of the CAA are listed in section 108(f)(1)(A)(xii).

TCMs are included in the SIP to help reduce emissions from on-road mobile sources. If EPA approves a TCM into an area's SIP, the transportation partners must show as part of the conformity determination, that these measures are being implemented on schedule and given priority for Federal funding. SIPs must be revised to remove any TCMs that the sponsor cannot implement so that failure to implement them does not prohibit conformity determinations.

IV. Why Is EPA Taking This Action?

EPA is taking this action because the GA EPD's September 19, 2006, SIP submittal requests that we take this action, and because we believe that this SIP revision is consistent with the CAA. More explanation is provided later in this rulemaking in Section VI, entitled ''What is EPA's Analysis of the Request?''

V. What Is the Effect of EPA's Action?

Upon the effective date of this action, the transportation partners in the Atlanta area will no longer be required to evaluate the progress of this TCM for the purposes of implementing the transportation conformity requirements. The Transportation Conformity Rule (40 CFR part 93) requires that the status of TCMs be documented as one of the criteria for an area to successfully demonstrate conformity.

VI. What Is EPA's Analysis of the Request?

EPA has reviewed the SIP submission, provided by the GA EPD on September 19, 2006, to remove the TCM related to a CNG refueling station/park and ride transportation center project in Douglas County, Georgia, and has determined that this SIP revision request is consistent with the CAA. This SIP revision was prompted by a March 28, 2006, letter, from Mr. Tom Worthan of Douglas County to Mr. Charles ''Chick'' Krautler of ARC, by which Douglas County formally informed ARC of their complications for implementing this TCM. As a result of the letter from Douglas County, ARC contacted the GA EPD and requested that a SIP revision be developed, for submittal to EPA, to remove this TCM from the Atlanta portion of the Georgia SIP.

This TCM, which is described in detail in Section I of this rulemaking, could not be implemented as originally envisioned because of the project sponsor's inability to acquire the necessary equipment. Although the GA EPD requested on August 1997 that the TCM be approved in the Georgia SIP, no

emissions credit was claimed in the SIP for the measure. In fact, the emissions analysis was reviewed only to determine that no further air quality degradation would result from the implementation of this TCM. EPA documented this fact in the rulemaking approving the TCM in the Georgia SIP (see 63 FR 34300).

Since the project was not implemented, it did not result in emission reductions, and removing it from the SIP will cause no degradation of air quality. Thus this revision is consistent with the CAA, specifically section 110(l) which states the following:

> Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act.

After full analysis of the State's submittal, EPA is approving this SIP revision because it is consistent with the CAA.

VII. Final Action

Through this rulemaking, EPA is approving the removal of the TCM (related to a CNG refueling station in Douglas County, Georgia) from the Atlanta portion of the Georgia SIP. This SIP revision is consistent with CAA requirements. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective January 29, 2007 without further notice unless the Agency receives adverse comments by December 28, 2006.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 29, 2007 and no further action will be taken on the proposed rule.

VIII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule removes a TCM under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely removes a TCM under state law, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant and because the Agency does not have reason to believe that the rule concerns an environmental health risk or safety risk that may disproportionately affect children.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 29, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: November 13, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart L—Georgia

■ 2. Section 52.570(e) is amended by adding a entry at the end of the table for ''Douglas County, GA'' to read as follows:

§ 52.570 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED GEORGIA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date
* * *	*	*	* *
Alternative Fuel Refueling Station/Park and Ride Transportation Center, Project DO–AR–211 is removed.	Douglas County, GA	09/19/06	11/28/06 [Insert citation of publication].

[FR Doc. E6–20141 Filed 11–27–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2005–FL–0002–200530(a); FRL–8246–2]

Approval and Promulgation of Implementation Plans Florida: Lockheed Martin Aeronautics Company

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action under section 110 of the Clean Air Act (CAA), 42 U.S.C. 7410, to approve a revision to the Florida State Implementation Plan (SIP) submitted by the Florida Department of Environmental Protection (FDEP) on June 8, 2005. The revision is source-specific to the Lockheed Martin Aeronautics Company (LM), located in Pinellas County, Florida, and regards that facility's compliance with Florida's Surface Coating of Miscellaneous Metal Parts and Products Reasonably Available Control Technology rule, found at Florida Administrative Code (F.A.C.) Rule 62–296.513 (FL MMPP Rule). The source-specific SIP revision seeks to allow LM to employ as reasonably available control technology (RACT) the control techniques outlined in EPA's December 1997, ''Aerospace Control Technique Guidelines'' (EPA's Aerospace CTG), instead of the RACT described in the FL MMPP Rule. The source-specific SIP revision is approvable because it meets the standards for approval described in section 110(l) of the CAA.

DATES: This direct final action is effective January 29, 2007 without further notice unless EPA receives adverse comment by December 28, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final action in the **Federal Register** and inform the public that the direct final action will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2005–FL–0002, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. E-mail: *hou.james@epa.gov.*
3. Fax: (404) 562–9019.
4. Mail: ''EPA–R04–OAR–2005–FL–0002,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. Hand Delivery or Courier: James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. ''EPA–R04–OAR–2005–FL–0002.'' EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available (i.e., CBI or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy

form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8965. Mr. Hou can also be reached via electronic mail at *hou.james@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The FL MMPP Rule describes specific RACT that is necessary to achieve the specified emission rates for volatile organic compounds (VOCs). Specifically, the Rule requires sources that apply surface coatings to any number of metal parts and products to limit their VOC emission rates. Consistent with the FL MMPP Rule, however, sources are exempt from regulation if they emit not more than 15 pounds in any one day and not more than three pounds in any one hour. F.A.C. Rule 62.296.500(3)(a). The FL MMPP Rule was incorporated into the Florida SIP on June 16, 1999 (64 FR 32346), and applies to a wide range of source categories, including aerospace manufacturing.

Section 183 of the Clean Air Act, 42 U.S.C. 7511b, ''Federal ozone measures,'' requires EPA to issue control techniques guidelines for categories of stationary sources of VOC emissions. Pursuant to section 183 of the CAA, in December 1997, EPA issued a control techniques guideline entitled, ''Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations,'' (EPA Publication No. EPA–453/R–97–004) (EPA's Aerospace CTG). The purpose of EPA's Aerospace CTG is to present feasible RACT control measures for VOC emissions from coatings and solvents used specifically in the aerospace industry. EPA has encouraged states to adopt EPA's Aerospace CTG as part of their regulations of VOC emissions from the aerospace industry. Although Florida has not yet revised its SIP to include EPA's Aerospace CTG for all aerospace manufacturers, it did submit a source-specific SIP revision on June 8, 2005, for LM's Pinellas County facility to utilize the RACT described in EPA's Aerospace CTG in lieu of the FL MMPP Rule, which is not specific to the aerospace industry.

LM produces aerospace parts and components, primarily in support of the manufacture and sustainability of military aircrafts. At the present time, the surface coating operations of LM are exempt from the FL MMPP Rule because its operations emit VOCs at lower rates than the minimum rates necessary to be regulated under that Rule. However, LM anticipates that it will increase production levels such that VOC emissions from surface coating operations in the near future would exceed the exemption criteria of the FL MMPP Rule, thus subjecting LM to the RACT requirements of the FL MMPP Rule. As will be discussed in greater detail below, the RACT described in EPA's Aerospace CTG is more detailed than the RACT required by the FL MMPP Rule because it focuses on specific aspects of the aerospace industry that result in VOC emissions. As a result, in the case of LM, the RACT described in EPA's Aerospace CTG is expected to be more effective than the RACT described in FL MMPP Rule for controlling emissions from LM's Pinellas County facility.

On June 8, 2005, FDEP submitted a source-specific SIP revision to EPA requiring the Pinellas County LM facility to comply with EPA's Aerospace CTG in lieu of the FL MMPP Rule. In essence, FL is requesting that EPA approve a SIP revision subjecting LM to the RACT described in EPA's Aerospace CTG. EPA is now taking direct final action to approve that revision into the Florida SIP.

II. Analysis of State's Submittal

As noted above, EPA has encouraged the adoption of its Aerospace CTG for the regulation of VOC emissions from the aerospace industry. This source-specific SIP revision, which would require that LM comply with EPA's Aerospace CTG in lieu of the FL MMPP Rule, is consistent with that policy.

As part of its review of this proposed SIP revision, EPA evaluated the proposed revision consistent with the standards described in section 110(l) of the CAA, ''Plan revisions.'' Section 110(l) specifies that EPA may not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment of any of the National Ambient Air Quality Standards (NAAQS), or any other applicable requirements of the CAA. Because EPA's Aerospace CTG is specific to the aerospace industry, the applicable RACT is better suited than the FL MMPP Rule to control VOC emissions from that industry.

Both the FL MMPP Rule and EPA's Aerospace CTG describe ''RACT;'' however, the CTG describes specific RACT for the aerospace industry, and therefore, can provide more effective emissions control options for that industry. For example, the FL MMPP Rule describes RACT generally for primers and topcoats that are typically applied within a confined environment such as a paint booth. EPA's Aerospace CTG has greater detail and addresses RACT specifically for solvent cleaning operations, adhesive and sealant application, specialty coating materials that are not applied in a booth, and waste handling operations, among other situations. As a result, the RACT described in EPA's Aerospace CTG may be more stringent than the FL MMPP Rule because the FL MMPP Rule does not address all the specific situations applicable to the aerospace industry. According to data provided to EPA by LM, LM can reduce VOC emissions to a greater extent using EPA's Aerospace CTG RACT in lieu of the FL MMPP Rule RACT. In summary, LM's use of EPA's Aerospace CTG RACT is expected to result in at least equivalent controls, if not more stringent controls, than those imposed by the FL MMPP Rule. Additionally, on May 19, 2005, FDEP issued a federally enforceable minor-source air construction permit to the facility, limiting LM's total VOC emissions to 25 tpy, representing another limit on VOC emissions from this facility.

EPA has further determined that approving this source-specific SIP revision will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement, as described in section 110(l) of the CAA due to the fact that this source-specific SIP revision will impose more stringent RACT on LM's facility than would otherwise be required under Florida Law. Based on the foregoing analysis, EPA has determined that the proposed source-specific revision to the Florida SIP is consistent with section 110(l) of the CAA, and is approvable.

III. Final Action

EPA is taking direct final action to approve a revision to the Florida SIP submitted by FDEP on June 8, 2005. The revision is source-specific to the LM facility located in Pinellas County, Florida, and regards that facility's use of RACT to control VOC emissions. Instead of following the RACT described in the FL MMPP Rule, the source-specific revision requires LM to comply with the RACT described in EPA's Aerospace CTG. EPA is publishing this direct final action without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This direct final action will be effective January 29, 2007 without further notice unless the Agency receives adverse comments by December 28, 2006.

If the EPA receives adverse comments, then EPA will withdraw the direct final action and inform the public that the direct final action will not take effect. All public comments received will then be addressed in a subsequent final action based on the proposal. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 29, 2007 and no further action will be taken on the proposed action.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. As a result, the action does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 *note*) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 29, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 6, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52, is amended as follows:

PART 52—[AMENDED]

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

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

Subpart K—Florida

■ 2. Section 52.520(d) is amended by adding a new entry at the end of the table for ''Lockheed Martin Aeronautics Company'' to read as follows:

§ 52.520 Identification of plan.

* * * * *

(d) * * *

EPA APPROVED (STATE OR COUNTY) SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanation
Lockheed Martin Aeronautics Company.	.....	04/16/05	11/28/06 [Insert citation of publication].	Requirement that Lockheed Martin Aeronautics Company comply with EPA's Aerospace CTG at its Pinellas County facility.

* * * * *

[FR Doc. E6–20073 Filed 11–27–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 61 and 63

[EPA–R01–OAR–2006–0345; FRL–8238–1]

Approval of the Clean Air Act, Section 112(l), Authority for Hazardous Air Pollutants: Asbestos Management and Control; State of New Hampshire Department of Environmental Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is proposing to approve New Hampshire Department of Environmental Services' (NH DES) request to implement and enforce its regulation entitled ''Asbestos Management and Control'' in lieu of the Asbestos National Emission Standard for Hazardous Air Pollutants (Asbestos NESHAP) as it applies to certain asbestos-related activities. Upon approval, NH DES's rule will be federally enforceable and will apply to all sources that otherwise would be regulated by the Asbestos NESHAP with the exception of inactive waste disposal sites that ceased operation on or before July 9, 1981. These inactive disposal sites are already regulated by State rules that were approved by EPA on May 23, 2003. NH DES's request seeks to adjust the federal rules by demonstrating the equivalency of its rules to the federal requirements.

DATES: This direct final rule will be effective January 29, 2007, unless EPA receives adverse comments by December 28, 2006. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications in this rule is approved by the Director of the **Federal Register** as of January 29, 2007.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2006–0345 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: lancey.susan@epa.gov.*
3. *Fax:* (617) 918–0656.
4. *Mail:* ''EPA–R01–OAR–2006–0345'', Daniel Brown, Manager, Air Permits, Toxics & Indoor Programs Unit, Office Of Ecosystem Protection, U.S. Environmental Protection Agency, One Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023.
5. *Hand Delivery or Courier:* Deliver your comments to: Daniel Brown, Manager, Air Permits, Toxics & Indoor Programs Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, One Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2006–0345. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov*, or e-mail, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding legal holidays.

In addition to the publicly available docket materials available for inspection electronically in the Federal Docket Management System at *www.regulations.gov*, and the hard copy available at the Regional Office, which are identified in the **ADDRESSES** section of this **Federal Register**, copies of the state submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency: Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302–0095.

FOR FURTHER INFORMATION CONTACT: Susan Lancey, Air Permits, Toxics & Indoor Programs Unit, Office Of Ecosystem Protection, U.S. Environmental Protection Agency, One Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023, telephone number (617) 918–1656, e-mail *lancey.susan@epa.gov.*

SUPPLEMENTARY INFORMATION:

This **SUPPLEMENTARY INFORMATION** is organized as follows:

I. Background and Purpose.
II. What requirements must a state rule meet to adjust a Section 112 rule?
III. When did the authority to implement and enforce Section 112 standards become effective in New Hampshire?
IV. What are the differences between NH DES's regulations and the Asbestos NESHAP?
V. What action is EPA taking?
VI. Opportunities for Public Comments
VII. Statutory and Executive Order Reviews

I. Background and Purpose

The Environmental Protection Agency (EPA) first promulgated standards to regulate asbestos emissions on April 6, 1973 (see 40 FR 8826). These standards have since been amended several times and re-codified as a National Emission Standard for Hazardous Air Pollutants (NESHAP) in 40 CFR part 61, subpart M, ''National Emission Standard for Asbestos'' (Asbestos NESHAP). The Asbestos NESHAP applies to several asbestos-emitting categories, and includes emission and/or work practice standards for: asbestos mills, including their waste disposal practices, and roadways; numerous manufacturing operations that use commercial asbestos, including their waste disposal practices; demolitions/renovations; spraying and fabricating operations; installation of insulating materials; and both active and inactive waste disposal sites.

On November 15, 2005 and January 10, 2006, respectively, EPA received an application, and a supplement to that application, from the NH DES. The application, which was determined to be complete on April 13, 2006, concerned a rule adjustment pursuant to the provisions of 40 CFR part 63, subpart E, section 63.92. Specifically, NH DES requested the rule adjustment in order to implement and enforce New Hampshire Rule Env-A 1800 entitled ''Asbestos Management and Control'' in place of the Federal asbestos regulations found at 40 CFR part 61, subpart M, except for inactive waste disposal sites not operating after July 9, 1981.

EPA is approving this request and incorporating it into 40 CFR parts 61 and 63. This action will have a beneficial effect on air quality by reducing asbestos emissions. This action is being taken under section 112 of the Clean Air Act.

II. What requirements must a state rule meet to adjust a Section 112 rule?

Under CAA section 112(l), EPA may approve state or local rules or programs to be implemented and enforced in place of certain otherwise applicable Federal rules, emissions standards, or requirements, when the state or local rules are determined to be no less stringent than the corresponding Federal rules or requirements. The Federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E (see 58 FR 62262, November 26, 1993 as amended at 65 FR 55810, September 14, 2000). Under these regulations, a state air pollution control agency has the option to request EPA's approval to adjust a state rule for the applicable section 112 Federal rule (NESHAP). To receive EPA approval using this option, the requirements of 40 CFR part 63, subpart E, sections 63.91 and 63.92 must be met. Upon approval, the state agency is given the authority to implement and enforce its rule in place of the NESHAP.

Section 112(l)(5) of the Act requires that a state's NESHAP program contain adequate authorities to assure compliance with each applicable federal requirement, adequate resources for implementation, and an expeditious compliance schedule. These are also requirements for an adequate operating permits program under 40 CFR part 70. On September 24, 2001, EPA promulgated full approval of the state's operating permits program as administered by NH DES (See 66 FR 48806). In addition, on May 16, 2001, EPA provided ''up-front'' approval of NH DES's request to implement and enforce alternative requirements in the form of title V permit terms and conditions for subpart S, ''National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry'' (Pulp and Paper MACT I), and subpart MM, ''National Emission Standards for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite and Stand-Alone Semichemical Pulp Mills'' (Pulp and Paper MACT II) (see 66 FR 27032). Under 40 CFR 63.91(d)(2), once a state has satisfied up-front approval criteria, it needs only to reference the previous demonstration and reaffirm that it still meets the criteria for any subsequent submittals. NH DES has affirmed that it still meets the up-front approval criteria.

Additionally, the ''rule adjustment'' option requires EPA to ''make a detailed and thorough evaluation of the state's submittal to ensure that it meets the stringency and other requirements'' of 40 CFR 63.92 (see 65 FR 55840). A rule will be approved if EPA finds: (1) The state or local rules are ''no less stringent'' than the corresponding Federal regulations, (2) the state or local government has adequate authorities to implement and enforce the rules, and (3) the schedule for implementation and compliance is ''no less stringent'' than the deadlines established in the otherwise applicable Federal rule. See 40 CFR 63.92(b).

III. When did the authority to Implement and Enforce Section 112 Standards become effective in New Hampshire?

On October 2, 1996, EPA approved New Hampshire's program under section 112(l)(5) and 40 CFR 63.91 for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This delegation mechanism only applied to Part 70 sources (see 61 FR 51370). On May 9, 2002, the NH DES submitted a request to EPA to receive straight delegation of authority to implement and enforce NESHAPs and New Source Performance Standards (NSPSs) for both major and area sources under a new delegation mechanism. NH DES sought to take delegation of these standards by incorporating the standards into NH DES's regulations. On September 19, 2002, EPA approved this delegation mechanism (see 67 FR 59001). Among other standards, NH DES incorporated by reference the Asbestos NESHAP, with the exception of 40 CFR 61.151, the standard for inactive waste disposal sites for asbestos mills and manufacturing and fabricating operations.

NH DES did not request straight delegation of § 61.151 because it had submitted a partial rule substitution pursuant to 40 CFR 63.93 for a portion of that rule. On May 23, 2003, EPA approved NH DES's request for a rule substitution for inactive waste disposal sites not operating after July 9, 1981 (68 FR 31611). NH DES's request sought no change in delegation relative to inactive asbestos waste disposal sites not operating after July 9, 1981. Therefore, NH's request for a rule adjustment applies to Subpart M, except for those inactive waste disposal sites not operating after July 9, 1981.

IV. What are the differences between NH DES's regulation and the Asbestos NESHAP?

NH DES's asbestos rule Env-A 1800 *Asbestos Management and Control* has incorporated by reference most, but not all, of the federal national emission standards for hazardous air pollutants (40 CFR part 61, subpart M) for asbestos. What follows is a comparison of those sections of 40 CFR part 61, subpart M that NH DES has not adopted with the applicable sections of New Hampshire's

rule, demonstrating that New Hampshire's rule is in each case equivalent to, or more stringent than, the federal rule.

The rule in which NH DES incorporates by reference, with certain exceptions, 40 CFR part 61, subpart M reads as follows: ''Env-A 1807.01 Federal Regulation. Under the authority of RSA 141–E:4,II(a)(3), the owner or operator of a facility subject to this chapter shall comply with the provisions of 40 CFR 61, subpart M, as in effect on July 1, 2004, except for: (a) The definition of ''facility'' in 40 CFR 61.141; and (b) The provisions of 40 CFR 61.145(c)(1)(i), 61.145(c)(1)(ii), 61.145(c)(1)(iv), 61.149(c)(2), 61.150(a)(4), 61.150(a)(5), 61.150(b)(3), 61.151 with respect to disposal sites not operated after July 9, 1981, 61.151(c), 61.152(b)(3), 61.154(c), 61.154(d), 61.155(a) and 61.157.''

New Hampshire's definition of ''facility'' at Env-A 1802.01(n) includes single family dwellings, and is thus more stringent than the federal definition, which excludes residential buildings with four or fewer units.

Env-A 1807.01(b): The first three exceptions under Env-A 1807.01(b), namely 40 CFR 61.145(c)(1)(i), 61.145(c)(1)(ii), and 61.145(c)(1)(iv), are demolition work practices that may be considered together. Section 61.145 contains the standard for asbestos demolition and renovation, subsection (c) contains the procedures for asbestos emission control, and paragraph (1) provides for the removal of all regulated asbestos-containing material (RACM), except RACM need not be removed before demolition if:

(i) It is Category I nonfriable ACM that is not in poor condition and is not friable;

(ii) It is on a facility component that is encased in concrete or other similarly hard material and is adequately wet whenever exposed during demolition; or

(iii) They are Category II nonfriable ACM and the probability is low that the materials will become crumbled, pulverized, or reduced to powder (i.e., made friable) during demolition.

In Env-A 1802.01 NH DES adopts the federal definitions for RACM and Category I and II nonfriable ACM. However, unlike in the federal rule, in Env-A 1805.09, NH DES requires that even (i) Category I nonfriable ACM that is not in poor condition and is not friable, (ii) RACM on facility components that are encased in concrete or other similarly hard material and (iv) Category II nonfriable ACM must be removed prior to demolition. Therefore, New Hampshire's rule is more stringent than the federal rule at 40 CFR 61.145(c)(1)(i), 61.145(c)(1)(ii), and 61.145(c)(1)(iv).

The next exception to the federal rule in New Hampshire's rule is 40 CFR 61.149(c)(2). This section, together with §§ 61.150(a)(4), 61.151(c), 61.152(b)(3), 61.154(d) and 61.155(a), is non-delegable to the states under the provisions of 40 CFR 61.157.

NH DES did not to adopt 40 CFR 61.150(a)(5), which provides an exception to the standard for waste disposal for manufacturing, fabricating, demolition, renovation, and spraying operations. Section 61.150(a) states that each owner or operator of an applicable source shall ''discharge no visible emissions to the outside air during the collection, processing, packaging, or transporting of any asbestos-containing waste material * * *'' Subparagraph (5) states: ''As applied to demolition and renovation, the requirements of paragraph (a) of this section do not apply to Category I nonfriable ACM waste and Category II nonfriable ACM waste that did not become crumbled, pulverized, or reduced to powder.'' NH DES will regulate both Category I and Category II nonfriable ACM in demolitions, and therefore did not to adopt the provisions of 40 CFR 61.150(a).

For the same reason, NH DES did not adopt 40 CFR 61.150(b)(3). Paragraph 61.150(b) states that ''All asbestos-containing waste material shall be deposited as soon as is practical by the waste generator'' at an approved site. Subparagraph 61.150(b)(3) excludes ''Category I nonfriable ACM that is not RACM.'' Again, NH DES has chosen to regulate this material.

NH DES did not adopt 40 CFR 61.151 with respect to disposal sites not operated after July 9, 1981. This is a special case covered by New Hampshire's waste management regulation Env–Wm 3900, for which equivalency has already been determined by EPA.

Finally, NH DES did not adopt 40 CFR 61.154(c). This section contains the standard for active waste disposal sites. Paragraph (c) provides an alternative to the ''no visible emissions'' standard of 40 CFR 61.154(a), but New Hampshire's rule is more stringent than the federal rule, in that it does not allow this alternative approach.

In conclusion, in each case where New Hampshire's asbestos rule Env-A 1800 differs from the federal asbestos NESHAP 40 CFR part 61, subpart M, New Hampshire's rule is more stringent or at least equivalent to the federal rule. Also, NH DES incorporated the 40 CFR part 61, subpart A General Provisions into New Hampshire's rule Env-500. Consequently, with this approval, the general provisions of subpart A will apply to any source subject to New Hampshire's asbestos rule Env-A 1800.

V. What action is EPA taking?

After reviewing NH DES's rule adjustment request and equivalency demonstration for the Asbestos NESHAP as it applies to certain asbestos-emitting operations, EPA has determined this request meets all the requirements necessary for approval under CAA Section 112(l) and 40 CFR 63.91 and 63.92. Accordingly, the NH DES is granted the authority to implement and enforce Env-A 1800 entitled ''Asbestos Management and Control'' in place of the Federally-approved Asbestos NESHAP except for inactive waste disposal sites that ceased operation on or before July 9, 1981. Although this approval grants NH DES primary implementation and enforcement responsibility, EPA retains the right, pursuant to CAA section 112(l)(7), to enforce any applicable emission standard or requirement under CAA section 112. As of the effective date of this action, NH DES's Env-A 1800 is the Federally-enforceable standard for asbestos sources under the NH DES's jurisdiction. This rule will be enforceable by the EPA Administrator and the citizens under the CAA.

VI. Opportunities for Public Comment

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve this delegation request should relevant adverse comments be filed. This rule will be effective January 29, 2007 without further notice unless the Agency receives relevant adverse comments by December 28, 2006.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 29, 2007 and no further action will be taken on the proposed

rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VII. Statutory and Executive Order Reviews

A. Executive Orders 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.'' This rule is not subject to Executive Order 13045, entitled, ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under Executive Order 12866.

B. Executive Order 13211

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

C. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, 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.''

This final rule does not have tribal implications. This action allows the State of New Hampshire to implement equivalent state requirements *in lieu of* pre-existing Federal requirements as applied only to certain asbestos-emitting activities. This action will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

D. Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action simply allows New Hampshire to implement equivalent alternative requirements to replace a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental entities with jurisdiction over populations of less than 50,000. This final rule will not have a significant impact on a substantial number of small entities because approvals under 40 CFR 63.92 do not create any new requirements. Such approvals simply allow the state to implement and enforce equivalent requirements in place of the Federal requirements that EPA is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector.

This Federal action allows New Hampshire to implement equivalent alternative requirements *in lieu* of pre-existing requirements under Federal law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be

inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, the NTTAA does not apply to this rule.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 29, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects

40 CFR Part 61

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

40 CFR Part 63

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

Dated: October 17, 2006.

Robert W. Varney,

Regional Administrator, EPA New England.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 61—[AMENDED]

■ 1. The authority citation for part 61 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 61.04 is amended by redesignating paragraph (c)(1) as paragraph (c)(1)(i), and adding paragraph (c)(1)(ii) to read as follows:

§ 61.04 Address.

* * * * *

(c) * * *

(1)(i) * * *

(ii) The remainder of the sources subject to the part 61 subpart M Asbestos provisions, except for those listed under paragraph (c)(1)(i) of this section, must comply with the New Hampshire Regulations Applicable to Hazardous Air Pollutants, September 2006. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from the Air and Radiation Docket and Information Center, U.S. EPA, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. You may examine this material at the above EPA office or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

* * * * *

PART 63—[AMENDED]

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

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

Subpart A—General Provisions

■ 4. Section 63.14 is amended by redesignating paragraph (d)(5) as paragraph (d)(5)(i), and adding paragraph (d)(5)(ii) to read as follows:

§ 63.14 Incorporation by reference.

* * * * *

(d) * * *

(5)(i) * * *

(ii) New Hampshire Regulations Applicable to Hazardous Air Pollutants, September 2006. Incorporation by Reference approved for § 63.99(a)(29)(iv) of subpart E of this part.

* * * * *

Subpart E—Approval of State Programs and Delegation of Federal Authorities

■ 5. Section 63.99 is amended by adding paragraph (a)(29)(iv) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(29) * * *

(iv) Affected asbestos facilities (i.e., facilities found under 40 CFR part 61, subpart M, except those listed under paragraph (a)(29)(iii) of this section), must comply with the New Hampshire Regulations Applicable to Hazardous Air Pollutants, September 2006, (incorporated by reference as specified in § 63.14) as follows:

(A) The material incorporated in the New Hampshire Regulations Applicable to Hazardous Air Pollutants, September 2006, (incorporated by reference as specified in § 63.14) pertains to those affected asbestos facilities in the State of New Hampshire's jurisdiction, and has been approved under the procedures in 40 CFR 63.92 to be implemented and enforced in place of the federal NESHAPs found at 40 CFR part 61, subpart M (except for those listed under paragraph (a)(29)(iii) of this section).

(B) [Reserved]

* * * * *

[FR Doc. E6–20157 Filed 11–27–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 707

[EPA–HQ–OPPT–2005–0058; FRL–8104–9]

RIN 2070–AJ01

Export Notification; Change to Reporting Requirements; Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: EPA issued a final rule in the **Federal Register** of November 14, 2006, concerning amendments to the Toxic Substances Control Act (TSCA) section 12(b) export notification regulations at subpart D of 40 CFR part 707. This document is being issued to correct a typographical error.

DATES: This technical correction 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 December 12, 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 website at *http://www.regulations.gov*. 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 Web site 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

A. Does this Action Apply to Me?

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using regulations.gov, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. What Does this Correction Do?

This correction restores to the first sentence of the introductory text at 40 CFR 707.60(c)(2) the phrase ''where such chemical substance or mixture is present in a concentration of less than 0.1% (by weight or volume).'' The corrected first sentence of §707.60(c)(2) will now read: ''No notice of export is required for the export of a chemical substance or mixture that is a known or potential human carcinogen where such chemical substance or mixture is present in a concentration of less than 0.1% (by weight or volume).'' Without the correction to 40 CFR 707.60(c)(2), the rule does not have the effect, as clearly stated in the proposed rule and elsewhere in the preamble to the final rule, of establishing a *de minimis* level for reporting of carcinogens under TSCA section 12(b).

III. Why is this Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment, for the reasons mentioned in Unit II. The missing phrase in the regulatory text of the final rule at 40 CFR 707.60(c)(2) appears in the regulatory text of the proposed rule as well as throughout the preamble of the final rule, such that the intent to include it in the regulatory text of the final rule is clear. The phrase was inadvertently left out of the regulatory text of the final rule during Agency editing and preparation of the final rule. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

No. This document is a technical correction to a recently issued final rule and does not impose any new requirements. EPA's compliance with the statutes and Executive orders for the underlying final rule is discussed in Unit VII. of the final rule that was issued on November 14, 2006 (71 FR 66234, at 66243).

V. Will EPA Submit this Final Rule to Congress and the Comptroller General?

Yes. The Congressional Review Act (CRA) (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 to the Comptroller General of the United States. As with the final rule, since this technical correction is considered a rule under the CRA, EPA will submit a rule report 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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 707

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

Dated: November 20, 2006.

Susan B. Hazen,

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

Under EPA's authority, 15 U.S.C. 2611(b) and 2612, FR Doc. E6–19182 published in the **Federal Register** of November 14, 2006 (71 FR 66234) (FRL–8101–3) is corrected as follows:

§ 8707.60 [Corrected]

■ On page 66244, in the second column, in § 707.60 Applicability and compliance, the first sentence of the introductory text of paragraph (c)(2) is corrected to read as follows:

''No notice of export is required for the export of a chemical substance or mixture that is a known or potential human carcinogen where such chemical substance or mixture is present in a concentration of less than 0.1% (by weight or volume).''

[FR Doc. E6–20148 Filed 11–27–06; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281–0369–02; I.D. 112006D]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Trip Limit Reduction

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

ACTION: Temporary rule; trip limit reduction.

SUMMARY: NMFS reduces the trip limit in the commercial hook-and-line fishery for king mackerel in the northern Florida west coast subzone to 500 lb (227 kg) of king mackerel per day in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the Gulf king mackerel resource.

DATES: This rule is effective 12:01 a.m., local time, November 27, 2006, through June 30, 2007, unless changed by further notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, telephone 727–824–5305, fax 727–824–5308, e-mail *steve.branstetter@noaa.gov*.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, and, in the Gulf of Mexico only, dolphin and bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the eastern zone into northern and southern subzones, and established their separate quotas. The quota for the northern Florida west coast subzone is 168,750 lb (76,544 kg)(50 CFR 622.42(c)(1)(i)(A)(*2*)(*ii*)).

In accordance with 50 CFR 622.44(a)(2)(ii)(B), from the date that 75 percent of the northern Florida west coast subzone's quota has been harvested until a closure of the subzone's fishery has been effected or the fishing year ends, king mackerel in or from the EEZ may be possessed on board or landed from a permitted vessel in amounts not exceeding 500 lb (227 kg) per day.

NMFS has determined that 75 percent of the quota for Gulf group king mackerel from the northern Florida west coast subzone has been reached. Accordingly, a 500–lb (227–kg) trip limit applies to vessels in the commercial fishery for king mackerel in or from the EEZ in the northern Florida west coast subzone effective 12:01 a.m., local time, November 27, 2006. The 500–lb (227–kg) trip limit will remain in effect until the fishery closes or until the end of the current fishing year (June 30, 2007), whichever occurs first.

The Florida west coast subzone is that part of the eastern zone south and west of 25° 20.4′ N. lat. (a line directly east from the Miami-Dade County, FL, boundary). The Florida west coast subzone is further divided into northern and southern subzones. The northern subzone is that part of the Florida west coast subzone that is between 26° 19.8′ N. lat. (a line directly west from the Lee/Collier County, FL, boundary) and 87° 31′06″ W. long.(a line directly south from the Alabama/Florida boundary).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the closure, if warranted. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action in order to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment will require time and would potentially result in a harvest well in excess of the established quota. For the aforementioned reasons, the AA also finds good cause to waive the 30–day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: November 21, 2006.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 06–9439 Filed 11–22–06; 2:52 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 112006C]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; inseason retention limit adjustment.

SUMMARY: NMFS has determined that the daily Atlantic bluefin tuna (BFT) retention limits for the Atlantic tunas General category should be adjusted to provide reasonable opportunity to harvest the General category December time-period subquota. Therefore, NMFS increases the daily BFT retention limits for the entire month of December, including previously scheduled Restricted Fishing Days (RFDs), to provide enhanced commercial General category fishing opportunities in all areas while minimizing the risk of an overharvest of the General category BFT quota.

DATES: The effective dates for the BFT daily retention limits are provided in Table 1 under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635.

The 2006 BFT fishing year began on June 1, 2006, and ends May 31, 2007. The final initial 2006 BFT specifications and General category effort controls

were published on May 30, 2006 (71 FR 30619). These final specifications divided the General category quota among three subperiods (June through August, the month of September, and October through January) in accordance with the Highly Migratory Species Fishery Management Plan (1999 FMP) published in 1999 (May 29, 1999; 64 FR 29090), and implementing regulations at § 635.27. The final initial 2006 BFT specifications increased the General category retention limit to three fish for the June though August time-period, as well as established the following General category RFD schedule: all Saturday and Sundays from November 18, 2006, through January 31, 2007, and Thursday November 23, 2006, and Monday December 25, 2006, inclusive. Due to the large amount of available quota and the low catch rates, NMFS extended the three-fish retention limit through September (71 FR 51529, August 30, 2006), October (71 FR 58287, October 3, 2006), and November (71 FR 64165, November 1, 2006) to enhance fishing opportunities while minimizing the risk of exceeding available quota. Later, on October 2, 2006, NMFS published a final rule (71 FR 58058) implementing the Consolidated Highly Migratory Species Fishery Management Plan (HMS FMP). Contained in the HMS FMP is a revised General category time-period subquota allocation scheme that has divided the coastwide General category into the following five distinct time-periods; June through August, September, October through November, December, and January of the following year. The effective date of these time-periods and their associated subquota was November 1, 2006.

Daily Retention Limits

Pursuant to this action and the final initial 2006 BFT specifications, noted above, the daily BFT retention limits for Atlantic tunas General category are as follows:

TABLE 1. EFFECTIVE DATES FOR RETENTION LIMIT ADJUSTMENTS

Permit Category	Effective Dates	Areas	BFT Size Class Limit
General	November 1 - 30, 2006, inclusive	All	Three BFT per vessel per day/trip, measuring 73 inches (185 cm) curved fork length (CFL) or larger
	December 1 - 31, 2006, inclusive	All	Three BFT per vessel per day/trip, measuring 73 inches (185 cm) CFL or larger
	January 1 - 31, 2007, inclusive	All	One BFT per vessel per day/trip, measuring 73 inches (185 cm) CFL or larger

Adjustment of General Category Daily Retention Limits

Under § 635.23(a)(4), NMFS may increase or decrease the General category daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel to allow for a reasonable opportunity to harvest the quota for BFT. As part of the final specifications on May 30, 2006 (71 FR 30619), NMFS adjusted the commercial daily BFT retention limit, in all areas, for those vessels fishing under the General category quota, to three large medium or giant BFT, measuring 73 inches (185 cm) or greater curved fork length (CFL), per vessel per day/trip. This retention limit, which was to remain in effect through August 31, 2006, inclusive, was extended through September, October, and November via separate actions published in the **Federal Register**. From December 1, 2006, through January 31, 2007, inclusive, the General category daily BFT retention limit was scheduled to revert to one large medium or giant BFT per vessel per day/trip.

The June through August, September, and October through November time-period subquota allocations for the 2006 fishing year total approximately 1,041.2 metric tons (mt). As of November 20, 2006, 103.9 mt have been landed in the General category and catch rates are less than 1.0 mt per day. If catch rates remain at current levels and December RFDs remain as scheduled, approximately 28.0 mt would be landed through December 31, 2006. This projection would bring the June through December landings to approximately 131.9 mt, resulting in an underharvest of approximately 909.3 mt. The October 2, 2006, final rule (71 FR 58058) established stand-alone General category time-periods for the months of December and January. Each of these time-periods are allocated a portion of the coastwide General category, thereby ensuring fishing opportunities are provided in years where high catch rates are experienced. The quota carryover from the previous time-period subquotas, combined with the December time-period subquota allocation, would allow for approximately 969.8 mt to be harvested through December 31, 2006. In combination with the subquota rollover from previous time-periods, scheduled RFDs, current catch rates, and the daily retention limit reverting to one large medium or giant BFT per vessel per day on December 1, 2006, NMFS anticipates the full December time-period subquota will not be harvested. Adding an excessive amount of unused quota from one time-period subquota to the subsequent time-period subquota is undesirable because it changes the time-period subquota allocation percentages established in the HMS FMP and may contribute to excessive carry-overs to subsequent fishing years. In the past, however, the fishery has had the capability of increasing landings rates dramatically in winter months, particularly off southern states. If the fishery was to perform at these past levels with high landings rates (although not witnessed during the winter of 2005/2006), it may alleviate concern of excessive roll-overs from one fishing year to the next, but raises the possibility of unprecedented, and potentially unsustainable, catch rates during the winter fishery.

The final initial 2006 BFT specifications scheduled a number of RFDs for the month of December, including all Saturdays and Sundays, as well as Monday December 25, 2006. These RFDs were designed to provide for an extended late season, south Atlantic BFT fishery for the commercial handgear fishermen in the General category. For the reasons referred to above, NMFS has determined that the scheduled December RFDs are no longer required to meet their original purpose, and may in fact exacerbate low catch rates. Therefore, NMFS determined that an increase in the General category daily BFT retention limit on those previously established RFDs for the month of December is warranted. NMFS has selected these days in order to give adequate advance notice to fishery

participants. While catch rates have continued to be low so far this season, NMFS recognizes that they may increase at any time late in the season. In order to ensure equitable fishing opportunities in all areas, NMFS has not waived the RFDs scheduled in January at this time. If catch rates continue to be low, some or all of the remaining previously scheduled RFDs may be waived as well.

Therefore, based on a review of dealer reports, daily landing trends, available quota, revised time-periods, and the availability of BFT on the fishing grounds, NMFS has determined that an increase in the General category daily BFT retention limit effective from December 1 through December 31, 2006, inclusive of previously scheduled RFDs for the month of December, is warranted. Thus, the General category daily retention limit of three large medium or giant BFT per vessel per day/trip (see Table 1) is extended through December 31, 2006, including all Saturdays and Sundays of December as well as Monday December 25, 2006. From January 1 through January 31, 2007, inclusive, the General category default daily BFT retention limit will be one large medium or giant BFT per vessel per day/trip will apply, unless further action is taken.

NMFS anticipates that with a combination of the default retention limit starting on January 1, 2007, and the large amount of General category quota available, there will be sufficient quota for the coastwide General category season to extend through the winter months and allow for a southern Atlantic fishery to take place with minimal risk of landings exceeding available quota. However, to reduce the risks of excessive landings rates throughout January, NMFS has determined it necessary to only extend the three BFT daily retention limit for the one month of December and will re-examine the need to further extend the increased bag limit prior to the newly established January time-period based on landings rates and other fishery information.

This adjustment is intended to provide a reasonable opportunity to harvest the U.S. landings quota of BFT while maintaining an equitable distribution of fishing opportunities, to help achieve optimum yield in the General category BFT fishery, to collect a broad range of data for stock monitoring purposes, and to be consistent with the objectives of the HMS FMP.

Monitoring and Reporting

NMFS selected the daily retention limits and their duration after examining current and previous fishing year catch and effort rates, taking into consideration public comment on the annual specifications and inseason management measures for the General category received during the 2006 BFT quota specifications rulemaking process, and analyzing the available quota for the 2006 fishing year. NMFS will continue to monitor the BFT fishery closely through dealer landing reports, the Automated Landings Reporting System, state harvest tagging programs in North Carolina and Maryland, and the Large Pelagics Survey. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional retention limit adjustments are necessary to ensure available quota is not exceeded or, to enhance scientific data collection from, and fishing opportunities in, all geographic areas.

Closures or subsequent adjustments to the daily retention limits, if any, will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872–8862 or (978) 281–9260, or access the internet at *www.hmspermits.gov*, for updates on quota monitoring and retention limit adjustments.

Classification

The Assistant Administrator for NMFS (AA), finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

NMFS has recently become aware of increased availability of large medium and giant BFT off southern Atlantic fishing grounds from fishing reports and landings data from dealers. This increase in abundance provides the potential to increase General category landings rates if fishery participants are authorized to harvest three large medium or giant BFT per day. Although landings to date have been low (i.e., less than one mt per day) there is the potential for increased availability of BFT during the winter to allow for an increase in fishery landing rates. The regulations implementing the HMS FMP provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Adjustment of retention limits, including waiving previously scheduled RFDs in the month of December, is also necessary to avoid excessive quota rollovers to subsequent General category time-period subquotas. Affording prior notice and opportunity for public comment to implement these retention limits is impracticable as it would preclude NMFS from acting promptly to allow harvest of BFT that are still available on the fishing grounds. Analysis of available data shows that the General category BFT retention limit may be increased for the Atlantic tuna General and HMS Charter/Headboat permit holders with minimal risks of exceeding the International Commission for the Conservation of Atlantic Tunas allocated quota.

Delays in increasing the retention limits would be contrary to the public interest. Limited opportunities to harvest the respective quotas may have negative social and economic impacts to U.S. fishermen that either depend on catching the available quota within the time-periods designated in the HMS FMP, or depend on multiple BFT retention limits to attract individuals to book charters. For both the General and the HMS Charter/Headboat sectors, the retention limits must be adjusted as expeditiously as possible so the impacted sectors can benefit from the adjustment.

Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, and because this action relieves a restriction (i.e., current default retention limit is one fish per vessel/trip but this action increases that limit and allows retention of more fish), there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.23(a)(4) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: November 22, 2006.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 06–9435 Filed 11–22–06; 2:52 pm]

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Proposed Rules

Federal Register
Vol. 71, No. 228
Tuesday, November 28, 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 AGRICULTURE

Office of the Secretary

7 CFR Part 7

RIN 0560–AG90

Selection and Functions of Farm Service Agency State and County Committees

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations governing the selection and functions of Farm Service Agency (FSA) State and county committees in accordance with the Soil Conservation and Domestic Allotment Act, as amended (the Act).

DATE: Comments must be received by January 29, 2007.

ADDRESSES: The Secretary invites interested persons to submit comments on this proposed rule. Comments may be submitted by any of the following methods:

- *E-mail:* send comments to: *countycommitteeelections @wdc.usda.gov*.
- *FAX:* FAX comments to (202) 720–6974.
- *Mail:* County Committee Regulations Comments, U.S. Department of Agriculture, Room 3092–S, Mail Stop 0539, 1400 Independence Ave., SW., Washington, DC 20250–0539.
- *Hand Delivery or Courier:* Deliver comments to the above mailing address.
- *Federal Rulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

All comments, including names and addresses, provided by respondents become a matter of public record. Comments may be inspected in the Office of the Deputy Administrator for Field Operations, FSA, at the above mailing address. Please make inspection arrangements by calling (202) 720–7890.

FOR FURTHER INFORMATION CONTACT: Kenneth Nagel, Field Operations Manager, FSA, United States Department of Agriculture (USDA), STOP 0542, 1400 Independence Avenue, SW., Washington, DC 20250–0542, telephone (202) 720–7890, or at *kenneth.nagel@wdc.usda.gov*. Persons with disabilities or who require alternative means for communications should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Public Comments

Public comments are invited with respect to the interpretation of the terms ''participate'' and ''cooperate.'' The definitions of these terms are provided at Section 7.3 of the proposed rule. These terms are significant because they determine the class of producers who may be nominated as candidates in county committee elections. Please see section 7.8 of the proposed rule for the provision on the nomination process for county committee elections. In addition, these terms determine the eligibility of producers who may vote in county committee elections. Please see section 7.5 for the provision on voting in county committee elections. For further reference, the Background section contains a discussion on the eligibility to vote in county committee elections.

Background

FSA county committees play an instrumental role in administering FSA programs at the county level, including carrying out FSA programs that have a financial impact on farmers and ranchers participating in FSA programs. County committees make producer eligibility determinations for farm programs, hear producer appeals on adverse determinations and render decisions at the county level. Each committee is comprised of three to five agricultural producers who participate or cooperate in programs administered in the county or area under a committee's jurisdiction. *16 U.S.C. 590h(b)(5)(ii)*. County committee members are elected to 3-year terms by agricultural producers who participate or cooperate in programs administered in the county or area under the jurisdiction of the county committee. *Id.* County committee elections are conducted in local administrative areas designated by the Secretary or the Secretary's designee. Each county or area under the jurisdiction of the county committee consists of three to five local administrative areas in which a regular election is conducted every three years. By statute, county committees must be ''fairly representative'' of the agricultural producers in the county or area under a committee's jurisdiction. *16 U.S.C. 590h(b)(5)(B)(ii)*.

On May 13, 2002, the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) (the 2002 Farm Bill) amended the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101–624) to ensure public transparency and accountability of election results, as well as to ensure the fair representation of socially disadvantaged (SDA) producers on county committees. Adopting the definition set forth in 7 U.S.C. 2003, the 2002 Farm Bill defines an SDA group as a group whose members have been subject to racial, ethnic, or gender prejudice because of their identity as members of the group, without regard to their individual qualities. *7 U.S.C. 2003(e)(1)*. SDA producers have generally been defined to include African-Americans, Hispanic Americans, Native Americans, Asian-Americans, Pacific Americans, Subcontinent Asian-Americans, and women. By statute, USDA must solicit nominations for county committee positions from organizations representing the interests of SDA groups. *16 U.S.C. 590h(b)(5)(B)(iii)(III)(bb)*.

7 CFR part 7, subtitle A, as amended, incorporates the requirements of the 2002 Farm Bill. The first change made by the 2002 Farm Bill was to define specifically the class of agricultural producers who are eligible to vote for county committee members as those producers who participate or cooperate in programs administered by FSA in the area under the committee's jurisdiction. *16 U.S.C. 590h(b)(5)(B)(ii), (iii)(aa)*. Additionally, time-frames for participation are defined in the proposed rule to provide that an eligible voter must have participated in a program administered by FSA in the county or area under the committee's jurisdiction within 1 year of the date of the election or be cooperating at the time of the deadline to vote, as evidenced by county office records. Previous regulations defined eligibility to vote to include any person who had an interest in a farm as owner, operator,

tenant, or share-cropper, and of legal voting age or if not of legal voting age, in charge of the supervision and conduct of the farming operation, if eligible to participate in any program administered by the county committee. The intent of the 2002 Farm Bill is to ensure county committee members are elected by those who are directly affected by county committee actions.

Voters who are deemed to be participants have received USDA benefits in the most recent time-frame. Voting rights are also extended to those producers considered to be cooperating with FSA who provide information to FSA regarding their farming or ranching operation, but are not currently receiving benefits or have applied for benefits. Producers cooperating may be considered as those who provide information such as ownership records, acreage reports, leasing terms, or other information that is maintained in FSA records. Producers cooperating with FSA should update the FSA on a timely basis to maintain their information. The information they provide is considered beneficial to USDA and may be used in future determinations for FSA programs. Maintaining data on individuals cooperating with FSA is necessary to ensure that non-participating producers are fully informed of programs administered by FSA. Farm and ranch data provided by cooperating producers becomes essential for FSA outreach efforts. All references to community committees and requirements for county conventions have been removed from the regulations. Community committees and county conventions have been eliminated from the FSA program over the years. Community committees have not been used as elective bodies since 1996. County committees were elected by delegates of the community committees at annual county conventions. Today and since 1996, all county committee elections are conducted by direct election by eligible voters. With respect to the determination of elective areas, all references to communities and conventions are removed.

The 2002 Farm Bill mandates public access requirements relating to county committee elections, requiring FSA county committees to open and count the ballots in public, allowing the public to observe the opening and counting of the ballots, and giving the public a 10-day notice of the date, time, and place that the ballots will be tabulated. *16 U.S.C. 590h(b)(5)(B)(iii)(IV).*

To further promote transparency and public accountability, the 2002 Farm Bill imposes several reporting requirements with regard to the results of county committee elections. No later than 20 days after an election is conducted, each county committee must file with the Secretary and the FSA State office a report on the election results. This local report must provide data to include the number of eligible voters, the number of ballots cast and disqualified, and the race, ethnicity, and gender of the nominees for the county committee position. *16 U.S.C. 590h(b)(5)(B)(iii)(V).* 7 CFR part 7 is amended to require local election reports to contain the following information:

(1) The number of eligible voters in the local administrative area;

(2) The number of ballots cast in the election by eligible voters;

(3) The percentage of eligible voters who cast ballots;

(4) The number of ballots disqualified in the election;

(5) The percentage that the number of ballots disqualified is of the number of ballots received;

(6) The number of nominees for each seat up for election;

(7) The race, ethnicity, and gender of each nominee, as provided by the voluntary self identification of each nominee; and,

(8) The final election results to include the number of ballots received by each nominee.

Also, not later than 90 days after the date of the first election held after enactment of the 2002 Farm Bill (which would have been the 2002 election), the Secretary was required to compile a national report consolidating data on election results submitted by county committees. *Id. 16 U.S.C. 590h(b)(5)(B)(iii)(VI).* Such national reports on the 2002, 2003, and 2004 elections were prepared and made public. These national reports may be viewed at *http://www.fsa.usda.gov/FSA/webapp?area=newsroom&subject=landing&topic=cce*. Based on this reporting, the FSA national office will provide feedback and guidance to county offices on their outreach efforts and on the election process.

Most critically, the 2002 Farm Bill gave the Secretary discretion to issue uniform guidelines governing the county committee election process if the Secretary deemed that such guidelines were necessary after analyzing the data from the national report. *16 U.S.C. 590h(b)(5)(B)(iii)(VII)(aa).* By law, the uniform guidelines must contain provisions ensuring fair representation of SDA producers on county committees where they are underrepresented in relation to their presence in the respective covered areas. *16 U.S.C. 590h(b)(5)(B)(iii)(VII)(bb).* After reviewing the national reports on the 2002 and 2003 elections, the Secretary determined that issuing such uniform guidelines was appropriate. *Uniform Guidelines for Conducting Farm Service Agency County Committee Elections* were published in the **Federal Register** on January 18, 2005, (70 FR 2837) pursuant to Section 10708 of the 2002 Farm Bill. FSA is required to follow the uniform guidelines in conducting county committee elections and FSA regulations and directives on conducting such elections must conform to these guidelines. FSA is also required to conduct training of county employees on the implementation of the uniform guidelines and FSA's regulations.

The requirement for county committees to maintain a list of eligible voters for public inspection has been expanded to now require county committees to provide a list of names and addresses of eligible voters to any candidate for county committee requesting the list.

County committees shall develop a slate of candidates to consist of one or more candidates as provided by open nominations. County committees are allowed to add names to a slate only if no names are received at the county office through the open nomination process, and then may only add two names, with one who is a socially disadvantaged producer. The process to challenge an election has been changed. Previously, any eligible voter could challenge the results of an election. Appeals to the validity of a county committee election may now only be filed by a nominee.

Following the uniform guidelines, the proposed rule contains several provisions governing the election process, which include: (1) An annual review of local administrative areas (LAA) (the specific area within a county or counties that a single county committee member represents) in order to determine if redrawing the boundaries or changing the number of LAA's in a county is appropriate to ensure fair representation of producers; (2) approval by the FSA State office of any changes in LAA boundaries or number of LAA's; (3) regular maintenance of lists of eligible voters; (4) review by the FSA State office of voter ineligibility determinations made by an FSA county committee when review is sought by a producer; (5) direct mailing of nomination forms to eligible voters, as well as wider public accessibility of such forms; (6) when no nominations are filed, ensuring that the slate is filled with at least one member of an SDA group; (7) providing the

Secretary with the authority to nominate candidates; and (8) at the option of a candidate, direct mailing of ballots to the State office, which will then provide the ballots to each county office in a sealed box to be opened at the public counting of ballots.

7 CFR part 7 is further amended by removing references to county office employee personnel actions from the regulation and placing this section into FSA personnel management handbook policy. The Deputy Administrator will continue responsibility for the oversight of all State and county committees, employees of State and county committees, and employees of county executive directors. 7 CFR part 7 is further amended by removing references to county committee political activity from the regulation and placing this section into FSA handbook policy. 7 CFR part 7 is further amended to define a term of office as one in which a member has served for a period of one and one-half years, or greater, of that term.

USDA intends to continually monitor the effectiveness of election reform efforts in order to determine if the measures contained in these guidelines are sufficient to ensure fair representation of producers on county committees. This will include efforts to improve the collection of data required to measure whether there is fair representation. USDA will also continue to improve the implementation of the uniform guidelines, as well as to determine if additional efforts are necessary. Such additional efforts could include compliance reviews of particular counties and further centralization of the election process.

One of the possible additional measures is provided in the 2002 Farm Bill itself. The 2002 Farm Bill provides that the Secretary is permitted to ensure the inclusion of SDA producers on county committees by enacting provisions allowing for the appointment of an additional voting member to the committee. *Id. 16 U.S.C. 590h(b)(5)(B)(iii)(VII)(cc).* The Secretary has the discretion whether to exercise this authority. The Secretary intends to continually evaluate whether the reforms set forth in the uniform guidelines are achieving their goal of ensuring fair representation of SDA producers. Based on such evaluations, the Secretary will determine whether to exercise the authority to appoint SDA producers to committees. In the event that the Secretary does decide to utilize the appointment authority, the Secretary will only do so after providing an opportunity for the public to comment on proposed provisions under which such appointments will be made.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988. The provisions of this proposed rule are not retroactive and preempt State laws only to the extent such provisions are inconsistent with State laws.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

Information collection requirements in this regulation were approved by OMB and assigned OMB control number 0560–0229 as required by the Paperwork Reduction Act (44 U.S.C. 3507 *et seq*).

Unfunded Mandates Reform Act

This proposed rule contains no Federal mandates for State, local, or tribal governments, or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

List of Subjects for 7 CFR Part 7

Agriculture, State and County committees.

Accordingly, for the reasons cited above, 7 CFR part 7 is proposed to be revised to read as follows:

PART 7—SELECTION AND FUNCTIONS OF FARM SERVICE AGENCY STATE AND COUNTY COMMITTEES

Sec.

7.1 Administration.
7.2 General.
7.3 Definitions.
7.4 Selection of committee members.
7.5 Eligible voters.
7.6 Establishment of local administrative areas.
7.7 Calling of elections.
7.8 Nominations for county committee.
7.9 Slate of candidates.
7.10 Conduct of county committee elections.
7.11 Election of county committee members.
7.12 Composition of a county or area committee.
7.13 Tie votes.
7.14 Vacancies.
7.15 Challenges and appeals.
7.16 Report of election.
7.17 Remedial measures.
7.18 Eligibility requirements of county committee members.
7.19 Eligibility requirements of all other personnel.
7.20 Dual office.
7.21 Terms of office of county committee members.
7.22 State committee duties.
7.23 County committee duties.
7.24 Chairperson of the county committee duties.
7.25 County executive director duties.
7.26 Private business activity and conflicts of interest.
7.27 Political activity.
7.28 Removal from office or employment for cause.
7.29 Delegation of authority to Deputy Administrator.
7.30 Custody and use of books, records, and documents.
7.31 Administrative operations.
7.32 Implementation.
7.33 Applicability.
7.34 Retention of authority.

Authority: 16 U.S.C. 590d and 590h.

§ 7.1 Administration.

(a) The regulations of this part are applicable to the election and functions of Farm Service Agency (FSA) county committees and the functions of State FSA committees (''county committees'' and ''State committees,'' respectively). State and county committees shall be under the general supervision of the Administrator, FSA.

(b) State and county committees, and representatives and employees thereof, do not have authority to modify or waive any of the provisions of this part.

(c) State committees shall take any actions required by these regulations that have not been taken by a county committee. State committee shall also:

(1) Correct, or require a county committee to correct any action taken by such county committee which is not in accordance with this part, or

(2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No provision or delegation herein to a State or county committee shall preclude the Administrator, FSA, from determining any question arising under this part, or from reversing or modifying any determination made by a State or county committee.

(e) These regulations shall be administered in accordance with the guidelines issued pursuant to Section 10708 of the Farm Security and Rural Investment Act of 2002 (16 U.S.C. 590h(b)(5)(VII)(aa)).

§ 7.2 General.

State and county committees shall, as directed by the Secretary or a designee

of the Secretary, carry out the programs and functions of the Secretary.

§ 7.3 Definitions.

(a) The terms defined in § 718.2 of this title shall also be applicable to this part.

(b) For the purposes of this part, the term ''participate'' means to receive assistance, services, or benefits directly from the United States Department of Agriculture (USDA), or from USDA indirectly through another governmental agency.

(c) For the purposes of this part, the term ''cooperate'' means to enroll a farming operation or agricultural property with a county office.

§ 7.4 Selection of committee members.

(a) State committee members shall be selected by the Secretary and shall serve at the pleasure of the Secretary.

(b) County committee members shall be elected in accordance with § 7.11.

§ 7.5 Eligible voters.

(a) Persons eligible to vote in direct elections of county committee members must meet the requirements of paragraphs (b) and (c) of this section.

(b) Agricultural producers, regardless of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status, and who are of legal voting age in the State in which their farms or ranches are located, and any person not of such legal voting age who is in charge of the supervision and conduct of the farming operations on an entire farm, shall be eligible to vote for direct election of county committee members, if they:

(1) Participated in a program administered within a county or area under the jurisdiction of the county committee, within 1 year of the date of the election; or,

(2) Not later than the final date to return ballots, cooperate as evidenced in county office records.

(c) In any State having a community property law, the spouse of a person who is eligible to vote in accordance with paragraph (b) of this section shall also be eligible to vote.

(d) If an eligible voter is an entity other than an individual, the eligible voter's vote may be cast by a duly authorized representative of such entity, as determined by the Deputy Administrator, Field Operations, FSA (Deputy Administrator).

(e) Each county office shall maintain a list of eligible voters for each local administrative area within the county. A county office shall disclose a list containing the names of eligible voters to the public. A county office shall disclose a listing containing the names and addresses of eligible voters to candidates for county committee positions only at the request of the candidates.

(f) Each eligible voter shall be entitled to only one ballot in any election held in any one local administrative area. If the eligible voter has an interest in land located in more than one local administrative area in a single county, such voter shall not be entitled to vote in more than one local administrative area in that county. There shall be no voting by proxy.

§ 7.6 Establishment of local administrative areas.

The Secretary or the Secretary's designee may designate local administrative areas within a county or a larger area under the jurisdiction of a county committee.

(a) There shall be a minimum of three local administrative areas in each county. In counties that have been combined as a multiple county office, there shall be three to five local administrative areas. With respect to Alaska and Puerto Rico, the term ''county'' shall be the area so designated by the State committees and in Louisiana the term ''county'' applies to parishes.

(b) Each local administrative area shall have not more than one county committee member.

(c) The boundaries of the local administrative areas shall be determined by the State committee after considering recommendations by the county committee in which the local administrative area is located.

(d) The county committee shall give public notice of the local administrative area boundaries in advance of the election and nomination processes.

§ 7.7 Calling of elections.

(a) The Secretary shall establish a county or area committee in each county or area. An area is defined as the jurisdiction of a multiple county office.

(b) Each election of county committee members shall be held on a date, or within a specified period of time, determined by the Deputy Administrator. Each such election shall be held in accordance with instructions issued by the Deputy Administrator, which shall be available for public examination in each county office.

(c) If the number of eligible voters voting in any election of county committee members is so small that the State committee determines that the result of that election does not represent the views of a substantial number of eligible voters, the State committee may declare the election void and call a new election. If it is determined by the State committee that the election for any position on a county committee has not been held substantially in accordance with official instructions, the State committee shall declare such election void and call a new election.

§ 7.8 Nominations for county committee.

(a) Nominations to the county committee shall be publicly solicited with a closing date for nominations not less than 90 days prior to the election date.

(b) Each solicitation for nomination shall include the nondiscrimination statement used by the Secretary.

(c) To be eligible for nomination for election in the local administrative area conducting the election, a person must be an agricultural producer residing within that local administrative area under the jurisdiction of the county committee.

(d) Eligible nominees shall be agricultural producers who:

(i) Participated in a program administered within an area under the jurisdiction of the county committee, within 1 year of the deadline to submit nominations; or,

(ii) At the time of the deadline to submit nominations, cooperate as evidenced in county office records.

(e) Nominations of eligible producers shall be solicited and accepted from organizations representing the interests of socially disadvantaged producers.

(f) Eligible producers may nominate themselves or other producers who meet the nomination criteria in paragraph (d) of this section, and certify their willingness to serve on the county committee.

§ 7.9 Slate of candidates.

(a) A slate of candidates shall consist of one or more eligible producers nominated through public solicitation of nominees.

(b) When no nominations are received, county committees shall develop a slate of candidates in accordance with the guidelines issued pursuant to Section 10708 of the Farm Security and Rural Investment Act of 2002 *(16 U.S.C. 590h(b)(5)(VII)(aa))*.

(c) Slates developed by the county committee shall include at least one individual representing the interests of socially disadvantaged producers.

(d) Candidates shall certify their willingness to serve on the county committee if elected as a member or alternate.

(e) The county committee shall accept write-in candidates on ballots.

(f) Write-in candidates, if elected as a member or an alternate, must meet eligibility requirements and shall certify their willingness to serve on the county committee.

§ 7.10 Conduct of county committee elections.

(a) The county committee serving at the time shall be responsible for the conduct of county committee elections in accordance with guidelines issued pursuant to Section 10708 of the Farm Security and Rural Investment Act of 2002 *(16 U.S.C. 590h(b)(5)(VII)(aa))* and instructions issued by the Deputy Administrator.

(b) Elections shall not be associated with, or held in conjunction with, any other election or referendum conducted for any other purpose.

(c) The county committee shall give advance public notice at least 30 calendar days prior to the election date of how, when, and where eligible voters may vote.

(d) The county committee shall provide at least 10 calendar days of public notice of the date, time, and place at which election ballots will be opened and counted.

(e) The county committee shall provide at least 10 calendar days of public notice that any person may observe the opening and counting of the election ballots.

(f) All nominees shall be notified within 5 calendar days of the election date in writing of the outcome of the election by the county executive director.

§ 7.11 Election of county committee members.

(a) Where there are three local administrative areas as provided in § 7.6, there shall be an election of a county committee member and, if available, any alternates, for a term of not more than 3 years, or until such person's successor is elected and qualified, in only one of the local administrative areas so that the term of office of the county committee member and any alternates within one of the local administrative areas will expire each year.

(b) Where there are four to five local administrative areas as provided in § 7.6 there shall be an election of county committee members and, if available, any alternates for a term of not more than 3 years, or until such person's successor is elected and qualified, in one or two of the local administrative areas so that the term of office of the county committee member and any alternates within one or two of the local administrative areas will expire each year.

(c) Every 3 years, the eligible voters in a local administrative area shall elect a county committee member and may elect first and second alternates, as available, to serve in the order of the number of votes received as acting members of the county committee, in case of the temporary absence of a member, or to become a member of the county committee in that same order elected in case of the resignation, disqualification, removal, or death of a member.

(d) An alternate serving as an acting member of the county committee shall have the same duties, responsibility, and authority as a regular member of such committee. In the event an alternate fills a permanent vacancy on the county committee, such person shall assume the unexpired term of the county committee member who was replaced.

(e) The election shall be conducted by mail ballot in accordance with the guidelines issued pursuant to Section 10708 of the Farm Security and Rural Investment Act of 2002 *(16 U.S.C. 590h(b)(5)(VII)(aa))* in all counties, except that the Deputy Administrator may authorize use of the meeting or polling place method in any county where such exception is deemed justified.

(f) Where elections are by mail or by polling place, the county committee shall give advance public notice that nominations shall be made by petition in accordance with the guidelines issued pursuant to Section 10708 of the Farm Security and Rural Investment Act of 2002 *(16 U.S.C. 590h(b)(5)(VII)(aa))*.

(g) Elections shall be by secret ballot with each eligible voter allowed to cast one vote and having the option of writing in the name of a candidate.

(h) Failure to elect alternates at the regular election shall not invalidate such election or require a special election to elect alternates.

§ 7.12 Composition of a county or area committee.

(a) A committee established under § 7.11 shall consist of not fewer than three or more than five members.

(b) Committee members shall be fairly representative of the agricultural producers within their respective LAA from which they are elected.

(c) The county committee shall select a secretary who shall be the county executive director or other employee of the county committee.

§ 7.13 Tie votes.

Tie votes in county committee elections shall be settled by lot in public purview.

§ 7.14 Vacancies.

(a) In case of a vacancy in the office of chairperson of a county committee, the respective vice chairperson shall become chairperson; in case of a vacancy in the office of vice chairperson of a three member committee, the respective third member shall become vice chairperson; in case of a vacancy in the office of a member, a respective first alternate, if available, shall become a member; in case of a vacancy in the office of vice chairperson of a four to five member county committee, the first alternate, if available, for the LAA of the vice chairperson shall become a member and the county committee shall conduct an organizational meeting to select a vice chairperson; and in case of a vacancy in the office of the first alternate, a respective second alternate, if available, shall become the first alternate. When unanimously recommended by the members of the county committee, as constituted under this paragraph, and approved by the State committee, the offices of chairperson and vice chairperson of the county committee may be filled from such membership without regard to the order of succession prescribed in this paragraph.

(b) In the event that a vacancy, other than one caused by temporary absence, occurs in the membership of the county committee and no alternate is available to fill the vacancy, a special election may be held to fill such vacancies as exist in the membership.

(c) In the event that a vacancy, other than one caused by temporary absence, occurs in the membership of the county committee and no alternate is available to fill the vacancy, the State committee may designate a person to serve out the balance of the term of the vacant position on the county committee.

§ 7.15 Challenges and appeals.

(a) Challenges and appeals by nominees regarding voter eligibility or the results of a county committee election shall be handled in accordance with the guidelines issued pursuant to Section 10708 of the Farm Security and Rural Investment Act of 2002 (16 U.S.C. 590h(b)(5)(VII)(aa)).

(b) Any nominee shall have the right to challenge an election in writing, in person, or both within 15 calendar days after the results of the election are posted.

(c) Challenges to the election shall be made to the county committee, which will provide a decision on the challenge to the appellant within 7 calendar days of the receipt of the challenge.

(d) The county committee's decision may be appealed to the State Committee

within 15 calendar days of receipt of the notice of the decision if the appellant desires.

(e) In the event that an election is nullified as a result of a challenge or appeal, or an error in the election process, a special election shall be conducted by the county office and closely monitored by the FSA State office.

§ 7.16 Report of election.

(a) The county committee shall file an election report with the Secretary through the Deputy Administrator's office not later than 20 days after the date an election is held.

(b) The election report shall include:

(1) The number of eligible voters in the local administrative area;

(2) The number of ballots cast in the election by eligible voters;

(3) The percentage of eligible voters that cast ballots;

(4) The number of ballots disqualified in the election;

(5) The percentage that the number of ballots disqualified is of the number of ballots received;

(6) The number of nominees for each seat up for election;

(7) The race, ethnicity, and gender of each nominee, as provided by the voluntary self identification of each nominee; and

(8) The final election results, including the number of ballots received by each nominee.

§ 7.17 Remedial measures

FSA shall consider additional efforts to achieve the objective that county committees are fairly representative of agricultural producers within areas covered by the committees. Such efforts may include, but are not limited to, compliance reviews of selected counties, consideration of at-large seats or cumulative voting for certain county committees, further centralization of the election process, and the appointment of socially disadvantaged farmers to particular committees in accordance with a provision issued by the Secretary authorizing such appointments.

§ 7.18 Eligibility requirements of county committee members.

(a) To be eligible to hold office as a county committee member or an alternate to any such office, a person must meet the conditions set forth in this section.

(b) Such person must:

(1) Satisfy the nomination criteria set forth in § 7.8.

(2)(i) Except as provided in paragraph (b)(2)(ii) of this section, be residing in the local administrative area in which the election is held.

(ii) In cases where a State line, a county line, or a local administrative area boundary runs through a farm, eligible producers residing on such farm may hold office in the county and local administrative area in which the farm has been determined to be located for program participation purposes.

(3) Not be ineligible under § 7.27.

(4) Not have been dishonorably discharged from any branch of the armed services; removed for cause from any public office; convicted of any fraud, larceny, embezzlement, or felony, unless any such disqualification is waived by the State committee or the Deputy Administrator;

(5) Not have been removed as a county committee member, alternate to any such office, or as an employee for: Failure to perform the duties of the office; committing, attempting, or conspiring to commit fraud; incompetence; impeding the effectiveness of any program administered in the county; refusal to carry out or failure to comply with the Department's policy relating to equal opportunity and civil rights, including the equal employment policy, or interfering with others in carrying out such policy; or for violation of official instructions, unless any such disqualification is waived by the State committee or the Deputy Administrator;

(6) Not have been disqualified for future service because of a determination by a State committee that during previous service as a county committee member, alternate of any such office, or as an employee of the county committee such person has: failed to perform the duties of such office or employment; committed, attempted, or conspired to commit fraud; impeded the effectiveness of any program administered in the county; in the course of their official duties, refused to carry out or failed to comply with the Department's policy relating to equal opportunity and civil rights, including the equal employment policy, or interfered with others in carrying out such policy; or violated official instructions, unless any such disqualification is waived by the State committee or the Deputy Administrator;

(7) Not be an employee of the U.S. Department of Agriculture during the term of office;

(8) Not be a sales agent or employee of the Risk Management Agency or their affiliates during the term of office;

(9) Not be serving as a county committee member with one or more years remaining in their current term of office; and

(10) Not have served three consecutive terms as county committee member just prior to the current election in which elected office is sought. A member will be considered to have served a term if that member served for a period of one and on-half years, or greater, of that term.

§ 7.19 Eligibility requirements of all other personnel.

(a) The county executive director and other employees of the county committee must not have been: dishonorably discharged from any branch of the armed services; removed for cause from any public office; or convicted of any fraud, larceny, embezzlement, or any other felony, unless any such disqualification is waived by the State committee or the Deputy Administrator.

(b) The county executive director or any other employee of the county committee must not have been removed as a county committee member, alternate to any such office, county executive director, or other employee of the county committee for: failure to perform the duties of the office; committing, attempting, or conspiring to commit fraud; incompetence; impeding the effectiveness of any program administered in the county; refusal to carry out or failure to comply with the Department's policy relating to equal opportunity and civil rights, including equal employment policy, or interfering with others in carrying out such policy; or for violation of official instructions, unless such disqualification is waived by the State committee or the Deputy Administrator.

(c) The county executive director or any other employee of the county committee must not have been disqualified for future employment because of a determination by a State committee that during previous service as a county committee member, alternate to any such office, or as an employee of the county committee has: failed to perform the duties of such office or employment; committed, attempted, or conspired to commit fraud; impeded the effectiveness of any program administered in the county; refused to carry out or failed to comply with the Department's policy relating to equal opportunity and civil rights, including the equal employment policy, or interfered with others in carrying out such policy; or violated official instructions, unless such disqualification is waived by the State committee or the Deputy Administrator.

§ 7.20 Dual office.

A member of the county committee may not be at the same time:

(a) The secretary to the county committee;

(b) A member of the State committee; or

(c) County executive director or any other county office employee.

§ 7.21 Terms of office of county committee members.

The term of office of county committee members and alternates to such office shall begin on a date fixed by the Deputy Administrator, which shall be after their election. Before any such county committee members or alternates to the county committee may take office as a county committee member, such person shall sign an oath of office pledge that they will faithfully, fairly, and honestly perform to the best of their ability all of the duties devolving on them as committee members. A term of office shall continue until a successor is elected and qualified as provided in §§ 7.8 and 7.9.

§ 7.22 State committee duties.

The State committee, subject to the general direction and supervision of the Deputy Administrator, shall be generally responsible for carrying out in the State all farm programs and farm loan programs or any other functions assigned by the Secretary or a designee of the Secretary.

§ 7.23 County committee duties.

(a) The county committee, subject to the general direction and supervision of the State committee shall be generally responsible for carrying out in the county, farm programs and any other program or function assigned by the Secretary or a designee of the Secretary.

(b) The county committee shall:

(1) Employ the county executive director, subject to standards and qualifications furnished by the State committee except that incumbent directors shall not be removed other than in accordance with the provisions of § 7.28 of this part. There shall be no employment discrimination due to race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status. The county executive director may not be removed for advocating or carrying out the Department's policy on equal opportunity and civil rights, including the equal employment policy. In the event it is claimed that dismissal is for such reasons, the dismissal shall not become effective until the State committee and the Deputy Administrator have determined that dismissal was not because of such reasons;

(2) Direct outreach activities to reach and inform socially disadvantaged producers of all programs and county committee election processes;

(3) Pursuant to official instructions, review, approve, and certify forms, reports, and documents requiring such action in accordance with such instructions;

(4) Recommend to the State committee needed changes in boundaries of local administrative areas;

(5) Make available to farmers and the public, information concerning the objectives and operations of the programs administered through the county committee;

(6) Make available to agencies of the Federal Government and others information with respect to the county committee activities in accordance with official instructions issued;

(7) Give public notice of the designation and boundaries of each local administrative area within the county prior to the election of county committee members;

(8) Direct the giving of notices in accordance with applicable regulations and official instructions;

(9) Recommend to the State committee desirable changes in or additions to existing programs;

(10) Conduct such hearings and investigations as the State committee may request; and

(11) Perform such other duties as may be prescribed by the State committee.

§ 7.24 Chairperson of the county committee duties.

The chairperson of the county committee or the person acting as the chairperson shall preside at meetings of the county committee, certify such documents as may require the chairperson's certification, and perform such other duties as may be prescribed by the State committee.

§ 7.25 County executive director duties.

(a) The county executive director shall execute the policies established by the county committee and be responsible for the day-to-day operations of the county office.

(b) The county executive director shall:

(1) In accordance with standards and qualifications furnished by the State committee, employ the personnel of the county office. There shall be no employment discrimination due to race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. An employee may not be removed under this paragraph for advocating or carrying out the Department's policy on equal opportunity and civil rights, including the equal employment policy. In the event it is claimed that the dismissal is for such reason, the dismissal shall not become effective until the State committee and the Deputy Administrator have determined that dismissal was not because of such reason;

(2) Receive, dispose of, and account for all funds, negotiable instruments, or property coming into the custody of the county committee;

§ 7.26 Private business activity and conflicts of interest.

(a) No county committee member, alternate to any such office, or county office employee shall at any time use such office or employment to promote any private business interest.

(b) County committee members, alternates, and any person employed in the county office shall be subject to the official instructions issued with respect to conflicts of interest and proper conduct.

§ 7.27 Political activity.

Permitted and prohibited political activities, with respect to any State committee member, county committee member, county executive director, or any other county employee, shall be determined in accordance with applicable policies specified in FSA handbooks and directives.

§ 7.28 Removal from office or employment for cause.

Adverse personnel actions involving any county committee member, county executive director, or any other county employee will be taken in accordance with applicable policies specified in FSA handbooks and directives.

§ 7.29 Delegation of authority to Deputy Administrator.

Notwithstanding the authority vested by this part in a State committee, a county committee, and the county executive director, the Deputy Administrator shall have authority to suspend and/or remove or disqualify for future service or employment, any county committee member, county executive director, or other county employee, for any and all of the reasons and causes authorizing such suspension, removal, and disqualification by the State committee, the county committee, or the county executive director. Any person suspended, removed or disqualified pursuant to this section shall be given a written statement of the reason for such action and shall be advised of the right of review.

§ 7.30 Custody and use of books, records, and documents.

(a) All books, records, and documents of or used by the county committee in the administration of programs assigned to it, or in the conduct of elections, shall be the property of the Commodity Credit Corporation or the United States Department of Agriculture, as applicable, and shall be maintained in good order in the county office.

(b) For polling and mail-type elections, voted ballots shall be placed into and remain in sealed containers, such containers not being opened until the prescribed date and time for counting. Following the counting of ballots in all types of elections, the ballots shall be placed in sealed containers and retained for 1 year unless otherwise determined by the Deputy Administrator.

(c) The books, records, and documents referred to in paragraph (a) of this section shall be available for use and examination:

(1) At all times by authorized representatives of the Secretary; the Administrator, or a designee of the Administrator.

(2) By state and county committee members, and authorized employees of the State and county office in the performance of duties assigned to them under this part, subject to instructions issued by the Deputy Administrator;

(3) At any reasonable time to any program participant insofar as such person's interests under the programs administered by the county committee may be affected, subject to instructions issued by the Deputy Administrator; and

(4) To any other person only in accordance with instructions issued by the Deputy Administrator.

§ 7.31 Administrative operations.

The administrative operations of county committees including but not limited to the following, shall be conducted, except as otherwise provided in these regulations, in accordance with official instructions issued: annual, sick, and other types of employee leave; the calling, and conduct of elections; and the maintenance of records of county committee meetings.

§ 7.32 Implementation.

Unless specifically provided in this part, the Deputy Administrator, Field Operations, FSA, is authorized to issue the instructions and procedures referred to herein which implement the provisions of this part.

§ 7.33 Applicability.

This part shall apply to the United States, its territories, and Puerto Rico.

§ 7.34 Retention of authority.

Nothing in this part shall preclude the Secretary, the Administrator, or the Deputy Administrator from administering any or all programs, or exercising other functions delegated to the county committee, State committee, or any employee of such committees. In exercising this authority, the Secretary, the Administrator, or the Deputy Administrator may designate for such period of time as deemed necessary a person or persons of their choice to be in charge with full authority to carry on the programs or other functions without regard to the normal duties of such committees or employees.

Signed at Washington, DC November 17, 2006.

Chuck Connor,

Acting Secretary of Agriculture.

[FR Doc. E6–20052 Filed 11–27–06; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26232; Directorate Identifier 2006–CE–62–AD]

RIN 2120–AA64

Airworthiness Directives; EADS SOCATA Model TBM 700 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a report of a master cylinder yoke failure. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by December 28, 2006.

ADDRESSES: You may send comments by any of the following methods:

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *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.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at http://dms.dot.gov; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. The streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the

ADDRESSES section. Include ''Docket No. FAA–2006–26232; Directorate Identifier 2006–CE–62–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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 we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the European Community, has issued AD No.: 2006–0189, dated July 4, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states there was a report of a master cylinder yoke failure. The AD requirements are to detect defective yokes on aircraft and replace them. The aim of this AD is to ensure that normal braking is available at any time to prevent possible runway excursions in the event of failure of the master cylinder yoke. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

EADS SOCATA has issued TBM Aircraft Mandatory Service Bulletin SB 70–136, ATA No. 32, dated December 2005. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the proposed AD. These requirements, if ultimately adopted, will take precedence over the actions copied from the MCAI.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 270 products of U.S. registry. We also estimate that it would take about 1.5 work-hours per product to comply with the proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $600 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $194,400, or $720 per product.

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 determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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 this proposed 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 regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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 AD:

EADS SOCATA: Docket No. FAA–2006–26232; Directorate Identifier 2006–CE–62–AD

Comments Due Date

(a) We must receive comments by December 28, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to SOCATA Model TBM 700 airplanes, all serial numbers, certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states there was a report of a master cylinder yoke failure. The AD requirements are to detect defective yokes on aircraft and replace them. The aim of this AD is to ensure that normal braking is available at any time to prevent possible runway excursions in the event of failure of the master cylinder yoke.

Actions and Compliance

(e) Unless already done, do the following actions.

(1) For the serial numbers indicated below, within the next 100 hours time-in-service or 12 months after the effective date of this AD, whichever occurs first, do the following actions, unless already done:

(i) For airplane serial numbers 269 and 339 and up, check the aircraft records to determine whether cylinder yoke part number ZOO.N7134732200 or the yokes in master cylinder assembly part number ZOO.N6068757280 (left hand side) and ZOO.N6068757281 (right hand side) have been replaced. This check can be done by an owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7).

(A) If you can positively identify that master cylinder yoke part number ZOO.N7134732200 or the yokes in master cylinder assembly part number ZOO.N6068757280 (left hand side) and ZOO.N6068757281 (right hand side) have been replaced, then you must comply with paragraph (e)(1)(ii) of this AD.

(B) If you can positively identify that master cylinder yoke part number ZOO.N7134732200 or the yokes in master cylinder assembly part number ZOO.N6068757280 (left hand side) and ZOO.N6068757281 (right hand side) have not been replaced, then make an entry in the aircraft records showing compliance with this AD per section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(ii) For all airplane serial numbers, unless the action is shown not to apply per paragraph (e)(1)(i)(B) of this AD, inspect for misalignment of the master cylinder yokes from their threaded pins, as instructed in the EADS SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–136, ATA No. 32, dated December 2005, accomplishment instructions paragraph.

(A) If a yoke is found satisfactory, proceed to its re-installation on aircraft.

(B) If a yoke is found defective, prior to further flight, discard the yoke and install a new part number T700A324004810000 (or FAA-approved equivalent part number) yoke in accordance with EADS SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–136, ATA No. 32, dated December 2005.

(2) For all airplane serial numbers, as of the effective date of this AD, do not install part number ZOO.N7134732200 yokes or yokes in master cylinder assembly part number ZOO.N6068757280 (left hand side) and ZOO.N6068757281 (right hand side), unless EADS SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–136, ATA No. 32, dated December 2005, is complied with.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows:

(1) It does not allow interim use of yokes found defective during inspection. FAA policy is to replace defective parts on critical systems.

(2) It applies to all serial numbers. This will assure that, if any of the airplanes had the affected part number yokes installed after delivery of the airplane, the unsafe condition is still addressed. It also will assure that any of the affected part number yokes are inspected per the AD and service bulletin before future installation of these parts.

Other FAA AD Provisions

(f) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et.seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(g) Refer to European Aviation Safety Agency (EASA) AD No.: 2006–0189, dated July 4, 2006; and EADS SOCATA TBM Aircraft Mandatory Service Bulletin SB 70–136, ATA No. 32, dated December 2005, for related information.

Issued in Kansas City, Missouri, on November 20, 2006.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–20122 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–26180; Directorate Identifier 2006–CE–59–AD]

RIN 2120–AA64

Airworthiness Directives; EADS SOCATA Model TBM 700 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the discovery of propeller control cables with a defective crimping. Two cable ends were found uncrimped at the factory after an engine run-up test, and one cable end was also found uncrimped on the first 100 hour aircraft maintenance check. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by December 28, 2006.

ADDRESSES: You may send comments by any of the following methods:

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *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.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Albert J. Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4119; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. The streamlined process will allow us to adopt MCAI

safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certified products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2006–26180; Directorate Identifier 2006–CE–59–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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 we receive about this proposed AD.

Discussion

The Direction Générale de l'Aviation Civile, which is the aviation authority for France, has issued French AD No. F–2004–175, dated November 10, 2004, (referred to after this as ''MCAI''), to correct an unsafe condition for the specified products. The MCAI states the discovery of propeller control cables with a defective crimping. Two cable ends were found uncrimped at the factory after an engine run-up test, and one cable was also found uncrimped on the first 100-hour time-in-service aircraft maintenance check. If not corrected, an incorrect crimping of the propeller control lever cable could generate a decrease of the propeller revolutions per minute which could result in loss of power. As for the fuel control manual override, this condition has no consequence on operation. The MCAI requires you to check the batch number and/or replace the control cables. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

EADS SOCATA has issued EADS SOCATA TBM Aircraft Mandatory Alert Service Bulletin SB 70–123, ATA No. 76, dated October 2004. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreements with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the proposed AD. These requirements, if ultimately adopted, will take precedence over the actions copied from the MCAI.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 20 products of U.S. registry. We also estimate that it would take about 9 work-hours per product to comply with the proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $2,200 per product. Where the service information lists required parts cost that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $58,400, or $2,920 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue roles 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 regulations 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 determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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 this proposed 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 Regulator Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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 § 13.13 by adding the following new AD:

EADS SOCATA: Docket No. FAA–2006–26180; Directorate Identifier 2006–CE–59–AD.

Comments Due Date

(a) We must receive comments by December 28, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model TBM 700 airplanes, serial numbers 285 through 304 and 307, certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states the discovery of propeller control cables with a defective crimping. Two cable ends were found uncrimped at the factory after an engine run-up test, and one cable end was also found uncrimped on the first 100-hour time-in-service aircraft maintenance check. If not corrected, as incorrect crimping of the propeller control lever cable could generate a decrease of the propeller revolutions per minute which could result in loss of power.

Actions and Compliance

(e) Unless already done, within the next 50 hours time-in-service (TIS), inspect for the batch number identification and replace defective control cables as necessary in accordance with the paragraph B. of the ''ACCOMPLISHMENT INSTRUCTIONS'' of EADS SOCATA TBM Aircraft Mandatory Alert Service Bulletin SB 70–123, ATA No. 76, dated October 2004.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows:

(a) The requirement of paragraph 3.1 for the operational procedure was based on the urgency in November 2004. However, in November 2006, this action is not necessary.

(2) For the requirement of paragraph 3.2, the seriousness of the condition warrants a compliance time of 50 hours TIS instead of 25 hours TIS.

Other FAA AD Provisions

(f) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, ATTN: Albert J. Mercado, Aerospace Safety Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119, fax: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR part 39.19.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et.seq.), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(g) Refer to MCAI Director Générale de l' Aviation Civile Airworthiness Directive No. F–2004–175, dated November 10, 2004, and EADS SOCATA TBM Aircraft Mandatory Alert Service Bulletin SB 70–123, ATA No. 76, dated October 2004, for related information.

Issued in Kansas City, Missouri, on November 20, 2006.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–9429 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25926; Directorate Identifier 2000–CE–17–AD]

RIN 2120–AA64

Airworthiness Directives; Short Brothers & Harland Ltd. Models SC–7 Series 2 and SC–7 Series 3 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to revise Airworthiness Directive (AD) 2003–17–05, which applies to all Short Brothers & Harland Ltd. (Shorts) Models SC–7 Series 2 and SC–7 Series 3 airplanes. AD 2003–17–05 currently establishes a technical service life for these airplanes and allows you to incorporate modifications, inspections, and replacements of certain life limited items to extend the life limits of these airplanes. Since we issued AD 2003–17–05, Shorts Service Bulletin SB 51–51 was revised to Revision 8, dated July 5, 2006, and the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, issued an AD for the European Community to correct an unsafe condition for the specified product. AD 2003–17–05 contains conflicting information on the repetitive visual inspection requirement. Consequently, this proposed AD would retain the technical service life for these airplanes; would continue to allow modifications, inspections, and replacements of certain life limited items to extend the life limits of these airplanes; and would clarify the repetitive visual inspection requirement between one of the service bulletins and the maintenance program if an operator chooses to extend the life limit. The actions specified by this proposed AD are intended to clarify the inspection information to prevent failure of critical structure of the aircraft caused by fatigue.

DATES: We must receive comments on this proposed AD by December 28, 2006.

ADDRESSES: Use one of the following addresses to comment on this proposed 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 service information identified in this proposed AD, contact Short Brothers PLC, P.O. Box 241, Airport Road, Belfast BT3 9DZ Northern Ireland; telephone: +44 (0) 28 9045 8444; facsimile: +44 (0) 28 9073 3396.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number, ''FAA–2006–25926; Directorate

Identifier: 2000–CE–17–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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 we receive concerning this proposed AD.

Discussion

Mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom on all Shorts Models SC–7 Series 2 and SC–7 Series 3 airplanes caused us to issue AD 2003–17–05, Amendment 39–13279 (68 FR 50689, August 22, 2003). AD 2003–17–05 established a technical service life for these airplanes and allows you to incorporate modifications, inspections, and replacements of certain life limited items to extend the life limits of these airplanes.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member State of the European Community, notified the FAA of the need to revise AD 2003–17–05 to address an unsafe condition that may exist or could develop on all Shorts Models SC–7 Series 2 and SC–7 Series 3 airplanes. This proposed AD results from conflicting information on the repetitive inspection requirement between one of the service bulletins and the maintenance program if an operator chooses to extend the life limit.

The life limits, if not complied with, could result in failure of the primary structural components and possibly result in structural failure during flight.

Relevant Service Information

We received and included the following in AD 2003–17–05 to extend the life limit when incorporated:

—Shorts Service Bulletin No. 51–51, Revision No.: 6, dated: March 14, 1983;

—Shorts Service Bulletin No. 51–52, Revision No.: 4, dated: July 16, 2002; and

—Shorts Skyvan Maintenance Program, Amendment List No. 22, dated May 7, 2003 (any future revision to this maintenance program that incorporates the language and intent is acceptable to use).

Since issuance of AD 2003–17–05, we reviewed (and included in this NPRM) Shorts Service Bulletin Number 51–51, Revision No: 8, dated July 5, 2006; and Shorts Skyvan Maintenance Program, Amendment List No. 23, dated December 14, 2004.

Foreign Airworthiness Authority Information

EASA classified Shorts Service Bulletin Number 51–51, Revision No: 8, dated July 5, 2006, as mandatory and issued EASA AD Number 2006–0190, dated July 6, 2006, to ensure the continued airworthiness of these airplanes in the EU.

These Shorts Models SC–7 Series 2 and SC–7 Series 3 airplanes are manufactured in the United Kingdom and are type-certified 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, EASA has kept us informed of the situation described above.

FAA's Determination and Requirements of the Proposed AD

We are proposing this AD because we have examined EASA's findings, evaluated all information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design that are certificated for operation in the United States.

This proposed AD would revise AD 2003–17–05 with a new AD that would retain the technical service life for these airplanes; would continue to allow modifications, inspections, and replacements of certain life limited items to extend the life limits of these airplanes; and would clarify the repetitive visual inspection requirement between one of the service bulletins and the maintenance program if an operator chooses to extend the life limit. This proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD would affect 22 airplanes in the U.S. registry.

Since the action of the proposed AD is life-limiting the structural airframe, the actual operating cost of this AD is the cost of the airplane minus any non-life-limited parts that are salvageable and can be sold. There is no cost impact difference in this proposed AD to revise AD 2003–17–05 than that originally presented in AD 2003–17–05, except for the recalculation of the labor costs using the revised figure of $80 per hour instead of $65 per hour.

The following paragraphs present the costs if you choose to incorporate the inspections and modifications necessary to extend the life limit.

We estimate the following costs to do the proposed optional aircraft life extension on 16 airplanes (all airplanes that do not have serial number SH1845, SH1883, SH1847, SH1889, SH1943, or SH1960) as prescribed in Shorts Service Bulletin No. 51–51:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
350 work-hours × $80 per hour = $28,000	$90,000	$118,000	$1,888,000

We estimate the following to do the proposed aircraft life extension prescribed in Shorts Service Bulletin No. 51–52 (which includes Service Bulletin 51–51) for serial numbers 1889, 1943, and 1960:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
470 work-hours × $80 per hour = $37,600	$112,000	$149,600	$448,800

We estimate the following to do the proposed aircraft life extension prescribed in Shorts Service Bulletin No. 51–52 for serial numbers 1845, 1847, and 1883:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
120 work-hours × $80 per hour = $9,600	$22,000	$31,600	$94,800

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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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 proposed 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 regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket that contains the proposed AD, the regulatory evaluation, any comments received, and other information on the Internet at *http://dms.dot.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located at the street address in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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 removing Airworthiness Directive (AD) 2003–17–05, Amendment 39–13279 (68 FR 50689, August 22, 2003), and adding the following new AD:

Short Brothers & Harland Ltd.: Docket No. FAA–2006–25926; Directorate Identifier 2000–CE–17–AD.

Comments Due Date

(a) We must receive comments on this airworthiness directive (AD) action by December 28, 2006.

Affected ADs

(b) This AD revises AD 2003–17–05, Amendment 39–13279.

Applicability

(c) This AD applies to Models SC–7 Series 2 and SC–7 Series 3 airplanes, all serial numbers, that are certificated in any category.

Unsafe Condition

(d) This revised AD results from conflicting information of the repetitive inspection requirement between one of the service bulletins and the maintenance program if an operator chooses to extend the life limit. We are issuing this AD to clarify the inspection information to prevent failure of critical structure of the aircraft caused by fatigue.

Compliance

(e) Do not operate the airplane upon accumulating the applicable life limit or within the next 90 days after September 29, 2003 (the effective date of AD 2003–17–05), whichever occurs later. For owners/operators that do not have a record of the number of flights on the aircraft, assume the number of flights on the basis of two per operating hour. The following table presents the life limits:

TABLE 1.—ORIGINAL LIFE LIMITS

Serial No.	Life limit
(1) SH1845 and SH1883	10,000 hours time-in-service (TIS).
(2) SH1847	15,200 hours TIS.
(3) SH1889	13,805 flights.
(4) SH1943	11,306 flights.
(5) SH1960	4,142 flights.
(6) All airplanes that do not have serial number SH1845, SH1883, SH1847, SH1889, SH1943, or SH1960.	20,000 flights.

(f) *For airplanes with serial numbers SH1845, SH1847, or SH1883*: You can extend the life limits by doing the actions of Shorts Service Bulletin No. 51–52, Revision No.: 4, dated: July 16, 2002 (and all service information or modifications referenced in the Planning Information section of the service bulletin), and Shorts Skyvan Maintenance Program, Amendment List No. 22, dated May 7, 2003, or Amendment List No. 23, dated December 14, 2004, or future revisions. Any future revisions to this maintenance program shall not change the inspection intervals, requirements, or the life limits of this AD. The following table presents the extended life limit:

TABLE 2.—EXTENDED LIFE LIMITS AFTER INCORPORATION OF REQUIRED INSPECTIONS AND MODIFICATIONS

(1) SH1845	13,456 hours TIS.

TABLE 2.—EXTENDED LIFE LIMITS AFTER INCORPORATION OF REQUIRED INSPECTIONS AND MODIFICATIONS—Continued

(2) SH1847	20,200 hours TIS.
(3) SH1883	15,000 hours TIS.

(g) *For airplanes with serial numbers SH1889, SH1943, or SH1960*: You can extend the life limits by doing the actions of Shorts Service Bulletin No. 51–52, Revision No.: 4, dated: July 16, 2002 (and all service information or modification referenced in the Planning Information section of the service bulletin including Shorts Service Bulletin No. 51–51, Revision No.: 6, dated: March 14, 1983; or Shorts Service Bulletin No. 51–51, Revision No.: 8, dated: July 5, 2006. You cannot use Shorts Service Bulletin No. 51–51, Revision No.: 7, dated January 2005.), and Shorts Skyvan Maintenance Program, Amendment List No. 22, dated May 7, 2003, or Amendment List No. 23, dated December 14, 2004, or future revisions. Any future revisions to this maintenance program shall not change the inspeciton intervals, requirements, or the life limits of this AD. The following table presents the extended life limit:

TABLE 3.—EXTENDED LIFE LIMITS AFTER INCORPORATION OF REQUIRED INSPECTIONS AND MODIFICATIONS

Serial No.	Extended life limit
(1) SH1889:	20,094 flights.
(2) SH1943:	17,325 flights.
(3) SH1960:	8,449 flights.

(h) *For airplanes that do not encompass either serial number SH1845, SH1847, SH1883, SH1889, SH1943, or SH1960:* You can extend the life limit to 27,000 flights by doing the actions of Shorts Service Bulletin No. 51–51, Revision No.: 6, dated: March 14, 1983; or Shorts Service Bulletin No. 51–51, Revision No.: 8, dated: July 5, 2006; and Shorts Skyvan Maintenance Program, Amendment List No. 22, dated May 7, 2003; or Amendment List No. 23, dated December 14, 2004; or future revisions. Any future revisions to this mainenance program shall not change the inspection intervals, requirements, or the life limits of this AD. You cannot use Shorts Service Bulletin No. 51–51, Revision No.: 7, dated: January 2005.

(i) The repetitive visual inspection requirements using Shorts Service Bulletin No. 57–59, which is referenced on page 3 of Shorts Service Bulletin No. 51–51, Revision No.: 6, dated: March 14, 1983, paragraph C (Special limitations) are every 2,400 flights and the repetitive visual inspeciton program in Skyvan Maintenance Program, Maintenance Program Appendix 1, parts A and B (Section 57–00, Item 3), are every 1,100 flights or 800 hours TIS intervals, whichever occurs first. You msut use the repetitive inspection intervals of the Skyvan Maintenance Program for the repetitive inspection of the wing structure, skin, and skin doublers to be every 1,100 flights or 800 hours TIS, whichever occurs first and not the 2,400 flights as stated in Shorts Service Bulletin No. 51–51, Revisions No.: 6, dated: March 14, 1983.

Alternative Methods of Compliance (AMOCs)

(j) The Manager, Standards Office, Small Airplane Directorate, FAA, ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(k) AMOCs approved for AD 2003–17–05 are approved for this AD.

Related Information

(1) The European Aviation Safety Agency (EASA) AD No.: 2006–0190, dated July 6, 2006, also addresses the subject of this AD. To get copies of the service information referenced in this AD, contact Short Brothers PLC, P.O. Box 241, Airport Road, Belfast BT3 9DZ Northern Ireland; telephone: +44 (0) 28 9045 8444; facsimile: +44 (0) 28 9073 3396. To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, S.W., Nassif Building, Room PL–401, Washington, DC, or on the Internet at *http://dms.dot.gov.* The docket number is Docket No. FAA–2006–25926; Directorate Identifier 2000–CE–17–AD.

Issued in Kansas City, Missouri, on November 20, 2006.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–9427 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–26314; Airspace Docket No. 06–AAL–37]

Proposed Revision of Class E Airspace; Mekoryuk, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Mekoryuk, AK. Three new Standard Instrument Approach Procedures (SIAPs) are being developed for the Mekoryuk Airport. Amendments to a Departure Procedure (DP) and two SIAPs are also being developed. Adoption of this proposal wouldresult in revision of existing Class E airspace upward from 700 feet (ft.) above the surface at Mekoryuk Airport, Mekoryuk, AK.

DATES: Comments must be received on or before January 12, 2007.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–26314/ Airspace Docket No. 06-AAL–37, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at*.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–26314/Airspace Docket No. 06–AAL–37.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for

comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's web page at *http://www.access.gpo.gov/nara*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR part 71), which would revise the Class E airspace at Mekoryuk Airport, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Mekoryuk Airport, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed three new SIAPs, amended two SIAPs, and amended one DP for the Mekoryuk Airport. The new approaches are (1) the Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 05, Original, (2) the RNAV (GPS) RWY 23, Original and (3) the Non-directional Beacon (NDB) B, Original. The two amended SIAPs are (1) the NDB/Distance Measuring Equipment (DME) A, Amendment (Amdt) 4 and (2) the Direction Finding (DF) RWY 23, Amdt 1. The DF approach is not published and is used by Flight Service Station staff to aid pilots in emergencies. DP's are unnamed and are published in the front of the U.S. Terminal Procedures for Alaska. Class E controlled airspace extending upward from 700 ft. above the surface within the Mekoryuk Airport area would be revised by this action. The proposed airspace is sufficient in size to contain aircraft executing the instrument procedures at the Mekoryuk Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore —(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at Mekoryuk Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Mekoryuk, AK [Revised]

Mekoryuk Airport, AK
(Lat. 60°22′17″ N., long. 166°16′14″ W.)
Nanwak NDB, AK
(Lat. 60°23′06″ N., long. 166°12′53″ W.)

That airspace extending upward from 700 feet above the surface within a 7.8-mile radius of the Nanwak NDB, AK, and within 8 miles north and 4 miles south of the 049°(M)/063°(T) bearing of the Nanwak NDB, AK, to 16 miles northeast of the Nanwak NDB, AK, and within 8 miles north and 4 miles south of the 229°(M)/243°(T) bearing of the Nanwak NDB, AK, extending from the Nanwak NDB, AK, to 21 miles southwest of the Nanwak NDB, AK.

* * * * *

Issued in Anchorage, AK, on November 16, 2006.

Linda J. Couture,

Acting Director, Alaska Flight Service Information Office.

[FR Doc. E6–20182 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–26315; Airspace Docket No. 06–AAL–38]

Proposed Revision of Class E Airspace; Gulkana, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Gulkana, AK. Two new Standard Instrument Approach Procedures (SIAPs) are being developed for the Gulkana Airport. Amendments to a Departure Procedure (DP) and two SIAPs are also being developed. Adoption of this proposal would result in revision of existing Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Gulkana Airport, Gulkana, AK.

DATES: Comments must be received on or before January 12, 2007.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–26315/ Airspace Docket No. 06AAL–38, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–26315/Airspace Docket No. 06–AAL–38.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71), which would revise the Class E airspace at Gulkana Airport, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Gulkana Airport, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two new SIAPs, amended two SIAPs, and amended one DP for the Gulkana Airport. The new approaches are (1) the Very High Frequency Omni-directional Range (VOR)/Distance Measuring Equipment (DME) Runway (RWY) 15, Original and (2) the VOR/DME RWY 33, Original. The two amended SIAPs are (1) the Area Navigation (Global Positioning System) (RNAV (GPS)) RWY 15, Amendment (Amdt.) 1 and (2) the RNAV (GPS) RWY 33, Amdt. 1. DP's are unnamed and are published in the front of the U.S. Terminal Procedures for Alaska. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface within the Gulkana Airport area would be revised by this action. The proposed airspace is sufficient in size to contain aircraft executing the instrument procedures at the Gulkana Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore —(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule,

when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at Gulkana Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Gulkana, AK [Revised]

Gulkana, AK
(Lat. 62°09′18″ N., long. 145°27′24″ W.)
Gulkana VOR/DME, AK
(Lat. 62°09′08″ N., long. 145°27′01″ W.)

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of the Gulkana Airport, AK, and within 8 miles east and 4 miles west of the 154°(M)/178°(T) radial of the Gulkana VOR/DME, AK, to 19.8 miles south of the Gulkana Airport, AK, and within 4 miles either side of the 327°(M)/351°(T) radial of the Gulkana VOR/DME, AK, extending to 10.9 miles north of the Gulkana Airport, AK; and that airspace extending upward from 1,200 ft. above the surface within a 67-mile radius of the Gulkana Airport, AK.

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Issued in Anchorage, AK, on November 16, 2006.

Linda J. Couture,

Acting Director, Alaska Flight Service Information Office.

[FR Doc. E6–20170 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–26164; Airspace Docket No. 06–AAL–34]

Proposed Revocation of Class E Airspace; Adak, Atka, Cold Bay, Nelson Lagoon, Saint George Island, Sand Point, Shemya, St. Paul Island, and Unalaska, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revoke the Class E2 and E5 controlled airspace descriptions for Adak, Atka, Cold Bay, Nelson Lagoon, Saint George Island, Sand Point, Shemya, St. Paul Island, and Unalaska, AK. These locations lie within the boundaries of the Offshore Airspace Area Control 1234L. Since these airports lie within Control 1234L, the controlled airspace associated with these airports should be listed in the Control 1234L area description. A concurrent airspace action (docket #06–AAL–29) would incorporate this controlled airspace. There is one exception. The Class E2 surface area at Shemya, AK is no longer necessary and the docket #06–AAL–29 will not be carrying it forward. If both proposals are adopted there will be no change to controlled airspace, except for the revocation of the Shemya Class E surface area. The controlled airspace descriptions would be listed in paragraph 6007 of FAA Order 7400.9P, *Airspace Designations and Reporting Points*, Control 1234L.

DATES: Comments must be received on or before January 12, 2007.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–26164/Airspace Docket No. 06–AAL–34, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at*.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–26164/Airspace Docket No. 06–AAL–34.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The

proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara*.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71), which would remove the Class E airspace descriptions in FAA Order 7400.9P, paragraph 6002 and 6005 for Adak, Atka, Cold Bay, Nelson Lagoon, Saint George Island, Sand Point, Shemya, St. Paul Island, and Unalaska, AK. This proposal is being handled concurrently with a separate airspace action (06–AAL–29), that would move the controlled airspace descriptions for the above airports to the correct location in FAA Order 7400.9P, within the Control 1234L Offshore Airspace description. The intended effect of this proposal is to remove the controlled airspace descriptions incorrectly listed within the Federal Aviation Regulations by reference in FAA Order 7400.9P, paragraph 6002 and 6005. The concurrent action, docket number 06–AAL–29, will incorporate these controlled airspace descriptions in FAA Order 7400.9P, paragraph 6007, Control 1234L.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore —(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes changes to Class E airspace that remain sufficient in size to contain aircraft executing instrument procedures at the above listed airports and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, is to be amended as follows:

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AAL AK E2 Shemya, AK [Revoked]

* * * * *

AAL AK E2 Cold Bay, AK [Revoked]

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 Feet or More Above the Surface of the Earth.

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AAL AK E5 Adak, AK [Revoked]

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AAL AK E5 Atka, AK [Revoked]

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AAL AK E5 Cold Bay, AK [Revoked]

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AAL AK E5 Nelson Lagoon, AK [Revoked]

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AAL AK E5 Saint George Island, AK [Revoked]

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AAL AK E5 Sand Point, AK [Revoked]

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AAL AK E5 Shemya, AK [Revoked]

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AAL AK E5 St. Paul Island, AK [Revoked]

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AAL AK E5 Unalaska, AK [Revoked]

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Issued in Anchorage, AK, on November 16, 2006.

Linda J. Couture,

Acting Director, Alaska Flight Service Information Office.

[FR Doc. E6–20183 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–26316; Airspace Docket No. 06–AAL–39]

Proposed Revision of Class E Airspace; Northway, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise Class E airspace at Northway, AK. Two new Standard Instrument Approach Procedures (SIAPs) are being developed for the Northway Airport, and an SIAP and Departure Procedure (DP) are being amended. Adoption of this proposal would result in revision of existing Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at Northway Airport, Northway, AK.

DATES: Comments must be received on or before January 12, 2007.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2006–26316/ Airspace Docket No. 06–AAL–39, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2006–26316/Airspace Docket No. 06–AAL–39.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice of Proposed Rulemaking's (NPRM's)

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's web page at *http://www.access.gpo.gov/nara.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71), which would revise the Class E airspace at Northway Airport, AK. The intended effect of this proposal is to revise Class E airspace upward from 700 ft. and 1,200 ft. above the surface to contain Instrument Flight Rules (IFR) operations at Northway Airport, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two new SIAPs, amended one SIAP, and amended one DP for the Northway Airport. The new approaches are (1) the Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 05, Original and (2) the RNAV (GPS) RWY 23, Original. The amended SIAP is the Very High Frequency Omni-directional Range (VOR)/Distance Measuring Equipment (DME) A, Amendment 1. DP's are unnamed and are published in the front of the U.S. Terminal Procedures for Alaska. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface within the Northway Airport area would be revised by this action. The proposed airspace is sufficient in size to contain aircraft executing the instrument procedures at the Northway Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore —(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the

safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at Northway Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points,* dated September 1, 2006, and effective September 15, 2006, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Northway, AK [Revised]

Northway Airport, AK
(lat. 62°57′41″ N., long. 141°55′45″ W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Northway Airport, AK, and that airspace extending upward from 1,200 feet above the surface within a 66-mile radius of the Northway Airport, AK, excluding the airspace east of 141°00′00″ West longitude.

* * * * *

Issued in Anchorage, AK, on November 16, 2006.

Linda J. Couture

Acting Director, Alaska Flight Service Information Office.

[FR Doc. E6–20165 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–13–P

SUSQUEHANNA RIVER BASIN COMMISSION

18 CFR Parts 803, 804, and 805

Public Hearing by the Commission To Take Action on Certain Projects; Revision of the SRBC Project Fee Schedule; Final Rule Making; and Incorporation of the Final Rule Making Action in the SRBC Comprehensive Plan

AGENCY: Susquehanna River Basin Commission (SRBC).

SUMMARY: Pursuant to its authority under the Susquehanna River Basin Compact, Pub. L. 91–575, 84 Stat. 1509 et seq. (the ''Compact'') and its Regulations for Review of Projects, 18 CFR parts 803, 804 and 805, the SRBC will hold a public hearing to consider approval of certain water resources projects listed below, including two projects involving diversions, at its meeting to be held on December 5, 2006 at the Radisson Penn Harris Hotel and Convention Center, 1150 Camp Hill By-Pass, Camp Hill, Pa. 17011, beginning at 1 p.m. Also to be considered as part of this same public hearing will be (1) A final rule making action (see proposed rules, **Federal Register**, July 7, 2006, page 38692), (2) incorporation of the final rule making action into the SRBC Comprehensive Plan for Management and Development of the Water Resources of the Susquehanna River Basin; and (3) a revision of the Commission's current project fee schedule to make certain annual adjustments to that schedule and to conform the fee schedule to the final rule making action.

Opportunity to appear and comment: Interested parties may appear at the above hearing to offer written or oral comments to the Commission on the listed projects or the other matters to be schedule for action at the hearing. Written comments may also be submitted to the electronic and regular mail addresses listed below. The chair of the Commission reserves the right to limit oral statements at the hearing in the interest of time and to otherwise control the course of the hearing.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, (717) 238–0423; ext. 306; fax: (717) 238–2436; e-mail: *rcairo@src.net* or Michael G. Brownell, Chief, Water Resources Management, (717) 238–0425, ext. 223; fax (717) 238–2436; e-mail *mbrownell@srbc.net*. Information on the project fee schedule may be obtained from Duane A. Friends, (717) 238–0424, ext. 309, *dfriends@srbc.net* or Eric Roof, (717) 238–0425, ext. 309, *eroof@srbc.net*. Regular mail may also be sent to the Commission's offices at 1721 North Front Street, Harrisburg, Pennsylvania 17102–2391. More information is also available for inspection at the Commission's offices or on the Commission's Web site at *http://www.srbc.net*.

SUPPLEMENTARY INFORMATION:

Projects Schedule for Action

1. Albany International, Village of Homer, Cortland County, Ny.
2. Knight Settlement Sand & Gravel, LLC, Town of Bath, Stueben County, Ny.
3. United Water PA–Dallas Operation, Dallas Borough, Luzerne County, Pa.
4. Blue Ridge Trail Golf Club, Inc., Dorrance Township, Luzerne County, Pa.
5. Aqua Pennsylvania, Inc.–Well Er–4, Hazel Township, Luzerne County, Pa.
6. Eagle Rock Resort Co.–Wells A and C, Black Creek Township, Luzerne County, Pa.
7. PPL Montour, LLC, Derry Township, Montour County, Pa.
8. Sunnyside Ethanol, LLC, Curwensville Borough, Clearfield County, Pa.
9. Middlesex Township Municipal Authority, Middlesex Township, Cumberland County, Pa.
10. New Morgan Landfill Company, Inc., dba Conestoga Landfill, New Morgan Borough, Berks County, Pa.
11. Country Club of Harrisburg, Middle Paxton Township, Dauphin County, Pa.
12. AES Ironwood, L.L.C., South Lebanon Township, Lebanon County, Pa.
13. Lancaster County Solid Waste Management Authority–Frey Farm and Creswell Landfills, Manor Township, Lancaster County, Pa.
14. Manheim Township Commissioners, Manheim Township, Lancaster County, Pa.
15. Exelon General Co. LLC–Peach Bottom Atomic Power Station, Peach Bottom Township, York County, Pa.
16. City of Baltimore, Department of Public Works, Harford County, Md.

Projects Scheduled for Action Involving Diversions

1. Morgantown Properties, LP by CDG New Morgan Management Inc., New Morgan Borough, Berks County, Pa.
2. Town of Perryville, Cecil County, Md.

Dated: November 17, 2006.

Paul O. Swartz,

Executive Director.

[FR Doc. 06–9411 Filed 11–27–06; 8:45 am]

BILLING CODE 7040–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2006–0577–200624(b); FRL–8248–8]

Approval and Promulgation of Implementation Plans; Georgia: Removal of Douglas County Transportation Control Measure

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On September 19, 2006, the State of Georgia's Department of Natural Resources, through the Georgia Environmental Protection Division (GA EPD), submitted a final State Implementation Plan (SIP) revision to remove the transportation control measure (TCM) related to a compressed natural gas refueling station/park and ride transportation center project in Douglas County, Georgia. This TCM was originally submitted by GA EPD for inclusion into the Atlanta portion of the Georgia SIP on August 29, 1997. EPA approved this TCM into the Georgia SIP through direct final rulemaking published in the **Federal Register** on June 24, 1998 (effective on August 10, 1998). Subsequently, the project sponsor determined that the equipment necessary to implement this project is no longer available, and thus, this TCM cannot be implemented as originally anticipated. No SIP credit was claimed for this program, nor were emission benefits ever realized for this TCM because it was never implemented. Through this rulemaking, EPA is proposing to approve the removal of this TCM from the Atlanta portion of the Georgia SIP because this SIP revision meets Clean Air Act requirements. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before December 28, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. ''EPA–R04–OAR–2006–0577'', by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: Benjamin.lynorae@epa.gov.*

3. *Fax:* (404) 562–9019.

4. *Mail:* ''EPA–R04–OAR–2006–0577,'' Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Lynorae Benjamin, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Benjamin can also be reached via electronic mail at *Benjamin.lynorae@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: November 13, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. E6–20140 Filed 11–27–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2005–FL–0002–200530(b); FRL–8246–1]

Florida: Lockheed Martin Aeronautics Company

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to section 110 of the Clean Air Act (CAA), 42 U.S.C. 7410, EPA is proposing to approve a revision to the Florida State Implementation Plan (SIP) submitted by the Florida Department of Environmental Protection (FDEP) on June 8, 2005. The revision is source-specific to the Lockheed Martin Aeronautics Company (LM), located in Pinellas County, Florida, and regards that facility's compliance with Florida's Surface Coating of Miscellaneous Metal Parts and Products Reasonably Available Control Technology rule, found at Florida Administrative Code (F.A.C.) Rule 62–296.513 (FL MMPP Rule). The source-specific SIP revision seeks to allow LM to employ as reasonably available control technology (RACT) the control techniques outlined in EPA's December 1997, ''Aerospace Control Technique Guidelines'' (EPA's Aerospace CTG), instead of the RACT described in the FL MMPP Rule. The source-specific SIP revision is approvable because it meets the standards for approval described in section 110(l) of the CAA.

In the Rules Section of this **Federal Register**, the EPA is taking direct final action to approve the Florida SIP revision without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final action. If no significant, material, and adverse comments are received in response to the direct final action, no further activity is contemplated. If EPA receives adverse comments, the direct final action will be withdrawn and all public comments received will be addressed in a subsequent final action based on this proposed action. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before December 28, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–

OAR–2005–FL–0002, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail: hou.james@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2005–FL–0002,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Please see the direct final action which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8965. Mr. Hou can also be reached via electronic mail at *hou.james@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: November 6, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. E6–20077 Filed 11–27–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 61 and 63

[EPA–R01–OAR–2006–0345; FRL–8237–9]

Approval of the Clean Air Act, Section 112(l), Authority for Hazardous Air Pollutants: Asbestos Management and Control; State of New Hampshire Department of Environmental Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve New Hampshire Department of Environmental Services' (NH DES) request to implement and enforce its regulation entitled ''Asbestos Management and Control'' in lieu of the Asbestos National Emission Standard for Hazardous Air Pollutants (Asbestos NESHAP) as it applies to certain asbestos-related activities. Upon approval, NH DES' rule will be federally enforceable and will apply to all sources that otherwise would be regulated by the Asbestos NESHAP with the exception of inactive waste disposal sites that ceased operation on or before July 9, 1981. These inactive disposal sites are already regulated by State rules that were approved by EPA on May 23, 2003. NH DES' request seeks to adjust the federal rules by demonstrating the equivalency of its rules to the federal requirements.

DATES: EPA must receive written comments by December 28, 2006.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2006–0345 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: lancey.susan@epa.gov.*
3. *Fax:* (617) 918–0656.
4. *Mail:* ''EPA–R01–OAR–2006–0345'', Daniel Brown, Manager, Air Permits, Toxics & Indoor Programs Unit, Office Of Ecosystem Protection, U.S. Environmental Protection Agency, One Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023.
5. *Hand Delivery or Courier:* Deliver your comments to: Daniel Brown, Manager, Air Permits, Toxics & Indoor Programs Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, One Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Susan Lancey, Air Permits, Toxics & Indoor Programs Unit, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, MA 02114–2023, (617) 918–1656.

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of the **Federal Register**.

Dated: October 17, 2006.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. E6–20173 Filed 11–27–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 2006–26442]

RIN 2105–AD65

Standard Time Zone Boundary in Pulaski County, IN

AGENCY: Office of the Secretary (OST), the Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: DOT proposes to relocate the time zone boundary in Indiana to move Pulaski County from the Central Time Zone to the Eastern Time Zone. This action is taken at the request of the County Commissioners and the County Council. DOT requests comment on whether this change would serve the convenience of commerce, the statutory standard for a time zone change. Persons supporting or opposing the change should not assume that the change will be made merely because DOT is making the proposal. Our decision in the final rule will be made

based on all of the information developed during the entire rulemaking proceeding.

DATES: Comments should be received by December 28, 2006 to be assured of consideration. Comments received after that date will be considered to the extent practicable. If the time zone boundary is changed as a result of this rulemaking, the effective date would be no earlier than 2 a.m. EDT Sunday, March 11, 2007, which is the changeover date from standard time to daylight saving time.

ADDRESSES: You may submit comments by any of the following methods:

- Web Site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number (OST Docket Number 2006–26442) or Regulatory Identification Number (RIN) (2105-AD65) for this rulemaking. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Judith S. Kaleta, Office of the General Counsel, U.S. Department of Transportation, Room 10424, 400 Seventh Street, SW., Washington, DC 20590, *indianatime@dot.gov*; (202) 366–9283.

SUPPLEMENTARY INFORMATION:

Current Indiana Time Observance

Indiana is divided into 92 counties. Under Federal law, 74 Indiana counties are in the Eastern Time Zone and 18 are in the Central Time Zone. The Central Time Zone counties include seven in the northwest (Lake, Porter, La Porte, Starke, Newton, Jasper, and Pulaski) and eleven in the southwest (Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, Spencer, and Perry). The remaining 74 counties are in the Eastern Time Zone. Neighboring States observe both Eastern and Central time. Illinois and western Kentucky observe Central time, while eastern Kentucky, Ohio, and the portion of Michigan adjoining Indiana observe Eastern time.

Federal law provides that it is up to an individual State to decide whether or not to observe daylight saving time. In 2005, the Indiana General Assembly adopted legislation (Pub. L. 243–005 or ''the Indiana Act'') providing that the entire State of Indiana will observe daylight saving time beginning in 2006. In addition, the Indiana Act addressed the issue of changing the location of the boundary between the Eastern and Central Time Zones.

In January 2006, DOT completed a rulemaking proceeding establishing new time zone boundaries that resulted in the current time zone observance. Since that time, Pulaski County has filed a Petition requesting a time zone change back to the Eastern Time Zone, and subsequently filed an Amended Petition. Knox, Daviess, Martin, Pike, and Dubois Counties in Southwestern Indiana (the Southwestern Counties) filed a Joint Petition for a Time Zone Change (Joint Petition). This Notice of Proposed Rulemaking addresses only Pulaski County. DOT is waiting for additional information from the Southwestern Counties before making a determination whether to propose a time zone change or deny the Joint Petition.

Statutory Requirements

Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260–64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard in the statute for such decisions is ''regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce.''

DOT Procedures To Change a Time Zone Boundary

DOT has typically used a set of procedures to address time zone issues. Under these procedures, DOT will generally begin a rulemaking proceeding to change a time zone boundary if the highest elected officials in the area provide adequate supporting data for the proposed change. We ask that the petition include, or be accompanied by, detailed information supporting the requesting party's contention that the requested change would serve the convenience of commerce. The principal standard for deciding whether to change a time zone is defined very broadly to include consideration of all the impacts upon a community of a change in its standard of time. We also ask that the supporting documentation address, at a minimum, each of the following questions in as much detail as possible.

1. From where do businesses in the community get their supplies, and to where do they ship their goods or products?
2. From where does the community receive television and radio broadcasts?
3. Where are the newspapers published that serve the community?
4. From where does the community get its bus and passenger rail services; if there is no scheduled bus or passenger rail service in the community, to where must residents go to obtain these services?
5. Where is the nearest airport; if it is a local service airport, to what major airport does it carry passengers?
6. What percentage of residents of the community work outside the community; where do these residents work?
7. What are the major elements of the community's economy; is the community's economy improving or declining; what Federal, State, or local plans, if any, are there for economic development in the community?
8. If residents leave the community for schooling, recreation, health care, or religious worship, what standard of time is observed in the places where they go for these purposes?

In addition, we consider any other information that the county or local officials believe to be relevant to the proceeding. We consider the effect on economic, cultural, social, and civic activities, and how a change in time zone would affect businesses, communication, transportation, and education.

2005–2006 Time Zone Rulemaking Proceedings

On August 17, 2005, DOT published a notice in the **Federal Register** inviting county and local officials in Indiana that wished to change their current time zone in response to the Indiana Act to notify DOT of their request for a change by September 16, 2005 and to provide data in response to the questions above. In addition, DOT announced the opening of an Internet-accessible, public docket to receive any petitions and

other relevant documents concerning the appropriate placement of the time zone boundary in the State of Indiana.

DOT received nineteen petitions from counties asking to be changed from the Eastern Time Zone to the Central Time Zone, and one county subsequently withdrew its request. Pulaski County was one of the counties that petitioned for a change.

Pulaski County is located in Northwestern Indiana, 95 miles from both Chicago and Indianapolis and 60 miles from both South Bend and Lafayette. It has a population of 13,783. According to ''Key Economic Development Statistics,'' prepared for the Pulaski County Community Development Commission, dated January 6, 2004, ''Although the agricultural heritage of Pulaski County is very strong, the fact remains that 83% of all employment is created in non-agricultural opportunities.''

The Pulaski County Commissioners submitted a petition (original petition) in which they enumerated reasons for a move to the Central Time Zone based on comments made during an open public meeting. County Commissioners commented that at that open public meeting, ''There were no citizens who were in favor of Eastern. All were in favor of leaving the time alone, by not having to change time during the year. But, if we have to choose one of the two, the choice would be Central Time.'' The Pulaski County Commissioners also noted the consideration of school children waiting during a late sunrise, the importance of sunlight to its farming community, television programming from South Bend and Chicago, newspapers from Indianapolis, South Bend, Logansport, and Chicago, and airports in Indianapolis and Chicago. In addition, the County Commissioners submitted annual commuting data in support of their position.

At a public hearing conducted by DOT in Logansport, Indiana, Director Dan Dolezal of the Pulaski Community Development Commission presented information from the two major employers in the County who favored the Central Time Zone as well as from other employers. The President of the Pulaski County Council also spoke in favor the Pulaski County petition; he noted the difficulty of being a border county and suggested that the entire state be in the same time zone. In written comments to the docket, one commenter noted that Pulaski County has regional ties to counties that are currently in the Central Time Zone or would be moved to the Central Time Zone by DOT's decision. He referred to workforce planning, economic growth, and economic development regions and said that moving Pulaski to the Central Time Zone would ensure that all counties in these regions were in the same time zone.

Out of 71 comments submitted to the docket from Pulaski County, 41 favored the Central Time Zone, 17 favored the Eastern Time Zone, and 13 expressed interest in keeping Indiana on the same time zone, expressing no preference.

Based on this record, Pulaski County was one of the eight Counties that moved from the Eastern Time Zone to the Central Time Zone under DOT's January 2006 final rule. DOT expected that each of these Counties would begin observing Central Time in accordance with DOT's final rule and the change they requested. However, on February 7, 2006, Pulaski County petitioned DOT for a time zone boundary change back to the Eastern Time Zone. The new petition followed DOT's final rule by only a few weeks and was submitted before the County had any experience with the new time zone changes that it solicited. Furthermore, the new petition requested a change that was contrary to the County's original petition and other information submitted to the docket in the rulemaking proceeding. In fact, the County Commissioners represented that they did not provide accurate information in their original petition. The new petition did not provide detailed information in support of its position or the sources for the information submitted. Therefore, before making any determination on changing the time zone boundary for Pulaski County, DOT requested information from Pulaski County to assist DOT in making a careful assessment on the appropriate time zone for the County consistent with Federal requirements.

On June 27, 2006, Pulaski County submitted an Amended Petition that includes answers to the questions DOT considers in making time zone determinations and exhibits in support of the answers. The Amended Petition repeatedly states that the information set forth in the original petition in response to DOT's time zone questions ''is limited, and opinion without substantial and verifiable evidence to support the claims made.'' The Amended Petition provides significantly more detailed responses to DOT's questions related to community imports and exports, television and radio broadcasts, newspapers, bus and passenger rail services, airports/airline services, worker commuting patterns, the community's economy/economic development, and schooling, recreation, health care, or religious worship.

In August, Governor Daniels, the Indiana Economic Development Corporation, and the Indiana Department of Workforce Development submitted letters to the docket. The Governor wrote in support of the Amended Petition (as well as the Joint Petition filed by the Southwestern Counties), stating that putting more of the State on the same time zone will provide clarity on the time questions and advance economic growth. The two organizations addressed regional connections. They noted that they established their respective state regions based on their ability to deliver services. They did not establish regions based on time zones or ''stream of commerce.''

DOT Determination

Based on the Amended Petition and the supporting data submitted with it, we find that Pulaski County has provided enough information to justify proposing to change its time zone boundary from the Central Time Zone to the Eastern Time Zone. We are now providing a further opportunity to others to submit information that might refute or support the basis provided to date, in order to enable DOT to make a final decision. Pulaski County addressed all of the factors that we consider in these proceedings and made a reasonable case that changing back to the Eastern Time Zone would serve ''the convenience of commerce.''

Community Imports and Exports

The Amended Petition provides extensive information regarding the sources of supplies and raw materials for major businesses and industries as well as the distribution points for their products and services. Of the County's eight largest employers, five had 100% of their customers in the Eastern Time Zone while the remaining three had between 50 and 100% in the Central Time Zone. On the other hand, six of these same employers had between 66 and 100% of their suppliers in the Eastern Time Zone. Of the remaining two employers, one had 100% of its suppliers in the Central Time Zone and the other 66%. CSX Railroad, serving Pulaski County, ships 100% of its carloads to states in the Eastern Time Zone, whereas 74% of its incoming carloads are received from states in the Central Time Zone.

With regard to agricultural products, the Amended Petition states that the County ranks 15th in the state in corn production and 25th in soybean production. The inputs for these crops come from Eastern Time Zone areas and 85% of the marketing of these crops occurs in Indiana communities in the

Eastern Time Zone. Likewise, according to the Amended Petition, the markets for livestock, poultry and dairy products are all primarily in the Eastern Time Zone. Ninety percent of the agricultural fertilizer and chemical dealers marketing to the County have facilities in the Eastern Time Zone.

The Amended Petition says that the County has two financial institutions, both of which have branches in the Eastern and Central Time Zones. Data distribution from the County's banks is to South Bend, Indianapolis and Warsaw, Indiana, all of which are in the Eastern Time Zone. The County has one branch office of a national investment firm which is headquartered in St. Louis (Central Time Zone).

Based upon the information submitted with the Amended Petition, it appears that the vast majority of the County's businesses and industries have their suppliers, customers and marketing connections with areas that are in the Eastern Time Zone and that moving the time zone boundary for Pulaski County to the Eastern Time Zone would serve the convenience of commerce. DOT solicits further information that would aid in determining whether a change in the time zone for Pulaski County would serve the convenience of commerce.

Television and Radio Broadcasts

The Amended Petition provides detailed information regarding television and radio broadcasting to cities in Pulaski County. It says that Pulaski County is in the South Bend/Elkhart Designated Market Area (DMA) which consists of 10 counties, eight in the Eastern Time Zone and two, Pulaski and Starke, in the Central Time Zone. The Amended Petition maintains that having a part of the DMA in a different time zone makes it more difficult to timely report local news and that most of the news broadcasters covering local news are centered in the Eastern Time Zone.

The Amended Petition claims that the only cable TV service is provided in Winamac and that service has 15 ''locally generated'' channels, four from Chicago in the Central Time Zone and eleven from South Bend, Lafayette and Indianapolis, in the Eastern Time Zone. The Direct TV service is also varied: Francesville and Medaryville seem to receive network news from Chicago, while Winamac and Star City are focused on Indianapolis, and Monterey has its network news from South Bend. DISH Network has its local channels from South Bend. Other residents use TV antennas.

With regard to radio broadcasting, the Amended Petition provides a list of all Indiana radio stations, but does not indicate the strength of the radio signals in Pulaski County.

Based on the Amended Petition, DOT is unable to determine whether this aspect of the ''convenience of commerce'' standard supports a change in Pulaski County's time zone. DOT seeks comment on the information submitted and requests any additional information on television and radio broadcasting in Pulaski County that would aid in determining whether a time zone change for Pulaski County would serve the convenience of commerce.

Newspapers

The Amended Petition includes a chart on newspaper circulation numbers in Pulaski County and discusses the circulation of Pulaski County's two family-owned newspapers. The chart shows Pulaski County subscribers of Eastern and Central Time Zone papers. According to the Amended Petition, there are 1498 Pulaski County subscribers to newspapers that are published in the Eastern Time Zone and 66 Pulaski County subscribers to newspapers that are published in the Central Time Zone. *The Pulaski County Journal*, one of the two newspapers published in Pulaski County, has a weekly circulation of 1064 Pulaski County subscribers, with 112 additional subscribers living in the Eastern Time Zone and 25 from the Central Time Zone. The Amended Petition claims that *The Francesville Tribune*, the other newspaper published in Pulaski County, has 752 subscribers in the Eastern Time Zone and 48 subscribers in the Central Time Zone, and does not indicate how many subscribers are from Pulaski County.

Based on the information submitted in the Amended Petition with regard to newspapers that serve the community, it appears that moving the time zone boundary for Pulaski County to the Eastern Time Zone would serve the convenience of commerce. DOT seeks comment on the information submitted and requests any additional information on newspaper circulation in Pulaski County that would aid in determining whether changing the time zone for Pulaski County would serve the convenience of commerce.

Bus and Passenger Rail Services

With regard to bus service, the Amended Petition identifies three bus stations within 60 miles of Pulaski County. It claims the nearest bus station for a north/south trip is in Lafayette, Indiana, in the Eastern Time Zone. The Amended Petition also contends the two nearest bus stations for east/west trips are located in Michigan City, in the Central Time Zone, and South Bend in the Eastern Time Zone.

With regard to passenger rail service, the Amended Petition claims the nearest rail station for a north/south trip is in Rensselaer, Indiana, in the Central Time Zone. The Amended Petition also contends the nearest rail station for east/west trips is located in South Bend in the Eastern Time Zone.

The Amended Petition admits, ''The use of rail or bus services by Pulaski County residents is unknown.'' Nevertheless, it asserts, ''Given that two (2) of the nearest bus stations and one (1) of the rail stations are located in Eastern Time, it makes sense to place Pulaski County on Eastern Time so that residents will be on the same time zone as most of the existing junction points and division points of common carriers.''

Based on the information submitted in the Amended Petition with regard to the use of rail or bus services by Pulaski County residents, DOT is unable to determine whether this aspect of the ''convenience of commerce'' standard supports a change in Pulaski County's time zone. DOT seeks comment on the information submitted and requests any additional information on bus and rail services in Pulaski County that would aid in determining whether a time zone change for Pulaski County would serve the convenience of commerce.

Airports/Airline Services

The Amended Petition identifies three airports that could potentially serve Pulaski County residents: Indianapolis International Airport, 99 miles from the County; Chicago O'Hare, 124 miles from the County; and South Bend Regional Airport, 68 miles from the County. The Amended Petition admits that ''no reliable information is available to demonstrate the number of Pulaski County residents who are airline passengers to and from Chicago and Indianapolis,'' and refers to the County's largest employer who asserts, ''Indianapolis by far is the airport most frequently used by staff and customers on company business.'' In addition, the Amended Petition quotes the Vice President for Travel Agency Services at AAA Hoosier Motor Club in Indianapolis who contends, ''Leisure travelers will use the airport where they get the best ticket price.'' The Amended Petition then claims ''it is highly likely that the passenger fees and other airport taxes are higher at Chicago O'Hare than Indianapolis International or South

Bend,'' but provides no supporting evidence. The Amended Petition notes that FedEx operates its East Service Hub Center from Indianapolis International Airport and that UPS all-points international air hub is located in Louisville, Kentucky, both in the Eastern Time Zone. Exhibit E includes a page from the UPS Web site that states other regional hubs are located in strategic cities across the United States.

Based on the information submitted in the Amended Petition with regard to airports and airline services that serve the community, DOT is unable to determine whether this aspect of the ''convenience of commerce'' standard supports a change in Pulaski County's time zone. DOT seeks comment on the information submitted and requests any additional information on airport and airline services in Pulaski County that would aid in determining whether changing the time zone for Pulaski County would serve the convenience of commerce.

Worker Commuting Patterns

The Amended Petition notes that, according to STATS Indiana Annual Commuting Trends Profile, 2004, 77% of Pulaski County residents who work do so in the County and 13% of the total numbers of persons who work in Pulaski County come from other counties. More come from the Eastern Time Zone than the Central Time Zone. Local employers reported that more out-of-county workers came from counties in the Eastern Time Zone than counties in the Central Time Zone. Pulaski Memorial Hospital reported the same. The Amended Petition sums up workers migration by stating, ''Of those migrating in to work, the majority come from the Eastern Time Zone. Of those going out of the County to work, a lesser number go to the Central Time Zone than the Eastern Time Zone.'' The Amended Petition asserts, ''Given that migration patterns to Eastern Time exceed migration patterns to Central Time, there is a greater pool of potential workers in the East that may be discouraged from commuting to Pulaski County due to time zone difference.''

Based upon the information submitted with the Amended Petition with regard to worker migration, it appears that moving the time zone boundary for Pulaski County to the Eastern Time Zone would serve the convenience of commerce. DOT solicits further information and data supporting or rebutting the information supplied by the Amended Petition and how it supports a change in the time zone for the convenience of commerce.

The Community's Economy/Economic Development

The Amended Petition states, ''Outside of its borders Pulaski County is not a ''hub'' for the regional economy. It is a peripheral player.'' In support of this assertion, the Amended Petition refers to the study undertaken by the Pulaski County Community Development Commission on ''Key Economic Development Statistics'' which states that the employment in the County ''is highly concentrated in agriculture, manufacturing, and government.'' The Amended Petition notes that immediately after the release of this study, the Commission commissioned a ''strategic plan for economic development.'' The plan addresses ''job creation and retention, planning and zoning, housing opportunities, educational needs, and recreational activities and visitor accommodations.'' According to the Amended Petition, each challenge is being addressed and positive progress is being made to resolve the challenges. This section of the Amended Petition also referred to the sections addressing worker migration patterns that favor the Eastern Time Zone and stated that regions established by the State ''for the administrative ease of delivering governmental services* * *should not be relied on as decisive evidence of what time zone best serves the commercial convenience of Pulaski County.''

Based upon the information submitted with the Amended Petition, it appears that moving the time zone boundary for Pulaski County to the Eastern Time Zone would serve the convenience of commerce. DOT solicits further information and data supporting or rebutting the information supplied by the Amended Petition and how it supports a change in the time zone for the convenience of commerce.

Schooling, Recreation, Health Care, or Religious Worship

The Amended Petition notes that there are four school districts that cover Pulaski County. According to the Amended Petition, the Eastern Pulaski Community School Corporation serves Pulaski County and part of Fulton County, Union Township (Eastern Time Zone); the West Central School Corporation serves Pulaski County and Jasper County (Central Time Zone); the Culver Community School Corporation, based in Marshall County, covers Pulaski County, Starke County (Central Time Zone), and Fulton and Marshall Counties (Eastern Time Zone); and the North Judson-San Pierre School Corporation includes Pulaski County and Starke County (Central Time Zone). The Amended Petition provides detailed information on the number of students in each school district and the County of residence for the faculty. In addition, it includes detailed information on the athletic programs and events scheduled in Eastern and Central Time Zone Counties. The four school districts had requested to have the time zone issue resolved before school began last August.

With regard to higher education, the Amended Petition asserts, ''Businesses encouraging employees to return for further instruction in order to strengthen the company with high-skill workers or high school graduates unable to afford campus life will be limited if Pulaski County remains on the Central Time Zone.'' The Amended Petition notes that six of the eight colleges and universities within 50 miles are located in the Eastern Time Zone.

With regard to recreation, the Amended Petition notes, ''Indiana is unique in its observance of college and high school basketball as a main source of family entertainment.'' The Amended Petition refers back to the concerns it raised with regard to high school sporting activities. Furthermore, five out of the six colleges noted for collegiate sports within 100 miles of Pulaski County and referenced in the Amended Petition are in the Eastern Time Zone. The Amended Petition notes that with regard to professional football and basketball, there is an equal split between the Eastern and Central Time Zones.

With regard to health care, the Amended Petition provides substantial information on the activities of Pulaski Memorial Hospital, which the Amended Petition identifies as ''the primary health care provider in Pulaski County'' and its second largest employer. The Amended Petition asserts, ''Pulaski Memorial Hospital activities, with one (1) exception point to the Eastern Time Zone.'' The number of referrals of in-patients discharged to another hospital in the Eastern Time zone was 147 as compared to 101 to the Central Time Zone. Out-patient referrals for procedures done in out-of-county facilities, however, favored the Central Time Zone 287 to 242 for the Eastern Time Zone. There are more independent practitioners and specialty group physicians from the Eastern Time Zone. With regard to in-home health care services, the number of visits overwhelmingly favors the Eastern Time Zone 9538 to 1366.

The Amended Petition does not address religious worship.

Based on the information submitted in the Amended Petition with regard to higher education and recreation and possibly health care, it appears that moving the time zone boundary for Pulaski County to the Eastern Time Zone would serve the convenience of commerce. It is unclear, however, whether a time zone boundary change would serve primary and secondary education. The Amended Petition was submitted prior to the school year and does not include any actual experience with regard to Pulaski County's change to the Central Time Zone and its effect on school districts that cover Pulaski County. DOT seeks comment on the information submitted and requests any additional information on schooling as it relates to the school districts that cover Pulaski County that would aid in determining whether changing the time zone for Pulaski County would serve the convenience of commerce. DOT specifically requests comments from the Fulton, Marshall, Starke, and Jasper Counties that are in the same school districts as Pulaski County. DOT also requests comments on any other recreational activities that would be relevant to this proceeding, on whether the home visits by county of residence noted on page 24 of the Amended Petition were based on a per person or per visit basis, and on a time zone change and its effect on religious worship, if any.

Regional Connections

In the original rulemaking proceeding to change time zone boundaries from the Eastern Time Zone to the Central Time Zone, petitioning counties and commenters advocated for a move by referring to their ties to other Indiana counties currently in the Central Time Zone. Many referred to data from STATS Indiana, an information service of the Indiana Business Research Center at Indiana University's Kelly School of Business. This data includes the Indiana Annual Commuting Trends Profile, based on Indiana IT 40 returns. Commenters supporting the proposed change to Central Time also referred to data from the Indiana Economic Development Corporation (IEDC), the Indiana Department of Workforce Development, the Indiana Department of Transportation and the Indiana Department of Education, and Designated Media Markets as defined by the Nielsen for use in television ratings.

DOT carefully reviewed this data and utilized it in reaching its decision. As stated in the January 2006 Final Rule, ''Pulaski has regional economic and workforce ties and business connections to counties already in the Central Time Zone. Those ties are enhanced by moving the time zone boundary for Pulaski County.''

The Amended Petition does not address regional connections, as a specific, separate issue. It does, however, address regional connectivity as part of its answers to the questions raised by DOT. The Amended Petition refers to regions established by the State of Indiana and notes, ''These regions are properly regarded as regions for the administrative ease of delivering governmental services and should not be relied upon as decisive evidence of what time zone best serves the commercial convenience of Pulaski County. Regardless of where Pulaski County is placed in state government regions, Pulaski County is fundamentally different as a rural county and on the periphery from the major cities that comprise the hub of these regions.'' It further states, ''A rational basis can be asserted for including Pulaski County in a time zone that serves commercial convenience focusing on small rural populations with an agricultural/small manufacturing economy. This informal region would include the counties of Fulton, Pulaski, White, Jasper, and Newton.''

Regional connections are also addressed in letters from the Indiana Economic Development Corporation and the Indiana Department of Workforce Development. They noted that they established their respective regions based on their ability to deliver services. They did not establish regions based on time zones or ''stream of commerce.'' The data from STATS Indiana concerning employment and earnings by industry refer to the Bureau of Economic Analysis (BEA) as its source. According to BEA's Web site, ''BEA produces economic accounts statistics that enable government and business decision-makers, researchers, and the American public to follow and understand the performance of the Nation's economy. To do this, BEA collects source data, conducts research and analysis, develops and implements estimation methodologies, and disseminates statistics to the public. BEA's economic areas define the relevant regional markets surrounding metropolitan or micropolitan statistical areas. They consist of one or more economic nodes—metropolitan or micropolitan statistical areas that serve as regional centers of economic activity—*and the surrounding counties that are economically related to the nodes.*'' (Emphasis added.) Pulaski County is in BEA area 156 with other counties that are in the Eastern Time Zone (Elkhart, Fulton, Kosciusko, Lagrange, Marshall, St. Joseph Counties in Indiana and Berrien, Cass, and St. Joseph Counties in Michigan), with the exception of Starke County. Starke County, like Pulaski County, petitioned to have its time zone boundary changed to the Central Time Zone and DOT granted that petition and changed the time zone in January 2006.

Based on the information submitted in the Amended Petition with regard to regional connections, it appears that moving the time zone boundary for Pulaski County to the Eastern Time Zone would serve the convenience of commerce. DOT seeks comment on the information submitted and requests any additional information concerning regional connections that would aid in determining whether changing the time zone for Pulaski County would serve the convenience of commerce.

Request for Comments

To aid us in our consideration of whether a time zone change would be ''for the convenience of commerce,'' we ask for comments on the impact on commerce of a change in the time zone and whether a new time zone would improve the convenience of commerce. The comments should address the impact on such things as economic, cultural, social, and civic activities and how time zone changes affect businesses, communication, transportation, and education. The comments should be as detailed as possible, providing the basis of the information including factual data or surveys. For example, with regard to major bus, rail, and air transportation, information such as the average time it takes for a county resident to travel to a transportation terminal or the average distance to the terminal for a county resident would be useful. With regard to the impact of the time zone on education, if a school district crosses county lines, the number of students in each county in that district would be helpful. Information on school activities such as sporting events or academic competitions that take place in other counties or locations that are not on the same time zone as the school district would also be useful. Similar information on community colleges could also be beneficial. Finally, we would appreciate information on how the different time zones affect the students and the schools.

We specifically invite comment from neighboring Indiana counties and counties in other States that may also be impacted by changing Pulaski County's time zone boundary.

Although Pulaski County has submitted sufficient information to begin the rulemaking process, the decision whether actually to make the change will also consider information submitted in writing to the docket. Persons supporting or opposing the change should not assume that the change will be made merely because DOT is making the proposal. DOT here issues no opinion on the ultimate merits of the County's request. We note that Pulaski County and its residents have had only a short time to experience the effects of changing from Eastern to Central Time and now the County proposes to change back again. This may result in many comments to the docket. Our decision in the final rule will be made on the basis of information and comments developed during the entire rulemaking proceeding. In our experience, time zone boundary changes can be extremely disruptive to a community and, therefore, should not be made without careful consideration. At the close of the comment period, we will analyze the comments submitted and decide whether to withdraw the proposal (and deny the petition) or issue a final rule.

Comment Period

We are providing 30 days for public comments in this proceeding. Although we normally provide 60 days for public comments on proposed rules, we believe that 30 days is an adequate public comment period in this instance. It is important to resolve this rulemaking expeditiously so that we can provide ample notice if a change to Pulaski County's time zone boundary is adopted. Since the introduction and passage of the Indiana Act in 2005 and through DOT's time zone regulatory proceeding and compliance discussions with Pulaski County, the time zone boundary issue has been actively discussed and analyzed. In this regard, we expect that 30 days is adequate time to gather the necessary data, which is based on currently available information.

Regulatory Analysis & Notices

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, l979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The rule primarily affects the convenience of individuals in scheduling activities. By itself, it imposes no direct costs. Its impact is localized in nature.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This proposal, if adopted, would primarily affect individuals and their scheduling of activities. Although it would affect some small businesses, not-for-profits and, perhaps, a number of small governmental jurisdictions, it would not be a substantial number. In addition, the change should have little, if any, economic impact.

Therefore, I certify under 5 U.S.C. 605(b) that this proposed rule would not, if adopted, have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Joanne Petrie at (202) 366–9315.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this proposed rule under E.O. 12612 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093; October 28, 1993) govern the issuance of Federal regulations that impose unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not result in a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

This rulemaking is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and, therefore, an environmental impact statement is not required.

Privacy Act

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

List of Subjects in 49 CFR Part 71

Time zones.

For the reasons discussed above, the Office of the Secretary proposes to amend Title 49 Part 71 as follows:

PART 71—STANDARD TIME ZONE BOUNDARIES

1. The authority citation for part 71 continues to read as follows:

Authority: Secs. 1–4, 40 Stat. 450, as amended; sec. 1, 41 Stat. 1446, as amended; secs. 2–7, 80 Stat. 107, as amended; 100 Stat. 764; Act of Mar. 19, 1918, as amended by the Uniform Time Act of 1966 and Pub. L. 97–449, 15 U.S.C. 260–267; Pub. L. 99–359; Pub. L. 106–564, 15 U.S.C. 263, 114 Stat. 2811; 49 CFR 1.59(a).

2. Paragraph (b) of § 71.5 is revised to read as follows:

§ 71.5 Boundary line between eastern and central zones.

* * * * *

(b) *Indiana-Illinois.* From the junction of the western boundary of the State of Michigan with the northern boundary of the State of Indiana easterly along the northern boundary of the State of Indiana to the east line of LaPorte County; thence southerly along the east line of LaPorte County to the north line of Starke County; thence east along the north line of Starke County to the west line of Mashall County; thence south along the west line of Marshall County thence west along the north line of Pulaski County to the east line of Jasper County; thence south along the east line of Jasper County to the south line of Jasper County; thence west along the south lines of Jasper and Newton Counties to the western boundary of the State of Indiana; thence south along the western boundary of the State of Indiana to the north line of Knox County; thence easterly along the north line of Knox, Daviess, and Martin Counties to the west line of Lawrence County; thence south along the west line of Lawrence, Orange, and Crawford Counties to the north line of Perry County; thence easterly and southerly along the north and east line of Perry County to the Indiana-Kentucky boundary.

Issued in Washington, DC on November 22, 2006.

Rosalind A. Knapp,

Acting General Counsel.

[FR Doc. 06–9432 Filed 11–22–06; 2:27 pm]

BILLING CODE 4910–9X–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 061121306–6306–01; I.D. 110206A]

RIN 0648–AU86

Atlantic Highly Migratory Species (HMS); U.S. Atlantic Swordfish Fishery Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to amend regulations governing the U.S. Atlantic swordfish fishery to enable a more thorough utilization of the U.S. North Atlantic swordfish quota. The U.S. North Atlantic swordfish quota is derived from the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). For the past several years, the U.S. Atlantic swordfish fishery has not fully harvested its available quota. The objective of this proposed action is to provide a reasonable opportunity for U.S. vessels to fully harvest the ICCAT-recommended U.S. North Atlantic swordfish quota, as specified in the Magnuson-Stevens Act, in recognition of the improved stock status of North Atlantic swordfish. This proposed rule would increase swordfish retention limits for Incidental swordfish permit holders, and modify recreational swordfish retention limits for HMS Charter/headboat and Angling category permit holders. The proposed rule would also modify HMS limited access vessel upgrading restrictions for pelagic longline (PLL) vessels. These actions are necessary to address persistent underharvests of the domestic swordfish quota, while continuing to minimize bycatch to the extent practicable, so that swordfish are harvested in a sustainable, yet economically viable manner.

DATES: Written comments on the proposed rule must be received by 5 p.m. on January 31, 2007.

ADDRESSES: Written comments on the proposed rule or the Draft Environmental Assessment(Draft EA) may be submitted to Sari Kiraly, Fisheries Management Specialist, Highly Migratory Species Management Division, using any of the following methods:

- E-mail: *SF1.110206A@noaa.gov*.
- Mail: 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope ''Comments on Proposed Swordfish Rule''.
- Fax: 301–713–1917.
- Federal e-Rulemaking Portal: *http://www.regulations.gov*. Include in the subject line the following identifier: ''I.D. 110206A.''

Copies of the Draft EA, the 2006 Final Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP) and other relevant documents are also available from the Highly Migratory Species Management Division website at *http://www.nmfs.noaa.gov/sfa/hms* or by contacting Sari Kiraly (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Sari Kiraly, by phone: 301–713–2347; by fax: 301–713–1917; or by e-mail: *Sari.Kiraly@noaa.gov*,or Richard A. Pearson, by phone: 727–824–5399; by fax: 727–824–5398; or by e-mail: *Rick.A.Pearson@noaa.gov*.

SUPPLEMENTARY INFORMATION:

The North Atlantic Swordfish Fishery

The U.S. Atlantic swordfish fishery is managed under the Consolidated HMS FMP. Implementing regulations at 50 CFR part 635 are issued under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*), and ATCA (16 U.S.C. 971 *et seq)*. Under ATCA, the United States is obligated to implement the recommendations of ICCAT, including those for Atlantic swordfish quotas (ICCAT Recommendations 02–02, 03–03, and 04–02). ICCAT is an inter-governmental fishery organization, currently consisting of 42 contracting parties, that is responsible for the conservation of tunas and tuna-like species, including swordfish, in the Atlantic Ocean and its adjacent seas.

In 2001, ICCAT established its ''Criteria for the Allocation of Fishing Possibilities'' (ICCAT Recommendation 01–25) that included 15 separate criteria to be considered when allocating quota within the ICCAT framework. The first two criteria relate to the past and present fishing activity of qualifying participants. These criteria specify that ''historical catches'' and ''the interests, fishing patterns and fishing practices'' of qualifying participants are to be considered when making allocation recommendations. Other criteria, including conservation measures, economic importance of the fishery,

geographical occurrence of the stock, compliance with ICCAT management measures, and dependence on the stocks, must also be considered when allocating quota.

At its 2002 meeting, ICCAT established an annual Total Allowable Catch (TAC) for North Atlantic swordfish of 14,000 mt (ww) for the years 2003, 2004, and 2005 (ICCAT Recommendation 02–02). A 14,000 mt (ww) TAC was later established for 2006 (ICCAT Recommendation 04–02) as well. 1,185 mt (ww) of the TAC were allocated to ''other contracting parties and others,'' with the remainder being distributed to the European Community (52.42 percent), United States (30.49 percent), Canada (10.52 percent), and Japan (6.57 percent), using the allocation criteria described above. This resulted in a baseline U.S. North Atlantic swordfish quota of 3,907 mt (ww) for the period 2004 - 2006.

An examination of historical catches reveals that U.S. North Atlantic swordfish catches, as reported to ICCAT, have declined by approximately 40 percent from 4,026 mt (ww) in 1995 to 2,424 mt (ww) in 2005, although they have stabilized since 2001. As a percent of the ICCAT-recommended U.S. quota, the decline in U.S. North Atlantic swordfish landings is even more apparent. Because landings below the baseline quota (an ''underage'') in one year may be added to the subsequent year's baseline quota, the ''adjusted'' U.S. North Atlantic swordfish quota has continued to increase. The United States has landed less than its ICCAT-recommended ''baseline'' and ''adjusted'' swordfish quota since 1997. Based on reported landings to ICCAT, the United States went from exceeding its ''baseline'' quota in 1996 to landing only 29 percent of its ''adjusted'' quota in 2005. As indicated above, reported catches in 2005 were 2,424 mt (ww) versus a 2005 ''adjusted'' quota of 8,319 mt (ww). This trend is likely to continue in 2006 because the ''adjusted'' quota is again significantly higher (9,803 mt (ww)). U.S. North Atlantic swordfish landings have also been less than the unadjusted ''baseline'' ICCAT-recommended quota since 1997. The United States landed approximately 62 percent (2,424 mt (ww)) of its unadjusted North Atlantic swordfish ''baseline'' quota (3,907 mt (ww)) in 2005.

The ICCAT Standing Committee on Research and Statistics (SCRS) just completed a stock assessment for North Atlantic swordfish in October 2006. The 2006 assessment indicated that North Atlantic swordfish biomass had improved, possibly due to strong recruitment in the late 1990's combined with reductions in reported catch since then. The SCRS estimated the biomass of North Atlantic swordfish at the beginning of 2006 (B_{2006}) to be at 99 percent of the biomass necessary to produce maximum sustainable yield (B_{MSY}). The 2005 fishing mortality rate (F_{2005}) was estimated to be 0.86 times the fishing mortality rate at maximum sustainable yield (F_{MSY}). In other words, in 2006, the North Atlantic swordfish stock is almost fully rebuilt and fishing mortality is low.

NMFS has implemented several important management measures in recent years, primarily to reduce the bycatch of undersized swordfish, non-target species, and protected species. These actions have been very effective at reducing bycatch, but they may also have had the unintended consequence of contributing to persistent underharvests of the U.S. swordfish quota, and a precipitous decline in the number of active PLL vessels (''active'' is defined as vessels that report landings in the HMS logbook). Some of these measures include: Year-round closures in the DeSoto Canyon and East Florida Coast areas; seasonal closures in the Charleston Bump and Northeastern areas; limited access vessel permits; mandatory utilization of Vessel Monitoring Systems (VMS); mandatory circle hook and bait requirements; possession and utilization of release and disentanglement gear; utilization of non-stainless hooks; and a live bait prohibition in the Gulf of Mexico.

The Magnuson-Stevens Act specifies that NMFS shall provide a reasonable opportunity for domestic vessels to harvest quota allocations that are derived from international fishery agreements, such as ICCAT recommendations. In this action, NMFS prefers alternatives that would modify some management measures (swordfish retention limits and vessel upgrading provisions) to increase domestic swordfish landings and revenues, but that would also retain important bycatch reduction provisions. The preferred alternatives are intended to demonstrate that the United States is committed to revitalizing its historical swordfish fishery in recognition of the improved stock status of North Atlantic swordfish, and help to maintain or increase the historical U.S. North Atlantic swordfish quota allocation. These actions are necessary to address persistent underharvests of the domestic swordfish quota, while continuing to minimize bycatch to the maximum extent practicable, so that swordfish are harvested in a sustainable, yet economically viable manner.

This action would reduce swordfish dead discards by increasing swordfish retention limits for Incidental swordfish permit holders, and modify recreational swordfish retention limits for HMS Charter/headboat and Angling category permit holders. This proposed rule would also modify HMS limited access vessel upgrading and permit transfer upgrading restrictions for PLL vessels.

The Agency conducted an Environmental Assessment to analyze alternatives for increasing incidental and recreational swordfish retention limits, and modifying HMS limited access vessel upgrading restrictions, while continuing to minimize the bycatch of target, non-target and protected species to the maximum extent practicable.

North Atlantic Swordfish Retention Limits

Under current regulations, vessels issued valid Incidental swordfish limited access permits, other than those in the squid trawl fishery, are allowed to retain, possess or land no more than two swordfish per vessel per trip in or from the Atlantic Ocean north of 5° N. lat. Vessels issued valid Incidental swordfish limited access permits and participating in the squid trawl fishery are allowed to retain, possess, or land no more than five swordfish per trip from the same area. HMS Angling and Charter/Headboat vessel permit holders are allowed to retain one North Atlantic swordfish per person, up to three per vessel per trip.

In addressing swordfish retention limits, three preferred alternatives were identified. One preferred alternative would increase the North Atlantic swordfish retention limit for vessels issued valid Incidental swordfish limited access permits to 30 fish per vessel per trip; and, for vessels issued valid Incidental swordfish limited access permits that participate in the squid trawl fishery, would increase the limit to 15 fish per vessel per trip. This alternative would allow vessels issued valid Incidental swordfish limited access permits to land incidentally caught swordfish that might otherwise be discarded under the current two-fish limit. Also, it provides a reasonable opportunity for swordfish Incidental permit holders to harvest the U.S. swordfish quota, but prevents a large increase in additional directed fishing effort on swordfish. This alternative is expected to have limited adverse ecological impacts because vessel operators are not expected to substantially alter their fishing practices for the opportunity to land 28 additional swordfish.

A second preferred alternative would allow HMS Charter/headboat vessels to retain one fish per paying passenger (i.e., not including the captain or crew), up to six swordfish per trip for charter vessels, and 15 swordfish per trip for headboat vessels. This alternative would maintain the current recreational limit of one swordfish per person, but increase the allowable upper retention limit from three fish per vessel. A six-fish upper vessel retention limit for charter vessels was the only alternative analyzed for this sector, besides the no action alternative, because these vessels are licensed to carry a maximum of six passengers per trip. Although headboats can carry upwards of 50 passengers, a 15–fish retention limit was analyzed because it would provide a better opportunity for anglers on headboats to land a swordfish while maintaining a recreational aspect to the charter/headboat fishery. In addition, given the lack of data for swordfish retention by anglers, a 15 fish limit is in keeping with a precautionary approach in that this limit is five times the limit now allowed, but is still conservative enough so as to preclude potential negative effects on the swordfish stock. This alternative is preferred in recognition of the fact that charter and headboat vessels may carry many paying passengers, and because it could provide additional U.S. swordfish landings with limited adverse ecological impacts.

A third preferred alternative would allow HMS Angling category vessels to retain one fish per person, up to four swordfish per vessel per trip. This alternative maintains the current recreational limit of one swordfish per person, but increases the upper retention limit from three fish to four fish per vessel per trip. A four-fish upper vessel retention limit for angling vessels was the only alternative analyzed for this sector, besides the no action alternative, because it would provide a modest increase in the opportunity to land a swordfish, while maintaining a recreational aspect to the fishery. Because there were 25,238 vessels issued HMS Angling category permits, as of February 1, 2006, an increase in the upper retention limit of more than one fish per angling vessel was considered, but rejected, due to concerns about potentially excessive recreational landings. HMS Angling category vessels do not carry paying passengers, so a higher limit based on the number of paying passengers onboard was considered, but rejected. This alternative is preferred because it could provide additional U.S. swordfish landings, with limited adverse ecological impacts.

NMFS does not expect significant adverse ecological impacts to result from the proposed regulations to increase swordfish retention limits. The ecological impacts would vary based upon the resulting level of fishing effort. Currently, the U.S. swordfish fleet has been unable to catch the entire U.S. North Atlantic swordfish quota, causing significant amounts to be carried over to the subsequent fishing years. Adjusting incidental and recreational swordfish retention limits would allow swordfish that otherwise may have been discarded to be landed, thereby providing economic benefits while contributing to domestic swordfish landings. The proposed measures are not expected to significantly increase fishing effort because other management measures to mitigate adverse ecological impacts would remain in place. These include PLL time/area closures, mandatory PLL circle hook and bait requirements, mandatory PLL possession and use of release and disentanglement gear, a PLL live bait prohibition in the Gulf of Mexico, PLL VMS requirements, species-specific quotas, retention limits, minimum size limits, authorized gears, dealer and vessel logbook reporting, observer requirements, and HMS limited access vessel permits.

The social and economic impacts associated with the proposed regulations to increase swordfish retention limits would vary based upon the amount of swordfish kept minus any additional costs associated with catching the additional swordfish. The potential economic benefits associated with increased retention limits for Incidental swordfish permit holders are estimated by taking the difference between the value of two swordfish and the value of 30 swordfish, approximately $7,864 per vessel per trip. For Charter/headboat vessels, the economic benefit would be derived from an increased perceived value of a for-hire or private trip for an angler, due to the ability to land more fish. Recreational anglers might take more trips, which could also lead to some multiplier benefits to tackle shops, boat dealers, hotels, fuel suppliers, and other related businesses.

HMS Limited Access Vessel Upgrading Restrictions

Under current regulations, owners may upgrade vessels or transfer permits to another vessel only if the vessel upgrade or permit transfer does not result in an increase in horsepower (HP) of more than 20 percent, or an increase of more than 10 percent in length overall (LOA), gross registered tonnage (GRT), or net tonnage (NT), relative to the respective specifications of the first vessel issued the initial limited access permit (the baseline vessel). If any of the three vessel size specifications is increased, any increase in the other two must be performed at the same time. The current regulations also specify that vessel horsepower and vessel size may be increased only once. However, vessel size may be increased separately from an increase in vessel horsepower.

The proposed regulations establish new HMS limited access vessel upgrading and permit transfer upgrading restrictions only for HMS vessels that are authorized to fish with pelagic longline gear for swordfish and tunas, equivalent to 35 percent LOA, GRT, and NT, as measured relative to the baseline vessel specifications (i.e., the specifications of the vessel first issued an HMS limited access permit), and removes HP upgrading and HP permit transfer upgrading restrictions for these vessels. The proposed regulations also specify that vessel size may be increased only once subsequent to publication of the final regulations. This alternative is preferred because it could improve the ability of U.S. vessels to fully harvest the domestic ICCAT recommended North Atlantic swordfish quota, but imposes some limits on vessel upgrading by restricting the universe of potentially impacted entities only to PLL vessels, and limits the magnitude of allowable upgrades.

Under the proposed measures, fishing effort could potentially increase. However, any potential adverse ecological impacts associated with an increase in effort are expected to be mitigated by existing PLL management measures that would remain in effect, and which have significantly reduced bycatch in recent years. These include PLL time/area closures, PLL circle hook and bait restrictions, and all of the other measures that were described above. Because these existing management measures would remain in effect, and because of the limits on the magnitude and number of vessels affected by the upgrading modifications, NMFS does not expect significant adverse ecological impacts from the proposed regulations to modify PLL vessel upgrading restrictions.

Under the proposed regulations, positive social and economic impacts are anticipated. Vessel owners would gain economic benefits by having increased flexibility to adjust their vessel configurations to better fit their business needs. In addition, they would have a better ability to safely carry observers. The ability to upgrade could

also enhance the quality of life for crew and captains by providing larger, more comfortable, and more modern vessels. Finally, the potential to lengthen vessels and upgrade engine horsepower might have important positive safety implications, especially for smaller vessels operating far offshore in areas prone to extreme weather. The preferred alternative is not expected to adversely affect recreational fishing, as larger PLL vessels may be more likely to fish further offshore, and away from ecologically sensitive nearshore areas.

NMFS intends to hold public hearings to receive comments from fishery participants and other members of the public regarding the proposed swordfish regulations. The public hearing dates and locations will be announced in a forthcoming notice to be published in the **Federal Register**.

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act and ATCA. NMFS has preliminarily determined that this action is consistent with section 304(b)(1) of the Magnuson-Stevens Act, including the national standards, and other applicable law.

An EA has been prepared that describes the impact on the human environment that could result from the implementation of alternative management measures to provide a reasonable opportunity for U.S. fishing vessels to harvest the ICCAT recommended domestic swordfish quota allocation by increasing recreational and incidental swordfish retention limits, and modifying HMS limited access vessel upgrading restrictions. Based on the EA, Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) under the Regulatory Flexibility Act, and a review of the National Environmental Policy Act (NEPA) criteria for significance evaluated above (NAO 216–6 Section 6.02), no significant effect on the quality of the human environment is anticipated from this action.

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

In compliance with Section 603 of the Regulatory Flexibility Act, an Initial Regulatory Flexibility Analysis was prepared for this rule. The IRFA analyzes the anticipated economic impacts of the preferred actions and any significant alternatives to the proposed rule that could minimize economic impacts on small entities. A summary of the IRFA is below. The full IRFA and analysis of economic and ecological impacts are available from NMFS (see **ADDRESSES**).

In compliance with Section 603(b)(1) and (2) of the Regulatory Flexibility Act, the purpose of this proposed rulemaking is, consistent with the Magnuson-Stevens Act and ATCA, to modify North Atlantic swordfish incidental and recreational retention limits and HMS limited access vessel upgrading restrictions to provide a reasonable opportunity for U.S. vessels to fully harvest the ICCAT recommended domestic swordfish quota.

Section 603(b)(3) requires Agencies to provide an estimate of the number of small entities to which the rule would apply. The proposed actions to modify recreational swordfish retention limits could directly affect approximately 4,173 HMS Charter/headboat permit holders, and 25,238 HMS Angling category permit holders. The proposed action to increase incidental swordfish retention limits could directly affect 48 vessel owners possessing valid swordfish Incidental permits. The proposed action to modify PLL vessel upgrading restrictions could directly affect approximately 176 PLL vessel owners possessing valid swordfish permits. In total, the proposed actions could directly affect 29,587 HMS permit holders. Of these, 4,349 permit holders (the combined number of HMS Charter/headboat permit holders and valid swordfish-permitted PLL vessel owners) are considered small business entities according to the Small Business Administration's standard for defining a small entity. Other small entities involved in HMS fisheries such as processors, tackle shops, bait suppliers, marinas, and gear manufacturers might be indirectly affected by the proposed regulations.

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements (5 U.S.C. 603(c)(1)-(4)). Similarly, this proposed rule does not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 603(b)(5).

One of the requirements of an IRFA, under Section 603 of the Regulatory flexibility Act, is to describe any alternatives to the proposed rule that accomplish the stated objectives and that minimize any significant economic impacts (5 U.S.C. 603(c)). Additionally, the Regulatory Flexibility Act (5 U.S.C. 603 (c)(1)-(4)) lists four categories for alternatives that must be considered. These categories are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage for small entities.

In order to meet the objectives of this proposed rule, consistent with the Magnuson-Stevens Act, ATCA, and the Endangered Species Act (ESA), NMFS cannot exempt small entities or change the reporting requirements only for small entities. Thus, there are no alternatives that fall under the first and fourth categories described above. In addition, none of the alternatives considered would result in additional reporting or compliance requirements (category two above). NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act. NMFS analyzed six different alternatives to increase swordfish retention limits, and five different alternatives to modify HMS limited access vessel upgrading restrictions. As described below, NMFS has provided justification for the selection of the preferred alternatives to achieve the desired objectives.

Alternative 1a is considered the no action, or status quo, alternative for modifying recreational and incidental swordfish retention limits. Under current regulations, vessels issued valid Incidental swordfish limited access permits, other than those in the squid trawl fishery, are allowed to retain, possess or land no more than two swordfish per vessel per trip in or from the Atlantic Ocean north of 5° N. lat. Vessels issued valid Incidental swordfish limited access permits that participate in the squid trawl fishery are allowed to retain, possess, or land no more than five swordfish per trip from the same area. HMS Angling and Charter/headboat vessel permit holders are allowed to retain one North Atlantic swordfish per person, up to three per vessel per trip.

Under alternative 1a, there would be no change in the current baseline economic and social impacts associated with previously implemented North Atlantic swordfish retention limits. This alternative is not preferred because it may be contributing to persistent underharvests of the domestic swordfish quota. Nineteen percent of trips reported by Incidental swordfish permit holders in the HMS logbook from 2002 - 2005 reported swordfish discards. If any of these swordfish discards were attributable to exceeding the current two fish limit, then these discards could potentially represent lost revenues associated with the status quo alternative. The current recreational

swordfish retention limit of one fish per person, up to three per trip, may be lowering the demand for charter and headboat trips, especially when several people are on board, since each person may not be able to retain a swordfish.

Under alternative 1b, the North Atlantic swordfish retention limit for vessels issued valid Incidental swordfish limited access permits would be removed, except that, for vessels issued valid Incidental swordfish permits which participate in the squid trawl fishery, the limit would be increased to ten, until 70 percent of the adjusted domestic semi-annual North Atlantic swordfish quota is projected to be landed. After 70 percent of the directed semi-annual is projected to be landed, the Incidental swordfish retention limit would revert back to two swordfish per trip, and five swordfish per trip for squid trawl vessels, for the remainder of the semi-annual period.

Alternative 1b is not preferred because it could potentially have the most significant adverse ecological impacts if vessel owners with Incidental swordfish permits alter their strategies and choose to deploy additional sets to target swordfish. The potential economic gain from this alternative would be associated with increased landings from two swordfish per trip up to as many as 605 swordfish per trip (the highest number of swordfish reported landed by a directed vessel) minus what vessels could make tuna fishing during the same time if they switch entirely to swordfish fishing. Using the mean weight of swordfish landed in 2005 of 75.7 lb and the mean ex-vessel price of $3.71 per lb in 2005, the estimated value of potentially retaining up to an additional 603 swordfish could be as high as $169,351 per trip. However, this should only be considered an upper bound, especially because it does not take into account reductions in the retention of other species that might occur in order to make room to hold swordfish on the vessel. More typically, vessels issued Swordfish Directed permits during the period from 2002 to 2005 averaged 60 to 77 swordfish kept per trip. That would equate to potentially $16,289 to $21,064 in additional revenue per trip for Incidental swordfish permit holders that engage in directed fishing for swordfish, assuming they share a similar capability to harvest swordfish as the Directed swordfish permit holders.

Alternative 1b would also increase the swordfish retention limit from 5 to 10 swordfish for vessels issued valid Incidental swordfish limited access permits that participate in the squid trawl fishery. This effectively doubles the current retention limit for these vessels. From 1998 - 2004, all squid trawl vessels landed a combined average of 6.3 mt (ww) of swordfish per year. Increasing the limit for squid trawl vessels by an additional five swordfish per trip could potentially increase annual landings of swordfish by all squid trawl vessels to 12.6 mt (ww) in total per year. This increase of 6.3 mt (ww) of swordfish would be worth a total of $38,743 per year among all squid trawl vessels, based on the 2005 average ex-vessel price of swordfish of $3.71 per lb and a ratio of whole weight to dressed weight of 1.33.

Alternative 1c, a preferred alternative, would increase the North Atlantic swordfish retention limit for vessels issued valid Incidental swordfish limited access permits to 30 fish per vessel per trip; and, for vessels issued valid Incidental swordfish limited access permits that participate in the squid trawl fishery, would increase the limit to 15 fish per vessel per trip. This alternative is preferred because it would provide an opportunity for Incidental swordfish permit holders to land swordfish that might otherwise be discarded, but prevent a large increase in additional directed fishing effort on swordfish. As many as 52 swordfish have been reported discarded on a single trip by Incidental swordfish permit holders, although most trips report few discards. A 30 fish limit is just below the median number of swordfish that have been landed by Directed swordfish permit holders from 2002 - 2005 (36 fish). Thus, this alternative is expected to have limited adverse ecological impacts, because fishing effort is not expected to greatly exceed current levels.

The economic benefits associated with this alternative are estimated by taking the difference between the value of two swordfish and the value of 30 swordfish. Using the mean weight of swordfish landed in 2005 of 75.7 lb and the mean ex-vessel price of $3.71 per lb in 2005, the estimated value of potentially retaining an additional 28 swordfish under this alternative is $7,864 per vessel per trip. Using logbook records from 2005, it is projected that total annual landings of swordfish could increase from 10,787 lb to 34,879 lb, if all reported discards were converted to landings, up to 30 fish. Using the average ex-vessel price of $3.71 per lb for 2005, the estimated total value of these additional landings would be $89,381 amongst all active Incidental swordfish vessels per year.

Alternative 1c would also increase the swordfish retention limit from 5 to 15 swordfish for vessels issued valid Incidental swordfish limited access permits that participate in the squid trawl fishery. This would triple the current retention limit for these vessels. From 1998 - 2004, all squid trawl vessels landed an average of 6.3 mt (ww) of swordfish in total per year. Increasing the limit for squid trawl vessels by an additional ten swordfish per trip could potentially increase annual landings by all squid trawl vessels to 18.9 mt (ww) in total per year. This increase of 12.6 mt (ww) of swordfish would be worth a total of $77,487 per year among all squid trawl vessels, based on the same prices and ratios discussed above in alternative 1b.

Alternative 1d would increase the North Atlantic swordfish retention limit for vessels issued valid Incidental swordfish limited access permits to 15 fish per vessel per trip; and, for vessels issued valid Incidental swordfish limited access permits that participate in the squid trawl fishery, would increase the limit to 10 fish per vessel per trip.

Alternative 1d would provide an opportunity for Incidental swordfish permit holders to land swordfish that otherwise might be discarded, and would prevent a large increase in additional directed fishing effort on the swordfish. Therefore, this alternative would have only limited adverse ecological impacts because effort would be expected to remain at current levels. However, alternative 1d is not preferred because a 15 fish limit is significantly below the mean number of swordfish landed by Directed swordfish permit holders (36 fish), although it is much higher than the current limit of two fish.

The economic benefits of alternative 1d are estimated by taking the difference between the value of two swordfish and the value of 15 swordfish. Using the mean weight and ex-vessel price of swordfish landed in 2005, as described in alternative 1c above, the estimated value of potentially retaining an additional 13 swordfish under this alternative is $3,651 per vessel per trip. Using logbook records from 2005, it is projected that total annual landings of swordfish could increase from 10,787 lb to 30,350 lb, if all reported discards were converted to landings, up to 15 fish. Using the average ex-vessel price of $3.71 per lb for 2005, the estimated total value of these additional landings would be $72,579 amongst all active Incidental swordfish vessels per year.

Alternative 1d would increase the swordfish retention limit from 5 to 10 swordfish for vessels issued valid Incidental swordfish limited access permits that participate in the squid trawl fishery. This doubles the current

retention limit for these vessels. From 1998 - 2004, all squid trawl vessels landed an average of 6.3 mt (ww) in total per year. Increasing the limit for squid trawl vessels by an additional five swordfish per trip could potentially increase annual landings by squid trawl vessels to 12.6 mt (ww) per year. This increase of 6.3 mt (ww) of swordfish would be worth a total of $38,743 among all squid trawl vessels per year, based on the same prices and ratios discussed above in alternative 1b.

Alternative 1e, a preferred alternative, would implement a North Atlantic swordfish retention limit for HMS Charter/headboat vessels of one fish per paying passenger, up to six swordfish per trip for charter vessels and 15 swordfish per trip for headboat vessels. This alternative would maintain the current recreational limit of one swordfish per person, but increase the allowable upper retention limit from three to six fish for charter vessels, or from three fish to fifteen fish for headboat vessels. This alternative is preferred because for-hire vessels often carry multiple paying passengers. A six-fish upper vessel retention limit for charter vessels was the only alternative analyzed for this sector, besides the no action alternative, because these vessels are licensed to carry a maximum of six passengers per trip. Although headboats can carry upwards of 50 passengers, a 15–fish retention limit was analyzed because it would provide a better opportunity for anglers on headboats to land a swordfish while maintaining a recreational aspect to the charter/headboat fishery. In addition, given the lack of data for swordfish retention by anglers, a 15 fish limit is in keeping with a precautionary approach in that this limit is five times the limit now allowed, but is still conservative enough so as to preclude potential negative effects on the swordfish stock. Thus, alternative 1e provides a reasonable opportunity for paying passengers to land swordfish, and may increase U.S. swordfish landings. Few adverse ecological impacts are anticipated under this alternative as swordfish are nearly rebuilt, and the recreational rod and reel fishery has been determined to have only minor impacts on protected species.

In 2005, approximately 25 percent of the swordfish reported landed by Charter/headboat vessels in the HMS non-tournament recreational reporting database were in groups of three fish on the same date. Even though a quarter of the trips may have been limited in the amount of swordfish retained under the existing vessel trip limit, the benefits of raising the limit could extend beyond those trips. The economic benefits would result from additional bookings of charter trips, because the perceived value of a trip for an angler may be increased by the ability to land more fish. The 2004 average daily HMS charterboat rate for day trips was $1,053. The willingness-to-pay for swordfish charterboat trips is likely to be much higher than this value. Increased charter and headboat bookings could lead to positive economic multiplier impacts to tackle shops, boat dealers, hotels, fuel suppliers, and other associated local and regional businesses.

Alternative 1f, a preferred alternative, would implement a North Atlantic swordfish recreational retention limit for HMS Angling category vessels of one fish per person per trip, up to four swordfish per vessel per trip. This alternative would maintain the current recreational limit of one swordfish per person, but increase the upper retention limit from three fish to four fish per vessel per trip. A four-fish upper vessel retention limit for angling vessels was the only alternative analyzed for this sector, besides the no action alternative, because it would provide a modest increase in the opportunity to land a swordfish, while maintaining a recreational aspect to the fishery. Because there were 25,238 vessels issued HMS Angling category permits, as of February 1, 2006, an increase in the upper retention limit of more than one fish per angling vessel was considered, but rejected, due to concerns about potentially excessive recreational landings. HMS Angling category vessels do not carry paying passengers, so a higher limit based on the number of paying passengers onboard was considered, but rejected. Thus, alternative 1f provides a reasonable opportunity for recreational anglers to land swordfish, and may increase U.S. swordfish landings. Few adverse ecological impacts are anticipated under this alternative as swordfish are nearly rebuilt, and the recreational rod and reel fishery has been determined to have only minor impacts on protected species.

Approximately seven percent of the swordfish reported landed by Angling category vessels in the HMS non-tournament recreational reporting database were in groups of three fish on the same day. Therefore, the increase from three to four swordfish per vessel per trip under this alternative would likely affect a similar percentage of trips. The economic benefit of this alternative would derive from an increased perceived value of a trip for an angler due to the ability to land more fish. Recreational anglers might take more trips, which could lead to some multiplier benefits to tackle shops, boat dealers, hotels, fuel suppliers, and other related businesses. The average expenditure on HMS related trips is estimated to be $122 per person per day based on the recreational fishing expenditure survey add-on to the NMFS' Marine Recreational Fisheries Statistical Survey (MRFSS). The expenditure data include the costs of tackle, food, lodging, bait, ice, boat, fuel, processing, transportation, party/charter fees, access/boat launching, and equipment rental.

Alternative 2a is the no action, or status quo, alternative for modifying HMS limited access vessel upgrading restrictions, because it would retain the existing regulations. Under current regulations, owners may upgrade vessels or transfer permits to another vessel only if the vessel upgrade or permit transfer does not result in an increase in horsepower (HP) of more than 20 percent, or an increase of more than 10 percent in length overall (LOA), gross registered tonnage (GRT), or net tonnage (NT), relative to the respective specifications of the first vessel issued the initial limited access permit (the baseline vessel). If any of the three vessel size specifications is increased, any increase in the other two must be performed at the same time. The current regulations also specify that vessel horsepower and vessel size may be increased only once. However, vessel size may be increased separately from an increase in vessel horsepower. These regulations have been in effect since 1999.

Alternative 2a is not preferred because it may be contributing to persistent underharvests of the domestic ICCAT recommended swordfish quota. It may also be contributing to a decline in the number of active PLL vessels (i.e., vessels reporting landings) by limiting vessel owners' ability to optimally configure their vessels to maximize profits given changing ecological, regulatory, and market conditions.

Under alternative 2a, there would be no change in the current baseline economic and social impacts associated with previously implemented North Atlantic swordfish vessel upgrade restrictions. By itself, the status quo alternative does not create any new economic burdens on HMS limited access permit holders. However, it would likely continue several negative economic impacts associated with upgrade restrictions. First, as previously mentioned, vessels may not be optimally configured for current market conditions, and therefore profits may be

less than optimal. Second, current upgrade restrictions may make it burdensome for some vessels to comply with observer accomodation requirements, due to inadequate bunk or berthing space. Third, some fishing vessels may wish to enhance their crew quarters in order to better attract labor. Finally, limitations on vessel upgrading may be affecting safety at sea. In general, a larger vessel is oftentimes more seaworthy than a smaller vessel, especially in rough seas. Current restraints on vessel size may also affect the ability to modernize or purchase new vessels. Without changes to upgrading restrictions, the number of active vessels in the swordfish PLL fleet may continue to decline, and persistent underharvests of the annual swordfish quota may continue to accrue. The following alternatives may allow for greater flexibility and provide for a more efficient deployment of the swordfish fleet.

It is not possible to precisely quantify the economic impacts associated with the alternatives to modify HMS limited access permit vessel upgrading restrictions. This is because the decision to upgrade is a business decision, and depends largely upon whether the returns expected from an upgrade outweigh the costs of planning the upgrade, construction, financing, time to complete the necessary work, age of the current vessel, and the forgone revenues associated with being out of the fishery while vessel work is being completed. The potential economic benefits of vessel upgrades largely depend upon future harvests, ex-vessel prices, fuel prices, and labor costs. These factors fluctuate, often dramatically, with market forces from year to year making any estimated benefits difficult to assess. Independent of those factors, however, vessel owners will gain the economic benefits associated with having the increased flexibility to adjust vessel configurations in terms of length and horsepower to best fit their business. In addition, vessel owners under the following alternatives would be better able to more easily comply with observer accommodation requirements, and thus avoid lost fishing time. The potential to expand bunk and berthing areas could enhance the quality of life for crew and captains, providing intangible benefits and also potentially reducing the actual costs of retaining labor. Finally, the potential to upgrade vessels might have important positive safety implications, especially for smaller vessels operating far offshore in areas prone to extreme weather.

Under each of the following alternatives, vessel owners will have to weigh the costs of potentially upgrading the length or horsepower of their vessels by the potential economic benefits associated with an upgrade. Many vessel owners may choose not to upgrade, even with relaxed upgrade restrictions, because of the capital costs associated with upgrading. The main economic benefit associated with the following alternatives will likely be from not having to acquire a permit from a larger vessel, including the associated transaction costs, when an owner wishes to increase vessel size or horsepower.

The capital costs associated with potential upgrades are difficult to estimate. Large vessel length upgrades are not likely to occur by modifying existing vessels, according to several marine engineers and shipyards that NMFS contacted. They are more likely to result from the purchase of another vessel and the subsequent transfer of permits to that vessel. Horsepower upgrades are more likely to occur on existing vessels in conjunction with an engine replacement due to capital depreciation.

NMFS contacted several shipyards regarding the potential costs of new vessels and upgrades to existing vessels. The shipyards agreed that it is probably more economical to perform large increases in vessel length by acquiring another larger vessel, than by modifying existing vessels. However, the estimated cost of building a new vessel is uncertain because few new vessels have been built since the upgrade restrictions were implemented in 1999, according to the shipyards contacted. The overall cost of upgrading would likely depend on the current size of the vessel, the age of the vessel, where the work will be done, financing costs, and whether an existing used vessel is available with the desired specifications, versus constructing a new vessel. For example, a 68 foot PLL vessel over 20 years old recently had a sales price of $245,000, according to a vessel broker list. To better quantify the associated costs and potential scope of vessel upgrades, NMFS seeks comments from the public on the current market costs of upgrading PLL and swordfish Handgear vessels.

Alternative 2b would waive HMS limited access vessel upgrading and permit transfer upgrading restrictions for all vessels that are authorized to fish with pelagic longline gear for swordfish and tunas for 10 years, after which a new vessel baseline would be established and the current 10 percent LOA, GRT, NT; and 20 percent HP restrictions would go back into effect. A ten-year sunset provision was selected for this alternative because it provides a reasonable amount of time for owners to purchase or upgrade vessels, but establishes a deadline to account for any unanticipated future changes in the fishery or status of stocks.

This alternative would likely have positive economic benefits for PLL vessel owners because it could provide increased operational flexibility for business owners to modify their vessels. However, it is not possible to predict how many vessels would be upgraded under this alternative, as any estimate is predicated upon the decisions of many different owners. Waiving vessel upgrade restrictions for PLL vessels could produce secondary and regional economic impacts. Shoreside support businesses such as shipyards, marine architects, and other commercial vessel suppliers could receive increased business from owners wanting to upgrade their vessels. Fish dealers may need to expand their operations to handle any greater supplies of swordfish that could result from increased fleet capacity. It is also possible that there could be reductions in the value of limited access permits from waiving the upgrade restrictions. The supply of usable permits for vessel owners that want to upgrade under the current limited access regulations is restricted, because permits have to meet certain characteristics in order to be transferred to a different vessel. Removing the upgrading restrictions would give a potential new entrant into the fishery a larger selection of permits to choose from, since they would be able to select from a larger pool of potential permits for sale. This increased supply could reduce the value of limited access permits. However, any improvements in the profitability of the fishery might increase demand for permits and could potentially offset any decrease in permit value.

Alternative 2b is not preferred because there would be no limit on the size that PLL vessels could be upgraded to. Therefore, unquantifiable ecological impacts could occur, especially over the long term. However, it is also possible that larger PLL vessels might operate further offshore, thereby reducing adverse impacts in nearshore areas.

Alternative 2c would waive HMS limited access swordfish handgear vessel upgrading and permit transfer upgrading restrictions for 10 years, after which a new baseline would be established and the current restrictions would go back into effect. A ten-year sunset provision was selected for this alternative because it provides a reasonable amount of time for owners to

purchase or upgrade vessels, but establishes a deadline to account for any unanticipated future changes in the fishery or status of stocks.

This alternative would likely have positive economic benefits for swordfish Handgear permit holders because it could increase operational flexibility for business owners to modify their vessels according to their business needs. However, for the same reasons discussed above, it is not possible to predict how many vessels would be upgraded under this alternative, or the anticipated economic impacts, because the estimate is predicated upon the decisions of many different vessel owners. In general, similar direct and indirect economic benefits to vessel owners, dealers, shipyards, processors, and shoreside support businesses that were discussed under alternative 2b could result.

Alternative 2c is not preferred because it could result in unquantifiable ecological impacts, as there would be no limit on the size that swordfish Handgear vessels could be upgraded to. Therefore, unquantifiable ecological impacts could occur, especially over the long term. In addition, because the swordfish handgear fleet is currently most active in the East Florida Coast PLL closed area, ecological benefits associated with the area, including reductions in the bycatch of undersized swordfish, and non-target and protected species, could be compromised with a large expansion of the swordfish handgear fishery.

Alternative 2d would waive all HMS limited access vessel upgrading and permit transfer upgrading restrictions for 10 years, after which a new baseline would be established and the current restrictions would go back into effect. This alternative would likely have the largest potential economic benefits as well as the largest potential adverse ecological costs, particularly on sharks, because the universe of impacted entities is the largest among all of the alternatives, and there would be no limit on the size that vessels could be upgraded to. For this reason, it is not the preferred alternative.

Alternatives 2b and 2c would be limited to vessels that are eligible to fish for swordfish and tunas with PLL gear, and swordfish Handgear vessels, respectively. Alternative 2d includes those vessels, as well as all other HMS limited access vessels, including those eligible to fish for sharks with bottom longline gear. Therefore, approximately 376 additional vessels would be eligible for unlimited upgrades under this alternative. While all of these additional shark vessels could be upgraded under this alternative, few are anticipated to take immediate advantage of the opportunity because of current regulatory conditions in the domestic shark fishery. NMFS intends to amend the current shark regulations, so vessel owners may choose to wait for the amendment to be published before making major capital outlays. Also, Incidental shark permit holders are governed by retention limits for large coastal sharks (LCS), small coastal sharks (SCS), and pelagic sharks. Directed shark permit holders are governed by retention limits for LCS. Because of these retention limits, vessel size may not be a limiting factor in the shark fishery. Nevertheless, because many shark fisheries are overexploited, the potential for adverse ecological impacts from increased effort on these species exists under alternative 2d. Other economic benefits and costs are similar to Alternatives 2b and 2c, including any secondary economic impacts to shoreside industries.

Alternative 2e, the preferred alternative, would establish new HMS limited access vessel upgrading and permit transfer upgrading restrictions only for HMS vessels that are authorized to fish with pelagic longline gear for swordfish and tunas (i.e., vessels that possess directed or incidental shark and swordfish permits, and a Tuna longline permit), equivalent to 35 percent LOA, GRT, and NT, as measured relative to the baseline vessel specifications (i.e., the specifications of the vessel first issued an HMS limited access permit), and remove horsepower upgrading and permit transfer upgrading restrictions for these vessels. This alternative is preferred because it would improve the ability of U.S. vessels to fully harvest the domestic ICCAT recommended swordfish quota, but would impose some limits on vessel upgrading by restricting the universe of potentially impacted entities to PLL vessels only, and by limiting the magnitude of allowable upgrades.

Alternative 2e is anticipated to have slightly lower economic benefits to permit holders than alternative 2d, and would likely have a very similar outcome to alternative 2b, except that a few dramatic upgrades would not qualify and there would be no reversion back to the current regulations after 10 years. For the same reasons discussed above under alternative 2a, however, it is not possible to accurately predict how many vessels will be upgraded, or the anticipated future capacity of the fishery, because the prediction is dependent upon the business decisions of many individual boat owners.

For an ''average'' 55–foot swordfish vessel, this alternative could result in a 69 - 74 foot vessel, depending upon whether the vessel has already been upgraded. At the opposite ends of the spectrum, it is also possible that all PLL vessels could increase by 25 - 35 percent or, conversely, none of the PLL vessels would be upgraded. PLL vessel owners would gain the economic benefits associated with having increased operational flexibility to adjust vessel configurations in terms of length and horsepower to best fit their business needs. However, that flexibility would be capped by imposing a 35 percent limit on increases in vessel length, gross tonnage, and net tonnage, unlike alternatives 2b, 2c, and 2d which have no limits on the size of upgrades.

Other economic benefits and costs are similar to alternatives 2b, 2c, and 2d, including any secondary economic impacts to shoreside industries.

These proposed regulations are not expected to substantially increase endangered species or marine mammal interaction rates, or impacts on critical habitat beyond those that have already been considered in the June 2001 Biological Opinion (BiOp) on Atlantic HMS Fisheries, and the June 2004 BiOp for the HMS PLL fisheries. In the June 2001 BiOp, it was determined that the continued operation of the Atlantic HMS rod and reel fishery is not likely to jeopardize the continued existence of the right whale, humpback, fin, or sperm whales, or Kemp's ridley, green, loggerhead, hawksbill, or leatherback sea turtles. The June 2004 BiOp determined that the continued operation of the PLL fishery is not likely to jeopardize the continued existence of loggerhead, green, hawksbill, Kemp's ridley, or olive ridley sea turtles, but is likely to jeopardize the continued existence of leatherback sea turtles.

NMFS has since promulgated regulations on the PLL fishery required by the 2004 BiOp to avoid jeopardy of leatherback sea turtles, including sea turtle bycatch and bycatch mortality mitigation measures for all Atlantic vessels with PLL gear onboard. These regulations require PLL vessels to use only 18/0 (or larger) circle hooks with whole mackerel and/or squid bait when fishing in the Northeast Distant (NED) Statistical Reporting Area, and to use only 16/0 and/or 18/0 circle hooks with whole finfish or squid bait when fishing everywhere outside of the NED. In addition, PLL vessels must possess and use sea turtle release equipment according to specified sea turtle handling and release protocols. Handling and release guidelines are also required to be posted in the

wheelhouse. NMFS also implemented several time/area closures between 1999 and 2002, which, in combination with other management measures including quotas, minimum fish sizes, observer requirements, VMS requirements, a PLL live bait prohibition in the Gulf of Mexico, retention limits, authorized gears, billfish possession prohibition, and dealer and vessel logbook reporting, have contributed to a significant reduction in the bycatch of target, non-target, and protected species. These management measures would remain in effect, and are expected to mitigate any potential increase in fishing effort that could result from the proposed regulations. Thus, NMFS believes that the proposed regulations do not change the conclusion of, nor would they result in effects that have not been considered in, the June 2001 and June 2004 BiOps. Accordingly, no irreversible or irretrievable commitment of resources is expected from the proposed action.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Management, Reporting and recordkeeping requirements, Treaties.

Dated: November 22, 2006.

Samuel D. Rauch III

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

For reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.4, paragraphs (l)(2)(i), (l)(2)(ii), (l)(2)(iv), the first sentence in paragraph (l)(2)(v), and the first sentence in paragraph(l)(2)(vi) are revised; and paragraph (l)(2)(x) is added to read as follows:

§ 635.4 Permits and fees.

* * * * *

(l) * * *

(2) * * *

(i) Subject to the restrictions on upgrading the harvesting capacity of permitted vessels in paragraphs (l)(2)(ii) and (x) of this section and to the limitations on ownership of permitted vessels in paragraph (l)(2)(iii) of this section, an owner may transfer a shark or swordfish LAP or an Atlantic Tunas Longline category permit to another vessel that he or she owns to another person. Directed handgear LAPs for swordfish may be transferred to another vessel but only for use with handgear and subject to the upgrading restrictions in paragraph (l)(2)(ii) of this section and the limitations on ownership of permitted vessels in paragraph (iii) of this section. Incidental catch LAPs are not subject to the requirements specified in paragraphs (l)(2)(ii) and (l)(2)(iii) of this section.

(ii) Except as specified in paragraph (l)(2)(x) of this section, an owner may upgrade a vessel with a shark, swordfish, or tuna longline limited access permit, or transfer the limited access permit to another vessel, and be eligible to retain or renew a limited access permit only if the upgrade or transfer does not result in an increase in horsepower of more than 20 percent or an increase of more than 10 percent in length overall, gross registered tonnage, or net tonnage from the vessel baseline specifications.

* * * * *

(iv) In order to transfer a swordfish, shark or tuna longline limited access permit to a replacement vessel, the owner of the vessel issued the limited access permit must submit a request to NMFS, at an address designated by NMFS, to transfer the limited access permit to another vessel, subject to requirements specified in paragraph (l)(2)(ii) or (l)(2)(x), of this section, as applicable. The owner must return the current valid limited access permit to NMFS with a complete application for a limited access permit, as specified in paragraph (h) of this section, for the replacement vessel. Copies of both vessels' U.S. Coast Guard documentation or state registration must accompany the application.

(v) For swordfish, shark, and tuna longline limited access permit transfers to a different person, the transferee must submit a request to NMFS, at an address designated by NMFS, to transfer the original limited access permit(s), subject to the requirements specified in paragraphs (l)(2)(ii), (l)(2)(iii), and (l)(2)(x) of this section, as applicable. * * *

(vi) For limited access permit transfers in conjunction with the sale of the permitted vessel, the transferee of the vessel and limited access permit(s) issued to that vessel must submit a request to NMFS, at an address designated by NMFS, to transfer the limited access permit(s), subject to the requirements specified in paragraphs (l)(2)(ii), (l)(2)(iii), and (l)(2)(x) of this section, as applicable. * * *

* * * * *

(x) An owner may upgrade a vessel that has been issued valid swordfish, shark and Atlantic tunas longline category permits, inclusive, or transfer the limited access permits to another vessel, and be eligible to retain or renew the limited access permits only if the upgrade or transfer does not result in an increase of more than 35 percent in length overall, gross registered tonnage, or net tonnage from the vessel baseline specifications. Horsepower for vessels that have been issued these three permits is not limited.

(A) The vessel baseline specifications are the respective specifications (length overall, gross registered tonnage, net tonnage) of the first vessel that was issued an initial limited access permit or, if applicable, of that vessel's replacement owned as of May 28, 1999.

(B) Subsequent to [DATE OF PUBLICATION OF FINAL RULE], the vessel's length overall, gross registered tonnage, and net tonnage may be increased only once, relative to the baseline specifications of the vessel initially issued the LAP, whether through refitting, replacement, or transfer. An increase in any of these three specifications of vessel size may not exceed 35 percent of the baseline specifications of the vessel initially issued the LAP. If any of these three specifications is increased, any increase in the other two must be performed at the same time. The one allowable increase in these three specifications may be performed even if an increase in these three specifications has already been performed prior to [DATE OF PUBLICATION OF FINAL RULE], provided that the increase in any of these three specifications of vessel size does not exceed 35 percent of the baseline specifications of the vessel initially issued the LAP.

3. In § 635.22, paragraph (f) is revised to read as follows:

§ 635.22 Recreational retention limits.

* * * * *

(f) *North Atlantic swordfish.* The recreational retention limits for North Atlantic swordfish apply to persons who fish in any manner, except to persons aboard a vessel that has been issued a limited access North Atlantic swordfish permit under § 635.4(f).

(1) Vessels issued an HMS Charter/Headboat permit under § 635.4(b), that are charter boats as defined under § 600.10 of this chapter, may retain, possess, or land no more than one North Atlantic swordfish per paying passenger up to six per vessel per trip.

(2) Vessels issued an HMS Charter/Headboat permit under § 635.4(b), that are headboats as defined under § 600.10 of this chapter, may retain, possess, or land no more than one North Atlantic

swordfish per paying passenger up to fifteen per vessel per trip.

(3) Vessels issued an HMS Angling category permit under § 635.4(c), may retain, possess, or land no more than one North Atlantic swordfish per person up to four per vessel per trip.

4. In § 635.24, paragraphs (b)(1) and (2) are revised to read as follows:

§ 635.24 Commercial retention limits for sharks and swordfish.

* * * * *

(b) * * *

(1) Persons aboard a vessel that has been issued an incidental LAP for swordfish may retain, possess, land, or sell no more than 30 swordfish per trip in or from the Atlantic Ocean north of 5° N. lat.

(2) Persons aboard a vessel in the squid trawl fishery that has been issued an incidental LAP for swordfish may retain, possess, land, or sell no more than 15 swordfish per trip in or from the Atlantic Ocean north of 5° N. lat. A vessel is considered to be in the squid trawl fishery when it has no commercial fishing gear other than trawls on board and when squid constitute not less than 75 percent by weight of the total fish on board or offloaded from the vessel.

[FR Doc. 06–9436 Filed 11–22–06; 2:52 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 112106C]

Pacific Fishery Management Council; Groundfish Allocation Committee Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Council) Groundfish Allocation Committee(GAC) will hold a working meeting which is open to the public.

DATES: The GAC working meeting will begin Tuesday, December 12, 2006, at 8:30 a.m. and may go into the evening if necessary to complete business for the day. The meeting will reconvene at 8:30 a.m. Wednesday, December 13, 2006, and continue until business for the day is complete; and will reconvene at 8:30 a.m. on Thursday, December 14, 2006, and adjourn by 4 p.m.

ADDRESSES: The meeting will be held in Portland, Oregon, exact location to be determined. Contact the Council office for the meeting location address.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Seger, Staff Officer (Economist), 503–820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the GAC meeting is to discuss the trawl individual quota alternatives under development by the Council. Specifically, the GAC will review alternatives; develop recommendations for the Council to narrow and refine the alternatives as analytical work on the environmental impact statement progresses; and develop recommendations on other aspects of the Council process for considering individual quotas for the trawl fishery.

Although nonemergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least five days prior to the meeting date.

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

Dated: November 21, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–20163 Filed 11–27–06; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 71, No. 228

Tuesday, November 28, 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 21, 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) 720–8958.

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

Food and Nutrition Service

Title: Worksheet for Food Stamp Program Quality Control Reviews.

OMB Control Number: 0584–0074.

Summary of Collection: State agencies are required to perform Quality Control Reviews for the Food Stamp Program in conjunction with Section 16 of the Food Stamp Act of 1977. The food stamp worksheet (FNS–380) provides a systematic means of aiding the State agency's quality control reviewer in analyzing household case record; planning and carrying out the field investigations; and gathering, comparing, analyzing and evaluating the review data. Relevant information from the case record, investigative work and documentation about individual cases is recorded on the FNS–380.

Need and Use of the Information: The Food and Nutrition Service (FNS) will use the information from the FNS–380 to record identifying information about the household and to also document and evaluate each step of the field investigation process to determine eligibility and payment amounts under FNS' approved State agency practices.

Description of Respondents: State, local, or tribal government; Individuals or households.

Number of Respondents: 57,199.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Annually.

Total Burden Hours: 542,887.

Food Nutrition Service

Title: Monthly Claim for Reimbursement.

OMB Control Number: 0584–0284.

Summary of Collection: The Child Nutrition Act of 1966 requires that educational agencies disburse and appropriate funds during the fiscal year for the purposes of carrying out provisions of the Special Milk Program (SMP). The National School Lunch Act requires that State educational agency appropriated funds for any fiscal year for the purposes of fulfilling the earned reimbursement set forth in National School Lunch, Breakfast, and Special Milk Programs. The Food and Nutrition Service will use the monthly claim reimbursement form FNS–806A and 806B to fulfill the earned requirements identified in these programs, National School Lunch Program (NSLP), SMP, and the School Breakfast Program (SBP).

Need and Use of the Information: The information is collected electronically from school food authorities that participate in NSLP, School Breakfast Program (SBP), and SMP programs. The forms contain meal and cost data collected from authorized program participants. Also, these forms are essential part of the accounting system used by the subject programs to ensure proper reimbursement. This information is collected monthly because of the constant fluctuation in school enrollment and program participation. Program participants would not receive the monthly reimbursement earned and the Agency would lose program accountability, if this information were collect less frequently.

Description of Respondents: State, local or tribal government.

Number of Respondents: 273.

Frequency of Responses: Record keeping; Reporting: Monthly.

Total Burden Hours: 1,198.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E6–20051 Filed 11–27–06; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Colville National Forest; Washington; Old Curlew Ranger Station Facilities Disposal

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Colville National Forest, USDA Forest Service, will prepare an EIS (environmental impact statement) on a proposal to sell the old Curlew Ranger Station administrative site, a 3-acre parcel including buildings, located on the south side of Curlew, in Ferry County, Washington. The parcel and buildings are no longer needed to meet public service or Forest Service mission requirements. The Forest Service Facility Realignment and Enhancement Act of 2005 authorized the Secretary of Agriculture to sell administrative sites that are no longer needed for National Forest System purposes. Project implementation is scheduled for Fiscal

Year 2007. This project is not associated with the proposed Secure Rural Schools Land Sale Initiative. The Colville National Forest invites written comments and suggestions on the scope of the analysis. The agency will give notice of the full environmental analysis and decision-making process so interested and affected people may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by December 29, 2006. The draft environmental impact statement is expected February 2007 and the final environmental impact statement is expected in May 2007.

ADDRESSES: Send written comments to Rick Brazell, Forest Supervisor, Colville National Forest, 765 South Main, Colville, WA 99114 (phone 509–684–7000). Comments may be submitted electronically to *comments-pacificnorthwest-colville@fs.fed.us.* Comments may also be sent by fax to (509) 775–7401. Include your name and mailing address with your comments so documents pertaining to this project may be mailed to you.

FOR FURTHER INFORMATION CONTACT: Ed Shaw, Reality Specialist, Colville National Forest, 765 South Main, Colville, WA 99114 (phone 509–684–7129), or Jim Parker, EIS Project Leader, Republic Ranger District, 650 East Delaware, Republic, WA 99166 (phone 509–775–7462).

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

One of the key findings of the Colville National Forest Facilities Master Plan is that the Colville National Forest maintains more facility space than it needs to perform its mission. The Colville National Forest needs to remove unneeded buildings from the Forest's facility inventory in order to eliminate the cost of maintaining unneeded facilities.

Proposed Action

The proposed action is to sell the old Curlew Ranger Station administrative site, a 3-acre parcel of land including buildings located on the south side of Curlew, Washington. The property legal description is: A portion of the SW¼NE¼ Section 14, T39N, R33E, WM. This 3-acre site is located adjacent to the small town of Curlew, Washington, about 9 miles south of the Canadian border. The land was purchased by the Forest Service in 1936 and used as a ranger station until 1969 when two Ranger District areas were combined.

The site has five major structures (one residential house, one residential garage, one 6-bay garage shop, one 12-person bunkhouse and one oil/gas house) and a small storage shed. The mineral estate would be disposed of with the surface estate with no reservation. Water is provided by a community system. The sewer system is independent; however a community sewer system is under development.

The property may be sold directly to an identified purchaser or may be sold under competitive bidding procedures. The method of sale will be determined at a later date. If the property is offered for sale under competitive bidding procedures, an Invitation for Bid will provide specific information, including a minimum bid price, the scheduled starting date for bidding, approximate bid closing date, requirements and instructions for bidding, payment and other closing procedures. An Offer to Sell will be released after all environmental studies and other required analysis are completed and a final decision to sell the property is made.

Responsible Official

The Responsible Official is Rick Brazell, Forest Supervisor, Colville National Forest, 765 South Main, Colville, WA 99114.

Nature of Decision To Be Made

The Responsible Official will decide whether or not to proceed with sale of the old Curlew Ranger Station property, including any outstanding interests or conditions to be conveyed. The decision and rationale for the decision will be documented in the Record of Decision, which will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Scoping Process

The scoping process will identify and clarify issues, identify key issues to be analyzed in depth, explore alternatives based on themes derived from key issues recognized during the scoping process, and identify potential environmental effects associated with the proposed action. A No Action alternative will be considered.

Preliminary Issues

Only one key issue was identified in preliminary project assessment: The National Historic Preservation Act of 1966, Revised, requires that Federal agencies evaluate properties for historic significance under Section 106. Three structures at the Curlew Ranger Station have been found eligible to the National Register of Historic Places (NRHP), with the Washington State Historic Preservation Office concurring on this finding. These three structures are the Ranger's Residence, Garage, and Oil and Gas house. Conveyance of the property from Federal ownership will be an adverse effect because of NRHP eligibility based on the following criteria: The property may represent a significant contribution to the American history (Criterion A), is associated with the lives of significant persons in our past (Criterion B), displays distinctive characteristics of type or period (Criterion C), or may be likely to yield information important to history (Criterion D). The NRHP eligibility for the three structures at the Curlew Ranger Station is based on a national significance of context in association with the Depression-era Civilian Conservation Corps. Eligibility is also based on national and regional significance of context associated with distinctive architectural characteristics.

Comment Requested: This notice of intent initiates the scoping process which guides the development of the environmental impact statement. The Forest Service is seeking information, comments, and assistance from other agencies, organizations, Indian Tribes, and individuals who may be interested in or affected by the Proposed Action. This input will be used in preparation of the Draft EIS. Your comments are appreciated throughout the analysis process.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp.

1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: November 21, 2006.

Mimi Tryon,

Acting Forest Supervisor.

[FR Doc. 06–9420 Filed 11–27–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lakeview-Reeder Fuel Reduction Project, Priest Lake Ranger District, Idaho Panhandle National Forests; Bonner County, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Priest Lake Ranger District of the Idaho Panhandle National Forests is proposing fuel reduction and forest restoration activities in the vicinity of the community of Nordman, Idaho and near Reeder Bay along Priest Lake. Priorities for treatment are those forest stands which not only have significant ground fuel accumulations, ladder fuels and/or dense tree canopies, but also are located in a geographically strategic site or are adjacent to private property, developments, public infrastructure or other important resources. The project, as proposed, will reduce hazardous forest fuels in the wildland urban interface (WUI), restore forest health and resilience and will provide additional resource benefits to water resources and grizzly bear core habitat. The USDA Forest Service will prepare an environmental impact statement (EIS) to disclose the potential environmental effects of implementing project activities on National Forest System lands within the project area.

DATES: Comments concerning the scope of the analysis must be received by December 15, 2006. The draft environmental impact statement is expected to be published in May 2007 and the final environmental impact statement, in conjunction with a Record of Decision, is expected to be published in September 2007.

ADDRESSES: Send written comments and suggestions to David Cobb, Project Team Leader, Priest Lake Ranger District, 32203 Highway 57, Priest River, Idaho 83856; e-mail address: *dcobb@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: David Cobb, Project Team Leader, Priest Lake Ranger District, 32203 Highway 57, Priest River, Idaho 83856; e-mail: *dcobb@fs.fed.us;* phone 208–433–6854.

SUPPLEMENTARY INFORMATION:

Purpose & Need

The purpose and need for the Lakeview-Reeder Fuel Reduction Project addresses the goals and objectives set forth in the Idaho Panhandle National Forests' (IPNF) Forest Plan (1987), National Fire Plan, Healthy Forest Initiative, the Healthy Forests Restoration Act (2003), Bonner County, Idaho Wildlife Urban Interface Fire Mitigation Plan and the Pend Oreille County, Washington Community Wildfire Protection Plan. The purpose and need also responds to ecological recommendations made in the Interior Columbia Basin Ecosystem Management Project. The two primary reasons for proposing this project are to: (1) Reduce hazardous forest fuels in the project area to decrease the risk of wildfire negatively impacting the communities in the project area, public and firefighter safety, public infrastructure, private and National Forest System lands and resource values; and (2) Restore, enhance and protect forest ecosystem components to improve forest health, increase biological diversity, as well as reduce threats from catastrophic wildfire and insect and disease infestations.

Proposed Action

In order to effectively reduce hazardous forest fuels in the 29,380-acre project area, as well as restore, enhance and protect forest ecosystem components, we are proposing the following treatment activities. Proposed treatment activities total approximately 8,375 acres.

Approximately 2,816 acres could be treated using a commercial thinning. Commercial thinning entails removal of some of the merchantable trees from a forest stand, in this case, to decrease the individuals or species which will likely contribute to ground fuel accumulations and to increase spacing between and improve the long-term health of residual trees. Following thinning, slash disposal and fuel reduction of smaller trees can be performed using the following methods: approximately 2,375 acres could be mechanically piled and burned and approximately 441 acres could be left unpiled to be broadcast burned under prescribed conditions.

Another approximately 4,177 acres would need to be treated using a regeneration harvest. Regeneration treatment involves removal of much of the overstory component, enough to create conditions which enable proper germination and/or growth of the next generation of trees. Following regeneration treatment, slash disposal and further fuel reductions could be achieved by mechanically piling and burning 2,579 acres and broadcast burning 1,598 acres under prescribed conditions.

Additional treatment activities would include prescribed, broadcast burning on approximately 1,279 acres. Prescribed, broadcast burning can only be utilized alone as a treatment in certain areas which do not have dense quantities of more flammable fuels. Such areas include old shrub fields, aspen stands and open, dry-site stands of ponderosa pine and Douglas-fir. In these appropriate areas, treatment may or may not include slashing of some fuels, followed by broadcast burning of those fuels under prescribed conditions.

Finally, approximately 103 acres can be treated by slashing smaller, unmerchantable material, followed by piling and burning. Some areas will be conducive to utilizing equipment to perform the slashing, while others will require more labor-intensive hand-slashing. In some cases (approximately 79 acres), the piling of slash can be performed with equipment, while the other approximately 24 acres will require hand-piling.

In order to adequately access the fuel treatment areas, some road

maintenance, reconstruction and construction activities would also be required. The proposed action includes constructing approximately six miles of new road, five miles of which would be permanent road and the remaining mile would be temporary. The temporary road would be obliterated after using it for this project. In addition, eight miles of existing roads would be reconstructed and approximately 36.5 miles of road would have maintenance activities conducted on them.

Some resource improvement opportunities also exist within the project area—namely improvement of grizzly bear core habitat within the Kalispell-Granite Grizzly Bear Management Unit (BMU) and reduction in pollutants of concern (primarily sediment and temperature) in three, 303(d) listed watersheds—Granite, Reeder and Kalispell Creeks. In order to improve water quality in Granite, Reeder and Kalispell Creeks, many road improvements may be necessary including culvert replacements, new stream crossing surfaces, as well as road maintenance, reconstruction or relocation. In order to improve grizzly bear core habitat, we need to reduce the total and open road densities (decreasing the miles of open road per square mile of area) within the Kalispell-Granite BMU. In other words, some roads within the Kalispell-Granite BMU may need to be effectively closed with a barricade or obliterated.

Possible Alternatives

Because all of the proposed treatment areas for the Lakeview-Reeder Fuel Reduction Project are within Bonner County, Idaho—or Pend Oreille County, Washington—defined wildland urban interface, the USDA Forest Service is only required to analyze one action alternative in addition to the ''no-action'' alternative.

Responsible Official

Ranotta K. McNair, Forest Supervisor, Idaho Panhandle National Forests, 3815 Schreiber Way, Coeur d'Alene, ID 83815.

Nature of Decision To Be Made

The responsible official for the environmental analysis will be responsible for deciding which actions will be undertaken by the agency pertaining to the Lakeview-Reeder Fuel Reduction Project. That decision includes not only which alternative is chosen, but also includes independent decisions on associated mitigation measures, design criteria and resource improvement opportunities.

Scoping Process

The Priest Lake Ranger District has strived to encourage public collaboration for this project. Comments received during earlier, informal scoping efforts and meetings regarding the Lakeview-Reeder Fuel Reduction Project will be considered and used to develop strategies for management of natural resources in the project area. Future meetings and field trips for this project will be planned as necessary or as requested.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environment impact statement. Comments concerning the scope of the analysis must be received by December 15, 2006.

Preliminary Issues

Many potential issues pertaining to the Lakeview-Reeder Fuel Reduction Project have already surfaced during informal scoping, public collaboration and interdisciplinary team meetings. Potential issues which may entail detailed analysis or require mitigation include:

➢ Wildfire hazard—defining the risk and decreasing the risk of negative impacts from large-scale, catastrophic fire events to local communities, private property, public infrastructure and other valuable resources.

➢ Forest health—improving the long-term health and resilience of forest stands in the project area.

➢ Long-term maintenance—How will we ensure future maintenance of treated areas?

➢ Threatened, endangered, sensitive (TES), and management indicator species (MIS) of wildlife (and their habitat).

➢ Aquatic resources (including TES fish species, 303(d) listed TMDL watersheds, water yield, sediment yield, domestic water sources, floodplains, wetlands).

➢ Access—motorized access for private use and recreation motorized access for administrative use (i.e., fire control, land management).

➢ Off-road motorized use—potential negative impacts, how to enforce regulations?

➢ Highway/roadside safety—hazard trees, visibility, wildlife collisions.

➢ Visuals—maintaining scenic integrity by complying with IPNF Forest Plan Visual Quality Objectives.

➢ Soil productivity—compaction, nutrient recycling, course woody debris, nutrient limitations (i.e., potassium), erosion potential.

➢ TES and rate plant species—identification and protection of these plants.

➢ Archaeological sites—identification and protection of sites.

➢ Noxious weeds—both new introductions and dispersal of existing populations.

➢ Old growth—maintaining adequate old growth stands on the District.

➢ Recreation—requests to increase recreational opportunities, minimizing negative impacts to recreational users from project activities.

➢ Financial analysis—ensuring that the project is economically feasible, determining potential impacts of project on social resources.

➢ Air quality—reducing the project's potential negative impacts to air quality.

➢ Product utilization—Can we ensure better product utilization to minimize the need for burning?

➢ Big game—minimizing negative impacts to big game security, winter range and travel corridors.

➢ Regulations—Can we ensure compliance with IPNF Forest Plan Standards and Guidelines, NEPA, as well as other federal and state regulations?

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made

available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received in response to this solicitation, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments may not have standing to appeal the subsequent decision under 36 CFR, part 215. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: November 20, 2006.

Ranotta K. McNair,

Forest Supervisor.

[FR Doc. 06–9421 Filed 11–27–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will be meeting to discuss the 2066 projects and hold a short public forum (question and answer session). The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393). The meeting is open to the public.

DATES: The meeting will be held on November 28, 2006, 6:30 p.m.

ADDRESSES: The meeting will be held at the Bitterroot National Forest Supervisor Building, 1801 N. 1st Street, Hamilton, Montana. Send written comments to Dan Ritter, District Ranger, Stevensville Ranger District, 88 Main Street, Stevensville, MT 59870, by facsimile (406) 777–7423, or electronically to *dritter@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Dan Ritter, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777–5461.

Dated: November 20, 2006.

David T. Bull,

Forest Supervisor.

[FR Doc. 06–9422 Filed 11–27–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Southcentral Alaska Federal Subsistence Regional Advisory Council Meeting

AGENCY: Forest Service, USDA; Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice informs the public that the Southcentral Alaska Federal Subsistence Regional Advisory Council will hold a public meeting on December 8, 2006, at 3601 C Street, Suite 1030, Anchorage, Alaska. The public is invited to participate and to provide oral testimony.

DATES: The meeting will be held Friday, December 8, 2006, at 9 a.m., Alaska Standard Time.

FOR FURTHER INFORMATION CONTACT: Peter J. Probasco, Office of Subsistence Management, U.S. Fish and Wildlife Service, 3601 C Street, Suite 1030, Anchorage, Alaska 99503; telephone (907) 786–3888. For questions related to subsistence management issues on National Forest Service lands, contact Steve Kessler, Subsistence Program Leader, 3601 C Street, Suite 1030, Anchorage, Alaska 99503; telephone (907) 786–3592.

SUPPLEMENTARY INFORMATION: The Southcentral Alaska Subsistence Regional Advisory Council will meet at 3601 C Street, Suite 1030, Anchorage, Alaska on Friday, December 8, 2006, at 9 a.m., Alaska Standard Time, to establish a subcommittee with the charge of evaluating various options for providing a priority for the subsistence harvest of fish from the Federal public lands and waters of the Kenai Peninsula. This meeting is open to the public.

This meeting will be held with less than the normal 15-day notice. The holding of this meeting of the Southcentral Regional Council on December 8, 2006, is in the best interest of the public because there is an overwhelming need to establish a subcommittee to evaluate fishery issues on the Kenai Peninsula prior to the Southcentral Regional Council's next regularly scheduled meeting in mid-March. The timing would allow the newly established subcommittee time to evaluate various proposals, options and alternatives prior to the Southcentral Regional Council meeting in March.

Authority: Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA), 16 U.S.C. 3101–3126.

Dated: November 21, 2006.

Peter J. Probasco,

Acting Chair, Federal Subsistence Board.

[FR Doc. 06–9425 Filed 11–27–06; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

South Mississippi Electric Power Association: Notice of Availability of an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of an Environmental Assessment for public review.

SUMMARY: The Rural Utilities Service, an agency which administers the U.S.

Department of Agriculture's Rural Development Utilities Programs (USDA Rural Development) has prepared an Environmental Assessment (EA) related to possible financial assistance to South Mississippi Electric Power Association (SMEPA) for the proposed construction of one approximately 5.76 acre 230:161:69 kV substation, two approximately 0.1 mile 230 kilovolt (kV) electric transmission lines, one 0.4 mile 69 kV electric transmission line, and one microwave tower on an approximate fourteen (14) acre parcel in Greene County, Mississippi. SMEPA is requesting the USDA Rural Development to provide financial assistance for the proposed project.

DATES: Written comments on this Notice must be received on or before December 28, 2006.

ADDRESSES: The EA will be available for public review at USDA Rural Development, Utilities Programs, 1400 Independence Avenue, SW., Washington, DC 20250–1571; at the USDA Rural Development's Web site—*http://www.usda.gov/rus/water/ees/ea.htm*; at SMEPA's headquarters office located at 7037 U.S. Highway 49, Hattiesburg, MS; at Singing River EPA's Greene County Office, 39276 Highway 63 North, Richton, Mississippi, 39476; and at the following Greene County Public Library location: Leakesville Library, 301B Lafayette, Leakesville, MS 39451.

Written comments should be sent to: Ms. Stephanie Strength, Environmental Protection Specialist, USDA, Rural Development, Utilities Programs, Engineering and Environmental Staff, 1400 Independence Avenue, SW., Room 2244, Stop 1571, Washington, DC 20250–1571, or e-mail: *stephanie.strength@wdc.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Stephanie Strength, Environmental Protection Specialist, USDA, Rural Development, Utilities Programs, Engineering and Environmental Staff, 1400 Independence Avenue, SW., Room 2244, Stop 1571, Washington, DC 20250–1571, Telephone: (202) 720–0468. Ms. Strength's e-mail address is *stephanie.strength@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: The proposed project area is located in southeast Greene County, Mississippi. The proposed project will consist of one (1) 5.76 acre 230:161:69 kV substation, two (2) one-tenth (0.1) mile 230 kV transmission lines, one (1) four-tenths (0.4) mile 69 kV transmission line, and one microwave tower. The transmission lines and microwave tower will occupy the remainder of the approximate fourteen (14) acre site. The site is located approximately nine and one-half (9.5) miles south of Leakesville, Mississippi.

Alternatives considered by the USDA Rural Development and SMEPA included: (1) No action, (b) alternate transmission line routes, and (c) other electrical alternatives. An Environmental Report (ER) that describes the proposed project in detail and discusses its anticipated environmental impacts has been prepared by SMEPA. The USDA Rural Development has accepted the ER as its EA of the proposed project. The EA is available for public review at addresses provided above in this Notice.

Questions and comments should be sent to Ms. Stephanie Strength, USDA Rural Development at the mailing or e-mail addresses provided above in this Notice. The USDA Rural Development should receive comments on the EA in writing by December 28, 2006, to ensure that they are considered in its environmental impact determination.

Should the USDA Rural Development determine, based on the EA of the proposed project, that the impacts of the construction and operation of the project would not have a significant environmental impact, it will prepare a Finding of No Significant Impact. Public notification of a Finding of No Significant Impact would be published in the **Federal Register** and in newspapers with circulation in the project area.

Any final action by the USDA Rural Development related to the proposed project will be subject to, and contingent upon, compliance with all relevant Federal, state and local environmental laws and regulations, and completion of the environmental review requirements as prescribed in the USDA Rural Development's Environmental Policies and Procedures (7 CFR part 1794).

Dated: November 17, 2006.

Mark S. Plank,

Director, Engineering and Environmental Staff, USDA/Rural Development/Utilities Programs.

[FR Doc. 06–9412 Filed 11–27–06; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. EDA has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[For the period October 21, 2006 through November 20, 2006]

Firm	Address	Date petition accepted	Product
Label World Kamylon, LLC	29 Jet View Drive Rochester, NY 14624.	10/24/06	Pressure sensitive labels, tags, tape of paper or paperboard and articles of cut to size coated paper.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Office of Performance Evaluation, Room 7009, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10)

calendar days following publication of this notice. Please follow the procedures set forth in Section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: November 21, 2006.

William P. Kittredge,

Program Officer for TAA.

[FR Doc. E6–20125 Filed 11–27–06; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Electronic Education Fair for China

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: U.S. accredited colleges and universities are invited to participate in the U.S. Electronic Education Fair For China by purchasing space on the initiative's Internet landing page.

DATES: We are extending the application window until 3 p.m. EST December 8, 2006.

ADDRESSES: E-mail: Alex Feldman: *Alex.Feldman@mail.doc.gov.* Amber Wesley: *Amber.Wesley@mail.doc.gov.* Fax: 202–482–4821.

FOR FURTHER INFORMATION CONTACT: Alexander Feldman, U.S. Department of Commerce, Room 3850. Tel: (202) 482–8243. Amber Wesley, U.S. Department of Commerce, Room 3850. Tel: (202) 482–6357.

SUPPLEMENTARY INFORMATION: The U.S. Electronic Education Fair for China is a joint initiative between the U.S. Department of Commerce and the U.S. Department of State. The purpose of the initiative is to inform Chinese students who are interested in studying outside of China about the breadth and depth of the higher education opportunities available in the U.S. The initiative will have a three-pronged multimedia approach using television, the Internet and on-ground activities. Two, thirty minute TV programs will be produced in combination with a series of short, 3 minute programs, aired on local cable and national satellite TV stations throughout China all of which will drive viewers to the Internet landing page. DVDs distributed through education trade fairs and also through the 47 EducationUSA advisory centers throughout China will further this message.

Accredited U.S. Institutions are invited to purchase space on the Internet Landing page in order to provide information about their schools. Informational space will be available at a Gold or Silver level. Institutions purchasing at the Gold level, priced at $8,000, will receive a banner-sized ad with their schools logo and name, which will link to their school Web site. Those who purchase at the Silver level, priced at $3,000, will have their name listed on the site with a link to their institution Web site.

Dated: November 21, 2006.

Alexander Feldman,

Senior Advisor to the Under Secretary for International Trade.

[FR Doc. E6–20070 Filed 11–27–06; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Visiting Committee on Advanced Technology (VCAT), National Institute of Standards and Technology (NIST), will meet Tuesday, December 12, from 9 a.m. to 5 p.m. and Wednesday, December 13, from 9 a.m. to 11 a.m. The Visiting Committee on Advanced Technology is composed of fifteen members appointed by the Director of NIST who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations.

The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The theme of this meeting is NIST's role in the international arena in ten years. The agenda will include an update on NIST, an introduction and overview of NIST's international activities, and other presentations that focus on the importance of NIST as a National Metrology Institute, NIST's evolving role for traceability of chemical and biological measurements, NIST's role in documentary standards, NIST's interactions with the American National Standards Institute and the International Organization for Standardization, and NIST's activities in Iraq. Two laboratory tours also will be featured. The meeting will conclude with an extended discussion on effectively implementing the NIST mission in a growing international marketplace. The agenda may change to accommodate Committee business. The final agenda will be posted on the NIST Web site at *http://www.nist.gov/director/vcat/agenda.htm.*

DATES: The meeting will convene on December 12 at 9 a.m. and will adjourn on December 13, 2006, at 11 a.m.

ADDRESSES: The meeting will be held in the Employees Lounge, Administration Building, at NIST, Gaithersburg, Maryland. All visitors to the NIST site will have to pre-register to be admitted. Please submit your name, time of arrival, e-mail address and phone number to Carolyn Peters no later than Thursday, December 7, and she will provide you with instructions for admittance. Mrs. Peter's e-mail address is *carolyn.peters@nist.gov* and her phone number is (301) 975–5607.

FOR FURTHER INFORMATION CONTACT: Carolyn Peters, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, Gaithersburg, Maryland 20899–1000, telephone number (301) 975–5607.

Dated: November 21, 2006.

James E. Hill,

Acting Deputy Director.

[FR Doc. E6–20105 Filed 11–27–06; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111706B]

Endangered Species; File No. 1448

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

ACTION: Notice; issuance of permit modification.

SUMMARY: Notice is hereby given that Northeast Fisheries Science Center, National Marine Fisheries Service (NMFS), 166 Water Street, Room 211, Woods Hole, Massachusetts 02543–1097, [Responsible Party: Nancy

Thompson], has been issued a modification to scientific research Permit No. 1448.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9300; fax (978)281–9394.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Patrick Opay, (301)713–2289.

SUPPLEMENTARY INFORMATION: On September 27, 2006, notice was published in the **Federal Register** (71 FR 56478) that a modification of Permit No. 1448, issued January 9, 2004 (69 FR 3332), had been requested by the above-named organization. The requested modification has been granted under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The modification authorizes the NEFSC to biopsy sample up to 50 of the Kemp's ridley (*Lepidochelys kempii*) sea turtles greater than 25 cm total carapace length that the holder is currently authorized to handle and biologically sample under the existing permit. This research will help confirm observer identifications of sea turtles made by collaborating NOAA researchers for animals that have been already incidentally captured in legal commercial fisheries operating in state waters and the Exclusive Economic Zone in the Northwest Atlantic Ocean.

Issuance of this modification, as required by the ESA was based on a finding that such permit modification (1) was applied for in good faith, (2) will not operate to the disadvantage of any endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: November 21, 2006.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–20168 Filed 11–27–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101106E]

Endangered and Threatened Species; Recovery Plan for the Hawaiian Monk Seal

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

ACTION: Notice of Availability; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the availability for public review of the draft revised Recovery Plan (Plan) for the Hawaiian monk seal (Monachus schauinslandi). NMFS is soliciting review and comment on the Plan from the public and all interested parties, and will consider and address all substantive comments received during the comment period.

DATES: Comments on the draft Plan must be received by close of business on January 29, 2007.

ADDRESSES: You may submit comments by either of the following methods:

- Mail: Send comments to Chris Yates, Assistant Regional Administrator, Protected Resources Division, Pacific Islands Regional Office, NMFS, Attn: Michelle Yuen, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814.
- E-mail: *hmsplan@noaa.gov*. Include in the subject line the following document identifier: Hawaiian Monk Seal Recovery Plan. E-mail comments, with or without attachments, are limited to 5 megabytes.

Interested persons may obtain the Plan for review from the above address or on-line from the NMFS Pacific Islands Region Office website: *http://swr.nmfs.noaa.gov/pir/*.

FOR FURTHER INFORMATION CONTACT: Michelle Yuen (808–944–2243), e-mail: *michelle.yuen@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

Recovery plans describe actions considered necessary for the conservation and recovery of species listed under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). The ESA requires that recovery plans incorporate (1) objective, measurable criteria that, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions. The ESA requires the development of recovery plans for listed species unless such a plan would not promote the recovery of a particular species. NMFS's goal is to restore the endangered Hawaiian monk seal (Monachus schauinslandi) population to the point where they are again secure, self-sustaining members of their ecosystem and no longer need the protections of the ESA. NMFS will consider all substantive comments and information presented during the public comment period in the course of finalizing this Recovery Plan.

The Hawaiian monk seal has the distinction of being the only endangered marine mammal species whose entire range, historical and current, lies within the United States of America. The majority of the population of Hawaiian monk seals now occupies the northwestern Hawaiian Islands (NWHI) with six main breeding sub-populations. The species is also found in lower numbers in the main Hawaiian Islands (MHI), where the population size and range both appear to be expanding. The Hawaiian monk seal was listed as a threatened species under the ESA on November 23, 1976 (41 FR 51612). On April 30, 1986 (51 FR 16047), critical habitat was designated at all beach areas, lagoon waters, and ocean waters out to a depth of 10 fathoms around Kure Atoll, Midway, Pearl and Hermes Reef, Lisianski Island, Laysan Island, Gardner Pinnacles, French Frigate Shoals, Necker Island and Nihoa Island; critical habitat was extended to include Maro Reef and waters around all habitat out to the 20–fathom isobath on May 26, 1988. The best estimate of the total population size in 2005 is 1,252 seals.

This current revised plan was written by the Hawaiian Monk Seal Recovery Team at the request of the Assistant Administrator for Fisheries to promote the conservation of the Hawaiian monk seal. The recovery team includes experts on marine mammals from the private sector, academia, and government, as well as experts on endangered species conservation. The goals and objectives of the Plan can be achieved only if a long-term commitment is made to support the actions recommended in the Plan.

The Recovery Plan contains: (1) a comprehensive review of the Hawaiian monk seal population distribution, life history, and habitat use, (2) a threats assessment, (3) conservation efforts, (4) biological and recovery criteria for downlisting and delisting, (4) actions necessary for the recovery of the species, and (5) an implementation

schedule with estimates of time and cost to recovery. The threats assessment finds four levels of threats: (1) Crucial (ongoing and apparent threat at most sites in the NWHI), (2) Significant (ongoing impacts representing the potential for range-wide threats), (3) Serious (potential cause of localized threats), and (4) Moderate (localized impacts possible but not considered a serious or immediate threat). The Crucial threats to Hawaiian monk seals are: food limitation, entanglement, and shark predation. The Significant threats to Hawaiian monk seals are: infectious disease and habitat loss. The Serious threats are: fishery interaction, male aggression, human interaction, and biotoxin. Finally, the Moderate threats to Hawaiian monk seals are: vessel groundings and contaminants.

Criteria for the reclassification of the Hawaiian monk seal are included in the Plan. In summary, Hawaiian monk seals may be reclassified from endangered to threatened when all of the following have been met: (1) aggregate numbers exceed 2,900 total individuals in the NWHI; (2) at least 5 of the 6 main sub-population in the NWHI are above 100 individuals, and the MHI population is above 500; (3) the survivorship of females in each subpopulation in the NWHI and in the MHI is high enough that, in conjunction with the birth rates in each subpopulation, the calculated population growth rate for each subpopulation is not negative. The population will be considered for a delisting if it continues to qualify for ''threatened'' classification for 20 consecutive years without new serious risk factors being identified.

Time and cost for recovery actions are contained in the Plan. The recovery program will cost $52,656,000 for the first 5 fiscal years and $436,816,000 to full recovery assuming the best case scenario that the population could grow to the stipulated total population size in the NWHI within 12 years, and that the stipulated numbers in the MHI could be reached within 34 years.

In accordance with the 2003 Peer Review Policy as stated in Appendix R of the Interim Endangered and Threatened Species Recovery Planning Guidance, NMFS solicited peer review on the draft Plan concurrent with this public comment period. Reviews were requested from three scientists and managers with expertise in recovery planning, statistical analyses, fisheries, and marine mammals. NMFS anticipates that many of the recommendations that will be made by the reviewers will be addressed and provided in detail in the final Plan.

Public Comments Solicited

NMFS solicits written comments on the draft Revised Recovery Plan. All substantive comments received by the date specified above will be considered prior to final approval of the Plan. NMFS is especially interested in comments on the following areas: (1) the threats assessment; (2) the biological and threats criteria for removing Hawaiian monk seals from the Federal list of Endangered and Threatened Wildlife and Plants; (3) the recovery strategy and measures; and (4) the estimates of time and cost to implement recovery actions.

Authority

The authority for this action is section 4(f) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: November 21, 2006.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–20164 Filed 11–27–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082806C]

Endangered and Threatened Species; Recovery Plans

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

ACTION: Extension of public comment period.

SUMMARY: On September 29, 2006, the National Marine Fisheries Service (NMFS) announced the availability of the Proposed Upper Columbia Spring Chinook Salmon, Steelhead, and Bull Trout Recovery Plan (Plan) for public review and comment. In this notice, NMFS is extending the public comment period for this proposal to January 29, 2007. NMFS is soliciting review and comments from the public and all interested parties on the spring Chinook salmon and steelhead portions of the Proposed Plan. If comments are received on the bull trout portion of the Plan, NMFS will pass them on to the USFWS.

DATES: NMFS will consider and address all substantive comments received during the comment period. Comments must be received by January 29, 2007.

ADDRESSES: Please send written comments and materials to Lynn Hatcher, National Marine Fisheries Service, 304 South Water Street, Ellensburg, WA 98926. Comments may also be submitted by e-mail to: *UpperColumbiaPlan.nwr@noaa.gov*. Include in the subject line of the e-mail comment the following identifier: ''Comments on Upper Columbia Salmon Plan''. Comments may be submitted via facsimile (fax) to 503–872–2737.

Persons wishing to review the Plan can obtain an electronic copy (i.e., CD-ROM) from Carol Joyce by calling 503–230–5408 or by e-mailing a request to *carol.joyce@noaa.gov*, with the subject line ''CD-ROM Request for Upper Columbia Salmon Plan''. Electronic copies of the Plan are also available on-line on the NMFS Web site *www.nwr.noaa.gov/Salmon-Recovery-Planning/ESA-Recovery-Plans/Draft-Plans.cfm* or the Upper Columbia Salmon Recovery Board Web site: *okanogancounty.org/planning/salmon__recovery.htm*.

FOR FURTHER INFORMATION CONTACT: Lynn Hatcher, NMFS Interior Columbia Salmon Recovery Coordinator (509–962–8911 x223), or Elizabeth Gaar, NMFS Salmon Recovery Division (503–230–5434).

SUPPLEMENTARY INFORMATION:

Background

Recovery plans describe actions beneficial to the conservation and recovery of species listed under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). The ESA requires that recovery plans incorporate (1) objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions. The ESA requires the development of recovery plans for listed species unless such a plan would not promote the recovery of a particular species.

NMFS' goal is to restore endangered and threatened Pacific salmon Evolutionarily Significant Units (ESUs) and steelhead Distinct Population Segments (DPSs) to the point that they are again self sustaining members of their ecosystems and no longer need the protections of the ESA. NMFS believes it is critically important to base its recovery plans on the many state, regional, tribal, local, and private conservation efforts already underway throughout the region. Therefore, the agency supports and participates in locally led collaborative efforts to develop recovery plans, involving local

communities, state, tribal, and Federal entities, and other stakeholders. As the lead ESA agency for listed salmon, NMFS is responsible for reviewing these locally produced recovery plans and deciding whether they meet ESA statutory requirements and merit adoption as proposed ESA recovery plans.

On December 30, 2005, the Upper Columbia Salmon Recovery Board (UCSRB) presented its locally developed draft recovery plan to NMFS. The UCSRB comprises representatives from Chelan County, Douglas County, Okanogan County, Yakama Nation, and the Confederated Colville Tribes. A variety of additional partners, representing Federal agencies, Washington State agencies, regional organizations, special purpose districts, and members of the public, also participated in the planning process.

After NMFS reviewed the draft plan, NMFS and the UCSRB made revisions to it, clarifying how it satisfies ESA recovery plan requirements and addressing additional elements needed to comply with those requirements. The jointly revised Plan is now available as a Proposed Recovery Plan for public review and comment.

Upon approval of a final Plan, NMFS will make a commitment to implement the actions in the Plan for which it has authority, to work cooperatively on implementation of other actions, and to encourage other Federal agencies to implement Plan actions for which they have responsibility and authority. NMFS will also encourage the State of Washington to seek similar implementation commitments from state agencies and local governments. NMFS expects the Plan to help NMFS and other Federal agencies take a more consistent approach to future ESA section 7 consultations and other ESA decisions. For example, the Plan will provide greater biological context for the effects that a proposed action may have on the listed ESU and DPS. This context will be enhanced by adding recovery plan science to the ''best available information'' for section 7 consultations as well as for section 10 habitat conservation plans, and other ESA decisions. Such information includes viability criteria for the ESU, DPS, and their independent populations; better understanding of and information on limiting factors and threats facing the ESU and DPS; better information on priority areas for addressing specific limiting factors; and better geographic context for where the ESU and DPS can tolerate varying levels of risk.

The Plan

The Plan is one of many ongoing salmon recovery planning efforts funded under the Washington State Strategy for Salmon Recovery. The State of Washington designated the UCSRB as the Lead Entity for salmon recovery planning for the Upper Columbia. The Plan incorporates many aspects of the work of the Interior Columbia Technical Recovery Team (ICTRT) appointed by NMFS. The ICTRT reviewed early drafts of the Plan and will be providing an independent scientific peer review of the Proposed Recovery Plan. The UCSRB has included public involvement in its recovery planning process, having received extensive comments in January, April, and June of 2005.

ESU and DPS Addressed and Planning Area

The Plan is intended for implementation within the range of the Upper Columbia River Spring Chinook Salmon (*O. tshawytscha*) ESU, listed as endangered on March 24, 1999 (64 FR 14307), and the Upper Columbia River Steelhead (O. mykiss) DPS, listed as endangered on August 18, 1997 (62 FR 43937), and reclassified as threatened on January 5, 2006 (71 FR 834). The spring Chinook salmon ESU contains three independent populations: the Wenatchee, Entiat, and Methow. The steelhead DPS contains five independent populations: Wenatchee, Entiat, Methow, Okanogan, and Crab Creek. These independent populations were identified based on the genetic, geographic, and habitat characteristics they share within the ESU or the DPS.

The Plan states that the current status of Upper Columbia Chinook and steelhead populations was assessed by local planners in consultation with the ICTRT and state and tribal co-managers. In general, abundance of all spring Chinook salmon and steelhead populations has declined substantially from historical levels, and many populations are small enough that genetic and demographic risks are relatively high.

The Plan's Recovery Goals, Objectives and Criteria

The Plan's goal is ''to ensure long-term persistence of viable populations of naturally produced spring Chinook and steelhead distributed across their native range.'' The Plan incorporates the four parameters of abundance, productivity, spatial structure, and diversity, which are the basis of NMFS' viable salmonid population (VSP) framework (McElhany et al., 2000), as the foundation for biological status assessments and recovery goals.

The Plan's recovery (delisting) objectives include increasing the abundance of naturally produced spring Chinook and steelhead spawners within each population in the Upper Columbia ESU/DPS to levels considered viable; increasing the productivity (spawner:spawner ratios and smolts/redds) of naturally produced spring Chinook salmon and steelhead within each population to levels that result in low risk of extinction; restoring the distribution of naturally produced spring Chinook salmon and steelhead to previously occupied areas where practical; and conserving their genetic and phenotypic diversity.

Because spring Chinook are currently listed as endangered under the ESA, the Plan identifies two levels of objectives for them. The first level relates to reclassifying the species as threatened and the second relates to recovery (delisting). The reclassification objectives include increasing the abundance, productivity, and distribution of naturally produced spring Chinook salmon sufficient to lead to reclassification as threatened, and conserving their genetic and phenotypic diversity.

The Plan sets forth specific criteria to meet the recovery objectives, based on the ICTRT's recommended criteria, which, if met, would indicate a high probability of persistence into the future for Upper Columbia River spring Chinook salmon and steelhead. The Plan establishes criteria for 95–percent probability of persistence (5 percent extinction risk) for all Upper Columbia spring Chinook salmon and all but one population of the steelhead DPS. The Plan concludes that the Upper Columbia steelhead DPS may be recovered without attaining the 95–percent probability of persistence for the Crab Creek population, based on the possibility that this population was not viable historically because of environmental conditions (e.g., intermittent stream flows and high water temperatures) and the assumption that the resident component of the Crab Creek population was historically the primary driver of the population's viability.

The ICTRT recently recommended a higher criterion for an ESU/DPS containing only one major population group (MPG), which is the case for both Upper Columbia spring Chinook salmon and Upper Columbia steelhead. The ICTRT recommended, in that case, that at least two populations should meet abundance/productivity criteria representing a 1–percent extinction risk

(99 percent probability of persistence) over a 100–year period (ICTRT 2005b, p. 46). The ICTRT considers the 5–percent risk level ''viable'' and the 1 percent risk level ''highly viable.'' The Plan does not adopt this more recent recommendation; instead, as stated above, the Plan adopts the 5–percent extinction risk for abundance/productivity for all populations in the Chinook salmon ESU and all but one in the steelhead DPS.

NMFS accepts the UCSRB's recommended recovery (delisting) criteria, since it calls for all known extant populations within the Chinook ESU and steelhead DPS to be viable. Furthermore, NMFS believes that it is not possible at this time to distinguish between the levels of effort needed to attain 95 vs. 99 percent probability of persistence; therefore, the Plan's actions would not change at this time in response to the ICTRT's more recently recommended criterion. Finally, NMFS will re-evaluate ESU and DPS status and the appropriateness of the recovery criteria in 5 years or less based on additional data from monitoring and research on critical uncertainties and could modify the recovery plan accordingly.

In accordance with its responsibilities under ESA section 4(c)(2), NMFS will conduct status reviews of the listed Upper Columbia spring Chinook salmon ESU and Upper Columbia steelhead DPS at least once every 5 years to evaluate their status and determine whether the ESU or DPS should be removed from the list or changed in status. Such evaluations will take into account the following:

- The biological recovery criteria (ICTRT 2005b) and listing factor (threats) criteria described in the Plan.
- The management programs in place to address the threats.
- Principles presented in the Viable Salmonid Populations paper (McElhany et al. 2000).
- Best available information on population and ESU status and new advances in risk evaluation methodologies.
- Other considerations, including: the number and status of extant spawning groups; the status of the major spawning groups; linkages and connectivity among groups; the diversity of life history and phenotypes expressed; and considerations regarding catastrophic risk.
- Principles laid out in NMFS' Hatchery Listing Policy (70 FR 37204, June 28, 2005).

Causes for Decline and Current Threats

The Plan identifies the following causes for decline and threats to the ESU/DPS:

Habitat: Human activities have altered and/or curtailed habitat-forming processes and limited the habitat suitable for spring Chinook salmon and steelhead in the Upper Columbia River tributaries. Although recent land and water management practices have improved, some storage dams, diversions, roads and railways, agriculture, residential development, and forest management continue to threaten spring Chinook salmon and steelhead and their habitat. The result has been deleterious changes in water flow, water temperature, sedimentation, floodplain dynamics, riparian function, and other aspects of the ecosystem.

Hydroelectric operations: Conditions for Upper Columbia spring Chinook salmon and steelhead have been fundamentally altered throughout the Columbia River basin by the construction and operation of mainstem dams and reservoirs for power generation, navigation, and flood control. Upper Columbia salmon and steelhead are adversely affected by hydrosystem-related flow and water quality effects, obstructed and/or delayed passage, and ecological changes in impoundments.

Harvest: Harvest of Upper Columbia Chinook salmon and steelhead occurs in commercial, recreational, and tribal fisheries in the mainstem Columbia, and in some tributaries. Upper Columbia spring Chinook salmon and steelhead are rarely taken in ocean fisheries; most harvest of these listed species occurs in the Columbia mainstem and some tributaries. Aggregate harvest rates (from fishing in all areas) have generally been reduced from their peak periods as a result of international treaties, fisheries conservation acts, the advent of weak stock management in the 1970s and 1980s, regional conservation goals, and the listing of many salmon ESUs and steelhead DPSs under the ESA. While fisheries do not target weak stocks of listed salmon or steelhead, listed fish are incidentally caught in fisheries directed at hatchery and healthy, unlisted wild stocks.

Hatcheries: In the Upper Columbia Region, the twelve hatcheries currently producing spring Chinook and steelhead are operated to mitigate for loss of habitat and for passage mortalities resulting from the Columbia River hydrosystem. These hatcheries provide valuable mitigation and/or conservation benefits but can cause substantial adverse impacts if not properly managed. The Plan describes the risks to listed fish from these hatcheries, including genetic effects that reduce fitness and survival, ecological effects such as competition and predation, facility effects on passage and water quality, mixed stock fishery effects, and masking the true status of wild populations.

Additional Factors: The Plan considers that there could be additional factors that affect Upper Columbia River spring Chinook salmon and steelhead, including changes in estuarine habitat, global climate change, inadequacy of existing regulatory mechanisms, fluctuating ocean cycles, and predation.

Recovery Strategies and Actions

The Plan's initial approach is to target reductions in all manageable threats and to improve the status of all extant Upper Columbia spring Chinook and steelhead populations. As monitoring and evaluation programs improve understanding of the effectiveness of various actions and their benefits throughout the life cycle of salmon and steelhead, adjustments may be made through the adaptive management framework described in the Plan.

The Plan describes objectives and strategies and recommends specific actions for Upper Columbia spring Chinook salmon and steelhead recovery. Among the most significant recommendations are the following:

Habitat: The Plan includes habitat restoration actions in all streams that currently support or may support (in a restored condition) listed spring Chinook salmon and steelhead in the Upper Columbia Basin. The objectives and recommended actions are derived from subbasin plans, watershed plans, the Upper Columbia Biological Strategy, the Douglas County public utility district (PUD) and Chelan County PUD Anadromous Fish Agreement and Habitat Conservation Plans (AFAHCPs), and relicensing agreements. The Plan emphasizes actions that: protect existing areas where high ecological integrity and natural ecosystem processes persist; restore connectivity (access) throughout the historical range, where feasible and practical; protect and restore riparian habitat along spawning and rearing streams and identify long term opportunities for riparian habitat enhancement; protect and restore floodplain function and reconnection, off channel habitat, and channel migration processes where appropriate; and increase habitat diversity by rebuilding, maintaining, and adding instream structures (e.g., large woody debris, rocks, etc.) where long term

channel form and function efforts are not feasible.

Hydroelectric operations: Upper Columbia spring Chinook and steelhead migrate through four federally owned projects and three to five projects owned by PUDs. These projects are licensed by the Federal Energy Regulatory Commission. The Plan acknowledges that hydropower strategies and actions are being implemented, reviewed, and considered in several ongoing processes, including Federal Columbia River Power System (FCRPS) EA section 7 consultations (for the lower four federal dams on the Columbia River), the AFAHCPs and relicensing agreements. The Plan's recommended actions are intended to be consistent with these processes. The Plan emphasizes continued implementation of the actions identified in the AFAHCPs, which adopted a standard of no net impact (NNI) on the Upper Columbia Spring Chinook Salmon ESU and steelhead DPS.

Harvest: Harvest objectives for treaty and non-treaty salmon and steelhead fisheries in the Columbia River Basin are set by the applicable state, tribal, and Federal agencies. Fishery objectives from McNary Dam to the mouth of the Columbia River (fishing zones 1–6) are established by state, tribal, and Federal parties in *U.S.* v. *Oregon*. While recognizing the role of the treaty and non-treaty co-managers, the Plan proposes that the *U.S.* v. *Oregon* parties incorporate Upper Columbia recovery goals when formulating fishery plans affecting Upper Columbia spring Chinook salmon and steelhead. The appropriate co-managers and fishery management agencies are also asked to work together with local stakeholders to develop tributary fisheries management goals and plans.

Hatcheries: The hatchery strategies and actions in the Plan are being reviewed and considered in several ongoing processes, including in the Chelan County and Douglas County Public Utility District AFAHCPs, the Grant County biological opinion, and *U.S.* v *Oregon*. NMFS hopes the Plan's recommended goals and actions will be implemented through these ongoing processes. The Plan emphasizes that hatchery programs play an essential role in spring Chinook salmon and steelhead recovery. Among other measures, the Plan proposes that hatchery programs employ mechanisms to manage hatchery returns on spawning grounds in balance with naturally produced fish, while maintaining production levels identified in various agreements. It also proposes that, as the populations recover, hatchery programs should be modified to minimize adverse impacts of hatchery fish on naturally produced fish.

Integration: The Plan states that recovery will depend on integrating actions that address habitat, harvest, and hydroelectric operations; moreover, it emphasizes that recovery actions must be implemented at both the ESU/DPS and the population scales.

Time and Cost Estimates

The ESA section 4(f)(1) requires that the recovery plan include ''estimates of the time required and the cost to carry out those measures needed to achieve the Plan's goal and to achieve intermediate steps toward that goal'' (16 U.S.C. 1533[f][1]). Currently, the plan provides an overall cost estimate of $138 million, which represents the estimated cost of implementing the tributary actions for habitat, hatcheries, and research, monitoring, and evaluation, over 10 years.

Cost estimates for Columbia mainstem hydropower and estuary actions are included in two modules that NMFS developed because of the regional scope and applicability of the actions. These modules are incorporated into the Upper Columbia Plan by reference and are available on the NMFS Web site, *www.nwr.noaa.gov/Salmon-Recovery-Planning/ESA-Recovery-Plans/Other-Documents.cfm*. The hydropower cost estimates will be updated over time, as the section 7 consultation on the remanded 2004 FCRPS BiOp is completed. The estuary recovery costs could be further refined following public comment on the ESA recovery plan for the three listed lower Columbia ESUs and one listed Lower Columbia steelhead DPS in 2007. There are virtually no estimated costs for recovery actions associated with harvest to report at this time. This is because no actions are currently proposed that go beyond those already being implemented through *U.S.* v. *Oregon* and other harvest management forums. In the event that additional harvest actions are implemented through these forums, those costs will be added during the implementation phase of this recovery plan. All cost estimates will be refined and updated over time.

The Plan states that if its recommended actions are implemented, recovery of the spring Chinook salmon ESU and the steelhead DPS is likely to occur within 10 to 30 years. The cost estimates cover capital projects and non-capital work projected to occur within the first 10–year period. NMFS supports the policy determination to include 30 years of implementation, with the proviso that before the end of the first 10–year implementation period, specific actions and costs will be estimated for the subsequent years to achieve long-term goals and to proceed until a determination is made that listing is no longer necessary. NMFS agrees that a 10- to 30–year range is a reasonable period of time during which to implement and evaluate the actions identified in the Plan.

Conclusion

NMFS concludes that the Plan meets the requirements of ESA section 4(f) and thus is proposing it as an ESA recovery plan.

Copies of the **Federal Register** notices and related materials cited in this document are available on the internet at *www.nwr.noaa.gov/Salmon-Recovery-Planning/ESA-Recovery-Plans/Draft-Plans.cfm*.

NMFS solicits written comments on the proposed Plan. All comments received by the date specified above will be considered prior to NMFS' decision whether to adopt the Plan. Additionally, NMFS will work with the UCSRB to provide a summary of the comments and responses through its regional Web site and provide a news release for the public announcing the availability of the response to comments. NMFS seeks comments particularly in the following areas: (1) The analysis of limiting factors and threats; (2) the recovery objectives, strategies, and actions; (3) the criteria for removing the ESU and DPS from the Federal list of endangered and threatened wildlife and plants; and (4) estimates of time and cost to implement recovery actions, including the intent to be even more specific by soliciting implementation schedules.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: November 20, 2006.

Jim Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–20180 Filed 11–27–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111606A]

General Advisory Committee to the U.S. Section to the Inter-American Tropical Tuna Commission; Meeting Announcement

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

ACTION: Notice of public meeting.

SUMMARY: NMFS announces a meeting, via teleconference, of the General Advisory Committee to the U.S. Section to the Inter-American Tropical Tuna Commission (IATTC) in January 2007. Meeting topics are provided under the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The meeting will be held on January 18, 2007, from 9 a.m. to 5 p.m. (or until business is concluded), Pacific time.

ADDRESSES: The meeting will be held via teleconference. Please notify Allison Routt prior to January 11, 2007, to receive dial in information and of your intent to participate in this teleconference.

FOR FURTHER INFORMATION CONTACT: Allison Routt at (562) 980–4019 or (562) 980–4030.

SUPPLEMENTARY INFORMATION: In accordance with the Tuna Conventions Act, as amended, the Department of State has appointed a General Advisory Committee to the United States Section to the IATTC. The U.S. Section consists of the four U.S. Commissioners to the IATTC and the representative of the Deputy Assistant Secretary of State for Oceans and Fisheries. The Advisory Committee supports the work of the U.S. Section in a solely advisory capacity with respect to U.S. participation in the work of the IATTC, with particular reference to the development of policies and negotiating positions pursued at meetings of the IATTC. NMFS, Southwest Region, administers the Advisory Committee in cooperation with the Department of State.

Meeting Topics

The General Advisory Committee will meet to receive and discuss information on: (1) 2006 and 2007 IATTC activities, (2) activities of the Commerce and State Departments and the Pacific Fishery Management Council and Western Pacific Fishery Management Council as they relate to the IATTC, including scientific developments, (3) upcoming meetings of the IATTC and its working groups, including issues such as: conservation and management measures for yellowfin, bigeye, and albacore tuna for 2007 and beyond, measures to be taken in cases of noncompliance with the IATTC's conservation and management measures, management of fishing capacity, financing the IATTC, and measures to address bycatch and other issues, (4) IATTC cooperation with other regional fishery management organizations, and (5) administrative matters pertaining to the General Advisory Committee.

Special Accommodations

The meeting is via teleconference. Requests for special accommodations, issues, and needs should be directed to Allison Routt at (562) 980–4019 or (562) 980–4030 by January 2, 2007.

Dated: November 20 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–20169 Filed 11–27–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 060419105–6105–01]

Privacy Act of 1974; System of Records

AGENCY: Department of Commerce, NOAA.

ACTION: Notice of a new Privacy Act System of Records: COMMERCE/NOAA System–18; permits and registrations for fisheries in the Exclusive Economic Zone (EEZ) off Washington, Oregon, and California and permits and registrations for vessels fishing outside of the EEZ (High Seas).

SUMMARY: This notice announces the Department of Commerce (Department's) proposal for a new system of records under the Privacy Act. NOAA Fisheries, Northwest Region is creating a new system of records for permits and non-permit registrations is for use with a variety of fisheries management programs. NOAA Fisheries requires the use of permits or registrations by participants in certain fisheries of the Exclusive Economic Zone (EEZ) off Washington, Oregon, and California and on the high seas outside of the EEZ. Applications for various permits and registrations are collected from individuals under the authority of the Magnuson-Stevens Act and the High Seas Fishing Compliance Act. This new record system is necessary to identify participants in the fishery and to evaluate whether the applicants/participants meet the established requirements for such fishing privileges.

DATES: To be considered, written comments must be submitted on or before December 28, 2006. Unless comments are received, the new system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

ADDRESSES: Comments may be mailed to Frank Lockhart, Assistant Regional Administrator for Sustainable Fisheries, NOAA Fisheries, Northwest Region, Sustainable Fisheries Division, 7600 Sand Point Way NE, Bldg. #1, Seattle, WA 98115; Attn: Maryanne Nickerson.

FOR FURTHER INFORMATION CONTACT: Kevin Ford, 206–526–6115.

SUPPLEMENTARY INFORMATION: NOAA Fisheries, Northwest Region is creating a new system of records for permit and non-permit registrations for use with a variety of fisheries management programs. NOAA Fisheries requires the use of permits or registration by some participants in fisheries of the Exclusive Economic Zone (EEZ) off Washington, Oregon, and California and in the High Seas outside of the EEZ. Information collections would be requested from individuals under the authority of the Magnuson-Stevens Act and the High Seas Fishing Compliance Act. The collection of information is necessary to identify participants in these fisheries and to evaluate whether the applicants or current permit owners/holders are eligible for certain fishing privileges and benefits. NOAA Fisheries, Northwest Region would collect information from individuals in order to issue, renew, or transfer fishing permits or to make non-permit registrations. Where the SSN is requested, bracketed information indicates whether the response to the request is voluntary [SSN voluntary] or mandatory [SSN mandatory]. The authority for the mandatory collection of SSN is the Debt Collection Act Improvement Act, 31 U.S.C. 7701. Specifically, the Northwest Region issues permits or registrations for the following programs:

Pacific Coast Groundfish Limited Entry Permits [SSN mandatory],

Exempted Fisheries Permit (NOAA approved research and data collection activities) [SSN mandatory],

High Seas Fishing Compliance Act Permits (for those individuals electing to obtain a high seas permit through the NMFS, Northwest Region) [SSN mandatory],

Registration of Sablefish Vessels with an Exemption from At-Sea Processing [SSN mandatory].

COMMERCE/NOAA–18

SYSTEM NAME:

Permits and Registrations for Fisheries of the Exclusive Economic Zone (EEZ) off Washington, Oregon and California and Permits and Registrations for Vessels Fishing outside of the EEZ (High Seas).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

NOAA Fisheries, Northwest Region, Sustainable Fisheries Division, 7600 Sand Point Way NE, Bldg. #1, Seattle, WA 98115.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Owners of a permit or holders of a permit as recognized by NMFS. Individuals, who apply for any permit, permit exemption or regulation exemption, registration, dedicated access privilege or fishing quota share either initially, annually, or by transfer. Owners and/or operators of a catcher vessel, catcher/processors, or motherships. Applicants seeking permission to fish in a manner that would otherwise be prohibited in order to conduct experimental fishing. Owners of processing facilities and/or fish dealers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Among the records that may be contained in this system of records are the following: Current and prospective (applicant) permit owner, holder, vessel owner and operator name, individuals seeking and/or receiving a permit or fishing exemption; address; telephone number; fax number; e-mail address; social security number (SSN) or tax identification number; NMFS internal identification number; vessel name; vessel gear; hold capacity; United States Coast Guard Certificate of Documentation number or state vessel registration number/document; vessel length; permit number; amount of landed fish or processed fish product; divorce decrees; death certificates; probated wills; trust documents; sales and lease agreements; marriage certificates; probated wills; date of birth; medical records. For those individuals that own a sablefish endorsed permit, or applicants or recipients of exemptions, such lists will detail the individuals name, address, and SSN. Collection of SSN is mandatory for applicants for, and recipients of, a Federal permit or exemption thereof.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson-Stevens Act); 50 CFR Part 660, Subpart G; High Seas Fishing Compliance Act of 1995, 16 U.S.C 5501 *et seq.*; 50 CFR Part 300; Debt Collection Improvement Act, 31 U.S.C. 7701.

PURPOSES(S):

This information will allow the NOAA Fisheries to identify permit owners and holders, and vessel owners and operators, and evaluate requests by applicants and current participants (permit owners and holders) in approving/disapproving the issuance of a permit, a vessel registration, and a transfer of an existing permit or renewal of a current permit.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records or information contained therein may specifically be disclosed as a routine use as stated below. The Department will, when so authorized, make the determination as to the relevancy of a record prior to its decision to disclose a document.

1. In the event that a system of records maintained by the Department to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute or contract, or rule, regulation or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation or order issued pursuant thereto, or protecting the interest of the Department.

2. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed to the Department of Justice in connection with determining whether the Freedom of Information Act (5 U.S.C. 552) requires disclosure thereof.

5. A record in this system of records may be disclosed to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

6. A record in this system of records may be disclosed to approved persons of the states of Washington, Oregon, California or the Pacific States Marine Fisheries Commission for the purpose of co-managing a fishery or for making determinations about eligibility for permits when State data are all or part of the basis for the permits.

7. A record in this system of records may be disclosed to Pacific Fishery Management Council (Council) staff and contractors tasked with development of analyses to support Council decisions about Fishery Management Programs.

8. A record in this system of records may be disclosed to the NOAA Fisheries Observer Program for purposes of identifying current permit owners and vessels and making a random assignment of observers to vessels in a given fishing season.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized database; paper records are stored in file folders in locked metal cabinet.

RETRIEVABILITY:

Paper records are maintained in file folders and organized by permit number for the groundfish limited entry permits and exempted fishing permits. High Seas Fishing Compliance Act permit file folders are organized by vessel number. Electronic records are retrieved by permit number, name of permit owner or permit holder, vessel owner name, vessel name or vessel identification number or any combination thereof.

SAFEGUARDS:

The system of records is stored in a building with doors that are locked during and after business hours. Visitors to the facility must register with security guards and must be accompanied by Federal personnel at all times. Records are stored in a locked file cabinet. Electronic records containing Privacy Act information are protected by a user identification/password. The user identification/password is issued individuals as authorized by authorized personnel.

RETENTION AND DISPOSAL:

All records are retained and disposed of in accordance with National Archive and Records Administration regulations (36 CFR Chapter XII, Subchapter B—Records Management); Departmental directives and comprehensive records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

NOAA Fisheries, Northwest Region, Sustainable Fisheries Division, 7600 Sand Point Way NE, Bldg. #1, Seattle, WA 98115.

NOTIFICATION PROCEDURE:

A notification may be submitted to the system manager at the address given above. Requestor must make the request in writing and provide his/her name, address, and date of the request and record sought. All such requests must comply with the inquiry provisions of the Department's Privacy Act rules which appear at 15 CFR Part 4, Appendix A.

RECORD ACCESS PROCEDURES:

Requests for access to records maintained in this system of records should be addressed to the same address given in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned are provided for in 15 CFR Part 4, Appendix A.

RECORD SOURCE CATEGORIES:

Information in this system will be collected from individuals applying for a permit or registration or from an existing permit owner, permit holder or vessel owner.

EXEMPTION CLAIMS FOR SYSTEM:

None.

Dated: November 20, 2006.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E6–20121 Filed 11–27–06; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Commerce Spectrum Management Advisory Committee Meeting

AGENCY: National Telecommunications and Information Administration (NTIA), Department of Commerce (DOC).

ACTION: Notice of Open Meeting

SUMMARY: This notice announces a public meeting of the Spectrum Management Advisory Committee (Committee). The Committee provides advice to the Assistant Secretary for Communications and Information on spectrum management matters.

DATES: The meeting will be held on December 13, 2006, from 10:30 a.m. to 12:30 p.m. Eastern Standard Time.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 6059, 1401 Constitution Ave. N.W., Washington, D.C. Public comments may be mailed to Spectrum Management Advisory Committee, 1401 Constitution Ave. N.W., Room 4725, Washington, D.C. 20230 or emailed to spectrumadvisory@ntia.doc.gov.

FOR FURTHER INFORMATION CONTACT: Meredith Baker, Designated Federal Official, at (202) 482–1840 or mbaker@ntia.doc.gov; Joe Gattuso at (202) 482–0977 or jgattuso@ntia.doc.gov; and/or visit NTIA's web site at www.ntia.doc.gov.

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Commerce established the Spectrum Management Advisory Committee (Committee) to implement a recommendation of the President's Initiative on Spectrum Management pursuant to the President's November 29, 2004 Memorandum for the Heads of Executive Departments and Agencies on the subject of ''Spectrum Management for the 21st Century.''[1] This Committee is subject to the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2 and is consistent with the National Telecommunications and Information Administration Act, 47 U.S.C. § 904(b). The Committee provides advice to the Assistant Secretary of Commerce for Communications and Information on needed reforms to domestic spectrum policies and management to enable the introduction of new spectrum-dependent technologies and services, including policy reforms for expediting the American public's access to broadband services, public safety, digital television, and long-range spectrum planning. The Committee will function solely as an advisory body in compliance with the FACA.

Matters to Be Considered: This will be the first meeting of the Committee. The primary purpose of this initial meeting is to organize the Committee and establish future agendas and work schedule. As such, the meeting agenda includes the following: (1) Discussion of Committee organization and future agendas and (2) Briefings on matters related to the President's Spectrum Policy Initiative.

Time and Date: The meeting will be held on December 13, 2006 from 10:30 a.m. to 12:30 p.m. Eastern Standard Time. These times and the agenda topics described below are subject to change. Please refer to NTIA's web site, http://www.ntia.doc.gov, for the most up-to-date meeting agenda.

Place: U.S. Department of Commerce, Herbert C. Hoover Building, Room 6059, 1401 Constitution Ave. N.W., Washington, D.C. The meeting will be open to the public and press on a first-come, first-served basis. Space is limited. When arriving for the meeting, attendees must present photo or passport identification or a U.S. Government building pass, if applicable, and should arrive at least one-half hour prior to the start time of the meeting. The meeting will be physically accessible to people with disabilities. Individuals requiring special services, such as sign language interpretation or other ancillary aids are asked to contact Joe Gattuso at least two (2) business days prior to the meeting.

Status: Interested parties are invited to attend and to submit written comments. Written comments should be sent to the above listed address and received by close of business on December 11, 2006 to provide sufficient time for review. Comments received after December 11, 2006 will be distributed to the Committee, but may not be reviewed prior to the meeting. It would be helpful if paper submissions also include a three and one-half inch computer diskette in HTML, ASCII, PDF, Word or WordPerfect format (please specify version). Diskettes should be labeled with the name and organizational affiliation of the filer, and the name of the word processing program used to create the document. Alternatively, comments may be submitted electronically to spectrumadvisory@ntia.doc.gov. Comments provided via electronic mail may also be submitted in one or more of the formats specified above.

Records: NTIA is keeping records of all Committee proceedings, which will be available for public inspection at NTIA's office at the address above. Documents including the Committee's charter, membership, agendas, minutes, and any reports are or will be available on NTIA's web site.

Dated: November 22, 2006.

Milton Brown,

Acting Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. E6–20103 Filed 11–27–06; 8:45 am]

BILLING CODE 3510–60–S

[1] *President's Memorandum on Improving Spectrum Management for the 21st Century*, 49 Weekly Comp. Pres. Doc. 2875 (Nov. 29, 2004)(Executive Memorandum).

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

No FEAR Act Notice

AGENCY: Court Services and Offender Supervision Agency for the District of Columbia.

ACTION: Notice.

SUMMARY: Court Services and Offender Supervision Agency (CSOSA) is hereby providing notice of employee rights and protections under the Notification and Federal Employees Antidiscrimination and Retaliation Act of 2002 (the No FEAR Act) to its employees, including employees of the District of Columbia Pretrial Services Agency, an independent entity within CSOSA.

FOR FURTHER INFORMATION CONTACT: Any questions regarding this notice should be directed to Barbara J. Jones, Director, Office of Equal Employment Opportunity, Diversity and Special Programs, Office of the Director, 601 Indiana Avenue, Suite 512, Washington, DC 20004, phone (202) 442–1990, fax (202) 442–1963, e-mail *Barbara.Jones@csosa.gov*.

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 based on 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.

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin or disability, 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 your agency. See, *e.g.*, 29 CFR part 1614 and Court Services and Offender Supervision Agency (CSOSA) Office of EEO, Diversity and Special Programs Web site at *http://www.csosa.gov*.

If you believe that you have been the victim of unlawful discrimination based on 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 your 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 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, as well as the CSOSA's EEO Office at *http://www.csosa.gov*. 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).

Barbara J. Jones,

Director, Office of Equal Employment Opportunity, Diversity and Special Programs, Court Services and Offender Supervision Agency.

[FR Doc. E6–20046 Filed 11–27–06; 8:45 am]

BILLING CODE 3129–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meetings of the Naval Research Advisory Committee

AGENCY: Department of the Navy, DoD.

ACTION: Notice of partially closed meeting.

SUMMARY: The Naval Research Advisory Committee (NRAC) will meet to discuss classified information from government organizations. All sessions of the meetings, except the NRAC Security, Ethics, and Travel Brief on Tuesday, December 5, 2006 from 9 a.m. to 10:30 a.m., will be devoted to briefings, discussions, and technical examinations of issues related to maritime strategy and Department of the Navy plans, programs, and objectives. It is envisioned that these discussions will enable the NRAC to identify technology gaps where additional science and technology investments may be needed to satisfy current and projected Navy and Marine Corps requirements.

DATES: The meetings will be held on Tuesday, December 5, 2006, from 10:30 a.m. to 5 p.m. through Wednesday, December 6, 2006, from 9 a.m. to 1 p.m. During the NRAC Security, Ethics, and Travel Brief on Tuesday, December 5, 2006 from 9 a.m. to 10:30 a.m., the meeting will be open to the public.

ADDRESSES: The meetings will be held at the Office of Naval Research, Room 1432, The Frances Rothwell Room, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Sujata Millick, Program Director, Naval Research Advisory Committee, 875 North Randolph Street, Arlington, VA 22203–1995, 703–696–4875.

SUPPLEMENTARY INFORMATION: This notice is provided in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2). All sessions of the meetings, except the NRAC Security, Ethics, and Travel Brief on Tuesday, December 5, 2006 from 9 a.m. to 10:30 a.m., will be devoted to executive sessions that will include discussions and technical examinations of information related to forthcoming NRAC studies. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to remain classified in the interest of national defense and are properly classified pursuant to such Executive Order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portions of the meetings. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting, with the exception of the NRAC Security, Ethics, and Travel Brief on Tuesday, December 5, 2006 from 9 a.m. to 10:30 a.m., be closed to the public because the sessions will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and (4).

Dated: November 20, 2006.

M.A. Harvison,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E6–20118 Filed 11–27–06; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 28, 2006.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Rachel Potter, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: November 20, 2006.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Educational Support Needs Assessment.

Frequency: On Occasion.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 350.

Burden Hours: 88.

Abstract: This data collection will assess the support needs of Curriculum Coordinators and Principals in each of seven states: Colorado, Kansas, Missouri, Nebraska, North Dakota, South Dakota and Wyoming. The survey will focus on their needs for support in the various areas: obtaining, understanding and utilizing educational research, in-service needs, developing leadership and management capabilities in the staff, improvement plans and interventions. It will also determine the perceptions of the importance for McREL to fund such initiatives in support of these areas.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3190. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal

Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E6–20124 Filed 11–27–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Amended Record of Decision: Idaho High-Level Waste and Facilities Disposition Final Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Amended Record of Decision.

SUMMARY: The U.S. Department of Energy (DOE) is amending its Record of Decision (ROD) published December 19, 2005 (70 **Federal Register** [FR] 75165), pursuant to the Idaho High-Level Waste and Facilities Disposition Final Environmental Impact Statement (Final EIS) (DOE/EIS–0287, September 2002). The Final EIS analyzed two sets of alternatives for accomplishing DOE's proposed actions regarding the Idaho Nuclear Technology and Engineering Center (INTEC): (1) Waste processing alternatives and (2) facility disposition alternatives. As described in this Amended ROD, DOE has decided to conduct performance-based closure of the INTEC Tank Farm Facility (TFF). This decision to conduct performance-based closure of the TFF does not affect decisions made in the initial ROD concerning: performance-based closure of other existing facilities directly related to the HLW Program; planned clean closure of newly constructed waste processing facilities needed to implement the initial ROD; steam reforming treatment of sodium-bearing waste (SBW) to allow disposal at the Waste Isolation Pilot Plant (WIPP) near Carlsbad, New Mexico (DOE's preferred disposal path) or at a geologic repository for spent nuclear fuel (SNF) and HLW; management of newly generated liquid waste (NGLW); and DOE's strategy to retrieve HLW calcine for disposal outside the State of Idaho. Nor does this Amended ROD affect future decisions concerning the retrieval strategy for HLW calcine stored at INTEC, potential calcine treatment if necessary, and closure of the bin sets in which the calcine is stored.

ADDRESSES: Copies of this Amended ROD will be available on DOE's National Environmental Policy Act (NEPA) Web site at: *http://www.eh.doe.gov/nepa* under DOE NEPA Documents. Copies of the Section 3116 Determination and associated documents are available on DOE's Web site at *http://apps.em.doe.gov/idwd*.

FOR FURTHER INFORMATION CONTACT: For further information on this Amended ROD and the Idaho Cleanup Project, contact Scott Van Camp, Assistant Manager, Facility and Materials Disposition Project, U.S. DOE, Idaho Operations Office, 1955 Fremont Avenue, MS–1222, Idaho Falls, ID 83415, Telephone: (208) 526–6503.

For general information on DOE's NEPA process, please contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–20), U.S. DOE, 1000 Independence Avenue, SW., Washington, DC 20585–0103, Telephone: (202) 586–4600 or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

I. Background

From 1952 to 1991, DOE and its predecessor agencies reprocessed SNF at INTEC, known prior to 1998 as the Idaho Chemical Processing Plant, on the Idaho National Laboratory (INL) Site. Reprocessing operations used solvent extraction systems to remove mostly uranium-235 from SNF. The waste product from the first extraction cycle of the reprocessing operation was liquid HLW mixed with hazardous materials, which was stored in belowgrade stainless steel tanks at the INTEC TFF. Subsequent extraction cycles, treatment processes, and follow-on decontamination activities generated additional liquids that were combined to form liquid SBW, which is generally much less radioactive than HLW generated from the first extraction cycle. After SNF reprocessing was curtailed in 1991, the first cycle reprocessing wastes were removed from the tanks in the TFF and the tanks were reused to store liquid SBW. The liquid SBW was stored in ten of the eleven 300,000-gallon belowgrade storage tanks in the TFF. The eleventh tank was maintained as a spare (but was contaminated with a small quantity of waste). The TFF also includes four 30,000-gallon belowgrade tanks that were used in reprocessing operations. The last campaign of SNF reprocessing at INTEC was in 1991, and HLW is no longer generated at INTEC. From 1963 to 1998, DOE processed HLW and some SBW through calcination that converted the liquid waste into a dry powder calcine. Additional SBW was processed by calcination from 1998 to 2000. At present, approximately 4,400 cubic meters of HLW calcine remains stored in six bin sets (a series of reinforced concrete vaults, each containing three to seven stainless steel storage bins). Over the past several years, TFF operations have included removing SBW from the tanks, consolidating the remaining approximately 900,000 gallons of SBW into three 300,000-gallon belowgrade tanks, and cleaning the emptied tanks. Tank cleaning to remove the tank heels in the emptied tanks (the amount of liquid remaining in each tank after lowering the tank contents to the greatest extent possible by use of the existing transfer equipment) began in late 2002. Seven of the 300,000-gallon tanks, the four 30,000-gallon inactive tanks, and associated ancillary equipment have been cleaned, and DOE plans to clean and complete closure of the remaining tanks, piping, valve boxes, encasements, and vaults by December 31, 2012.

The Final EIS, issued in October 2002, analyzed two sets of alternatives for accomplishing the proposed action: (1) Waste processing alternatives for treating, storing, and disposing of liquid SBW and NGLW stored in belowgrade tanks and solid HLW calcine stored in bin sets at the INTEC on the INL Site; and (2) facility disposition alternatives for final disposition of facilities directly related to the HLW Program after its missions are complete, including any new facilities necessary to implement the waste processing alternatives. This Amended ROD addresses only disposition of the TFF and not waste processing or other facilities addressed in the initial ROD.

On October 28, 2004, the NDAA was enacted. Among other provisions of the Act, Section 3116 provides that certain wastes from reprocessing SNF are not HLW if the Secretary, in consultation with the NRC, determines that the criteria in Section 3116(a) have been met.

In DOE's initial ROD, published December 19, 2005 (70 FR 75165), DOE decided, among other things, to pursue a phased decision-making process and stated its plan to issue an Amended ROD in 2006 specifically addressing closure of the TFF, in coordination with the Secretary's Determination under Section 3116. As explained in the initial ROD, the State of Idaho, as a cooperating agency on the Draft and Final EIS, stated that it would continue to coordinate with DOE and NRC, as appropriate, regarding Section 3116 activities.

DOE submitted a Draft Section 3116 Determination concerning the TFF to the NRC on September 7, 2005, and consulted with the NRC pursuant to Section 3116(a) of the NDAA. Although not required by Section 3116, DOE issued a Notice of Availability of the Draft Section 3116 Determination in the **Federal Register** on September 14, 2005 (70 FR 54374), for public review,

concurrent with DOE's consultation with the NRC.

The NRC consultation process has been completed. On October 20, 2006, the NRC issued its Technical Evaluation Report (TER) (NRC ADAMS # ML062490108) of the DOE Draft Section 3116 Determination. The TER presents the results of NRC's consultation with respect to whether DOE meets the applicable provisions of Section 3116(a) of the NDAA for the Secretary to determine that the stabilized residuals are not HLW. As noted in its executive summary, ''Based on the information provided by DOE, NRC staff has concluded in this TER that there is reasonable assurance that the applicable criteria of the NDAA can be met for residual waste associated with the TFF.''

DOE considered the NRC's TER, as well as comments received from the State of Idaho and the INL Site Environmental Management Citizens Advisory Board (no additional public comments were received) on the Draft Section 3116 Determination, before issuing the Section 3116 Determination. In the Section 3116 Determination for the TFF, the Secretary concluded that, for reasons set forth in the Basis for Section 3116 Determination for the Idaho Nuclear Technology and Engineering Center Tank Farm Facility (Basis Document), and based on DOE's consultation with the NRC, the criteria of Section 3116(a) have been met, and therefore the stabilized residuals may be disposed of in place. Disposal of the grouted TFF waste in place will meet the performance objectives set forth in 10 Code of Federal Regulations (CFR) Part 61, Subpart C. DOE estimates that this action will result in an annual maximum exposure risk (total effective dose) to members of the public from all pathways of well below 25 mrem. A **Federal Register** Notice of Availability of the Secretary's Section 3116 Determination is being provided separately and concurrently with this ROD.

II. Comments on the Final EIS

DOE received five letters and two emails on the Final EIS and responded to those comments in the initial ROD. However, because DOE deferred its decision regarding the TFF, it is appropriate to address one additional comment made by the Environmental Protection Agency (EPA) (letter on the Final EIS of November 18, 2002) in this Amended ROD. That is, the EPA noted that ''the Final EIS did not define, in the case of tank closures, the degree of retrieval and/or decontamination necessary to provide a defensible basis for reclassifying residuals''. The Basis Document addresses this comment.

III. Facility Disposition Alternatives Analyzed

The Final EIS analyzed six facility disposition alternatives: No Action, Clean Closure, Performance-Based Closure, Closure to Landfill Standards, Performance-Based Closure with Class A Grout Disposal, and Performance-Based Closure with Class C Grout Disposal.[1] Under the No Action Alternative, the transuranic/SBW waste would remain in the Tank Farm, and eventually over thousands of years, this waste would migrate into the environment. Under the Clean Closure Alternative, facilities would have the hazardous and radiological contaminants, including contaminated equipment, removed from the site or treated so that these contaminants would be indistinguishable from background concentrations. Under the Performance-Based Closure Alternative, contamination would remain that is below the levels that would impact human health and the environment as established by regulations. Under the Closure to Landfill Standards Alternative, wastes would be removed to the extent practicable; however, quantities remaining would not meet clean closure or performance-based action levels. Under the Performance-Based Closure with Class A Grout Disposal and Performance-Based Closure with Class C Grout Disposal Alternatives, SBW and calcine would have been separated into high and low activity fractions, and the low-level waste fraction would be grouted to meet either Class A or Class C levels and disposed of in the tanks or bin sets. These six alternatives reflect different ways to address the risk associated with disposition of residuals remaining in facilities and closing facilities directly related to the HLW Program at INTEC after its missions are complete. These alternatives differ in the degree to which facilities are cleaned up and in the type of use that could be made of the land as a result.

Preferred Facility Disposition Alternative

In the Final EIS, DOE and the State of Idaho, as a cooperating agency, identified three of the six facility disposition alternatives as preferred: Performance-Based Closure, Clean Closure, and Closure to Landfill Standards. DOE and the State of Idaho weighed several factors in identifying the Preferred Alternatives for facility disposition, including size and complexity of facilities, volume of waste generated during facility disposition, residual waste/contaminant risk reduction, technical and economic feasibility, and protection of workers, the public, and the environment.

Under the Performance-Based Closure Alternative evaluated in the EIS, radioactive contamination would remain below levels that would impact human health and the environment as established by regulations. These levels, referred to as action levels, are either risk-based (*e.g.*, residual contaminant levels) or performance-based (*e.g.*, corrosivity). Once these action levels and the action levels set forth in the HWMA/RCRA Closure Plan approved by the State of Idaho are achieved, the unit/facility is deemed closed according to the HWMA/RCRA and DOE requirements. Other activities may then occur at the unit/facility such as decontamination and decommissioning or future operations (where nonhazardous waste can enter the unit/facility). Most abovegrade units/facilities would be demolished and most belowgrade facilities/units (tanks, vaults, and transfer piping) would be stabilized and left in place. The residual contaminants would no longer pose any unacceptable exposure (or risk) to workers, the public, and the environment. Pursuant to HWMA/RCRA regulations, if the action levels cannot be achieved, then the TFF and TFF system may need to be closed in accordance with closure and post-closure regulations that apply to landfills.[2]

[1] The names of the alternatives in the Final EIS use terminology that is similar to terminology used in the context of closure of hazardous waste management units under HWMA/RCRA. However, the terminology used in the names of the EIS alternatives and the HWMA/RCRA is not synonymous in all cases. For example, the Clean Closure Alternative included removal of the tanks, whereas clean closure of the tanks under HWMA/RCRA means cleaning the tanks to action levels established in the state approved closure plan. The INL TFF is subject to closure under HWMA/RCRA pursuant to closure plans approved by the State of Idaho.

[2] Although not part of this Amended ROD, DOE also has proposed to cap the surface of the TFF to meet the remedial action objectives agreed to by DOE, the State of Idaho, and the EPA pursuant to the 1991 Federal Facility Agreement and Consent Order under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). DOE's *Proposed Plan for Tank Farm Soil and INTEC Groundwater, Operable Unit 3–14* (RPT–223, 2004), which includes capping the surface of the TFF, has been issued for public comment. The CERCLA decision is planned for 2007. Capping would reduce water infiltration and provide worker protection where appropriate.

IV. Environmentally Preferable Alternative

The initial ROD, in identifying the environmentally preferred alternative, considered: potential risk to the public (*e.g.*, latent cancer fatalities); potential environmental risks in the short- and long-term, including environmental risks after loss of institutional control; and potential short-term risk to workers. The initial ROD identified the facility disposition alternatives that actively closed the TFF facilities under environmentally-based standards as preferable to the No Action Alternative. Based on the analyses in the Final EIS, the Clean Closure Alternative is the environmentally preferred alternative over the long-term. However, the Performance-Based Closure Alternative would be protective of the public and environment in the short- and long-term while minimizing short-term risks to workers.

V. Decision

DOE has decided to conduct performance-based closure of the TFF as set forth in the Final EIS. DOE has decided to close the TFF in phases to support continued INTEC operations, with final closure of the TFF planned by December 2012. DOE is making the decision in this Amended ROD following the Secretary's Determination, in consultation with the NRC, that the grouted residuals at disposal are not HLW because they meet the criteria in Section 3116(a) of the NDAA. By law, material covered by such a determination is not HLW.

Performance-based closure of the TFF and TFF system pursuant to this Amended ROD includes removing waste to the maximum extent practical from the eleven 300,000-gallon tanks, the four 30,000-gallon tanks, associated piping, valve boxes, encasements, and vaults, and grouting and disposing of stabilized residuals in place.[3] Closure of the TFF will be undertaken pursuant to closure plans approved by the State of Idaho under the HWMA. DOE intends for the TFF closure activities to remove or decontaminate waste residues to meet State of Idaho-approved action levels for hazardous constituents. If these action levels cannot be achieved, then the TFF may be closed in accordance with closure and post-closure regulations that apply to landfills. The closure of the TFF will also be in accordance with applicable DOE requirements, regulations, and Orders, which ensure that this action will result in an annual maximum exposure risk (total effective dose) to members of the public from all pathways of well below 25 mrem.

The State of Idaho has commented and coordinated with DOE and NRC, as appropriate, concerning Section 3116 of the NDAA. The State has concurred with the performance-based closure of the TFF, subject to the State's separate approval of individual closure plans under the HWMA/RCRA.

This decision to conduct performance-based closure of the TFF does not affect the decisions made in the initial ROD concerning: performance-based closure for other existing facilities directly related to the HLW Program; planned clean closure of newly constructed waste processing facilities needed to implement the initial ROD; steam reforming treatment of SBW to allow disposal at the WIPP near Carlsbad, New Mexico (DOE's preferred disposal path) or at a geologic repository for SNF and HLW; management of NGLW; and DOE's strategy to retrieve HLW calcine for disposal outside the State of Idaho. Nor does this Amended ROD affect future decisions concerning the retrieval strategy for HLW calcine stored at the INTEC, potential calcine treatment if necessary, and the closure of the bin sets in which the calcine is stored.

No impact resulting from operations under this decision would require specifically designed mitigation measures. DOE will, however, use all practicable means to avoid or minimize environmental harm when implementing the actions described in this Amended ROD. Those measures include employing engineering design features to meet regulatory requirements, maintaining a rigorous health and safety program to protect workers from radiological and chemical contaminants, monitoring worker and environmental risk, and continuing efforts to reduce the generation of wastes. DOE will implement the comprehensive list of standards and requirements to protect workers, the public, and the environment specified in Chapter 6 of the Final EIS, as appropriate.

VI. Basis for Decision

DOE's decision to implement performance-based closure methods for disposition of the TFF is based on the analysis of the potential environmental impacts identified in the Final EIS. The Performance-Based Closure Alternative would minimize short-term risk to workers as compared to the Clean Closure Alternative, while also being protective of health and the environment in the long term. In addition, this Amended ROD is based on consideration of regulatory requirements such as the HWMA/RCRA, applicable DOE Orders, and cost. As part of its basis for decision, DOE also emphasizes that, on balance, performance-based closure would be protective of the public and environment in the short- and long-term, while limiting the risk to workers. This decision also takes into account the Secretary's Determination pursuant to Section 3116(a) of the NDAA.

Issued in Washington, DC, on November 19, 2006.

James A. Rispoli,

Assistant Secretary for Environmental Management.

[FR Doc. E6–20109 Filed 11–27–06; 8:45 am]

BILLING CODE 6450–01–P

[3] Under closure pursuant to this decision, a small amount (approximately 3/8 inch) of residual radioactive (non-HWMA/RCRA) waste that cannot be removed would remain after completing tank cleaning operations.

DEPARTMENT OF ENERGY

Determination Under Section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 for the Idaho Nuclear Technology and Engineering Center Tank Farm Facility at the Idaho National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: Section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (NDAA) provides that certain waste from reprocessing spent nuclear fuel is not considered high-level radioactive waste (HLW) if the Secretary of Energy, in consultation with the Nuclear Regulatory Commission (NRC), determines that the waste meets the statutory criteria set forth in Section 3116(a). The Department of Energy (DOE) announces the availability of the Secretary's Section 3116 Determination for the Idaho Nuclear Technology and Engineering Center (INTEC) Tank Farm Facility (TFF), which addresses the stabilized residuals in the TFF and TFF system on the Idaho National Laboratory (INL) near Arco, Idaho, and the document that sets forth the basis for the Section 3116 Determination (Basis Document). The Section 3116 Determination sets forth the Secretarial finding that the stabilized residuals in the TFF and TFF system: (1) Do not require permanent isolation in a deep geologic repository, (2) have or will have had highly radioactive radionuclides removed to the maximum extent practical, (3) will be disposed of in accordance with NRC performance

objectives for the disposal of low-level waste, (4) will be disposed of pursuant to DOE's disposal plan developed in consultation with the NRC, and (5) will be disposed of pursuant to closure plans approved by the State of Idaho. The Basis Document sets forth the facts and analyses supporting the Secretary's Section 3116 Determination. DOE's Amended Record of Decision to close the TFF pursuant to the *Idaho High-Level Waste and Facilities Disposition Final Environmental Impact Statement* (DOE/EIS–0287, September 2002) is being provided separately and concurrently with this Notice.

ADDRESSES: The Section 3116 Determination and the Basis Document, as well as the public comments received on the draft Section 3116 Determination, are available on the Internet at *http://apps.em.doe.gov/idwd*, and are publicly available for review at the following locations: U.S. DOE, Public Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, DC 20585, Phone: (202) 586–5955, or Fax: (202) 586–0575; and U.S. DOE, Idaho Operations Office, Public Reading Room, 850 Energy Drive, Idaho Falls, Idaho 83415–2300, Phone: 208–526–0709, Fax: 208–526–8789.

FOR FURTHER INFORMATION CONTACT: For further information on the Section 3116 Determination, contact Scott Van Camp, Assistant Manager, Facility and Materials Disposition Project, U.S. DOE, Idaho Operations Office, 1955 Fremont Avenue, MS–1222, Idaho Falls, ID 83415, Telephone: (208) 526–6503.

SUPPLEMENTARY INFORMATION: The INTEC TFF and TFF system consists of eleven 300,000-gallon belowgrade stainless-steel tanks in unlined concrete vaults, four 30,000-gallon belowgrade stainless-steel tanks, and associated ancillary equipment and piping. Historically, the TFF tanks were used to store various INTEC wastes, including those from reprocessing spent nuclear fuel, decontamination waste, laboratory waste, and contaminated liquids from other INTEC operations. DOE has initiated cleaning of the TFF and TFF system, a process that includes consolidating remaining wastes in the minimum number of tanks necessary, and then cleaning the empty tanks and ancillary equipment and piping. After completing cleaning operations, a small amount of residual radioactive waste that cannot be removed will remain in the tanks and ancillary equipment and piping. DOE plans to stabilize the residuals by filling the TFF and TFF system with grout. The Secretary's Section 3116 Determination concludes that the TFF and TFF system residuals will meet the criteria in NDAA Section 3116. Therefore, and pursuant to Section 3116, that material is not HLW. The Basis Document sets forth the reasons supporting the Section 3116 Determination. DOE's Amended Record of Decision to close the TFF pursuant to the *Idaho High-Level Waste and Facilities Disposition Final Environmental Impact Statement* (DOE/EIS–0287, September 2002) is being provided separately and concurrently with this notice.

Issued in Washington, DC, on November 20, 2006.

Charles E. Anderson,

Principal Deputy Assistant Secretary for Environmental Management.

[FR Doc. E6–20107 Filed 11–27–06; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0745; FRL–8247–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Reformulated Gasoline Commingling Provisions (Renewal); EPA ICR No. 2228.02, OMB Control No. 2060–0587

AGENCY: Environmental Protection Agency.

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 to renew an existing approved 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 28, 2006.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2006–0745, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *a-and-r-Docket@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Air Docket, Environmental Protection Agency; 6102T, 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: Geanetta Heard, Office of Transportation and Air Quality, Transportation and Regional Programs (6406J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9017; fax number: (202) 343–2801; e-mail address: *heard.geanetta@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 September 28, 2006 (71 FR 56969), EPA sought comments on this proposed ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. 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–OAR–2006–0745, which is available for online viewing at *www.regulations.gov*, and for in-person viewing at the Air and Radiation Docket and Information Center 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 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744. The telephone number for the Air Docket is (202) 566–1742.

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 on 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, confidential business information (CBI), or other information for which public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Reformulated Gasoline Commingling Provisions (Renewal).

ICR numbers: EPA ICR No. 2228.02, OMB Control No. 2060–0587.

ICR Status: This ICR is scheduled to expire on November 30, 2006. Under

OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. 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 and 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: With this ICR, we are seeking permission to accept notifications from gasoline retailers and wholesale purchaser-consumers related to commingling of ethanol blended and non-ethanol-blended reformulated gasoline (RFG) under section 1513 of the Energy Policy Act of 2005 (EPAct) and 40 CFR 80.78(a)(8)(ii)(B); and to provide for a compliance option whereby a retailer or wholesale purchaser-consumer may demonstrate compliance via test results under 40 CFR 80.78(a)(8)(iii)(A). These provisions are designed to grant compliance flexibility. An emergency ICR has been put in place and expires on November 30, 2006. We are requesting that the OMB renew this ICR and request that it be effective for three years after approval.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.25 hours (15 minutes) 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: Entities potentially affected by this action are gasoline retailers, wholesale purchaser-consumers, gasoline stations with convenience stores and gasoline stations without convenience stores.

Estimated Number of Respondents: 56,700.

Frequency of Response: Occasional.

Estimated Total Annual Hour Burden: 27,675.

Estimated Total Annual Cost: $1,964,925, includes no capital or O&M costs.

Changes in the Estimates: There is no change in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens.

Dated: November 16, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–19878 Filed 11–27–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8248–6]

Request for Nominations to the National Advisory Council for Environmental Policy and Technology (NACEPT)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for nominations.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations to fill vacancies on the National Advisory Council for Environmental Policy and Technology (NACEPT). The Agency seeks qualified senior-level decision makers from diverse sectors throughout the United States to be considered for appointments. EPA encourages interested applicants to send their resumes and qualifications as soon as possible. Additional sources may be utilized in the solicitation of nominees.

ADDRESSES: Submit nominations to: Ms. Sonia Altieri, Designated Federal Officer, Office of Cooperative Environmental Management, U.S. Environmental Protection Agency (1601E), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

Background: NACEPT is a federal advisory committee chartered under the Federal Advisory Committee Act, Public Law 92463. The U.S. Environmental Protection Agency established NACEPT in 1988 to provide independent advice to the EPA Administrator on a broad range of environmental policy, technology and management issues. NACEPT consists of a representative cross-section of EPA's partners, stakeholders, and constituents who provide timely advice and recommendations on environmental policy issues. NACEPT also serves as a sounding board for new initiatives that EPA is developing. For FY 06 and FY 07, the Administrator has asked NACEPT to address issues relating to sustainable water infrastructure, environmental stewardship, cooperative conservation, and energy and the environment. Members are appointed by the Administrator of EPA for two year terms with the possibility of reappointment. The Council usually meets 3 times annually and the average workload for the members is approximately 10 to 15 hours per month. Members serve on the Council in a voluntary capacity. However, EPA provides reimbursement for travel expenses associated with official government business. Potential candidates should possess the following qualifications:

- Occupy a senior position within their organization.
- Have broad experience outside of their current position.
- Demonstrate experience dealing with public policy issues.
- Have membership in broad-based networks.
- Have extensive experience in the environmental field.
- Be knowledgeable in the subject matter(s) to be addressed by NACEPT.

EPA is seeking nominees for representation from all sectors, including academia, industry, non-governmental organizations, and state, local and tribal governments. EPA seeks nominations from a wide variety of interested parties that reflect the diversity of the American public. Nominations for membership must include a resume and short biography describing the educational and professional qualifications of the nominee and the nominee's current business address and daytime telephone number.

FOR FURTHER INFORMATION CONTACT: Sonia Altieri, Designated Federal Officer, *altieri.sonia@epa.gov*, (202) 233–0061, U.S. EPA, Office of Cooperative Environmental Management (1601E), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

Dated: November 15, 2006.

Sonia Altieri,

Designated Federal Officer.

[FR Doc. E6–20146 Filed 11–27–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8249–1]

National Advisory Council for Environmental Policy and Technology Environmental Technology Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92463, EPA gives notice of a meeting of the Environmental Technology Subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy, technology, and management issues. The Environmental Technology Subcommittee was formed to assist EPA in evaluating its current and potential role in the development and commercialization of environmental technologies by suggesting how to optimize existing EPA programs to facilitate the development of sustainable private sector technologies, and by suggesting alternative approaches to achieving these goals. The purpose of the meeting is to discuss the Subcommittee's draft report on these issues. A copy of the agenda for the meeting will be posted at *http://www.epa.gov/ocem/nacept/cal-nacept.htm*.

DATES: The NACEPT Environmental Technology Subcommittee will hold a two-day open meeting on Thursday, December 7, from 9 a.m. to 5:30 p.m. and Friday, December 8 from 8:30 a.m. to 2 p.m.

ADDRESSES: The meeting will be held at the Marriott Crystal City Hotel, 1999 Jefferson Davis Highway, Arlington, Virginia 22202. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mark Joyce, Designated Federal Officer, *joyce.mark@epa.gov*, 202–233–0068, U.S. EPA, Office of Cooperative Environmental Management (1601E), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make oral comments or provide written comments to the Subcommittee should be sent to Mark Joyce, Designated Federal Officer, at the contact information above. The public is welcome to attend all portions of the meeting.

Meeting Access: For information on access or services for individuals with disabilities, please contact Mark Joyce at 202–233–0068 or *joyce.mark@epa.gov*. To request accommodation of a disability, please contact Mark Joyce, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: November 15, 2006.

Mark Joyce,

Designated Federal Officer.

[FR Doc. E6–20144 Filed 11–27–06; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011870–003.

Title: Indian Subcontinent Discussion Agreement.

Parties: Evergreen Marine Corp. (Taiwan) Ltd., Hapag-Lloyd AG; CMA CGM S.A.; United Arab Shipping Company; Zim Integrated Shipping Services, Ltd,; Shipping Corporation of India; Emirates Shipping Line FZE; MacAndrews & Company Limited; and Nippon Yusen Kaisha.

Filing Party: David F. Smith, Esq.; Sher & Blackwell; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment adds United Arab Shipping Company as a party to the agreement.

Agreement No.: 011956–001.

Title: IDX Vessel Sharing Agreement.

Parties: Emirates Shipping Line FZE; Shipping Corporation of India, Ltd.; and Zim Integrated Shipping Services, Ltd.

Filing Party: Paul M. Keane, Esq.; 61 Broadway; Suite 3000; New York, NY 10006–2802.

Synopsis: The amendment deletes MacAndrews & Company, Ltd. as a party and makes conforming changes to the agreement.

Agreement No.: 011981.

Title: MacAndrews/Emirates Shipping Line IDX Space Charter Agreement.

Parties: Emirates Shipping Line FZE (''Emirates'') and MacAndrews & Company Ltd. (''MacAndrews'').

Filing Party: Paul M. Keane, Esq.; 61 Broadway; Suite 3000; New York, NY 10006–2802.

Synopsis: The agreement authorizes Emirates to charter space to MacAndrews between U.S. Atlantic Coast ports and ports in Italy, Spain, India, Pakistan, Bangladesh, and Sri Lanka.

By Order of the Federal Maritime Commission.

Dated: November 22, 2006.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E6–20135 Filed 11–27–06; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 12, 2006.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Brenda Morris Griner, Columbia, Mississippi; to acquire additional shares of First Federal Bancorp, and thereby indirectly acquire First Southern Bank, all of Columbia, Mississippi.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Garry D. Peterka, Miller, South Dakota, and Dan R. Peterka, Eden Prairie, Minnesota; individually and as part of a group acting in concert with Tom J. Peterka; Miller, South Dakota, Judy K. Dylla, Littleton, Colorado; Jerry A. Peterka, Miller, South Dakota; Kathy A. King, Apple Valley, Minnesota; Marianne D. Peterka, Miller, South Dakota; Gary P. King, Apple Valley,

Minnesota; HoniAnn Peterka, Miller, South Dakota; Bernie G. Dylla, Littleton, Colorado; Lori A. Peterka, Miller, South Dakota; Patricia A. Friend Peterka, Eden Prairie, Minnesota; Howard J. Peterka, Miller, South Dakota; Susan A. King Borchardt, Castlerock, Colorado; Stephen J. King, Apple Valley, Minnesota; Brian P. King, Apple Valley, Minnesota; Mark J. Dylla, Littleton, Colorado; Ann M. Dylla, Littleton, Colorado; Jeffery D. Peterka, Eden Prairie, Minnesota; John A. Peterka, Eden Prairie, Minnesota; Kathryn M. Peterka, Eden Prairie, Minnesota; Michael T. Peterka, Miller, South Dakota; David J. Peterka, Miller, South Dakota; Ryan A. Peterka, Miller, South Dakota; Jena N. Peterka, Miller, South Dakota; Adam J. Peterka, Miller, South Dakota; Jordan D. Peterka, Miller, South Dakota; Darin M. Peterkam Miller, South Dakota; and Kristen N. Peterka, Miller, South Dakota, to acquire 25 percent or more of the voting shares of M & H Financial Services, Inc., Miller, South Dakota, and thereby indirectly acquire control of First State Bank of Miller, Miller, South Dakota.

Board of Governors of the Federal Reserve System, November 22, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–20138 Filed 11–27–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 26, 2006.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. The First National Bank in Wadena Employee Stock Ownership Plan and Trust, and FNB Acquisition Holding Corporation, Wadena, Minnesota, both in Wadena, Minnesota; to become bank holding companies by acquiring 100 percent of the voting shares of The First National Agency of Wadena, Inc., Wadena, Minnesota, and thereby indirectly acquire The First National Bank in Wadena, Wadena, Minnesota.

In connection with these applications, Applicants have applied to acquire The First National Agency of Wadena, Inc., Wadena, Minnesota, and engage in insurance agency activities in a town with a population not exceeding 5,000, pursuant to section 228.28(b)(11)(iii)(A) of Regulation Y.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Community Bankshares, Inc., Greenwood Village, Colorado; to acquire 100 percent of the voting shares of Citizens Financial Corporation, and thereby indirectly acquire Citizens State Bank of Cortez, both in Cortez, Colorado.

Board of Governors of the Federal Reserve System, November 22, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–20139 Filed 11–27–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

[Docket No. OP–1257]

Consultation Paper on Intraday Liquidity Management and Payment System Risk Policy

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice; extension of comment period.

SUMMARY: On June 21, 2006, the Board of Governors of the Federal Reserve System (''Board'') published for public comment the Consultation paper on intraday liquidity management and payment system risk policy. The Board is extending the comment period for the consultation paper by 90 days.

DATES: Comments must be received on or before March 15, 2007.

ADDRESSES: You may submit comments, identified by Docket No. OP–1257, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include the docket number in the subject line of the message.
- *FAX:* 202/452–3819 or 202/452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Jeffrey Marquardt, Deputy Director (202–452–2360), Lisa Hoskins, Assistant Director (202–452–3437), or Susan Foley, Manager (202–452–3596), Division of Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System; for users of Telecommunications Device for the Deaf (''TDD'') only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION: On June 21, 2006, the Board published for public comment the Consultation paper on intraday liquidity management and payment system risk policy (71 FR 35679). The consultation paper sought information from financial institutions and other interested parties on their experience in managing intraday

liquidity, credit, and operational risks related to Fedwire funds transfers, especially late-day transfers. The paper also requested views on potential changes in market practices, operations, and the Board's Payments System Risk policy that could reduce one or more of these risks. The consultation paper stated that comments must be submitted on or before December 15, 2006.

The Board received a letter from an industry group, whose members include a number of large U.S. depository institutions and foreign banking organizations, requesting, on behalf of that group and its members, an extension of the comment period. Based on interactions the Board has had with this group, its members, and other interested parties, the Board believes that an extension would enable these organizations to investigate further the drivers of their liquidity management practices and late-day Fedwire funds transfers. The extension will also allow a range of organizations more time to provide a thorough response to the consultation paper. Consequently, the Board has decided to extend the comment period on the consultation paper by 90 days. The comment period will now end March 15, 2007.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, November 21, 2006.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E6–20048 Filed 11–27–06; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the tenth meeting of the American Health Information Community in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.) The American Health Information Community will advise the Secretary and recommend specific actions to achieve a common interoperability framework for health information technology (IT).

DATES: December 12, 2006, from 8:30 a.m. to 12 p.m.

ADDRESSES: Hubert H. Humphrey building (200 Independence Avenue, SW., Washington, DC 20201), Conference Room 800.

FOR FURTHER INFORMATION CONTACT: Visit *http://www.hhs.gov/healthit/ahic.html.*

SUPPLEMENTARY INFORMATION: The Community will discuss state-federal health information exchange technology and coordination, the development of proto-use cases, and an update on the Personalized Healthcare Workgroup.

A Web cast of the Community meeting will be available on the NIH Web site at: *http://www.videocast.nih.gov/.*

If you have special needs for the meeting, please contact (202) 690–7151.

Dated: November 16, 2006.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 06–9430 Filed 11–27–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Annual Maintenance-of-Effort (MOE) Report.

OMB No.: 0970–0248.

Description: The Administration for Children and Families (ACF) is requesting a three-year extension of the ACF–204 (Annual MOE Report). The report is used to collect descriptive program characteristics information on the programs operated by States and Territories in association with their Temporary Assistance for Needy Families (TANF) programs. All State and Territory expenditures claimed toward States' and Territories' MOE requirements must be appropriate, i.e., meet all applicable MOE requirements. The Annual MOE Report provides the ability to learn about and to monitor the nature of State and Territory expenditures used to meet State's and Territories' MOE requirements, and it is an important source of information about the different ways that States and Territories are using their resources to help families attain and maintain self-sufficiency. In addition, the report is used to obtain State and Territory program characteristics for ACF's annual report to Congress, and the report serves as a useful resource to use in Congressional hearings about how TANF programs are evolving, in assessing State and Territory MOE expenditures, and in assessing the need for legislative changes.

Respondents: The 50 States of the United States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–204	54	1	128	6,912

Estimated Total Annual Burden Hours: 6,912.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. E-mail address: *rsargis@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 21, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–9413 Filed 11–27–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0465]

Improving Patient Safety by Enhancing the Container Labeling for Parenteral Infusion Drug Products; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting on improving patient safety by enhancing the container labeling for parenteral infusion drug products. This will be a 1-day workshop involving FDA staff and representatives of the United States Pharmacopeia (USP) and the Institute for Safe Medication Practices (ISMP). The purpose of the meeting is to explore how labels on intravenous (IV) drug products could be designed to minimize medication errors. Design issues include placement, style and type of information, the need for standard expression of strength, quantity of information, and use of color on the label.

DATES: The public meeting will be held on January 11, 2007, from 8 a.m. to 4 p.m. Submit written or electronic requests to speak by December 28, 2006. Written or electronic comments to the docket will be accepted until April 12, 2007.

ADDRESSES: The public meeting will be held at the Lister Hill Center Auditorium (the center), National Institutes of Health (NIH) campus, 9000 Rockville Pike, bldg. 38A, Bethesda, MD 20815, 301–496–4441. The center can be reached by Metro using the Medical Center Station on the red line. Parking is limited at NIH, so Metro use is recommended. For directions and visitor information, see *http://www.nih.gov/about/visitor/index.htm*. (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**).

Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Submit written or electronic requests to speak at the meeting to the information contact. Transcripts of the hearing will be available for review at the Division of Dockets Management and on the Internet at *http://www.fda.gov/cder/meeting/parenteral_labeling.htm*.

FOR FURTHER INFORMATION CONTACT: Jean Chung, Center for Drug Evaluation and Research (HFD–400), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–2380, e-mail: *jean.chung@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Premixed large volume parenterals (LVPs) and small volume parenterals (SVPs) in ready to infuse final dosage forms are designed to deliver premixed drugs (e.g., antibiotics, electrolyte solutions, pain management infusions). Premixed LVPs and SVPs improve standardized drug delivery and can reduce the potential for medication errors by reducing the steps required in IV preparation and the additional quality control checks needed by the pharmacy prior to dispensing and administering the product. Premixed LVPs and SVPs: (1) Provide an end product that is labeled with the ingredients including a product identification code (e.g., bar code), (2) promote a sterile environment, and (3) maintain accurate concentration within a closed system. According to the USP, ''the designation large-volume intravenous solution applies to a single-dose injection that is intended for intravenous use and is packaged in containers labeled as containing more than 100 mL. The designation small-volume injection applies to an injection that is packaged in containers labeled as containing 100 mL or less.''

Although premixed LVPs and SVPs can reduce the potential for mixing errors, the labels and labeling of these products, as well as base solutions of LVPs and SVPs without drug, have been documented as contributing to medication errors in both acute care and ambulatory settings, as well as in home care settings. The types of errors reported involve the inability to distinguish different drug products, as well as different strengths of drug products, because the containers look similar and use similar colors for label text. In addition to these visual similarities, manufacturers may label the same drug product with varying units of measure (e.g., micrograms versus milligrams), which has also contributed to error. There is also a large amount of information that is placed on the container label that can not only crowd the label but can distract from the most important information, that is, the proprietary and established names and product strength.Thus, we would like to explore how current IV labels should be designed to minimize medication errors.

II. Scope of the Public Meeting

The public meeting is intended to explore how IV labels could be designed to minimize medication errors. Design issues include placement, style and type of information, the need for standard expression of strength, quantity of information, and use of color on the label.

This 1-day workshop will assemble drug safety experts, patient advocates, government experts, and pharmaceutical and device manufacturers to discuss outstanding regulatory, technological, and resource issues. Other interested constituencies (e.g., patient advocacy and education groups, pharmaceutical sponsors, general public) will have an opportunity to provide input during the question and comment periods. FDA is interested in obtaining public comment and encourages all interested parties to submit requests to speak at the meeting or to submit written or electronic comments to the docket. (See sections III. and IV. of this document.)

The meeting will include an overview of FDA and USP requirements, presentations from the clinical perspective (nurse and pharmacist) and industry perspective, and a series of panel discussions. The following topics will be discussed: Look-alike containers, confusing labels on sterile water containers, container label requirements, and the lack of standardized expression of medication concentration on labels. Questions that will be considered during this public meeting include, but are not limited to, the following:

1. What are the best solutions to differentiate look-alike container labels

of premixed LVPs and SVPs containing different medications (among different product lines from the same manufacturer and across different manufacturer product lines)?

2. Would the use of color differentiation on labels prevent medication errors? Can different colors be used on intravenous bags? If not, what are the barriers and possible ways to address them?

3. What information currently required to appear on intravenous container labels can be eliminated or placed elsewhere in order to make room for more important information such as barcodes, larger font size for drug names, new standard ways to express drug concentration, and product warnings? How can industry make the best use of the limited space on labels? What type of standards for layout and type size would need to be applied to correct for the confusion among the products?

4. How does the lack of standardization in the expression of medication concentrations on labels contribute to error? How can we standardize the expression of drug concentrations on IV drug container labels?

5. How do the similar labels for Sterile Water for Injection, Sterile Water for Irrigation, and Sterile Water for Inhalation lead to medication errors (i.e., deaths in some instances have been reported)? How can the label for sterile water be improved to minimize the risk of confusing the different routes of administration?

6. What strategies are there to prevent inadvertent administration of solutions not intended for parenteral IV use?

7. What are the regulatory, technological, and resource (cost) barriers that would need to be eliminated to correct the challenges identified today, if any? What are the practical resolutions to address these challenges?

III. Registration, Requests to Speak, Agenda, and Presentations

No registration is required to attend the meeting. Seating will be on a first-come, first-served basis. If you need special accommodations due to a disability, please inform the contact person (see **FOR FURTHER INFORMATION CONTACT**).

Interested persons may request to speak at the meeting (see **FOR FURTHER INFORMATION CONTACT**). Statements from the public will be scheduled between 2:45 p.m. and 3:45 p.m., and the time allotted for each speaker will be limited. Requests to speak at the meeting should include: (1) The specific topic or issue to be addressed, (2) a brief summary of remarks, and (3) the participant's name, address, telephone number, and e-mail.

The agenda for the public meeting will be available on FDA's Center for Drug Evaluation and Research (CDER) Web site at: *http://www.fda.gov/cder/meeting/parenteral_labeling.htm*. After the meeting, the agenda, presentations, and transcript will be placed on file in the Division of Dockets Management under the docket number found in the heading of this document and on CDER's Web site identified in the previous sentence.

IV. Request for Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the topics discussed in this document (see **DATES**). Submit 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. Transcripts

Copies of the transcript may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 6–30, Rockville, MD 20857, approximately 20 working days after the meeting at a cost of 10 cents per page or on compact disc at a cost of $14.25 each. You may also examine the transcript at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 20, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–20035 Filed 11–27–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0336]

Draft Guidance for Industry and Food and Drug Administration Staff; Commercially Distributed Analyte Specific Reagents (ASRs): Frequently Asked Questions; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period on the draft guidance entitled ''Commercially Distributed Analyte Specific Reagents (ASRs): Frequently Asked Questions.'' FDA announced the availability of this draft guidance in the **Federal Register** of September 7, 2006 (71 FR 52799). The initial comment period closes on December 6, 2006. To provide interested persons additional time to review and submit comments on the draft guidance, FDA has decided to extend the comment period.

DATES: Submit written or electronic comments on this draft guidance by March 5, 2007. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Commercially Distributed Analyte Specific Reagents (ASRs): Frequently Asked Questions'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 240–276–3151. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Courtney Harper, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 240–276–0490, ext. 162.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is extending the comment period on the draft guidance ''Commercially Distributed Analyte Specific Reagents (ASRs): Frequently Asked Questions.'' This draft guidance is intended to help eliminate confusion regarding particular marketing practices among ASR manufacturers. With the draft guidance document, FDA seeks to advise ASR

manufacturers that it views certain practices as being inconsistent with the marketing of an ASR, as defined in Sec. 864.4020. As the draft guidance document explains, when an ASR is marketed in certain ways, FDA views the product as no longer being an ASR within the meaning of Sec. 860.4020.

FDA issued this draft guidance on September 7, 2006. The initial comment period on the draft guidance closes on December 6, 2006, but at the request of in vitro diagnostic device stakeholders, FDA has decided to extend the comment period for an additional 90 days, until March 5, 2007.

II. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. To receive ''Commercially Distributed Analyte Specific Reagents (ASRs): Frequently Asked Questions,'' you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document, or send a fax request to 240–276–3151 to receive a hard copy. Please use the document number 1590 to identify the guidance you are requesting.

CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets*.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding this 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.

Dated: November 20, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–20030 Filed 11–27–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005D–0310]

Guidance for Industry: Gene Therapy Clinical Trials—Observing Subjects for Delayed Adverse Events; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled ''Guidance for Industry: Gene Therapy Clinical Trials—Observing Subjects for Delayed Adverse Events,'' dated November 2006. The guidance document provides sponsors of gene therapy studies with recommendations regarding collection of data on delayed adverse events in subjects who have been exposed to investigational gene therapy products. The guidance announced in this notice finalizes the draft guidance entitled ''Guidance for Industry: Gene Therapy Clinical Trials—Observing Participants for Delayed Adverse Events,'' dated August 2005, and supplements the recommendations for study subject long-term follow-up in the ''Guidance for Industry: Supplemental Guidance on Testing for Replication Competent Retrovirus in Retroviral Vector Based Gene Therapy Products and During Follow-up of Patients in Clinical Trials Using Retroviral Vectors'' (Retroviral Vector guidance), dated November 2006.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Brenda R. Friend, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: Gene Therapy Clinical Trials—Observing Subjects for Delayed Adverse Events,'' dated November 2006. This guidance provides to sponsors of gene therapy studies recommendations on the following: (1) Methods to assess the risk of gene-therapy-related delayed adverse events following exposure to investigational gene therapy products, (2) guidance for determining the likelihood that long-term follow-up observations on study subjects will provide scientifically meaningful information, and (3) specific advice regarding the duration and design of long-term follow-up observations.

In the **Federal Register** of August 23, 2005 (70 FR 49296), FDA announced the availability of the draft guidance entitled ''Guidance for Industry: Gene Therapy Clinical Trials—Observing Participants for Delayed Adverse Events,'' dated August 2005. FDA received numerous comments on the draft guidance and those comments were considered as the guidance was finalized. A summary of changes includes the following: (1) Clarification on topics not included in the guidance; (2) revised recommendations for preclinical study design to assess vector biodistribution and persistence; and (3) revised recommendations for data collection and data reporting in trials involving integrated vectors (e.g., retroviral vectors). The guidance announced in this notice finalizes the draft guidance entitled ''Guidance for Industry: Gene Therapy Clinical Trials—Observing Participants for Delayed Adverse Events,'' dated August 2005. This guidance also supplements the recommendations in the Retroviral Vector guidance, dated November 2006, for study subject long-term follow-up.

The guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115).

The guidance represents FDA's current thinking on this 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 alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This 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 the Investigational New Drug Application (IND) regulations (21 CFR part 312) have been approved under OMB control number 0910–0014; the Good Laboratory Practice regulations (21 CFR part 58) have been approved under OMB control number 0910–0119.

III. Comments

Interested persons maysubmit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the guidance. 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. A copy of the guidance 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 guidance at either *http://www.fda.gov/cber/guidelines.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: November 20, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–20129 Filed 11–27–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006D–0347]

Draft Guidance for Industry, Clinical Laboratories, and Food and Drug Administration Staff on In Vitro Diagnostic Multivariate Index Assays; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period on the ''Draft Guidance for Industry, Clinical Laboratories, and FDA Staff on In Vitro Diagnostic Multivariate Index Assays.'' The agency announced the availability of this draft guidance in the **Federal Register** of September 7, 2006 (71 FR 52800). The initial comment period closes on December 6, 2006. To provide interested persons additional time to review and submit comments on the draft guidance, the agency has decided to extend the comment period.

DATES: Submit written or electronic comments on this draft guidance by March 5, 2007. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Draft Guidance for Industry, Clinical Laboratories, and FDA Staff on In Vitro Diagnostic Multivariate Index Assays'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 240–276–3151. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Courtney Harper, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 240–276–0490, ext. 162.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is extending the comment period on the ''Draft Guidance for Industry, Clinical Laboratories, and FDA Staff on In Vitro Diagnostic Multivariate Index Assays.'' This draft guidance is intended to provide clarification on FDA's approach to regulation of in vitro diagnostic multivariate index assays.

The agency issued this draft guidance on September 7, 2006. The initial comment period on the draft guidance closes on December 6, 2006, but at the request of in vitro diagnostic device stakeholders, the agency has decided to extend the comment period for an additional 90 days, until March 5, 2007.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding this document. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Submit two paper copies of any mailed comments, except that individuals may submit one 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.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. To receive ''Draft Guidance for Industry, Clinical Laboratories, and FDA Staff on In Vitro Diagnostic Multivariate Index Assays,'' you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 240–276–3151 to receive a hard copy. Please use the document number 1610 to identify the guidance you are requesting.

CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information.

The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available on the Division of Dockets Management Internet site at *http://www.fda.gov/ohrms/dockets*.

Dated: November 20, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–20032 Filed 11–27–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006N–0468]

Training Program for Regulatory Project Managers; Information Available to Industry

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) Center for Drug Evaluation and Research (CDER) is announcing the continuation of the Regulatory Project Management Site Tours and Regulatory Interaction Program (the Site Tours Program). The purpose of this notice is to invite pharmaceutical companies interested in participating in this program to contact CDER.

DATES: Pharmaceutical companies may submit proposed agendas to the agency by January 29, 2007.

ADDRESSES: Submit written proposed agendas regarding the Site Tours Program to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, or to Beth Duvall-Miller (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Beth Duvall-Miller, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 6466, Silver Spring, MD 20993–0002, 301–796–0700.

SUPPLEMENTARY INFORMATION:

I. Background

An important part of CDER's commitment to make safe and effective drugs available to all Americans is optimizing the efficiency and quality of the drug review process. To support this primary goal, CDER has initiated various training and development programs to promote high performance in its regulatory project management staff. CDER seeks to enhance significantly review efficiency and review quality by providing the staff with a better understanding of the pharmaceutical industry and its operations. To this end, CDER is continuing its training program to give regulatory project managers the opportunity to tour pharmaceutical facilities. The goals are to provide the following: (1) Firsthand exposure to industry's drug development processes and (2) a venue for sharing information about project management procedures (but not drug-specific information) with industry representatives.

II. The Site Tours Program

In this program, over a 2- to 3-day period, small groups (five or less) of regulatory project managers, including a senior level regulatory project manager, can observe operations of pharmaceutical manufacturing and/or packaging facilities, pathology/toxicology laboratories, and regulatory affairs operations. Neither this tour nor any part of the program is intended as a mechanism to inspect, assess, judge, or perform a regulatory function, but is meant rather to improve mutual understanding and to provide an avenue for open dialogue. During the Site Tours Program, regulatory project managers will also participate in daily workshops with their industry counterparts, focusing on selective regulatory issues important to both CDER staff and industry. The primary objective of the daily workshops is to learn about the team approach to drug development, including drug discovery, preclinical evaluation, tracking mechanisms, and regulatory submission operations. The overall benefit to regulatory project managers will be exposure to project management, team techniques, and processes employed by the pharmaceutical industry. By participating in this program, the regulatory project manager will grow professionally by gaining a better understanding of industry processes and procedures.

III. Site Selection

All travel expenses associated with the site tours will be the responsibility of CDER; therefore, selection will be based on the availability of funds and resources for each fiscal year. Firms interested in offering a site tour or learning more about this training opportunity should respond by (see **DATES**) by submitting a proposed agenda to the Division of Dockets Management or to Beth Duvall-Miller (see **ADDRESSES**).

Dated: November 20, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E6–20041 Filed 11–27–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Infant Mortality; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Infant Mortality (ACIM).

Dates and Times: November 29, 2006, 9 a.m.–5 p.m.; November 30, 2006, 8:30 a.m.–3 p.m.

Place: Washington Marriott Hotel, 1221 22nd Street, NW., Washington, DC 20037, (202)–872–1500.

Status: The meeting is open to the public with attendance limited to space availability.

Purpose: The Committee provides advice and recommendations to the Secretary of Health and Human Services on the following issues: Department of Health and Human Services' programs that focus on reducing infant mortality and improving the health status of pregnant women and infants, factors affecting the continuum of care with respect to maternal and child health care, and outcomes following childbirth. It also includes strategies to coordinate the variety of Federal, State, local and private programs and efforts that are designed to deal with the health and social problems impacting infant mortality, and the implementation of the Healthy Start program and *Healthy People 2010* infant mortality objectives.

Agenda: The committee plans to discuss the following topics: The Healthy Start Program and its National Evaluation, Breastfeeding Rates, Maternal and Child Health Bureau's Depression Activities, and Centers for Medicare & Medicaid Services Program update. The meeting allots substantial time for subcommittee and full committee discussions to formulate the ACIM issues agenda. The items on the agenda items are subject to change as the Committee continues to discuss priorities.

The Committee provides a 5-minute time limit for each public comment. Submit comments no later than November 17, 2006.

For Further Information Contact: Anyone requiring information regarding the Committee can contact Peter C. van Dyck, M.D., M.P.H., Executive Secretary, ACIM, Health Resources and Services Administration (HRSA), Room 18–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–2170.

Individuals who submit public comments or who have questions regarding the meeting and location can contact David S. de la Cruz, Ph.D., M.P.H., HRSA, Maternal and Child Health Bureau, telephone: (301) 443–6332, e-mail: *David.delaCruz@hrsa.hhs.gov*.

Dated: November 17, 2006.

Cheryl R. Dammons,

Director, Division of Policy Review and Coordination.

[FR Doc. E6–20120 Filed 11–27–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request.

ACTION: 30-day notice of information collection under review: Notice of Naturalization Oath Ceremony; Form N–445, OMB Control No. 1615–0054.

The Department of Homeland Security, U.S. Citizenship and Immigration Service (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on September 12, 2006 at 71 FR 53703, allowing for a 60-day public comment period. No public comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 28, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Director, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via email at *kastrich@omb.eop.gov.*

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0054 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate 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;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Notice of Naturalization Oath Ceremony.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–445. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or households. The information furnished on this form refers to events that may have occurred since the applicant's initial interview and prior to the administration of the oath of allegiance. Several months may elapse between these dates and the information that is provided assists the officer in rendering an appropriate decision on the application.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 650,000 responses at 5 minutes (.083) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 53,950 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC, 20529.

Dated: November 21, 2006.

Stephen Tarragon,

Deputy Director, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. E6–20047 Filed 11–27–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities; Revision of a Currently Approved Information Collection; Comment Request.

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: 30-Day Notice of information collection under review: Petition for Alien Fiance(e); Form I–129F. OMB Control No. 1615–0001.

The Department of Homeland Security, U.S. Citizenship and Immigration Service (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on May 26, 2006 at 71 FR 30434, allowing for a 60-day public comment period. USCIS received several comments from the public on this information collection. These comments are addressed in the supporting statement that USCIS will submit to OMB.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until December 28, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Director, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, Suite 3008, Washington, DC 20529. Comments may

also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov*.

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0001 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection*: Revision of a currently approved information collection.

(2) *Title of the Form/Collection*: Petition for Alien Fiance(e).

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection*: Form I–129F. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Individuals or Households.* This information is collected by USCIS to determine whether satisfactory evidence has been submitted by a U.S. citizen to establish that the parties are married, in the case of a citizen seeking to obtain a nonimmigrant visa for his or her spouse.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: 200,000 responses at 1 hour and 30 minutes (1.50) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection*: 300,000 hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529.

Dated: November 22, 2006.

Richard A. Sloan,

Director, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. E6–20151 Filed 11–27–06; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5041–N–48]

Notice of Proposed Information Collection: Comment Request; Application for Mortgage Insurance for Cooperative and Condominium Housing

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 29, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Dietzer, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Room 4178, Washington, DC 20410 or *Lillian_Deitzer@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Joseph Malloy, Deputy Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–1142 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Application for Mortgage Insurance for Cooperative and Condominium Housing.

OMB Control Number, if applicable: 2502–0141.

Description of the need for the information and proposed use: HUD uses the information collected to analyze specific project information including financial data, cost data, drawings, and specifications to determine whether a cooperative or condominium project is eligible for FHA mortgage insurance. HUD technical specialists in appraisal, cost, architecture, and mortgage credit determine if the project is eligible for mortgage insurance and analyze information provided. If the information were not collected and analyzed, the Department would have to rely solely on a sponsor's undocumented request, and the Department could expect to sustain substantial losses to the FHA Insurance Fund.

Agency form numbers, if applicable: HUD–93201.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of hours needed to prepare the information collection is 90 hours; the number of respondents is 15; the frequency of response is on occasion; and the number of hours per response is 4 hours for reporting and 2 hours for recordkeeping.

Status of the proposed information collection: This is a reinstatement of collection 2502–0141.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: November 20, 2006.

Frank L. Davis,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. E6–20040 Filed 11–27–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Performance Review Board Appointments

AGENCY: Department of the Interior.

ACTION: Notice of Performance Review Board Appointments.

SUMMARY: This notice provides the name of individuals who have been appointed to serve as members of the Department of the Interior Performance Review Board.

DATES: These appointments are effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Marilia Matos, Director, Office of Human Resources, Office of the Secretary, Department of the Interior, 1849 C Street, NW., Washington, DC 20240, Telephone Number: (202) 208–6761.

Dated: October 30, 2006.

Marilia Matos,

Director, Office of Human Resources.

2006 Performance Review Board

The following individuals have been appointed to serve on the Department of the Interior 2006 Performance Review Board:

Ethel Abeita	Director, Office of Trust Records.
David Achterberg	Director, Safety, Security and Law Enforcement.
Kevin Adams	Assistant Director, Law Enforcement.
Martha Aikens	Program Manager.
David Allen	Regional Director, Portland.
William Alley	Senior Science Advisor.
Joseph Alston	Park Manager.
David Applegate	Senior Science Advisor for Earthquakes and Geologic Hazards.
Carl Artman	Associate Solicitor.
Maryanne Bach	Director, Research & Development.
Charles Bacon	Research Geologist.
Anne Badgley	Executive Director—Regional Ecosystems Office.
Karen Baker	Associate Director for Administrative Policy & Services.
Mark Bathrick	Associate Director, Aviation Management.
Theresa Bayani	Program Director for Compliance and Asset Management.
Keith Beartusk	Regional Director.
Mark Beighley	Director, Office of Wildland Fire Coordination.
Richard Beck	Director, Office of Planning and Performance Management.
William Benjamin	Regional Director—Great Plains.
Julio Betancourt	Research Hydrologist.
Henri Bisson	Deputy Director.
John Bennett	Director Trust Program Management Center.
Robert A. Bennett	State Director.
Edith Blackwell	Deputy Associate Solicitor—Indian Affairs.
Stephen Blanchard	Senior Science Advisor for Surface Water.
L. Michael Bogert	Counselor to the Secretary.
David Boore	Research Geophysicist.
Douglas Bourgeois	Director, National Business Center.
Charles Breece	Principal Deputy Director, Office of Hearings & Appeals.
Robert Brown	Associate Director for Administration and Budget.
John Buffington	Regional Director, Western Region.
Melvin Burch	Regional Fiduciary Trust Administrator.
Brenda Burman	Deputy Commissioner.
Kenneth Burnham	Statistician.
Carla Burzyk	Chief, Office of Budget and Performance.
James Byrnes	Attorney-Advisor.
Chad Calvert	Deputy Assistant Secretary—Land and Minerals Management.
Richard Cardinale	Senior Advisor to the Assistant Secretary.
William Carswell	Regional Hydrologist.
Thomas Casadevall	Regional Director, Central Region.
Niles Cesar	Regional Director.
Dolores Chacon-Alleva	President, DOI University.
Ralph Cheng	Research Hydrologist.
Bernard Chouet	Research Geophysicist.
Debbie Clark	Deputy Assistant Secretary—Management.
Horace Clark	Regional Solicitor.
Colleen Coggins	Interior Enterprise Architect.
David Cohen	Deputy Assistant Secretary for Insular Affairs.
Robert Comer	Regional Solicitor.
Anthony Conte	Regional Solicitor.
Elizabeth Cordova-Harrison	Director, Management Services Office.
Robert Craff	Regional Fiduciary Trust Administrator.
Walter Cruickshank	Deputy Director.
Elena Daly	Assistant Director, National Landscape Conservation Systems.
Elmer Danenberger	Chief, Offshore Engineering and Operations Division.
James Davis	Research Hydrologist.
Daniel Deerinwater	Regional Director.
Ivan DeLoatch	Federal Geographic Data Committee Staff Director.

Frank DeLuise	Director, Natural Resources Damage Assessment and Restoration Program.
Lucy Querques-Denett	Associate Director for Minerals Revenue Management.
James Devine	Senior Advisor for Science Application.
Clare Doherty	Deputy Director, Budget.
Douglas Domenech	Deputy Chief of Staff.
Robert Doyle	Deputy Director.
Matthew C. Eames	Director, Congressional and Legislative Affairs.
Sharon Eller	Director, Office of Civil Rights.
Donna Erwin	Principal Deputy Special Trustee.
Max Ethridge	Regional Geographer.
Michael Ferguson	Assistant Director, Business and Fiscal Resources.
Olivia Ferriter	Director, Conservation, Partnership and Management Policy.
Lawrence Finfer	Deputy Director, Office of Policy Analysis.
Daniel Fletcher	Director, Office of Financial Management and Deputy Chief Financial Officer.
Vicki Forrest	Regional Fiduciary Trust Administrator.
Arthur Frankel	Research Geophysicist.
Art Gary	Associate Solicitor—General Law.
Jerold Gidner	Deputy Bureau Director, Tribal Services.
Rick Gold	Regional Director.
Martin Goldhaber	Research Chemist.
John Goll	Regional Director, Alaska OCS Region.
Maria E. Gonzales	Senior Advisor for Collaborative Action and Dispute Resolution.
Roseanne Gonzales-Schreiner	Director, Program and Policy Services.
Rowan Gould	Regional Director—Anchorage.
Clayton Gregory	Regional Director.
Stephen Guptill	Research Physical Scientist.
Samuel Hamilton	Regional Director—Atlanta.
Jeanette Hanna	Regional Director.
Susan Haseltine	Associate Director for Biology.
Abraham Haspel	Assistant Deputy Secretary.
Bruce R. Harris	Deputy Chief Administrative Judge, IBLA.
James Harris	Associate Solicitor—Minerals Resources.
William Hartwig	Chief, National Wildlife Refuge System.
Nina Hatfield	Deputy Assistant Secretary, Business Management and Wildland Fire.
Pamela Haze	Co-Director, Office of Budget.
Lisa Hemmer	Administrative Judge, IBLA.
Paul Henne	Assistant Director, Budget Management and Operations.
Edward Hildreth	Research Geologist.
Catherine Hill	Regional Hydrologist.
David Hill	Research Geophysicist.
Robert Hirsch	Associate Director for Water.
Paul Hoffman	Deputy Assistant Secretary for Performance, Accountability and Human Resources.
Amy Holley	Senior Advisor to the Assistant Secretary.
Wandafa Hollingsworth	Chief, Division of Budget and Program Review.
Brian Holly	Chief Appraiser.
H. Barry Holt	Chief Administrative Judge.
Patricia Hooks	Regional Director, Southeast Region.
David Hughes	Administrative Judge, IBLA.
James Hughes	Deputy Director, Programs and Policy.
Fay Iudicello	Director, Office of Executive Secretariat and Regulatory Affairs.
Richard Iverson	Research Hydrologist.
James Jackson	Administrative Judge.
Julia Jacobsen	Deputy Assistant Secretary—Land and Minerals Management.
Jim James	Regional Fiduciary Trust Administrator.
Christopher Jarvi	Associate Director, Partnerships Interpretation & Education, Volunteers & Outdoor Recreation.
Jonathan Jarvis	Regional Director, Pacific West Region.
Lawrence Jensen	Regional Solicitor.
Bruce A. Johnson	Attorney-Examiner.
Douglas Johnson	Research Statistician.
Lynn Johnson	Regional Solicitor.
Robert Johnson	Regional Director.
Blair Jones	Research Hydrologist.
Kenneth Jones	Chief Scientist for Geography.
Marshall Jones	Deputy Director.
Daniel Jorjani	Counselor to the Deputy Secretary.
Christina Kalavritinos	Administrative Judge, IBLA.
Donna Kalvels	Director, Center for Competitive Sourcing.
Edward Keable	Associate Solicitor, Administration.
Christopher Kearney	Deputy Assistant Secretary for Policy and International Affairs.
M. Franklin Keel	Regional Director.
John Kelmelis	Senior Science Advisor.
Suzette Kimball	Regional Director, Eastern Region.

Jerry Mitch King	Regional Director—Denver.
Stephen Kirby	Research Geophysicist.
Allen Klein	Regional Director.
Leonard Konikow	Research Hydrologist.
Ernestine Kreisher	Director, Office of Communications.
Michael Kruse	Chief Justice.
Robert LaBelle	Deputy Associate Director.
Matthew Larsen	Chief Scientist for Hydrology.
Joseph Lawler	Regional Director, National Capital Region.
Phillip Leahy	Associate Director for Geology.
David Lehman	Senior Advisor to the Secretary.
John Lemon	Director, National Conservation Training Center.
Ronnie Levine	Assistant Director, Information Resources Management.
Suzanne Lewis	Superintendent.
Steven Linscheid	Chief Administrative Judge.
Melinda Loftin	Designated Agency Ethics Official.
Renne Lohoefener	Assistant Director—Endangered Species.
Thomas Lonnie	Assistant Director, Minerals, Realty and Resource Protection.
Douglas Lords	Deputy Special Trustee—Field Operations.
D. Jeffrey Lords	Director, Trust Review and Audit.
Thomas Loveland	Research Physical Scientist.
Samuel Luoma	Research Hydrologist.
Jane Lyder	Legislative Counsel.
Kathryn Lynn	Administrative Judge.
Julie MacDonald	Deputy Assistant Secretary—Fish and Wildlife and Parks.
Pamela Malam	Associate Director for Human Capital.
Stephen Martin	Deputy Director, Internal Management.
Sue Masica	Associate Director, Park Planning, Facilities and Lands.
Marilia Matos	Director, Office of Human Resources.
R. Bryan McDaniel	Administrative Judge, IBLA.
John McDonald	Regional Director.
Robert McKenna	Chief Information Officer.
Edward Meagher	Deputy Chief Information Officer.
David Mech	Research Wildlife Biologist.
Thomas Melius	Assistant Director—External Affairs.
Robert Middleton	Director, Indian Energy Resource Development.
Alan Mikuni	Regional Geographer.
Mary Jane Miller	Budget Officer.
Timothy Miller	Senior Science Advisor—Water Quality.
Paul Milly	Research Hydrologist.
Robert More	Director, Office of Hearings and Appeals.
Ralph Morgenweck	Fish and Wildlife Advisor.
Marvin Moriarty	Regional Director.
Lawrence Morrin	Regional Director.
Michael Nedd	State Director.
James Nichols	Research Wildlife Biologist.
Darrell Nordstrom	Research Hydrologist.
William Normark	Research Geologist.
Michael Olsen	Counselor to the Assistant Secretary.
Brian O'Neill	Park Manager.
Kameran Onley	Assistant Deputy Secretary.
Frederick Ore	Deputy Director, Operations.
Ronald Oremland	Research Hydrologist.
Glenda Owens	Deputy Director.
Emma Pawlicki	Associate Solicitor.
Larry Parkinson	Deputy Assistant Secretary, Law Enforcement and Security.
Mamie Parker	Assistant Director, Fisheries Habitat Conservation.
Edward Parisian	Deputy Director, OIEP.
Drue Pearce	Senior Advisor to the Secretary.
Jason Peltier	Deputy Assistant Secretary—Water and Science.
Zell Peterman	Research Geologist.
Lynn Peterson	Regional Solicitor.
Tim Petty	Deputy Assistant Secretary—Water and Science.
Neil Plummer	Research Hydrologist.
Stanley Ponce	Senior Liaison for Interagency Programs.
Michael Pool	State Director.
Britt Price	Administrative Judge, IBLA.
Robert Quinn	Director, Washington Operations.
Ernest Quintana	Regional Director, Midwest Region.
William Ragsdale	Director, Bureau of Indian Affairs.
Thomas Rever	Director, Facilities, Environmental, Safety and Cultural Resources Management.
Thomas Reynolds	Regional Fiduciary Trust Administrator.
Sterling Rideout	Assistant Director—Program Support.
James Roberts	Administrative Judge, IBLA.
Kirk Rodgers	Regional Director.

Michael Roluti	Senior Advisor, Power Liaison.
Hedy Rossmeissl	Senior Advisor, Info Policy and Services.
Barry Roth	Deputy Associate Solicitor.
Lawrence Ruffin	Chief Information Security Officer.
Catherine Rugen	Regional Fiduciary Trust Administrator.
Linda S. C. Rundell	State Director.
David Russ	Regional Geologist.
Barbara Ryan	Associate Director for Geography.
Michael Ryan	Regional Director, Great Plains.
Robert Rye	Research Geologist.
Carol Sampson	Associate Director for Financial Policy and Operations.
Charles Sandberg	Regional Director.
Daud Santosa	Chief Technical Officer.
Christine Schabacker	Director, Office of Policy Analysis.
Carl Schreck	Research Fishery Biologist.
Paul Schmidt	Assistant Director, Migratory Birds and State Program.
James Scott	Research Wildlife Biologist.
Mary G. Scott	Park Manager (Superintendent).
William Sexton	Regional Hydrologist.
William Shapiro	Research Hydrologist.
David Shearer	Project Director—FBMS.
Denise Sheehan	Assistant Director, Budget, Planning and Human Resources.
Edward Shepard	State Director, Oregon.
Daniel Shillito	Regional Solicitor.
Karen Siderelis	Associate Director for Geographic Information.
Selma Sierra	State Director.
Shayla Simmons	Senior Counsel for CADR.
Jerry Simpson	Assistant Director, Human Capital.
Gary Smith	Director, External and Intergovernmental Affairs.
Gregory Smith	Program Director for RIK.
Michael Smith	Deputy Director, Field Operations.
Paul Smyth	Deputy Associate Solicitor, Land & Water.
Michael Snyder	Regional Director.
Debra Sonderman	Director, Acquisition and Property Management.
Laurence Soderblom	Research Geophysicist.
Michael Soukup	Associate Director, Natural Resources.
Stanley Speaks	Regional Director.
Kenneth Stansell	Assistant Director, International Affairs.
Ross Stein	Research Geophysicist.
Katherine Stevenson	Heritage Education Advisor.
E. Melodee Stith	Associate Director, Acquisition and Financial Asst.
James Tate	Science Advisor to the Secretary.
Willie Taylor	Director, Office of Environmental Policy and Compliance.
Karen Taylor-Goodrich	Associate Director, Visitors & Resource Protection.
Wayne Thatcher	Research Geophysicist.
Kim Thorsen	Director, Office of Law Enforcement and Security.
Robyn Thorson	Regional Director.
Whitney H. Tipton	Chief Information Officer & Director, Office of IRM.
Larry Todd	Deputy Commissioner, Policy, Administration & Budget.
Michael Tollefson	Superintendent.
John Trezise	Co-Director, Office of Budget.
George Triebsch	Associate Director for Policy.
Deborah Tschudy	Deputy Associate Director for Minerals Revenue Management.
Randall Updike	Regional Geologist.
Janine Velasco	Assistant Director, Human Capital.
David Verhey	Deputy Assistant Secretary—Fish and Wildlife and Parks.
Terrance Virden	Regional Director—Midwest.
Brent Wahlquist	Regional Director.
Barbara Wainman	Director, Office of Communication and Outreach.
A. Wesley Ward	Regional Geologist.
Jess Weaver	Regional Hydrologist.
Sandra Weisman	Chief Financial Advisor.
Ronald Wenker	State Director.
Kathleen Wheeler	Deputy Chief Human Capital Officer.
Arthur White	Research Physical Scientist.
Byron Williams	Senior Science Advisor—Coop Research.
Margaret Williams	Deputy Special Trustee—Trust Accountability.
Richard Williams	Research Geologist.
Thomas Winter	Research Hydrologist.
Sarah Wisely	State Director.
Robert Wolf	Director, Program and Budget.
William Woody	Director, Law Enforcement, Security and Protection.
Theodore Woronka	Assistant Director for Finance and Administration.
Elaine Zielinski	State Director.

[FR Doc. E6–20117 Filed 11–27–06; 8:45 am]
BILLING CODE 4310–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare an Environmental Impact Statement/ Environmental Impact Report for the Habitat Conservation Plan for the Occidental of Elk Hills, Inc., Elk Hills Oil and Gas Field, Kern County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), we, the Fish and Wildlife Service (Service), are issuing this notice to advise the public that we intend to gather information necessary to prepare, in coordination with the California Department of Fish and Game (DFG) and Occidental of Elk Hills, Inc. (OEHI), a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) on the Habitat Conservation Plan for the Elk Hills Oil and Gas field (Plan).

OEHI intends to apply for a 50-year Endangered Species Act (ESA) Section 10 incidental take permit from the Service. The permit is needed to authorize the incidental take of threatened and endangered species that could occur as a result of future operations of the Elk Hills Oil and Gas Field.

The Service provides this notice to (1) describe the proposed action and possible alternatives; (2) advise other Federal and State agencies, affected Tribes, and the public of our intent to prepare an EIS/EIR; (3) announce the initiation of a public scoping period; and (4) obtain suggestions and information on the scope of issues to be included in the EIS/EIR.

DATES: Written comments should be received on or before December 28, 2006.

ADDRESSES: Written comments should be submitted to Lori Rinek, Chief, Conservation Planning and Recovery Division, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825. Comments may also be sent by facsimile to 916–414–6713.

FOR FURTHER INFORMATION CONTACT: Joseph Terry, Fish and Wildlife Biologist, or Lori Rinek, Chief, Conservation Planning and Recovery Division, Sacramento Fish and Wildlife Office, at 916–414–6600 [see **ADDRESSES**].

SUPPLEMENTARY INFORMATION:

Reasonable Accommodation

Persons needing reasonable accommodations in order to attend and participate in the public meeting should contact Lori Rinek at 916–414–6600 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

Background

Section 9 of the ESA and Federal regulations prohibit the ''take'' of wildlife species listed as endangered or threatened (16 U.S.C. 1538). The ESA defines the term ''take'' as: to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to engage in such conduct (16 U.S.C. 1532). Harm includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. Pursuant to section 10(a)(1)(B) of the ESA, the Service may issue an ''incidental take permit'' to take listed species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened species and endangered species, respectively, area at 50 CFR 17.32 and 50 CFR 17.22.

Although take of listed plant species is not prohibited under the ESA, and therefore cannot be authorized under an incidental take permit, plant species may be included on a permit in recognition of the conservation benefits provided to them under a habitat conservation plan. All species included on an incidental take permit would receive assurances under the FWS' ''No Surprises'' regulation [50 CFR 17.22(b)(5) and 17.32(b)(5)].

Species proposed for coverage in the HCP are species that are currently listed as federally threatened or endangered or have the potential to become listed during the life of this HCP and have some likelihood to occur within the project area. Should unlisted covered wildlife species become listed under the ESA during the term of the permit, take authorization for those species would become effective upon listing. The specific federally listed endangered species proposed for coverage in this HCP are: the giant kangaroo rat (*Dipodomys ingens*), San Joaquin kit fox (*Vulpes macrotis mutica*), Tipon kangaroo rat (*Dipodomys nitratoides nitratoides*), Buena Vista shrew (*Sorex ornatus relictus*), blunt-nosed leopard lizard (*Gambelia sila*), Kern mallow (*Eremalche kernensis*), and San Joaquin woolly-threads (*Lembertia congdonii*). The specific unlisted species proposed for coverage in the HCP are: the San Joaquin antelope squirrel (*Ammospermophilus nelsoni*), short-nosed kangaroo rat (*Dipodomys nitratoides brevinasus*, San Joaquin LeConte's thrasher (*Toxostoma lecontei macmillanoura*), western burrowing owl (*Athene cunicularia hypugea*), Tejon poppy (*Eschscholzia lemmonii* ssp. *kernensis*), oil nestraw (*Stylocline citroleum*, and heartscale (*Atriplex cordulata*). Species may be added or deleted during the course of the development of the Plan based on further analysis, new information, ageny consultation, and public comment.

The Federal government established the Elk Hills Oil and Gas Field in 1912 for national defense purposes as part of the Naval Petroleum Reserves (NPR). It was then referred to as ''NPR–1'' and operated by the U.S. Department of Energy (DOE). Given the potential effects of operating NPR–1 on listed species, DOE engaged in several formal consultations with the Service under section 7 of the ESA, resulting in the issuance by the Service of several Biological Opinions (the most recent opinion was completed in 1995). Congress directed DOE to sell NPR–1 in the National Defense Authorization Act for Fiscal year 1996 and authorized DOE to transfer the Incidental Take Statement contained in the 1995 Biological Opinion to the purchase of NPR–1. OEHI (the purchaser) is approaching the limit to take authorized in the 1995 Biological Opinion and therefore has applied for authorization for additional incidental take through this HCP.

The Plan area is located in the Elk Hills, 26 miles southwest of Bakersfield, California, and includes oil and gas reserves on the 47,729-acre Elk Hills Oil and Gas Field and a contiguous 2-mile-wide HCP Permit Area around the perimeter of the oil and gas field. The HCP would result in the permanent disturbance of up to 4,000 acres and the temporary disturbance of up to 3,000 acres of presently undisturbed land in the Elk Hills. The proposed duration of the HCP and the incidental take permit would be 50 years. The HCP would establish a 7,801-acre conservation area and habitat management program located on the northern and southern edges of the Elk Hills.

Implementation activities that may be covered under the Plan include all activities associated with ongoing and new oil and gas production operations, including but not limited to: (1) Construction, operation, and maintenance of production facilities; (2) surface excavations; (3) activities required by the California Division of Oil, Gas and Geothermal Resources; (4) construction and operation of related facilities; (5) installation, maintenance, and repair of perimeter and interior fencing; (6) transmission lines; (7) emergency response and environmental remediation; (8) livestock grazing; (9) regulatory agency requirements; (10) recreational and educational activities; (11) scientific research; (12) implementation of conservation program; (13) maintenance of off-site facilities; and (14) construction of off-site facilities.

The effects of the covered activities on the covered species are proposed to be minimized and mitigated through implementation of a detailed conservation program that will be fully described in the HCP. Components of the proposed conservation program may include: avoidance and minimization measures, monitoring, adaptive management, and mitigation measures consisting of preservation, restoration, and enhancement of habitat.

Environmental Impact Statement/ Report

The EIS/EIR will consider the proposed action, the issuance of an ESA incidental take permit, no action (no permit), and a reasonable range of alternatives. A detailed description of the proposed action and alternatives will be included in the EIS/EIR. The alternatives to be considered for analysis in the EIS/EIR may include: modified lists of covered species, land coverage areas, and intensity of future development. The EIS/EIR will also identify potentially significant impacts on biological resources, land use, air quality, water quality, water resources, economics, and other environmental resource issues that could occur directly or indirectly with implementation of the proposed action and alternatives. Different strategies for minimizing and mitigating the impacts of incidental take may also be considered.

Environmental review of the EIS/EIR will be conducted in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*), it s implementing regulations (40 CFR parts 1500–1508), other applicable regulations, and Service procedures for compliance with those regulations. This notice is being furnished in accordance with 40 CFR 1501.7 and 1508.22 to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS/EIR. The primary purpose of the scoping process is to identify important issues raised by the public related to the proposed action. Written comments from interested parties are invited to ensure that the full range of issues related to the permit application is identified. Comments will only be accepted in written form. You may submit written comments by mail, facsimile transmission, or in person (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.

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 homes 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 organization or businesses, and from individuals identifying themselves as representatives of or officials of organizations or businesses, available for public inspection in their entirety.

Dated: November 17, 2006.

Ken McDermond,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 06–9410 Filed 11–27–06; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Extension of the Absaloka Coal Mine on the Crow Indian Reservation, Big Horn County, MT

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA) and the Montana Department of Environmental Quality (MDEQ) as joint Lead Agencies, with the Crow Tribe of Indians, the Office of Surface Mining Reclamation and Enforcement (OSMRE), the Environmental Protection Agency (EPA), and the Bureau of Land Management (BLM), as Cooperating Agencies, intend to gather information necessary for preparing an Environmental Impact Statement (EIS) for the proposed Extension of the Absaloka Coal Mine on the Crow Indian Reservation, Montana. The proposed BIA action, taken under the Indian Mineral Development Act, is the approval of a coal lease by the Crow Tribe to Westmoreland Resources Inc. (WRI) and associated approval of allotted Indian and Crow tribal surface estate use agreements. In addition, the OSMRE will use this EIS to support a decision on the application for a surface mining permit to be filed by WRI involving the same acreage, commonly known as the Absaloka Mine ''South Extension;'' the MDEQ will use it in considering approval of permit revisions to facilitate mining of coal adjacent to the South Extension that is presently under the Absaloka Mine, which MDEQ administers; and the EPA may use the EIS in considering issuance of National Pollutant Discharge Elimination System permits for any point source water discharges on the Reservation. The purpose of this project is to extend the operating life of the Absaloka Mine and continue to provide an economic base for the Crow Tribe, while providing an energy source for the generation of electricity at distant power plants. This notice also announces a public scoping meeting to identify potential issues and alternatives to be considered in the EIS.

DATES: Written comments concerning the scope and implementation of the proposed action must arrive by December 26, 2006. The public scoping meeting will be held Thursday, December 14, 2006, from 7 p.m. to 9 p.m., or until all those who wish to make statements have been heard.

ADDRESSES: You may mail, hand carry or telefax written comments to either (1) Rick Stefanic, Supervisory Environmental Specialist, Bureau of Indian Affairs, Rocky Mountain Regional Office, 316 N. 26th St., Billings, Montana 59101, telefax (406) 247–7976; or (2) Edward Lone Fight, Superintendent, Crow Agency, P.O. Box 69, Crow Agency, Montana 59022, telefax (406) 638–2380.

The public scoping meeting will be held in room 301 of the Big Horn

County Courthouse, 121 W. 3rd Street, Hardin, Montana.

FOR FURTHER INFORMATION CONTACT: Rick Stefanic (BIA), (406) 247–7911; or Greg Halsten (MDEQ), (406) 444–3276.

SUPPLEMENTARY INFORMATION: Absaloka Mine is a surface coal mine located at Sarpy Creek in Big Horn County, Montana, about 32 miles east northeast of Hardin, Montana. This location is in the Crow Ceded Area north of and adjacent to the Crow Indian Reservation, on what is known as the Tract 3 Coal Lease. The mine is owned by WRI, an 80 percent subsidiary of Westmoreland Coal Company. The 20 percent minority owner is Washington Group International, which is also the mining contractor. The coal is held in trust by the United States for the Crow Tribe, which receives substantial income on royalties and taxes on production at the mine. A majority of mine employees are Crow tribal members. Mining operations began in 1974 and have continued to the present. The current production rate is 6 to 7 million tons per year.

All mining infrastructure is in place. No new roads (other than haul roads), railroads, load out facilities, administration facilities or power sources will be constructed. There would not, therefore, be any foreseeable additional impacts from infrastructure development. All mining and related disturbance to date has been within the Tract III coal lease area and associated State of Montana section (Section 36, T. 1N, R. 37E.), hence has been within the scope of the original FES 76–64 (see reference below).

Remaining mineable and marketable coal reserves on Tract III are limited, so without additional reserves, the mine would be forced to close by 2011 at the latest. In 2004, WRI entered into an Exploration and Option to Lease Agreement with the Crow Tribe for a coal reserve area encompassing approximately 3,100 acres on the Crow Indian Reservation south of and adjacent to the Tract 3 Coal Lease. The mineral estate of the subject acreage is owned entirely by the Crow Tribe. The surface estate is owned by non-Indian fee owners (57%), allotted Indian owners (35%), and the Crow Tribe (8%). Exploration drilling programs were conducted in 2004 and 2005, and tonnage and quality of coal have been confirmed. The results of this exploration indicate sufficient mineable reserves of coal in the Rosebud and McKay seams are present to extend the mine life for an additional 9 to 10 years until approximately 2021. Based on these findings, WRI exercised its lease option in June 2006, and expects to file a mine permit application with the OSMRE in late 2006. Approximately 1,600 acres would be mined on the Reservation, along with an additional 375 acres on adjacent areas on Tract III.

Because the Absaloka Mine has operated for 32 years, impacts of past and current operations are well documented through the leasing and permitting processes, associated environmental documents and monitoring studies. Documents that have been prepared in conjunction with coal leasing and permit decisions at Absaloka Mine include the following:

- USDI BIA FES 76–64; *Crow Ceded Area Coal Lease Tracts II and III Westmoreland Resources*, December 15, 1976.
- USDI U.S. Geological Survey FES 77–17; *Proposed 20-year Plan of Mining and Reclamation, Westmoreland Resources Tract III, Crow Ceded Area, Montana;* May 31, 1977.
- USDI OSM–EIS–16; *Westmoreland Resources; Absaloka Mine Revised Plan*, December, 1984.
- MDEQ EA; *Continued Mining and Relocation of Big Horn County Road No. 55*, January 31, 1994.
- MDEQ EA; *Vella Redding Life Estate Amendment*, October 18, 2005.
- MDEQ EA; *Application No. 00170 Tract 3 South Extension*, June 16, 2006.

It is the intent of the BIA that this EIS will rely to the extent possible on earlier documents for background information, and focus on issues and impacts specific to the proposed mine extension. Although Absaloka Mine has been the subject of these National Environmental Policy Act and Montana Environmental Policy Act documents, an EIS rather than an Environmental Assessment is warranted for BIA approval of the lease and related actions for the following reasons:

- The Crow Reservation South Extension area lies outside of the area addressed in earlier federal and state actions, therefore has not been analyzed in an earlier environmental document covering the specific lease or mining activity.
- The projected area to be mined is approximately 1,600 acres, which exceeds the threshold of 1,280 acres considered to constitute a major action.
- The projected annual production rate is 6 to 7 million tons, which exceeds the threshold of 5 million tons considered to be a major action.

In addition to the foregoing, the following significant changes in circumstances relevant to analysis of environmental and socio-economic impacts have occurred since 1976:

- The projected production rate of 15 million tons per year from Tract III has not materialized due to market limitations. The highest annual production realized was just over 7 million tons in 1999. The current and projected production rate is 6 to 7 million tons annually.
- Tract II was not developed due to market limitations, and was relinquished to the Crow Tribe in 1981.
- The Crow Tribe successfully challenged application by the State of Montana of its severance and gross proceeds taxes to production of Indian coal, and as a consequence, equivalent production taxes are now paid to the Crow Tribe.
- The Surface Mining Control and Reclamation Act of 1977 (SMCRA) established uniform national standards for reclamation and environmental protection from the adverse effects of surface coal mining.
- Although regulation of surface coal mining on Tract III is regulated jointly by MDEQ and OSM under the terms of a Memorandum of Understanding, 30 CFR part 750 establishes OSM as the regulatory authority on the Crow Indian Reservation where the south extension will take place.
- More rigorous standards for identification and protection of cultural resources were established under 30 CFR part 800 in 1986.

Environmental baseline studies including geology, hydrology, soils, vegetation, wildlife, cultural resources and air quality are either complete or well underway. These resources, and subcomponents thereof, will be addressed in the EIS, as well as, but not limited to, socio-economics, aesthetics, noise, paleontology, and environmental justice.

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the BIA address shown in the **ADDRESSES** section, during business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish us to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by the law. We will not, however, consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality regulations (40 CFR parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Principal Deputy Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: November 3, 2006.

Michael D. Olsen,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. E6–20152 Filed 11–27–06; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Cancellation of the Environmental Impact Statement for the Proposed Reconstruction of BIA Route 27 on the Pine Ridge Indian Reservation, SD

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA) intends to cancel work on the Environmental Impact Statement (EIS) for the proposed reconstruction of BIA Route 27 near Wounded Knee, South Dakota, and instead, prepare an Environmental Assessment for the proposed action. The Notice of Intent to prepare the EIS, which included a description of the proposed action, was published in the **Federal Register** on August 22, 2005 (70 FR 48972).

DATES: This cancellation is effective December 27, 2006. Written comments must arrive by December 26, 2006.

ADDRESSES: You may mail or hand carry written comments to Marilyn Bercier, Bureau of Indian Affairs, Great Plains Regional Office, 115 4th Avenue SE, Aberdeen, South Dakota 57401.

FOR FURTHER INFORMATION CONTACT: Marilyn Bercier, (605) 226–7656.

SUPPLEMENTARY INFORMATION: The BIA is canceling work on this EIS because scoping and analysis completed to date, including a public scoping meeting held September 13, 2005, in Manderson, South Dakota, and consultation under section 106 of the National Historic Preservation Act and section 7 of the Endangered Species Act, have shown that the proposed action would have no significant impact on the environment. The EIS is therefore being converted to an Environmental Assessment (EA). A Notice of Availability of the Finding of No Significant Impact, which will include information on how to obtain a copy of the EA, will be published and/or posted in the same places (except the **Federal Register**) as the Notice of Intent to prepare the EIS and will be sent to all parties on any mailing list relating to the EIS process for this project.

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the mailing address shown in the **ADDRESSES** section during regular business hours, 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish us to withhold your name and/or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. We will not, however, consider anonymous comments. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality regulations (40 CFR parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Department of Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Principal Deputy Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: November 3, 2006.

Michael D. Olsen,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. E6–20153 Filed 11–27–06; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–1320–EL, WYW160394]

Notice of Availability of the Pit 14 Coal Lease-By-Application Final Environmental Impact Statement, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Under the provisions of the National Environmental Policy Act (NEPA), the Bureau of Land Management (BLM) announces the availability of the Pit 14 Coal Lease By Application (LBA) FEIS. The tract is being considered for sale as a result of coal lease application received from Black Butte Coal Company (BBCC) operating the adjacent mine in southwestern Wyoming.

DATES: The FEIS will be available for a 30 calendar-day review period effective the date that the Environmental Protection Agency (EPA) publishes their Notice of Availability (NOA) of the FEIS in the **Federal Register**.

ADDRESSES: The FEIS is available at *http://www.wy.blm.gov/nepa/rsfodocs/pit14* on the internet. In addition, copies are available at the following BLM offices:

- BLM–Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.
- BLM–Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901.

Written comments may be submitted to: Bureau of Land Management, Rock Springs Field Office, *Attn:* Pit 14 LBA Project, 280 Highway 191 North, Rock Springs, WY 82901. The public may submit comments electronically at: *Pit_14_LBA_WYMail@blm.gov.* Please note that any comments submitted to this FEIS including names and street addresses of respondents will be made available for public review at the Rock Springs Field Office, at the address listed above, during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except Federal holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address or both from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comments. Such requests will be honored to the extent allowed by law. All submissions from organizations, businesses and individuals identifying themselves as

representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: For information on the NEPA aspect of the project, please call Teri Deakins at 307–352–0211. For information on coal leasing, please call Joanna Nara-Kloepper, Project Leader, at 307–352–0321.

SUPPLEMENTARY INFORMATION: On March 24, 2004, BBCC filed an LBA with the BLM, to access Federal coal reserves adjacent to their existing Black Butte Mine in Sweetwater County, Wyoming. The LBA tract is approximately 28 miles southeast of Rock Springs, Wyoming, and comprises the following public lands:

T. 17 N., R. 101 W., 6th PM, Wyoming
sec. 2: Lots 3, 4, SW¼NW¼;
sec. 4: Lots 1, 2, S½NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, SE¼;
sec. 10: NW¼, N½SW¼;
T. 18 N., R. 101 W., 6th PM, Wyoming
sec. 34: E½, E½NW¼, SW¼.

Containing 1,399.48 acres, more or less.

The Black Butte Coal Mine started operations in the late 1970s and continues to operate today. Additional mineable coal reserves are needed to meet the growing regional demand for electricity, including electricity supplied by the Jim Bridger Power Plant. BBCC estimates that approximately 34.6 million tons of in-place coal reserves are present in the Upper Cretaceous Almond Formation within the project area.

The Office of Surface Mining Reclamation Enforcement (OSMRE) is a cooperating agency in the preparation of this Environmental Impact Statement (EIS). If the tract is leased as a maintenance tract, the new lease must be incorporated into the existing mining and reclamation plan for the adjacent mine. The Secretary of the Interior must approve the revision to the Mineral Leasing Act (MLA) mining plan before the Federal coal can be mined. If the tract is leased, OSMRE is the Federal agency that would be responsible for recommending approval, approval with conditions, or disapproval of the revised MLA mining plan to the Secretary of the Interior.

On January 7, 2005, the BLM published its Notice of Intent (NOI) to prepare an EIS for the Pit 14 Coal LBA (WYW160394) in the **Federal Register**. On March 24, 2006, both the BLM and the EPA published NOAs of the Draft Environmental Impact Statement (DEIS) for the Pit 14 Coal LBA project for a 60-day comment and review period. Under the provisions of Federal coal regulations at 43 Code of Federal Regulations (CFR) 3425.4, a public hearing was held at 2 p.m. on May 10, 2006, at the BLM Rock Springs Field Office, Rock Springs, WY. The purpose of the hearing was to solicit comments on the DEIS, fair market value, and the maximum economic recovery of the Federal coal. Seven comment letters on the DEIS were received during the review and comment period, and two statements were recorded during the public coal hearing (of which one statement was subsequently submitted as a comment letter).

The FEIS analyzes two alternatives in detail:

1. The Proposed Action. This alternative analyzes the impacts of leasing Federal coal and the impacts associated with surface mining.

2. The No Action Alternative. This alternative would reject the coal lease application as submitted.

BLM's preferred alternative is the Proposed Action. The Proposed Action is in conformance with the Green River Resource Management Plan (1997).

A Record of Decision (ROD) will be prepared after the close of the comment period for the FEIS. Comments received on the FEIS will be considered during preparation of the ROD.

Dated: September 22, 2006.

Robert A. Bennett,

State Director.

[FR Doc. E6–20045 Filed 11–27–06; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–110–1320–EL, UTU 081895]

Notice of Intent To Prepare an Environmental Impact Statement and To Initiate Scoping for a Federal Coal Lease Application Filed by Alton Coal Development LLC, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS) and to initiate scoping for a Federal Coal Lease Application (LBA) Fielded by Alton Coal Development LLC, near Alton, Utah.

SUMMARY: Pursuant to Section 102 (2) (C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Land Management (BLM), Kanab Field Office announces its intent to prepare an EIS and is soliciting public comments regarding issues and resource information on the potential impacts of a proposal to primarily surface mine Federal coal in the vicinity of Alton, Utah as requested by Alton coal Development LLC (Alton LLC) in LBA case number UTU 081895 and in conformance with the provisions of 43 Code of Federal Regulations (CFR) 3425.1.

DATES: This notice initiates the public scoping process. Comments and resource information should be submitted within 90 days of publication of this notice in the **Federal Register**. The BLM will host public scoping meetings in the following locations: Alton, Kanab, Panguitch, Cedar City, and Salt Lake City, Utah. Times and dates of these meetings will be announced through the Utah BLM Web site (*http://www.ut.blm.gov*), press releases, local newspapers, and other media. At the scoping meetings, the public is invited to submit comments and resource information, and identify issues or concerns to be considered in the LBA process. The BLM will announce public meetings and other opportunities to submit comments on this project at least 15 days prior to the event.

ADDRESSES: Please submit written comments or concerns to the BLM Kanab Field Office, Attn: Keith Rigtrup, 318 North 100 East, Kanab, Utah 84741. Written comments or resource information may also be hand-delivered to the BLM Kanab Field Office or sent by facsimile to the attention of Keith Rigtrup at 435–644–4620. Comments may be sent electronically to *UT_Kanab_Altoncoal@blm.gov*; please put Alton Coal Lease/Keith Rigtrup in the subject line. Members of the public may examine documents pertinent to this proposal by visiting the Kanab Field Office during its business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Keith Rigtrup, BLM Kanab Field Office, 318 North 100 East, Kanab, Utah 84741 or by telephone at 435–644–4600.

SUPPLEMENTARY INFORMATION: An application to lease Federal coal near the Town of Alton, Utah was filed with BLM on November 12, 2004, by Alton LLC. The Utah State Office Solid Minerals Branch reviewed this lease application, delineated the boundaries of the tract, and recommended that the BLM process it. This LBA is called the Alton Tract and is currently delineated to include approximately 46 million tons of in-place Federal coal underlying the following lands in Kane County, Utah:

T. 39 S., R. 5 W., SLM, Utah

sec. 7, SE¼SW¼, S½SE¼;
sec. 18, lots 3 and 4, E½, E½W½;
sec. 19, lots 1 through 4, NE¼, E½W½, N½SE¼, SE¼SE¼;
sec. 20, lots 4 and 5, N½SW¼;
sec. 30, lots 2 through 4, SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼;
sec. 31, lots 1 through 3, NE¼, E½NW¼, NE¼SW¼, N½SE¼;
T. 39 S., R. 6 W., SLM, Utah
sec. 12, SW¼, W½SE¼;
sec. 13, NW¼NE¼, N½NW¼, SE¼NW¼, SE¼;
sec. 24, NE¼, N½NW¼, SE¼NW¼, E½SW¼, N½SE¼, SE¼SE¼;
sec. 25, E½NE¼, SW¼NE¼, SE¼.

Containing 3,581.27 acres more or less.

The Office of Surface Mining (OSM) will be a cooperating agency in the preparation of the EIS.

If the Alton Tract is leased, the OSM is the Federal agency that would prepare the documentation for the Assistant Secretary, Land and Minerals Management decision to approve, approve with conditions, or disapprove the Mining Plan. The BLM will provide interested parties the opportunity to submit comments or relevant information or both. This information will help BLM identify issues to be considered in preparing a draft EIS for the Alton Tract. Specific issues that have been identified at this time include: potential impacts in the vicinity of the tract to city and county facilities and occupied residences; livestock grazing, big game herds and hunting, sage grouse, listed threatened and endangered species, alluvial valley floors; potential health issues related to blasting operations conducted by the mines to remove overburden and coal; site-specific and cumulative impacts on air and water quantity/quality; and the need to consider the cumulative impacts of coal leasing decisions combined with other existing and proposed development in the affected areas.

The area included within this lease application was part of a larger area analyzed in response to a petition filed under Section 522 of the Surface Mining Control and Reclamation Act of 1977 to have federal lands declared unsuitable for all types of surface coal mining operations. The petition sought to have the lands declared unsuitable for coal mining because of impacts to air quality, visual resources, fish and wildlife resources, geologic features within Bryce Canyon National Park, and hydrology. The petitioners also questioned whether the lands could be reclaimed after mining. After an extensive evaluation, which included input from the public and a combined petition evaluation and environmental impact statement, the Secretary of the Interior, on December 16, 1980, determined that the coal lands included in this lease application were not unsuitable for surface coal mining operations. The Secretary's decision is documented in a secretarial decision document entitled, ''Petition to Designate Certain Federal Lands in Southern Utah Unsuitable for Surface Coal Mining'' (OSM Reference No: 79–5–001).

Alton LLC has applied for a permit with the State of Utah to mine fee coal on private lands adjacent to this federal tract. That permit application is in progress and this federal tract, if approved, would be a continuation of that mining operation.

Your response is important and will be considered in the EIS process. If you respond, the BLM will keep you informed of the availability of environmental documents that address impacts that might occur from this proposal.

Please note that comments and information submitted regarding this project including names, electronic mail addresses, and street addresses of the respondents will be available for public review and disclosure at the Kanab Field Office.

If you comment as a private individual in your personal capacity, you may ask us to withhold personal identifying information from the public. You must do so prominently in writing at the beginning of your comments and must tell us precisely what you want us to withhold. You also must explain in detail why releasing that personal identifying information to the public would constitute a clearly unwarranted invasion of privacy. Individuals may request confidentiality. General assertions that are not supported by specific facts will not meet that burden.

We will withhold personal identifying information from release to the public in response to your request only where, in our judgment, you present sufficient factual justification for our doing so under current laws, regulations, and court decisions. Typically, notwithstanding your request, in all but the most exceptional circumstances, we will release to the public all of the personal identifying information that you submit.

If you comment as or on behalf of an organization or business, we will release your comments to the public in their entirety, including all personal identifying information. We will not consider a request from an organization or business, or anyone commenting on behalf of an organization or business, that we withhold any personal identifying information from release to the public.

Rex Smart,

Kanab Field Manager.

[FR Doc. E6–20044 Filed 11–27–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–957–07–1910–BJ–5RKC]

Notice of Filing of Plats of Survey, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey, Wyoming.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file the plat of survey of the lands described below thirty (30) calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Bureau of Indian Affairs and is necessary for the management of these lands. The lands surveyed are:

The plat and field notes representing the dependent resurvey of a portion of the subdivisional lines and the survey of the subdivision of section 22, and the metes and bounds surveys of Parcels A and B, section 22, Township 42 North, Range 95 West, of the Sixth Principal Meridian, Wyoming, was accepted November 9, 2006.

The plat and field notes representing the dependent resurvey of a portion of the south boundary of the Wind River Indian Reservation and subdivisional lines, and the survey of the subdivision of section 20, and the metes and bounds survey of certain lots in section 20, Township 2 South, Range 1 West, Wind River Meridian, Wyoming, was accepted November 9, 2006.

The plat and field notes representing the dependent survey of portions of the north boundary, subdivisional lines, subdivision of sections and certain tracts, and the survey of the subdivision of section 11, and the metes and bounds surveys of certain parcels, Township 3 North, Range 2 East, of the Wind River Meridian, Wyoming, was accepted November 17, 2006.

Copies of the preceding described plat and field notes are available to the public at a cost of $1.10 per page.

Dated: November 20, 2006.

John P. Lee,

Chief Cadastral Surveyor, Division of Support Services.

[FR Doc. E6–20087 Filed 11–27–06; 8:45 am]

BILLING CODE 4467–22–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice of Minerals Management Service Production Data Workshop

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of public workshop.

SUMMARY: The Minerals Management Service (MMS) is announcing an opportunity for producers to participate in a production data workshop. The purpose of the workshop is to gather comments and input from a variety of stakeholders and the public. Information about the workshop, registration, and the agenda is available on our Web site at *http://www.mrm.mms.gov/ReportingServices/ETFormProd.htm.*

DATE: Tuesday, December 5, 2006, from 9 a.m. to 4 p.m. central time.

ADDRESSES: The workshop will be held at the Minerals Revenue Management office, 4141 N. Sam Houston Parkway East, Suite 202, Houston, Texas.

FOR FURTHER INFORMATION CONTACT: Lorraine Corona, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 350B1, Denver, Colorado 80225–0165, telephone (303) 231–3671, FAX (303) 462–9889, or e-mail *lorraine.corona@mms.gov.*

SUPPLEMENTARY INFORMATION: The availability of accurate and current oil and gas production data from Federal and Indian leases is an ongoing issue of concern to MMS, the Bureau of Land Management, and the oil and gas industry. This workshop will provide an opportunity for discussion of options for streamlining and/or improving the process of collecting and disseminating oil and gas production data. The reporting of production and shut-in statistics during hurricanes will also be discussed. The workshop will include breakout sessions to identify and facilitate discussion of short/mid/long-term possible solutions. Attendees will be able to comment on the scope, proposed action, and possible alternatives MMS should consider. We will post the workshop minutes and comments on our Web site at *http://www.mrm.mms.gov.*

Due to security requirements, attendees will need a picture ID to be admitted into Suite 202. The site for the public workshop is accessible to individuals with physical impairments. If you need a special accommodation to participate in the workshop (e.g., interpretive service, assistive listening device, or materials in alternative format), please notify Ms. Corona no later than 2 weeks prior to the scheduled workshop. Although we will make every effort to accommodate requests received, it may not be possible to meet every request.

Dated: November 1, 2006.

Lucy Querques Denett,

Associate Director for Minerals Revenue Management.

[FR Doc. E6–20042 Filed 11–27–06; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Park System Advisory Board; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix, that the National Park System Advisory Board will meet December 14–15, 2006, in Washington, DC. On December 14, the Board will tour National Park sites in the National Capital Region and will be briefed by park officials regarding environmental, education and partnership programs. The Board will convene its business meeting on December 15 at 8:30 a.m., EST, at the Jurys Washington Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036, telephone 202–483–6000. The Board will be addressed by National Park Service Director Mary Bomar and will receive the reports of its Committee on Health and Recreation, Committee on Philanthropy, Education Committee, National Landmarks Committee, National Parks Science Committee, and Partnerships Committee. The business meeting will be adjourned at 5 p.m. National Historic Landmark and National Natural Landmark matters will be considered during the afternoon session.

Other officials of the National Park Service and the Department of the Interior may address the Board, and other miscellaneous topics and reports may be covered. The order of the agenda may be changed, if necessary, to accommodate travel schedules or for other reasons.

The Board meeting will be open to the public. Space and facilities to accommodate the public are limited and attendees will be accommodated on a first-come basis. Anyone may file with the Board a written statement concerning matters to be discussed. The Board also may permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time.

Anyone who wishes further information concerning the meeting or who wishes to submit a written statement may contact Ms. Jennifer Lee, Office of the Director, National Park Service; 1849 C Street, NW., Room 3147; Washington, DC 20240; telephone 202–219–1689.

Draft minutes of the meeting will be available for public inspection about 12 weeks after the meeting, in room 7252, Main Interior Building, 1849 C Street, NW., Washington, DC.

Dated: November 17, 2006.

Bernard Fagan,

Deputy Chief, Office of Policy.

[FR Doc. E6–20136 Filed 11–27–06; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before November 11, 2006.

Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written

or faxed comments should be submitted by December 13, 2006.

John W. Roberts,

Acting Chief, National Register/National Historic Landmarks Program.

CALIFORNIA

Stanislaus County

Walton, Dr. Robert and Mary, House, 417 Hogue Dr., Modesto, 06001133

MISSOURI

Phelps County

Community Theater, 117 First St., Newburg, 06001134

St. Louis County

Maplewood Commercial Historic District at Manchester and Sutton, Roughly bounded by Manchester, Marietta, Marshall and Sutton, Maplewood, 06001135

MONTANA

Lewis and Clark County

Montana State Fairgrounds Racetrack, 98 W. Custer Ave., Helena, 06001136

NEW YORK

Broome County

Conklin Town Hall, 1271 Conklin Rd., Conklin, 06001146

Essex County

Hurricane Mountain Fire Observation Station, (Fire Observation Stations of New York State Forest Preserve MPS), Hurricane Mountain Summit, Keene, 06001145

Whiteface Veterans Memorial Highway Complex, NY 431, New York, 06001147

Nassau County

North Hempstead Town Hall, 220 Plandome Rd., Manhasset, 06001143

Rockland County

Sloat, Jacob, House, 15 Liberty Rock Rd., Village of Sloatsburg, 06001144

NORTH CAROLINA

Catawba County

Lyerly Full Fashioned Mill, (Hickory MRA), 56 Third St., SE, Hickory, 06001137

Craven County

Barber, J.T., School, 1700 Cobb St., New Bern, 06001139

Davidson County

Grace Episcopal Church, 419 S. Main St., Lexington, 06001138

Henderson County

Main Street Historic District (Boundary Increase), (Hendersonville MPS), Roughly N. Main St., Second Ave. W., W. Allen St., N. Washington and First Ave. E., Hendersonville, 06001140

Mecklenburg County

Seifart, Fritz, House, 421 Hemptead Place, Charlotte, 06001141

Rutherford County

West Main Street Historic District, 121 Cool Springs Dr., 343–499 W. Maine St., 121 Memorial Dr., Forest City, 06001142

PENNSYLVANIA

Bucks County

Chalfont Historic District, Roughly bounded by Chestnut St., Park Ave., Main St., Butler Ave., and Sunset Ave., Chalfont, 06001148

Sheard, Levi, Mill, 8308 Covered Bridge Rd., East Rockhill Township, 06001149

Montgomery County

Whitpain Public School, 799 Skippack Pike, Blue Bell, 06001150

RHODE ISLAND

Kent County

Greenwich Mills, 42 Ladd St., Warwick, 06001151

TEXAS

Gray County

McLean Commercial Historic District, (Route 66 in Texas MPS), Roughly bounded by Railroad, Rowe, Second and Gray Sts., McLean, 06001153

Presidio County

Fort D.A. Russell Historic District, Roughly bounded by Ridge, El Paso, Kelly Sts, U.S. 67 and FM 2810, Marfa, 06001152

WISCONSIN

Burnett County

Daniels Town Hall, 9602 WI 70, Daniels, 06001154

Vernon County

Apfel, George, Round Barn, 11314 Cty Hwy P, Clinton, 06001155

A request for REMOVAL has been made for the following resource:

PENNSYLVANIA

Monroe County

Henryville House, Jct. of PA 191 and 715, Henryville, 86003572

[FR Doc. E6–20037 Filed 11–27–06; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Folsom Dam Safety and Flood Damage Reduction (DS/FDR) Action—Sacramento, El Dorado, and Placer Counties, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and notice of public hearings.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), CEQ NEPA Regulations (40 CFR 1502.9[c][1]), and Public Resources Code, sections 21000–21177 of the California Environmental Quality Act (CEQA) and the California Code of Regulations, title 14, section 15088.5 of the CEQA Guidelines, the Bureau of Reclamation (Reclamation), the lead Federal agency; the U.S. Army Corps of Engineers (Corps), a cooperating Federal agency; the Reclamation Board of the State of California, the lead State agency; and the Sacramento Area Flood Control Agency (SAFCA), the local sponsor, have made available for public review and comment a Draft EIS/EIR for the Folsom DS/FDR Action.

The Folsom DS/FDR Draft EIS/EIR describes five action alternatives which include numerous features that address previously identified and ongoing dam safety, flood damage reduction, and security issues by modifying Folsom Dam and Appurtenant Structures (the Folsom Facility). The alternatives include features that would address Reclamation's dam safety objectives and the Corps' flood damage reduction objectives jointly, as well as features or increments that would exclusively address dam safety, security, or flood damage reduction objectives and would be constructed and authorized by the respective agencies. Engineering, economic, and environmental studies have been conducted to help determine reasonable design alternatives and their impacts. The no action alternative is also included in these analyses.

As part of the NEPA process, two public hearing sessions will be held to provide interested individuals and organizations with an opportunity to comment verbally and in writing on the Folsom DS/FDR Draft EIS/EIR. The first hour of each public hearing session will allow time to review information stations and displays, ask questions, and provide written comments on comment forms; the formal hearing will be held for one hour and be extended to two hours if needed. Information gathered from the EIS/EIR review process will be used in conjunction with technical and economic principles to determine the preferred alternative.

DATES: Comments on the Folsom DS/FDR Draft EIS/EIR should be submitted on or before Monday, January 22, 2007 to Mr. Shawn Oliver at the address below.

Two public hearings will be held:

- Tuesday, January 9, 2007, 2 to 4 p.m. (to be extended 1 additional hour, if needed), Sacramento, CA.
- Wednesday, January 10, 2007, 7 to 9 p.m. (to be extended 1 additional hour, if needed), Folsom, CA.

ADDRESSES: The public hearings will be held at:

- Sacramento at the Sacramento Library Galleria, 828 I Street, Sacramento, CA.
- Folsom at Folsom Community Center, 52 Natoma Street, Folsom, CA.

Send written comments on the Folsom DS/FDR Draft EIS/EIR to Mr. Shawn Oliver, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom, CA 95630 (e-mail: *soliver@mp.usbr.gov*). Send requests for a compact disk or a bound copy of the Draft EIS/EIR to Ms. Rosemary Stefani, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825, telephone: (916) 978–5309, or e-mail: *rstefani@mp.usbr.gov.* The Folsom DS/FDR Draft EIS/EIR will also be available on the Web at: *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=1808*

Copies of the Folsom DS/FDR Draft EIS/EIR are available for public review at the following locations:

- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225.
- Bureau of Reclamation, Mid-Pacific Regional Office Library, 2800 Cottage Way, W–1825, Sacramento, CA 95825–1898.
- El Dorado County Library, 345 Fair Lane, Placerville, CA 95667–5699.
- Folsom Public Library, 300 Persifer Street, Folsom, CA 95630.
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street, NW., Main Interior Building, Washington, DC 20240–0001.
- Roseville Public Library, 311 Vernon Street, Roseville, CA 95678.
- Sacramento Central Library, 828 I Street, Sacramento, CA 95814–2589.

FOR FURTHER INFORMATION CONTACT: Mr. Shawn Oliver at (916) 989–7256, TDD (916) 978–5608; e-mail *soliver@mp.usbr.gov.*

SUPPLEMENTARY INFORMATION: The Folsom Facility consists of 12 structures (dams and dikes), which impound the American River forming the Folsom Reservoir. Both Reclamation and the Corps share in the responsibility of ensuring that the Folsom Facility is maintained and operated under their respective agency dam safety regulations and guidelines, as defined by Congress. As a part of their responsibilities, Reclamation and the Corps have determined that the Folsom Facility requires structural improvements to increase overall public safety above existing conditions by improving the facilities' ability to reduce flood damages and address dam safety issues posed by hydrologic (flood), seismic (earthquake), and static (seepage) events. While these events have a low probability of occurrence in a given year, due to the large population downstream of Folsom Dam, modifying the facilities is prudent and required to improve public safety above current baseline conditions.

Reclamation has identified the need for expedited action to reduce hydrologic, static, and seismic risks under its Safety of Dams Program. The Corps in partnership with the Reclamation Board/DWR and SAFCA have identified the need to reduce the risk of flooding in the Sacramento area. These agencies have combined their efforts resulting in common solutions to be phased-in for the structural and functional concerns of the Folsom Facility.

The Folsom DS/FDR Draft EIS/EIR discusses the project background, purpose and need, project description and alternatives, and related projects. The Draft EIS/EIR addresses the impacts of project construction on aquatic resources, terrestrial vegetation and wildlife, hydrology, water quality, groundwater, water supply, hydropower resources, socioeconomics, soils, minerals, geological resources, visual resources, agricultural resources, transportation and circulation, noise, cultural resources, land use, planning and zoning, recreation resources, public services and utilities, air quality, population and housing, public health and safety, public services and utilities, environmental justice, and Indian trust assets.

Additional Information

If special assistance is required at the public hearings, please contact Mr. Shawn Oliver, Bureau of Reclamation, at (916) 989–7256. Please notify Mr. Oliver as far in advance of the hearings as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified.

Comments received in response to this notice will become part of the administrative record and are subject to public inspection. Our practice is to make comments, including names, home addresses, home phone numbers, and email 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 or officials of organizations or businesses, available for public inspection in their entirety.

Frank Michny,

Acting Assistant Regional Director, Mid-Pacific Region.

[FR Doc. E6–20155 Filed 11–27–06; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

November 21, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling Ira Mills on 202–693–4122 (this is not a toll-free number) or E-Mail: *Mills.Ira@dol.gov*, or by accessing *http://www.reginfo.gov/public/do/PRAMain.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for U.S. Department of Labor/Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: Extension of a currently approved collection.

Title: Reporting and Performance Standards System for Migrant and Seasonal Farmworker Programs under Title I, Section 167 of the Workforce Investment Act (WIA).

OMB Number: 1205–0425.

Frequency: Quarterly.

Affected Public: State, Local, or Tribal Government and Not-for-profit institutions.

Type of Response: Recordkeeping and Reporting.

Number of Respondents: 53.

Annual Responses: 29,871.

Average Response Time: 60.25 hours.

Total Annual Burden Hours: 70,562.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: This information collection relates to the operation of employment and training programs for Migrants and Seasonal Farmworkers under Title I, section 167 of the Workforce Investment Act (WIA). It also collects the information necessary for the common performance measures system for WIA section 167 grantees, used for program oversight, evaluation, and performance assessment.

Ira L. Mills,

Departmental Clearance Officer/Team Leader.

[FR Doc. E6–20043 Filed 11–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,285]

Air System Components, LP, Richardson, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 24, 2006 in response to a worker petition filed by a company official on behalf of workers of Air System Components, LP, Richardson, Texas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 17th day of November 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–20061 Filed 11–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,789]

Allied Air Enterprises, A Subsidiary of Lennox International, Inc., Bellevue, Ohio; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Allied Air Enterprises, A Subsidiary of Lennox International, Inc., Bellevue, Ohio. The application did not contain new information supporting a conclusion that the determination was erroneous, and also did not provide a justification for reconsideration of the determination that was based on either mistaken facts or a misinterpretation of facts or of the law. Therefore, dismissal of the application was issued.

TA–W–59,789; Allied Air Enterprises, A Subsidiary of Lennox International, Inc., Bellevue, Ohio (November 15, 2006).

Signed at Washington, DC this 21st day of November 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–20057 Filed 11–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of November 13 through November 17, 2006.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm

and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W–60,392; Carolina Toll Manufacturing Inc., Baton Rouge, LA: November 8, 2005.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–60,225; Illinois Tool Workers—Paslode, Nails Unit Division, Augusta, AR: October 9, 2005.

TA–W–60,234; Maytag Corporation, A Wholly Owned Subsidiary of Whirlpool Corp., Searcy, AR: October 11, 2005.

TA–W–60,252; Shogren Hosiery Mfg. Co., Inc., Concord, NC: October 17, 2005.

TA–W–60,288; Pulaski Furniture Corp., Pulaski, VA: October 23, 2005.

TA–W–60,290; TF Global Gasket, LLC, Gordonsville, TN: October 24, 2005.

TA–W–60,307; Dal Tile International, Manufacturing Division, Olean, NY: October 20, 2005.

TA–W–60,353; Rice Mills, Inc., Belton, SC: October 23, 2005.

TA–W–60,133; Rosboro Lumber, Springfield Plant, Springfield, OR: September 23, 2005.

TA–W–60,208; Bauhaus USA, Inc., Sherman Division, Sherman, MS: October 4, 2005.

TA–W–60,233; Cencorp, LLC, Longmont, CO: October 11, 2005.

TA–W–60,237; Woodsmiths Company (The), Lenoir, NC: October 4, 2005.

TA–W–60,251; Canvas Products, Detroit, MI: October 16, 2005.

TA–W–60,257; Benchmark Electronics, Hudson, NH: October 16, 2005.

TA–W–60,267; Guide Louisiana, LLC, Monroe, LA: November 19, 2006.

TA–W–60,297; Craft Tool and Mold, Inc., South Bend, IN: October 24, 2005.

TA–W–60,326; Paxar Corporation, Fair Lawn, NJ: October 27, 2005.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–60,220; Ferrero, Inc., Caguas, PR: October 2, 2005.

TA–W–60,263; Freedom Industries, Liberty, MS: October 18, 2005.

TA–W–60,321; Meridian Automotive Systems, Plant 7, Grand Rapids, MI: October 23, 2005.

TA–W–60,343; Welch Allyn, Inc., San Diego, CA: October 27, 2005.

TA–W–60,394; Airtomic, Jeffersonville, IN: October 19, 2005.

TA–W–60,199; Airtex Products, LP, Fairfield, IL: October 3, 2005.

TA–W–60,299; Philips Lighting Co., A Subsidiary of Phillips Electronics North American Corp., Bath, NY: October 16, 2005.

TA–W–60,386; Willamette Dental Group, P.C., Dental Lab, Crown & Bridge Dept., Vancouver, WA: November 6, 2005.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–60,314; Arrow Acme, Inc., A Subsidiary of Arrow Acme Acquisition, Webster City, IA: October 26, 2005.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

TA–W–60,392; Carolina Toll Manufacturing Inc., Baton Rouge, LA.

The Department has determined that criterion (2) of Section 246 has not been

met. Workers at the firm possess skills that are easily transferable.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–60,273; Micro Motions, Inc., A Division of Emerson Electric, Boulder, CO.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–60,315; Ferrero USA, Somerset, NJ.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–60,133A; Rosboro Lumber, Vaughn Plant, Vaughn, OR.

TA–W–60,140; TAP Holdings, LLC, Los Angeles, CA.

TA–W–60,270; Beard Hosiery Co., Lenoir, NC.

The investigation revealed that the predominate cause of worker separations is unrelated to criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.C) (shift in production to a foreign country under a free trade agreement or a beneficiary country under a preferential trade agreement, or there has been or is likely to be an increase in imports).

None.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–60,112; Stroheim and Romann, Long Island City, NY.

TA–W–60,310; Ford Motor Company, Ford Payroll Services, Dearborn, MI.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of November 13 through November 17, 2006. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 21, 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–20056 Filed 11–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,977]

Central Penn Sewing Machine Company, Inc., Bloomsburg, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application dated October 1, 2006, petitioners requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on September 14, 2006 and published in the **Federal Register** on September 26, 2006 (71 FR 56172).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of the Central Penn Sewing Machine Company, Inc., Bloomsburg, Pennsylvania engaged in production of industrial sewing machines was denied because the ''contributed importantly'' group eligibility requirement of Section 222 of the Trade Act of 1974, as amended, was not met, nor was there a shift in production from that firm to a foreign country in 2004, 2005 or January through August, 2006. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's customers. The survey revealed no imports of sewing machines during the relevant period. The subject firm did not import sewing machines nor did it shift production to a foreign country during the relevant period.

The petitioner states that the affected workers lost their jobs as a direct result of a loss of customers in the apparel industry. The petitioner alleges that major declining customers of the subject firm increased imports of apparel or were negatively impacted by imports of apparel. As a result, they decreased their purchases of sewing machines from the Central Penn Sewing Machine Company, Inc., Bloomsburg, Pennsylvania. The petitioner also states that several of the subject firm's customers were certified eligible for TAA based on an increase in imports of various apparel products. The petitioner concludes that because industrial sewing machines are used to manufacture apparel and sales and production of industrial sewing machines at the subject firm have been negatively impacted by increasing presence of foreign imports of apparel on the market, workers of the subject firm should be eligible for TAA.

In order to establish import impact, the Department must consider imports that are like or directly competitive with those produced at the subject firm. The Department conducted a survey of the subject firm's major declining customers regarding their purchases of industrial sewing machines. The survey revealed that the declining customers did not increase their imports of industrial sewing machines during the relevant period.

Imports of apparel cannot be considered like or directly competitive with industrial sewing machines produced by Central Penn Sewing Machine Company, Inc., Bloomsburg, Pennsylvania and imports of apparel are not relevant in this investigation.

The fact that subject firm's customers are importing or were import impacted is relevant to this investigation if determining whether workers of the subject firm are eligible for TAA based on the secondary upstream supplier of trade certified primary firm impact. For certification on the basis of the workers' firm being a secondary upstream supplier, the subject firm must produce a component part of the article that was

the basis for the customers' TAA certification.

In this case, however, the subject firm does not act as an upstream supplier, because industrial sewing machines do not form a component part of apparel and other textile products. Thus the subject firm workers are not eligible under secondary impact.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, day 20th of November, 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–20059 Filed 11–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 8, 2006.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 8, 2006.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 20th day of November 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 11/13/06 and 11/17/06]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
60397	Dana Corporation Thermal Products Division (Comp).	Sheffield, PA	11/13/06	11/09/06
60398	Western Industries (Union)	Chilton, WI	11/13/06	11/08/06
60399	Customized Manufacturing, Inc. (Comp)	McKenzie, TN	11/13/06	11/08/06
60400	Unum Provident (Wkrs)	Portland, ME	11/13/06	11/07/06
60401	Pimalco Inc. (Wkrs)	Chandler, AZ	11/13/06	11/09/06
60402	Hayes Products, LLC (Wkrs)	Buena Park, CA	11/13/06	11/07/06
60403	Metolius Mountain Products (Comp)	Bend, OR	11/13/06	11/09/06
60404	Dickten Masch Plastics (Union)	Hattiesburg, MS	11/13/06	11/09/06
60405	Employment Solutions (State)	Fort Collins, CO	11/13/06	11/10/06
60406	A.O. Smith Electrical Products Co. (Comp)	Scottsville, KY	11/13/06	11/09/06
60407	Shoreline Industries (Wkrs)	Benton Harbor, MI	11/13/06	11/07/06
60408	Textram, Inc. (Wkrs)	Charlotte, NC	11/14/06	11/08/06
60409	Davis International (Wkrs)	Okolona, MS	11/14/06	11/08/06
60410	Ames True Temper (IAMAW)	Delaware, OH	11/14/06	11/10/06
60411	Littelfuse, Inc. (Comp)	Des Plaines, IL	11/14/06	11/09/06
60412	Kwikset Corporation (Comp)	Denison, TX	11/14/06	10/25/06
60413	Bendix (Union)	Frankfort, KY	11/14/06	11/10/06
60414	Print, Inc. (Wkrs)	Gilbert, AZ	11/14/06	11/13/06
60415	United Healthcare (Wkrs)	Hartford, CT	11/14/06	11/10/06
60416	Moore's Machine Company of Fayetteville, Inc. (Comp).	Fayetteville, NC	11/14/06	11/09/06
60417	Whirlpool Corporation (IUECWA)	Evansville, IN	11/14/06	11/07/06
60418	Vesuvius USA (Comp)	Fisher, IL	11/14/06	11/10/06
60419	I&W Industries, LLC (Comp)	Traverse City, MI	11/14/06	11/09/06
60420	Mesick Precision Co., Inc. (Wkrs)	Mesick, MI	11/14/06	10/29/06
60421	Fisher & Company, Inc. (Comp)	St. Clair Shores, MI	11/14/06	10/11/06
60422	Ahlstrom LLC (Wkrs)	Mt. Holly Springs, PA	11/14/06	10/26/06
60423	3M (Comp)	Columbia, MO	11/14/06	11/13/06
60424	Creative Engineered Products, LLC (Wkrs)	Akron, OH	11/14/06	11/07/06
60425	Steed Sales Company, Inc. (Comp)	Bowdon, GA	11/14/06	11/13/06
60426	Haldex Brakes Products Corp. (Union)	Paris, TN	11/14/06	11/13/06
60427	RBC Tyson Bearing (Wkrs)	Glasgow, KY	11/14/06	10/02/06
60428	Boc Edwards (Wkrs)	Philadelphia, PA	11/14/06	11/06/06
60429	Xyron Inc. (Wkrs)	Garden Grove, CA	11/14/06	10/26/06
60430	JP Morgan Chase (Comp)	Louisville, KY	11/14/06	11/13/06
60431	Jackson, Tennessee Plant (Comp)	Jackson, TN	11/15/06	11/06/06

APPENDIX—Continued

[TAA petitions instituted between 11/13/06 and 11/17/06]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
60432	Visteon Systems LLC North Penn Plant (UAW)	Lansdale, PA	11/15/06	11/14/06
60433	Moll Industries/Fort Smith Div. (Comp)	Fort Smith, AR	11/15/06	10/30/06
60434	Hi Specialty America (Comp)	Irwin, PA	11/15/06	11/07/06
60435	Ford Motors (Wkrs)	St. Paul, MN	11/15/06	11/14/06
60436	Watts Regulator (Wkrs)	Spindale, NC	11/15/06	11/10/06
60437	Euclid Industries, Inc. (Comp)	Bay City, MI	11/15/06	11/13/06
60438	Graphic Electronics Inc. (Wkrs)	Tulsa, OH	11/15/06	11/14/06
60439	Freudenberg (Comp)	Scottsburg, IN	11/15/06	11/14/06
60440	Excelsior AEP, Inc. (Wkrs)	Yonkers, NY	11/15/06	11/14/06
60441	ITW Tomco (Comp)	Bryan, OH	11/15/06	11/13/06
60442	Northern Hardwoods (Comp)	South Range, MI	11/15/06	11/14/06
60443	Vacumet Corporation (Comp)	Wayne, NJ	11/16/06	11/14/06
60444	Thermo Fisher Scientific—RMSI (Comp)	Santa Fe, NM	11/16/06	11/13/06
60445	Manchester Tool Company (USWA)	Akron, OH	11/16/06	11/14/06
60446	Vollrath Company (Wrks)	Oconomowoc, WI	11/16/06	11/09/06
60447	Honeywell Aerospace (State)	Phoenix, AZ	11/16/06	11/06/06
60448	VF Jeanswear Limited Partnership (Comp)	Winston Salem, NC	11/16/06	11/14/06
60449	Cambridge Lee Industries, LLC (Comp)	Reading, PA	11/16/06	11/09/06
60450	Richards Apex, Inc. (Wrks)	Morgantown, PA	11/16/06	11/08/06
60451	Kester, Inc. (Comp)	Des Plaines, IL	11/16/06	10/19/06
60452	Coleman Cable (Comp)	Siler City, NC	11/16/06	11/15/06
60453	Black and Decker (Comp)	Fayetteville, NC	11/17/06	11/16/06
60454	Forest City Technologies—Wixom (Wkrs)	Wixom, MI	11/17/06	11/16/06
60455	Malabar Manufacturing, Inc. (Comp)	Hudson, MI	11/17/06	11/16/06
60456	American Wood Dryers, Inc. (Union)	Clackamas, OR	11/17/06	11/14/06

[FR Doc. E6–20065 Filed 11–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,296]

Eaton Aerospace—Aurora, Aurora, CO; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 26, 2006 in response to a worker petition filed by a company official on behalf of workers of Eaton Aerospace—Aurora, Aurora, Colorado.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 17th day of November 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–20063 Filed 11–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,898]

Fenton Art Glass Company, Williamstown, West Virginia; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Fenton Art Glass Company, Williamstown, West Virginia. The application did not contain new information supporting a conclusion that the determination was erroneous, and also did not provide a justification for reconsideration of the determination that was based on either mistaken facts or a misinterpretation of facts or of the law. Therefore, dismissal of the application was issued.

TA–W–59,898; Fenton Art Glass Company, Williamstown, West Virginia (November 17, 2006).

Signed at Washington, DC this 21st day of November 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–20058 Filed 11–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of November 6 through November 10, 2006.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations For Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–60,298; Newell Rubbermaid, Sanford Division, Madison, WI: October 23, 2005.

TA–W–60,301; D-M-C Company, Charlevoix Plant, Charlevoix, MI: October 25, 2005.

TA–W–60,308; Lakeland Industries, Woven Products Division, St. Joseph, MO: July 1, 2006.

TA–W–60,209; Cowan Plastics, LLC, Providence, RI: October 4, 2005.

TA–W–60,210; Gutmann Leather, LLC, Chicago, IL: October 4, 2005.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–60,266; Hanesbrands, Inc., Marion, NC: October 13, 2005.

TA–W–60,266A; Hanesbrands, Inc., Lumberton, NC: October 13, 2005.

TA–W–60,316; Eaton Hydraulics, Fluid Power Division, Gainesboro, TN: October 25, 2005.

TA–W–60,351; Gyrus ACMI Corporation, Racine, WI: October 31, 2005.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

None.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

None.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

None.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

None.

The investigation revealed that criteria (a)(2)(A)(I.B.) (sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–60,213; InkCycle, Inc., Lenexa, KS.

TA–W–60,287; IBM Corporation, Rochester, MN.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–60,142; PPG Industries, Fiberglass Division, Lexington, NC.

The investigation revealed that the predominate cause of worker separations is unrelated to criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.C) (shift in production to a foreign country under a free trade agreement or a beneficiary country under a preferential trade agreement, or there has been or is likely to be an increase in imports).

None.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–60,175; Terrisol Corporation, dba Karsten America, Troutman, NC.

TA–W–60,175A; Terrisol Corporation, dba Karsten America, New York, NY.

The investigation revealed that criteria of Section 222(b)(2) have not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of November 11 through November 10, 2006. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 21, 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–20066 Filed 11–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,074]

Rebtex Company, Inc., East Greenwich, RI; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Rebtex Company, Inc., East Greenwich, Rhode Island. The application did not contain new information supporting a conclusion that the determination was erroneous, and also did not provide a justification for reconsideration of the determination that was based on either mistaken facts or a misinterpretation of facts or of the law. Therefore, dismissal of the application was issued.

TA–W–60,074; Rebtex Company, Inc., East Greenwich, Rhode Island (November 15, 2006).

Signed at Washington, DC this 21st day of November 2006.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–20060 Filed 11–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,311]

Techweld International, Inc., Troy, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 27, 2006 in response to a petition file on behalf of workers of Techweld International, Inc., Troy, Michigan.

The Department has been unable to locate company officials of the subject firm or to obtain the information necessary to reach a determination on worker group eligibility. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 21st day of November 2006.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–20064 Filed 11–27–06; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,293]

Waterloo Industries, Inc., A Subsidiary of Fortune Brands, Inc., Pocahontas, Arkansas; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on October 25, 2006 in response to a petition filed by a State Workforce Representative on behalf of workers at Waterloo Industries, Inc., a subsidiary of Fortune Brands, Inc., Pocahontas, Arkansas.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 16th day of November, 2006.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E6–20062 Filed 11–27–06; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Notice of Meetings

AGENCY: U.S. National Commission on Libraries and Information Science (NCLIS).

SUMMARY: The U.S. National Commission on Libraries and Information Science is holding an open business meeting to discuss Commission programs and administrative matters. Commissioners will review programs related to the

Commission's strategic initiatives. Each of the Commission's task forces will share progress reports and the Commission will discuss future directions and activities. Topics will include: (1) American Corners; (2) Initiatives (Consumer Health Update, Battle of the Books, Family Literacy, Appraisal/Assessment, Aging); and (3) Policy Issues (Emergency Preparedness and Disaster Response, Digitization).

Date and Time: NCLIS Business Meeting—December 11, 2006, 9 a.m.–3:30 p.m.; December 12, 2006, 9 a.m.–12 p.m.

ADDRESSES: Dining Room A (December 11); Large Conference Room 642 (December 12) (Madison Building), Library of Congress, 101 Independence Avenue, SE., Washington, DC 20540–1099.

Status: Open meeting.

SUPPLEMENTARY INFORMATION: The business meeting is open to the public, subject to space availability. To make special arrangements for physically challenged persons, contact Madeleine McCain, Director of Operations, 1800 M Street, NW., Suite 350 North Tower, Washington, DC 20036, e-mail: *mmccain@nclis.gov,* fax 202–606–9203 or telephone 202–606–9200.

FOR FURTHER INFORMATION CONTACT: Madeleine McCain, Director of Operations, U.S. National Commission on Libraries and Information Science, 1800 M Street, NW., Suite 350 North Tower, Washington, DC 20036, e-mail: *mmccain@nclis.gov*, fax 202–606–9203 or telephone 202–606–9200.

Dated: November 20, 2006.

Madeleine C. McCain,

NCLIS Director of Operations.

[FR Doc. 06–9431 Filed 11–27–06; 8:45 am]

BILLING CODE 7528–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on the Records of Congress; Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on the Records of Congress. The committee advises NARA on the full range of programs, policies, and plans for the Center for Legislative Archives in the Office of Records Services.

DATES: December 4, 2006 from 10 a.m. to 11 a.m.

ADDRESSES: The U.S. Capitol Building, Room H–137, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard H. Hunt, Director; Center for Legislative Archives at (202) 357–5350.

SUPPLEMENTARY INFORMATION:

Agenda.

Advisory Committee on the Records of Congress Fourth Report.

Update on the Center for Legislative Archives.

Other current issues and new business.

The meeting is open to the public. This notice is published less than 15 calendar days before the meeting because of scheduling difficulties.

Dated: November 22, 2006.

Londell Buckson,

NARA Federal Register Certifying Official.

[FR Doc. 06–9442 Filed 11–22–06; 3:48 pm]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Sunshine Act Meetings

DATE: Weeks of November 27, December 4, 11, 18, 25, 2006. January 1, 2007.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 27, 2006.

There are no meetings scheduled during the week of November 27, 2006.

Week of December 4, 2006—Tentative

Wednesday, December 6, 2006

2:45 p.m. Discussion of Security Issues (Closed—Ex. 1) (Tentative).

Thursday, December 7, 2006

9:25 a.m. Affirmation Session (Public Meeting) (Tentative). a. Hydro Resources, Inc. (Crownpoint, NM) Intervenors' Petition for Review of LBP–06–19 (Final Partial Initial Decision—NEPA Issues) (Tentative).

9:30 a.m. Discussion of Management Issues (Closed—Ex. 2).

Week of December 11, 2006—Tentative

Monday, December 11, 2006

1:30 p.m. Briefing on Status of Decommissioning Activities (Public Meeting) (Contact: Keith McConnell, 301–415–7295).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov*.

Tuesday, December 12, 2006

9:30 a.m. Briefing on Threat Environment Assessment (Closed—Ex. 1).

1:30 p.m. Discussion of Security Issues (Closed—Ex. 1 & 3).

Wednesday, December 13, 2006

9:30 a.m. Briefing on Status of Equal Employment Opportunity (EEO) Programs (Public Meeting) (Contact: Barbara Williams, 301–415–7388).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov*.

Thursday, December 14, 2006

9:25 a.m. Affirmation Session (Public Meeting) (Tentative). a. Entergy Nuclear Vermont Yankee, LLC, & Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station), LBP–06–20 (Sept. 22, 2006), reconsid'n denied (Oct. 30, 2006) (Tentative).

9:30 a.m. Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting) (Contact: John Larkins, 301–415–7360).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov*.

Week of December 18, 2006—Tentative

There are no meetings scheduled for the Week of December 18, 2006.

Week of December 25, 2006—Tentative

There are no meetings scheduled for the Week of December 25, 2006.

Week of January 1, 2007—Tentative

There are no meetings scheduled for the Week of January 1, 2007.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

ADDITIONAL INFORMATION: Affirmation of Hydro Resources, Inc. (Crownpoint, NM) Intervenors' Petition for Review of LBP–06–19 (Final Partial Initial Decision—NEPA Issues) tentatively scheduled on Thursday, November 30, 2006 at 12:55 p.m. has been rescheduled tentatively on Thursday, December 7, 2006 at 9:25 a.m.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

The NRC provides reasonable accommodations to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the

public meetings in another format (e.g. braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301–415–7041, TDD: 301–415–2100, or by e-mail at *DLC@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: November 22, 2006.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 06–9450 Filed 11–24–06; 10:27 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 6.6 and 213.103.

FOR FURTHER INFORMATION CONTACT: C. Penn, Executive Resources Services Group, Center for Human Resources, Division for Human Capital Leadership and Merit System Accountability, 202–606–2246.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedules A, B, and C between September 1, 2006, and September 31, 2006. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 is published each year.

Schedule A

No Schedule A appointments were approved for September 2006.

Schedule B

No Schedule B appointments were approved for September 2006.

Schedule C

The following Schedule C appointments were approved during September 2006:

Section 213.3303 Executive Office of the President

Office of Management and Budget

BOGS60906 Special Assistant to the Deputy Director for Management to the Deputy Director for Management. Effective September 13, 2006.

BOGS60907 Confidential Assistant to the Associate Director for Natural Resource Programs. Effective September 20, 2006.

Office of National Drug Control Policy

QQGS60099 Project Manager to the Deputy Director for Demand Reduction. Effective September 6, 2006.

QQGS60098 Special Assistant to the Associate Director for Legislative Affairs to the Associate Director Office of Legislative Affairs. Effective September 13, 2006.

Office of the United States Trade Representative

TNGS60025 Deputy Assistant United States Trade Representative for Congressional Affairs to the Assistant United States Trade Representative for Congressional Affairs. Effective September 20, 2006.

Section 213.334 Department of State

DSGS61114 Staff Assistant to the Under Secretary for Arms Control and Security Affairs. Effective September 1, 2006.

DSGS61117 Special Assistant to the Counselor. Effective September 01, 2006.

DSGS61118 Senior Advisor to the Assistant Secretary for Western Hemispheric Affairs. Effective September 1, 2006.

DSGS61116 Special Assistant to the Deputy Assistant Secretary. Effective September 6, 2006.

DSGS61120 Staff Assistant to the Director, Office of International Visitors. Effective September 14, 2006.

DSGS61119 Staff Assistant to the Assistant Secretary for International Organizational Affairs. Effective September 5, 2006.

DSGS61121 Special Assistant to the Assistant Secretary for International Organizational Affairs, Effective September 15, 2006.

DSGS61122 Public Affairs Specialist (Speechwriter) to the Assistant Secretary for European Affairs. Effective September 27, 2006.

DSGS61123 Staff Assistant to the Assistant Secretary for Western Hemispheric Affairs. Effective September 27, 2006.

DSGS61124 Coordinator to the Under Secretary for Global Affairs. Effective September 29, 2006.

Section 213.335 Department of the Treasury

DYGS00477 Senior Advisor to the Assistant Secretary (Tax Policy). Effective September 01, 2006.

DYGS00453 Media Coordinator to the Assistant Secretary (Public Affairs). Effective September 08, 2006.

DYGS00462 Senior Advisor to the Under Secretary (International Affairs) for International Affairs. Effective September 08, 2006.

DYGS00478 Senior Writer to the Treasurer of the United States. Effective September 18, 2006.

DYGS00464 Special Assistant to the Assistant Secretary (Deputy Under Secretary) for Legislative Affairs. Effective September 20, 2006.

Section 213.336 Department of Defense

DDGS16979 Personal and Confidential Assistant to the General Counsel. Effective September 01, 2006.

DDGS16983 Defense Fellow to the Special Assistant tot he Secretary of Defense for White House Liaison. Effective September 06, 2006.

DDGS16987 Public Affairs Specialist to the Principal Deputy Assistant Secretary of Defense for Public Affairs. Effective September 13, 2006.

DDGS16988 Executive Assistant to the Director, Operational Test and Evaluation. Effective September 25, 2006.

Section 213.337 Department of the Army

DWGS60021 Special Assistant to the Assistant Secretary of Army (Installations and Environment) (Installations and Environment). Effective September 13, 2006.

DWGS60022S Personal and Confidential Assistant to the Executive Director, Strategy and Performance Planning. Effective September 20, 2006.

Section 213.338 Department of the Navy

DNGS6413 Confidential Assistant to the Assistant Secretary of Navy (Installations and Environment). Effective September 05, 2006.

DNGS6414 Staff Assistant to the Under Secretary of the Navy. Effective September 05, 2006.

Section 213.339 Department of the Air Force

DFGS60013 Special Counsel and Special Assistant to the General Counsel. Effective September 29, 2006.

Section 213.3310 Department of Justice

DJGS00244 Confidential Assistant to the Assistant Attorney General. Effective September 01, 2006.

DJGS00039 Special Assistant to the Chairman. Effective September 13, 2006.

DJGS00246 Counsel to the Assistant Attorney General Environment and Natural Resources. Effective September 22, 2006.

DJGS00322 Counsel to the Assistant Attorney General (Legal Policy). Effective September 22, 2006.

DJGS00121 Senior Counsel to the Assistant Attorney General. Effective September 27, 2006.

Section 213.3311 Department of Homeland Security

DMGS00569 Legislative Assistant to the Assistant Secretary for Legislative Intergovernmental Affairs. Effective September 01, 2006.

DMGS00572 Confidential Assistant to the Director to the Director, Office of Screening Coordination. Effective September 01, 2006.

DMGS00573 Deputy Director of Secretarial Briefing Book to the Executive Secretary. Effective September 13, 2006.

DMGS00574 Policy Analyst to the Assistant Secretary for Private Sector. Effective September 13, 2006.

DMGS00570 Confidential Assistant to the Director, National Capital Region Coordination. Effective September 18, 2006.

DMGS00571 Writer-Editor to the Executive Secretary. Effective September 18, 2006.

DMGS00576 Press Assistant to the Press Secretary. Effective September 22, 2006.

Section 213.3312 Department of the Interior

DIGS01078 Counselor to the Assistant Secretary—Water and Science for Water and Science. Effective September 20, 2006.

DIGS01075 Associate Director—External and Intergovernmental Affairs to the Director, External and Intergovernmental Affairs. Effective September 25, 2006.

Section 213.3313 Department of Agriculture

DAGS00860 Special Assistant to the Secretary. Effective September 6, 2006.

DAGS00862 Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective September 14, 2006.

DAGS00863 Director of External Affairs to the Administrator, Farm Service Agency. Effective September 18, 2006.

DAGS00861 Deputy Director, Office of Faith-Based and Community Initiatives to the Director of Faith-Based and Community Initiatives. Effective September 20, 2006.

Section 213.3314 Department of Commerce

DCGS00252 Confidential Assistant to the Director, Executive Secretariat. Effective September 1, 2006.

DCGS00361 Chief of Congressional Affairs to the Associate Director for Communications. Effective September 1, 2006.

DCGS00451 Senior Advisor to the Under Secretary for International Trade. Effective September 1, 2006.

DCGS60684 Director of Speechwriting to the Director of Public Affairs. Effective September 27, 2006.

DCGS00544 Special Assistant to the Under Secretary for International Trade. Effective September 28, 2006.

DCGS00642 Protocol Officer to the Chief of Staff. Effective September 28, 2006.

Section 213.3315 Department of Labor

DLGS60084 Special Assistant to the Associate Deputy Secretary. Effective September 13, 2006.

DLGS60163 Chief of Staff to the Assistant Secretary for Occupational Safety and Health. Effective September 13, 2006.

DLGS60011 Staff Assistant to the Director, 21st Century Office and Deputy Assistant Secretary for Intergovernmental Affairs. Effective September 22, 2006.

DLGS60092 Attorney Adviser to the Solicitor of Labor. Effective September 22, 2006.

DLGS60147 Attorney Adviser to the Solicitor of Labor. Effective September 22, 2006.

DLGS60175 Senior Advisor to the Deputy Assistant Secretary for Policy. Effective September 22, 2006.

Section 213.3316 Department of Health and Human Services

DHGS60010 Confidential Assistant (Faith-Based) to the Director, Center for Faith-Based and Community Initiatives. Effective September 22, 2006.

DHGS60041 Special Assistant to the Deputy Commissioner for Policy. Effective September 29, 2006.

Section 213.3317 Department of Education

DBGS00565 Confidential Assistant to the Director, Office of Educational Technology. Effective September 13, 2006.

DBGS00566 Special Assistant to the Assistant Secretary for Planning, Evaluation, and Policy. Effective September 28, 2006.

Section 213.3318 Environmental Protection Agency

EPGS06022 Program Advisor to the Associate Administrator for Congressional and Intergovernmental Relations. Effective September 1, 2006.

EPGS06023 Senior Speechwriter to the Associate Administrator for Public Affairs. Effective September 13, 2006.

EPGS06024 Associate Assistant Administrator to the Assistant Administrator for Solid Waste and Emergency Response. Effective September 15, 2006.

EPGS06025 Senior Strategic Scheduler to the Deputy Chief of Staff (Operations). Effective September 29, 2006.

EPGS06027 Director of Advance to the Deputy Chief of Staff (Operations). Effective September 29, 2006.

Section 213.3331 Department of Energy

DEGS00542 Special Assistant to the Director, Public Affairs. Effective September 13, 2006.

Section 213.3332 Small Business Administration

SBGS60190 Deputy Chief of Staff to the Chief of Staff. Effective September 13, 2006.

SBGS00604 Director of Scheduling and Advance to the Chief of Staff. Effective September 15, 2006.

SBGS00603 Policy Analyst to the Associate Administrator for Policy. Effective September 22, 2006.

Section 213.3337 General Services Administration

GSGS00177 Deputy Chief of Staff to the Chief of Staff. Effective September 01, 2006.

GSGS00181 Public Affairs Assistant to the Deputy Associate Administrator for Communications. Effective September 13, 2006.

Section 213.3339 United States International Trade Commission

TCGS00012 Confidential Assistant to a Commissioner. Effective September 20, 2006.

Section 213.3384 Department of Housing and Urban Development

DUGS60338 Special Policy Advisor to the Assistant Secretary for Housing, Federal Housing Commissioner. Effective September 13, 2006.

DUGS60210 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Relations. Effective September 20, 2006.

DUGS60423 Staff Assistant to the Assistant Secretary for Administration/Chief Human Capital Officer. Effective September 25, 2006.

Section 213.33 Merit Systems Protection Board

MPSL00001 Chief Counsel to the Vice-Chair to the Vice Chairman. Effective September 22, 2006.

Section 213.33 National Endowment for the Humanities

NHGS60077 Senior Advisor to the Chairman to the Chairman. Effective September 13, 2006.

NHGS60075 Director of Communications to the Deputy Chairman. Effective September 20, 2006.

Office of Personnel Management.

Dan G. Blair,

Deputy Director.

[FR Doc. 06–9434 Filed 11–27–06; 8:45 am]

BILLING CODE 6325–39–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 12b–1, SEC File No. 270–188, OMB Control No. 3235–0212.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 12b–1 (17 CFR 270.12b–1) permits a registered open-end investment company (''mutual fund'') to distribute its own shares and pay the expenses of distribution out of the mutual fund's assets provided, among other things, that the mutual fund adopts a written plan (''Rule 12b–1 plan'') and has in writing any agreements relating to the implementation of the Rule 12b–1 plan. The rule in part requires that (i) the adoption or material amendment of a Rule 12b–1 plan be approved by the mutual fund's directors and shareholders; (ii) the board review quarterly reports of amounts spent under the Rule 12b–1 plan; and (iii) the board consider continuation of the Rule 12b–1 plan at least annually. Rule 12b–1 also requires funds relying on the rule to preserve for six years, the first two years in an easily accessible place, copies of the Rule 12b–1 plan, related agreements and reports, as well as minutes of board meetings that describe the factors considered and the basis for adopting or continuing a Rule 12b–1 plan.

The board and shareholder approval requirements of Rule 12b–1 are designed to ensure that fund shareholders and directors receive adequate information to evaluate and approve a Rule 12b–1 plan. The requirement of quarterly reporting to the board is designed to ensure that the Rule 12b–1 plan continues to benefit the fund and its shareholders. The recordkeeping requirements of the rule are necessary to enable Commission staff to oversee compliance with the rule.

The number of hours required to comply with Rule 12b–1 will vary considerably depending on several factors, including the complexity of the plan and the number of classes of fund shares covered by the plan, and is expected to be higher in the first year following adoption of the proposed amendments than in subsequent years. Based on information filed with the Commission by funds, Commission staff estimates that there are approximately 6,536 mutual fund portfolios with Rule 12b–1 plans.

Rule 12b–1 requires the board of each fund with a Rule 12b–1 plan to (i) review quarterly reports of amounts spent under the plan, (ii) annually consider the plan's continuation (which generally is combined with the fourth quarterly review), (iii) have each fund document the policies and procedures it has implemented to enable it to effect portfolio securities transactions through an executing broker that also distributes the fund's shares, and (iv) approve those policies and procedures.

The number of annual responses per fund portfolio will be four per year. Thus, there will be an estimated 26,144 industry responses (6,536 fund portfolios × 4 responses per fund portfolio= 26,144 responses) in the first year and in each subsequent year. Thus, we estimate that there will be an average of 26,144 industry responses per year over the three year period for which we are requesting approval of the information collection burden.

Based on conversations with fund industry representatives, Commission staff estimates that for each of the 6,536 mutual fund portfolios that currently have a Rule 12b–1 plan, the average annual burden of complying with the rule is 100 hours to maintain the plan. This estimate takes into account the time needed to prepare quarterly reports to the board of directors, the board's consideration of those reports, and the board's annual consideration of the plan's continuation. The total burden hours per year for all fund portfolios to comply with current information collection requirements under Rule 12b–1, therefore, is estimated to be 653,600 hours (6,536 fund portfolios × 100 hours per fund portfolio = 653,600 hours). The annual cost of the hourly burden per fund under the rule is estimated to be $11,135.00. Thus, we estimate that the total annual cost to all funds of the Rule 12b–1 hour burden is $72,778,360.00 (6,536 fund portfolios with Rule 12b–1 plans × $11,135.00 per fund portfolio = $72,778,360.00).

If a currently operating fund seeks to (i) adopt a new Rule 12b–1 plan or (ii) materially increase the amount it spends for distribution under its Rule 12b–1 plan, Rule 12b–1 requires that the fund obtain shareholder approval. As a consequence, the fund will incur the cost of a proxy. Based on conversations with fund industry representatives, Commission staff estimates that approximately three funds per year prepare a proxy in connection with the adoption or material amendment of a Rule 12b–1 plan. The staff further estimates that the cost of each fund's proxy is $30,000. Thus the total annual cost burden of Rule 12b–1 to the fund industry is $90,000 (3 funds requiring a proxy × $30,000 per proxy).

The collections of information required by Rule 12b–1 are necessary to obtain the benefits of the rule. Notices to the Commission will not be kept confidential. 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 control number.

Written 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 will 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 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: November 20, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–20055 Filed 11–27–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54795; File No. SR–BSE–2006–44]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Existing BSE Fee Schedules

November 20, 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 20, 2006, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the BSE. The BSE has designated this proposal as one changing a due, fee, or other charge under Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of this filing is to amend the existing BSE fee schedule and to establish a fee schedule for the Boston Equities Exchange trading system (''BeX''). The amendments to the existing BSE fee schedule would delete of fees that are no longer applicable or that will now be associated with BeX. The BeX fee schedule reflects the new fees associated with the services and products available to BSE Members, including Electronic Access Members (''EAMs''), in the BeX fully electronic environment. The primary categories of new fees set forth in the proposed BeX fee schedule include: transaction fees, including regulatory transaction fees; clearing services fees; facility fees; technology fees; and connectivity fees.

The text of the proposed rule change is available on the Exchange's Web site (*http://www.bostonstock.com*) and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the BSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The BSE 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

On June 13, 2006, the BSE filed Amendment No. 3 to SR–BSE–2006–22 (the ''BeX Facility Filing''), a rule filing submitted in connection with the implementation of the first of two phases of the BeX, a fully automated electronic book for the display and execution of orders in securities. On August 25, 2006, SR–BSE–2006–22 was approved by the Commission.[5] On August 3, 2006, the BSE filed, in connection with the implementation of the second phase of the BeX trading system and in connection with satisfying the requirements of Regulation NMS, SR–BSE–2006–30. On September 29, 2006, the Commission approved SR–BSE–2006–30.[6]

The existing BSE fee schedule will be amended so as to delete all Transaction Fees, Electronic File Access and Processing Fees, and Floor Operation Fees. The Transaction Fees and Electronic File Access and Processing Fees will now be contained in the BeX fee schedule and, in view of the fact that there will no longer be a physical trading floor in the traditional sense once the transition to the BeX fully electronic platform occurs, there is no longer a need for the Floor Operation Fees. The existing Membership and Other Fees will remain in their present form. It should be noted that while BSE Members will continue to be charged the Membership and Other Fees, EAMs will not be charged those fees. That is due to the fact that, although EAMs and BSE Members are treated equally, EAMs do not vote on matters related to mergers, consolidations, dissolution, liquidation, transfer or conversion of the assets of the Exchange and hold non-transferable permits that are solely for trading on BeX. Therefore, EAMs are not required to pay the Membership fees applicable to BSE Members.

The BeX fee schedule reflects the new fees associated with the services and products available to BSE Members in the BeX fully electronic environment. The primary categories of new fees set forth in the proposed BeX fee schedule are: transaction fees, including regulatory transactions fees; clearing service fees; facility fees; technology fees; and connectivity fees. Unless otherwise indicated on the fee schedule, all fees are charged on a monthly basis. The following is a description of the foregoing categories:

Transaction Fees: Transaction fees in BeX are broken down based upon share price and where they are listed, such as on the Nasdaq Stock Exchange versus another exchange. For securities listed on an exchange other than the Nasdaq that are traded with a share price greater than or equal to $1.00, the Liquidity Provider will receive a $0.0023 credit and the Liquidity Taker will be charged $0.0028 per share. For securities that are listed on the Nasdaq that are traded with a share price equal to or greater than $1.00, the Liquidity Provider will receive a $0.0025 credit and the Liquidity Taker will be charged $0.0028 per share.

If a security is listed on an exchange other than the Nasdaq and trades with a share price less than $1.00, the Liquidity Provider receives a credit in

[5] *See* Securities Exchange Act Release No. 54365 (Aug. 25, 2006), 71 FR 52192 (Sept. 1, 2006).

[6] *See* Securities Exchange Act Release No. 54546 (Sept. 29, 2006), 71 FR 59161 (Oct. 6, 2006).

the amount of $0.0023, with a maximum of .3% of the quotation price per share and the Liquidity Taker is charged $0.0028 with a maximum of .3% of the quotation price per share. If a security is listed on the Nasdaq and trades with a share price less than $1.00, the Liquidity Provider receives a credit in the amount of $0.0025, with a maximum of .3% of the quotation price per share and the Liquidity Taker is charged $0.0028 with a maximum of .3% of the quotation price per share.

Trades submitted as pre-matched cross trades are free. Additionally, all transaction fees and credits are capped at $100.00 per trade side.

Revenue Sharing: In the case of a trade that provides liquidity, BeX will share 50% of gross revenue received (less any CQS/CTS capacity and ETF registration fee expenses, if applicable) from CTA and SIP for all Tape A, Tape B and Tape C issues with the liquidity providing side. Similarly, BeX will share 50% of gross revenue with a Member Firm that submits a pre-matched cross trade in the same manner as it shares revenue with a liquidity provider.

Smart Order Routing: BeX will charge $.0010 per order routed to an away Trading Center on behalf of a Member.

Regulatory Transaction Fees: In order to fund the Section 31 obligations of the BSE, Regulatory Transaction Fees will continue to be assessed in accordance with Chapter XXIII, Section 2 of the BSE Rules.

Clearing Services: Trades cleared through the Boston Stock Exchange Clearing Corporation's account at the National Securities Clearing Corporation will incur a $0.50 trade side charge.

Technology: While BSE Members need not utilize technology made available to them by BeX, BSE Members will have available to them through BeX technology that will enable them to access the BeX marketplace. That access is available through BeX Workstations. If a BSE Member utilizes the Basic BeX Workstation, they will incur a fee of $750.00 per logon. A ''logon'' is simply an identification number. Up to five logons are available per workstation.

Trading Floor Fees: While the Exchange will no longer have a physical trading floor in the regulatory sense, the floor space will continue to exist and be available to BSE Members for a fee should they choose to maintain workspace on that floor. If BSE Members choose to maintain workspace on the floor, they will be charged $500.00 per month per post and $250.00 per month for each person who regularly shows up to work at that post. There will be a $50.00 per voice circuit Port Charge. The fee for unique telecommunications configurations will be cost plus a 25% mark up. Fees to cover the cost cable television, postage, courier service, fax, phone, after hours BeX staff assistance and certain other items that may arise from time to time as a result of the BSE Member's use of the floor space will be priced at cost.

Reports: Daily P&S Blotters in PDF format will be available for free. Daily electronic trade file access and processing will cost $300.00 per month, per firm I.D. Special Report Development will also be available and fees for such reports will be determined on a case by case basis and will be subject to an appropriate rule filing.

Connectivity: To the extent Members choose SIAC SFTI as their network provider, the Members will be charged a one time SIAC SFTI fee by BeX in the amount of $200.00 and a monthly fee of $200.00. Members need not, however, utilize SIAC SFTI as their network provider. Members can choose from among three other network providers, Radianz, TNS and Savvis, in the event they do not wish to use SIAC SFTI as their network provider. Should a Member choose a network provider other than SIAC SFTI, the relationship between the Member and the network provider, including any costs associated with the provision of network provider services, are between the Member and that network provider and BeX will have no involvement with that relationship.

Members will also be charged for port connections. The first active and first back up ports are free to the Member, but any additional ports utilized by the Member beyond the first active and first back up ports will incur a monthly charge which is set forth on the fee schedule.

Additionally, Members who choose to have their servers physically located at the BSE will be charged for hosting and server management. Hosting and server management services include the hosting of a server, maintenance of network connectivity, provision of power to the server, and day to day management of the server being hosted, such as making sure the server is communicating properly with the network. A Member who chooses to have their server hosted by BeX will have options available to them with respect to the server's physical location and the amount of power and bandwidth associated with the server, which is expressed in terms of Cabinet and Power Services on the fee schedule. In any event, fees related to hosting and server management, as with all fees to be charged in the BeX environment, are set forth in detail in the proposed fee schedule.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(4) of the Act,[8] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange Members and issuers and other persons using Exchange 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

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(2) thereunder,[10] because it establishes or changes a due, fee or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of such rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BSE–2006–44 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BSE–2006–44. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the BSE. 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–BSE–2006–44 and should be submitted on or before December 19, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–20132 Filed 11–27–06; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54803; File No. SR–CBOE–2006–97]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend CBOE Rule 8.3 Relating to the Appointment Costs of Certain Classes

November 21, 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 20, 2006, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] 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

CBOE proposes to amend CBOE Rule 8.3 to allow options on the Russell 2000 Index (RUT) to be traded on the Hybrid Trading System, and options on the iShares S&P 100 (OEF) to be traded on the Hybrid 2.0 Platform.[6] The text of the proposed rule change is available on CBOE's Web site (*http://www.cboe.com*), at the CBOE's Office of the Secretary, and at the Commission's public reference room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange inadvertently included a reference to Section 19(b)(3)(A)(i) of the Act and Rule 19b–4(f)(1) thereunder. Pursuant to the Exchange's request, Commission staff deleted this language and replaced it with the language set forth above. Telephone call between Patrick Sexton, Associate General Counsel, CBOE, and Sonia Trocchio, Special Counsel, Division of Market Regulation (''Division''), on November 21, 2006.

[6] The Exchange inadvertently stated that ''CBOE proposes to increase the class quoting limit in the option class Research in Motion (RIMM).'' Pursuant to the Exchange's request, Commission staff deleted this language and replaced it with the language set forth above. Telephone call between Patrick Sexton, Associate General Counsel, CBOE, and Sonia Trocchio, Special Counsel, Division, on November 21, 2006.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this rule change is to amend CBOE Rule 8.3 in connection with CBOE's determination to trade options on the Russell 2000 Index (RUT) on the Hybrid Trading System, and options on the iShares S&P 100 (OEF) on the Hybrid 2.0 Platform.[7] Specifically, CBOE proposes to amend CBOE Rule 8.3(c)(iv) to delete reference to RUT options and OEF options in the table listing the non-Hybrid option classes and their related appointment costs.

CBOE proposes to amend CBOE Rule 8.3(c)(ii) to specifically reference RUT options as an option class trading on the Hybrid Trading System, with an appointment cost of .25. CBOE proposes to have OEF options, as an option class trading on the Hybrid 2.0 Platform, fall within the appointment cost structure set forth in CBOE Rule 8.3(c)(i). Based on its trading volume, OEF options initially would be included in Tier F with an appointment cost of .001. CBOE notes that these new appointment costs for RUT and OEF would be lower than their current appointment costs.[8]

2. Statutory Basis

Accordingly, CBOE believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is

[7] CBOE Rule 1.1(aaa) defines Hybrid Trading System and Hybrid 2.0 Platform.

[8] RUT options currently have a non-Hybrid appointment cost of .45, and OEF options currently have a non-Hybrid appointment cost of .01.

[9] 15 U.S.C. 78f(b).

consistent with the Section 6(b)(5) [10] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE 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 Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither received nor solicited written comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [11] and subparagraph (f)(6) of Rule 19b–4 [12] thereunder because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such sorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Under Rule 19b–4(f)(6) of the Act,[13] the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative date, so that the proposal may take effect upon filing. The Exchange believes that the proposed changes to CBOE Rule 8.3 that facilitate CBOE's determination to trade RUT options on the Hybrid Trading System and OEF options on the Hybrid 2.0 Platform raise no new or unique issues. CBOE has also noted that the proposed changes would lower the appointment costs for these options. The Commission agrees and, consistent with the protection of investors and the public interest, has determined to waive the 30-day operative date so that the proposal may take effect upon filing.[14]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2006–97 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–CBOE–2006–97. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2006–97 and should be submitted on or before December 19, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Nancy M. Morris,

Secretary.

[FR Doc. 06–9426 Filed 11–27–06; 8:45 am]

BILLING CODE 8011–01–M

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78fs(b)(3)(A)(III).

[12] 17 CFR 240.19b–4(f)(6).

[13] *Id.*

[14] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54780; File No. SR–CBOE–2006–87]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend a Pilot Program Relating to CBOE's Retail Automatic Execution System

November 17, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 3, 2006, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission.[5] 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

CBOE proposes to extend a pilot program relating to the operation of CBOE's Retail Automatic Execution

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange has asked the Commission to waive the 30-day operative delay required by Rule 19b–4(f)(6)(iii), 17 CFR 240.19b–4(f)(6)(iii). See discussion *infra* Section III.

System (''RAES''). The text of the proposed rule change is available on the CBOE's Internet Web site (*http://www.cboe.com*), at the CBOE's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend a pilot program until November 30, 2007 to allow broker-dealer orders that are eligible for execution on RAES pursuant to CBOE Rule 6.8, Interpretation and Policy .01 to automatically execute against customer limit orders on CBOE's book in classes designated by the appropriate Procedure Committee. The pilot was originally approved on May 13, 2004, with an expiration date of November 30, 2004.[6] The pilot was extended for one year to November 30, 2005 pursuant to SR–CBOE–2004–78[7] and again extended an additional year to November 30, 2006 pursuant to SR–CBOE–2005–96.[8]

The Exchange's RAES system was created to allow for the automatic execution of retail customer options orders against CBOE market makers at their disseminated prices. In 1999, the Exchange expanded the RAES system to allow incoming RAES orders to execute against customer limit orders on the CBOE book when such booked orders constitute CBOE's best bid/offer.[9] The Exchange has allowed broker-dealer orders to be executed on RAES in classes designated by the appropriate Procedure Committee.[10] The pilot program allows these broker-dealer orders to automatically execute against the book.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act, in general and furthers the objectives of Section 6(b)(5) of the Act in particular in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for thirty days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)[12] thereunder.[13]

A proposed rule change filed under Commission Rule 19b–4(f)(6)[14] normally does not become operative prior to thirty days after the date of filing. The CBOE requests that the Commission waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii), and designate the proposed rule change to become operative immediately to allow the Exchange to continue to operate the pilot program which affords automatic execution to a greater number of market participants on an uninterrupted basis. The Commission hereby grants the request. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the CBOE to continue to operate under the pilot program without interruption. For these reasons, the Commission designates the proposed rule change as effective and operative upon filing.[15]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 No. SR–CBOE–2006–87 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR-CBOE–2006–87. 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

[6] Securities Exchange Act Release No. 49699 (May 13, 2004), 69 FR 28958 (May 19, 2004) (approving SR–CBOE–2003–42).

[7] Securities Exchange Act Release No. 50779 (December 1, 2004), 69 FR 71087 (December 8, 2004).

[8] Securities Exchange Act Release No. 52855 (November 30, 2005), 70 FR 73317 (December 9, 2005).

[9] Securities Exchange Act Release No. 41995 (October 8, 1999), 64 FR 56547 (October 20, 1999) (approving SR–CBOE–1999–29).

[10] *See* SR–CBOE–2002–22, 35, and 56.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] Pursuant to Rule 19b–4(f)(6)(iii), the Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date on which the Exchange filed the proposed rule change. *See* 17 CFR 240.19b–4(f)(6)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2006–87 and should be submitted on or before December 19, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Nancy M. Morris,

Secretary.

[FR Doc. E6–20054 Filed 11–27–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54797; File No. SR–NASDAQ–2006–041]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change to Modify an Aspect of the Definition of Independent Director

November 20, 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 October 3, 2006, The NASDAQ Stock Market LLC (''Nasdaq''), 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 substantially prepared by Nasdaq. 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 the Substance of the Proposed Rule Change

Nasdaq proposes to amend its Rules 4200(a)(15)(B) and IM–4200 to modify an aspect of Nasdaq's definition of ''independent director.'' Nasdaq will implement the proposed rule upon approval by the Commission.

The text of the proposed rule change is available on Nasdaq's Web site at *http://www.nasdaq.com*, at Nasdaq'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, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq 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 purpose of the proposed rule change is to modify the definition of an ''independent director'' in Nasdaq's rules to reflect recent changes made to Commission rules. The definition of ''independent director'' is relevant to Nasdaq's corporate governance standards for listed companies.[3]

Current Nasdaq Rule 4200(a)(15) and IM–4200 generally preclude a director of a listed company from being considered independent if the director has received more than $60,000 in compensation from the issuer. Nasdaq states that this threshold was originally based on the disclosure threshold set by the Commission in Regulation S–K, Item 404.[4] Since the Commission recently adopted a proposal to raise this threshold to $120,000,[5] Nasdaq believes that it would be appropriate to raise its independence threshold to the same amount.

When the $60,000 threshold in the definition of independent director was first adopted in 1999, the proposal to implement the rule stated that ''* * * Nasdaq believes that a compensation threshold of $60,000 is appropriate as it corresponds to the *de minimis* threshold for disclosure of relationships that may affect the independent judgment of directors set forth in SEC Regulation S–K, Item 404.''[6] Nasdaq states that the disclosure amount from Item 404 was chosen for the independence test in Nasdaq's rules because it was transparent and straightforward for issuers to understand and apply.[7] Moreover, Nasdaq believes that using this disclosure threshold greatly simplifies its proxy review process for assessing compliance with the independent director requirements. In that regard, with the Commission's disclosure threshold set at $120,000, issuers will not be required to disclose lower amounts between $60,000 and $120,000, and therefore, in the absence of the proposed rule change, it would be difficult for Nasdaq to monitor the independent director requirement.[8]

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[9] in general and with Section 6(b)(5) of the Act,[10] in particular. Section 6(b)(5) requires, among other things, that Nasdaq's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Nasdaq states that the proposed change is consistent with these requirements because it will conform Nasdaq rules to Commission rules and provide a standard that is clear, straightforward and uniform for issuers to understand and apply.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any

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[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Nasdaq Rule 4350(c)–(d).

[4] 17 CFR 229.404.

[5] *See* Securities Exchange Act Release No. 54302A (August 29, 2006), 71 FR 53158 (September 8, 2006).

[6] *See* Securities Exchange Act Release No. 41982 (October 6, 1999), 64 FR 55510 (October 13, 1999).

[7] Telephone conference among Ira Brandriss and Kristie Diemer, Special Counsels, Commission, and Erika Moore, Assistant General Counsel, Nasdaq, on November 8, 2006 (''Telephone conference with Nasdaq'').

[8] Nasdaq also notes that while the existing Nasdaq rule prohibits an independent director from receiving payments in excess of $60,000, the comparable rule of the New York Stock Exchange LLC (''NYSE'') prohibits compensation in excess of $100,000. *See* Section 303A.02(b)(ii) of the NYSE Listed Company Manual.

It should be noted that even when an individual has passed the ''bright line'' test of independence amended by this proposal, a board of directors could still determine on its own that the individual should not be considered independent, depending upon the amount of the compensation and the surrounding circumstances. *See* Nasdaq Rule 4200(a)(15) and IM–4200. Telephone conference with Nasdaq.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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 Nasdaq consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2006–041 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2006–041. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Nasdaq. 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–NASDAQ–2006–041 and should be submitted on or before December 19, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

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[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54799; File No. SR–NASD–2003–141]

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Notice of Filing of Amendment Nos. 3, 4, and 5 to a Proposed Rule Change Relating to Additional Mark-Up Policy for Transactions in Debt Securities, Except Municipal Securities

November 21, 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 October 11, 2005, November 22, 2005, and October 31, 2006, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') Amendment Nos. 3, 4, and 5 to the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. NASD submitted the original proposed rule change to the Commission on September 17, 2003 and filed amendments on June 29, 2004, and February 17, 2005.[3] The Commission published the proposed rule change, as amended by Amendment Nos. 1 and 2, for comment in the **Federal Register** on March 15, 2005.[4] The Commission received six comments on the proposal.[5] NASD submitted a response to these comments on October 4, 2005, and filed Amendment Nos. 3, 4, and 5 to further address the comments and propose responsive amendments.[6] Amendment No. 5 replaces in their entirety the original rule filing and Amendment Nos. 1 through 4 thereto. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to adopt NASD IM–2440–2 to NASD Rule 2440 to provide additional mark-up policy for transactions in debt securities, except municipal securities. Below is the amended text of the proposed rule change. Proposed new language is in italic.

* * * * *

IM–2440–*1*. Mark-Up Policy

Remainder of IM–2440–1 No change.

* * * * *

IM–2440–2. Additional Mark-Up Policy For Transactions in Debt Securities, Except Municipal Securities [1]

(a) Scope

(1) IM–2440–1 applies to debt securities transactions, and this IM–2440–2 supplements the guidance provided in IM–2440–1.

(b) Prevailing Market Price

(1) A dealer that is acting in a principal capacity in a transaction with

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 to SR–NASD–2003–141 made technical changes to the original rule filing. Amendment No. 2 to SR–NASD–2003–141 superseded in its entirety the original rule filing, as amended by Amendment No. 1.

[4] *See* Securities Exchange Act Release No. 51338 (March 9, 2005), 70 FR 12764 (March 15, 2005) (NASD–2003–141).

[5] The Commission received comments from Mr. Paul Scheurer, Banc of America Securities LLC, The Bond Market Association, CitiGroup Global Markets, Inc., The Asset Managers Forum, and the American Securitization Forum. Two comments were submitted during the comment period which closed on April 5, 2005, and four additional comment letters were submitted after the comment period closed.

[6] Both Amendment Nos. 3 and 4 to SR–NASD–2003–141 made technical changes to the rule filing as amended by Amendment No. 2.

[1] *The Interpretation does not apply to transactions in municipal securities. Single terms in parentheses within sentences, such as the terms ''(sale)'' and ''(to)'' in the phrase, ''contemporaneous dealer purchase (sale) transactions with institutional accounts,'' refer to scenarios where a member is charging a customer a mark-down.*

a customer and is charging a mark-up or mark-down must mark-up or mark-down the transaction from the prevailing market price. Presumptively for purposes of this IM–2440–2, the prevailing market price for a debt security is established by referring to the dealer's contemporaneous cost as incurred, or contemporaneous proceeds as obtained, consistent with NASD pricing rules. (See, e.g., Rule 2320).

(2) When the dealer is selling the security to a customer, countervailing evidence of the prevailing market price may be considered only where the dealer made no contemporaneous purchases in the security or can show that in the particular circumstances the dealer's contemporaneous cost is not indicative of the prevailing market price. When the dealer is buying the security from a customer, countervailing evidence of the prevailing market price may be considered only where the dealer made no contemporaneous sales in the security or can show that in the particular circumstances the dealer's contemporaneous proceeds are not indicative of the prevailing market price.

(3) A dealer's cost is considered contemporaneous if the transaction occurs close enough in time to the subject transaction that it would reasonably be expected to reflect the current market price for the security. (Where a mark-down is being calculated, a dealer's proceeds would be considered contemporaneous if the transaction from which the proceeds result occurs close enough in time to the subject transaction that such proceeds would reasonably be expected to reflect the current market price for the security.)

(4) A dealer that effects a transaction in debt securities with a customer and identifies the prevailing market price using a measure other than the dealer's own contemporaneous cost (or, in a mark-down, the dealer's own proceeds) must be prepared to provide evidence that is sufficient to overcome the presumption that the dealer's contemporaneous cost (or, the dealer's proceeds) provides the best measure of the prevailing market price. A dealer may be able to show that its contemporaneous cost is (or proceeds are) not indicative of prevailing market price, and thus overcome the presumption, in instances where (i) interest rates changed after the dealer's contemporaneous transaction to a degree that such change would reasonably cause a change in debt securities pricing; (ii) the credit quality of the debt security changed significantly after the dealer's contemporaneous transaction; or (iii) news was issued or otherwise distributed and known to the marketplace that had an effect on the perceived value of the debt security after the dealer's contemporaneous transaction.

(5) In instances where the dealer has established that the dealer's cost is (or, in a mark-down, proceeds are) no longer contemporaneous, or where the dealer has presented evidence that is sufficient to overcome the presumption that the dealer's contemporaneous cost (or proceeds) provides the best measure of the prevailing market price, such as those instances described in (b)(4)(i), (ii) and (iii), a member must consider, in the order listed, the following types of pricing information to determine prevailing market price:

(A) Prices of any contemporaneous inter-dealer transactions in the security in question;

(B) In the absence of transactions described in (A), prices of contemporaneous dealer purchases (sales) in the security in question from (to) institutional accounts with which any dealer regularly effects transactions in the same security; or

(C) In the absence of transactions described in (A) and (B), for actively traded securities, contemporaneous bid (offer) quotations for the security in question made through an inter-dealer mechanism, through which transactions generally occur at the displayed quotations.

(A member may consider a succeeding category of pricing information only when the prior category does not generate relevant pricing information (e.g., a member may consider pricing information under (B) only after the member has determined, after applying (A), that there are no contemporaneous inter-dealer transactions in the same security).) In reviewing the pricing information available within each category, the relative weight, for purposes of identifying prevailing market price, of such information (i.e., either a particular transaction price, or, in (C) above, a particular quotation) depends on the facts and circumstances of the comparison transaction or quotation (i.e., such as whether the dealer in the comparison transaction was on the same side of the market as the dealer is in the subject transaction and timeliness of the information).

(6) In the event that, in particular circumstances, the above factors are not available, other factors that may be taken into consideration for the purpose of establishing the price from which a customer mark-up (mark-down) may be calculated, include but are not limited to:

- *Prices of contemporaneous inter-dealer transactions in a ''similar'' security, as defined below, or prices of contemporaneous dealer purchase (sale) transactions in a ''similar'' security with institutional accounts with which any dealer regularly effects transactions in the ''similar'' security with respect to customer mark-ups (mark-downs);*
- *Yields calculated from prices of contemporaneous inter-dealer transactions in ''similar'' securities;*
- *Yields calculated from prices of contemporaneous dealer purchase (sale) transactions with institutional accounts with which any dealer regularly effects transactions in ''similar'' securities with respect to customer mark-ups (mark-downs); and*
- *Yields calculated from validated contemporaneous inter-dealer bid (offer) quotations in ''similar'' securities for customer mark-ups (mark-downs).*

The relative weight, for purposes of identifying prevailing market price, of the pricing information obtained from the factors set forth above depends on the facts and circumstances surrounding the comparison transaction (i.e., whether the dealer in the comparison transaction was on the same side of the market as the dealer is in the subject transaction, timeliness of the information, and, with respect to the final factor listed above, the relative spread of the quotations in the similar security to the quotations in the subject security).

(7) Finally, if information concerning the prevailing market price of the subject security cannot be obtained by applying any of the above factors, NASD or its members may consider as a factor in assessing the prevailing market price of a debt security the prices or yields derived from economic models (e.g., discounted cash flow models) that take into account measures such as credit quality, interest rates, industry sector, time to maturity, call provisions and any other embedded options, coupon rate, and face value; and consider all applicable pricing terms and conventions (e.g., coupon frequency and accrual methods). Such models currently may be in use by bond dealers or may be specifically developed by regulators for surveillance purposes.

(8) Because the ultimate evidentiary issue is the prevailing market price, isolated transactions or isolated quotations generally will have little or no weight or relevance in establishing prevailing market price. For example, in considering yields of ''similar'' securities, except in extraordinary

circumstances, members may not rely exclusively on isolated transactions or a limited number of transactions that are not fairly representative of the yields of transactions in ''similar'' securities taken as a whole.

(9) ''Customer,'' for purposes of Rule 2440, IM–2440–1 and this IM–2440–2, shall not include a qualified institutional buyer (''QIB'') as defined in Rule 144A under the Securities Act of 1933 that is purchasing or selling a non-investment grade debt security when the dealer has determined, after considering the factors set forth in IM–2310–3, that the QIB has the capacity to evaluate independently the investment risk and in fact is exercising independent judgment in deciding to enter into the transaction. For purposes of Rule 2440, IM–2440–1 and this IM–2440–2, ''non-investment grade debt security'' means a debt security that: (i) If rated by only one nationally recognized statistical rating organization (''NRSRO''), is rated lower than one of the four highest generic rating categories; (ii) if rated by more than one NRSRO, is rated lower than one of the four highest generic rating categories by any of the NRSROs; or (iii) if unrated, either was analyzed as a non-investment grade debt security by the dealer and the dealer retains credit evaluation documentation and demonstrates to NASD (using credit evaluation or other demonstrable criteria) that the credit quality of the security is, in fact, equivalent to a non-investment grade debt security, or was initially offered and sold and continues to be offered and sold pursuant to an exemption from registration under the Securities Act of 1933.

(c) ''Similar'' Securities

(1) A ''similar'' security should be sufficiently similar to the subject security that it would serve as a reasonable alternative investment to the investor. At a minimum, the security or securities should be sufficiently similar that a market yield for the subject security can be fairly estimated from the yields of the ''similar'' security or securities. Where a security has several components, appropriate consideration may also be given to the prices or yields of the various components of the security.

(2) The degree to which a security is ''similar,'' as that term is used in this IM–2440–2, to the subject security may be determined by factors that include but are not limited to the following:

(A) Credit quality considerations, such as whether the security is issued by the same or similar entity, bears the same or similar credit rating, or is supported by a similarly strong guarantee or collateral as the subject security (to the extent securities of other issuers are designated as ''similar'' securities, significant recent information of either issuer that is not yet incorporated in credit ratings should be considered (e.g., changes to ratings outlooks));

(B) The extent to which the spread (i.e., the spread over U.S. Treasury securities of a similar duration) at which the ''similar'' security trades is comparable to the spread at which the subject security trades;

(C) General structural characteristics and provisions of the issue, such as coupon, maturity, duration, complexity or uniqueness of the structure, callability, the likelihood that the security will be called, tendered or exchanged, and other embedded options, as compared with the characteristics of the subject security; and

(D) Technical factors such as the size of the issue, the float and recent turnover of the issue, and legal restrictions on transferability as compared with the subject security.

(3) When a debt security's value and pricing is based substantially on, and is highly dependent on, the particular circumstances of the issuer, including creditworthiness and the ability and willingness of the issuer to meet the specific obligations of the security, in most cases other securities will not be sufficiently similar, and therefore, other securities may not be used to establish the prevailing market price.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background and Introduction

Under NASD Rule 2440, ''Fair Prices and Commissions,'' members are required to sell securities to a customer at a fair price.[7] When a member acts in a principal capacity and sells a security to a customer, a dealer generally ''marks up'' the security, increasing the total price the customer pays. Conversely, when buying a security from a customer, a dealer that is a principal generally ''marks down'' the security, reducing the total proceeds the customer receives. NASD IM–2440, ''Mark-Up Policy,'' provides additional guidance on mark-ups and fair pricing of securities transactions with customers.[8] Both Rule 2440 and IM–2440 apply to transactions in debt securities, and IM–2440 provides that mark-ups for transactions in common stock are customarily higher than those for bond transactions of the same size.[9]

Under Rule 2440 and IM–2440, when a customer buys a security from a dealer, the customer's total purchase price, and the mark-up included in the price, must be fair and reasonable. Similarly, when a customer sells a security to a dealer, the customer's total proceeds from the sale, which were reduced by the mark-down, and the mark-down, must be fair and reasonable. A key step in determining whether a mark-up (mark-down) is fair and reasonable is correctly identifying the *prevailing market price* of the security, which is the basis from which the mark-up (mark-down) is calculated.[10]

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[7] Rule 2440 specifically provides that a member is required to buy or sell a security at a fair price to customers, ''taking into consideration all relevant circumstances, including market conditions with respect to such security at the time of the transaction, the expense involved, and the fact that he is entitled to a profit * * * .'' Rule 2320, ''Best Execution and Interpositioning,'' also addresses a member's obligation in pricing customer transactions. In any transaction for or with a customer or a customer of another broker-dealer, NASD Rule 2320, as amended effective November 8, 2006, requires a member to ''use reasonable diligence to ascertain the best market for the subject security and buy or sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions.'' *See* Securities Exchange Act Release No. 54339 (August 21, 2006), 71 FR 50959 (August 28, 2006) (order approving proposed rule change and Amendment Nos. 1 through 5; File No. SR–NASD–2004–026); NASD *Notice to Members* 06–58 (October 2006). Together, Rule 2440 and Rule 2320 impose broad responsibilities on broker-dealers to price customer transactions fairly. *Cf.* ''Review of Dealer Pricing Responsibilities,'' MSRB Notice 2004–3 (January 26, 2004) (discussing MSRB Rules requiring municipal securities dealers to ''exercise diligence in establishing the market value of [a] security and the reasonableness of the compensation received on [a] transaction'').

[8] The terms ''mark-up'' and ''mark-down'' are not found in Rule 2440, but are used in IM–2440. Statements regarding mark-ups also apply generally to mark-downs unless mark-downs are discussed specifically in a separate statement.

[9] NASD IM–2440(b)(1).

[10] IM–2440 states: ''It shall be deemed a violation of Rule 2110 and Rule 2440 for a member to enter

The Proposed Interpretation, ''IM–2440–2, Additional Mark-Up Policy For Transactions in Debt Securities, Except Municipal Securities'' (''Proposed Interpretation''), provides additional guidance on mark-ups (mark-downs) in debt securities transactions, except municipal securities transactions.[11] The Proposed Interpretation addresses two fundamental issues in debt securities transactions: (1) How does a dealer correctly identify the prevailing market price of a debt security; and (2) what is a ''similar'' security and when may it be considered in determining the prevailing market price. As part of the discussion of prevailing market price, the Proposed Interpretation provides guidance on the meaning of ''contemporaneous.'' [12] In addition, NASD proposes a significant exclusion from Rule 2440, IM–2440–1 [13] and the Proposed Interpretation for broker-dealers engaging in non-investment grade debt securities transactions with certain institutional accounts.[14]

Prevailing Market Price

The Proposed Interpretation provides that when a dealer calculates a mark-up (or a mark-down), the best measure of the prevailing market price of the security is presumptively the dealer's contemporaneous cost (proceeds).[15] Further, the dealer may look to countervailing evidence of the prevailing market price *only* where the dealer, when selling a security, made no contemporaneous purchases in the security or can show that in the particular circumstances the dealer's contemporaneous cost is not indicative of the prevailing market price.[16] When buying a security from a customer, the dealer may look to countervailing evidence of the prevailing market price *only* where the dealer made no contemporaneous sales in the security or can show that in the particular circumstances the dealer's contemporaneous proceeds are not indicative of the prevailing market price.[17]

The presumption that contemporaneous cost is the best evidence of prevailing market price is found in many cases and NASD decisions, and its specific applicability to debt securities transactions was addressed by the SEC as early as 1992 in *F.B. Horner & Associates, Inc.*[18] (''F.B. Horner''), a debt mark-up case. In *F. B. Horner*, the SEC stated: ''We have consistently held that where, as in the present case, a dealer is not a market maker, the best evidence of the current market, absent countervailing evidence, is the dealer's contemporaneous cost.'' [19] The basis for the standard was also restated by the Commission. ''That standard, which has received judicial approval, reflects the fact that the prices paid for a security by a dealer in transactions closely related in time to his retail sales are normally a highly reliable indication of the prevailing market.''[20]

The Proposed Interpretation recognizes that in some circumstances a dealer may seek to overcome the presumption that the dealer's own contemporaneous cost is (or proceeds are) the prevailing market price of the subject security for determining a mark-up (mark-down), and sets forth a process for identifying a value other than the dealer's own contemporaneous cost (proceeds).[21]

Cases Where the Presumption May Be Overcome

A dealer may seek to overcome the presumption that its contemporaneous cost or proceeds are not indicative of the prevailing market price in any of three instances: (i) Interest rates changed after the dealer's contemporaneous transaction to a degree that such change would reasonably cause a change in debt securities pricing; (ii) the credit quality of the debt security changed significantly after the dealer's contemporaneous transaction; or (iii) news was issued or otherwise distributed and known to the marketplace that had an effect on the perceived value of the debt security after the dealer's contemporaneous transaction.[22]

Interest Rates

The Proposed Interpretation provides that a dealer may seek to overcome the presumption that its contemporaneous cost or proceeds are not indicative of the prevailing market price where interest rates changed after the dealer's contemporaneous transaction to a degree that such change would reasonably cause a change in debt securities pricing.[23] Changes in interest rates generally affect almost all debt securities pricing; when interest rates change, the price of a debt security is adjusted up or down so that the yield of the debt security remains comparable to other debt securities with the same or equivalent attributes, structures and characteristics (*e.g.*, equivalent credit quality and ratings, equivalent call or put features, etc.).

Credit Quality

The Proposed Interpretation also provides that a dealer may be able to show that its contemporaneous cost is not indicative of prevailing market price where the credit quality of the debt security changed significantly after the dealer's contemporaneous transaction.[24] Although an announcement by a nationally recognized statistical rating organization (''NRSRO'') that it has reviewed the issuer's credit and has changed the issuer's credit rating is an easily identifiable incidence of a change of credit quality, the category is not limited to such announcements. It may be possible for a dealer to establish that the issuer's credit quality changed in the absence of such an announcement; conversely, NASD may determine that the issuer's credit quality had changed and such change was known to the market and factored into the price of the debt security before the dealer's transaction (the transaction used to

into any transaction with a customer in any security at any price not reasonably related to the current market price of the security or to charge a commission which is not reasonable.''

[11] MSRB rule G–30, ''Prices and Commissions,'' applies to transactions in municipal securities, and requires that a municipal securities dealer engaging in a transaction as a principal with a customer must buy or sell securities at an aggregate price that is ''fair and reasonable.''

[12] *See* Proposed IM–2440–2(b)(3).

[13] If the Commission adopts the Proposed Interpretation, current IM–2440 will be re-numbered as IM–2440–1. IM–2440 is referred to hereinafter as IM–2440–1.

[14] *See* Proposed IM–2440–2(b)(9).

[15] *See* Proposed IM–2440–2(b)(1). Of course, if a dealer violates NASD Rule 2320, the dealer's contemporaneous cost (proceeds) in such transactions would not be a reliable indicator of the prevailing market price for the purpose of determining a mark-up or mark-down. If a dealer violates Rule 2320 because the dealer fails to exercise diligence, fails to negotiate at arms length in the market, or engages in fraudulent transactions, including those entered into in collusion with other dealers or brokers, including inter-dealer brokers, the price that the dealer obtains is not a price reflecting market forces, and, therefore, is not a valid indicator of the prevailing market price and should not be used to calculate a mark-up (mark-down). In addition, if a dealer that is not a party to a transaction engages in conduct to improperly influence the pricing of such transaction, the dealer could not properly use the execution price as the basis from which to compute a mark-up (mark-down) because the execution price does not represent the prevailing market price of the security.

[16] *See* Proposed IM–2440–2(b)(2).

[17] *See id.*

[18] 50 S.E.C. 1063 (1992), *aff'd*, 994 F.2d 61 (2d Cir. 1993).

[19] *F.B. Horner*, 50 S.E.C. at 1065–66. The term ''market maker'' is defined in Section 3(a)(38) of the Act, 15 U.S.C. 78c(a)(38), and a dealer in debt securities must meet the legal requirements of Section 3(a)(38) to be considered a market maker.

[20] *F.B. Horner*, 50 S.E.C. at 1066 (citations omitted).

[21] *See* Proposed IM–2440–2(b)(4).

[22] *See id.*

[23] *See id.*

[24] *See id.*

measure the dealer's contemporaneous cost) occurred.

News

NASD proposes that a dealer may be able to show that its contemporaneous cost is (or proceeds are) not indicative of prevailing market price where news was issued or otherwise distributed and known to the marketplace that had an effect on the perceived value of the debt security after the dealer's contemporaneous transaction.[25] In such cases the dealer would be permitted to look at factors, as set out in the proposal, other than the dealer's own contemporaneous cost to establish prevailing market price. NASD proposes to include this provision in response to comments filed regarding the Proposed Interpretation. NASD agrees with commenters that certain news affecting an issuer, such as news of legislation, may affect either a particular issuer or a group or sector of issuer and may not clearly fit within the two previously identified categories—interest rate changes and credit quality changes. Such news may cause price shifts in a debt security, invalidating the dealer's own ''contemporaneous cost'' as a reliable and accurate measure of prevailing market price.[26]

Determining What Is Contemporaneous

A broker-dealer must determine whether a transaction is contemporaneous to apply the guidance in the Proposed Interpretation, and, particularly, to identify the prevailing market price of a debt security. Although what is considered contemporaneous for purposes of determining a mark-up (mark-down) in a particular transaction is a facts-and-circumstances test, in response to the requests of commenters, NASD proposes to include in the Proposed Interpretation the following guidance:

A dealer's cost is considered contemporaneous if the transaction occurs close enough in time to the subject transaction that it would reasonably be expected to reflect the current market price for the security. (Where a mark-down is being calculated, a dealer's proceeds would be considered contemporaneous if the transaction from which the proceeds result occurs close enough in time to the subject transaction that such proceeds would reasonably be expected to reflect the current market price for the security.)[27]

Identifying Prevailing Market Price If Other Than Contemporaneous Cost or Proceeds

When calculating a mark-up, where the dealer has established that the dealer's cost is (or in a mark-down, proceeds are) no longer contemporaneous,[28] or where the dealer has presented evidence that is sufficient to overcome the presumption that the dealer's contemporaneous cost provides (or proceeds provide) the best measure of the prevailing market price, such as when there are interest rate changes, credit quality changes, or news events or announcements as described above and set forth in paragraph (b)(4) of the Proposed Interpretation, the dealer must follow a process for determining prevailing market price, considering certain factors in the appropriate order, as set forth in the Proposed Interpretation. Initially, a dealer must look to three factors or measures in the order they are presented (the ''Hierarchy'') to determine prevailing market price. The most important and first factor in the Hierarchy is the pricing of any contemporaneous inter-dealer transactions in the same security.[29] The second most important factor in the Hierarchy recognizes the role of certain large institutions in the fixed income securities markets. In the absence of inter-dealer transactions, the second factor a dealer must consider is the prices of contemporaneous dealer purchases in the security in question from institutional accounts with which any dealer regularly effects transactions in the same security.[30] If contemporaneous inter-dealer trades or dealer-institutional trades in the same security are not available, a dealer must look to the third factor in the Hierarchy, which may be applied only to actively traded securities. For actively traded securities, a dealer is required to look to contemporaneous bid (offer) quotations for the security in question for proof of the prevailing market price if such quotations are made through an inter-dealer mechanism through which transactions generally occur at the displayed quotations.[31]

Additional Factors That May Be Considered

If none of the three factors in the Hierarchy is available, the dealer then may take into consideration the non-exclusive list of four factors in the Proposed Interpretation in trying to establish prevailing market price using a measure other than the dealer's contemporaneous cost (proceeds). In contrast to the Hierarchy of three factors discussed above, a dealer is not required to consider the four factors below in a particular order.

The four factors reflect the particular nature of the debt markets and the trading and valuation of debt securities. They are:

- Prices of contemporaneous inter-dealer transactions in a ''similar'' security, as defined below, or prices of contemporaneous dealer purchase (sale) transactions in a ''similar'' security with institutional accounts with which any dealer regularly effects transactions in the ''similar'' security with respect to customer mark-ups (mark-downs);
- Yields calculated from prices of contemporaneous inter-dealer transactions in ''similar'' securities;
- Yields calculated from prices of contemporaneous purchase (sale) transactions with institutional accounts with which any dealer regularly effects transactions in ''similar'' securities with respect to customer mark-ups (mark-downs); and
- Yields calculated from validated contemporaneous inter-dealer bid (offer) quotations in ''similar'' securities for customer mark-ups (mark-downs).

When applying one or more of the four factors, a dealer must consider that the ultimate evidentiary issue is whether the prevailing market price of the security will be correctly identified. As stated in the Proposed Interpretation, the relative weight of the pricing information obtained from the factors depends on the facts and circumstances surrounding the comparison transaction (*i.e.*, whether the dealer in the comparison transaction was on the same side of the market as the dealer is in the subject transaction, timeliness of the information, and, with respect to the final factor listed above, the relative spread of the quotations in the ''similar''

[25] *See id.*

[26] ''News'' referred to in paragraph (b)(4) of the Proposed Interpretation that may not be included in either of the other two categories referred to in paragraph (b)(4) may affect specific issuers, a group of issuers or an industry sector and includes news such as pending or contemplated legislative developments (*e.g.*, relating to asbestos claims); the announcement of a judicial decision; the announcement of new pension regulation or a new interpretation; and the announcement of a natural disaster, an attack or a war.

[27] *See* Proposed IM–2440–2(b)(3).

[28] A dealer that has not engaged in trading in the subject security for an extended period can evidence that it has no contemporaneous cost (proceeds) to refer to as a basis for computing a mark-up (mark-down).

[29] *See* Proposed IM–2440–2(b)(5)(A).

[30] *See* Proposed IM–2440–2(b)(5)(B). Contemporaneous dealer sales with such institutional accounts would be used to calculate a mark-down. If a dealer has overcome the presumption by establishing, for example, that the credit quality of the security changed significantly after the dealer's trade, any inter-dealer or dealer-institutional trades in the same security *that occurred prior to the change in credit quality* would not be valid measures of the prevailing market price as such transactions would be subject to the same defect.

[31] *See* Proposed IM–2440–2(b)(5)(C).

security to the quotations in the subject security).[32]

Finally, if information concerning the prevailing market price of the subject security cannot be obtained by applying any of the above factors, a member may consider as a factor in determining the prevailing market price the prices or yields derived from economic models that take into account measures such as credit quality, interest rates, industry sector, time to maturity, call provisions and any other embedded options, coupon rate, and face value; and consider all applicable pricing terms and conventions (*e.g.*, coupon frequency and accrual methods).[33] However, dealers may not use any economic model to establish the prevailing market price for mark-up (mark-down) purposes, except in limited instances where none of the three factors in the Hierarchy and none of the four factors in proposed paragraph (b)(6) apply. For example, application of the Hierarchy and the four factors in proposed paragraph (b)(6) may not yield pricing information when the subject security is infrequently traded, and the security is of such low credit quality (*e.g.*, a distressed debt security) that a dealer cannot identify a ''similar'' security.[34]

The final principle in the Proposed Interpretation regarding prevailing market price addresses the use of pricing information from isolated transactions or quotations. The Proposed Interpretation provides that ''isolated transactions or isolated quotations generally will have little or no weight or relevance in establishing prevailing market price. For example, in considering yields of 'similar' securities, except in extraordinary circumstances, members may not rely exclusively on isolated transactions or a limited number of transactions that are not fairly representative of the yields of transactions in 'similar' securities taken as a whole.''[35]

Certain Institutions Not Treated As Customers in Transactions in Non-Investment Grade Debt Securities

Commenters expressed concerns about the application of the original proposed rule change, as amended, to transactions between broker-dealers and large, knowledgeable institutions involving generally thinly traded, risky, and often volatile non-investment grade debt securities. In Amendment No. 5, NASD addresses these concerns and proposes, for purposes of Rule 2440, IM–2440–1 and the Proposed Interpretation, that in transactions in non-investment grade debt securities (including certain unrated securities), the term ''customer'' shall not include a qualified institutional buyer (''QIB''), as defined in Rule 144A under the Securities Act of 1933 (''Securities Act'') provided other conditions are met. Specifically, the Proposed Interpretation provides that, for purposes of Rule 2440, IM–2440–1 and the Proposed Interpretation, the term ''customer'' shall not include:

> A qualified institutional buyer (''QIB'') as defined in Rule 144A under the Securities Act of 1933 that is purchasing or selling a non-investment grade debt security, when the member has determined, after considering the factors set forth in IM–2310–3, that the QIB has the capacity to evaluate independently the investment risk and in fact is exercising independent judgment in deciding to enter into the transaction.[36]

In NASD IM–2310–3, NASD sets forth a non-exclusive list of factors (or considerations) that a member may include in assessing and determining an institutional customer's capability to evaluate investment risk independently. These factors allow a member to examine the institutional customer's capability to make its own investment decisions, including examining the resources available to the institutional customer to make informed decisions, and include:

- The use of one or more consultants, investment advisers or bank trust departments;
- The general level of experience of the institutional customer in financial markets and specific experience with the type of instruments under consideration;
- The customer's ability to understand the economic features of the security involved;
- The customer's ability to independently evaluate how market developments would affect the security; and
- The complexity of the security or securities involved.

In addition, IM–2310–3 contains a non-exclusive list of factors (or considerations) for a member to use in determining if an institutional customer is making an independent investment decision. These factors probe the nature of the relationship that exists between the member and institutional customer and include:

- Any written or oral understanding that exists between the member and the customer regarding the nature of the relationship between the member and the customer and the services to be rendered by the member;
- The presence or absence of a pattern of acceptance of the member's recommendations;
- The use by the customer of ideas, suggestions, market views and information obtained from other members or market professionals, particularly those relating to the same type of securities; and
- The extent to which the member has received from the customer current comprehensive portfolio information in connection with discussing recommended transactions or has not been provided important information regarding its portfolio or investment objectives.

In addition, NASD proposes to define the term ''non-investment grade debt security'' broadly for purposes of NASD Rule 2440, IM–2440–1 and the Proposed Interpretation. Specifically, ''non-investment grade debt security'' shall mean a debt security that (i) if rated by only one NRSRO, is rated lower than one of the four highest generic rating categories; (ii) if rated by more than one NRSRO, is rated lower than one of the four highest generic rating categories by any of the NRSROs; or (iii) if unrated, either was analyzed as a non-investment grade debt security by the member and the member retains credit evaluation documentation and demonstrates to NASD (using credit evaluation or other demonstrable criteria) that the credit quality of the security is, in fact, equivalent to a non-investment grade debt security, or was initially offered and sold and continues to be offered and sold pursuant to an exemption from registration under the Securities Act.[37]

The Proposed Interpretation recognizes and broadly addresses the most significant concerns of the comments received regarding the original proposed rule change, as amended. Many large institutional investors have sufficient knowledge of the market or certain sectors of the market to trade debt securities with broker-dealers at prices negotiated at

[32] *See* Proposed IM–2440–2(b)(6).

[33] *See* Proposed IM–2440–2(b)(7).

[34] When a dealer seeks to identify prevailing market price using other than the dealer's contemporaneous cost or contemporaneous proceeds, the dealer must be prepared to provide evidence that will establish the dealer's basis for not using contemporaneous cost (proceeds), and information about the other values reviewed (*e.g.*, the specific prices and/or yields of securities that were identified as similar securities) in order to determine the prevailing market price of the subject security. If a firm relies upon pricing information from a model the firm uses or has developed, the firm must be able to provide information that was used on the day of the transaction to develop the pricing information (*i.e.*, the data that was input and the data that the model generated and the firm used to arrive at prevailing market price).

[35] *See* Proposed IM–2440–2(b)(8).

[36] *See* Proposed IM–2440–2(b)(9).

[37] *See* Proposed IM–2440–2(b)(9).

arms length, reducing the need for such customers to be protected with respect to every transaction under Rule 2440, IM–2440–1 and the Proposed Interpretation. Further, the application of the Proposed Interpretation to generally illiquid market sectors, such as non-investment grade debt securities and bespoke or unique structured products that are sold pursuant to an exemption from registration under the Securities Act, and thereafter continue to be resold in private transactions rather than in the public markets, often may yield little or no pricing information that a dealer may use with confidence to determine the prevailing market price and a fair mark-up or mark-down for such debt securities transactions. It should be noted that even with respect to transactions with institutions that do not qualify for the exemption under proposed paragraph (b)(9), it would still be possible for a dealer to identify prevailing market price using information other than the dealer's contemporaneous cost (or proceeds), if done in accordance with the other provisions of the Proposed Interpretation.

Previously Proposed Concepts About Prevailing Market Price That Are Withdrawn

Specified Institutional Trade. In Amendment No. 1, NASD proposed that a dealer could seek to overcome the presumption that its contemporaneous cost or proceeds are indicative of the prevailing market price where the dealer establishes that the dealer's contemporaneous trade was a ''Specified Institutional Trade''—a trade with an institutional account with which the dealer regularly effected transactions in the same or a similar security under certain conditions (''SIT'').[38] NASD subsequently withdrew the concept of SIT and substituted the size proposal set forth below.

Size Proposal. In Amendment Nos. 3 and 4, NASD proposed, instead of Specified Institutional Trades, the size proposal (''Size proposal''). As NASD stated in its Statement of Purpose for Amendment No. 3, ''a large or a small transaction executed at a price away from the prevailing market price of the security, as evidenced by certain contemporaneous transactions, is an instance where it may be appropriate for the dealer to show that its contemporaneous cost (proceeds) is not indicative of prevailing market price.'' The proposed change was intended to provide dealers greater flexibility to identify prevailing market price using a non-contemporaneous cost value than provided by the SIT provision proposed in Amendment No. 1.[39]

NASD also withdraws the Size proposal. Instead, NASD is proposing that, for purposes of Rule 2440, IM–2440–1 and the Proposed Interpretation, broker-dealers would not be required to treat QIBs engaging in transactions in non-investment grade debt securities as customers, if the broker-dealer determines, ''after considering the factors set forth in IM–2310–3, that the QIB has the capacity to evaluate independently the investment risk and in fact is exercising independent judgment in deciding to enter into the transaction.'' The proposed amendment recognizes and addresses the concerns of commenters more clearly and more broadly than either the withdrawn SIT or Size proposals.

''Similar'' Securities. The definition of ''similar'' security, and the uses and limitations of ''similar'' securities are the second part of the Proposed Interpretation. Several of the factors referenced above to which a dealer may refer when determining the prevailing market price as a value that is other than the dealer's contemporaneous cost (proceeds) require a dealer to identify one or more ''similar'' securities.

The Proposed Interpretation provides that a ''similar'' security should be sufficiently similar to the subject security that it would serve as a reasonable alternative investment. In addition, at a minimum, a dealer must be able to fairly estimate the market yield for the subject security from the yields of ''similar'' securities.[40] Finally, to aid members in identifying ''similar'' securities when appropriate, the Proposed Interpretation sets forth a list of non-exclusive factors to determine the similarity between the subject security and one or more other securities. The non-exclusive list of factors that can be used to assess similarity includes the following:

(a) Credit quality considerations, such as whether the security is issued by the same or similar entity, bears the same or similar credit rating, or is supported by a similarly strong guarantee or collateral as the subject security (to the extent securities of other issuers are designated as ''similar'' securities, significant recent information of either issuer that is not yet incorporated in credit ratings should be considered (*e.g.*, changes in ratings outlooks)); [41]

(b) The extent to which the spread (*i.e.*, the spread over U.S. Treasury securities of a similar duration) at which the ''similar'' security trades is comparable to the spread at which the subject security trades; [42]

(c) General structural characteristics and provisions of the issue, such as coupon, maturity, duration, complexity or uniqueness of the structure, callability, the likelihood that the security will be called, tendered or exchanged, and other embedded options, as compared with the characteristics of the subject security;[43] and

(d) Technical factors, such as the size of the issue, the float and recent turnover of the issue, and legal restrictions on transferability as compared with the subject security.[44]

The provisions regarding ''similar'' securities, if adopted, would affirm

[38] A ''Specified Institutional Trade'' was defined as a dealer's contemporaneous trade with an institutional account with which the dealer regularly effects transactions in the same or a ''similar'' security, as defined in the Proposed Interpretation, and in the case of a sale to such an account, the trade was executed at a price higher than the then prevailing market price, or in the case of a purchase from such an account, the trade was executed at a price lower than the then prevailing market price, and the execution price was away from the prevailing market price because of the size and risk of the transaction. In instances when the dealer would have established that the dealer's contemporaneous trade was an SIT, to overcome the presumption that the dealer's contemporaneous cost was (or proceeds were) the best measure of the prevailing market price, the dealer would have been required to provide evidence of prevailing market price by referring *exclusively* to inter-dealer trades in the same security executed contemporaneously with the dealer's SIT.

[39] The SIT proposal was proposed in Amendment No. 1. In Amendment No. 3, NASD deleted the SIT proposal and replaced it with the Size proposal. Also in Amendment No. 3, references to size of trade as a consideration or a factor in pricing were added in other provisions. In Amendment No. 4, NASD submitted clarifications regarding the Size proposal. In Amendment No. 5, such references to size were deleted.

[40] *See* Proposed IM–2440–2(c)(1).

[41] *See* Proposed IM–2440–2(c)(2)(A).

[42] *See* Proposed IM–2440–2(c)(2)(B).

[43] *See* Proposed IM–2440–2(c)(2)(C).

[44] *See* Proposed IM–2440–2(c)(2)(D).

The Proposed Interpretation also states that, for certain securities, there are no ''similar'' securities. Specifically, when a debt security's value and pricing is based substantially on, and is highly dependent on, the particular circumstances of the issuer, including creditworthiness and the ability and willingness of the issuer to meet the specific obligations of the security, in most cases other securities will not be sufficiently similar, and therefore, other securities may not be used to establish prevailing market price of the subject security. *See* Proposed IM–2440–2(c)(3). As noted above, NASD may consider a dealer's pricing information obtained from an economic model to establish prevailing market price, when ''similar'' securities do not exist and facts and circumstances have combined to create a price information void in the subject security. In addition, as provided in the Proposed Interpretation, NASD also may look to economic models other than the dealer's to make determinations as to the prevailing market price of a security.

explicitly, for the first time, that it may be appropriate under specified circumstances to refer to ''similar'' securities to determine prevailing market price. In addition, the Proposed Interpretation provides guidance as to the degree of similarity that is required. Also, the Proposed Interpretation recognizes an additional source of pricing information, *i.e.*, certain economic models, that a dealer may consider in determining prevailing market price when all other factors, including those employing ''similar'' securities, do not render relevant pricing information because transactions and quotes (that have been validated by active trading) have not occurred in the subject security and there are no ''similar'' securities. Thus, when all other factors have been considered but are irrelevant, such as when a very distressed, very illiquid security is traded, the Proposed Interpretation provides the flexibility to determine prevailing market price and an appropriate mark-up (mark-down).

Conclusion. NASD believes that the Proposed Interpretation recognizes the special characteristics of debt instruments, reflects the particular nature of trading in the debt markets, and provides important guidance to all members engaged in debt securities transactions. The guidance sets forth clearly a basic principle in NASD's rules: a dealer's contemporaneous cost (or, when calculating a mark-down, a dealer's contemporaneous proceeds) is presumptively the prevailing market price in debt securities transactions. In addition, the Proposed Interpretation provides guidance on when this principle may not be applicable, and, in those cases, guidance on the dealer's obligation to provide evidence of the prevailing market price using the factors set forth above, and, as applicable, in the priority set forth above, and any other relevant evidence of prevailing market price. NASD also proposes to recognize, in limited circumstances, that a dealer may refer to an economic model to provide evidence of the prevailing market price of a security when the security is sufficiently illiquid that the debt market does not provide evidence of the prevailing market price, and the security does not meet other criteria and therefore cannot be compared with a ''similar'' security.

The Proposed Interpretation now includes an exemption from Rule 2440, IM–2440–1 and the Proposed Interpretation for certain transactions in non-investment grade debt securities between broker-dealers and certain QIB customers. NASD believes that many of the concerns and objections raised by commenters regarding the regulation of mark-ups (mark-downs) in debt securities transactions between broker-dealers and institutional customers are addressed by the inclusion of the proposed exemption.

Finally, the Proposed Interpretation announces explicitly that a dealer is permitted to use ''similar'' securities in some cases where the dealer is identifying the prevailing market price of a security using a measure other than the dealer's contemporaneous cost (or contemporaneous proceeds). NASD's recognition of the limited but appropriate use of a ''similar'' security includes guidance on which securities may be considered ''similar'' securities. NASD believes that the Proposed Interpretation is an important first step in developing additional mark-up guidance for members engaged in debt securities transactions with customers on a principal basis.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[45] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that clarifying the standard for correctly identifying the prevailing market price of a debt security for purposes of calculating a mark-up (mark-down), clarifying the additional obligations of a member when it seeks to use a measure other than the member's own contemporaneous cost (proceeds) as the prevailing market price, and confirming that similar securities may be used in certain instances to determine the prevailing market price are measures designed to prevent fraudulent practices, promote just and equitable principles of trade, and protect investors and the public interest. Further, the inclusion of an exemption from Rule 2440, IM–2440–1 and the Proposed Interpretation for transactions in non-investment grade debt securities between broker-dealers and certain QIBs provides such parties flexibility and will not impair or burden the markets or the parties trading in non-investment grade debt securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NASD has responded previously to industry and SEC comments regarding this rule change. See NASD Response to Comments, filed on October 4, 2005.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

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.[46] 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–2003–141 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–2003–141. 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

[45] 15 U.S.C. 78o–3(b)(6).

[46] The Commission will consider the comments we previously received. Commenters may reiterate or cross-reference previously submitted comments.

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 NASD.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2003–141 and should be submitted on or before December 19, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[47]

Nancy M. Morris,

Secretary.

[FR Doc. E6–20068 Filed 11–27–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54800; File No. SR–NYSE–2006–69]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto To List and Trade Exchange-Traded Notes of Barclays Bank PLC Linked to the Performance of the MSCI India Equities Index

November 21, 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 August 24, 2006 the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the Exchange. On November 8, 2006, the Exchange submitted Amendment No. 1.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade exchange-traded notes (''Notes'') of Barclays Bank PLC (''Barclays'') linked to the performance of the MSCI India Total Return Index℠ (''Index'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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 Notes

Under Section 703.19 of the Listed Company Manual (''Manual''), the Exchange may approve for listing and trading securities not otherwise covered by the criteria of Sections 1 and 7 of the Manual, provided the issue is suited for auction market trading. The Exchange proposes to list and trade, under Section 703.19 of the Manual, the Notes, which are linked to the performance of the Index. Barclays intends to issue the Notes under the name ''iPath℠ Exchange-Traded Notes.''

The Exchange believes that the Notes will conform to the initial listing standards for equity securities under Section 703.19, as Barclays is an affiliate of Barclays PLC,[4] which is an Exchange-listed company in good standing, the Notes will have a minimum life of one year, the minimum public market value of the Notes at the time of issuance will exceed $4 million, there will be at least one million Notes outstanding, and there will be at least 400 holders at the time of issuance. The Notes are a series of debt securities of Barclays that provide for a cash payment at maturity or upon earlier redemption at the holder's option, based on the performance of the Index subject to the adjustments described below. The original issue price of each Note will be $50. The Notes will trade on the Exchange's equity trading floor, and the Exchange's existing equity trading rules will apply to trading in the Notes. The Notes will not have a minimum principal amount that will be repaid and, accordingly, payment on the Notes prior to or at maturity may be less than the original issue price of the Notes. In fact, the value of the Index must increase for the investor to receive at least the $50 principal amount per Note at maturity or upon redemption. If the value of the Index decreases or does not increase sufficiently to offset the investor fee (described below), the investor will receive less, and possibly significantly less, than the $50 principal amount per Note. In addition, holders of the Notes will not receive any interest payments from the Notes. The Notes will have a term of 30 years. The Notes are not callable.

Holders who have not previously redeemed their Notes will receive a cash payment at maturity equal to the initial issue price of their Notes times the index factor on the Final Valuation Date (as defined below) minus the investor fee on the Final Valuation Date. The ''index factor'' on any given day will be equal to the closing value of the Index on that day divided by the initial index level. The ''initial index level'' is the closing value of the Index on the date of issuance of the Notes, and the ''final index level'' is the closing value of the Index on the Final Valuation Date. The investor fee will be equal to 0.89% per year times the principal amount of Holders' Notes times the index factor, calculated on a daily basis in the following manner: The investor fee on the date of issuance will equal zero. On each subsequent calendar day until maturity or early redemption, the investor fee will increase by an amount equal to 0.89% times the principal amount of holders' Notes times the index factor on that day (or, if such day is not a trading day, the index factor on the immediately preceding trading day) divided by 365.

Prior to maturity, holders may, subject to certain restrictions, redeem their Notes on any Redemption Date (defined

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[47] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the Exchange's original submission in its entirety.

[4] The issuer of the Notes, Barclays, is an affiliate of an Exchange-listed company (Barclays PLC) and not an Exchange-listed company itself. However, Barclays, though an affiliate of Barclays PLC, would exceed the Exchange's earnings and minimum tangible net worth requirements in Section 102 of the Manual. Additionally, Barclays has informed the Exchange that the original issue price of the Notes, when combined with the original issue price of all other iPath securities offerings of the issuer that are listed on a national securities exchange (or association), does not exceed 25% of the issuer's net worth.

below) during the term of the Notes, provided that they present at least 50,000 Notes for redemption. The Exchange states that holders may also act through a broker-dealer or other financial intermediary exempt from being (or otherwise not required to be) registered as a broker-dealer[5] that is willing to bundle their Notes for redemption with other investors' securities. Barclays may from time to time in its sole discretion reduce, in part or in whole, the minimum redemption amount of 50,000 Notes. The Exchange states that any such reduction will be applied on a consistent basis for all holders of Notes at the time the reduction becomes effective. If a holder chooses to redeem such holder's Notes, the holder will receive a cash payment on the applicable Redemption Date equal to the Weekly Redemption Value, which is the initial issue price of such holder's Notes times the index factor on the applicable Valuation Date minus the investor fee on the applicable Valuation Date, less the redemption charge. The ''redemption charge'' is a one-time charge imposed upon early redemption and is equal to 0.00125 times the Weekly Redemption Value. The investor fee and the redemption charge are the only fees holders will be charged in connection with their ownership of the Notes. A ''Redemption Date'' is the third business day following a Valuation Date (other than the Final Valuation Date (defined below)). A ''Valuation Date'' is each Thursday from the first Thursday after issuance of the Notes until the last Thursday before maturity of the Notes (the ''Final Valuation Date'') inclusive (or, if such date is not a trading day,[6] the next succeeding trading day), unless the calculation agent determines that a market disruption event, as described below, occurs or is continuing on that day.[7] In that event, the Valuation Date for the maturity date or corresponding Redemption Date, as the case may be, will be the first following trading day on which the calculation agent determines that a market disruption event does not occur and is not continuing. In no event, however, will a Valuation Date be postponed by more than five trading days.

The Exchange states that any of the following will be a market disruption event: (i) A suspension, absence, or material limitation of trading in a material number of Index Components, as determined by the calculation agent in its sole discretion, (ii) a suspension, absence, or material limitation of trading in option or futures contracts relating to the Index or a material number of Index Components in the primary market for those contracts for more than two hours of trading or during the one-half hour before the close of trading in the relevant market, as determined by the calculation agent in its sole discretion, (iii) the Index is not published, or (iv) any other event, if the calculation agent determines in its sole discretion that such event materially interferes with the ability of Barclays or any of its affiliates to unwind all or a material portion of certain hedges with respect to the Notes that Barclays or any of its affiliates have effected or may effect.

If a Valuation Date is postponed by five trading days, that fifth day will nevertheless be the date on which the value of the Index will be determined by the calculation agent. In such an event, the calculation agent will make a good faith estimate in its sole discretion of the value of the Index.

To redeem their Notes, a holder must instruct his broker or other person through whom he holds his Notes to take the following steps: (i) Deliver a notice of redemption to Barclays via e-mail by no later than 11 a.m. Eastern Time (''ET'') on the business day prior to the applicable Valuation Date; if Barclays receives such notice by the time specified, it will respond by sending the holder a form of confirmation of redemption, (ii) deliver the signed confirmation of redemption to Barclays via facsimile in the specified form by 4 p.m. ET on the same day; Barclays or its affiliate must acknowledge receipt in order for the confirmation to be effective, (iii) instruct the holder's Depository Trust Company (''DTC'') custodian to book a delivery vs. payment trade with respect to the holder's Notes on the Valuation Date at a price equal to the applicable Weekly Redemption Value, facing Barclays Capital DTC 5101, and (iv) cause the holder's DTC custodian to deliver the trade as booked for settlement via DTC at or prior to 10 a.m. ET on the applicable Redemption Date (the third business day following the Valuation Date).

If holders elect to redeem their Notes, Barclays may request that Barclays Capital Inc. (a broker-dealer) purchase the Notes for the cash amount that would otherwise have been payable by Barclays upon redemption. In this case, Barclays will remain obligated to redeem the Notes if Barclays Capital Inc. fails to purchase the Notes. Any Notes purchased by Barclays Capital Inc. may remain outstanding.

If an event of default occurs and the maturity of the Notes is accelerated, Barclays will pay the default amount in respect of the principal of the Notes at maturity. The default amount for the Notes on any day will be an amount, determined by the calculation agent in its sole discretion, equal to the cost of having a qualified financial institution, of the kind and selected as described below, expressly assume all Barclays' payment and other obligations with respect to the Notes as of that day and as if no default or acceleration had occurred, or to undertake other obligations providing substantially equivalent economic value to the holders of the Notes with respect to the Notes. That cost would equal: (i) The lowest amount that a qualified financial institution would charge to effect this assumption or undertaking, plus (ii) the reasonable expenses, including reasonable attorney's fees, incurred by the holders of the Notes in preparing any documentation necessary for this assumption or undertaking.[8]

During the default quotation period for the Notes (described below), the holders of the Notes and/or Barclays may request a qualified financial institution to provide a quotation of the amount it would charge to effect this assumption or undertaking. If either party obtains a quotation, it must notify the other party in writing of the quotation. The amount referred to in item (i) above will equal the lowest, or, if there is only one, the only, quotation obtained, and as to which notice is so given, during the default quotation period. With respect to any quotation, however, the party not obtaining the quotation may object on reasonable and significant grounds, to the assumption or undertaking by the qualified financial institution providing the quotation and notify the other party in writing of those grounds within two business days after the last day of the default quotation period, in which case that quotation will be disregarded in determining the default amount. The default quotation period is the period beginning on the day the default amount first becomes

[5] Telephone conference between John Carey, Assistant General Counsel, NYSE, and Florence Harmon, Senior Special Counsel, Commission, Division of Market Regulation (''Division''), on November 20, 2006 (''Telephone Conference'').

[6] A trading day is a day on which (i) the value of the Index is published by MSCI, (ii) trading is generally conducted on the NYSE, and (iii) trading is generally conducted on the National Stock Exchange of India (the ''NSE''), as determined by the calculation agent in its sole discretion.

[7] Barclays will serve as the initial calculation agent.

[8] The Exchange states that additional information about the default provisions of the Notes is provided in Barclays' Registration Statement on Form F–3 (333–126811), as amended by Amendment No. 1 on September 14, 2005.

due and ending on the third business day after that day, unless: (i) No quotation of the kind referred to above is obtained, or (ii) every quotation of that kind obtained is objected to within five business days after the due date as described above. If either of these two events occurs, the default quotation period will continue until the third business day after the first business day on which prompt notice of a quotation is given as described above. If that quotation is objected to as described above within five business days after that first business day, however, the default quotation period will continue as described in the prior sentence and this sentence. In any event, if the default quotation period and the subsequent two business day objection period have not ended before the Final Valuation Date, then the default amount will equal the principal amount of the Notes.

Indicative Value

An intraday ''indicative value'' meant to approximate the intrinsic economic value of the Notes, updated to reflect changes in currency exchange rates, will be calculated and published by a third-party service provider via the facilities of the Consolidated Tape Association at least every fifteen seconds throughout the NYSE trading day on each day on which the Notes are traded on the Exchange.[9] Additionally, Barclays or an affiliate will calculate [10] and publish the closing indicative value of the Notes on each trading day at *http://www.ipathetn.com.* The last sale price of the Notes will also be disseminated over the Consolidated Tape, subject to a 20-minute delay. In connection with the Notes, Barclays uses the term ''indicative value'' to refer to the value at a given time determined based on the following equation:

Indicative Value = Principal Amount per Security × (Current Index Level/Initial Index Level) − Current Investor Fee

Where:

Principal Amount per Security = $50,
Current Index Level = The most recent level of the Index published by MSCI,
Initial Index Level = The level of the Index on the Date of Issuance and
Current Investor Fee = The most recent daily calculation of the holder's investor fee with respect to the holder's securities, determined as described above (which, during any trading day, will be the investor fee determined on the preceding calendar day).

The Indicative Value will not reflect changes in the prices of securities included in the Index resulting from trading on other markets after the close of trading on the NSE, but will be updated to reflect changes in the exchange rate between the U.S. dollar and the Indian rupee.

Description of the Index

The Index is a free float-adjusted market capitalization index that is designed to measure the market performance, including price performance and income from dividend payments, of Indian equity securities. The Index is currently comprised of the top 68 companies by market capitalization (the ''Index Components'') listed on the NSE. The number of securities included in the Index will vary over time as, in all of its country indexes, MSCI targets an 85% free float-adjusted market representation level within each industry group. The Index is calculated by Morgan Stanley Capital International Inc. (''MSCI'') and is denominated in U.S. dollars.[11]

Securities eligible for inclusion in the Index include equity securities issued by companies incorporated in India. The shares of those companies are mainly traded on the NSE. However, in cases where such prices are not available due to the delisting from the NSE, official closing prices from the Bombay Stock Exchange (the ''BSE'') may be used. The NSE was established at the behest of the Government of India in November 1992, and the capital markets segment commenced operations in November 1994. As of the end of October 2006, there were approximately 1016 companies listed on the NSE. Trades executed on the NSE are cleared and settled by a clearing corporation, the National Securities Clearing Corporation Limited, which acts as a counterparty and guarantees settlement.

The Exchange states that the weighting of a company in the Index is intended to be a reflection of the current importance of that company in the market as a whole. Stocks are selected and weighted according to the same consistent methodology that is applied to all MSCI Indexes, as described below. The reason for a company being heavily weighted reflects the fact that it has a relatively larger market capitalization than other, smaller Index Components. The Exchange states that the Index Components are frequently reviewed to ensure that the Index continues to reflect the state and structure of the underlying market it measures. The composition of the Index is reviewed quarterly every January, April, July, and October.

The NSE opens at 9:55 a.m. Mumbai time (12:25 a.m. ET, 5:25 a.m. London time) and closes at 3:30 p.m. Mumbai time (6 a.m. ET, 11 a.m. London time). All of the securities included in the Index generally trade during these hours. The Index is calculated and is updated continuously until the market closes and is published as end of day values in U.S. dollars using the exchange rate published by WM Reuters at 4 p.m. on the previous day. The Index is reported by Bloomberg, L.P. under the ticker symbol ''NDEUSIA.'' The Index is static during the Exchange trading day.

The MSCI Indexes

The Exchange states that the MSCI Indexes, of which the Index is one, were founded in 1969 by Capital International S.A. as the first international performance benchmarks constructed to facilitate accurate comparison of world markets. Morgan Stanley acquired rights to the Indexes in 1986. In November 1998, Morgan Stanley transferred all rights to the MSCI Indexes to MSCI, a Delaware corporation of which Morgan Stanley is the majority owner, and The Capital Group of Companies, Inc. is the minority shareholder. The Exchange states that the MSCI single country standard equity indexes have covered the world's developed markets since 1969, and in 1988, MSCI commenced coverage of the emerging markets. The Index was launched on December 31, 1992.

Local stock exchanges traditionally calculated their own indexes that were generally not comparable with one another due to differences in the representation of the local market,

[9] The Exchange states that the indicative value calculation will be provided for reference purposes only. It is not intended as a price for quotation, or as an offer or solicitation for the purchase, sale or redemption or termination of Notes, nor will it reflect hedging or transaction costs, credit considerations, market liquidity or bid-offer spreads. Published Index levels from MSCI may occasionally be subject to delay or postponement. Any such delays or postponements will affect the current Index level and therefore the indicative value of the Notes. Index levels provided by MSCI will not necessarily reflect the depth and liquidity of the Indian equities market. For this reason and others, the Exchange states that the actual trading price of the Notes may be different from their indicative value.

[10] Telephone Conference (noting that Barclays will calculate and publish closing indicative value of the Notes).

[11] As the Commission has previously stated, when a broker-dealer, or a broker-dealer's affiliate such as MSCI, is involved in the development and maintenance of a stock index upon which a product such as iShares is based, the broker-dealer or its affiliate should have procedures designed specifically to address the improper sharing of information. *See* Securities Exchange Act Release No. 52178 (July 29, 2005), 70 FR 46244 (August 8, 2005) (SR—NYSE–2005–41). The Exchange notes that MSCI has implemented procedures to prevent the misuse of material, non-public information regarding changes to component stocks in the MSCI Indexes. Telephone Conference.

mathematical formulas, base dates and methods of adjusting for capital changes. MSCI, however, applies the same criteria and calculation methodology across all markets for all single country standard equity indexes, developed and emerging.

MSCI's single country standard equity indexes generally seek to have 85% of the free float-adjusted market capitalization of each industry group in each country. The MSCI single country standard equity indexes seek to balance the inclusiveness of an ''all share'' index against the replicability of a ''blue chip'' index.

MSCI Single Country Standard Equity Indexes

Weighting

Effective May 31, 2002 all single-country MSCI equity indexes are free-float-weighted, *i.e.*, companies are included in the indexes at the value of their free public float (free float, multiplied by price). MSCI defines ''free float'' as total shares excluding shares held by strategic investors such as governments, corporations, controlling shareholders and management, and shares subject to foreign ownership restrictions.

Regional Weights

The Exchange states that market capitalization weighting, combined with a consistent target of 85% of free float-adjusted market capitalization, helps ensure that each country's weight in regional and international indexes approximates its weight in the total universe of developing and emerging markets. The Exchange states that maintaining consistent policies among MSCI developed and emerging market indexes is critical to the calculation of certain combined developed and emerging market indexes published by MSCI.

Selection Criteria

The Exchange states that, to construct relevant and accurate equity indexes for the global institutional investor, MSCI undertakes an index construction process that involves: (i) Defining the equity universe, (ii) adjusting the total market capitalization of all securities in the universe for free float available to foreign investors, (iii) classifying the universe of securities under the Global Industry Classification Standard (the ''GICS''), and (iv) selecting securities for inclusion according to MSCI's index construction rules and guidelines.

(i) Defining the Universe

The index construction process starts at the country level, with the identification of all listed securities for that country. Currently, MSCI creates equity indexes for 50 global country markets. MSCI classifies each company and its securities in only one country. This allows securities to be sorted distinctly by their respective countries. In general, companies and their respective securities are classified as belonging to the country in which they are incorporated. All listed equity securities, or listed securities that exhibit characteristics of equity securities, except investment trusts, mutual funds and equity derivatives, are eligible for inclusion in the universe. Shares of non-domiciled companies generally are not eligible for inclusion in the universe.

(ii) Adjusting the Total Market Capitalization of Securities in the Universe for Free Float

After identifying the universe of securities, MSCI calculates the free float-adjusted market capitalization of each security in that universe using publicly available information. The process of free float adjusting market capitalization involves: (i) Defining and estimating the free float available to foreign investors of each security, using MSCI's definition of free float, (ii) assigning a free float-adjustment factor to each security, and (iii) calculating the free float-adjusted market capitalization of each security.

(iii) Classifying Securities Under the GICS

In addition to the free float-adjustment of market capitalization, all securities in the universe are assigned to an industry-based hierarchy that describes their business activities. To this end, MSCI has designed, in conjunction with Standard & Poor's, the GICS. This comprehensive classification scheme provides a universal approach to industries worldwide and forms the basis for achieving MSCI's objective of reflecting broad and fair industry representation in its indexes.

(iv) Selecting Securities for Index Inclusion

In order to ensure a broad and fair representation in the indexes of the diversity of business activities in the universe, the Exchange states that MSCI follows a ''bottom-up'' approach to index construction, building indexes up to the industry group level. The bottom-up approach to index construction requires a thorough analysis and understanding of the characteristics of the universe. This analysis drives the individual security selection decisions, which aim to reflect the overall features of the universe in the country index. MSCI targets an 85% free float-adjusted market representation level within each industry group, within each country. The security selection process within each industry group is based on the careful analysis of: (i) Each company's business activities and the diversification that its securities would bring to the index, (ii) the size (based on free float-adjusted market capitalization) and liquidity of the securities of the company, and (iii) the estimated free float for the company and its individual share classes. MSCI targets for inclusion the most sizable and liquid securities in an industry group. MSCI generally does not consider securities with inadequate liquidity and/or securities that do not have an estimated free float greater than 15%. Exceptions to this general rule are made only in significant cases, where exclusion of a security of a large company would compromise the index's ability to fully and fairly represent the characteristics of the underlying market.

Free Float

MSCI defines the free float of a security as the proportion of shares outstanding that are deemed to be available for purchase in the public equity markets by international investors. In practice, limitations on free float available to international investors include: (i) Strategic and other shareholdings not considered part of available free float, and (ii) limits on share ownership for foreigners.

Under MSCI's free-float adjustment methodology, a constituent's inclusion factor is equal to its estimated free float rounded up to the closest 5% for constituents with free float equal to or exceeding 15%. For example, a constituent security with a free float of 23.2% will be included in the index at 25% of its market capitalization. For securities with a free float of less than 15% that are included on an exceptional basis, the estimated free float is adjusted to the nearest 1%.

Prices and Exchange Rates

Prices

The prices used to calculate the MSCI Indexes are the official exchange closing prices or those figures accepted as such. MSCI reserves the right to use an alternative pricing source on any given day.[12]

[12] The Exchange has been informed that MSCI's language regarding alternative pricing sources is meant to address contingencies that may be used to address major exchange outages or other cases of extended data disruption. As a matter of practice,

Continued

Exchange Rates

MSCI uses the foreign exchange rates published by WM Reuters at 4 p.m. London time. MSCI uses WM Reuters rates for all developed and emerging markets. Exchange rates are taken daily at 4 p.m. London time by the WM Company and are sourced whenever possible from multi-contributor quotes on Reuters. Representative rates are selected for each currency based on a number of ''snapshots'' of the latest contributed quotations taken from the Reuters service at short intervals around 4 p.m. WM Reuters provides closing bid and offer rates. MSCI uses these rates to calculate the mid-point to five decimal places.

MSCI continues to monitor exchange rates independently and may, under exceptional circumstances, elect to use an alternative exchange rate if the WM Reuters rate is believed not to be representative for a given currency on a particular day.

Changes to the Indexes

The MSCI Indexes are maintained with the objective of reflecting, on a timely basis, the evolution of the underlying equity markets. In maintaining the MSCI Indexes, emphasis is also placed on continuity, replicability, and minimizing turnover in the Indexes. Maintaining the MSCI Indexes involves many aspects, including: (i) Additions to and deletions from the Indexes, (ii) changes in number of shares, and (iii) changes in Foreign Inclusion Factors (''FIFs'') as a result of updated free float estimates.

Potential additions are analyzed not only with respect to their industry group, but also with respect to their industry or sub-industry group, in order to represent a wide range of economic and business activities. All additions are considered in the context of MSCI's methodology, including the index constituent eligibility rules and guidelines.

In assessing deletions, it is important to emphasize that indexes must represent the full investment cycle, including both bull and bear markets. Out-of-favor industries and their securities may exhibit declining prices, declining market capitalization and/or declining liquidity, yet they are not deleted because they continue to be good representatives of their industry group. As a general policy, changes in number of shares are coordinated with changes in FIFs to accurately reflect the investability of the underlying securities. In addition, MSCI continuously strives to improve the quality of its free float estimates and the related FIFs. Additional shareholder information may come from better disclosure by companies or more stringent disclosure requirements by a country's authorities. It may also come from MSCI's ongoing examination of new information sources for the purpose of further enhancing free float estimates and better understanding shareholder structures. When MSCI identifies useful additional sources of information, it seeks to incorporate them into its free float analysis.

Overall, index maintenance can be described by three broad categories of implementation of changes: (i) Annual full country index reviews, conducted on a fixed annual timetable, that systematically re-assess the various dimensions of the equity universe for all countries, (ii) quarterly index reviews, aimed at promptly reflecting other significant market events, and (iii) ongoing changes related to events such as mergers and acquisitions, which generally are rapidly implemented in the indexes as they occur.

Potential changes in the status of countries (stand-alone, emerging, developed) follow their own separate timetables. These changes are normally implemented in one or more phases at the regular annual full country index review and quarterly index review dates.

The annual full country index review for all the MSCI single country standard equity indexes is carried out once every 12 months and implemented as of the close of the last business day of May. The implementation of changes resulting from a quarterly index review occurs only on three dates throughout the year: as of the close of the last business day of February, August, and November. Any single country indexes may be impacted at the quarterly index review. MSCI Index additions and deletions due to quarterly index rebalancings are announced at least two weeks in advance.

Continued Listing Criteria

The Exchange prohibits the initial and/or continued listing of any securitythat is not in compliance with Rule 10A–3 under the Act.[13]

The Exchange will delist the Notes:

• If, following the initial twelve month period from the date of commencement of trading of the Notes, (a) the Notes have more than 60 days remaining until maturity and there are fewer than 50 beneficial holders of the Notes for 30 or more consecutive trading days, (b) if fewer than 100,000 Notes remain issued and outstanding, or (c) if the market value of all outstanding Notes is less than $1,000,000.

• If the Index closing value ceases to be calculated or available during the time the Notes trade on the Exchange on at least a 15 second basis through one or more major market data vendors or the sponsor of the Index (it being understood that the closing[14] Index value will be static during the Exchange trading day).

• If, during the time the Notes trade on the Exchange, the Indicative Value ceases to be available on a 15 second delayed basis.

• If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Exchange Filing Obligations

The Exchange will file a proposed rule change pursuant to Rule 19b–4 under the Act, seeking approval to continue trading the Securities and unless approved, the Exchange will commence delisting the Securities, if

• A successor or substitute index is used in connection with the Notes. The filing will address, among other things, the listing and trading characteristics of the successor or substitute index and the Exchange's surveillance procedures applicable thereto.

• At any time the most heavily weighted component stock in the Index exceeds 25% of the weight of the Index or the five most heavily weighted component stocks exceed 60% of the weight of the Index.

• MSCI substantially changes the index methodology.[15]

Trading Halts

If the Index Value or the Indicative Value is not being disseminated as required, the Exchange may halt trading during the day on which the interruption to the dissemination of the Index Value or the Indicative Value first occurs. If the interruption to the dissemination of the Index Value or the Indicative Value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

MSCI does not regularly alternate among stated sources and would make every effort to inform clients in advance of any such changes. The price sources implicit in the exchange code for each security's identifier (Ticker or RIC) should be considered as a consistent source in that regard.

[13] 17 CFR 240.10A–3.

[14] Telephone Conference (clarifying that Index closing value must be disseminated).

[15] Telephone Conference.

Surveillance

The Exchange's surveillance procedures will incorporate and rely upon existing Exchange surveillance procedures governing equities with respect to surveillance of the Notes. The Exchange believes that these procedures are adequate to monitor Exchange trading of the Notes and to detect violations of Exchange rules, thereby deterring manipulation. In this regard, the Exchange currently has the authority under NYSE Rule 476 to request the Exchange specialist in the Notes to provide NYSE Regulation with information that the specialist uses in connection with pricing the Notes on the Exchange, including specialist proprietary or other information regarding securities, options on securities or other derivative instruments. The Exchange believes it also has authority to request any other information from its members—including floor brokers, specialists and ''upstairs'' firms—to fulfill its regulatory obligations.

The Exchange's current trading surveillances focus on detecting securities trading outside normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

Trading Rules

The Exchange's existing trading rules will apply to trading of the Notes. The Notes will trade between the hours of 9:30 a.m. and 4 p.m. ET and will be subject to the equity margin rules of the Exchange.

Suitability

Pursuant to Exchange Rule 405, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes.[16] With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes: (i) To determine that such transaction is suitable for the customer, and (ii) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transaction.

The Notes will be subject to the equity margin rules of the Exchange.[17]

Information Memorandum

The Exchange will, prior to trading the Notes, distribute an information memorandum to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes. The information memorandum will note to members language in the prospectus used by Barclays in connection with the sale of the Notes regarding prospectus delivery requirements for the Notes. Specifically, in the initial distribution of the Notes,[18] and during any subsequent distribution of the Notes, NYSE member organizations will deliver a prospectus to investors purchasing from such distributors.

The information memorandum will discuss the special characteristics and risks of trading this type of security. Specifically, the information memorandum, among other things, will discuss what the Notes are, how the Notes are redeemed, applicable Exchange rules, dissemination of information regarding the Index value and the Indicative Value, exchange rate, trading information, and applicable suitability rules. The information memorandum will also notify members and member organizations about the procedures for redemptions of Notes and that Notes are not individually redeemable but are redeemable only in aggregations of at least 100,000 Notes.

The information memorandum will also discuss any exemptive or no-action relief under the Act provided by the Commission staff.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[19] in general, and furthers the objectives of Section 6(b)(5),[20] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which Amex consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The Commission is considering granting accelerated approval of the proposed rule change, as amended, at the end of a 15-day comment period.[21]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2006–69.

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–2006–69. This file number should be included on the

[16] NYSE Rule 405 requires that every member, member firm or member corporation use due diligence to learn the essential facts relative to every customer and to every order or account accepted.

[17] *See* NYSE Rule 431.

[18] The Registration Statement reserves the right to make subsequent distributions of these Notes.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] NYSE has requested accelerated approval of the proposed rule change, as amended, prior to the 30th day after the date of publication of notice of the proposal in the **Federal Register**.

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–NYSE–2006–69 and should be submitted on or before December 13, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–20130 Filed 11–27–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54801; File No. SR–NYSE–2006–80]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Relating to NYSE Rule 1300 (Gold Shares) and NYSE Rule 51 (Hours of Business)

November 21, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 2, 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 the Exchange. On November 6, 2006, the Exchange filed Amendment No. 1.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend NYSE Rule 1300 (Gold Shares) and NYSE Rule 51 (Hours for Business) to allow streetTRACKS® Gold Shares to open for trading at 8:20 a.m. The text of the proposed rule change, as amended, is available on the Exchange'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, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Since 2004, the Exchange has offered its customers the ability to trade in a gold-based security called streetTRACKS® Gold Shares (''Gold Shares''). Gold Shares represent units of fractional undivided interest in and ownership of the streetTRACKS® Gold Trust (the ''Trust''). The Trust holds gold bullion and the investment objective of the Trust is to reflect the performance of the price of gold bullion, less the Trust's expenses.

Interest in commodity-based securities has increased. In order to remain competitive, the Exchange proposes to amend NYSE Rule 1300 and NYSE Rule 51 to reflect that Gold Shares would open for trading at 8:20 a.m. An 8:20 a.m. opening would coincide with the opening of COMEX® trading in gold futures and gold options and thus permit trading in Gold Shares to start at the same time as other gold-based instruments. This would give customers the opportunity to trade an equity product based on the price of gold from the time that gold futures and options on gold futures begin trading on the COMEX®.

Except for the new opening time, trading in Gold Shares would operate as it does today. The current assigned specialist would continue as the assigned specialist and the stock would continue to trade at its current post and panel. All Exchange systems would be operative beginning at 8:20 a.m. and throughout the trading day including those systems that provide audit trail information. The Exchange surveillances that currently operate during market hours would be in place to coincide with the 8:20 a.m. opening. Further, the Exchange would make sure that either a Floor Governor or two Floor Officials would be available upon the 8:20 a.m. opening. As always, all Exchange Rules would apply upon the open at 8:20 a.m. and throughout the trading day.

Furthermore, the Exchange represents that the updated spot price of gold and the Intraday Indicative Value (''IIV'') for Gold Shares would be available at 8:20 a.m. on the Trust's Web site (*http://www.streettracksgoldshares.com*). The IIV is calculated by the Trust's Sponsor, World Trust Gold Services, LLC. The Exchange's Web site (*http://www.nyse.com*) provides a link to the Trust's Web site. The spot price of gold and the IIV on the Trust's Web site are subject to a 5 to 10 second delay.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Section 6(b)(5) of the Act[5] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] *See* Form 19b–4 dated November 6, 2006 (''Amendment No. 1''). Amendment No. 1 replaced the original filing in its entirety.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on this proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2006–80 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2006–80. 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–2006–80 and should be submitted on or before December 19, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–20133 Filed 11–27–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54784; File No. SR–OCC–2006–17]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Definition of Fund Share and Options on Commodity Pool ETFs

November 20, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 21, 2006, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. 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 proposed rule change would permit OCC to issue, clear, and settle options on equity interests issued by exchange-traded funds (''ETFs'') that trade directly or indirectly in commodity futures products and are therefore subject to regulation by the Commodity Futures Trading Commission (''CFTC'') as commodity pools.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change would amend the definition of ''fund share'' to include options on equity interests issued by ETFs that trade directly or indirectly in commodity futures products and are therefore subject to regulation by the CFTC as commodity pools. The Commission recently approved a proposed rule change filed by the American Stock Exchange to list and trade options on (1) interests (''Interests'') issued by the DB Commodity Index Tracking Fund (''DBC Fund''), whose value is intended to track the performance of the ''Deutsche Bank Liquid Commodity Index™—Excess Return'' (''Index''),[3] and (2) units (''Units'') issued by the United States Oil Fund, L.P. (''Oil Fund''), whose value is intended to track the spot price of West Texas Intermediate light, sweet crude oil delivered to Cushing, Oklahoma, less Oil Fund expenses (''Benchmark'').[4]

The DBC Fund is a ''feeder fund'' that invests substantially all of its assets in the DB Commodity Index Tracking Master Fund (''Master Fund''), and the Master Fund in turn maintains a portfolio of exchange-traded futures on aluminum, gold, corn, wheat, heating oil and light, sweet crude oil. The Index is derived from the prices of those futures contracts. The Master Fund's portfolio is managed on an ongoing basis by DB Commodity Services LLC, a registered commodity pool operator and commodity trading advisor so that the

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

[3] Securities Exchange Act Release No. 54450 (September 14, 2006) 71 FR 55230 (September 21, 2006)[File No. SR–AMEX–2006–44].

[4] Securities Exchange Act Release No. 53582 (March 31, 2006) 71 FR 17510 (April 6, 2006) [File No. SR–AMEX–2005–127].

value of the portfolio closely tracks the value of the Index over time.

Unlike the DBC Fund, the Oil Fund does not invest through a master fund but rather trades directly in futures on crude and heating oil, natural gas, gasoline, and other petroleum-based fuels; in options on such futures contracts; in forward contracts for oil; and in other over-the-counter derivatives based on the price of oil, other petroleum-based fuels, the futures contracts described above, and indexes based on any of the foregoing. The Oil Fund's portfolio is managed by Victoria Bay Asset Management LLC with the aim of tracking the Benchmark.

The Interests and the Units are freely transferable and may be bought and sold like any other ETF interest or other exchange-listed security. In addition to options on the Interests and the Units, there may be other similar options on ETFs regulated as commodity pools (''Pool ETFs'') that OCC may be asked to issue, clear, and settle in the future.

The proposed rule change is needed to permit OCC to issue, clear, and settle options on Pool ETFs. The definition of ''fund share'' in Article I of OCC's By-Laws is currently limited to shares in entities ''holding portfolios or baskets of securities.'' However, the Oil Fund invests directly in commodity futures contracts. Additionally, although as a technical matter the DBC Fund invests exclusively in securities (the units issued by the Master Fund), entities such as the DBC Fund that invest in the securities issued by a commodity pool are themselves deemed to be commodity pools because they represent an indirect investment in commodity futures contracts. OCC is therefore proposing to amend the definition of ''fund share'' in Article I of its By-Laws to specifically refer to interests in an entity that is a commodity pool. The definition would also be revised to make it clear that (i) it includes entities with actively managed portfolios, (ii) it includes feeder funds, and (iii) it applies only to entities principally engaged in holding portfolios or baskets of securities or currencies and not entities that do so as an incident to some other business.

The proposed rule change will not be implemented until definitive copies of an appropriate supplement to the options disclosure document, *Characteristics and Risks of Standardized Options,* are available for distribution.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act, because it is designed to promote the prompt and accurate clearance and settlement of securities transactions, to foster cooperation and coordination with persons engaged in the clearance and settlement of such transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, to protect investors and the public interest. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–OCC–2006–17 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–OCC–2006–17. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.optionsclearing.com.*

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–OCC–2006–17 and should be submitted on or before December 19, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Nancy M. Morris,

Secretary.

[FR Doc. E6–20049 Filed 11–27–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54786; File No. SR–OCC–2006–16]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Definition of Fund Share

November 20, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 21, 2006, The Options

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

Clearing Corporation (''OCC'') 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 primarily by OCC. 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 proposed rule change would amend the definition of ''fund share'' in OCC's By-Laws.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC issues and clears options on ''fund shares'' which are defined in Article I of OCC's By-Laws as a publicly traded interest in a trust, investment company, or other entity holding portfolios or baskets of securities.[3] The proposed rule change would amend the definition of ''fund shares'' in order to accommodate requests from OCC participant exchanges that OCC clear and settle options on exchange traded fund (''ETF'') shares that represent interests in an entity holding euros and investing the euros in time deposits.[4] Specifically, the proposed rule change would amend the definition to include interests in entities holding portfolios or baskets of currencies, including single currencies. The definition would also be revised to make it clear that (i) it includes entities with actively managed portfolios and (ii) it applies only to entities principally engaged in holding portfolios or baskets of securities or currencies and not entities that do so as an incident to some other business.

If approved by the Commission, the proposed rule change would not be implemented until definitive copies of an appropriate supplement to the options disclosure document, *Characteristics and Risks of Standardized Options*, are available for distribution.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act because it promotes the prompt and accurate clearance and settlement of securities transactions, fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, removes impediments to and perfects the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, protects investors and the public interest. The proposed rule change is not inconsistent with the existing rule of OCC, including any other rules proposed to be amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–OCC–2006–16 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–OCC–2006–16. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.optionsclearing.com.*

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–OCC–2006–16 and should be submitted on or before December 19, 2006.

[2] The Commission has modified parts of these statements.

[3] Securities Exchange Act Release No. 46914 (November 26, 2002), 67 FR 72261 (December 4, 2002) [File No. SR–OCC–2002–22].

[4] Securities and Exchange Act Release Nos. 54087 (June 30, 2006), 71 FR 38918 (July 10, 2006) [File No. SR–ISE–2005–60] (Order approving a proposed rule change of the International Stock Exchange to allow listing and trading of fund shares that hold specified non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency.) The American Stock Exchange has filed a similar proposal [File No. SR–AMEX–2006–87], which has not yet been published for notice and comment.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Nancy M. Morris,

Secretary.

[FR Doc. E6–20053 Filed 11–27–06; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54785; File No. SR–OCC–2006–18]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Cash-Settled Interest Rate Futures

November 20, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 3, 2006, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[2] whereby the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change allows OCC to clear and settle cash-settled interest rate futures.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Philadelphia Board of Trade (''PBOT'') has proposed to trade futures contracts on the three-month London Interbank Offered Rate for U.S. dollars as announced by the British Bankers Association (''BBA'') (''LIBOR Futures''). PBOT intends to list LIBOR Futures with eleven and one-half consecutive years of daily maturities. A separate series of LIBOR Futures will mature on each day on which PBOT and OCC are both open for business. A new series will be opened each business day to replace the maturing series so that on any given date approximately 2,900 series will be outstanding.

The daily settlement price for each LIBOR Future will be the average of the closing PBOT best bid/best offer, and the final settlement price will be based on the three-month LIBOR rate as reported by the BBA in its daily fixing at 6 a.m. Greenwich Mean Time on the maturity date. PBOT has set the multiplier at $2,500 in order to size the contract to reflect the three-month return on a deposit of $1,000,000 earning interest at LIBOR. Prices for LIBOR Futures will be quoted as 100 minus a percentage rate expressed in increments of .0025. For example, if the three-month LIBOR rate is 5.0050%, the 100-RATE futures contract would be priced at 94.9950.

The final variation payment will be made on the business day following the last day of trading and will equal the difference between the final settlement price and the most recent settlement price (or the contract price if the contract was entered into since the most recent daily settlement price was established) times the multiplier.

Interest rate futures fall within the definition of ''commodity futures'' in Section 1a(4) of the Commodity Exchange Act (''CEA''), which includes ''all * * * rights, and interests in which contracts for future delivery are presently or in the future dealt in.'' OCC therefore proposes to clear this product in its capacity as a ''derivatives clearing organization'' registered under Section 5b of the CEA. The Commission previously approved amendments to Article XII of OCC's By-Laws and Chapter XIII of OCC's Rules, both of which are titled Futures and Futures Options, to allow OCC to provide clearance and settlement services for commodity futures.[4]

OCC's rules currently provide for the trading of cash-settled futures contracts, and only very minor changes are needed to accommodate LIBOR Futures. From OCC's perspective, LIBOR Futures will look like any other cash-settled future. The proposed rule change amends OCC's By-Laws to add the defined term ''interest rate future'' and to revise the definition of ''multiplier'' to make it more generic and more accurate as applied to cash-settled futures contracts. The proposed rule change also amends the definition of ''unit of trading'' to make it more generic in its application to futures contracts even though for purposes of the present rule change there is no need to use the term with respect to interest rate futures. OCC further proposes to add a reference to interest rate futures in Rule 1301, which describes the manner in which variation payments are calculated.

OCC is also making several changes to the Clearing Agreement with PBOT. The most significant of these changes is to expand the types of PBOT commodity contracts that are cleared and settled by OCC. The Clearing Agreement currently provides for the clearance and settlement of foreign currency futures only. OCC is proposing to amend Section 3 of the Clearing Agreement to provide for the clearance and settlement of futures with underlyings other than foreign currencies as well as to accommodate the trading of futures options and commodity options, and to permit the parties to agree on underlyings for futures, futures options, and commodity options by completion and execution of a schedule in the form attached to the Clearing Agreement as Schedule C. The parties have also agreed upon and included with the Clearing Agreement a Schedule C–1 for interest rate futures. The provisions of Section 3 of the Amended and Restated Clearing Agreement with respect to the selection of underlying interests are similar to those in the Agreement for Clearing and Settlement Services between OCC and CBOE Futures Exchange, LLC (''CFE Agreement'') filed for immediate effectiveness in Filing No. SR–OCC–2003–06.[5]

In addition, OCC is proposing to amend the Clearing Agreement to: provide that OCC will attempt where possible to consult with PBOT with respect to margin requirements for products governed by the Clearing Agreement; allow PBOT to consult with OCC to the extent it believes margin requirements are too high or otherwise inappropriate; provide for

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(ii).

[3] The Commission has modified parts of these statements.

[4] Securities Exchange Act Release No. 45946 (May 16, 2002), 67 FR 36056 (May 22, 2002) [File No. SR–OCC–2001–16].

[5] Securities Exchange Act Release No. 49124 (January 26, 2004), 69 FR 4554 (January 30, 2004).

indemnification of OCC by PBOT based on claims of infringement of intellectual property rights or similar claims in connection with commodity contracts governed by the Clearing Agreement; and provide for the transfer of open positions from OCC to a successor clearing organization in the event PBOT makes alternative clearing arrangements. OCC is proposing to make several other less significant changes to the Clearing Agreement, many of which are designed to conform the Clearing Agreement to the agreement between OCC and CFE.

OCC believes that the proposed rule change is consistent with Section 17A of the Act because it is designed to permit OCC to clear certain commodity futures transactions without creating any adverse impact upon the prompt and accurate clearance and settlement of transactions in securities. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [6] and Rule 19b–4(f)(4) [7] promulgated thereunder because the proposal effects a change in an existing service of OCC that (A) does not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which it is responsible and (B) does not significantly affect the respective rights or obligations of OCC or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–OCC–2006–18 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–OCC–2006–18. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.optionsclearing.com*.

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-OCC–2006–18 and should be submitted on or before December 19, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Nancy M. Morris,

Secretary.

[FR Doc. E6–20050 Filed 11–27–06; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(4).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54802; File No. SR–Phlx–2006–72]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to New Hours of Business on the Exchange's Foreign Currency Options Floor

November 21, 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 8, 2006, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. 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 Phlx, pursuant to Section 19(b)(1) of the Act [3] and Rule 19b–4 thereunder,[4] proposes to modify its hours of business for dealings on the Exchange to change the opening of foreign currency options (''FCOs'') trading from 2:30 a.m. Eastern Time (''ET'') to 7:30 a.m. ET. The change would become effective on December 1, 2006. The text of the proposed rule change is available on the Phlx's Web site (*http://www.phlx.com*), at the Phlx's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(1).

[4] 17 CFR 240.19b–4.

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. The Phlx 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 purpose of the proposed rule change is to make the Exchange's FCO floor more cost effective by reducing the duration of the foreign currency option trading session. Currently, Phlx Rule 101, Hours of Business, states that FCO trading sessions shall be conducted at such times as the Exchange's Board of Governors (''Board'') shall specify between 6 p.m., Sundays and 3 p.m., Fridays. Accordingly, the Board adopted the current hours for FCO trading sessions, opening at 2:30 a.m. ET and closing at 2:30 p.m. ET.[5]

The Exchange proposes to adopt a reduced time period for foreign currency option trading sessions by specifying that, beginning December 1, 2006, foreign currency option trading sessions would open at 7:30 a.m. ET and close at 2:30 p.m. ET. The Exchange represents that a significant majority of trades in foreign currency options occur during this time period, and thus the Exchange believes that it would be more cost effective to reduce the duration of the trading session with little or no impact on volume in FCOs.

In connection with the proposed rule change adopting Phlx Rule 101, the Exchange committed to make future filings under section 19(b)(3)(A) of the Act,[6] any time it expands or changes FCO trading hours in connection with Phlx Rule 101.[7] The Exchange intends to notify its membership of the change in trading hours for FCOs by issuing a circular to members. The new trading hours for FCOs would be in effect beginning December 1, 2006.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(5) of the Act[9] in particular, because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change has been designated as a practice with respect to the administration of an existing rule, it has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[10] and Rule 19b–4(f)(1) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–Phlx–2006–72 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–Phlx–2006–72. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. 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–Phlx 2006–72 and should be submitted on or before December 19, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–20127 Filed 11–27–06; 8:45 am]

BILLING CODE 8011–01–P

[5] In 1993, the Exchange filed a proposed rule change to amend Phlx Rule 101 to provide that all FCO trading, except FCOs on the Canadian dollar, will be conducted between 1:30 a.m. ET and 2:30 p.m. ET each business day. *See* Securities Exchange Act Release No. 33246 (November 24, 1993), 58 FR 63421 (December 1, 1993) (SR–Phlx–93–42). Subsequently, the trading hours were modified to move the opening of FCO trading from 1:30 a.m. ET to 2:30 a.m. ET for all Exchange-listed FCOs except the Canadian dollar. *See* Securities Exchange Act Release No. 34898 (October 26, 1994), 59 FR 54651 (November 1, 1994) (File No. SR–Phlx–94–47). In May 2004, the Exchange expanded the trading hours for options on the Canadian dollar to conform to the trading hours for all other FCOs on the Exchange. *See* Securities Exchange Act Release No. 49690 (May 12, 2004), 69 FR 28972 (May 19, 2004) (SR–Phlx–2004–24). Thus, all Exchange-listed FCOs currently trade on the Exchange from 2:30 a.m. ET until 2:30 p.m. ET.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] *See* Securities Exchange Act Release No. 26087 (September 16, 1988), 53 FR 36930 (September 22, 1988) (File No. SR–Phlx–88–25).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(i).

[11] 17 CFR 240.19b–4(f)(1).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54788; File No. SR–Phlx–2006–77]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Intermarket Sweep Orders in Nasdaq Securities

November 20, 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 15, 2006, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Phlx. On November 17, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Exchange filed the proposal as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6) thereunder,[5] which rendered the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the amended proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Phlx Rule 185A, Intermarket Sweep Orders—Temporary, to describe the obligations of the XLE Participants sending Intermarket Sweep Orders (''ISOs'')[6] or IOC Cross Orders that are marked as meeting the requirement to route to other market centers[7] (both types of orders hereinafter are referred to as ''Incoming Sweep Orders'') in Nasdaq Global Market Securities and Nasdaq Capital Market Securities (''Nasdaq Securities''). Specifically, before Rule 611 of Regulation NMS[8] is operative on the Exchange (the ''Trading Phase Date''),[9] the amended rule would expressly require XLE Participants sending Incoming Sweep Orders in Nasdaq Securities to simultaneously send an intermarket sweep order (or comparable order) for the full displayed size of the top of book of every national securities exchange or national securities association displaying a better-priced protected quotation. The text of the proposed rule change is available on Phlx's Web site, *http://www.phlx.com*, at Phlx's principal office, and at the Commission's Public Reference Room.

II Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx 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 purpose of the proposed rule change is to clarify the operation of Incoming Sweep Orders in Nasdaq Securities before the Trading Phase Date. Before the Trading Phase Date, Phlx will require XLE Participants who send Incoming Sweep Orders to the Exchange in Nasdaq Securities to simultaneously send an intermarket sweep order (or comparable order) for the full displayed size of the top of book of every national securities exchange or national securities association displaying a better-priced protected quotation. This requirement is intended to mirror the requirement, which will be operative after the Trading Phase Date, that all such Incoming Sweep Orders meet the requirement of intermarket sweep orders in Rule 600(b)(30) of Regulation NMS.[10] Phlx recently adopted Rule 185A[11] to deal with, among other things, the obligations of XLE Participants sending Incoming Sweep Orders, but now seeks to more clearly state how Rule 185A applies to Nasdaq Securities because the reference to ITS Participant in the rule could be ambiguous.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Section 6(b)(5) of the Act[13] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received by the Exchange.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] As required under Rule 19b–4(f)(6)(iii) under the Act,[16] Phlx provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, prior to the date of the filing of the proposed rule change.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Partial Amendment No. 1 corrected a typographical error in the original filing.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] *See* Phlx Rule 185(b)(2)(C).

[7] *See* Phlx Rule 185(c)(2)(D).

[8] 17 CFR 242.611.

[9] The Trading Phase Date is February 5, 2007. *See* Securities Exchange Act Release No. 53829 (May 18, 2006), 71 FR 30038 (May 24, 2006) (File No. S7–10–04).

[10] 17 CFR 242.600(b)(30) (defining ''intermarket sweep order'').

[11] *See* SR–Phlx–2006–76.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

A proposed rule change filed under Rule 19b–4(f)(6) under the Act [17] normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) under the Act [18] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay, which would make the rule change effective and operative upon filing. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change clarifies the operation of Phlx Rule 185A with respect to the protection of better-priced quotations in Nasdaq Securities. Accordingly, the Commission designates the amended proposal to be effective and operative upon filing with the Commission.[19]

At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[20]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2006–77 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–Phlx–2006–77. 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 Phlx. 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–Phlx–2006–77 and should be submitted on or before December 19, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E6–20128 Filed 11–27–06; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[20] *See* 15 U.S.C. 78s(b)(3)(C).

[21] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Disaster Declaration #10701 and #10702 Louisiana Disaster Number LA–00007

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–1668–DR), dated 11/02/2006.

Incident: Severe Storms and Flooding

Incident Period: 10/16/2006 and continuing.

EFFECTIVE DATE: 11/17/2006.

Physical Loan Application Deadline Date: 01/02/2007.

EIDL Loan Application Deadline Date: 08/02/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of LOUISIANA, dated 11/02/2006 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Parishes:

Allen, Beauregard, Calcasieu, Jefferson Davis, Saint Helena, Saint Landry.

Contiguous Parishes/Counties:

Louisiana: Acadia, Cameron, East Baton Rouge, East Feliciana, Evangeline, Lafayette, Livingston, Pointe Coupee, Saint Martin, Tangipahoa, Vermilion.

Mississippi: Amite.

Texas: Orange.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 9008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E6–20098 Filed 11–27–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notices: 5631]

60-Day Notice of Proposed Information Collection: DS–2028, Overseas Schools Grant Status Report, OMB 1405–0033

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Overseas Schools Grant Status Report.
- *OMB Control Number:* OMB 1405–0033.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Administration, A/OPR/OS.
- *Form Number:* DS–2028.

• *Respondents:* Overseas school grantees.
• *Estimated Number of Respondents:* 185.
• *Estimated Number of Responses:* 185.
• *Average Hours Per Response:* 15 minutes.
• *Total Estimated Burden:* 46 hours.
• *Frequency:* Annually.
• *Obligation to Respond:* Required to obtain or retain a benefit.

DATES: The Department will accept comments from the public up to 60 days from November 28, 2006.

ADDRESSES: Keith Miller, Department of State, Office of Overseas Schools, A/OPR/OS, Room H328, SA–1, Washington, DC 20522–0132, who may be reached on 202–261–8200. You may submit comments by any of the following methods:
• *E-mail: millerkd2@state.gov* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
• *Mail (paper, disk, or CD–ROM submissions):* Office of Overseas Schools, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520.
• *Fax:* 202–261–8224.
• *Hand Delivery or Courier:* same as mail address.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Keith Miller, Department of State, Office of Overseas Schools, A/OPR/OS, Room H328, SA–1, Washington, DC 20522–0132, who may be reached on 202–261–8200 or *millerkd2@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:
• Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
• Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
• Enhance the quality, utility, and clarity of the information to be collected.
• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection:

The Office of Overseas Schools of the Department of State (A/OPR/OS) is responsible for determining that adequate educational opportunities exist at Foreign Service Posts for dependents of U.S. Government personnel stationed abroad, and for assisting American-sponsored overseas schools to demonstrate U.S. educational philosophy and practice. The information gathered provides the technical and professional staff of A/OPR/OS the means by which obligations, expenditures and reimbursements of the grant funds are monitored to ensure the grantee is in compliance with the terms of the grant.

Methodology:

Information is collected via electronic and paper submission.

Dated: November 13, 2006.

Peggy Philbin,

Executive Director, Bureau of Administration, Department of State.

[FR Doc. E6–20176 Filed 11–27–06; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 5630]

Notice of Receipt of Application for a Presidential Permit To Operate and Maintain Pipeline Facilities on the Border of the United States

Notice is hereby given that the Department of State has received an application from Plains Pipeline, L.P. (''PPLP'') for a Presidential permit, pursuant to Executive Order 13337 of April 30, 2004, to operate and maintain a pipeline for transporting petroleum products from El Paso, Texas, to Juarez, Mexico (''Juarez pipeline''), crossing the international boundary line between the United States and Mexico at a point near El Paso, Texas. On June 19, 1995, the Department of State, acting pursuant to delegated authority, issued a Presidential permit to the Chevron Pipe Line Company (''Chevron''), a Delaware corporation with its principal offices in San Francisco, California, to ''construct, connect, operate and maintain'' the Juarez pipeline. According to the application, PLPP acquired the Juarez pipeline from Chevron on September 1, 2006 as part of a large asset acquisition.

According to the application, PPLP is a Texas Limited Partnership engaged in the interstate and intrastate transportation of crude oil by pipeline. Also, according to the application, PPLP is an indirect wholly owned subsidiary of Plains All American Pipeline, L.P., a Delaware Limited Partnership. PPLP has, in written correspondence to the Department of State, committed to abide by the relevant terms and conditions of the permit previously issued by the Department to Chevron. Further, PPLP indicates in that correspondence that there have been no substantial changes in the operations of the Juarez pipeline from those originally authorized by the Department and further states that the future operation of the pipeline will remain essentially unchanged from that previously permitted. Therefore, in accordance with 22 CFR 161.7(b) (3) and the Department's Procedures for Issuance of a Presidential Permit Where There Has Been a Transfer of the Underlying Facility, Bridge or Border Crossing for Land Transportation (70 FR 30990, May 31, 2005), the Department of State does not intend to conduct an environmental review of the application unless information is brought to its attention that the transfer potentially would have a significant impact on the quality of the human environment.

As required by E.O. 13337, the Department of State is circulating this application to concerned Federal agencies for comment.

DATES: Interested parties are invited to submit, in duplicate, comments relative to this proposal on or before December 28, 2006 to Jeffrey Izzo, Office of International Energy and Commodities Policy, Department of State, Washington, DC 20520. The application and related documents that are part of the record to be considered by the Department of State in connection with this application are available for inspection in the Office of International Energy and Commodities Policy during normal business hours.

FOR FURTHER INFORMATION CONTACT: Jeffrey Izzo, Office of International Energy and Commodity Policy (EB/ESC/IEC/EPC), Department of State, Washington, DC 20520; or by telephone at (202) 647–1291; or by fax at (202) 647–4037.

Dated: November 20, 2006.

Stephen J. Gallogly,

Director, Office of International Energy and Commodity Policy, Department of State.

[FR Doc. E6–20181 Filed 11–27–06; 8:45 am]

BILLING CODE 4710–07–P

TENNESSEE VALLEY AUTHORITY

Notice of Sunshine Act Meeting

[Meeting No. 06–07]

TIME AND DATE: 10 a.m., November 30, 2006, TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

STATUS: Open.

Agenda

Old Business

Approval of minutes of October 13, 2006, Board Meeting.

New Business

1. President's Report.
   A. 2007 Board meeting schedule.
2. Report of the Corporate Governance Committee.
   A. TVA Board Practices Concept.
   B. TVA Board Practice on notational Board approval process.
   C. TVA Board Practice on approval of general procurement contracts.
   D. TVA Board Practice on use of TVA Plane by Board members.
   E. TVA Board Practice establishing guidelines and cost parameters for Board committees' engagement of outside advisors.
   F. TVA Corporate Calendar.
3. Report of the Community Relations Committee.
   A. Land policy.
   B. Renewal of Regional Resource Stewardship Council Charter.
4. Report of the Finance, Strategy, and Rates Committee.
   A. Resolutions authorizing the issuance of new power bonds.
   B. Tax-equivalent payments for Fiscal Year 2006 and estimated payments for Fiscal Year 2007.
   C. Retention of Net Power Proceeds and Nonpower Proceeds and Payments to the U.S. Treasury.
5. Report of the Operations, Environment, and Safety Committee.
   A. Contract for purchase of Gleason, Tennessee, combustion turbine generating plant from Allegheny Energy Supply Gleason Generating Facility LLC.
   B. Contracts with ABB Inc. and Mitsubishi Electric Power Products Inc. for power circuit breakers.
   C. Term contracts with Franklin Industries Inc., Martin Marietta Materials Inc., and Vulcan Construction Materials LP for limestone reagent needed for operation of TVA fossil plants.
   D. Spot coal contracts with American Coal Company and Consolidation Coal Company.
6. Report of the Audit and Ethics Committee.
   A. Conflict-of-interest policy.
7. Report of the Human Resources Committee.
   A. Amendments to the TVA Retirement System Rules and 401(k) Plan to count certain lump sums awarded in FY 2007 as regular salary and wages for calculating TVARS benefits.
   B. Contract with Medco Health Solutions Inc. to administer TVA's prescription drug plan for employees and retirees.
   C. FY 2007 Winning Performance Scorecard.
   D. Extension of interim Human Resources and Labor Relations delegations.
8. Information Items.
   A. Temporary reintegration fee waiver opportunity for noticing distributors to reinstate power contracts without additional cost fee.

FOR MORE INFORMATION: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: November 22, 2006.

Maureen H. Dunn,

General Counsel and Secretary.

[FR Doc. 06–9448 Filed 11–24–06; 10:23 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 28, 2006, vol. 71, no. 124, page 36868. This rule may require applicants to comply with the latest regulations in effect on the date of application for amended Type Certificates (TC) or a Supplemental TCs for aeronautical products.

DATES: Please submit comments by December 28, 2006.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Type Certification Procedure for Changed Products.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0657.

Forms(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 2558 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden Per Response: Approximately 7.36 hours per response.

Estimated Annual Burden Hours: An estimated 18,815 hours annually.

Abstract: This rule may require applicants to comply with the latest regulations in effect on the date of application for amended Type Certificates (TC) or a Supplemental TCs for aeronautical products. They now may incur an additional incremental administrative cost to determine the level of significance of the product change.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to Nathan Lesser, Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on November 21, 2006.

Carla Mauney,

FAA Information Collection Clearance Officer, Strategy and Investment Analysis Division, AIO–20.

[FR Doc. 06–9437 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Request Approval From the Office of Management and Budget of a New Information Collection Activity, Request for Comments; New England Region Aviation Expo

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a new information collection. The New England Region Aviation Expo database performs conference registration and helps plan the logistics and non-pilot courses for the expo.

DATES: Please submit comments by January 29, 2007.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION

Federal Aviation Administration (FAA)

Title: New England Region Aviation Expo Database.

Type of Request: New Collection.

OMB Control Number: 2120–XXXX.

Form(s): There are no FAA forms associated with this collection.

Affected Public: A total of 500 Respondents.

Frequency: The information is collected once annually.

Estimated Average Burden Per Response: Approximately 15 seconds per response.

Estimated Annual Burden Hours: An estimated 2 hours annually.

Abstract: The New England Region Aviation Expo database performs conference registration and helps plan the logistics and non-pilot courses for the expo.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 1033, Federal Aviation Administration, Strategy and Investment Analysis Division, AIO–20, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on November 20, 2006.

Carla Mauney,

FAA Information Collection Clearance Officer, Strategy and Investment Analysis Division, AIO–20.

[FR Doc. 06–9438 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2006–41]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before December 18, 2006.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–2006–26170] by any of the following methods:

- Web Site: *http://dms.dot.gov*. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- 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.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Lender (202) 267–8029 or Frances Shaver (202) 267–9681, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on November 21, 2006.

Eve Taylor Adams,

Acting Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2006–26170.

Petitioner: CareFlite.

Section of 14 CFR Affected: 14 CFR 43(h)(i).

Description of Relief Sought: The exemption, if granted, would allow trained CareFlite medical crew members to reposition the rear seat in their helicopters to the central position without requiring the pilot to shut down the aircraft and perform the action.

[FR Doc. E6–20158 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2006–26406]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of Request for Extension of Currently Approved Information.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval to renew an information collection, which is summarized below under **SUPPLEMENTARY INFORMATION.** We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by January 29, 2007.

ADDRESSES: You may submit comments identified by DOT Docket Management

System (DMS) Docket Number FHWA–2006–26406 by any of the following methods:

- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* (202)–493–2251
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC, 20590–0001.
- *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.
- *Docket:* For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: James March, 202–366–9237, or William Linde, 202–366–9637, Office of Transportation Policy Studies, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Federal-Aid Highway Construction Equal Employment Opportunity.

Background: Title 23, Part 140(a), requires the FHWA to ensure equal opportunity regarding contractors' employment practices on Federal-aid highway projects. To carry out this requirement, the contractors must submit to the State Transportation Agencies (STAs) on all work being performed on Federal-aid contracts during the month of July, a report on its employment workforce data. This report provides the employment workforce data on these contracts and includes the number of minorities, women, and non-minorities in specific highway construction job categories. This information is reported on Form PR–1391, Federal-Aid Highway Construction Contractors Summary of Employment Data. The statute also requires the STAs to submit a report to the FHWA summarizing the data entered on the PR–1391 forms. This summary data is provided on Form PR–1392, Federal-Aid Highway Construction Contractors Summary of Employment Data. The STAs and FHWA use this data to identify patterns and trends of employment in the highway construction industry, and to determine the adequacy and impact of the STA's and FHWA's contract compliance and on-the-job (OJT) training programs. The STAs use this information to monitor the contractors-employment and training of minorities and women in the traditional highway construction crafts. Additionally, the data is used by FHWA to provide summarization, trend analyses to Congress, DOT, and FHWA officials as well as others who request information relating to the Federal-aid highway construction EEO program. The information is also used in making decisions regarding resource allocation; program emphasis; marketing and promotion activities; training; and compliance efforts.

Respondents: 7,900 annual respondents for form PR–1391, and 52 STAs annual respondents for Form PR–1392, total of 7,952.

Frequency: Annually.

Estimated Average Burden per Response: FHWA estimates it takes 30 minutes for Federal-aid contractors to complete and submit Form PR–1391 and 8 hours for STAs to complete and submit Form PR–1392. FHWA has recently established a 1391 Company Wide Reporting Data Collection Program that has significantly reduced the amount of paperwork associated with the reporting of Federal-aid highway employment data. This process enables contractors to submit one consolidated form PR–1391, inclusive of all Federal-aid projects rather than submitting multiple PR–1391 forms for each project.

Estimated Total Amount Burden Hours: Form PR–1391–3,950 hours per year; Form PR–1392–416 hours per year, total of 4,366 hours annually.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: November 21, 2006.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E6–20038 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Privacy Act of 1974: System of Records

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

ACTION: Notice of establishment of system of records.

SUMMARY: DOT intends to establish a system of records under the Privacy Act of 1974.

DATES: *Effective Date:* January 8, 2007. If no comments are received, the proposal will become effective on the above date. If comments are received, the comments will be considered and, where adopted, the documents will be republished with changes.

FOR FURTHER INFORMATION CONTACT: Steven Lott, Department of Transportation, Office of the Secretary, 400 7th Street, SW., Washington, DC 20590, (202) 366–1314 (telephone), (202) 366–7373 (fax), *Steven.Lott@dot.gov* (Internet address).

SUPPLEMENTARY INFORMATION: The Department of Transportation system of records notice subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, has been published in the **Federal Register** and is available from the above mentioned address.

SYSTEM NUMBER: DOT/FHWA 218.

SYSTEM NAME:

Managerial Cost Accounting System.

SECURITY CLASSIFICATION:

Sensitive, unclassified.

SYSTEM LOCATION:

This system of records is located in the Federal Highway Administration (FHWA), Office of Policy, 400 7th Street, SW., Room 3312, Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM OF RECORDS:

Present employees of the FHWA, and individuals under contract with the Federal Highway Administration who provide services to the Agency that would otherwise be performed by a Federal employee.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records may include employee labor charging data containing employee names, current pay period, year-to-date salaries, hours worked by FHWA organizations and by established activity codes, and employee leave status. The system of records will also include financial data from the corporate accounting system, called Delphi (e.g., contract costs, travel costs, purchases of equipment) and financial data regarding grants management (e.g., Federal-aid funding amounts allocated to States or other Federal programs).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 902; 31 U.S.C. 3512.

PURPOSES:

The Managerial Cost Accounting System established by the FHWA will enhance the Agency's ability to: (1) Measure and benchmark the Agency's financial and operational performance; (2) support management decisions and plans based on reliable cost information; (3) measure and control the cost of resources consumed and outputs produced; (4) track individual labor costs directly associated with projects/activities; and (5) facilitate the distribution of labor charges and actual operating expenses for costing purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

- To contractors, consultants, and other non-FHWA employees performing or working on a contract, grant, cooperative agreement, or other assignment from the Federal government, when necessary to accomplish an Agency function related to this system of records.
- To other government agencies when authorized by law.
- See Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored in a database maintained under current FHWA application and hardware security requirements. Designated FHWA employees in each FHWA organization are granted access to the data for the purpose of downloading data to produce reports for local management use. These employees access the database through FHWA's secure intranet. Data downloaded by FHWA organizations may be retained on Local Area Network drives and may be in hardcopy format when required.

RETRIEVABILITY:

These records may be retrieved by the employee's name and organization, designated activity, or FHWA/DOT goal.

SAFEGUARDS:

Access to the system of records is restricted to authorized users. Each user is granted access with his or her user name and security password.

The user privileges are based on his or her assigned access rights. User access to sensitive data is granted only to limited individuals with the approval of FHWA management. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

The records in this system of records are retained and disposed of in accordance with the approved records disposition schedules in FHWA Order M 1324.1A, Files Management and Records Disposition Manual.

SYSTEM MANAGER AND ADDRESS:

Strategic Initiatives Team Leader, Office of Policy, 400 7th Street, SW., Room 3312, Washington, DC 20590.

NOTIFICATION PROCEDURE:

Write to the System Manager.

RECORD ACCESS PROCEDURES:

Write to the System Manager. Provide full name and a description of information that you seek, including the time frame during which the records may have been generated.

CONTESTING RECORD PROCEDURES:

Write to the System Manager. Identify the information being contested, the reason for contesting it, and the correction requested.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from current Privacy Act systems of records, DOT/ALL 11, Integrated Personnel Payroll System (IPPS) and DOT/ALL 7, Fiscal Management Information System (FMIS), and the Delphi accounting system. Information contained in this system will also be obtained from CASTLE, the new DOT personnel system.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: November 21, 2006.

Steven Lott,

Departmental Privacy Officer.

[FR Doc. E6–20113 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Privacy Act of 1974: System of Records

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

ACTION: Notice of establishment of a system of records.

SUMMARY: DOT intends to establish a system of records under the Privacy Act of 1974.

DATES: *Effective Date:* January 8, 2007. If no comments are received, the proposal will become effective on the above date. If comments are received, the comments will be considered and, where adopted, the documents will be republished with changes.

FOR FURTHER INFORMATION CONTACT: Steven Lott, Department of Transportation, Office of the Secretary, 400 7th Street, SW., Washington, DC 20590, (202) 366–1314 (telephone), (202) 366–7373 (fax), *Steven.Lott@dot.gov* (Internet address).

SUPPLEMENTARY INFORMATION: The Department of Transportation system of records notice subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, has been published in the **Federal Register** and is available from the above mentioned address.

SYSTEM NUMBER: DOT/FHWA 078

SYSTEM NAME:

Correspondence Tracking System.

SECURITY CLASSIFICATION:

Sensitive, unclassified.

SYSTEM LOCATION:

This system is in the Office of Administration for the Federal Highway Administration (FHWA), 400 Seventh Street, SW., Room P2, Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM OF RECORDS:

Individuals who submit letters, e-mail, and faxes (correspondence) to FHWA and to DOT about matters under FHWA's purview.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records and related correspondence on individuals and groups who have sent correspondence expressing opinions or concerns, or are requesting information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 322.

PURPOSES:

These records are maintained to track the receipt of and/or progress of replies to incoming correspondence. The records also track an electronic copy of incoming and outgoing correspondence.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To those entities/individuals within DOT and/or another Federal, state, tribal, or local agency, who can aid in responding to the issues and concerns raised in the incoming correspondence. Therefore, the routines uses are compatible with the purpose of collecting the information. See Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are stored in a database maintained under current FHWA application and hardware security requirements. Designated FHWA employees in each FHWA organization are granted access to the data for the purpose of downloading data to produce reports for local management use. These employees access the database through FHWA's secure intranet. Data downloaded by FHWA organizations may be retained on Local Area Network drives and may be in hardcopy format when required.

RETRIEVABILITY:

Records are retrieved by the name of the individuals or groups who wrote the correspondence, the tracking control number, the subject matter, and the date of the incoming document.

SAFEGUARDS:

Computer records are maintained in a secure, password-protected computer system. Paper records are maintained in a lockable file cabinet in a lockable room. All records are maintained in a secure, access-controlled area of the building.

RETENTION AND DISPOSAL:

The records in this system of records are retained and disposed of in accordance with the approved records disposition schedules in FHWA Order M 1324.1A, Files Management and Records Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Mary Peterson, FHWA Executive Secretariat, 400 Seventh Street, SW., Room 4207, Washington, DC 20590.

NOTIFICATION PROCEDURE:

Write to the System Manager.

RECORD ACCESS PROCEDURES:

Write to the System Manager. Provide full name and a description of information that you seek, including the time frame during which the records may have been generated.

CONTESTING RECORD PROCEDURES:

Write to the System Manager. Identify the information being contested, the reason for contesting it, and the correction requested.

RECORD SOURCE CATEGORIES:

The records are obtained from the individuals themselves who send correspondence, faxes or e-mails, etc.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: November 21, 2006.

Steven Lott,

Departmental Privacy Officer.

[FR Doc. E6–20114 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Privacy Act of 1974: System of Records

AGENCY: Federal Motor Carrier Safety Administration, DOT.

ACTION: Notice to establish a system of records.

SUMMARY: DOT intends to establish a system of records under the Privacy Act of 1974.

EFFECTIVE DATE: January 12, 2007. If no comments are received, the proposal will become effective on the above date. If comments are received, the comments will be considered and, where adopted, the documents will be republished with changes.

FOR FURTHER INFORMATION CONTACT: Departmental Privacy Officer, Department of Transportation, Office of the Secretary, 400 7th Street, SW, Washington, DC 20590, (202) 366–1314 (telephone), (202) 366–7373 (fax), *Steven.Lott@dot.gov* (Internet address).

SUPPLEMENTARY INFORMATION: The Department of Transportation system of records notice subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, has been published in the **Federal Register** and is available from the above mentioned address.

SYSTEM NUMBER: DOT/FMCSA 06

SYSTEM NAME:

SAFETYNET.

SECURITY CLASSIFICATION:

Unclassified, sensitive.

SYSTEM LOCATION:

Records are located at Federal Motor Carrier Safety Administration (FMCSA) field offices throughout the United States as well as the offices of State agencies responsible for the enforcement of interstate and intrastate motor carrier operations within their jurisdiction.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM OF RECORDS:

SAFETYNET covers companies and drivers of commercial motor vehicles (CMV) (i.e., trucks with a gross combination weight of 10,001 pounds or more, buses used to transport more than 9 passengers (including the driver), and vehicles transporting hazardous materials). It also includes information on shipping and freight-forwarding companies registered with FMCSA. SAFETYNET systems deployed and operated by State agencies may also contain information on motor carrier companies and operations residing in that State. Specific personal information related to individuals is maintained on:

1. Drivers associated with vehicle inspections and crashes related to the motor carrier companies in the system;
2. FMCSA and State officials with authorized access to SAFETYNET via personally assigned user accounts; and
3. Federal and State Safety Investigators (SI) performing motor carrier enforcement duties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records and reports in this system may include:

1. *Registration Information:* Includes the USDOT Number, carrier identification, types of vehicles, number of drivers, and commodities carried for motor carriers and hazardous material shippers registered with FMCSA and the State within which the SAFETYNET instance is deployed.
2. *Review and Rating Information:* The SAFETYNET system may contain compliance review records regarding companies' motor carrier operations, safety performance, and adherence to Federal and State regulations.
3. *Inspection Information:* Roadside inspection information about vehicles and drivers, including violations of safety regulations governing the driver, the vehicle, and those specifically related to hazardous materials.
4. *Crash Information:* Individual States collect and maintain information

on recordable motor carrier crashes, which includes date, time and location of crash, investigating agency, weather and road surface conditions, motor carrier ID, driver name, driver license number, power unit identification, and crash outcome, including number of people injured and/or killed.

5. *Complaint Information:* Records of complaints received by Federal and State agencies from various sources against motor carrier companies, their drivers, and/or their operations.

6. *Personal Identifier Information:* Drivers and co-drivers are identified by name, date of birth, and driver license number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 31136(e), Motor Carrier Safety Act of 1984; 49 U.S.C. 31315, Transportation Efficiency Act for the 21st Century, TEA–21.

PURPOSES:

SAFETYNET is used to maintain records of the safety performance of interstate carriers and hazardous materials shippers that are subject to the Federal Motor Carrier Safety Regulations (FMCSR) or Hazardous Materials Regulations (HMR). SAFETYNET also contains information on intrastate carriers (carriers who collect, deliver, or transfer commodities within state boundaries only) that are registered with a State implementing the SAFETYNET system. A large subset of information, collected locally using the SAFETYNET systems, is uploaded to FMCSA centralized systems. Conversely, information collected by other States, and the centralized Federal systems, are distributed to the field-deployed SAFETYNET systems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Prefatory Notice of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

No.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored electronically in databases on physical systems located at FMCSA field offices throughout the United States as well as the offices of State agencies responsible for the enforcement of interstate and intrastate motor carrier operations within their jurisdictions.

RETRIEVABILITY:

Records are retrieved by the driver's name, date of birth, vehicle identifier, mailing address, and phone number.

SAFEGUARDS:

SAFETYNET information is accessible only to FMCSA and State enforcement personnel with specifically assigned user IDs and passwords. Some limited personnel under contract to FMCSA or State agencies responsible for carrying out enforcement activities or supporting the SAFETYNET system also have access via specifically assigned IDs and passwords. All SAFETYNET IDs and passwords are issued to users only after approval by local SAFETYNET System Managers, or their designees. All Federal and State enforcement related access to SAFETYNET is limited to FMCSA or State internal networks. The upload of data to centralized FMCSA systems is through the FMCSA internal network, specifically designated trusted source networks, or other approved encryption communication protocols. Physical security and access to the hosting facility is managed and maintained by the local SAFETYNET System Manager. FMCSA Division and Service Center offices keep their servers in a secure room. It is the responsibility of each participating state agency to properly secure the server within their facility.

RETENTION AND DISPOSAL:

SAFETYNET records are currently undergoing scheduling with the National Archives.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Information Management, FMCSA, 400 7th Street, SW., Washington, DC 20590.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to them should write to the Privacy Officer, Office of Management Information and Services, FMCSA, 400 7th Street, SW., Washington, DC 20590.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure.''

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure.''

RECORD SOURCE CATEGORIES:

In addition to individual user input through the client/server interface, SAFETYNET collects information from other enforcement systems such as ASPEN, which is roadside CMV inspection software, for vehicle and driver inspections. The SAFETYNET software may be configured at the State level to interface with and receive data from State inspection, crash, or carrier registration information systems.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OMB CONTROL NUMBER:

None.

Dated: November 21, 2006.

Steven Lott,

Departmental Privacy Officer.

[FR Doc. E6–20115 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Title 49 Code of Federal Regulations (CFR) Part 211, notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain Federal railroad safety requirements. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Union Pacific Railroad Company

[Docket Number FRA–2006–25765]

The Union Pacific Railroad Company (UP) seeks a waiver of compliance from certain provisions of Brake System Safety Standards for Freight and Other Non-passenger Trains and Equipment, End of Train Devices, 49 CFR part 232; Freight Car Safety Standards, 49 CFR part 215; and Locomotive Safety Standards, 49 CFR part 229. Specifically, UP requests that the following regulations be waived to permit run-through trains that originate in Mexico and are interchanged with the UP at the Laredo, Texas Gateway, in order to operate into the interior of the United States without having to perform any additional train or locomotive inspections at the U.S./Mexican border: Class I Brake Test—Initial Terminal Inspection, 49 CFR 232.205; Inspection and Test of the End-of-Train Devices, 49 CFR 232.409; Pre-departure Inspection, 49 CFR 215.13; and Daily Inspection, 49 CFR 229.21.

Currently, the Federal Railroad Administration (FRA) requires mechanical inspections and tests for all trains and equipment that enter the United States from Mexico. UP states in its waiver request that these trains are pre-blocked in Mexico and given the

necessary tests and inspections by the Kansas City Southern de Mexico (KCSM) and/or their contractor at KCSM's Nuevo Laredo/Sanchez yards. UP contends that all of these tests and inspections are performed to the standards prescribed by 49 CFR parts 232, 215, and 229. In addition, KCSM has provided written consent for FRA inspectors to inspect their facilities and observe the personnel involved with performing the required tests and inspections. UP believes that this waiver is warranted since these trains travel only a few miles before they cross the border and receive another test and inspection in the United States. UP submits that if this request is granted, it will save approximately 5 hours per run-through train, greatly reducing congestion and increasing the capacity at the Laredo Gateway.

Both the UP and KCSM are parties of this waiver request, with KCSM performing the required inspections and tests and UP operating the trains into the interior of the United States. Both railroads will be responsible for maintaining the records required by applicable regulations. Access to the records will be provided in the United States by either the UP or Kansas City Southern.

It must be noted that UP made a similar waiver request on July 23, 2004, (Docket No. FRA–2004–18746) petitioning FRA to permit trains to travel into the interior of the United States without receiving any mechanical inspection or test at the border, based on Transportacion Ferroviaria Mexicana (TFM) performing the required tests and inspections at TFM's facility in Nuevo Laredo (See 69 FR 48558). This request was reviewed by the FRA Safety Board and denied for several reasons. All information regarding this request can be obtained as indicated below.

Interested parties are invited to participate in these proceedings by submitting written data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA in writing before the end of the comment period and specify the basis for their request.

All communications concerning this petition should identify the appropriate docket number (FRA–2006–25765) and may be submitted by one of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic site;
- Fax: 202–493–2251;
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001; or
- 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.

Communication received within 45 days of the date of this notice will be considered by FRA prior to final action being taken. Comments received after that date will be considered to the extent practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment 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 (Volume 65, Number 70; Pages 19477–78). The Statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC on November 22, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–20096 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2006–26179]

Applicants: Union Pacific Railroad Company, Mr. Thomas T. Ogee, Assistant Vice President, Engineering Design, 1400 Douglas Street, Mail Stop 0910, Omaha, Nebraska 68179.

The Union Pacific Railroad Company seeks approval of the proposed modification of the traffic control system at ''West Tower 55,'' milepost 245.7, on the Dallas Subdivision near Ft. Worth, Texas. The proposed changes consist of the permanent discontinuance and removal of power-operated derails identified as No. 46A on Track No. 2 and No. 46B on Track No.1.

The reason given for the proposed changes is that the derails are no longer needed.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by docket number FRA–2006–26179 and may be submitted by one of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic site;
- Fax: 202–493–2251;
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001; or
- 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.

Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.—5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000

(Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on November 21, 2006.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6–20036 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number 2006 26362]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel FALCON 2000.

SUMMARY: As authorized by Public Law 105–383 and Public Law 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2006 26362 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before December 28, 2006.

ADDRESSES: Comments should refer to docket number MARAD–2006 26362.

Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel FALCON 2000 is:

Intended Use: ''To carry 12 or fewer passengers on corporate team building charters, adventure sails, including junior sailing and charity fundraisers.''

Geographic Region: Southwest Florida, Naples.

Dated: November 14, 2006.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–20039 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2006–26370]

Reports, Forms, and Recordkeeping Requirements

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

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before January 29, 2007.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Mr. Kevin Ball, NHTSA 400 Seventh Street, SW., Room 2334, NPO–400, Washington, DC 20590. Mr. Ball telephone number is (202) 366–5649. His fax number is (202) 493–2080. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) 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;

(ii) 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;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of

information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

(1) *Title:* Air Bag Deactivation.

OMB Control Number: 2127–0588.

Affected Public: Private individuals, fleet owners and lessees, motor vehicle dealers, repair business.

Abstract: If a private individual or lessee wants to install an air bag on-off switch to turn-off either or both frontal air bags, they must complete Form OMB 2127–0588 to certify certain statements regarding use of the switch. The dealer or business must, in turn, submit the completed forms to NHTSA within seven days. The submission of the completed forms by the dealers and repair business to NHTSA, as required, will serve the agency several purposes. They will aid the agency in monitoring the number of authorization requests submitted and the pattern in claims of risk group membership. The completed forms will enable the agency to determine whether the dealers and repair business are complying with the terms of the exemption, which include a requirement that the dealers and repair businesses accept only fully completed forms. Finally, submission of the completed forms to the agency will promote honesty and accuracy in the filling out of the forms by vehicle owners. The air bag on-off switches are installed only in vehicles in which the risk of harm needs to be minimized on a case-by-case basis.

Estimated Annual Burden: 7,500 hours.

Estimated Number of Respondents: 15,000.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: November 21, 2006.

Kevin Mahoney,

Director, Corporate Customer Services.

[FR Doc. E6–20106 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2006–25545, Notice 2]

YES! Sportscars; Response to Application for a Temporary Exemption From the Advanced Air Bag Requirements of FMVSS No. 208

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

ACTION: Grant of application for temporary exemption from certain provisions of Federal Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection.*

SUMMARY: This notice grants the YES! Sportscars application for temporary exemption from certain advanced air bag requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection.* This exemption applies to the YES! Roadster 3.2 and 3.2 Turbo (hereinafter collectively referred to as ''the YES! Roadster''). In accordance with 49 CFR part 555, the basis for the grant is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard, and the exemption would have a negligible impact on motor vehicle safety.

The exemption for the YES! Roadster is effective September 1, 2006 and will remain in effect until August 31, 2009.

In accordance with the requirements of 49 U.S.C. 30113(b)(2), we published a notice of receipt of the application [1] in the **Federal Register** and asked for public comments.[2] We received no comments on the application.

DATES: The exemption from the specified provisions of FMVSS No. 208 for the YES! Roadster is effective from September 1, 2006 until August 31, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Glancy or Mr. Eric Stas in the Office of the Chief Counsel at the National Highway Traffic Safety Administration (NCC–112), 400 Seventh Street, SW., Room 5219, Washington, DC 20590 (Telephone: (202) 366–2992; Fax: (202) 366–3820).

SUPPLEMENTARY INFORMATION:

I. Advanced Air Bag Requirements and Small Volume Manufacturers

In 2000, NHTSA upgraded the requirements for air bags in passenger cars and light trucks, requiring what are commonly known as ''advanced air bags.'' [3] The upgrade was designed to meet the goals of improving protection for occupants of all sizes, belted and unbelted, in moderate-to-high-speed crashes, and of minimizing the risks posed by air bags to infants, children, and other occupants, especially in low-speed crashes.

The advanced air bag requirements were a culmination of a comprehensive plan that the agency announced in 1996 to address the adverse effects of air bags. This plan also included an extensive consumer education program to encourage the placement of children in rear seats. The new requirements were phased in beginning with the 2004 model year.

Small volume manufacturers (*i.e.*, original vehicle manufacturers producing or assembling fewer than 5,000 vehicles annually for sale in the United States) were not subject to the advanced air bag requirements until September 1, 2006, but their efforts to bring their respective vehicles into compliance with these requirements began several years ago. However, because the new requirements were challenging, major air bag suppliers concentrated their efforts on working with large volume manufacturers, and thus, until recently, small volume manufacturers had limited access to advanced air bag technology. Because of the nature of the requirements for protecting out-of-position occupants, ''off-the-shelf'' systems could not be readily adopted. Further complicating matters, because small volume manufacturers build so few vehicles, the costs of developing custom advanced air bag systems compared to potential profits discouraged some air bag suppliers from working with small volume manufacturers.

The agency has carefully tracked occupant fatalities resulting from air bag deployment. Our data indicate that the agency's efforts in the area of consumer education and manufacturers' providing depowered air bags were successful in reducing air bag fatalities even before advanced air bag requirements were implemented.

As always, we are concerned about the potential safety implication of any temporary exemptions granted by this agency. In the present case, we are addressing a petition for a temporary

[1] To view the application, go to: *http://dms.dot.gov/search/searchFormSimple.cfm* and enter Docket No. NHTSA–2006–25545.

[2] *See* 71 FR 50980 (August 28, 2006) (Docket No. NHTSA–2006–25545–1).

[3] *See* 65 FR 30680 (May 12, 2000) (Docket No. NHTSA–2000–7013).

exemption from the advanced air bag requirements submitted by a manufacturer of low volume, exotic sports cars.

II. Overview of Petition for Economic Hardship Exemption

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR part 555, YES! Sportscars has petitioned the agency for a temporary exemption from certain advanced air bag requirements of FMVSS No. 208. The basis for the application is that compliance would cause substantial economic hardship [4] to a manufacturer that has tried in good faith to comply with the standard. The agency closely examines and considers the information provided by manufacturers in support of these factors, and, in addition, pursuant to 49 U.S.C. 30113(b)(3)(A), determines whether exemption is in the public interest and consistent with the Safety Act.[5]

A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production did not exceed 10,000 vehicles, as determined by the NHTSA Administrator (49 U.S.C. 30113). In determining whether a manufacturer of a vehicle meets that criterion, NHTSA considers whether a second vehicle manufacturer also might be deemed the manufacturer of that vehicle. The statutory provisions governing motor vehicle safety (49 U.S.C. Chapter 301) do not include any provision indicating that a manufacturer might have substantial responsibility as manufacturer of a vehicle simply because it owns or controls a second manufacturer that assembled that vehicle. However, the agency considers the statutory definition of ''manufacturer'' (49 U.S.C. 30102) to be sufficiently broad to include sponsors, depending on the circumstances. Thus, NHTSA has stated that a manufacturer may be deemed to be a sponsor and thus a manufacturer of a vehicle assembled by a second manufacturer if the first manufacturer had a substantial role in the development and manufacturing process of that vehicle.

Finally, while 49 U.S.C. 30113(b) states that exemptions from a Safety Act standard are to be granted on a ''temporary basis,'' [6] the statute also expressly provides for renewal of an exemption on reapplication. Manufacturers are nevertheless cautioned that the agency's decision to grant an initial petition in no way predetermines that the agency will repeatedly grant renewal petitions, thereby imparting semi-permanent exemption from a safety standard. Exempted manufacturers seeking renewal must bear in mind that the agency is directed to consider financial hardship as but one factor, along with the manufacturer's on-going good faith efforts to comply with the regulation, the public interest, consistency with the Safety Act, generally, as well as other such matters provided in the statute.

III. YES! Sportscars

Background. YES! Sportscars is a division of Funke & Will Aktiengesellschaft (AG), a German corporation formed in 2000. Funke & Will AG is a specialized engineering firm which offers engineering services to the automobile industry on small volume projects. Although the parent company's two founders together own 85 percent of the corporation's shares, the German state of Saxony does have a 15-percent ownership stake.[7]

YES! Sportscars, a separate vehicle manufacturing part of the company, began production in 2001 of high-performance sports cars based on an aluminum spaceframe. This application concerns the YES! Roadster (currently the company's only model) which is expected to retail for $59,000. To date, the primary markets for the YES! Roadster have been Europe and the Middle East, with the following numbers of vehicles being produced over the past five years: 12 vehicles in 2001; 37 vehicles in 2002; 42 vehicles in 2003; 48 vehicles in 2004, and 54 vehicles in 2005. None of those vehicles has been sold in the U.S. market.

According to the petition, the company had originally planned to prospectively produce vehicles for the European, Mid-East, and Far-East markets, but it has been determined to be a matter of financial necessity for YES! Sportscars to enter the U.S. market, particularly given the limited but global market for these high-end sports cars. The company anticipates that approximately 65 percent of its total sales will be to the U.S. market.

As discussed in further detail below, the petitioner argued that it tried in good faith, but could not bring the vehicle into compliance with the advanced air bag requirements, and would incur substantial economic hardship if it cannot sell vehicles in the U.S. after September 1, 2006.

Eligibility. As discussed in the petition, YES! Sportscars is a division of Funke & Will AG, a German corporation formed in 2000. The entire organization currently employs 49 people. No other vehicle manufacturer has an ownership interest in either YES! Sportscars or Funke & Will AG, and the reverse is likewise true. Stated another way, YES! Sportscars is an independent automobile manufacturer which does not have any common control or is otherwise affiliated with any other vehicle manufacturer.

The company is a small volume manufacturer whose total production has ranged from 12 to 54 vehicles per year over the period from 2001 to 2005. According to its current forecasts, YES! Sportscars anticipates that approximately 250 vehicles would be imported into the U.S. during the three-year period for its requested exemption, if such request were granted.

Requested exemption. YES! Sportscars stated that it intends to certify the YES! Roadster as complying with the rigid barrier belted test requirement using the 50th percentile adult male test dummy set forth in S14.5.1 of FMVSS No. 208. The petitioner stated that it previously determined the YES! Roadster's compliance with rigid barrier unbelted test requirements using the 50th percentile adult male test dummy through the S13 sled test using a generic pulse rather than a full vehicle test. YES! Sportscars stated that it, therefore, cannot at present say with certainty that the YES! Roadster will comply with the unbelted test requirement under S14.5.2, which is a 20–25 mph rigid barrier test.

As for the YES! Roadster's compliance with the other advanced air bag requirements, YES! Sportscars stated that it does not know whether the YES! Roadster will be compliant because to date it has not had the financial ability to conduct the necessary testing.

As such, YES! Sportscars is requesting an exemption for the YES! Roadster from the rigid barrier unbelted test requirement with the 50th percentile adult male test dummy (S14.5.2), the rigid barrier test requirement using the 5th percentile adult female test dummy (belted and unbelted, S15), the offset

[4] When considering financial matters involving companies based in the European Union (EU), it is important to recognize that EU and U.S. accounting principles have certain differences in their treatment of revenue, expenses, and profits. Public statements by EU manufacturers relating to financial results should be understood in this context. This agency analyzes claims of financial hardship carefully and in accordance with U.S. accounting principles.

[5] The Safety Act is codified as Title 49, United States Code, Chapter 301.

[6] 49 U.S.C 30113(b)(1).

[7] According to the petitioner, the German state government took an ownership interest in the firm in exchange for subsidies for capital investment in facilities and equipment. According to YES! Sportscars, these subsidies cannot be used for operational expenditures and research and development funding.

deformable barrier test requirement using the 5th percentile adult female test dummy (S17), the requirements to provide protection for infants and children (S19, S21, and S23) and the requirement using an out-of-position 5th percentile adult female test dummy at the driver position (S25).

YES! Sportscars stated its intention to produce a second generation of the YES! Roadster by September 1, 2009, which would be certified as complying with all applicable U.S. standards, including the advanced air bag requirements. Accordingly, the company is requesting an exemption from the above-specified requirements of FMVSS No. 208 for the period from September 1, 2006 to August 31, 2009.

Economic hardship. Publicly available information and also the financial documents submitted to NHTSA by the petitioner indicate that the YES! Roadster project will result in financial losses unless YES! Sportscars obtains a temporary exemption.

Over the period 2001–2005, the YES! Sportscars division of Funke & Will AG has experienced net operational losses totaling $618,000 (484,000 euros at an exchange rate of 1 euro = $1.277).[8] As of the time of the application, YES! Sportscars has invested over $3.0 million on the design, development, and homologation of the YES! Roadster project in order to have the vehicle meet U.S. standards—not including the advanced air bag requirements which are the subject of the present petition for temporary exemption. The company has stated that it cannot hope to attain profitability if it incurs additional research and development expenses at this time.

YES! Sportscars stated that costs associated with advanced air bag engineering and development (including research and development, testing, tooling, and test vehicles) have been estimated to be $1.7 million (including internal costs). In its petition, YES! Sportscars reasoned that sales in the U.S. market must commence in order to finance this work and that non-U.S. sales alone cannot generate sufficient income for this purpose. In essence, YES! Sportscars argued that the exemption is necessary to allow the company to ''bridge the gap'' until fully compliant vehicles can be funded, developed, tooled, and introduced for the U.S. market.

If the exemption is denied, YES! Sportscars projects a net loss of $1.1 million over the period from 2006–2008 (assuming a delayed start of U.S. sales until 2008). However, if the petition is granted, the company anticipates a profit of nearly $1.4 million during that same period. The petitioner argued that a denial of this petition could preclude financing of the project for USA-compliant vehicles, a development which would have a highly adverse impact on the company.

Good faith efforts to comply. As stated above, YES! Sportscars initially planned to produce vehicles for the European, Mid-East, and Far-East markets, but once it was determined in 2005 that entry into the U.S. market was a necessary part of its business plan, the company invested over $3.0 million on research and development and tooling for its U.S. YES! Roadster program (including adoption of a U.S.-certified engine and drive train). In that time, the company was able to bring the vehicle into compliance with all applicable NHTSA regulations, except for the advanced air bag provisions of FMVSS No. 208.

In light of limited resources, the petitioner stated that it was necessary to first develop the vehicle with a standard U.S. air bag system. The company has spent over $630,000 to reengineer the YES! Roadster to include a standard air bag system, which it stated will then be ''expanded'' into an advanced air bag system.

According to its petition, even though advanced air bags are beyond its current capabilities, YES! Sportscars is nonetheless planning for the introduction of these devices. The company stated that Siemens Restraint Systems will spearhead this effort, and current plans estimate a cost of $1.1 million (excluding internal costs) and a minimum lead time of 24 months for the advanced air bag project. YES! Sportscars stated that the following engineering efforts are needed to upgrade the YES! Roadster's standard air bag system to an advanced air bag system: (1) Interior redesign work to the dashboard, steering column, and electronic systems; (2) sourcing and organization of supplier and engineering personnel and resources for development work (including sensor calibration); (3) construction of prototypes, and (4) testing.

In addition, YES! Sportscars stated that finding suppliers willing to work with a manufacturer with very low production volumes has proven extremely difficult, and as a result, the company must wait for technology to ''trickle down'' from larger manufacturers and suppliers. YES! Sportscars further stated that small volume manufacturers simply do not have the internal resources to do full U.S. homologation projects without reliance on outside suppliers of advanced engineering technologies.

In short, YES! Sportscars argued that, despite good faith efforts, limited resources prevent it from bringing the vehicle into compliance with all applicable requirements, and it is beyond the company's current capabilities to bring the vehicle into full compliance until such time as additional resources become available as a result of U.S. sales. With funding from the sale of the current generation of YES! Roadsters, the company expects that additional development efforts could start in 2007, thereby allowing introduction of a fully compliant vehicle in September 2009.

YES! Sportscars argues that an exemption would be in the public interest. The petitioner put forth several arguments in favor of a finding that the requested exemption is consistent with the public interest and would not have a significant adverse impact on safety. Specifically, YES! Sportscars argued that the vehicle would be equipped with a fully-compliant *standard* U.S. air bag system (*i.e.*, one meeting all requirements of FMVSS No. 208 prior to implementation of S14). Furthermore, the company emphasized that the YES! Roadster will comply with all other applicable FMVSSs.

The company asserted that granting the exemption will benefit U.S. employment, companies, and citizens, because YES! Roadsters will be sold and serviced through a network of U.S. dealers. YES! Sportscars also argued that denial of the exemption request would have an adverse impact on consumer choice, suggesting that there is domestic demand for a performance vehicle in the YES! Roadster's price range. The company also argued that an exemption is unlikely to have a significant safety impact because these vehicles are not expected to be used extensively by their owners, due to their ''second vehicle'' nature and ''minimalist design.'' The company also reasoned that given the nature of the vehicle, it is less likely to be used to transport young children than most other vehicles.

As an additional basis for showing that its requested exemption would be in the public interest, YES! Sportscars stated that the YES! Roadster has an extremely strong and protective chassis, which is composed of aluminum tubes and composite structure parts. According to YES! Sportscars, the

[8] According to the YES! petition, the engineering portion of Funke & Will AG has made a modest profit in the past few years, but in total, such profits would only amount to 45 percent of the funding needed to finance the requisite advanced air bag work.

vehicle design is such that occupants are effectively placed in a ''protective 'cell' '' with the chassis structure built around them.

Agency Decision on YES! Sportscars Petition. We are granting the YES! Sportscars petition to be exempted from portions of the advanced air bag regulation required by S14.2 (specifically S14.5.2, S15, S17, S19, S21, S23, and S25). The exemption does not extend to the provision requiring a belted 50th percentile male barrier impact test (S14.5.1(a)). In addition to certifying compliance with S14.5.1(a), YES! Sportscars must continue to certify to the unbelted 50th percentile barrier impact test in force prior to September 1, 2006 (S5.1.2(a)). We note that the unbelted sled test in S13 is an acceptable option for that requirement. The agency's rationale for this decision is as follows.

The advanced air bag requirements present a unique challenge because they would require YES! Sportscars to undertake a major redesign of its vehicles, in order to overcome the engineering limitations of the YES! Roadster. Specifically, YES! Sportscars would be required to undertake significant interior redesign in order to upgrade the vehicle's standard air bag system to an advanced air bag system. While the petitioner was aware of the new requirements for some time, its business plans did not initially involve sales in the U.S. However, YES! Sportscars subsequently determined that it would be necessary to introduce the YES! Roadster into the U.S., thereby raising the problem of compliance with the advanced air bag requirements. Once the determination was made to seek entry into the U.S. market, YES! Sportscars undertook significant homologation efforts in order to meet applicable U.S. requirements, but compliance with the advanced air bag provisions of FMVSS No. 208 were beyond the company's capabilities at the present time. YES! Sportscars plans to utilize proceeds from sales of the current generation of YES! Roadsters to finance the development of a fully compliant successor vehicle.

YES! Sportscars explained the main engineering challenges precluding incorporation of advanced air bag into the YES! Roadster at this time, as follows. The company must undertake redesign work to the vehicle's dashboard, steering column, and electronic systems. Furthermore, the petitioner stated that it would need additional time to work with an advanced air bag supplier, because very low volume manufacturers have had to wait for technology to ''trickle down'' from larger manufacturers and suppliers. YES! Sportscars has made clear that such a prospect would pose a unique challenge to the company, due to the high cost of development and its extremely small sales volumes.

Based upon the information provided by the petitioner, we understand that YES! Sportscars made good faith efforts to bring the YES! Roadster into compliance with the applicable requirements until such time as it became apparent that there was no practicable way to do so. As a small specialty manufacturer, the company had a difficult time in gaining access to advanced air bag systems and components (which presumably reflects restraint system suppliers' initial focus on meeting the needs of large volume manufacturers), so alternative means of compliance were not available as a practical matter. Small manufacturers such as YES! Sportscars are dependent upon air bag suppliers for the engineering expertise and technology transfer necessary for compliance with FMVSS No. 208. This further reduced the lead time available for development.

Furthermore, because YES! Sportscars is an independent automobile manufacturer, there was no possibility of technology transfer from a larger parent company that also manufactures motor vehicles. Consequently, no viable alternatives remain. The petitioner is unable to redesign its vehicle in time to meet the new advanced air bag requirements that became effective on September 1, 2006.

After review of the income statements provided by the petitioner, the agency notes that the company has faced ongoing financial difficulties, experiencing net operating losses of about $618,000 (484,000 euros) over the past five years (2001–2005). The company was not profitable in any year during that period. If the petitioner's request for a temporary exemption is denied, the company will be precluded from selling any vehicles in the U.S. market at this time. The resulting loss of sales would cause substantial economic hardship within the meaning of the statute, potentially amounting to the difference between a profit of nearly $1.4 million (if an exemption is granted) and a loss of $1.1 million (if an exemption is denied) over the period from 2006–2008. Ultimately, denial of the exemption request could preclude development of a U.S.-compliant vehicle and jeopardize the continued existence of YES! Sportscars.

According to YES! Sportscars, absent the exemption, the company anticipates being unable to enter the U.S. market during the period from 2006–2008. However, YES! Sportscars' problems would be compounded without its requested temporary exemption, because it needs the revenue from sales of the YES! Roadster over the next two years to finance development of a fully compliant vehicle for delivery to the U.S. market. Granting the exemption will allow YES! Sportscars to earn the resources necessary to bridge the gap in terms of development of a successor vehicle for the current YES! Roadster that meets all U.S. requirements.

While some of the information submitted by YES! Sportscars has been granted confidential treatment and is not detailed in this document, the petitioner made a comprehensive showing of its good faith efforts to comply with the requirements of S14.2 of FMVSS No. 208, and detailed engineering and financial information demonstrating that failure to obtain the exemption would cause substantial economic hardship. Specifically, the petitioner provided the following:

1. Chronological analysis of YES Sportscars' efforts to comply, showing the relationship to the rulemaking history of the advanced air bag requirements.
2. Itemized costs of each component that would have to be modified in order to achieve compliance.
3. Discussion of alternative means of compliance and reasons for rejecting these alternatives.
4. A detailed OEM price-volume quotation from an advanced air bag supplier, including detailed costs for the necessary components for each stage of the development program.
5. Explanations as to why components from newer, compliant vehicle lines could not be borrowed.
6. Corporate income statements and balance sheets for the period from 2000–2005, and projected profits for the period from 2006–2008 (analyzing alternative scenarios in which the petition is granted and denied).

While noting that reduction of sales revenue resulting from a denial of the company's requested temporary exemption would have a negative impact on YES! Sportscars' financial circumstances, we also sought to evaluate a denial's affect on U.S. employment, in light of the company's statement that it anticipates selling the YES! Roadster through a network of U.S. dealers. Traditionally, the agency has concluded that the public interest is served in affording continued employment to the petitioner's U.S. work force. As a corollary, the agency also may consider prospective employment gains as part of its analysis of what is in the public interest.

However, YES! Sportscars provided no information on prospective U.S. dealers, projected sales per outlet, or employment. Thus, it is difficult to assess the likely employment impacts associated with granting the petition, as any such conclusions would be largely speculative.

We believe that this exemption will have negligible impact on motor vehicle safety because of the limited number of vehicles affected (approximately 250 imported for the duration of the exemption). Furthermore, as discussed in previous decisions on temporary exemption applications, the agency believes that the public interest is served by affording consumers a wider variety of motor vehicle choices.

We note that, as explained below, prospective purchasers will be notified that the vehicle is exempted from the specified advanced air bag requirements of Standard No. 208. Under § 555.9(b), a manufacturer of an exempted passenger car must affix securely to the windshield or side window of each exempted vehicle a label containing a statement that the vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture ''except for Standard Nos. [listing the standards by number and title for which an exemption has been granted] exempted pursuant to NHTSA Exemption No.__.'' This label notifies prospective purchasers about the exemption and its subject. Under § 555.9(c), this information must also be included on the vehicle's certification label.

The text of § 555.9 does not expressly indicate how the required statement on the two labels should read in situations where an exemption covers part but not all of a Federal motor vehicle safety standard. In this case, we believe that a statement that the vehicle has been exempted from Standard No. 208 generally, without an indication that the exemption is limited to the specified advanced air bag provisions, could be misleading. A consumer might incorrectly believe that the vehicle has been exempted from all of Standard No. 208's requirements. Moreover, we believe that the addition of a reference to such provisions by number without an indication of its subject matter would be of little use to consumers, since they would not know the subject of those specific provisions. For these reasons, we believe the two labels should read in relevant part, ''except for S14.5.2, S15, S17, S19, S21, S23, and S25 (Advanced Air Bag Requirements) of Standard No. 208, Occupant Crash Protection, exempted pursuant to * * *.'' We note that the phrase ''Advanced Air Bag Requirements'' is an abbreviated form of the title of S14 of Standard No. 208. We believe it is reasonable to interpret § 555.9 as requiring this language.

In sum, the agency concludes that YES! Sportscars has demonstrated good faith effort to bring the YES! Roadster into compliance with the advanced air bag requirements of FMVSS No. 208, and has also demonstrated the requisite financial hardship. Further, we find the exemption to be in the public interest.

In consideration of the foregoing, we conclude that compliance with the advanced air bag requirements of FMVSS No. 208, *Occupant Crash Protection,* would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. We further conclude that granting of an exemption would be in the public interest and consistent with the objectives of traffic safety.

In accordance with 49 U.S.C. 30113(b)(3)(B)(i), the YES! Roadster is granted NHTSA Temporary Exemption No. EX 06–9, from S14.5.2, S15, S17, S19, S21, S23, and S25 of 49 CFR 571.208. The exemption is effective from September 1, 2006 to August 31, 2009.

Issued on: November 21, 2006.

Nicole R. Nason,

Administrator.

[FR Doc. E6–20091 Filed 11–27–06; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34911 (Sub-No. 1)]

Montana Rail Link, Inc.—Trackage Rights Exemption—BNSF Railway Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Petition for Partial Revocation.

SUMMARY: The Board, under 49 U.S.C. 10502, exempts the trackage rights described in *Montana Rail Link, Inc.—Trackage Rights Exemption—BNSF Railway Company*, STB Finance Docket No. 34911 (STB served Oct. 13, 2006) (*MRL Trackage Rights*) [1] to permit them to expire on or about December 31, 2010, in accordance with the agreement of the parties, subject to the employee protective conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

DATES: The exemption will be effective on December 28, 2006. Petitions to stay must be filed by December 8, 2006. Petitions to reopen must be filed by December 18, 2006.

ADDRESSES: An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34911 (Sub-No. 1) must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of all pleadings must be served on petitioner's representative: Troy Garris, 1300 19th Street, NW., Fifth Floor, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1609. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write, e-mail, or call: ASAP Document Solutions, 9332 Annapolis Rd., Suite 103, Lanham, MD 20706; e-mail: *asapdc@verizon.net*; telephone: (202) 306–4004. [Assistance for the hearing impaired is available through FIRS at 1–800–877–8339.]

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: November 17, 2006.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

Vernon A. Williams,

Secretary.

[FR Doc. E6–19977 Filed 11–27–06; 8:45 am]

BILLING CODE 4915–01–P

[1] On September 25, 2006, Montana Rail Link, Inc. (MRL) concurrently filed a notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(7). The notice covered the agreement by BNSF Railway Company (BNSF) to grant overhead trackage rights to MRL over BNSF's rail lines extending from approximately milepost 51.07 at or near Garrison, MT, to approximately milepost 21.5, a location south of Warm Springs, MT, a distance of approximately 29.57 miles. *See MRL Trackage Rights.* The trackage rights operations under the exemption were scheduled to be consummated on or after October 2, 2006.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OCC is soliciting comment concerning its information collection titled, ''Privacy of Consumer Financial Information (12 CFR part 40).'' The OCC is also giving notice that it has sent the information collection to OMB for review.

DATES: You should submit written comments by December 28, 2006.

ADDRESSES: You should direct your comments to:

Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0216, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0216, by mail to U.S. Office of Management and Budget, 725, 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the collection from Mary Gottlieb, OCC Clearance Officer, or Camille Dickerson, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: Privacy of Consumer Financial Information (12 CFR part 40).

OMB Number: 1557–0216.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB approve its revised estimates.

These information collection requirements are required under the Gramm-Leach-Bliley Act (Pub. L. 106–102), which required the OCC to issue regulations as necessary to implement notice requirements and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties.

The information collection requirements in part 40 are as follows:

Section 40.4(a)—Disclosure (institution)—Initial privacy notice to consumers requirement—A bank must provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to customers and consumers.

Section 40.5(a)—Disclosure (institution)—Annual privacy notice to customers requirement—A bank must provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship.

Section 40.8—Disclosure (institution)—Revised privacy notices—If a bank wishes to disclose information in a way that is inconsistent with the notices previously given to a consumer, the bank must provide consumers with a revised notice of the bank's policies and procedures and a new opt out notice.

Section—40.7(a)—Disclosure (institution)—Form of opt out notice to consumers; opt out methods—Form of opt out notice—If a bank is required to provide an opt out notice under § 40.10(a), it must provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that section. The notice must state:

- That the bank discloses or reserves the right to disclose nonpublic personal information about its consumer to a nonaffiliated third party.
- That the consumer has the right to opt out of that disclosure.
- A reasonable means by which the consumer may exercise the opt out right

The bank must provide reasonable opt out means such as by—

- Designating check-off boxes on the relevant forms with opt out notice.
- Including reply form with opt out notice.
- Providing electronic means to opt out; or,
- Providing a toll-free number to opt out.

Sections 40.10(a)(2) and 40.10(c)—Consumers must take affirmative actions to exercise their rights to prevent financial institutions from sharing their information with nonaffiliated parties—

- Opt out—Consumers may direct that the bank not disclose nonpublic personal information about them to a nonaffiliated third party, other than permitted by §§ 40.13–40.15.
- Partial opt out—Consumers may also exercise partial opt out rights by selecting certain nonpublic personal information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

Sections 40.7(f) and (g)—Reporting (consumer)—Consumers may exercise continuing right to opt out—Consumer may opt out at any time—A consumer's direction to opt out is effective until the consumer revokes it in writing or, if the consumer agrees, electronically. When a customer relationship terminates, the customer's opt out direction continues to apply.

At the time part 40 was promulgated, the OCC used nominal burden estimates due to the uncertainty of what institutions would do to comply with the opt-out requirements and how consumers would react. The OCC is now revisiting its estimates to determine how they could be made more accurate.

The OCC does not require its institutions to report the percentage of consumers choosing to opt out. Absent this information, we estimate that between 2% and 12% of consumers with new mortgages or credit cards and 1% of consumers with deposit accounts under $100,000 will opt out under part 40. While we understand that an increase in the number of consumers opting out will increase the burden on the industry due to the processing time associated with the additional opt outs, we have not adjusted our burden estimates for the industry because we do not have reliable figures about the rate of opt outs.

Therefore, we estimate that between 3 and 17.9 million consumers will opt out. Our estimates set forth in this notice reflect the midpoint of 9 million. We invite comment on our estimates and welcome any other information that might assist us in making them more accurate.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit; individuals.

Estimated Annual Number of Institution Respondents: Initial Notice, 50; Annual Notice and Change in Terms, 1,869; Opt-out Notice, 935.

Estimated Average Time Per Response Per Institution: Initial Notice, 80 hours; Annual Notice and Change in Terms, 8 hours; Opt-out Notice, 8 hours.

Estimated Subtotal Annual Burden Hours for Institutions: 26,432 hours.

Estimated Annual Number of Consumer Respondents: 9,000,000.

Estimated Average Time Per Consumer Response: 0.25 hours.

Estimated Subtotal Annual Burden Hours for Consumers: 2,250,000 hours.

Estimated Total Annual Burden Hours: 2,276,432 hours.

On September 22, 2006, the OCC published a 60-Day **Federal Register** Notice setting forth these estimates. 71 FR 55545. No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has 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 on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 22, 2006.

Stuart Feldstein,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. E6–20108 Filed 11–27–06; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2003–75

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 Notice 2003–95, Registered Retirement Savings Plans (RRSP) and Registered Retirement Income Funds (RRIF) Information Reporting. 2006–97, Taxation and Reporting of REIT Excess Inclusion Income.

DATES: Written comments should be received on or before January 29, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn 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 regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Registered Retirement Savings Plans (RRSP) and Registered Retirement Income Funds (RRIF).

OMB Number: 1545–1865.

Notice Number: Notice 2003–75.

Abstract: Notice 2003–75 announces an alternative, simplified reporting regime for the owners of certain Canadian Individual retirement plans that have been subject to reporting on Forms 3520 and 3520–A, and it describes the interim reporting rules that taxpayers must follow until a new form is available.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals.

Estimated Number of Respondents: 750,000.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Reporting Burden Hours: 1,500,000.

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: November 13, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–20071 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–H

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–H Health Coverage Tax Credit (HCTC) Advance Payments.

DATES: Written comments should be received on or before January 29, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 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 Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Health Coverage Tax Credit (HCTC) Advance Payments.

OMB Number: 1545–1813.

Form Number: Form 1099–H.

Abstract: Form 1099–H is used to report advance payments of health insurance premiums to qualified

recipients for their use in computing the allowable health insurance credit on Form 8885.

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.

Estimated Number of Responses: 110,000.

Estimated Time Per Respondent: 18 minutes.

Estimated Total Annual Burden Hours: 33,000.

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: November 7, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–20072 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8498

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 8498, Program Sponsor Agreement for Continuing Education for Enrolled Agents.

DATES: Written comments should be received on or before January 29, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn 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 should be directed to Allan Hopkins at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Program Sponsor Agreement for Continuing Education for Enrolled Agents.

OMB Number: 1545–1459.

Form Number: Form 8498.

Abstract: Form 8498 is used by the Director of Practice to determine the qualifications of those individuals or organizations seeking to present continuing professional educational programs for persons enrolled to practice before the Internal Revenue Service.

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: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 36 minutes.

Estimated Total Annual Burden Hours: 300.

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: November 16, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–20076 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2001–29

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 Revenue Procedure 2001–29, Leveraged Leases.

DATES: Written comments should be received on or before January 29, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of revenue procedure should be directed to Allan Hopkins at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Leveraged Leases.

OMB Number: 1545–1738.

Revenue Procedure Number: Revenue Procedure 2001–29.

Abstract: Revenue Procedure 2001–29 sets forth the information and representations required to be furnished by taxpayers in requests for an advance ruling that a leveraged lease transaction is, in fact, a valid lease for federal income tax purposes.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 10.

Estimated Time Per Respondent: 80 hours.

Estimated Total Annual Burden Hours: 800.

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: November 16, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–20079 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–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 8453–S, S Corporation Declaration and Signature for Electronic Filing.

DATES: Written comments should be received on or before January 29, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn 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 Allan Hopkins at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: S Corporation Declaration and Signature for Electronic Filing.

OMB Number: 1545–1867.

Form Number: 8453–S.

Abstract: Form 8453–S is necessary to enable the electronic filing of Form 1120S U.S. Income Tax Return for an S Corporation. 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: 1,500.

Estimated Time Per Respondent: 7 hours, 1 minute.

Estimated Total Annual Burden Hours: 10,530.

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: November 16, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–20080 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–115795–97]

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, REG–115795–97, (TD 8870), General Rules for Making and Maintaining Qualified Electing Fund Elections (§§ 1.1295–1 and 1.295–3).

DATES: Written comments should be received on or before January 29, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202)622–3179, or through the Internet at *Larnice.Mack@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: General Rules for Making and Maintaining Qualified Electing Fund Elections.

OMB Number: 1545–1555.

Regulation Project Number: REG–115795–97.

Abstract: This regulation provides guidance to passive foreign investment company (PFIC) shareholder that makes the election under Code section 1295 to treat PFIC as a qualified electing fund (QEF), and for PFIC shareholders that wish to make a section 1295 election that will apply on a retroactive basis. Guidance is also provided on revoking such elections.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Individuals or households, business or other for-profit organization, and not-to-profit institutions.

Estimated Number of Respondents: 1,290.

Estimated Time Per Respondent: 29 minutes.

Estimated Total Annual Burden Hours: 623.

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: November 13, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–20083 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 97–64

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 Notice 97–64, Temporary Regulations To Be Issued Under Section 1(h) of the Internal Revenue Code (Applying Section 1(h) to Capital Gain Dividends of RICs and REITs).

DATES: Written comments should be received on or before January 29, 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 notice 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: Temporary Regulations To Be Issued Under Section 1(h) of the Internal Revenue Code (Applying Section 1(h) to Capital Gain Dividends of RICs and REITs).

OMB Number: 1545–1565.

Notice Number: Notice 97–64.

Abstract: Notice 97–64 describes temporary regulations that will permit Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs) to distribute multiple classes of capital gain dividends.

Current Actions: There are no changes being made to the notice at this time. This submission is being made for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals.

The burden for the collection of information in sections 9 and 10 of Notice 97–64 is reflected in the burden for Form 1099–DIV and Form 2439.

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: November 13, 2006.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–20085 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–116664–01]

RIN 1545–BC15

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, REG–116664–01, (NPRM and Temporary) Guidance to Facilitate Business Electronic Filing.

DATES: Written comments should be received on or before January 29, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Guidance to Facilitate Business Electronic Filing.

OMB Number: 1545–1868.

Regulation Project Number: REG–116664–01.

Abstract: These regulations remove certain impediments to the electronic filing of business tax returns and other forms. The regulations also expand slightly the required content of a statement certain taxpayers must submit with their returns to justify deductions for charitable contributions.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Total Annual Reporting Burden: 250,000 hours.

Estimated Average Annual Burden Hours per Respondent: 25 hours.

Estimated Number of Respondents: 1,000,000.

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: November 15, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–20086 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–120509–06]

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 regulation, REG–120509–06 (Temp and NPRM), 1.882–5; Adjusted U.S. Booked Liability Method-30-Day Published LIBOR Election.

DATES: Written comments should be received on or before January 29, 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 regulations should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: 1.882–5; Adjusted U.S. Booked Liability Method-30-Day Published LIBOR Election.

OMB Number: 1545–2030.

Regulation Project Number: REG–120509–06.

Abstract: The collection of information is needed to simplify administration for examiners of a binding annual election provided by the Regulations. The information will be used by taxpayers to determine the amount of excess interest expense allocable to effectively connected income under an elective allocation method in § 1.882–5. The respondents are only regulated foreign banking corporations that elect to use the adjusted U.S. booked liability method for allocating interest expense to effectively connected income.

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 institutions.

Estimated Number of Respondents: 75.

Estimated Total Burden Hours: 35.

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: November 16, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–20088 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8879–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 8879–C, IRS *e-file* Signature Authorization for Form 1120.

DATES: Written comments should be received on or before January 29, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn 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 Allan Hopkins, at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: IRS e-file Signature Authorization for Form 1120.

OMB Number: 1545–1864.

Form Number: 8879–C.

Abstract: Form 8879–C 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: 7,760.

Estimated Time Per Respondent: 6 hours, 32 minutes.

Estimated Total Annual Burden Hours: 50,673.

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: November 16, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–20089 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR–100–78]

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, LR–100–78 (T.D. 7918), Creditability of Foreign Taxes (§§ 1.901–2 and 1.901–2A).

DATES: Written comments should be received on or before January 29, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn 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 information collection should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Creditability of Foreign Taxes.

OMB Number: 1545–0746.

Regulation Project Number: LR–100–78.

Abstract: Section 1.901–2A of the regulation contains special rules that apply to taxpayers engaging in business transactions with a foreign government that is also taxing them. In general, such taxpayers must establish what portion of a payment made pursuant to a foreign levy is actually tax and not compensation for an economic benefit received from the foreign government. One way a taxpayer can do this is by electing to apply the safe harbor formula of section 1,901–2A by filing a statement with the IRS.

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: 110.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 37.

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: November 16, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–20090 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 973

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 973, Corporation Claim for Deduction for Consent Dividends.

DATES: Written comments should be received on or before January 29, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn 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 Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Corporation Claim for Deduction for Consent Dividends.

OMB Number: 1545–0044.

Form Number: Form 973.

Abstract: Corporations file Form 973 to claim a deduction for dividends paid. If shareholders consent and the IRS approves, the corporation may claim a deduction for dividends paid, which reduces the corporation's tax liability. IRS uses Form 973 to determine if shareholders have included the dividend in gross income.

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.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 4 hrs., 25 mins.

Estimated Total Annual Burden Hours: 2,210.

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: November 16, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–20092 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen to Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending June 30, 2005.

LNAME	FNAME	MNAME
PENNER	KRISTEN	ELIZABETH.
VAN-PANHUYS	JAN	E.
KOSEKI	YUJI.	
BATES	JOHN	RAPHAEL.
ROWLAND	ANTONIA.	
VANDERWYST	MARK	WILLIAM.
VANDERWYST	ANITA	JOANNE.
LEONARD	MARGARET	H.
VINCI	CHRISTINE	MARIETTA.
GREENE	PAULA.	
ROUHIAINEN	PEKKA.	
CHUN	JUNG SUN.	
BISHOP	ZILLAH.	
ROUHIAINEN	LIISA.	
TALAMANTES	GABRIEL	B.
RUTLAND	MONIKA.	
DANSET	PAUL	J.
DANSET	SEIKO.	
KO	PETER	P. J.
RAHME	DIANE	M.
OHTSU	YOSHIKO.	
OHTSU	MASAKAZU.	
WEBER	JOHANNES.	
MATHIEU	ALEXIS.	
Colombo	Marco.	
Law	Samuel	S.
Grant	Bridget.	
Neuenschwander	Anna	Katharina.
Doomernick	Marinus	A.
O'Leary	Raymond	F.
Westwood	William	J.
Williams	Keith	Robert.
Rowland	William	S.
Borkowsky	Roberto	D.
Azario	Tandy	B.
Barker	Duncan	W.
Nam	Ki Yong.	
Byun	Keun Hae.	
Timms	Joann.	
Cha	Sang-gu.	
Lalvani	Dinesh.	
Chow	Lai Wah.	
Malmqvist	Jan.	
Malmqvist	Elsa.	
Lundy	Antony.	
Bousba	Hamid.	
Abel	Craig.	
Schmidlin	Colette.	
Ebi	Thomas.	
Kim	Soo Young-Nars.	
Morison	James.	
Chammas	Emile.	
Utsumi	Taku.	
Szlenkier	John.	
Graetz	Connie.	
Graetz	Galleon.	
Ling	Vincent	Shuiyum.
Aubin	Paul.	
Meurice	Eric.	
Meurice	Marie.	
Philip	Rafael.	

LNAME	FNAME	MNAME
Rivers	Eleni.	
Brocklemans	Helmut.	
Wong-Tse	Betty Shoul	L.
Scott	Adrian.	
Watson	James	W.
Watson	Irene	F.
Radermacher	Michael	W.
Radermacher	Cornelia	R.
May	Gabriele	K.
May	Alan	L.
Tseng	Kingston	H.
Wu	Li-Pei.	
Christmas	John	W.
Grant	Peter	J.
Grant	Sarah	E.
Kreiz	Ynon.	
Heselton	Mark	M.
Heselton	Laura	S.
Heselton	Trevor	M.
Heselton	Christopher	J.
Warren	Harold	D.
Warren	Judith	P.
Ashbrook	Kate.	
Kwan	Susan	T.
Chandris	Maria	Loula.
Chan	Vincent	C.
Tze-Lan	Julia	Cheung.
Cointreau	Richard	Mercier.
Donohoe	Desmond	Joseph.
Donohoe	Frances.	
Rieley	James	B.
Hone	Elizabeth	Kellogg.
Fernandez	Edouard	James.
Sanderson	Audrey	W.
Roos	Klas-Johan.	
Nambu	Hiroko.	
Louie	Paul	Kwok-Yi.
Leung	Vincent-Fun	S.
Daskalopoulos	Angelika	D.
Pineda-Van Gelder	Jose	M.
Heinz	Steven.	
Chan	Sunny.	
Garside	Geoffrey.	
Donohoe	Christopher.	
Weltzien	Tobias.	
Karlsson	Pehr	M.
Garcia-Van der Henst	Jose	S.
Kemmitt	Greg	M.
Oike	Yoshihito.	
Oike	Tomiko.	
Riboud	Thomas	A.
Iskenderian	Apet	G.
Cheong	Angela	Syn.
Asada	Sadako.	
Lourie	Jonathan	Harry.
Ting	Albert	Kwang-Chin.
Kremer	Serge	R. G.
Kulisic	Alfredo.	
Grant	Andrew	Edward.
Gaines	Ruth	Lynette.
Chan	Bernard	Charnwut.
Takada	Yoko.	
Van Panhuys	Ernet	Jochem.
Guglielmi	Guido.	
Guglielmi	Silvia.	
Guglielmi	Marta.	
Clark	Geoff	B.
Stark	Robert.	
Yip	Denis	F.
Takada	Hisashi.	
Michalopoulos	Angelos.	
Thornton	Malcolm.	
Clark	Paul	S.
Grewal	Randeep.	

LNAME	FNAME	MNAME
Brooke-Kemmitt	Natalie	J.
Khadjenouri	Massoumeh.	
Guglielmi	Nella.	
Huang	Wei-I	Hung.
Alster	Henri.	
Han	Bill	Q.
Leung	Marianne	Shih-Ti.
Adams	Hilary.	
Adams	David	Michael
Cai	Hungjun	Catherine
Chuang	John	Tiong Choon
Gilbert	Faie.	
Mok	Terence	M.
Fain	Maurice.	
Wu	Vivienne.	
Yamanaka	Masayoshi.	
Goodwillie	David.	
Crawford	Donald	A. H.
Crawford	Jill	E.
YOUNG	Diana-Maria.	
Rub-Friend	Eva	H.
Ma	Ian	Victor.
Ling	Vincent	S.
Burch	Bradley	Drew.
Lyles	Morgan	S.
Pang	Heng.	
Chan	Victor	Hok Yiu.
Kelley	Eric	Lynn.
Von der Weid	Diane.	
Aonuma	Kenta.	
Atkins	Julie	Jo.
Clark	Jon	P.
DeMicheli	Giovanni.	
Jones	Emma	A.
Jones	Timothy	R.
Morales-Cordovez	Sandra	J.
Belldegrun	Benjamin.	
Whitnack	Bryan	F.
Hubbard-Tinderland	Sharleen	D.
Slaney	Grace	Marie.
Loughery	James	Gardner.
Anderson	Robert	Irvin.
Crème	Lawrence	N.
Gunderson	Eva.	
Gottenberg	Russell	H.
Radziwill	Mary	E.
Nitsch	Bettina	E.
Nitsch	Karl	A.
Trinckquel	Vera	L.
Trinckquel	Henrique	A.
Vandoros	Andrei	P.
Gan	Jian Mei.	
Wang	Sing.	
Miller	Norma	Marilyn.
Hoseason	Christina	H.
Levesley	Mark	H.
Bourne	Mary	Leavitt.
Koh	Jane.	
Jennings	George Jr.	L.
Kim	Rose	H.
Papai	Mary Carolyn	Brown.
Han	Jean.	
Sorimachi	Masayuki	Charlie.
Lebel	Louise	Cecile.
Lebel	Claire	P.
Kronman	Harry.	
Eylat	Martin.	
Park	Erin	Jessica.
Kwon	Sun Yi.	
Shon	Diana	Sung Hee.
Shin	Charles	Chul.
Thompson	Erin	M.
Orvis	Colleen	Teresa.
Goury du Roslan	Marie-Winter.	

LNAME	FNAME	MNAME
Karrer	Sebastian	L. A.
Bechtel	Shirley	Ann.
Kott	Elizabeth.	
Munoz	Wilfredo Jr.	
Pettway	Vanessa	Jasmin.
Shurban	Constantine	Robert.
Kiauka	Paul	Burno.
McGinnes	Nicholas	James.
Eyelat	Odette.	
Smolar	Brad	S.
Pohl	Claudia	Diane.
Dermer	Ron.	
Bobrousky	Robert.	
Hol	Theodora	Maria.
Eguchi	Takaaki.	
Eguchi	Narumi.	
Louie	Paul	Kwok-Yi.
Wong Tse	Betty	Shou Ling.
Mok	Terence	Matthew Wah Fung.
Tseng	Richard	Hing-Tak.
Chen	Shirley	Shiyou.
Levesley	Mark	Howard.
Birk	Sven	Gunnar.
Weber-Wulff	Debora	Elaine.
Schjetlein	Ingrid	Prescott.
Dean	Jimmy	Lee.
Lake	Jason	Leonard.
Freiha	Isam	Bassam.
Long	John	Thomas.
Achard	Stephanie.	
Spiegel	Marcus	Alexander.
Habbershaw	Angela	J.
Habbershaw	George	Rodney.
Keller	Chong	Hwa.
Tan	Henry.	
Kim	Jihyun.	
Gottenberg	Russell	M.
Davies	Marian	Linda.
Morison	James	Eliot.
Chan	Winnie	Ho.
Chan	Wilbert	Wing Kwong.
Wedel	Paget	Von.
Carras Radziwill	Mary	E.
Loat	James	Anthony Howard.
Piliero	Richard	Andrew Cornis.
Kwan	Susan	Ting.
Colombo	Marco.	
Dissell	Terence	Lee.
Fox	Katherine	Knox.
Watson	Ian	David.
Price	Charles	Henry.
Brehmer	Karl	Steik.
Manthos	Anthony	Dimitri.
Jenkins	Neil	Colin.
Hoseason	Christina	Helen.
Tan	Michael	Young Han.
Lee	Sylvia	Eunshil.
Kirschner	Paul.	
Rubins	William	Bochert.
Ma	Ian	Victor.
Cai	Catherine	Hongjun.
Melling	Susan.	
Melling	Jack.	
Parkes	Andrew.	
Abe	Masatoshi.	
Abe	Miyoko.	
Ko	Peter	Pil Jae.
Scullion	John	Scott.
Pierson	Carolyn	Sue.
Greatwood	Larry.	
Ruiz-Murcia	Monica.	
Gray	Lewis	Hyde.
Papai	Mary	Carolyn.
Fujimori	Tohru.	

LNAME	FNAME	MNAME
Kulkarni	Nitin	G.
Mannix	Janice	M.
Mansfield	Eva.	
Smolar	Brad	S.
Marquis	Diane.	
Bondarenko	Alexander	S.
Zacharias	Mark.	
Tilden	Mark	W.
Sato	Isao.	
Sato	Sachiko.	
Stafford	Morag	Anne.
Orkisz	Michal	J.
Brady	Brendan	M.
Sato	Yasunobu.	
Chan	Victor	Hok Yiu.
Ravinder	Mehra.	
Johnston	Sheila	M.
Johnston	Blair	D.
Kivits	Bart.	
Brusselers	Corine.	
Sable	David.	
Burch	Bradley	Drew.
Depotter	Patrick	V.
Fujita	Yosuke.	
Bastien	Claude.	
Bastien	Louise.	
Mannix	Patrick	C.
Matsuno	Soichi.	
Matsuno	Mitsuko.	
Bendixson	Frances.	
Roberts	Roger	W.
Pang	Heng.	
Decker	Jerry	W.
Marx	Rafael.	
Thrasher	Susanne	M.
Williams	Keith	Robert.
Stazyk	Mahrukh.	
Thrasher	Francis	Martin.
Kirkconnell	Moses	Ian.
Curteman	Robert	W.
Morrison	Murray.	
Thompson	Alexandra	M.
Harris	Peter	Howard.
Lebel	Louise.	
Lebel	Claire.	
McKirdy	Annemarie.	
Walsh	Robert	Anthony.
Chapman	Lauren	J.
Chapman	Colin	A.
Lingua	Daniele.	
Ojjeh	Tatiana.	
Wong	Kevin.	
Berbers	Veronica	Valentine.
Schubiger	Marianne	Stuck.
Watson	Mark	Michael.
Barker	Duncan	W.
Bampfield	Howard	Anthony.
Nerlinget	Frederick	M.
Smith	Ian	Grattan.
Agha	Oliver.	
Tasca	Elia	Henry.
Severgnini	Achille.	
Knight	Rickey	Dale.
Chang	Mi	Cha.
Froehlich	Bernd	Werner.
Kim	Jane	Jung.
Lee	Hye	Suk.
Spence	Sun	Nam.
Choo	Narae	Mikyung.
Kim	Kyung	Sun.
Schnittker	Frederick	Adolf.
Nilson	Arne	Erland.
Yi	Chom	Yai.
Cookson	Daniela	Zoe.

LNAME	FNAME	MNAME
Said	Adam.	
Sambals	Linda.	
Dillon	Angela	Maria.
Dickinson	Michael	Robert.
Sandhaaland	Nina	Kathleen.
Rainey	Leonard.	
Wirz	Daria	Margaret.
Grasso	Louis.	
Mosimann	Martin	Charles.
Hirzel	Gabriel	Adrian.
Spero	Steven.	
Su	Benjamin	Yu Te.
LeJeune	Rachelle	Joan.
Hoyem	Daniel.	
Peterson	David	Lee.
Methven	Charlotte	Elizabeth.
Doorduin	Mark	Willem.
Nicolaysen	Lucy	Tessa.
Nerlinger	Frederick	M.
Dimitrov	Radoslav.	
Bastien	Paul.	
Cheung	Chiu	Hung.
Gray	David	B.
Chan	Vincent	C.
Chan	Sunny.	
Johns	Joseph	Bradley.
Vik	Geir	Joan.
Rosebrook	Christopher	Jon.
Mannion	Shelley	Ann.
Bilfinger	Heidi	Erika.
Bilfinger	Victor	Wilhelm.
Reiners	Benjamin.	
Pierce	Barry	Alan.
Chang	David	M.
Lee	Hyung	Nam.
Mason	Ian	Robert.
Mason	Jane	Ellen Mary.
Chutter	Jessica	C.
Colchary	Janice.	
Lietuvietis	Vilis	I.
Knussi	Monica.	
Essinger	Jacques.	
Hallen-Berg	Astrid.	
Wandrup	Marion.	
Hail	Gerald	Ferguson.
Voinov	Alexis	Peter.
Sukmansky	Ivan.	
Wu	Chung-Fern.	
Kuen-Bao	Frank.	
Stastny	Peter.	
Miller	Norma	Marilyn.
Holden	Sara	Elizabeth Monks.
Griggers	James	Eldon.
Mannix	Sharyn	Eileen.
Olga	Princess of Greece.	
Duchardt	Karl	H.
Duchardt-Hellbarth	Eva	M.
Hsiao-Ling	Gou.	
Bateson	Yvonne.	

Dated: November 8, 2006.

Angie Kaminski,

Examination Operations, Philadelphia Campus Compliance Services.

[FR Doc. E6–20172 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Ad Hoc Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Ad Hoc Committee of the Taxpayer Advocacy Panel will be conducted in Washington, DC. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, December 13, 2006, from 8 a.m. EST to 12 noon EST.

FOR FURTHER INFORMATION CONTACT: Inez De Jesus at 1–888–912–1227, or 954–423–7977.

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 Ad Hoc Committee will be held Wednesday, December 13, 2006, from 8 a.m. EST to 12 noon EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7977, or write Inez De Jesus, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. For additional information please contact Ms. De Jesus. Ms. De Jesus can be reached at 1–888–912–1227 or 954–423–7977, or post comments to the Web site: *http://www.improveirs.org./*

The agenda will include: Various IRS issues.

Dated: November 21, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–20074 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted in Washington, DC. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, December 13, 2006 from 1:15 p.m. EST to 3 p.m. EST and Thursday, December 14, 2006 from 8 a.m. to 9:55 a.m. EST.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

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 Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Wednesday, December 13, 2006 from 1:15 p.m. EST to 3 p.m. EST and Thursday, December 14, 2006 from 8 a.m. EST to 9:55 a.m. EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. For additional information, please contact Ms. Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: November 21, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–20075 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be conducted in Washington, DC. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, December 13, 2006, from 8 a.m. EST to 12 noon EST.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 (toll-free), or 718–488–2085.

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 Taxpayer Advocacy Panel Earned Income Tax Credit Committee will be held Wednesday, December 13, 2006, from 8 a.m. EST to 12 noon EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. For information please contact Ms. Audrey Y. Jenkins. Ms. Jenkins may be reached at 1–888–912–1227 or (718) 488–2085; send written comments to Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201 or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: November 21, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–20078 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 6 Taxpayer Advocacy Panel (Including the States of Arizona, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 6 committee of the Taxpayer Advocacy Panel will be conducted in Washington, DC. The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Tuesday, December 12, 2006, from 1:15 p.m. EST to 5:15 p.m. EST.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227, or 206–220–6096.

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 Area 6 committee of the Taxpayer Advocacy Panel will be held Tuesday, December 12, 2006, from 1:15 p.m. EST to 5:15 p.m. EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* For additional information, please contact Dave

Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: November 21, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–20081 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Assistance (VITA) Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be conducted in Washington, DC. 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 13, 2006, from 8 a.m. EST to 12 noon EST.

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 Taxpayer Advocacy Panel VITA Issue Committee will be held Wednesday, December 13, 2006, from 8 a.m. EST to 12 noon EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. You can submit written comments to the panel by faxing to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, P.O. Box 3205, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org.* Please contact Barbara Toy at 1–888–912–1227 or (414) 231–2360 for additional information.

The agenda will include the following: Various IRS Issues.

Dated: November 21, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–20082 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 3 Taxpayer Advocacy Panel (Including the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and the Territory of Puerto Rico)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 3 Taxpayer Advocacy Panel will be conducted in Washington DC. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, December 12, 2006, from 1:15 p.m. EST to 5:15 p.m. EST.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

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 Area 3 Taxpayer Advocacy Panel will be held Tuesday, December 12, 2006, from 1:15 p.m. EST to 5:15 p.m. EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324 or you can contact us at *http://www.improveirs.org.* For additional information, please contact Ms. Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: November 21, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–20084 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be conducted in Washington, DC. The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, December 13, 2006, from 1:15 p.m. EST to 3 p.m. EST and Thursday, December 14, 2006, from 8 a.m. EST to 9:55 a.m. EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227, or 206–220–6096.

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 Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be held Wednesday, December 13, 2006, from 1:15 p.m. EST to 3 p.m. EST and Thursday, December 14, 2006, from 8 a.m. EST to 9:55 a.m. EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* For additional information, please contact Mr. Dave Coffman at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: November 21, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–20093 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 1 Taxpayer Advocacy Panel (Including the States of New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont and Maine)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 1 Taxpayer Advocacy Panel will be conducted in Washington, DC. The

Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, December 12, 2006, from 8 a.m. EST to 12 noon EST.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 (toll-free), or 718–488–2085.

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 Area 1 Taxpayer Advocacy Panel will be held Tuesday, December 12, 2006, from 8 a.m. EST to 12 noon EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 718–488–2085, or write Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201. Ms. Jenkins can be reached at 1–888–912–1227 or 718–488–2085, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: November 13, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–20095 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 5 Taxpayer Advocacy Panel (Including the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Texas)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted in Washington, DC. 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 Tuesday, December 12, 2006, from 8 a.m. EST to 12 noon EST.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer 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 Area 5 Taxpayer Advocacy Panel will be held Tuesday, December 12, 2006, from 8 a.m. EST to 12 noon EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. You can submit written comments to the panel by faxing to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop1006MIL, PO Box 3205, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org*. Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 231–2360 for additional information.

The agenda will include the following: Various IRS issues.

Dated: November 13, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–20097 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 4 Taxpayer Advocacy Panel (Including the States of Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, and Wisconsin)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 4 Taxpayer Advocacy Panel will be conducted in Washington, DC. 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 Tuesday, December 12, 2006, from 1:15 p.m. EST to 5:15 p.m. EST.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer 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 Area 4 Taxpayer Advocacy Panel will be held Tuesday, December 12, 2006, from 1:15 p.m. EST to 5:15 p.m. EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. You can submit written comments to the panel by faxing the comments to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, PO Box 3205, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org*. For additional information, please contact Mary Ann Delzer at 1–888–912–1227 or (414) 231–2360 for dial-in information.

The agenda will include the following: Various IRS issues.

Dated: November 13, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–20099 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 2 Taxpayer Advocacy Panel (Including the States of Delaware, North Carolina, South Carolina, New Jersey, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted in Washington, DC. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, December 12, 2006, from 8 a.m. EST to 12 p.m. EST.

FOR FURTHER INFORMATION CONTACT: Inez E. De Jesus at 1–888–912–1227, or 954–423–7977.

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 Area 2 Taxpayer Advocacy Panel will be held Tuesday, December 12, 2006, from 8 a.m. EST to 12 noon EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7977, or write Inez E. De Jesus, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324.

Ms. De Jesus can be reached at 1–888–912–1227 or 954–423–7977, or post comments to the Web site: *http://www.improveirs.org*

The agenda will include the following: Various IRS issues.

Dated: November 13, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–20100 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Committee of the Taxpayer Advocacy Panel will be conducted in Washington, DC. The TAP will be discussing issues pertaining to increasing compliance and lessening the burden for Small Business/Self Employed individuals.

DATES: The meeting will be held Wednesday, December 13, 2006, from 1:15 p.m. EST to 3 p.m. EST and Thursday, December 14, 2006, from 8 a.m. EST to 9:55 a.m. EST.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–488–3557.

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 Small Business/Self Employed—Taxpayer Burden Committee of the Taxpayer Advocacy Panel will be held Wednesday, December 13, 2006 from 1:15 p.m. EST to 3 p.m. EST and Thursday, December 14, 2006 from 8 a.m. EST to 9:55 a.m. EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 718–488–3557, or write to Marisa Knispel, TAP Office, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY 11201. For additional information, please contact Ms. Knispel at 1–888–912–1227 or 718–488–3557, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: November 21, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–20101 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 7 Taxpayer Advocacy Panel (Including the States of Alaska, California, Hawaii, and Nevada)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 7 committee of the Taxpayer Advocacy Panel will be conducted in Washington, D.C. The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Tuesday, December 12, 2006, from 8 a.m. EST to 12 noon EST.

FOR FURTHER INFORMATION CONTACT: Janice Spinks at 1–888–912–1227, or 206–220–6096.

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 Area 7 Taxpayer Advocacy Panel will be held Tuesday, December 12, 2006, from 8 a.m. EST to 12 noon EST at the Hyatt Regency on Capitol Hill, 400 New Jersey Ave., NW., Washington, DC 20001. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Janice Spinks, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or you can contact us at *http://www.improveirs.org.* Please call Ms. Spinks for additional information, he can be reached at 1–888–912–1227 or 206–220–6096.

The agenda will include the following: Various IRS issues.

Dated: November 21, 2006.

John Fay,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–20102 Filed 11–27–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0524]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Policy, Planning and Preparedness, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Office of Policy, Planning and Preparedness (OPP&P), Department of Veterans Affairs, has submitted the collection of information for the Veterans' Disability Benefits Commission as abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before December 28, 2006.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0524'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Initiative Coordination Service (005G1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–8374, fax (202) 565–7870 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0524.''

SUPPLEMENTARY INFORMATION:

Title: VA Police Officer Pre-Employment Screening Checklist.

OMB Control Number: 2900–0524.

Type of Review: Extension of a currently approved collection.

Abstract: VA personnel use the form to document pre-employment history and conduct background checks on applicants seeking employment as VA police officers. VA will use the data collected to determine the applicant's qualification and suitability to be hire as a VA police officer.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on August 22, 2006, at page 48976.

Affected Public: State, Local, or Tribal Government.

Estimated Total Annual Burden: 250 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 1,500.

Dated: November 16, 2006.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Initiative Coordination Service.

[FR Doc. E6–20112 Filed 11–27–06; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0458]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to verify whether a veteran's child between the ages of 18 and 23 years old is attending school.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before January 29, 2007.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0458'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Certification of School Attendance or Termination, VA Forms 21–8960 and 21–8960–1.

OMB Control Number: 2900–0458.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants complete VA Form 21–8960 and VA Form 21–8960–1 to certify that a child between the ages of 18 and 23 years old is attending school. VA uses the information collected to determine the child's continued entitlement to benefits. Benefits are discontinued if the child marries, or no longer attending school.

Affected Public: Individuals or households.

Estimated Annual Burden: 11,667 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 70,000.

Dated: November 16, 2006.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Initiative Coordination Service.

[FR Doc. E6–20116 Filed 11–27–06; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Tuesday,
November 28, 2006

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Revised Critical Habitat for the Tidewater Goby (Eucyclogobius newberryi); Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU81

Endangered and Threatened Wildlife and Plants; Revised Critical Habitat for the Tidewater Goby (*Eucyclogobius newberryi*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to revise currently designated critical habitat for the tidewater goby (*Eucyclogobius newberryi*) under the Endangered Species Act of 1973, as amended (Act). We originally designated critical habitat for the tidewater goby on November 20, 2000 (65 FR 69693). We are proposing to revise the critical habitat for the tidewater goby to a total of approximately 10,003 acres (ac) (4,050 hectares (ha)). This is an increase of approximately 8,422 ac (3,408 ha) from the currently designated critical habitat. In the previous rule, critical habitat was only designated in Orange and San Diego Counties due to uncertainty over the future listing status of tidewater goby populations to the north. The proposed revised critical habitat is located in Del Norte, Humboldt, Mendocino, Sonoma, Marin, San Mateo, Santa Cruz, Monterey, San Luis Obispo, Santa Barbara, Ventura, and Los Angeles Counties, California.

DATES: We will accept comments from all interested parties until January 29, 2007. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by January 12, 2007.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

1. You may mail or hand-deliver written comments and information to Diane K. Noda, Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003.

2. You may send comments by electronic mail (e-mail) to *fw8gobypch@fws.gov.* Please see the Public Comments Solicited section below for file format and other information about electronic filing.

3. You may fax your comments to 805/644–3958.

4. You may go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Ventura Fish and Wildlife Office (2493 Portola Road, Suite B, Ventura, CA 93003; telephone 805/644–1766).

FOR FURTHER INFORMATION CONTACT: For general information, and information about the proposed designation in Santa Cruz, Monterey, San Luis Obispo, Santa Barbara, Ventura, and Los Angeles Counties, contact the Field Supervisor, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003 (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.

For information about the proposed designation in Del Norte, Humboldt, and Mendocino Counties, contact the Field Supervisor, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, CA 95521 (telephone 707/822–7201; facsimile 707/822–8411).

For information about the proposed designation in Sonoma, Marin, and San Mateo Counties, contact the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W–2605, Sacramento, CA 95825 (telephone 916/414–6600; facsimile 916/414–6712).

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning the following issues.

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether the benefit of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of tidewater goby habitat, what areas should be included in the designation that were occupied at the time of listing that contain the features that are essential for the conservation of the species and why, and what areas not occupied at the time of listing are essential to the conservation of the species and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed revised critical habitat;

(4) Any foreseeable economic, national security, or other potential impacts resulting from the proposed revision of critical habitat and, in particular, any impacts on small entities;

(5) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments;

(6) Whether our general approach to determine which localities to include in proposed critical habitat (44 of the 112 localities that are currently occupied by tidewater gobies) could be improved or modified;

(7) Specifically with reference to those State Park lands under the jurisdiction of the California Department of Parks and Recreation (CDPR) that are proposed for designation, information on any areas covered by conservation or management plans that we should consider for exclusion from the designation under section 4(b)(2) of the Act;

(8) Any additional proposed critical habitat areas covered by conservation or management plans that we should consider for exclusion from the designation under section 4(b)(2) of the Act. We specifically request any information on any operative or draft habitat conservation plans for the tidewater goby that have been prepared under section 10(a)(1)(B) of the Act, or any other management or other conservation plan or agreement that benefits the goby or its primary constituent elements; and

(9) Any information concerning Tribal lands or trust resources that may be impacted by this proposed revision to critical habitat.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES**). Internet comments may be submitted to *fw8gobypch@fws.gov* (please use ASCII file format and avoid the use of special characters or any form of encryption) or the Federal eRulemaking Portal: *http://www.regulations.gov.* Please also include ''Attn: Tidewater goby'' in your e-mail subject header and your name and return address in the body of your message. If you do not receive a

confirmation from the system that we have received your Internet message, contact us directly by calling Chris Dellith at the Ventura Fish and Wildlife Office at phone number 805/644–1766. Please note that the Internet address *fw8gobypch@fws.gov* will be closed out at the termination of the public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their 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 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.

Role of Critical Habitat in Actual Practice of Administering and Implementing the Act

Attention to and protection of habitat is 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 potential exclusions of critical habitat proposed in this revision, we will evaluate the benefits of designation in light of *Gifford Pinchot Task Force* v. *U.S. 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 proposal to revise critical habitat does not use the invalidated regulation in our consideration of the benefits of including areas in this proposed revised 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; 42 U.S.C. 4321 *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 proposal

to revise critical habitat in this rule. For more information on the tidewater goby, refer to the final rule listing the species, which was published in the **Federal Register** on February 4, 1994 (59 FR 5494), or the final rule designating critical habitat for the species in Orange and San Diego Counties, California, which was published in the **Federal Register** on November 20, 2000 (65 FR 69693).

Species Description and Genetic/ Morphological Characteristics

The tidewater goby is a small, elongate, grey-brown fish rarely exceeding 2 inches (in) (5 centimeters (cm)) in length. This species possesses large pectoral fins, and the pelvic or ventral fins are joined to each other below the chest and belly from below the gill cover back to just anterior of the anus. Male tidewater gobies are nearly transparent with a mottled brownish upper surface. Female tidewater gobies develop darker colors, often black, on the body and dorsal and anal fins. The tidewater goby is a short-lived species; the lifespan of most individuals appears to be about 1 year (Irwin and Soltz 1984, p. 26; Swift *et al.* 1989, p. 4).

Various genetic markers demonstrate that pronounced differences in the genetic structure of tidewater gobies exist, and that tidewater gobies in some locations are genetically distinct. A recent study of mitochondrial DNA and cytochrome b (molecular material used in genetic studies) sequences from tidewater gobies that were collected at 31 locations throughout the species' range identified six major phylogeographic (geographic differences in the evolution of a species) or regional groups (Dawson et al. 2001, p. 1171). These six regional groups include the following areas: (1) Tillas Slough (Smith River) in Del Norte County to Lagoon Creek in Mendocino County, i.e., the North Coast (NC) Unit; (2) Salmon Creek in Sonoma County to Bennett's Slough in Monterey County, i.e., the Greater Bay (GB) Unit; (3) Arroyo del Oso to Morro Bay in San Luis Obispo County, i.e., the Central Coast (CC) Unit; (4) San Luis Obispo Creek in San Luis Obispo County to Rincon Creek in Santa Barbara County, i.e., the Conception (CO) Unit; (5) Ventura River in Ventura County to Topanga Creek in Los Angeles County, i.e., the Los Angeles-Ventura (LV) Unit; and (6) San Pedro Harbor in Los Angeles County to Los Peñasquitos Lagoon in San Diego County, i.e., the South Coast (SC) Unit.

Metapopulation Dynamics

Local populations of tidewater gobies are best characterized as metapopulations (Lafferty *et al.* 1999a, p. 1448). First, local goby populations are frequently isolated from other local populations by extensive areas of unsuitable habitat. Second, gobies occupy coastal lagoons and estuaries that in most cases are separated from each other by the open ocean. Very few tidewater gobies have ever been captured in the marine environment (Swift *et al.* 1989, p. 7), which suggests this species rarely occurs in the open ocean. Studies of the tidewater goby suggest that some populations persist on a consistent basis (Lafferty *et al.* 1999a, p. 1452), while other tidewater goby populations appear to experience intermittent extirpations. These extirpations may result from one or a series of factors, such as the drying up of some small streams during prolonged droughts (Lafferty *et al.* 1999a, p. 1451). Some of the areas where tidewater gobies have been extirpated apparently have been recolonized when extant populations were present within a relatively short distance of the extirpated population (*i.e.*, less than 6 miles (mi) (10 kilometers (km)). These recolonization events suggest that tidewater goby populations exhibit a metapopulation dynamic where some populations survive or remain viable by continually exchanging individuals and recolonizations may occur after occasional extirpations (Doak and Mills 1994, p. 619).

Lafferty *et al.* (1999b) monitored the post-flood persistence of several tidewater goby populations in Santa Barbara and Los Angeles Counties during and after the heavy winter floods of 1995. All of the monitored populations persisted after the floods, and no significant changes in population sizes were noted (Lafferty *et al.* 1999b, p. 621). Tidewater gobies apparently colonized Cañada Honda in Santa Barbara County after one flood event (Lafferty *et al.* 1999b, p. 621). This information suggests that flooding may sometimes contribute to recolonization of habitats where a tidewater goby population has become extirpated.

The largest wetland habitats where tidewater gobies have been known to occur are not necessarily the most secure, as evidenced by the fact that the Santa Margarita River in San Diego County and the San Francisco Bay have lost their populations of tidewater goby. Today, the majority of the most stable and largest tidewater goby populations consist of lagoons and estuaries of intermediate sizes, i.e., 5 to 125 ac (2 to 50 ha) that have remained relatively unaffected by human activities (Service 2005, p. 12). Many of the localities where tidewater gobies are consistently present may be ''source'' populations, and such locations may provide the colonists for localities that intermittently lose their tidewater goby populations.

Historical records and survey results for several localities occupied by the tidewater goby are available (e.g., Swift *et al.* 1989, pp. 18–19; Swift *et al.* 1994, pp. 8–16). These documents suggest the persistence of tidewater goby populations is related to habitat size, configuration, location, and proximity to human development. In general, the most stable and persistent tidewater goby populations occur in the lagoons and estuaries that are more than 2.47 ac (1 ha) in size and that have remained relatively unaffected by human activities (Lafferty *et al.* 1999a, pp. 1450–1453). We note, however, that some systems that are affected or altered by human activities also have relatively large and stable populations (e.g., Humboldt Bay in Humboldt County, Pismo Creek in San Luis Obispo County, Santa Ynez River in Santa Barbara County, and the Santa Clara River in Ventura County). Also, some habitats less than 2.47 ac (1 ha) in size have tidewater goby populations that persist on a regular basis (Swift *et al.* 1997, p. 3; Keegan 2006, p. 8). The best available information suggests that the lagoons and estuaries that have persistent populations are likely the core populations that provide the individuals that colonize adjacent, smaller localities that have ephemeral tidewater goby populations (Lafferty *et al.* 1999a, p. 1452).

Distribution

The known geographic range of the tidewater goby is limited to the coast of California (Eschmeyer *et al.* 1983, p. 262; Swift *et al.* 1989, p. 12). The species historically occurred from localities that extended from 3 mi (5 km) south of the California—Oregon border (i.e., Tillas Slough in Del Norte County) to 44 mi (71 km) north of the United States—Mexico border (i.e., Agua Hedionda Lagoon in San Diego County). The available documentation (e.g., Eschmeyer *et al.* 1983, p. 262; Swift *et al.* 1989, p. 12) suggests the northernmost locality that forms one end of the historical and current geographic range of the tidewater goby has not changed over time. Tidewater gobies do not currently occur in Agua Hedionda Lagoon, and the species' southernmost known locality currently is located in Cockleburr Canyon 9.2 mi (14.8 km) north of Agua Hedionda Lagoon. Although the northernmost and southernmost extent of the goby's range has not changed much over time, the

goby's overall population has become patchy and fragmented along the coast.

Tidewater gobies appear to be naturally absent from several large (50 to 135 mi (80 to 217 km)) stretches of coastline where lagoons or estuaries are absent, and steep topography or swift currents may prevent tidewater gobies from dispersing between adjacent localities (Swift *et al.* 1989, p. 13). One such gap in lagoons and estuaries occurs between the Eel River in Humboldt County and the Ten Mile River in Mendocino County. A second gap exists between Lagoon Creek in Mendocino County and Salmon Creek in Sonoma County. Another large, natural gap occurs between the Salinas River in Monterey County and Arroyo del Oso in San Luis Obispo County. Habitat loss and other anthropogenic-related factors have resulted in the tidewater goby now being absent from several locations where it historically occurred; their recent disappearance from specific locations has created smaller, artificial gaps in the species' geographic distribution (Capelli 1997, p. 7). Such locations include Buena Vista Lagoon and Agua Hedionda Lagoon in San Diego County, Calleguas Creek/Mugu Lagoon in Ventura County, San Francisco Bay in San Francisco and Alameda Counties, and Redwood Creek and Freshwater Lagoon in Humboldt County.

Swift *et al.* (1989, p. 13) reported that, as of 1984, tidewater gobies occurred, or had been known to occur, at 87 localities; these localities included those at the extreme northern and southern end of the species' historical geographic range. An assessment of the species' distribution in 1993, using records that were limited to the area between the Monterey Peninsula in Monterey County and the United States—Mexico border, found tidewater gobies occurring at four additional localities (Swift *et al.* 1993, p. 129). Other goby localities have been identified since 1993, and currently tidewater gobies have been documented at 135 localities within the historical geographic range of the species (Service 2005, p. 6). Of these 135 localities, 23 (17 percent) are no longer known to be occupied by tidewater gobies. Therefore, 112 localities are currently occupied.

Habitat

The lagoons, estuaries, backwater marshes, and freshwater tributaries that tidewater gobies occupy are dynamic environments that are subject to considerable fluctuations on a seasonal and annual basis. In a typical year, the formation of a sandbar occurs in the late spring as flow into a lagoon declines enough to allow the ocean surf to build up the sandbar at the mouth of the lagoon. Winter rains and subsequently increased stream flows may bring in considerable sediment and dramatically affect the bottom profile and substrate composition of a lagoon or estuary. Fine mud and clay either moves through the lagoon or estuary or settles out in backwater marshes, while heavier sand is left in the lagoon or estuary. High flows associated with winter rains can scour out the lagoon bottom to lower levels, with sand building up again after flows decline. These dynamic processes result in wetland habitats that, over time, move both laterally and up- or down-gradient relative to stationary features that exist outside the flood zone (e.g., roads or buildings).

The horizontal extent of the lentic (pond-like) wetland habitat associated with a particular tidewater goby locality varies on a site-specific basis, and is affected in part by local precipitation patterns and topography. In coastal areas where the topography is steep and precipitation is relatively low (e.g., areas adjacent to the Santa Ynez Mountains in Santa Barbara County), the habitats occupied by tidewater gobies may be a few acres in size, only extend a few hundred feet inland from the ocean, and backwater marshes may be small or absent. In other coastal settings where precipitation is more abundant: (1) Topography is less steep and surface streams are larger; (2) coastal lagoons or estuaries may be hundreds of acres in size and extend many miles inland; and (3) extensive backwater marshes may be present (e.g., Lake Earl in Del Norte County and Ten Mile River in Mendocino County).

Some localities occupied by tidewater gobies receive surface or ground water from upstream areas on a year-round basis. Such localities (e.g., Bennett's Slough in Monterey County) tend to possess wetland habitats that are larger and can extend inland for several hundred feet or even miles. Other occupied locations do not possess stream channels or tributaries that provide a considerable amount of water throughout the summer or fall months. Such locations (e.g., Little Pico Creek in San Luis Obispo County) tend to possess wetland habitats that only extend a short distance inland from the ocean (i.e., 290 ft (88 m)).

Reproduction

Tidewater gobies have been observed spawning in every month of the year except December (Swenson 1999, p. 107). Reproduction tends to peak in late April or May to July, and can continue into November depending on seasonal temperature and rainfall. Swenson (1995, p. 31) has documented spawning behavior in adult fish and the presence of egg clutches at water temperatures between 48 and 77 degrees Fahrenheit (F) (9 and 25 degrees Celsius (C)). Spawning tidewater gobies have been observed in water salinities between 2 and 27 parts per thousand (ppt) (Swenson 1999, p. 31).

Threats

The final listing rule for the tidewater goby that was published in 1994 (59 FR 5494) states that this species is threatened, or potentially threatened, by: (1) Coastal development projects that result in the loss or alteration of coastal wetland habitat; (2) water diversions and alterations of water flows upstream of coastal lagoons and estuaries that negatively impact the species' breeding and foraging activities; (3) groundwater overdrafting; (4) channelization of the rivers where the species occurs; (5) discharge of agricultural and sewage effluents; (6) cattle grazing and feral pig activity that results in increased sedimentation of coastal lagoons and riparian habitats, removal of vegetative cover, increased ambient water temperatures, and elimination of plunge pools and undercut banks utilized by tidewater gobies; (7) introduced species that prey on the tidewater goby (e.g., bass (*Micropterus* spp.) and crayfish (*Cambaris* spp.)); (8) the inadequacy of existing regulatory mechanisms; (9) drought conditions that result in the deterioration of coastal and riparian habitats; and (10) competition with introduced species such as the yellowfin goby (*Acanthogobius flavimanus*) and chameleon goby (*Tridentiger trigonocephalus*).

Previous Federal Actions

On February 4, 1994, the tidewater goby was listed as endangered throughout its entire range (59 FR 5494). We did not designate critical habitat at the time we listed this species because we found that critical habitat for the tidewater goby was not then determinable.

On September 18, 1998, the Natural Resources Defense Council, Inc., filed a lawsuit in Federal District Court in California against the United States Department of the Interior, *et al.*, for failure to designate critical habitat for the tidewater goby. On April 5, 1999, Judge Carlos R. Moreno ordered that the ''Service publish a proposed critical habitat designation for the tidewater goby in 120 days' (*Natural Resources Defense Council, Inc.* v. *United States*

Department of the Interior et al. CV 98–7596).

On June 24, 1999, we published a proposed rule to: (1) Delist populations of the tidewater goby in areas north of Orange and San Diego Counties, and (2) retain the tidewater goby populations in Orange and San Diego Counties as an endangered distinct population segment based on our re-evaluation of the species' status throughout its range (64 FR 33816). The Service proposed delisting northern populations of tidewater gobies because there were more populations in the north than were known at the time of listing, and it was believed that the threats to the northern populations may have been less severe and that the ability of tidewater gobies to recolonize sites may have been greater than previously thought.

On August 3, 1999, we proposed critical habitat for the tidewater goby in Orange and San Diego Counties (64 FR 42250); we did not propose critical habitat for this species throughout the rest of its geographic range in 1999 because we believed that the tidewater goby populations north of Orange County did not warrant listing under the Act, and had proposed to delist the species north of Orange County; therefore there were no areas essential to the conservation of the tidewater goby north of Orange County. On November 20, 2000, the Service designated critical habitat for the tidewater goby in Orange and San Diego Counties (65 FR 69693). The critical habitat designation consisted of 10 coastal stream segments that collectively measured 9 linear mi (14.5 km) in length.

On November 7, 2002, we withdrew our proposal to delist the tidewater goby in areas north of Orange County (67 FR 67803) based in large part on comments from the public, the scientific community, industry, and other concerned government agencies and new information, received after the publication of the proposed rule, that indicated that the reasons for delisting may have been in error. Therefore, the tidewater goby has remained listed as an endangered species throughout its historical geographic range since 1994.

On August 31, 2001, Cabrillo Power L.L.C. (Cabrillo) filed a lawsuit in the U.S. District Court for the Southern District of California challenging a portion of the November 20, 2000, final rule that designated the 10 critical habitat units in Orange and San Diego Counties. Specifically, Cabrillo objected to the critical habitat unit involving Agua Hedionda Lagoon and Creek. In a consent decree dated February 27, 2003, the U.S. District Court: (1) Agreed to vacate the critical habitat designation involving Agua Hedionda Lagoon and Creek; (2) stated the nine other critical habitat units should remain in effect; (3) stated the final rule designating critical habitat was remanded in its entirety for reconsideration; and (4) directed the Service to promulgate a revised critical habitat rule that considers the entire geographic range of the tidewater goby and any currently unoccupied tidewater goby habitat. The consent decree requires that the Service submit proposed and revised rules to the **Federal Register** no later than November 15, 2006, and November 1, 2007, respectively.

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 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 which 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 (PCEs), 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 considerations or protection. Thus, we do not include areas where existing management is sufficient to conserve the species. (As discussed below, such areas may also be excluded from critical habitat pursuant to section 4(b)(2)). 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 that 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.

Methods

As required by section 4(b)(2) of the Act, we use the best scientific data available in determining areas that contain the features that are essential to the conservation of the tidewater goby. The sources of data used in identifying critical habitat include information in our files regarding habitat requirements of this species, and the data sources mentioned in the published final rule that resulted in the designation of critical habitat in Orange and San Diego Counties (65 FR 69693). We also reviewed available information in reports submitted during section 7 consultations and by biologists holding section 10(a)(1)(A) recovery permits; information contained within the recently completed and peer reviewed tidewater goby recovery plan (Service 2005) that does not appear elsewhere; research published in peer-reviewed articles and presented in academic theses and agency reports; and regional Geographic Information System (GIS) coverages. We also solicited information from knowledgeable experts that have worked with the tidewater goby.

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 propose as critical habitat within areas occupied by the species at the time of listing, we consider those physical and biological features that are essential to the conservation of the species and that may require special management considerations or 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 historical geographical and ecological distributions of a species.

The specific primary constituent elements required for the tidewater goby are derived from the biological needs of the tidewater goby as described in the Background section of this proposal and the following text.

Space for Individual and Population Growth and for Normal Behavior

Saline Aquatic Habitat

Tidewater gobies occur in lagoons, estuaries, and backwater marshes that are adjacent to the Pacific Ocean (Wang 1982, p. 14; Irwin and Soltz 1984, p. 27; Swift *et al.* 1989, p. 1; Swenson 1993, p. 3; Moyle 2002, p. 431). Tidewater gobies are most commonly found in waters with relatively low salinities, i.e., less than 10–12 ppt (Swift *et al.* 1989, p. 7). This species can, however, tolerate a wide range of salinities and is frequently found in coastal habitats with higher salinity levels (Swift *et al.* 1989, p. 7; Worcester 1992, p. 106; Swift *et al.* 1997, pp. 15–22). The species has been collected in salinities as high as 42 ppt (Swift *et al.* 1989, p. 7). The species' tolerance of high salinities likely enables it to withstand some exposure to the marine environment, allowing it to recolonize nearby lagoons and estuaries following flood events. However, tidewater gobies have only rarely been captured in the marine environment (Swift *et al.* 1989, p. 7), and they appear to enter the ocean only when flushed out of lagoons, estuaries, and river mouths by storm events.

Water Depth, Velocity, and Temperature

Tidewater gobies are most commonly collected in water less than 6 ft (2 m) deep (Wang 1982, pp. 4–5; Worchester 1992, p. 53). However, recently tidewater gobies were collected in Big Lagoon in Humboldt County during the breeding season at a water depth of 15 ft (4.6 m) (Goldsmith 2006a, p. 1). Whether use of these deeper waters is confined to this locality or is more widespread will require additional sampling at various depths at various locations.

Tidewater gobies tend to avoid currents and concentrate in slack-water areas; this suggests they are less likely to occur in areas with a steep gradient or microhabitats that have a substantial current. At Pescadero Creek in San Mateo County, tidewater gobies were absent from portions of the flowing creek that had a surface velocity of 0.15 m (0.49 ft per second), and the species was instead more densely concentrated in nearby eddies with lower water velocities (Swenson 1993, p. 3).

Backwater marshes, including lateral sloughs, are likely to be important to tidewater gobies for multiple reasons. Flood waters with increased water velocities can have a negative effect on tidewater gobies (Irwin and Soltz 1984, p. 27), and backwater marshes may provide important refuges that reduce the likelihood that tidewater gobies will be flushed out of the lagoons or estuaries and into the marine environment during heavy winter floods (Lafferty *et al.* 1999a, p. 619). Evidence that increased flows can eliminate tidewater gobies from a locality is suggested by the elimination of tidewater gobies from Waddell Creek in Santa Cruz County following a flood event in the winter of 1972–73 (Nelson as cited in Swift 1990, p. 2); this creek had been channelized and no longer afforded protection from high flows during flood events. Likewise, the channelization and elimination of habitat lateral to the main stream channel upstream of San Onofre Lagoon in San Diego County probably led to the flushing and extirpation of tidewater gobies from this locality during a storm in 1993 (Swift *et al.* 1994, p. 22–23). The importance of backwater marshes is also highlighted by the fact that tidewater gobies in these habitats can achieve a greater size than in adjacent lagoons and creeks (Swenson 1993, pp. 6–7).

Because the number of eggs produced per female increases as female size increases (Swift *et al.* 1989, p. 9), it is likely that females in the backwater marshes can produce a proportionally greater number of young fry that allow a population to persist.

Tidewater gobies have been documented in habitats with water temperatures that range from 46 to 77 degrees F (8 to 25 degrees C) (Irwin and Soltz 1984, Tables 3 and 4; Swift *et al.* 1989, p. 1).

Freshwater Habitat

Tidewater gobies also occur in freshwater streams upgradient and tributary to brackish habitats; the salinity of these freshwater streams is typically less than 0.5 ppt. The available documentation demonstrates that in some areas, tidewater gobies can occur 1.6 to 7.3 mi (2.6 to 11.7 km) upstream from the ocean environment (Irwin and Soltz 1984, p. 27; Swift *et al.* 1997, p. 20; Chamberlain and Goldsmith 2006, p. 1).

Hundreds of tidewater gobies have been observed to move upstream of a fixed location into areas in the Santa Ynez River 3.2 mi (5.1 km) from the ocean in Santa Barbara County (Swift *et al.* 1997, p. 20). The fact that this many individuals were observed to move through an area within a 2-hour period suggests that freshwater tributaries in some riverine systems provide important space for individual and population growth.

We have reviewed a variety of documents to determine how far tidewater gobies have been detected upstream from the ocean. Chamberlain and Goldsmith (2006, p. 1) found tidewater gobies 1.6–2.0 mi (2.6–3.3 km) upstream from the ocean in the Ten Mile River in Mendocino County; Swift *et al.* (1997, p. 18) found tidewater gobies 4.6 mi (7.3 km) upstream from the ocean in the San Antonio River in Santa Barbara County; Swift *et al.* (1997, p. 20) found tidewater gobies at various distances from 3.9 to 7.3 mi (6.2 to 11.7 km) upstream from the ocean in the Santa Ynez River in Santa Barbara County; and Holland (1992, p. 9) found tidewater gobies 3 mi (5 km) upstream from the ocean in the Santa Margarita River in San Diego County. Collectively, these data suggest the average distance tidewater gobies have been detected upstream from the ocean in medium to large rivers is approximately 3.8 mi (6.1 km). Although the reasons for the variation in up-stream movement between one locality and another have not been determined, salinity is likely an important factor. Upstream salinity levels may vary with time of year, tidal cycles, storm events, and topography.

Sandbars

Many of the locations occupied by the tidewater goby closely correspond to stream drainages. Under natural conditions, these stream drainages and the marine environment collectively act to produce sandbars that form a barrier between the ocean and the lagoon, estuary, backwater marsh, and freshwater stream system (Habel and Armstrong 1977, p. 39). These sandbars tend to be present during the late spring, summer, and fall seasons. The presence of a sandbar can create a lower salinity level (*i.e.*, 5 to 10 ppt) in the area upgradient from the sandbar (Carpelan 1967, p. 324) than would otherwise exist if there were no sandbar. Tidewater gobies are more commonly associated with these lower salinity levels than with the salinity levels that occur in the ocean or an estuary without a sandbar, *i.e.*, about 35 ppt. The formation of a sandbar also creates a larger area for aquatic organisms because water becomes ponded behind the sandbar. Artificial breaching of a sandbar tends to result in a rapid decrease in water levels and increases the likelihood that adult tidewater gobies, their nests, and their fry could become stranded and die, or become concentrated and subject to greater levels of predation pressure by birds or other predators.

In Humboldt Bay and the Eel River estuary in Humboldt County, a large amount of salt and brackish marsh habitat was eliminated through the construction of levees and drainage channels. As a result, several of the localities occupied by the tidewater goby do not contain natural sandbars between the ocean and habitat where the species is present. Instead, manmade water control structures, such as tidegates and culverts, exist between tidal waters and the locations where tidewater gobies occur. These tidegates have been in place for decades, and in some cases, they provide habitat conditions similar to those created by the presence of a seasonal sandbar. In fact, most of the occupied tidewater goby habitats in the Humboldt Bay-Eel River estuaries are above tidegates.

Food

Tidewater gobies feed mainly on macro-invertebrates such as mysid shrimp, gamarid amphipods, ostracods, and aquatic insects such as chironomid midge larvae (Irwin and Soltz 1984, p. 21–23; Swift *et al.* 1989, p. 6; Swenson 1995, p. 87). The diets of adult and juvenile tidewater gobies tend to include the same relative abundance of different invertebrate species (Swenson and McCray 1996, p. 962).

Cover or Shelter

A variety of native and nonnative fish species and fish-eating bird species such as egrets (*Egretta* spp.) and herons (e.g., great blue herons (*Ardea herodias*)) prey on tidewater gobies, and escape cover or shelter is necessary to reduce the likelihood that tidewater gobies will be preyed upon.

A species' ability to persist when it is subject to predation pressure frequently depends on the presence of features that provide cover from predators, or the presence of a heterogeneous habitat that provides a greater level of structure which makes it more likely a prey species will avoid predation (Crowder and Cooper 1982, p. 1802; Gilinsky 1984, p. 455).

At locations where tidewater gobies occur, submerged and emergent aquatic vegetation has the potential to provide cover from predators, and provide a greater degree of habitat heterogeneity or structure that would not otherwise exist if the aquatic vegetation was absent. Stable lagoons often possess dense aquatic vegetation that frequently consists of sago pondweed (*Potamogeton pectinatus*) or widgeon grass (e.g., *Ruppia maritima* and *R. cirrhosa*). At some locations, juvenile tidewater gobies are more prevalent in areas with at least some submergent vegetation as compared to other areas with no or little vegetation (Wang 1984, p. 16; Swenson 1994, p. 6; Trihey & Associates, Inc. 1996, p. 11). We believe it is reasonable to assume that the presence of submerged or emergent vegetation reduces the likelihood that tidewater gobies will be preyed upon by native and nonnative species because this vegetation provides cover and increases the level of habitat heterogeneity in a way that makes it more likely that tidewater gobies will persist where they co-occur with predators.

Aquatic vegetation may provide some degree of shelter or refuge during flash flood events (Lafferty *et al.* 1999b, p. 621). These refuges presumably would result because the presence of vegetation would create lower water velocities than might otherwise occur in unvegetated areas. Such refuges would be especially important to fish species that are not strong swimmers, such as the tidewater goby.

Sites for Breeding, Reproduction, and Rearing (or Development) of Offspring

The eggs of the tidewater goby are laid in burrows that are excavated by male

fish. The available literature suggests that burrows most commonly occur in areas with relatively unconsolidated, clean, coarse sand (Swift *et al.* 1989, p. 8), while other documents demonstrate that burrows also occur in silt or mud (Wang 1982, p. 6). Swenson (1995, p. 148) demonstrated that tidewater gobies prefer a sandy substrate in the laboratory. Male tidewater gobies remain in the burrow to guard the eggs attached to the burrow ceiling and walls. Male tidewater gobies care for the embryos for approximately 9 to 11 days until they hatch, rarely if ever emerging from the burrow to feed (Swift *et al.* 1989, p. 4).

Tidewater goby larvae occupy the water column after the eggs hatch (Wang 1982, p. 15). As they mature, they occupy the bottom substrate. Worcester (1992, pp. 77–79) found that larval tidewater gobies in Pico Creek Lagoon in San Luis Obispo County tended to use the deeper portion of the lagoon, i.e., 29 in. (73 cm) deep water vs. 17 in. (42 cm) deep water.

Primary Constituent Elements for the Tidewater Goby

Pursuant to our regulations, we are required to identify the known physical and biological features (PCEs) essential to the conservation of the tidewater goby. All of the areas proposed as revised critical habitat for the tidewater goby are within the species' historical 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 tidewater goby and the requirements of the habitat to sustain the essential life history functions of this species, we have determined that the PCEs for the tidewater goby are:

(1) Persistent, shallow (in the range of about 0.1–2 m), still-to-slow-moving, aquatic habitat most commonly ranging in salinity from less than 0.5 ppt to about 10–12 ppt, which provides adequate space for normal behavior and individual and population growth;

(2) Substrates (e.g., sand, silt, mud) suitable for the construction of burrows for reproduction;

(3) Submerged and emergent aquatic vegetation, such as *Potamogeton pectinatus* and *Ruppia maritima,* that provides protection from predators; and

(4) Presence of a sandbar(s) across the mouth of a lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary, thereby providing relatively stable water levels and salinity.

Although the previous rule included a PCE on the prey species the tidewater goby may use as food, tidewater gobies are generalists and prey on a wide diversity of invertebrate species that are readily available wherever gobies occur. Therefore, we have not included prey as a PCE in this revised rule.

This proposed revised designation is designed for the conservation of areas supporting PCEs that exist at coastal lagoons, estuaries, backwater marshes, and associated freshwater tributaries, and that are necessary to support the life history functions which were the basis for the proposal. Because not all life history functions require all the PCEs, not all proposed revised critical habitat will contain all the PCEs. The presence of PCE 4 at a given location will, in general, only be applicable to locations where a sandbar forms due to natural processes.

Units are proposed for revised 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.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(1)(A) of the Act, we use the best scientific data and information available in determining areas that contain the features that are essential to the conservation and habitat requirements of the tidewater goby. These include research published in peer-reviewed articles and presented in academic theses and agency reports; information submitted during section 7 consultations and by biologists holding section 10(a)(1)(A) recovery permits; information that is contained within the recently completed recovery plan for the tidewater goby that does not appear elsewhere; and regional Geographic Information System (GIS) coverages. We also solicited information from knowledgeable biologists that have worked with the tidewater goby.

The process we use in this proposed rule to identify the features that are essential to the conservation of the tidewater goby reflects a complete assessment of the current, best scientific data available. Based on this assessment, we developed criteria for identifying critical habitat units (see below). By applying these criteria to the 112 localities known to be currently occupied by gobies, we identified 44 (39 percent) that we are proposing to designate as revised critical habitat. In general, we are proposing these 44 units as critical habitat because they support the conservation of the species in that these units are representative of the distribution of the goby occupied at the time of listing; some units are occupied by source populations, such that they support other habitats with gobies; and proposed units reflect the diversity of the species and its habitats which it currently occupies. In this rule, we have also attempted to describe, in a more explicit manner, the features that we use to determine the lateral and upstream extent of the critical habitat unit boundaries.

The criteria for identifying critical habitat units include:

(a) Areas known to be occupied at the time of listing and that possess one or more PCEs such that the area supports one or more of the tidewater goby's life processes. We determined which areas were occupied at the time of listing from information in two papers on goby occurrence (Swift *et al.* 1989, p. 13; Swift *et al.* 1993, p. 129), both of which were used in the preparation of the final listing rule for the goby;

(b) Areas that are currently occupied but were not known to be occupied at the time of listing that are determined to be essential to the conservation of the species;

(c) Areas that are representative of the distribution of the tidewater goby throughout the entire geographic range known to be occupied at the time of listing including those with unique ecological characteristics (e.g., large open bays in Humboldt County vs. small, routinely closed lagoons in Santa Barbara County) with the goal of maintaining the full range of the habitat variability and genetic and morphological adaptation in the species; and

(d) Areas that allow for the continued existence of viable metapopulations (as defined in the ''Background'' section) under varying environmental conditions (e.g., drought). These areas include those that presumably serve as source populations or those that provide important connectivity between source populations.

No areas that are currently unoccupied were found to be essential to the conservation of the species.

For the purposes of this proposed rule, we assume that source populations are those where tidewater gobies have been observed or collected on a regular basis, and therefore are more likely to provide the individuals that disperse and recolonize localities where the species periodically disappears. Locations that provide connectivity between source populations are those locations that exist between source populations that are likely to act as

''stepping stones'' between more isolated populations, and contribute to metapopulation persistence. Locations that possess unique ecological characteristics are those that represent the full range of environmental variability where the tidewater goby has evolved, and therefore are likely to promote the adaptation of the species to different environmental conditions. For example, some of these habitats would include locations that reflect different environmental conditions in southern and northern California (e.g. smaller habitats that occur in a more arid environment vs. large habitats that occur in areas with abundant rainfall). Genetic or morphological variability was used to support the inclusion of locations where we assume that this variability may play a role in positively affecting the species' conservation over time. For additional information on any of the above definitions, please refer back to the ''Background'' section in this proposed rule.

The conservation of a broad range of environmental, morphological, and genetic diversity that is present at the various locations is an important consideration in determining locations that are important for the conservation of the species. For example, a population's ability to successfully adapt to changing environmental conditions is a function of the heterozygosity, population size, and genetic variation of the individuals at a given location (Reed and Frankham 2003, p. 233). Local adaptations to different environmental conditions and morphological differences are likely linked to genetic variations among populations. These features may in turn be best protected by: (a) Identifying areas that represent the species and genetic diversity, and (b) maximizing within these areas the protection of contiguous environmental gradients across which selection and migration can interact to maintain population viability and (adaptive) genetic diversity (Moritz 2002, p. 238).

After determining the occupied localities necessary for the conservation of the tidewater goby by applying criteria ''a'' through ''d'' above, the boundary of each critical habitat unit was mapped. Unit boundaries were based on several factors including species occurrence data that demonstrated where tidewater gobies have been observed, the presence of barriers and stream gradients that limit tidewater goby movements, and the presence and extent of the aquatic habitat required by tidewater gobies.

The lateral extent of each critical habitat unit was delineated, in part, using existing digital data. To determine the lateral boundaries of each proposed critical habitat unit, we most frequently relied on National Wetland Inventory (NWI) maps that were prepared by the Service in 2006. The NWI maps are based on the Cowardin classification system (Cowardin *et al.* 1979); the Service has adopted this classification system as its official standard to describe wetland and deepwater habitats. Specifically, the following wetland types based on Cowardin (1979) were used to delineate unit boundaries: Lake, Estuarine and Marine Deepwater, Estuarine and Marine Wetland, Freshwater Pond, Freshwater Emergent Wetland, Freshwater Forested/Shrub Wetland, and Riverine. These wetland types have or are likely to have the PCE's at various times throughout the year depending on the season and environmental factors such as storm or drought events. In some cases, we used existing anthropogenic structures, such as concrete or riprap channel linings, that occur within wetland habitat types to delineate the lateral boundaries of units. To a lesser extent, we also used aerial imagery from the National Agricultural Imagery Program (NAIP) to delineate the lateral boundaries of a proposed critical habitat unit where insufficient NWI data was available.

The precise location where tidewater goby habitat occurs at a particular locality may vary on a daily, seasonal, and annual basis, i.e., the habitats occupied by tidewater gobies exist in a dynamic environment that varies over time. For example, the size and lateral extent of a coastal lagoon or estuary varies with daily tide cycles. Flood events may also change the precise location where surface water exists within a given lagoon, estuary, backwater marsh, or freshwater tributary. Therefore, it is appropriate to delineate each critical habitat unit to encompass the entire area occupied by tidewater gobies on a daily, seasonal, and annual basis. To accomplish this, we used the boundaries delineated on the NWI maps to determine the lateral extent of each unit.

The delineation of the upstream-most extent of a particular critical habitat unit was determined using one of four features that include: (a) The average distance that tidewater gobies are known to move upstream from the ocean (3.8 mi (6.1 km)), (b) the presence of barriers (e.g., culverts) that may prevent tidewater gobies from moving upstream, (c) the presence of a gradient that precludes tidewater gobies from swimming upstream (vertical drops of more than 4 to 8 in (10 to 20 cm) high can act as barriers that make it less likely tidewater gobies will be able to swim upstream (Swift *et al.* 1997, p. 20)), or (d) limited surface water in the tributary upgradient from the lagoon or estuary. Each of the above features describes a barrier to upstream movement; therefore the upstream extent of a particular unit was determined by whichever barrier was identified first through the mapping process regardless of whether or not PCE's were still present above it.

When determining proposed revised critical habitat boundaries, we made every effort to avoid including within the boundaries of the map contained within this proposed rule developed areas such as buildings, paved areas, and other structures that lack PCEs for the tidewater goby. The scale of 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 proposed rule have been excluded by text in the proposed rule and are not proposed for designation as revised critical habitat. Therefore, Federal actions limited to these areas would not trigger section 7 consultation, unless they may affect the species or primary constituent elements in adjacent critical habitat.

We are proposing to designate critical habitat in areas that we have determined were occupied at the time of listing or are currently occupied, and that contain sufficient 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. Lands are proposed for designation based on sufficient PCEs being present to support 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.

Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed species incidental to otherwise lawful activities. An incidental take permit application must be supported by a habitat conservation plan (HCP) that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the requested incidental take. We often exclude non-Federal public lands and private lands that are covered by an existing operative HCP and executed

implementation agreement (IA) under section 10(a)(1)(B) of the Act from designated critical habitat because the benefits of exclusion outweigh the benefits of inclusion as discussed in section 4(b)(2) of the Act. There are no existing operative HCPs or draft HCPs that meet our issuance criteria and have been released for public notice and comment within the areas proposed for designation as critical habitat.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the areas determined to be occupied at the time of listing support PCEs that may require special management considerations or protection. Special management considerations or protection may be necessary to eliminate or reduce the magnitude of threats that affect the tidewater goby. Threats that were identified in the final rule listing the tidewater goby include: (1) Coastal development projects that result in the loss or alteration of coastal wetland habitat; (2) water diversions and alterations of water flows upstream of coastal lagoons and estuaries that negatively impact the species' breeding and foraging activities; (3) groundwater overdrafting; (4) channelization of habitats where the species occurs; (5) discharge of agricultural and sewage effluents; (6) cattle grazing and feral pig activity that results in increased sedimentation of coastal lagoons and riparian habitats, removes vegetative cover, increases ambient water temperatures, and eliminates plunge pools and collapsed undercut banks utilized by tidewater gobies; (7) introduced species that prey on the tidewater goby (e.g., bass, crayfish (*Cambaris* spp.)); (8) the inadequacy of existing regulatory mechanisms; (9) drought conditions that result in the deterioration of coastal and riparian habitats; and (10) competition with introduced species such as the yellowfin goby and chameleon goby.

For the purposes of this rule we have combined the ''water diversions and alterations of water flows upstream of coastal lagoons and estuaries that negatively impact the species' breeding and foraging activities'' threats category with ''drought conditions'' and ''groundwater overdrafting'' into one threat category called ''water diversions, alterations of water flows, and groundwater overdrafting upstream of coastal lagoons and estuaries that negatively impact the species' breeding and foraging activities.'' Similarly, we have combined the two threat categories of ''introduced species that prey on the tidewater goby (e.g., bass, crayfish, (*Cambaris* spp.))'' and ''competition with introduced species such as the yellowfin goby and chameleon goby'' into one threat category called ''Introduced species that prey on, or compete with, the tidewater goby (e.g., yellowfin gobies, bass, and crayfish).'' Where special management may be necessary, regulatory mechanisms may need to be added or amended by local, State or Federal governmental entities if sufficient management is not achievable through voluntary mechanisms.

We find that the PCEs present within all the areas we are proposing for designation may require special management considerations or protection due to threats to the tidewater goby or its habitat. Using current information provided in the tidewater goby recovery plan (Service 2005, Appendix E) and other information in our files, we have identified the known threats that may require special management considerations or protection for the PCEs within each of the proposed critical habitat units (see Proposed Revised Critical Habitat Designation below).

Summary of Changes From Previously Designated Critical Habitat

The areas identified in this proposed rule constitute a proposed revision from the areas we designated as critical habitat for the tidewater goby in 2000 (65 FR 69693). The main reasons for the differences include:

(1) Prior to designating critical habitat for the tidewater goby in 2000, we published a proposed rule to: (1) Delist populations of the tidewater goby in areas north of Orange and San Diego Counties, and (2) retain the tidewater goby populations in Orange and San Diego Counties as an endangered distinct population segment based on our re-evaluation of the species' status throughout its range (64 FR 33816). Therefore, when we published the 2000 critical habitat final rule, we believed that tidewater goby populations north of Orange County did not warrant listing under the Act and that, therefore, there were no areas essential to the conservation of the tidewater goby north of Orange County. However, we withdrew the proposed rule to delist the goby north of Orange County in 2002, based on comments received from the public, the scientific community, industry, and other concerned government agencies, and based on new information received after the publication of the proposed rule; all of this information indicated that the reasons for delisting may have been in error. Therefore, we are now proposing to revise the designated critical habitat to include habitat throughout the range of the goby at the time of listing.

(2) We are proposing to remove Aliso Creek in Orange County. In addition, we are not including in this proposed designation one area vacated by the court, Agua Hedionda Lagoon in San Diego County. Both of these units were included in the 2000 designation. These two areas have not been occupied for many years and were not occupied at the time of listing (the last tidewater goby specimen from Aliso Creek was collected in 1976 and the last tidewater goby specimen from Agua Hedionda Lagoon was collected in 1940 (Swift *et al.* 1989, p. 19)). As noted in (1) above, in the 2000 designation we only addressed critical habitat for the tidewater goby in Orange and San Diego Counties. However, in this proposed revised designation, we have considered the entire range of the species at the time of listing, which not only includes Orange and San Diego Counties but also 12 counties to the north. All the areas we have proposed in this revised designation are occupied, and several are known to have large populations. As noted in (4) below, we also considered those areas on Marine Corps Base Camp Pendleton (Base) in San Diego County that are occupied by tidewater gobies. The occupied localities on the Base are between Aliso Creek to the north and Agua Hedionda Lagoon to the south. However, we did not include these areas in this revised proposal because they are protected through the Base's Integrated Natural Resource Management Plan (INRMP). Because we are now proposing to designate critical habitat in many more areas than were included in the 2000 designation, all of which are occupied, and because those occupied areas on the Base are protected under the Base's INRMP, we no longer consider the two unoccupied areas above as being essential to the conservation of the species and we do not expect to see recolonization of these areas. In addition, we now believe that there are sufficient occupied areas in Orange and San Diego counties to support the natural pattern of local extinctions and recolonizations.

(3) We are proposing revised PCEs based on new information. The 2000 critical habitat rule did not explicitly recognize the importance of backwater marshes or freshwater tributaries. However, there are multiple documents that suggest these habitat types are features essential to the conservation of the tidewater goby (e.g., Swenson 1993, pp. 6–7; Swift *et al.* 1997, p. 20; Smith 2004). Also, the 2000 rule suggested

critical habitat may not occur at locations where exotic fish species are present. From a practical standpoint, most aquatic habitats along the coast of California possess at least one exotic (i.e., nonnative) fish species, and the mere presence of these species does not preclude the presence of tidewater gobies (e.g., Wang 1984, pp. 8–9; Swift *et al.* 1997, p. 23) or habitat that contains the features essential for the conservation of the listed fish species. The 2000 rule included a PCE that specifically highlighted the importance of a diversity of prey species the tidewater goby may use as food. Because the tidewater goby are known to eat a relatively large diversity of invertebrate species (Irwin and Soltz 1984, pp. 21–23; Swift *et al.* 1989, p. 6; Swenson 1995, p. 87), we have chosen to not include a PCE in this proposed rule that highlights the importance of prey species. We have adopted this approach because we believe that, except in extenuating circumstances (e.g., a toxic waste spill that only affects aquatic invertebrate species), these invertebrates will be present if other PCEs (e.g., persistent, shallow aquatic habitat) are present.

(4) In the 2000 rule, eight units were designated as critical habitat on Marine Corps Base Camp Pendleton (Base) in San Diego County. The Base is the only area south of Los Angeles where goby localities occur, and that was occupied the time of listing and is still occupied. In 2001, the Marine Corps completed an Integrated Natural Resource Management Plan (INRMP) for the Base per the Sikes Act, as amended (16 U.S.C. 670a). Additionally, in 1995, the Marine Corps and the Service completed a large-scale programmatic consultation under section 7 of the Act addressing, among other species, the tidewater goby and its habitat. In this proposed rule, we have determined that conservation efforts identified in the INRMP for the Base provide a benefit to the tidewater goby occurring in habitats within or adjacent to the Base. As a result, pursuant to section 4(a)(3) of the Act, we have not included approximately 838 ac (340 ha) of habitat on the Base in this proposed revision to the critical habitat designation

Proposed Revision to the Critical Habitat Designation

We are proposing 44 units as critical habitat for the tidewater goby distributed along a large portion of the coast of California. These units, which do not correspond to those units in the 2000 designation, if finalized, would entirely replace the current critical habitat designation for the tidewater goby in 50 CFR 17.95(e). The 44 areas proposed as revised critical habitat occur in: Del Norte, Humboldt, Mendocino, Sonoma, Marin, San Mateo, Santa Cruz, Monterey, San Luis Obispo, Santa Barbara, Ventura, and Los Angeles Counties, California. Based on information available to us, we are proposing to include 10,003 ac (4,050 ha) in our revised critical habitat for the goby. If no changes are made between this proposed rule and the final rule, this would mean that our final revised designation would increase the currently designated critical habitat for tidewater gobies by approximately 8,422 ac (3,408 ha). We considered an additional 1,594 ac (645 ha) that constituted the 10 critical habitat units in the previous designation from 2000, but are now proposing to remove them from designated critical habitat because eight of the areas are on the Marine Corp Base Camp Pendleton and qualify for exemption from designation under section 4(a)(3) of the Act and the other two areas have not been occupied since before the time of listing and are no longer considered essential to the conservation of the species. The area now proposed for designation consists of 11 percent Federal land, 72 percent State land, 2 percent local land, and 15 percent private land. The proposed revised critical habitat areas described below constitute our best assessment at this time of areas determined to be occupied at the time of listing, containing the PCEs that may require special management considerations or protection, and those additional areas that were not occupied at the time of listing but are currently occupied and were found to be essential to the conservation of the tidewater goby.

Table 1 below identifies the approximate area of locations determined to meet the definition of critical habitat for the tidewater goby, but which we have found to be exempt from proposed critical habitat under section 4(a)(3) of the Act.

TABLE 1.—APPROXIMATE SIZE OF OCCUPIED AREAS CONTAINING FEATURES ESSENTIAL TO THE CONSERVATION OF THE TIDEWATER GOBY (DEFINITIONAL AREA) AND THE AREAS DETERMINED TO BE EXEMPT FROM THE CRITICAL HABITAT DESIGNATION UNDER SECTION 4(A)(3) OF THE ACT

Geographic area	Definitional area (acres/hectares)	Exempt area (acres/hectares)
Camp Pendleton Marine Corps Base	838/340	838/340
Vandenberg Air Force Base	775/314	775/314

Table 2 below provides the approximate area, by unit and landownership, proposed for revised designation of critical habitat for the tidewater goby.

TABLE 2.—CRITICAL HABITAT UNITS PROPOSED FOR THE TIDEWATER GOBY AND KNOWN THREATS REQUIRING SPECIAL MANAGEMENT PER UNIT. AREA ESTIMATES (ACRES/HECTARES) REFLECT THE ENTIRE AREA WITHIN THE PROPOSED REVISED CRITICAL HABITAT UNIT BOUNDARIES. AREA ESTIMATES ARE ROUNDED TO THE NEAREST WHOLE INTEGER THAT IS EQUAL TO OR GREATER THAN 1. KNOWN THREATS ARE ELEMENTS REQUIRING SPECIAL MANAGEMENT. UNITS ARE ARRANGED NORTH TO SOUTH

Unit name	Federal	State	Local	Private	Total	Known threats requiring special management [1]
DN–1	0/0	2,682/1,085	0/0	0/0	2,682/1,085	1,4
HUM–1	0/0	586/237	0/0	0/0	586/237	4
HUM–2	0/0	1,505/609	0/0	0/0	1,505/609	4
HUM–3	879/356	296/120	90/36	213/86	1,478/598	1,3,4,5
HUM–4	0/0	32/13	0/0	236/96	268/109	4,5
MEN–1	0/0	218/88	0/0	0/0	218/88	4
MEN–2	0/0	11/4	0/0	0/0	11/4	1,4
MEN–3	0/0	23/9	0/0	0/0	23/9	1,4
MEN–4	0/0	24/10	0/0	0/0	24/10	4
SON–1	0/0	41/17	0/0	59/24	100/41	1,2,4,5
MAR–1	1/1	6/2	0/0	288/117	295/120	1,4,5
MAR–2	0/0	60/24	0/0	118/48	178/72	1,2,4,5
MAR–3	176/71	666/270	0/0	7/3	849/344	1,3,4,5
MAR–4	40/16	0/0	0/0	0/0	40/16	1
SM–1	0/0	39/16	0/0	0/0	39/16	1,3
SM–2	0/0	218/88	0/0	0/0	218/88	1,3,4
SM–3	0/0	3/1	0/0	7/3	10/4	1,2
SC–1	0/0	26/11	0/0	0/0	26/11	2,4
SC–2	0/0	17/7	0/0	0/0	17/7	2,4
SC–3	0/0	5/2	6/2	21/8	32/12	1,4
SC–4	0/0	3/1	0/0	0/0	3/1	1,3,4
SC–5	0/0	158/64	10/4	8/3	176/71	1,3,4
MN–1	0/0	82/33	5/2	68/28	155/63	1,2,3,4
SLO–1	0/0	5/2	0/0	0/0	5/2	1,5
SLO–2	0/0	3/1	0/0	0/0	3/1	1,3
SLO–3	0/0	2/1	0/0	0/0	2/1	5
SLO–4	0/0	16/7	0/0	0/0	16/7	2,4,5
SLO–5	0/0	5/2	0/0	0/0	5/2	1,2,4,5
SLO–6	0/0	1/1	0/0	0/0	1/1	5
SLO–7	0/0	12/5	1/1	5/2	18/8	1,3,4
SB–1	0/0	149/60	33/13	286/116	468/189	1,2,4,5
SB–2	0/0	0/0	0/0	1/1	1/1	1,4
SB–3	0/0	0/0	0/0	3/1	3/1	4
SB–4	0/0	0/0	0/0	1/1	1/1	1,2,4,5
SB–5	0/0	0/0	0/0	1/1	1/1	1,4
SB–6	0/0	8/3	0/0	1/1	9/4	1,3,4,5
SB–7	0/0	0/0	1/1	5/2	6/3	4
SB–8	0/0	0/0	2/1	0/0	2/1	1,3,4
SB–9	0/0	9/4	5/2	0/0	14/6	1,3,4
VEN–1	0/0	26/10	16/6	9/4	51/20	1,2,3,4
VEN–2	0/0	218/88	22/9	110/45	350/142	1,2,3,4
VEN–3	0/0	5/2	40/16	0/0	45/18	1,3,4
LA–1	0/0	58/24	0/0	6/3	64/27	1,2,3,4
LA–2	0/0	5/2	0/0	0/0	5/2	1,2,3,4
Total	1,096/443	7,223/2,923	231/93	1,453/593	10,003/4,053	

[1] Codes to known threats to tidewater goby PCE's that may require special management are as follows:
1. Coastal development projects that result in the loss or alteration of coastal wetland habitat affecting PCE 1, 2, 3, and 4.
2. Water diversions, alterations of water flows, and groundwater overdrafting upstream of coastal lagoons and estuaries that negatively impact the species' breeding and foraging activities and PCE 1, 2, and 3.
3. Channelization of habitats where the species occurs affecting PCE 1, 2, 3, and 4.
4. Non-point and point source pollution or discharge of agricultural and sewage effluents that are likely to impact the species health or breeding and foraging activities and PCE 1.
5. Cattle grazing and feral pig activity that results in increased sedimentation of coastal lagoons and riparian habitats, removes vegetative cover, increases ambient water temperatures, and eliminates plunge pools and undercut banks utilized by tidewater gobies affecting PCE 1.

We present brief descriptions for each proposed critical habitat unit below and provide one or more reasons why each unit meets the definition of critical habitat. The first two or three letters in the code for each proposed critical habitat unit description reflects the county where the unit occurs: DN = Del Norte, HUM = Humboldt, LA = Los Angeles, MAR = Marin, MEN = Mendocino, MON = Monterey, SLO = San Luis Obispo, SM = San Mateo, SB = Santa Barbara, SC = Santa Cruz, SON = Sonoma, and VEN = Ventura. In Table 2 above, these units are listed in sequential order from north to south, with the most northerly unit being

described first and the most southerly unit being described last.

All of the proposed critical habitat units, which follow below, for the tidewater goby contain the following PCEs: Persistent, shallow (in the range of about 0.1–2 m), still-to-slow-moving, aquatic habitat most commonly ranging in salinity from less than 0.5 ppt to about 10–12 ppt (PCE 1); substrates (e.g., sand, silt, mud) suitable for the construction of burrows for reproduction (PCE 2); and submerged and emergent aquatic vegetation, such as *Potamogeton pectinatus* and *Ruppia maritima,* that provides protection from predators (PCE 3). In the unit descriptions below, we provide an assessment indicating if PCE 4 is present within the unit boundary (i.e., the presence of a sandbar(s) across the mouth of a lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary, thereby providing relatively stable water levels and salinity).

For the purposes of this document, local ownership refers to land that is owned or managed by a city, county, or municipal government entity.

DN–1, Lake Earl/Lake Tolowa (2,682 ac (1,085 ha))

This unit is located about 3 mi (4.8 km) north of the town of Crescent City, and is about 10 mi (16 km) south of the California—Oregon border. On an intermittent basis, DN–1 possesses a sandbar across the mouth of the lagoon or estuary during the majority of the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). This unit includes two contiguous lagoons (Lake Tolowa and Lake Earl), referred to collectively as Lake Earl. DN–1 includes State-owned land within the California Department of Fish and Game's (CDFG) Lake Earl Wildlife Area, and a portion of Tolowa Dunes State Park. DN–1 was occupied at the time of listing and is currently occupied. This proposed critical habitat unit is the largest occupied locality in Del Norte County. Tidewater gobies have regularly been found throughout the lagoon in large numbers during surveys and intensive studies (Tetra Tech 2000, pp. 8–9 and Tables G–1 through G–12). The unit is separated from the nearest extant population to the north, in Tilla Slough/Smith River (not proposed as critical habitat), by 7.3 mi (11.8 km). Because DN–1 has been consistently occupied over time, it is considered likely a source population for this region. This proposed critical habitat unit provides habitat for a tidewater goby population that is genetically distinct (Dawson et al. 2001, p. 1172) and is important to maintaining the overall genetic diversity of the species. It likely provides demographic and genetic support for other intermittent localities such as Tillas Slough, and provides a source population for reestablishment of the species at historically occupied but currently extirpated localities at Redwood Creek estuary and Freshwater Lagoon.

Furthermore, Lake Earl/Lake Tolowa are representative of extensive coastal lagoons and bays north of Cape Mendocino formed over uplifting Holocene sediments on broad flat coastal benches. These coastal benches include an intricate network of estuaries and other channels that are features that are essential to the conservation of the tidewater goby because they provide refugia during seasonal floods and breeding habitat through the full range of climatic cycles. The water level and salinity within the lagoon varies seasonally and annually in response to (a) periods of high precipitation or drought within its watershed; (b) the timing, duration, and frequency of breaching events; (c) the water level in the lagoon at the time of breaching; and (d) ocean tidal cycles during and immediately following a breach. As a result of natural and human-induced environmental changes, maximum water depth within Lake Earl varies during an annual cycle from less than 5 feet deep to more than 10 feet deep. The distribution of tidewater gobies and PCEs within Lake Earl changes in response to these dynamic, short-term habitat conditions; over a multi-year cycle, tidewater gobies may persist and breed anywhere within the lagoon. PCEs are found throughout DN–1 on a short-term but variable time scale in response to the dynamic variability of the habitat itself. DN–1 is important to the conservation of the species because it is the northernmost area within the range of the tidewater goby that we are proposing for critical habitat designation, and therefore reflects an important aspect of the historical geographical distribution of the species. This unit is also important to the conservation of the species because it is considered a source population, it will reduce the chance of losing the tidewater goby along this important coastal range, conserve genetic diversity within the species, and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management are described in Table 2.

HUM–1, Stone Lagoon (586 ac (237 ha))

This unit is approximately 11 mi (18 km) north of the city of Trinidad. HUM–1 (Stone Lagoon) is a moderately large, natural, coastal lagoon with a narrow sand spit separating it from the ocean. The lagoon includes fresh water input from two streams on the east and southern sides of the unit. Similar to DN–1, HUM–1 is typical of large north coast lagoons, characterized by a seasonal sandbar that results in relatively stable habitat within a naturally variable range of seasonal and annual climate conditions. HUM–1 possesses a sandbar across the mouth of the lagoon or estuary during the majority of the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). Tidewater goby distribution within this overall large lagoon varies in response to annual and seasonal climatic conditions. The other three PCEs occur throughout the unit, and the species likely alters its distribution within the lagoon in response to seasonal and annual habitat variability. HUM–1 is entirely State-owned and is part of Humboldt Lagoons State Park. Management of the lagoon does not include goals or tasks specific to the tidewater goby. HUM–1 was occupied at the time of listing, is currently occupied and is likely a source population for this region. HUM–1 is the northernmost of the four Humboldt County units and is located 40.8 mi (65.6 km) south of Lake Earl/Lake Tolowa (DN–1). The unit is separated from the nearest extant population to the north, in Freshwater Lagoon (not proposed), by 30.7 mi (49.4 km). HUM–1 is the closest source population to reestablish the tidewater goby within formerly suitable but known extirpated localities at Redwood Creek and Freshwater Lagoon. HUM–1 will also reduce the chance of losing the tidewater goby along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

HUM–2, Big Lagoon (1,505 ac (609 ha))

This unit is approximately 7 mi (11 km) north of the city of Trinidad. Big Lagoon is a large coastal lagoon with a narrow sand spit separating it from the ocean, and receives the majority of its fresh water input from one stream in the southeast portion of the unit. Similar to DN–1, HUM–2 is typical of large north coast lagoons and estuaries, characterized by a seasonal sandbar that

results in relatively stable habitat within a naturally variable range of seasonal and annual climate conditions. HUM–2 possesses a sandbar across the mouth of the lagoon or estuary during the majority of the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). Tidewater goby distribution within this overall large lagoon varies in response to annual and seasonal climatic conditions. The other three PCEs occur throughout the unit, and the species likely alters its distribution within the lagoon in response to seasonal and annual habitat variability. HUM–2 consists entirely of State lands that are part of Humboldt Lagoons State Park. HUM–2 was occupied at the time of listing, is currently occupied, and is likely a source population for this region. HUM–2 is located 4.6 mi (7.3 km) south of Stone Lagoon (HUM–1), which is also the nearest extant population. This critical habitat unit provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). This unit will reduce the chance of losing the tidewater goby along this portion of the coast, help conserve genetic diversity within the species, and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

HUM–3, Humboldt Bay (1,478 ac (598 ha))

This unit is located within an 8 mi (13 km) radius to the north, south, and east of the city of Eureka. This area was known to be occupied at the time of listing and is currently occupied. Humboldt Bay and its adjacent marshes and estuaries are a complex mixture of natural and human-made aquatic features that have experienced many decades of human-induced changes. These changes include the construction of levees, tidegates, culverts, and other water control structures, and extensive dredging of sandbars. Surrounding the bay itself is a generally broad bench historically dominated by mudflats, tidal marshes, estuarine channels, and brackish marshes. Substantial portions of those habitats were converted to agricultural, urban, and industrial uses in recent history, resulting in the loss of as much as 10,000 ac (4,047 ha) of potentially suitable habitat.

This critical habitat unit consists of a complex of interconnected estuary channels and human-made structures along the eastern edge of Humboldt Bay which collectively mimic, on a much reduced scale, habitats largely lost through past management practices. Many of these channels and marshes are themselves the result of changes to historical habitats, and depend on specific yet generally undocumented management activities for their continued function. To address the dynamic variability of these habitats resulting from seasonal and inter-annual precipitation differences, we have included both the actual known locations where tidewater gobies have been documented, as well as portions of those channels contiguous to but upchannel or downchannel from the known localities. We have not included Humboldt Bay proper in critical habitat, nor have we included major channels substantially subject to daily tidal fluctuations, as we have no evidence suggesting tidewater gobies may breed there. Similarly, we have not included channels that are not contiguous with known occupied habitat, nor have we included intervening marsh or agricultural lands that may occasionally be flooded during severe winter storm events.

Based on several recent surveys, we have found that the precise locations of tidewater goby use within the channel complex during any particular year may change in response to annual variation in precipitation and channel hydrology. PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. Only PCE 4 (a sandbar(s) across the mouth of lagoon or estuary) is not likely to occur within this unit because a navigable, dredged channel with a permanent open connection to the ocean is maintained on a regular basis. We anticipate that the persistence of the tidewater goby source population within this unit may require protection of localities that are not occupied every year, but collectively form a source population through an interconnected complex of channels and shallow water habitats. That is, any of the several known occupied localities within a channel complex may be used by tidewater gobies during various years in response to dynamic habitat conditions during seasonal, annual, and longer term climatic cycles (e.g., drought).

Recently, significant restoration efforts directed primarily at salmonid recovery have occurred or are anticipated to occur within habitats proposed for designation as critical habitat in this revision. The outcome of these salmonid restoration efforts to tidewater gobies is unknown, and will likely vary with their design features and their location. This unit consists of Federal, State, local government, and private lands. HUM–3 is located 21.0 mi (33.9 km) south of Big Lagoon (HUM–2). The unit is separated from the nearest extant population to the south, in the Eel River (HUM–4), by 18.4 mi (29.7 km). This source population may provide essential demographic and genetic support to HUM–4, especially during periods of extreme floods (e.g., the 1964 ''Christmas Flood''), when the population of tidewater gobies at the Eel River estuary may be extirpated. This unit provides habitat for a tidewater goby population that is genetically distinct (Dawson et al. 2001, p. 1172). This unit will reduce the chance of losing the tidewater goby along this portion of the coast, help conserve genetic diversity within the species, and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management are described in Table 2.

HUM–4, Eel River (268 ac) (109 ha))

This unit is located approximately 4 mi (6.5 km) north of the town of Ferndale. The Eel River delta includes a large, complex estuary with a network of diked and natural slough channels which contain suitable tidewater goby habitat. The Eel River delta contains many small, un-surveyed slough channels and other backwater areas that provide suitable habitat for tidewater gobies, but it also contains larger channels open to direct tidal influence that do not provide suitable habitat and are not included in this unit. This unit consists of backwater channels and immediately adjacent marsh contiguous to the known occupied habitat. This unit was not known to be occupied at the time of listing; however, no tidewater goby surveys are known to have occurred in the Eel River estuary prior to the listing. The Service discovered a new population of tidewater gobies in the Eel River estuary during surveys in 2004 (Goldsmith 2006b, p. 1). This unit consists of State lands, local government lands, and private lands. Similar to HUM–3, this unit includes portions of the contiguous channel upstream from the known locality, expected to function as habitat in response to seasonal and inter-annual fluctuations of water level and salinity. On an intermittent basis, HUM–4 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). The other three PCEs occur throughout the unit in a

dynamic, seasonally variable distribution.

As described earlier in HUM–3, we anticipate that tidewater gobies use various locations throughout this unit as a moving source population in response to the naturally changing habitat conditions. This unit is subject to infrequent yet severe flooding from the nearby Eel River proper. The major flood event of 1964 (''Christmas Flood''), and other major floods during the past century, may have severely altered habitat in most channels, including those currently occupied. Tidewater gobies may have persisted in the refugia provided in upper channels and swales, and we have included some of those channels in this proposal. Alternatively, the species may have been extirpated at the Eel River delta during those severe events, and reestablished itself through demographic and genetic support from HUM–3, located approximately 18.4 mi (29.7 km) to the north.

Of particular importance, the Eel River location is at the north end of one of the largest natural geographic gaps in the tidewater goby's geographic range. The gap extends to the Ten Mile River (Mendocino County) to the south, representing a coastline distance in excess of 135 mi (217 km). This gap, with its rocky coastline, strong currents, and long distance, remains a formidable barrier to the dispersal of tidewater gobies. Thus, one of the reasons that this unit is important for the conservation of the species is because it is at the boundary of a large, natural gap in the geographic range of the species. Further, this unit possesses ecological characteristics which may be important in maintaining the species' ability to adapt to changing environments, including the ability to disperse into higher channels and marsh habitat during severe flood events. This unit will also reduce the chance of losing the tidewater goby along this portion of the coast, and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management are described in Table 2.

MEN–1, Ten Mile River (218 ac (88 ha))

This unit is located 9 mi (14.5 km) north of the town of Fort Bragg. Ten Mile River includes a moderately large estuary with a long, low-gradient profile that contains many beneficial characteristics for supporting tidewater gobies, including part-time tidal exchange, brackish water, complex cover, suitable substrate types, and areas of off-channel refugia. Suitable habitat in this estuary extends to at least 3 mi (5 km) from the ocean, where a gradual increase in gradient and freshwater conditions dominates. On an intermittent basis, MEN–1 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). Persistent, shallow water extends in the estuary for more than 3 mi (5 km) upstream from the ocean. Through this long estuary, salinity and water depth vary by season, amount of precipitation, and tidal cycle. Thus, PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal and longer term fluctuations in precipitation and tidal inundation.

This unit consists entirely of State lands. Ten Mile River was known to be occupied by tidewater gobies at the time of listing and is currently occupied. MEN–1 is located 135.0 mi (217.0 km) south of Eel River (HUM–4). The unit is separated from the nearest extant population to the south, in Virgin Creek (MEN–2), by 5.6 mi (8.9 km). This unit provides habitat for a tidewater goby population that is genetically distinct (Dawson et al. 2001, p. 1172). This unit is considered a source population, and will reduce the chance of losing the tidewater goby along this portion of the coast, help conserve genetic diversity within the species, and help facilitate colonization of currently unoccupied locations. Furthermore, this unit is the largest block of habitat along the coast of Mendocino County, and is the last location on the southern end of one of the longest stretches of unsuitable habitat in the species range (previously described under HUM–4). Thus, this unit is important to the long-term exchange of genetic material between populations south of Cape Mendocino and populations to the north in Humboldt and Del Norte Counties. South of Ten Mile River, only three other small, isolated localities occupied by tidewater gobies are known to exist across the more than 100 miles of rugged coastline between MEN–1 and SON–1 in south-coastal Sonoma County. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

MEN–2, Virgin Creek (11 ac (4 ha))

This unit is located 3.5 mi (5.6 km) north of the town of Fort Bragg and includes the small estuary of Virgin Creek. On an intermittent basis, MEN–2 possesses a sandbar across the mouth of the estuary during the late spring, summer, and fall that closes or partially closes the estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands that are part of McKerricher State Park, but is influenced by factors, such as upstream water quality, not under the jurisdiction of the Park. The tidewater goby was known to occupy this locality at the time of listing and the unit is currently occupied. MEN–2 is located 5.6 mi (8.9 km) south of Ten Mile River (MEN–1). The unit is separated from the nearest extant population to the south, in Pudding Creek (MEN–3), by 1.2 mi (2.0 km). This unit provides habitat for a tidewater goby population that is genetically distinct (Dawson et al. 2001, p. 1172). This unit is considered a source population, and it will reduce the chance of losing the tidewater goby along this portion of the coast, help conserve genetic diversity within the species, and help facilitate colonization of currently unoccupied locations. As described above, this unit is one of only three small estuaries occupied by gobies between MEN–1 and SON–1. It forms an important intermediate locality for long-term genetic movement over more than 100 mi (161 km) of rugged Mendocino and Sonoma County coast. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

MEN–3, Pudding Creek (23 ac (9 ha))

This unit is located 2.5 mi (4.0 km) north of the town of Fort Bragg. Pudding Creek, unit MEN–3, is a moderately small estuary controlled at the upstream end by a low-head, municipal water storage dam. On an intermittent basis, MEN–3 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the estuary, and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands that are part of McKerricher State Park, but is influenced by factors, such as upstream water quality, not under the jurisdiction of the Park. Tidewater gobies have been known from this location for at least the last 30 years, including the time of listing, and it is

currently occupied. MEN–3 is located 1.2 mi (2.0 km) south of Virgin Creek (MEN–2), which is also the nearest extant population. This unit allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region. As described above, this unit is one of only three small estuaries likely to be occupied by tidewater gobies between MEN–1 and SON–1. It forms an important intermediate locality for long-term genetic movement over more than 100 mi (161 km) of rugged, unoccupied Mendocino and Sonoma County coast. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

MEN–4, Davis Lake and Manchester State Park Ponds (24 ac (10 ha))

This unit is located 3.3 mi (5.2 km) northeast of Point Arena, and includes an area with ponds fed by a small, unnamed, low-elevation, coastal stream in Manchester State Park. On an intermittent basis, MEN–4 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands that are part of Manchester State Park. Tidewater gobies have been known from this location for at least the last 30 years, including the time of listing, and it is currently occupied. MEN–4 is located 32.4 mi (52.2 km) south of Pudding Creek (MEN–3), which is also the nearest extant population. This unit provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). This unit is considered a source population, and it will reduce the chance of losing the tidewater goby along this portion of the coast, help conserve genetic diversity within the species, and help facilitate colonization of currently unoccupied locations. As described above, this unit is one of only three small estuaries likely to be occupied by gobies between MEN–1 and SON–1. It forms an important intermediate locality for long-term genetic movement over more than 100 miles of rugged, unoccupied Mendocino and Sonoma County coast. There are other potential areas of suitable habitat in neighboring wetlands. However, tidewater gobies have not been documented from these locations, and they are not included in this unit. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SON–1, Salmon Creek (100 ac (41 ha))

This unit is located about 7 mi (11.3 km) south of the community of Jenner at the mouth of the Russian River. On an intermittent basis, SON–1 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. Within the unit, the beach, estuary downstream of the State Route (SR) 1 bridge, and the floodplain north of Salmon Creek and upstream (east) of SR 1 are State lands under the jurisdiction of the CDPR. The area and wetlands south of the creek and east of SR 1 in the unit are privately owned. This unit was occupied by tidewater gobies at the time of listing, is currently occupied, and is likely a source population for this region. The closest known existing population of tidewater gobies to Salmon Creek is located at Estero Americano 5.3 mi (8.5 km) to the south. The geological feature known as Bodega Head separates Salmon Creek and Estero Americano, and is likely to reduce the exchange of tidewater gobies between these two locations. This unit provides habitat for a tidewater goby population that is genetically distinct. This unit will reduce the chance of losing the tidewater goby along this portion of the coast, help conserve genetic diversity within the species, and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

MAR–1, Estero Americano (295 ac (120 ha))

This unit is located south of the Bodega Head, about 3.5 mi (5.7 km) south of Bodega Bay. Estero Americano is approximately 750 to 1,000 ac (300 to 400 ha) in size and is a large lagoon relative to other known extant and historical tidewater goby locations. On an intermittent basis, MAR–1 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. The majority of this unit consists of privately-owned lands. A small portion of the unit also consists of Federal and State lands. Although the abundance of tidewater goby in Estero Americano seems to vary, it was occupied by tidewater gobies at the time of listing and is currently occupied. MAR–1 is likely a source population for this region. The unit is one of two known locations of tidewater goby in this area, the other being Estero de San Antonio (MAR–2) approximately 2.2 mi (3.5 km) to the south. The closest known existing locations of tidewater goby to the north is the Salmon Creek estuary (SON–1), but this location is upcoast from the Bodega Head, which likely limits interactions with tidewater gobies from this unit. This unit will reduce the chance of losing the tidewater goby along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

MAR–2, Estero de San Antonio (178 ac (72 ha))

This unit is located about 5.6 mi (9 km) south of Bodega Bay. Estero de San Antonio provides approximately 500 to 750 ac (200 to 300 ha) of fish habitat and is a large lagoon relative to other known extant and historical tidewater goby locations. On an intermittent basis, MAR–2 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation.

The majority of this unit consists of private lands, and the rest are State lands. Tidewater gobies are abundant within Estero de San Antonio, and it was occupied by tidewater gobies at the time of listing and is currently occupied. MAR–2 is one of two known locations of tidewater gobies to remain within the local area. This critical habitat unit includes a source population of tidewater gobies that likely provides individuals that are recruited into surrounding subpopulations. The closest known

existing locations of tidewater goby are Estero Americano (i.e., MAR–1) approximately 2.2 mi (3.5 km) to the north and Lagunitas (Papermill) Creek (i.e., MAR–3) approximately 15.5 mi (25 km) to the south. Given the proximity between the MAR–1 and MAR–2 units, it is possible they have exchanged individuals in the past and that they continue to exchange individuals. Exchange between these populations bolsters the continued sustainable existence of the two populations which will, together with SON–1 and MAR–3 units, provide for natural and introduced colonization of available but unoccupied estuaries within the region south of the Russian River and north of Point Reyes.

This critical habitat unit provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al* 2001, p. 1172). This unit will reduce the chance of losing the tidewater goby along this portion of the coast, help conserve genetic diversity within the species, and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

MAR–3, Lagunitas (Papermill) Creek (849 ac (344 ha))

This unit is located in Tomales Bay 20.5 mi (33 km) south of Bodega Bay. We do not have information that confirms that PCE 4 (a sandbar(s) across the mouth of the lagoon or estuary) is present within this unit on at least an intermittent basis. PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. The bay-ward portion of the unit consists of State lands. A portion of the unit consists of Federal lands under the jurisdiction of the National Park Service. The remaining portion of the unit is privately owned. Historical records existed documenting the presence of tidewater goby at this location, but at the time of listing it was not occupied. Recent surveys have, however, confirmed that the unit is currently occupied. This unit is essential to the conservation of the species because it is the only known location of the tidewater goby to remain within the greater Tomales Bay area. Thus, if allowed to establish a robust population the unit could act as an important source population for future colonization or introductions to other habitats within Tomales Bay. The closest known location with an extant tidewater goby population is Estero de San Antonio approximately 15.5 mi (25 km) to the north. Furthermore, this unit provides habitat for a tidewater goby population that is genetically distinct (Dawson et al 2001, p. 1172).

MAR–4, Rodeo Lagoon (40 ac (16 ha))

This unit is located at the tip of the Marin Peninsula, approximately 3.8 mi (6 km) north of San Francisco. MAR–4 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists of Federal lands under the jurisdiction of the National Park Service's Golden Gate National Recreation Area. The tidewater goby is abundant within Rodeo Lagoon, and the lagoon was occupied by tidewater gobies at the time of listing and is currently occupied. MAR–5 is the only known location where the tidewater goby remains within the greater Bay Area. This critical habitat unit provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). It also provides habitat for a population of tidewater gobies that could disperse to other adjoining habitats. The closest known existing locations of tidewater goby are Lagunitas Creek in Tomales Bay 23.6 mi (38 km) to the north, and San Gregorio Creek 36 mi (58 km) to the south. This unit will reduce the chance of losing the tidewater goby along this portion of the coast, help conserve genetic diversity within the species, and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SM–1, San Gregorio Creek (39 ac (16 ha))

This unit is located about 28 mi (45 km) south of the San Francisco-San Mateo County line. On an intermittent basis, SM–1 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands that are part of San Gregorio State Beach. This unit was occupied at the time of listing, and it is currently occupied. SM–1 is the northernmost of the only three extant populations in San Mateo County. This unit also provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). This unit is noted for high densities of tidewater gobies (Swenson 1993, p. 3). The closest extant population of tidewater gobies north of San Gregorio Creek is 36 mi (58 km) at Rodeo Lagoon and the closest historical location to the north is Lake Merced approximately 28 mi (45 km) to the north. The lack of nearby populations to the north reduces the likelihood that the existing SM–1 population would be naturally reestablished if it were lost. SM–1's position as the northernmost of the only extant tidewater locations remaining in San Mateo County and its proximity to potential reintroduction sites, the lack of other nearby locations to the north, and the presence of a stable population makes this unit an important source population for this region of the California coast. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SM–2, Pescadero-Butano Creek (218 ac (88 ha))

This unit is located approximately 32 mi (51 km) south of the San Francisco-San Mateo County line. The unit consists of a lagoon, marshes, and creek channels. Unit SM–2 is located between two extant tidewater goby populations; namely the populations in San Gregorio Creek (SM–1) about 3.7 mi (6 km) to the north and in Bean Hollow Creek (SM–3) about 2.9 mi (4.7 km) to the south. On an intermittent basis, SM–2 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). However, since the early 1990s the timing of the sandbar formation seems to have changed from spring/summer to late summer or fall. PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands that are part of Pescadero State Beach and Pescadero Marsh Natural Preserve. This unit was occupied by tidewater gobies at the time of listing and is currently occupied. This unit is unusual in that

some tidewater gobies from this location possess a parasite that appears to occasionally affect their health; these parasites, or the environmental factors that increase the prevalence of the parasites, may represent a threat to this population not identified in Table 2. This unit allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SM–3, Bean Hollow Creek (Arroyo de Los Frijoles) (10 ac (4 ha))

This unit is located approximately 34.8 mi (56 km) south of the San Francisco-San Mateo County line. On an intermittent basis, SM–3 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. The area east of State Highway 1 is privately owned and the portion of the lagoon west of the highway consists of State lands, which are part of Bean Hollow State Beach. This unit was occupied by tidewater gobies at the time of listing and it is currently occupied. SM–3 is the southernmost of the three San Mateo County units and is located 2.9 mi (4.7 km) south of Pescadero Creek. The unit is separated from the nearest extant population to the south, in Scott Creek (not proposed), by 16.1 mi (26 km). This unit, together with the two units to the north, will reduce the chance of losing the tidewater goby along this important coastal range, and allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SC–1, Laguna Creek (26 ac (11 ha))

This unit is located approximately 7.5 mi (12.0 km) west of the city of Santa Cruz. On an intermittent basis, SC–1 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands. SC–1 was occupied by tidewater gobies at the time of listing and is currently occupied. SC–1 is the northernmost of the five Santa Cruz County units and is located 21.4 mi (34.5 km) south of Bean Hollow Creek (SM–3). The unit is separated from the nearest extant population to the south, in Baldwin Creek (SC–2), by 2.0 mi (3.2 km). SC–1 is likely a source population for this region. This unit also provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). This unit, together with Baldwin Creek (SC–2) to the south, is considered a source population, and will reduce the chance of losing the tidewater goby along this portion of the coast; help conserve the genetic diversity of the species; and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protections of the PCEs are described in Table 2.

SC–2, Baldwin Creek (17 ac (7 ha))

This unit is located approximately 6 mi (9.7 km) west of the city of Santa Cruz. On an intermittent basis, SC–2 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands that are part of Wilder Ranch State Park. SC–2 was occupied by tidewater gobies at the time of listing and is currently occupied. SC–2 is located 2.0 mi (3.2 km) south of Laguna Creek (SC–1). The unit is separated from the nearest extant population to the south, Lombardi Creek (not proposed), by 0.7 mi (1.2 km). SC–2 is likely a source population for this region. This critical habitat unit provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). This unit, together with Laguna Creek to the north, is considered a source population, and will reduce the chance of losing the tidewater goby along this portion of the coast; help conserve genetic diversity within the species; and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SC–3, Corcoran Lagoon (32 ac (12 ha))

This unit is located approximately 3 mi (4.8 km) east of the city of Santa Cruz. On an intermittent basis, SC–3 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. A portion of the unit consists of State lands that are part of Twin Lakes State Beach. The remaining portion is under the jurisdiction of local government, or is privately owned. SC–3 was occupied by tidewater gobies at the time of listing and is currently occupied. SC–3 is located 8.0 mi (12.9 km) south of Baldwin Creek (SC–2) and is in Monterey Bay. The unit is separated from the nearest extant population to the south, in Moran Lake (not proposed), by 0.7 mi (1.1 km). SC–3 is likely a source population for this region. This critical habitat unit provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). This will reduce the chance of losing the tidewater goby along this portion of the coast; help conserve genetic diversity within the species; and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SC–4, Aptos Creek (3 ac (1 ha))

This unit occurs within the limits of the town of Aptos. We do not have information that confirms that PCE 4 (a sandbar(s) across the mouth of the lagoon or estuary) is present within this unit on at least an intermittent basis. The other three PCEs are present throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. The unit consists entirely of State lands. SC–4 was occupied by tidewater gobies at the time of listing, is currently occupied and is likely a source population for this region. SC–4 is located 4.1 mi (6.6 km) east of Corcoran Lagoon (SC–3) and is in Monterey Bay. The unit is separated from the nearest extant population to

the north, Moran Lake (not proposed), by 42.0 mi (67.5 km). This unit will reduce the chance of losing the tidewater goby along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management consideration or protection of the PCEs are described in Table 2.

SC–5, Pajaro River (176 ac (71 ha))

This unit is located approximately 5 mi (8 km) southwest of the town of Watsonville. On an intermittent basis, SC–5 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists of State, local government, and private lands. SC–5 was occupied prior to listing but was possibly unoccupied at the time of listing, and therefore we consider it to be unoccupied at the time of listing. However, SC–5 is currently occupied. SC–5 is the southernmost of the five Santa Cruz County units and is located 9.7 mi (15.6 km) south of Aptos Creek (SM–4) within Monterey Bay. The unit is separated from the nearest extant population to the south, in Bennett Slough (MN–1), by 3.0 mi (4.7 km). This unit is essential to the conservation of the species because it allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region.

MN–1, Bennett Slough (155 ac (63 ha))

This unit is located approximately 3.7 mi (6 km) northwest of the town of Castroville. We do not have information that confirms that PCE 4 (a sandbar(s) across the mouth of the lagoon or estuary) is present within this unit on at least an intermittent basis; however, the other three PCEs are present throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. A portion of this unit is on State-owned land under the jurisdiction of either CDFG (Moss Landing Wildlife Area) or CDPR (Moss Landing State Beach). The rest of the unit is on privately owned land, or land owned by local government. MN–1 was occupied by tidewater gobies at the time of listing and is currently the only occupied locality in Monterey County. MN–1 is likely a source population for this region. MN–1 is located 4.1 mi (6.6 km) south of the Pajaro River (SC–5) and is in Monterey Bay. The Pajaro River (SC–5) is the nearest extant population to this unit. This critical habitat unit provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). This unit will reduce the chance of losing the tidewater goby along this portion of the coast, help conserve genetic diversity within the species, and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SLO–1, Arroyo del Corral (5 ac (2 ha))

This unit is located approximately 6 mi (9.7 km) northwest of San Simeon. On an intermittent basis, SLO–1 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands. SLO–1 was occupied at the time of listing and is currently occupied. SLO–1 is likely a source population for this region. SLO–1 is the northernmost of the seven San Luis Obispo County units and is located 83.2 mi (133.9 km) south of Bennett Slough (MN–1). The unit is separated from the nearest extant population to the south, Oak Knoll Creek (SLO–2), by 4.3 mi (6.9 km). This critical habitat unit provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). This unit will reduce the chance of losing the tidewater goby along this portion of the coast; help conserve genetic diversity within the species; and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SLO–2, Oak Knoll Creek (Arroyo Laguna) (3 ac (1 ha))

This unit is located approximately 2 mi (3.2 km) northwest of San Simeon. On an intermittent basis, SLO–2 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands. SLO–2 was occupied at the time of listing and is currently occupied. SLO–2 is located 4.3 mi (6.9 km) south of Arroyo del Corral (SLO–1). The unit is separated from the nearest extant population to the south, in Arroyo de Tortuga (not proposed), by 4.9 mi (7.9 km). This unit allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SLO–3, Little Pico Creek (2 ac (1 ha))

This unit is located approximately 6.7 mi (10.8 km) northwest of the town of Cambria. On an intermittent basis, SLO–3 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands. SLO–3 is located 3.7 mi (5.9 km) south of Oak Knoll Creek (SLO–2). The unit is separated from the nearest extant population to the north, in Broken Bridge Creek (not proposed), by 1.4 mi (2.2 km). SLO–3 was occupied at the time of listing, is currently occupied, and is likely a source population for this region. This unit will reduce the chance of losing the tidewater goby along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SLO–4, San Simeon Creek (16 ac (7 ha))

This unit is located approximately 3.3 mi (5.3 km) northwest of the town of Cambria. On an intermittent basis, SLO–4 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any

particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands that are part of San Simeon State Park. SLO–4 was occupied at the time of listing and is currently occupied. SLO–4 is located 3.8 mi (6.1 km) south of Little Pico Creek (SLO–3). The unit is separated from the nearest extant population to the south, in Santa Rosa Creek (not proposed), by 2.6 mi (4.2 km). SLO–4 was occupied at the time of listing, is currently occupied, and is likely a source population for this region. This unit will reduce the chance of losing the tidewater goby along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SLO–5, Villa Creek (5 ac (2 ha))

This unit is located approximately 9.6 mi (15.4 km) southeast of Cambria. On an intermittent basis, SLO–5 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands. SLO–5 was occupied at the time of listing, is currently occupied, and is likely a source population for this region. SLO–5 is located 12.3 mi (19.8 km) south of San Simeon Creek (SLO–4). The unit is separated from the nearest extant population to the south, in San Geronimo Creek (SLO–6), by 2.3 mi (3.7 km). This critical habitat unit provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). This unit will reduce the chance of losing the tidewater goby along this portion of the coast, help conserve genetic diversity within the species, and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SLO–6, San Geronimo Creek (1 ac (1 ha))

This unit is located approximately 7.6 mi (12.2 km) northwest of the town of Morro Bay. On an intermittent basis, SLO–6 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands. SLO–6 was occupied at the time of listing, is currently occupied, and is likely a source population for this region. SLO–6 is located 2.3 mi (3.7 km) south of Villa Creek (SLO–5). The unit is separated from the nearest extant population to the south, in Cayucos Creek (not proposed), by 1.5 mi (2.4 km). This unit will reduce the chance of losing the tidewater goby along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SLO–7, Pismo Creek (18 ac (8 ha))

This unit is located within, or is directly adjacent to, the town of Pismo Beach. On an intermittent basis, SLO–7 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. Approximately 60 percent of this locality is located on State-owned land that is part of Pismo State Beach; the remainder is privately owned or owned by the town of Pismo Beach. SLO–7 was occupied at the time of listing, is currently occupied, and is likely a source population for this region. SLO–7 is the southernmost of the nine San Luis Obispo County units and is located 27.3 mi (44.0 km) south of San Geronimo Creek (SLO–6). The unit is separated from the nearest extant population to the south, in Arroyo Grande Creek (not proposed), by 2.6 mi (4.2 km). SLO–7 has been consistently occupied over time and This unit will reduce the chance of losing the tidewater goby along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SB–1, Santa Maria River (468 ac (189 ha))

This unit is located approximately 13 mi (21 km) west of the city of Santa Maria. On an intermittent basis, SB–1 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists of land that is owned by local government and privately owned land. SB–1 was occupied at the time of listing, is currently occupied, and is likely a source population for this region. SB–1 is the northernmost of the nine Santa Barbara County units and is located 11.8 mi (18.9 km) south of Pismo Creek (SLO–9). The unit is separated from the nearest extant population to the south, in Shuman Canyon (not proposed), by 8.6 mi (13.9 km). This critical habitat unit provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). This unit will reduce the chance of losing the tidewater goby along this portion of the coast; help conserve genetic diversity within the species; and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SB–2, Cañada de las Agujas (1 ac (1 ha))

This unit is located approximately 7.2 mi (11.6 km) west of Gaviota. On an intermittent basis, SB–2 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists of privately owned lands. SB–2 was occupied at the time of listing and is currently occupied. SB–2 is located 38.8 mi (62.5 km) south of the Santa Maria River (SB–1). The unit is separated from the nearest extant population to the south, in Arroyo El Bulito (not proposed), by 0.4 mi (0.7 km). This unit allows for connectivity between tidewater goby source populations, and thereby supports gene flow and

metapopulation dynamics in this region. Furthermore, we believe this unit, and units SB–3, SB–4, SB–5, and SB–6, likely act as a metapopulation as defined in the ''Background'' section. These units are no more than 2.0 mi (3.3 km) from each other, which facilitates higher dispersal rates between sites. Because these units are of relatively small size in area (1 to 9ac (1 to 4 ha)), they are more susceptible to drying up or shrinking due to drought conditions and thereby increasing the likelihood of local extirpation. Lastly, because these units are small, they are likely to be dependent upon some degree of periodic exchange of tidewater gobies between units for any one unit to persist over time; therefore, designation of critical habitat at these five locations is necessary for the conservation of the tidewater goby along the Gaviota Coast in Santa Barbara County. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SB–3, Cañada de Santa Anita (3 ac (1 ha))

This unit is located approximately 5.2 mi (8.4 km) west of Gaviota. On an intermittent basis, SB–3 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists of privately owned lands. SB–3 was occupied at the time of listing and is currently occupied. SB–3 is located 2.0 mi (3.2 km) south of Cañada de las Agujas (SB–2). The unit is separated from the nearest extant population to the north, in Cañada del Agua (not proposed), by 0.4 mi (0.7 km). This unit is important to the conservation of the species because it allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region. Furthermore, as described above in SB–2, we believe this unit, and units SB–2, SB–4, SB–5, and SB–6, likely act as a metapopulation as defined in the ''Background'' section, and that designation of critical habitat at these five locations is necessary for the conservation of the tidewater goby along the Gaviota Coast in Santa Barbara County. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SB–4, Cañada de Alegria (1 ac (1 ha))

This unit is located approximately 3.2 mi (5.1 km) west of Gaviota. On an intermittent basis, SB–4 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists of privately owned lands. SB–4 was occupied at the time of listing and is currently occupied. SB–4 is located 2.0 mi (3.3 km) south of Cañada de Santa Anita (SB–3). The unit is separated from the nearest extant population to the south, in Cañada de Agua Caliente (SB–5), by 1.1 mi (1.8 km). This unit is important to the conservation of the species because it allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region. Furthermore, as described above in SB–2, we believe this unit, and units SB–2, SB–3, SB–5, and SB–6, likely act as a metapopulation as defined in the ''Background'' section. Known threats in this unit that may require special management are described in Table 2.

SB–5, Cañada de Agua Caliente (1 ac (1 ha))

This unit is located approximately 2.1 mi (3.4 km) west of Gaviota. On an intermittent basis, SB–5 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists of privately owned land. SB–5 was occupied at the time of listing and is currently occupied. This critical habitat unit provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). This unit helps conserve genetic diversity within the species. This unit also allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region. Furthermore, as described above in SB–2, we believe this unit, and units SB–2, SB–3, SB–4, and SB–6, likely act as a metapopulation as defined in the ''Background'' section, and that designation of critical habitat at these five locations is necessary for the conservation of the tidewater goby along the Gaviota Coast in Santa Barbara County. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SB–6, Gaviota Creek (9 ac (4 ha))

This unit is located approximately 0.8 mi (1.3 km) west of Gaviota. On an intermittent basis, SB–6 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists of State lands that are part of Gaviota Creek State Park, and includes some privately owned land. SB–6 was occupied at the time of listing, is currently occupied. SB–6 is located 1.5 mi (2.4 km) south of Cañada de Agua Caliente (SB–5), which is also the nearest extant population. This unit is important to the conservation of the species because it will reduce the chance of losing the tidewater goby along this portion of the coast. It also allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region. Furthermore, as described above in SB–2, we believe this unit, and units SB–2, SB–3, SB–4, and SB–5, likely act as a metapopulation as defined in the ''Background'' section, and that designation of critical habitat at these five locations is necessary for the conservation of the tidewater goby along the Gaviota Coast in Santa Barbara County. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SB–7, Winchester/Bell Canyon (6 ac (3 ha))

This unit is located approximately 2.2 mi (3.5 km) west of the community of El Encanto Heights. On an intermittent basis, SB–7 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4).

PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit includes privately owned land, and land that is owned by local government. SB–7 was occupied at the time of listing and is currently occupied. SB–7 is located 4.3 mi (6.9 km) south of Gaviota Creek (SB–6). The unit is separated from the nearest extant population to the north, Tecolote Canyon (not proposed), by 0.3 mi (0.4 km). This unit is important to the conservation of the species because it allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

SB–8, Arroyo Burro (2 ac (1 ha))

This unit is located approximately 3.6 mi (5.8 km) west of the city of Santa Barbara. On an intermittent basis, SB–8 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit occurs on land that is owned by local government. SB–8 was not known to be occupied at the time of listing, but was subsequently found to be occupied. SB–8 is located 9.9 mi (15.9 km) south of Winchester/Bell Canyon (SB–7). The unit is separated from the nearest extant population to the south, in Laguna Channel/Mission Creek (SB–9), by 2.8 mi (4.5 km). This unit is essential to the conservation of the tidewater goby because it allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region.

SB–9, Mission Creek-Laguna Channel (14 ac (6 ha))

This unit is located on the southern margin of the city of Santa Barbara. On an intermittent basis, SB–9 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. A portion of this unit is owned by the city of Santa Barbara, and the remainder is privately owned. SB–9 was occupied at the time of listing, is currently occupied, and is likely a source population for this region. SB–9 is the southernmost of the nine Santa Barbara County units and is located 2.8 mi (4.5 km) south of Arroyo Burro (SB–8). The unit is separated from the nearest extant population to the south, in Sycamore Creek (not proposed), by 1.0 mi (1.5 km). This unit will reduce the chance of losing the tidewater goby along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

VEN–1, Ventura River (51 ac (20 ha))

This unit is located on the northern border of the city of Ventura. On an intermittent basis, VEN–1 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. A portion of this unit is on State-owned land, and the remainder is privately owned. VEN–1 was occupied at the time of listing, is currently occupied, and is likely a source population for this region. VEN–1 is the northernmost of the three Ventura County units and is located 23.4 mi (37.7 km) south of the Mission Creek-Laguna Channel unit (SB–9). The unit is separated from the nearest extant population to the south, the Santa Clara River (VEN–2), by 4.3 mi (7.0 km). This critical habitat unit provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). This unit is important to the conservation of the species because it is considered a source population, and it will reduce the chance of losing the tidewater goby along this portion of the coast, help conserve genetic diversity within the species, and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

VEN–2, Santa Clara River (350 ac (142 ha))

This unit is located about 4 mi (6.4 km) southeast of the city of Ventura and 7 mi (11.3 km) northwest of Port Hueneme. On an intermittent basis, VEN–2 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall summer that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. VEN–2 consists of State-owned lands, which are part of McGrath State Beach, and privately owned lands. VEN–2 was occupied by tidewater gobies at the time of listing, is currently occupied, and is likely a source population for this region. VEN–2 is located 4.3 mi (7.0 km) south of the Ventura River unit (SB–9), which is also the nearest extant population. This critical habitat unit provides habitat for a tidewater goby population that is genetically distinct (Dawson *et al.* 2001, p. 1172). This unit will reduce the chance of losing the tidewater goby along this portion of the coast, help conserve genetic diversity within the species, and help facilitate colonization of currently unoccupied locations. This critical habitat unit is known to have tens of thousands of tidewater gobies during certain times of the year (Swift 2006), and is considered one of the largest tidewater goby populations in southern California. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

VEN–3, J Street Drain-Ormond Lagoon (45 ac (18 ha))

This unit is located approximately 1 mi (1.6 km) east of Port Hueneme. On an intermittent basis, VEN–3 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists of State and local government lands. VEN–3 was occupied at the time of listing and is currently occupied. VEN–3 is the southernmost of the three Ventura County units and is located 4.3

mi (6.9 km) south of the Santa Clara River (VEN–2), which is also the nearest extant population. This unit allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

LA–1, Malibu Lagoon (64 ac (27 ha))

This unit is located 0.6 mi (1 km) east of Malibu Beach. On an intermittent basis, LA–1 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands that are part of Malibu Creek State Park. This unit was occupied at the time of listing, is currently occupied, and is likely a source population for this region. LA–1 is one of the two remaining extant populations of tidewater gobies within Los Angeles County, both of which are proposed as critical habitat units in this revision. LA–1 is located 29.6 mi (47.7 km) south of J Street Drain-Ormond Lagoon (VEN–3). The unit is separated from the nearest extant population to the south, in Topanga Canyon (LA–2), by 6.0 mi (9.6 km). This unit will reduce the chance of losing the tidewater goby along this portion of the coast and help facilitate colonization of currently unoccupied locations. Known threats in this unit that may require special management considerations or protection of the PCEs are described in Table 2.

LA–2, Topanga Creek (5 ac (2 ha))

This unit is approximately 5.5 mi (8.9 km) northwest of the city of Santa Monica. On an intermittent basis, LA–2 possesses a sandbar across the mouth of the lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary and thereby provides relatively stable conditions (PCE 4). PCEs 1, 2, and 3 occur throughout the unit, although their precise location during any particular time period may change in response to seasonal fluctuations in precipitation and tidal inundation. This unit consists entirely of State lands. LA–2 was not known to be occupied at the time of listing, however tidewater gobies were first detected at this locality in 2001 and the unit is currently occupied. Tidewater gobies in Topanga Canyon are probably derived from fish that dispersed from Malibu Creek. This location is one of the only two remaining localities in Los Angeles County that are occupied by tidewater gobies. LA–2 is located 6.0 mi (9.6 km) south of the Malibu Creek unit (LA–1), which is also the nearest extant population. This unit is essential to the conservation of the species because it allows for connectivity between tidewater goby source populations, and thereby supports gene flow and metapopulation dynamics in this region.

Effects of Critical Habitat Designation

Section 7 Consultation

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 species proposed for listing 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 as a result 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.

Once 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. Recent decisions by the 5th and 9th Circuit Courts of Appeals have invalidated our regulatory definition of ''adverse modification'' at 50 CFR 402.02 (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F.3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.*, 245 F.3d 434, 442F (5th Cir 2001)). Pursuant to current national policy and the statutory provisions of the Act, we determine destruction or adverse modification based on 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 its intended conservation role for the species.

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 certain instances, including where a new species is listed or critical habitat is subsequently designated that may be affected by the Federal action, where 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 the tidewater goby 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 the Tidewater Goby and its Critical Habitat

Jeopardy Standard

When performing jeopardy analyses for the tidewater goby, the Service applies an analytical framework that relies heavily on the importance of core area populations to the survival and recovery of the tidewater goby. 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 tidewater goby 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

The analytical framework described in the Director's December 9, 2004, memorandum is used to complete section 7(a)(2) analyses for Federal actions affecting tidewater goby critical habitat. 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 its intended conservation role for the species. Generally, the conservation role of tidewater goby critical habitat units is 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 the tidewater goby is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore should result in consultation for the tidewater goby include, but are not limited to:

(1) Actions such as channelization and water diversion that reduce the amount of space that is available for individual and population growth and normal behavior, and reduce or eliminate sites for breeding, reproduction, and rearing (or development) of offspring.

(2) Actions that substantially alter the natural hydrologic regime upstream of the designated critical habitat units. These activities could include, but are not limited to, ground water pumping or surface water diversion activities, construction of impoundments or flood control structures, or the release of water in excess of levels that historically occurred. Such activities could result in an atypical reduction or excess amount of water that is present in the aquatic habitats that tidewater gobies occupy, and alter salinity conditions that support this species.

(3) Actions that substantially alter the channel morphology of the proposed critical habitat units, or the areas upgradient from these units. Such activities may include, but are not limited to, channelization projects, road and bridge projects, removal of substrates, destruction and alteration of riparian vegetation, reduction of available floodplain, and removal of gravel or floodplain terrace materials. Such activities could increase water velocities and flush large numbers of tidewater gobies into the ocean especially during flood events.

(4) Actions that result in the discharge of agricultural and sewage effluents, or chemical or biological pollutants into the aquatic habitats where tidewater gobies occur. Such activities have the ability to degrade the water quality where tidewater gobies live, introduce toxic substances that can poison individual fish, adversely affect fish immune systems, and decrease the amount of oxygen in aquatic habitats where the species occurs.

(5) Actions that cause atypical levels of sedimentation in coastal wetland habitats or remove vegetative cover that stabilizes stream banks. Such activities could include, but are not limited to, grazing or mining activities, road construction projects, off-road vehicle use, and other watershed and floodplain disturbance activities. Such activities have the potential to alter the amount and composition of the substrate in the habitats where tidewater gobies occur, and thereby affect the species' ability to construct breeding burrows.

(6) Actions that result in the artificial breaching of lagoon habitats. Such

activities can reduce the amount of space that is available for individual and population growth; strand and desiccate tidewater goby adults, fry or eggs; and increase the risk they will be preyed upon by native or non-native predators as they become concentrated and exposed as water levels drop.

(7) Actions that create barriers that prevent tidewater gobies from accessing areas they would normally be able to access. These activities, which may include, but are not limited to, water diversions, road crossings, and sills, can reduce the amount of space that is available for individual and population growth, and reduce the number and extent of sites for breeding, reproduction, and rearing (or development) of offspring.

All of the units proposed as revised critical habitat, as well as those that have been exempted, to contain features essential to the conservation of the tidewater goby. With the exception of the Eel River, Lagunitas (Papermill) Creek, Pajaro River, Arroyo Burro, and Topanga Creek units, all of the proposed revised critical habitat units were occupied by the species at the time of listing. All of the proposed units are believed to be currently occupied by the tidewater goby. Federal agencies already consult with us on activities in areas currently occupied by the tidewater goby, or where the species may be affected by an action, to ensure that their actions do not jeopardize the continued existence of the tidewater goby.

Application of Section 4(a)(3)

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an Integrated Natural Resource Management Plan (INRMP). An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes an assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan. Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management, fish and wildlife habitat enhancement or modification, wetland protection, enhancement, and restoration where necessary to support fish and wildlife and enforcement of applicable natural resource laws.

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) amended the Act to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) now provides: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.''

We consult with the military on the development and implementation of INRMPs for installations with listed species. INRMPs developed by military installations located within the range of the proposed critical habitat designation for the tidewater goby were analyzed for exemption under the authority of 4(a)(3) of the Act.

Application of Section 4(a)(3)—Marine Corps Base Camp Pendleton

At the time we designated critical habitat in 2000, the military had not completed an INRMP for the Marine Corps Base Camp Pendleton (''Base'') in northwestern San Diego County, and section 4(a)(3)(B)(i) of the Act did not exist. Therefore, the areas where the tidewater goby occurred on the Base were included in the critical habitat designation. However, subsequently the Base has completed an INRMP and, based on the above considerations and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that conservation efforts identified in the INRMP for the Base provide benefits to the tidewater goby occurring in habitats within or adjacent to the Base. This includes approximately 838 ac (340 ha) of habitat on the Base that are subject to the INRMP. This habitat is located in the following areas: San Mateo Creek, San Onofre Creek, Las Flores/Pulgas Creek, Hidden Lagoon, Aliso Canyon, French Lagoon, Cockleburr Canyon, and the Santa Margarita River. Therefore, we are proposing to remove the currently designated habitat for tidewater goby on this installation as this critical habitat must be exempted pursuant to section 4(a)(3) of the Act for the reasons described below.

In 2001, the Marine Corps completed an INRMP per the Sikes Act, as amended. All of the currently occupied tidewater goby locations in San Diego County are on the Base. Additionally, in 1995, the Marine Corps and the Service completed a large-scale programmatic consultation under section 7 of the Act addressing, among other species, the tidewater goby and its habitat. All of the conservation measures, including the Base's Estuarine/Beach Ecosystem Conservation Plan and the terms and conditions from that consultation, have been incorporated into the INRMP. The objective of the Estuarine/Beach Ecosystem Conservation Plan is to ''manage and protect the natural resources along the Base's coastline emphasizing coastal lagoons and the Santa Margarita River Estuary'', which includes tidewater goby habitat. Specific measures in the INRMP that benefit the tidewater goby include: (1) General avoidance of estuarine wetlands by all military activities, (2) maintenance of currently and historically occupied tidewater goby habitat, (3) compensation for unavoidable impacts, (4) regular monitoring of tidewater goby populations, and (5) controlling and removing exotic plants and fish. Additionally, the Base is exploring the potential for habitat enhancement to benefit the tidewater goby, including deepening smaller lagoons. Further, the Base's environmental security staff reviews Base projects and enforces existing regulations and Base orders that, through their implementation, avoid and minimize impacts to natural resources, including tidewater gobies and their habitat.

Habitat features essential to the conservation of the tidewater goby exist on the Base; however, designating critical habitat on this military installation may impact its role as the Marine Corps' premier West Coast amphibious training base and therefore affect the nation's military readiness. Activities occurring on the Base are currently being conducted in a manner that minimizes impacts to tidewater goby habitat. In addition, the Base already programmatically consulted for regularly occurring activities and regularly consults on any of their actions that fall outside of that programmatic consultation. This military installation has an approved INRMP that provides a benefit to the tidewater goby and the Marine Corps has committed to work closely with the Service and the State wildlife agency to continually refine the existing INRMP as part of the Sikes Act's INRMP review process.

Vandenberg Air Force Base

Based on the considerations outlined above in the introduction to this section

and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that conservation efforts identified in the INRMP for Vandenberg Air Force Base (VAFB) in Santa Barbara County provide benefits to the tidewater goby occurring in habitats within or adjacent to VAFB. This includes approximately 775 ac (314 ha) of habitat on VAFB. This habitat is located in the following areas: Shuman Canyon, San Antonio Creek, and the Santa Ynez River. Therefore, we are not including critical habitat for tidewater goby on this installation pursuant to section 4(a)(3) of the Act for the reasons described below.

VAFB completed an INRMP in 1997, prior to the passage and implementation of the Sikes Act Improvements Act of 1997; in 2003, VAFB revised their INRMP, and we provided comments on the revised INRMP, in a letter dated August 2, 2004. The older plan and the revised INRMP provide conservation measures for the tidewater goby, as well as for the management of important wetland habitats on the base.

VAFB's INRMP benefits tidewater gobies through: (1) Avoidance of tidewater gobies and their habitat, whenever possible, in project planning; (2) scheduling of activities that may affect tidewater gobies outside of the peak breeding period (March–July); (3) coordination with VAFB water quality staff to prevent degradation and contamination of aquatic habitats; and (4) prohibiting the introduction of nonnative fishes into streams on-base. Further, VAFB's environmental staff reviews projects and enforces existing regulations and orders that, through their implementation, avoid and minimize impacts to natural resources, including tidewater gobies and their habitat. In addition, VAFB's INRMP provides protection to aquatic habitats for the tidewater goby by excluding cattle from wetlands and riparian areas through the installation and maintenance of fencing. VAFB's INRMP specifies periodic monitoring of the distribution and abundance of tidewater goby populations on the base.

Habitat features essential to the conservation of the tidewater goby exist on VAFB; however, designating critical habitat on this military installation may impact its mission of launching and tracking of satellites and testing and evaluating missile systems, and therefore affect the nation's military readiness. Activities occurring on VAFB are currently being conducted in a manner that minimizes impacts to tidewater goby habitat. This military installation has an approved INRMP that provides a benefit to the tidewater goby, and VAFB has committed to work closely with the Service and the State wildlife agency to continually refine their existing INRMP as part of the Sikes Act's INRMP review process. Therefore, approximately 775 ac (314 ha) of critical habitat subject to the INRM at Shuman Canyon, San Antonio Creek, and the Santa Ynez River are exempted from critical habitat in this proposal to revise critical habitat.

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 [s]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. The Service is conducting an economic analysis of the impacts of the proposal to revise critical habitat and related factors, which will be available for public review and comment. Based on public comment on that document, the proposed revision itself, and the information in the final economic analysis, particular areas may be excluded from critical habitat by the Secretary under the provisions of section 4(b)(2) of the Act. This is provided for in the Act, and in our implementing regulations at 50 CFR 242.19.

Economic Analysis

An analysis of the economic impacts of proposing to revise critical habitat for the tidewater goby is being prepared. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the Internet at *http://www.fws.gov/ventura/* or by contacting the Ventura Fish and Wildlife Office directly (see **ADDRESSES** section).

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposal to revise critical habitat.

We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests for public hearings must be made in writing at least 15 days prior to the close of the public comment period. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of the sections, use of headings, paragraphing, and so forth) aid or reduce its clarity? (4) Is the description

of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? (5) What else could we do to make this proposed rule easier to understand?

Send a copy of any comments on how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to this address: *Exsec@ios.doi.gov.*

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule in that it may raise novel legal and policy issues, but it is not anticipated to have an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the tight timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed this rule. We are preparing a draft economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific area as critical habitat. This economic analysis also will be used to determine compliance with Executive Order 12866, Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act, Executive Order 12630, Executive Order 13211, and Executive Order 12875.

Further, Executive Order 12866 directs Federal Agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once it has been determined that the Federal regulatory action is appropriate, then the agency will need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat providing that the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the subspecies. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

Within these areas, the types of Federal actions or authorized activities that we have identified as potential concerns are listed above in the section on Section 7 Consultation. The availability of the draft economic analysis will be announced in the **Federal Register** and in local newspapers so that it is available for public review and comments. The draft economic analysis can be obtained from the Internet Web site at *http://www.fws.gov/ventura/* or by contacting the Ventura Fish and Wildlife Office directly (see **ADDRESSES**).

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

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

At this time, the Service lacks the available economic information necessary to provide an adequate factual basis for the required RFA finding. Therefore, the RFA finding is deferred until completion of the draft economic analysis prepared pursuant to section 4(b)(2) of the Act and E.O. 12866. This draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, the Service will publish a notice of availability of the draft economic analysis of the proposal to revise critical habitat and reopen the public comment period for the proposed revision for an additional 60 days. The Service will include with the notice of availability, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. The Service has concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the RFA. Deferring the RFA finding in this manner will ensure that the Service makes a sufficiently informed determination based on adequate economic information and provides the necessary opportunity for public comment.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 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. This proposed rule to designate revised critical habitat for the tidewater goby is a significant regulatory action under Executive Order 12866, but it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon State, local, 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 that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) We do not believe that this rule will significantly or uniquely affect small governments because only about 2 percent (231 ac (93 ha)) of the total proposed critical habitat designation for the tidewater goby is owned by small government entities. As such, a Small Government Agency Plan is not required. We will, however, further evaluate this issue as we conduct our economic analysis and revise this assessment if appropriate.

Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of designating critical habitat for the tidewater goby in a takings implications assessment. The takings implications assessment concludes that this designation of critical habitat for the tidewater goby does not pose significant takings implications. However, we will further evaluate this issue as we conduct our economic analysis and review and revise this assessment as warranted.

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 Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this proposal to revise critical habitat with, appropriate State resource agencies in the State of California. The revised designation of critical habitat in areas currently occupied by the tidewater goby imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The revised 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 meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed revising critical habitat in accordance with the provisions of the Endangered Species Act. This proposed 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 the tidewater goby.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (*Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996)).

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 at the time of listing that contain the features essential for the conservation and no tribal lands that are unoccupied areas that are essential for the conservation of the tidewater goby. Therefore, revised critical habitat for the tidewater goby 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**).

Author(s)

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.

Proposed Regulation Promulgation

Accordingly, we propose to 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 § 17.95(e), revise the entry for ''Tidewater goby (*Eucyclogobius newberryi*)'' under ''FISHES'' to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(e) *Fishes.*

* * * * *

Tidewater Goby (*Eucyclogobius newberrii*)

(1) Critical habitat units are depicted for Del Norte, Humboldt, Mendocino, Sonoma, Marin, San Mateo, Santa Cruz, Monterey, San Luis Obispo, Santa Barbara, Ventura, and Los Angeles Counties, California, on the maps below.

(2) The primary constituent elements of critical habitat for the tidewater goby are the habitat components that provide:

(i) Persistent, shallow (in the range of about 0.1–2 m), still-to-slow-moving, aquatic habitat most commonly ranging in salinity from less than 0.5 ppt to about 10–12 ppt;

(ii) Substrates (e.g., sand, silt, mud) suitable for the construction of burrows for reproduction;

(iii) Submerged and emergent aquatic vegetation, such as *Potamogeton pectinatus* and *Ruppia maritima*, that provides protection from predators; and

(iv) Presence of a sandbar(s) across the mouth of a lagoon or estuary during the late spring, summer, and fall that closes or partially closes the lagoon or estuary, thereby providing relatively stable water levels and salinity.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, airports, and roads, and the land on which such structures are located) existing on the effective date of this rule and not containing one or more of the primary constituent elements.

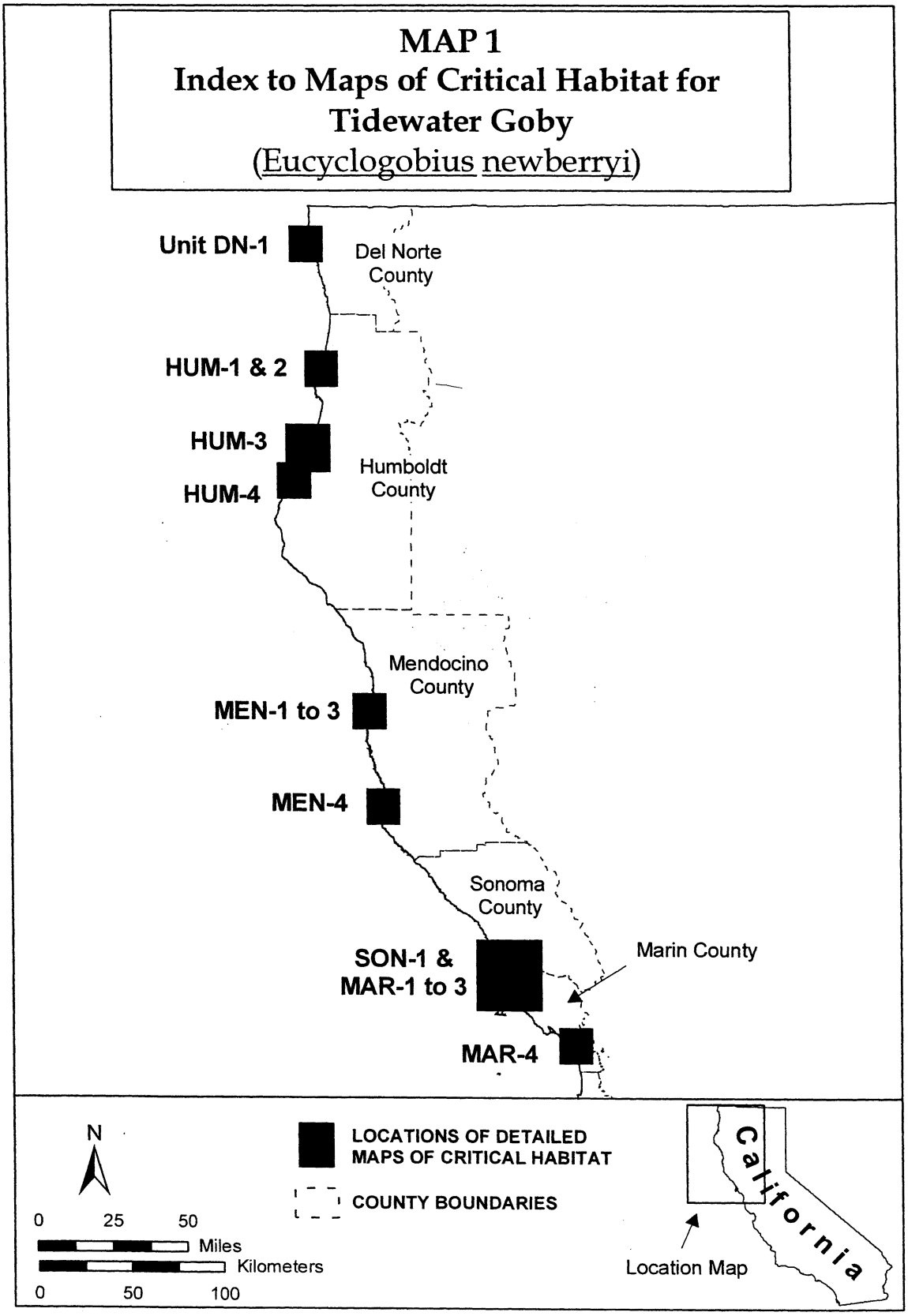
Critical habitat map units.

(4) Boundaries of critical habitat are defined for most units using National Wetlands Inventory (NWI) data (both published data available over the Internet and in-publication provisional data). Where NWI data was lacking, unit boundaries are digitized directly on imagery from the Department of Agriculture's National Aerial Imagery Program data (NAIP) acquired in 2005. NAIP and NWI data are projected to Universal Transverse Mercator (UTM), zones 10 and 11, on the North American Datum of 1983.

(5) Index maps of tidewater goby critical habitat.

(i) Note: Index Map 1 follows:

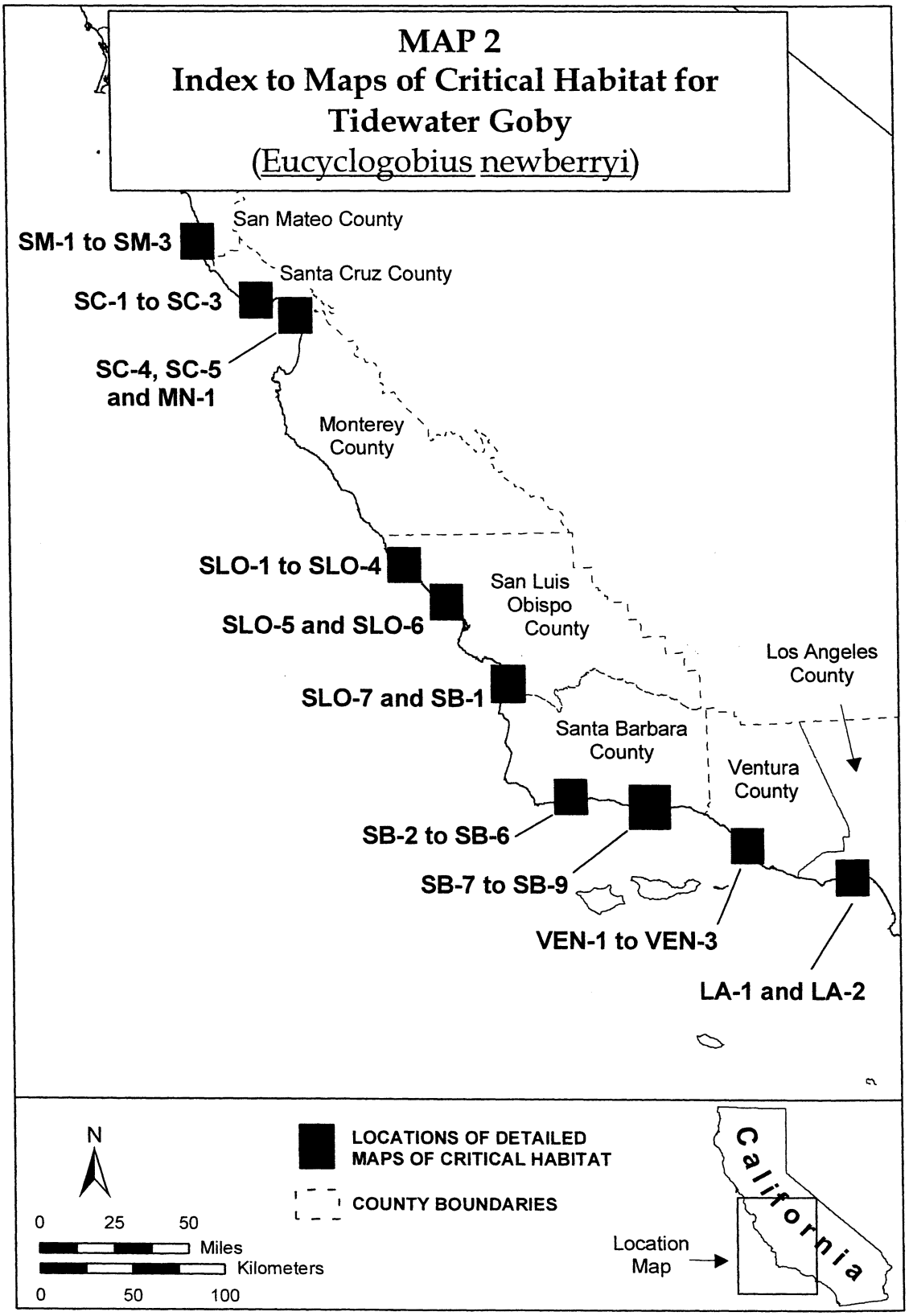
BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(ii) Note: Index Map 2 follows:

BILLING CODE 4310–55–P



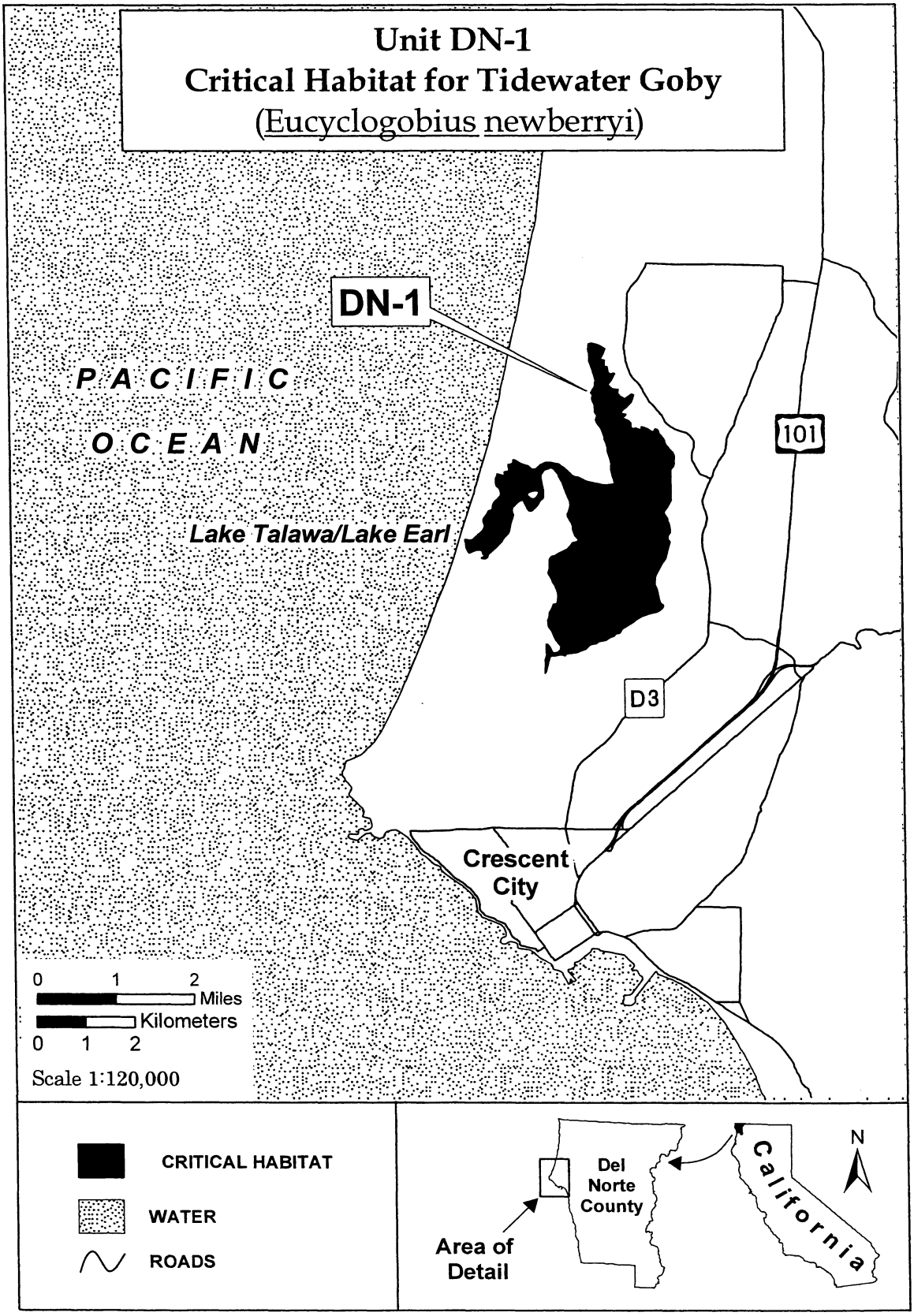
BILLING CODE 4310–55–C

(6) Unit DN–1, Del Norte County, California.

(i) From USGS 1:24,000 scale quadrangle Crescent City. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 398215, 4631301; 398219, 4631313; 398228, 4631341; 398279, 4631340; 398325, 4631324; 398371, 4631334; 398505, 4631467; 398579, 4631522; 398623, 4631595; 398624, 4631645; 398600, 4631737; 398603, 4631783; 398665, 4631868; 398689, 4631921; 398709, 4631944; 398773, 4631963; 398796, 4631999; 398808, 4632080; 398826, 4632118; 398947, 4632241; 398965, 4632271; 398963, 4632327; 398939, 4632408; 398882, 4632465; 398859, 4632511; 398866, 4632625; 398895, 4632716; 398906, 4632726; 399042, 4632686; 399052, 4632691; 399053, 4632760; 399066, 4632775; 399135, 4632782; 399133, 4632845; 399118, 4632863; 399124, 4632921; 399193, 4632933; 399216, 4632958; 399222, 4633001; 399245, 4633026; 399286, 4633023; 399404, 4632945; 399553, 4632890; 399608, 4632831; 399638, 4632823; 399700, 4632835; 399800, 4632920; 399905, 4632967; 399943, 4632974; 399958, 4632972; 399988, 4632969; 400004, 4632968; 400113, 4632943; 400184, 4632937; 400229, 4632899; 400302, 4632852; 400410, 4632749; 400447, 4632700; 400513, 4632666; 400579, 4632657; 400763, 4632563; 401092, 4632485; 401201, 4632486; 401217, 4632506; 401290, 4632508; 401308, 4632531; 401307, 4632604; 401277, 4632648; 401244, 4632839; 401238, 4632974; 401205, 4633104; 401178, 4633167; 401164, 4633284; 401140, 4633371; 401108, 4633446; 401110, 4633494; 401081, 4633570; 401052, 4633650; 401017, 4633717; 400970, 4633771; 400929, 4633861; 400957, 4633954; 400911, 4634017; 400907, 4634099; 400909, 4634177; 400889, 4634229; 400864, 4634308; 400869, 4634386; 400832, 4634422; 400925, 4634573; 400940, 4634708; 400911, 4634810; 400810, 4635094; 400815, 4635251; 400789, 4635356; 400797, 4635462; 400870, 4635486; 401038, 4635437; 401156, 4635368; 401124, 4635266; 401076, 4635197; 401062, 4635148; 401147, 4635126; 401131, 4635003; 401194, 4634989; 401214, 4634885; 401247, 4634833; 401329, 4634850; 401350, 4634841; 401294, 4634706; 401211, 4634613; 401249, 4634557; 401305, 4634526; 401355, 4634518; 401421, 4634511; 401410, 4634429; 401464, 4634365; 401552, 4634320; 401699, 4634412; 401744, 4634384; 401696, 4634244; 401608, 4634146; 401566, 4634111; 401536, 4634084; 401504, 4634063; 401480, 4634029; 401490, 4634000; 401575, 4633987; 401577, 4633949; 401510, 4633917; 401508, 4633894; 401621, 4633845; 401671, 4633798; 401683, 4633704; 401705, 4633678; 401728, 4633675; 401779, 4633693; 401809, 4633674; 401885, 4633650; 401889, 4633719; 401924, 4633721; 402038, 4633671; 402126, 4633606; 402151, 4633606; 402175, 4633667; 402208, 4633671; 402241, 4633633; 402253, 4633584; 402355, 4633459; 402377, 4633415; 402380, 4633385; 402402, 4633341; 402477, 4633241; 402534, 4633187; 402574, 4633105; 402580, 4633018; 402563, 4632904; 402548, 4632859; 402506, 4632806; 402500, 4632743; 402503, 4632199; 402497, 4632166; 402429, 4632027; 402352, 4631932; 402346, 4631909; 402376, 4631845; 402431, 4631783; 402433, 4631707; 402453, 4631684; 402483, 4631531; 402483, 4631491; 402431, 4631415; 402425, 4631372; 402433, 4631344; 402463, 4631303; 402465, 4631283; 402368, 4630918; 402298, 4630820; 402160, 4630568; 402153, 4630383; 402182, 4630308; 402237, 4630049; 402272, 4629980; 402302, 4629971; 402324, 4629943; 402324, 4629915; 402255, 4629848; 402170, 4629795; 402002, 4629757; 401859, 4629698; 401756, 4629646; 401669, 4629581; 401487, 4629467; 401449, 4629435; 401397, 4629351; 401315, 4629337; 401292, 4629300; 401210, 4629270; 401102, 4629203; 400998, 4629189; 400952, 4629170; 400921, 4629129; 400814, 4629118; 400781, 4629103; 400701, 4629023; 400622, 4629001; 400517, 4628950; 400306, 4628930; 400291, 4628915; 400280, 4628884; 400262, 4628882; 400214, 4628900; 400161, 4628906; 400059, 4628872; 399968, 4628873; 399952, 4628853; 399882, 4628547; 399858, 4628519; 399838, 4628512; 399839, 4628588; 399861, 4628702; 399862, 4628758; 399850, 4628796; 399879, 4628908; 399870, 4628984; 399874, 4629121; 399885, 4629134; 399902, 4629134; 399950, 4629087; 400012, 4628967; 400040, 4628951; 400108, 4628963; 400168, 4629013; 400169, 4629089; 400069, 4629222; 400024, 4629304; 399990, 4629406; 399918, 4629514; 399917, 4629649; 399944, 4629714; 399942, 4629798; 399981, 4629859; 400033, 4629970; 400107, 4629994; 400118, 4630030; 400130, 4630189; 400096, 4630259; 400067, 4630361; 400015, 4630443; 400010, 4630473; 399975, 4630535; 399933, 4630632; 399939, 4630685; 399958, 4630728; 399953, 4630918; 399976, 4630964; 400002, 4630981; 400068, 4630996; 400135, 4631045; 400326, 4631134; 400399, 4631220; 400430, 4631267; 400453, 4631280; 400519, 4631292; 400550, 4631309; 400550, 4631345; 400488, 4631409; 400461, 4631516; 400446, 4631547; 400440, 4631608; 400423, 4631666; 400336, 4631835; 400337, 4631866; 400371, 4631952; 400398, 4632068; 400384, 4632144; 400359, 4632208; 400292, 4632357; 400242, 4632535; 400177, 4632645; 400165, 4632699; 400130, 4632750; 400063, 4632825; 400037, 4632838; 400007, 4632841; 399956, 4632826; 399884, 4632792; 399853, 4632766; 399831, 4632723; 399812, 4632678; 399823, 4632561; 399856, 4632388; 399859, 4632210; 399781, 4632145; 399737, 4632049; 399631, 4631947; 399601, 4631929; 399540, 4631945; 399500, 4631997; 399431, 4632158; 399416, 4632165; 399362, 4632153; 399223, 4632011; 399210, 4631980; 399209, 4631924; 399226, 4631861; 399225, 4631787; 399181, 4631696; 399145, 4631514; 399117, 4631451; 399021, 4631353; 398972, 4631262; 398879, 4631164; 398707, 4631027; 398691, 4631002; 398688, 4630959; 398678, 4630944; 398644, 4630929; 398561, 4630930; 398561, 4630950; 398620, 4630993; 398585, 4631026; 398570, 4631077; 398538, 4631108; 398454, 4631109; 398313, 4631043; 398283, 4631063; 398241, 4631163; 398237, 4631252; returning to 398215, 4631301; excluding land bounded by: 399568, 4632334; 399524, 4632296; 399527, 4632273; 399577, 4632222; 399640, 4632198; 399676, 4632205; 399727, 4632260; 399748, 4632318; 399744, 4632344; 399716, 4632362; 399655, 4632360; 399645, 4632357; returning to 399568, 4632334.

(ii) Note: Map of Unit DN–1 follows:

BILLING CODE 4310–55–P



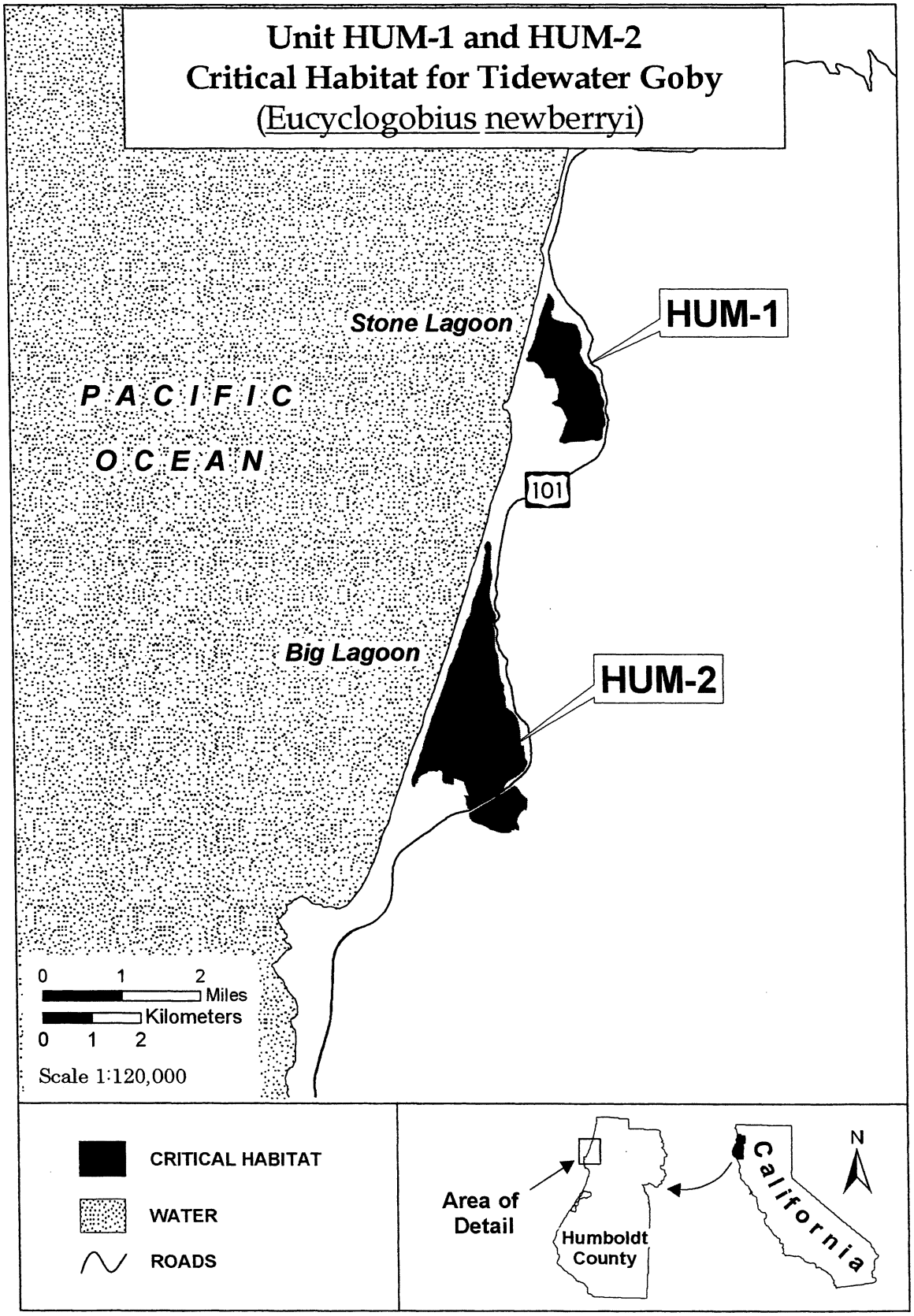
BILLING CODE 4310–55–C

(7) Unit HUM–1, Humboldt County, California.

(i) From USGS 1:24,000 scale quadrangles Orick and Rodgers Peak. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 407547, 4566545; 407550, 4566573; 407596, 4566611; 407600, 4566697; 407685, 4566848; 407746, 4567008; 407759, 4567078; 407799, 4567202; 407828, 4567303; 407832, 4567384; 407974, 4567789; 408015, 4567860; 408016, 4567903; 408008, 4567923; 408024, 4567944; 408042, 4567946; 408057, 4567930; 408084, 4567895; 408094, 4567849; 408121, 4567815; 408131, 4567787; 408140, 4567691; 408114, 4567594; 408068, 4567595; 408070, 4567519; 408081, 4567450; 408094, 4567424; 408157, 4567386; 408316, 4567335; 408524, 4567320; 408565, 4567299; 408605, 4567256; 408669, 4567113; 408674, 4567067; 408700, 4566955; 408701, 4566818; 408646, 4566722; 408641, 4566689; 408681, 4566625; 408738, 4566495; 408790, 4566408; 408830, 4566364; 408890, 4566326; 408963, 4566238; 408983, 4566187; 408997, 4566116; 409047, 4566042; 409059, 4566011; 409061, 4565942; 409087, 4565790; 409147, 4565687; 409151, 4565626; 409115, 4565540; 409114, 4565492; 409134, 4565454; 409153, 4565319; 409156, 4565200; 409114, 4565098; 409104, 4565050; 409102, 4564916; 409066, 4564881; 409023, 4564863; 408982, 4564859; 408936, 4564880; 408858, 4564883; 408751, 4564857; 408484, 4564842; 408402, 4564830; 408359, 4564805; 408321, 4564806; 408230, 4564835; 408217, 4564848; 408220, 4564881; 408282, 4564984; 408311, 4565057; 408327, 4565146; 408385, 4565293; 408380, 4565326; 408314, 4565466; 408304, 4565505; 408271, 4565548; 408223, 4565572; 408130, 4565596; 408084, 4565629; 408087, 4565660; 408174, 4565699; 408190, 4565717; 408201, 4565793; 408222, 4565849; 408220, 4565955; 408181, 4566037; 408164, 4566124; 408132, 4566175; 407982, 4566169; 407939, 4566197; 407930, 4566266; 407815, 4566445; 407722, 4566523; 407580, 4566519; returning to 407547, 4566545.

(ii) Note: Map of Units HUM–1 and HUM–2 follows.

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(8) Unit HUM–2, Humboldt County, California.

(i) From USGS 1:24,000 scale quadrangles Rodgers Peak and Trinidad. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 405094, 4557688; 405100, 4557744; 405129, 4557807; 405137, 4557852; 405179, 4557936; 405195, 4558006; 405266, 4558196; 405272, 4558252; 405332, 4558393; 405341, 4558464; 405397, 4558649; 405479, 4558879; 405535, 4559074; 405569, 4559137; 405627, 4559309; 405708, 4559498; 405732, 4559592; 405763, 4559632; 405847, 4559862; 405850, 4559913; 405893, 4560073; 405961, 4560234; 405995, 4560300; 406053, 4560459; 406099, 4560535; 406102, 4560586; 406176, 4560803; 406180, 4560862; 406260, 4561023; 406274, 4561099; 406336, 4561175; 406349, 4561258; 406368, 4561312; 406382, 4561388; 406416, 4561524; 406461, 4561618; 406471, 4561671; 406526, 4561805; 406550, 4561835; 406578, 4561908; 406600, 4562053; 406611, 4562071; 406639, 4562294; 406643, 4562408; 406674, 4562489; 406675, 4562563; 406661, 4562616; 406664, 4562654; 406680, 4562702; 406698, 4562730; 406731, 4562742; 406758, 4562714; 406780, 4562645; 406770, 4562399; 406752, 4562226; 406782, 4562132; 406784, 4562089; 406791, 4562079; 406790, 4561964; 406769, 4561896; 406730, 4561655; 406742, 4561541; 406749, 4561535; 406795, 4561316; 406817, 4561265; 406857, 4561214; 406872, 4561178; 406871, 4561145; 406812, 4561055; 406799, 4561024; 406827, 4560877; 406829, 4560546; 406853, 4560442; 406885, 4560365; 406918, 4560162; 406914, 4560030; 406935, 4559890; 406950, 4559857; 406957, 4559816; 407017, 4559729; 407016, 4559635; 407005, 4559581; 407052, 4559464; 407051, 4559439; 407038, 4559396; 407059, 4559261; 407178, 4559173; 407255, 4559081; 407305, 4558973; 407340, 4558759; 407348, 4558538; 407367, 4558454; 407377, 4558449; 407418, 4558456; 407423, 4558245; 407432, 4558207; 407475, 4558133; 407474, 4558077; 407451, 4558021; 407401, 4557943; 407260, 4557821; 407078, 4557703; 407035, 4557668; 407006, 4557623; 406988, 4557555; 406934, 4557532; 406874, 4557490; 406915, 4557415; 406916, 4557415; 407112, 4557533; 407219, 4557613; 407252, 4557597; 407310, 4557530; 407325, 4557479; 407362, 4557428; 407458, 4557351; 407472, 4557318; 407468, 4557163; 407457, 4557112; 407427, 4557125; 407402, 4557125; 407353, 4557085; 407296, 4556997; 407267, 4556924; 407259, 4556860; 407276, 4556792; 407310, 4556730; 407310, 4556712; 407284, 4556690; 407224, 4556719; 407201, 4556711; 407193, 4556688; 407150, 4556679; 407129, 4556649; 407083, 4556634; 406936, 4556631; 406840, 4556662; 406792, 4556683; 406726, 4556699; 406686, 4556735; 406587, 4556795; 406428, 4556840; 406337, 4556884; 406292, 4556946; 406280, 4557002; 406285, 4557027; 406306, 4557047; 406833, 4557365; 406795, 4557435; 406716, 4557380; 406588, 4557316; 406361, 4557184; 406292, 4557149; 406261, 4557149; 406239, 4557173; 406219, 4557239; 406215, 4557313; 406191, 4557404; 406186, 4557407; 406277, 4557408; 406168, 4557710; 405948, 4557797; 405948, 4557648; 405763, 4557689; 405752, 4557707; 405737, 4557738; 405728, 4557779; 405728, 4557810; 405732, 4557839; 405741, 4557861; 405733, 4557944; 405655, 4557962; 405615, 4557924; 405524, 4557946; 405456, 4557939; 405392, 4557897; 405297, 4557858; 405264, 4557828; 405238, 4557790; 405208, 4557684; 405170, 4557664; 405146, 4557603; 405126, 4557611; returning to 405094, 4557688.

(ii) Note: Map of Unit HUM–2 is provided on the map in paragraph (7)(ii) of this entry.

(9) Unit HUM–3, Humboldt County, California.

(i) From USGS 1:24,000 scale quadrangles Tyee City. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 405066, 4529314; 405079, 4529311; 405089, 4529308; 405101, 4529303; 405111, 4529297; 405117, 4529288; 405122, 4529288; 405124, 4529293; 405127, 4529303; 405131, 4529315; 405139, 4529323; 405140, 4529328; 405134, 4529335; 405126, 4529339; 405121, 4529352; 405117, 4529353; 405108, 4529355; 405110, 4529361; 405121, 4529366; 405136, 4529367; 405141, 4529362; 405137, 4529354; 405137, 4529349; 405146, 4529341; 405158, 4529336; 405161, 4529328; 405161, 4529322; 405154, 4529315; 405146, 4529308; 405141, 4529295; 405139, 4529273; 405130, 4529262; 405112, 4529252; 405099, 4529259; 405090, 4529274; 405089, 4529294; 405085, 4529296; 405075, 4529300; 405070, 4529307; returning to 405066, 4529314.

(ii) From USGS 1:24,000 scale quadrangle Arcata North. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 405163, 4529039; 405174, 4529059; 405184, 4529079; 405184, 4529091; 405185, 4529106; 405204, 4529103; 405209, 4529111; 405220, 4529135; 405232, 4529158; 405248, 4529168; 405248, 4529155; 405236, 4529137; 405231, 4529113; 405221, 4529095; 405206, 4529084; 405200, 4529062; 405188, 4529041; 405185, 4529031; 405213, 4529004; 405244, 4528990; 405259, 4528982; 405264, 4528990; 405264, 4529004; 405264, 4529023; 405265, 4529041; 405265, 4529051; 405253, 4529072; 405261, 4529119; 405275, 4529150; 405283, 4529165; 405296, 4529172; 405310, 4529192; 405332, 4529201; 405349, 4529201; 405375, 4529219; 405402, 4529231; 405429, 4529227; 405452, 4529225; 405492, 4529233; 405515, 4529233; 405530, 4529228; 405554, 4529232; 405574, 4529237; 405595, 4529237; 405595, 4529225; 405579, 4529223; 405543, 4529213; 405523, 4529208; 405493, 4529217; 405469, 4529212; 405442, 4529206; 405413, 4529209; 405397, 4529204; 405355, 4529185; 405343, 4529181; 405327, 4529178; 405295, 4529154; 405268, 4529082; 405275, 4529064; 405288, 4529045; 405283, 4529028; 405280, 4529011; 405279, 4528980; 405272, 4528968; 405257, 4528962; 405253, 4528929; 405240, 4528913; 405237, 4528921; 405237, 4528934; 405239, 4528952; 405244, 4528972; 405216, 4528981; 405180, 4529007; 405166, 4529027; returning to 405163, 4529039.

(iii) From USGS 1:24,000 scale quadrangles Tyee City. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 404239, 4528501; 404247, 4528509; 404275, 4528506; 404290, 4528506; 404312, 4528520; 404312, 4528532; 404306, 4528550; 404312, 4528567; 404326, 4528569; 404326, 4528564; 404334, 4528571; 404347, 4528584; 404355, 4528593; 404368, 4528597; 404393, 4528612; 404430, 4528623; 404444, 4528632; 404466, 4528628; 404475, 4528623; 404493, 4528623; 404523, 4528629; 404550, 4528646; 404569, 4528670; 404586, 4528686; 404612, 4528692; 404660, 4528695; 404679, 4528708; 404694, 4528719; 404707, 4528724; 404716, 4528726; 404730, 4528744; 404746, 4528757; 404758, 4528770; 404781, 4528786; 404791, 4528795; 404796, 4528807; 404795, 4528829; 404775, 4528866; 404761, 4528885; 404740, 4528891; 404724, 4528891; 404710, 4528879; 404700, 4528869; 404686, 4528869; 404676, 4528879; 404676, 4528897; 404677, 4528912; 404686, 4528912; 404689, 4528899; 404691, 4528885; 404698, 4528885; 404712, 4528897; 404730, 4528904; 404753, 4528903; 404772, 4528897; 404790, 4528871; 404814, 4528822; 404815, 4528806; 404812, 4528789; 404809, 4528776; 404810, 4528770; 404834, 4528767; 404854, 4528766;

404885, 4528756; 404905, 4528756; 404918, 4528767; 404924, 4528788; 404923, 4528837; 404931, 4528838; 404935, 4528832; 404934, 4528784; 404928, 4528761; 404918, 4528749; 404906, 4528743; 404887, 4528744; 404861, 4528751; 404846, 4528754; 404822, 4528756; 404803, 4528757; 404795, 4528762; 404783, 4528753; 404772, 4528745; 404755, 4528741; 404743, 4528735; 404732, 4528727; 404722, 4528712; 404708, 4528701; 404696, 4528695; 404682, 4528686; 404672, 4528683; 404638, 4528679; 404618, 4528675; 404605, 4528672; 404585, 4528658; 404563, 4528639; 404540, 4528624; 404505, 4528612; 404475, 4528609; 404448, 4528608; 404417, 4528603; 404385, 4528592; 404358, 4528571; 404346, 4528562; 404333, 4528544; 404323, 4528518; 404304, 4528498; 404291, 4528492; 404244, 4528496; returning to 404239, 4528501.

(iv) From USGS 1:24,000 scale quadrangle Tyee City. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 404741, 4528632; 404748, 4528640; 404760, 4528654; 404791, 4528683; 404812, 4528695; 404832, 4528699; 404854, 4528694; 404890, 4528667; 404915, 4528656; 404934, 4528658; 404965, 4528679; 404970, 4528702; 404988, 4528718; 405013, 4528721; 405032, 4528722; 405060, 4528734; 405082, 4528734; 405098, 4528734; 405123, 4528745; 405151, 4528769; 405173, 4528774; 405201, 4528780; 405218, 4528778; 405236, 4528789; 405247, 4528774; 405235, 4528764; 405205, 4528758; 405182, 4528758; 405154, 4528745; 405127, 4528725; 405103, 4528715; 405076, 4528715; 405055, 4528713; 405032, 4528702; 405020, 4528698; 404989, 4528681; 404981, 4528648; 404969, 4528632; 404966, 4528569; 404977, 4528534; 404981, 4528503; 405000, 4528469; 404998, 4528459; 404981, 4528430; 404980, 4528349; 404978, 4528329; 404968, 4528332; 404961, 4528355; 404958, 4528423; 404964, 4528439; 404980, 4528463; 404980, 4528471; 404964, 4528502; 404961, 4528524; 404945, 4528567; 404945, 4528603; 404945, 4528628; 404942, 4528638; 404934, 4528623; 404925, 4528616; 404906, 4528626; 404899, 4528639; 404896, 4528644; 404855, 4528670; 404841, 4528679; 404828, 4528682; 404811, 4528677; 404782, 4528651; 404762, 4528624; 404746, 4528624; returning to 404741, 4528632.

(v) From USGS 1:24,000 scale quadrangle Tyee City. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 404557, 4528121; 404567, 4528121; 404584, 4528095; 404593, 4528061; 404619, 4528067; 404641, 4528069; 404679, 4528071; 404796, 4528068; 404850, 4528078; 404855, 4528072; 404850, 4528061; 404836, 4528050; 404597, 4528047; 404575, 4528051; 404572, 4528060; 404572, 4528077; 404572, 4528089; 404561, 4528100; returning to 404557, 4528121.

(vi) From USGS 1:24,000 scale quadrangle Tyee City. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 404115, 4527638; 404116, 4527670; 404128, 4527680; 404140, 4527673; 404158, 4527668; 404170, 4527663; 404187, 4527670; 404202, 4527681; 404214, 4527700; 404220, 4527733; 404225, 4527780; 404234, 4527849; 404259, 4527931; 404267, 4528007; 404277, 4528012; 404277, 4527958; 404274, 4527924; 404256, 4527839; 404254, 4527797; 404247, 4527738; 404235, 4527688; 404227, 4527644; 404207, 4527596; 404180, 4527555; 404165, 4527561; 404157, 4527577; 404140, 4527591; 404126, 4527611; returning to 404115, 4527638.

(vii) From USGS 1:24,000 scale quadrangles Tyee City and Arcata North. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 404279, 4526903; 404312, 4526977; 404324, 4527086; 404336, 4527131; 404384, 4527228; 404452, 4527291; 404497, 4527349; 404526, 4527410; 404563, 4527503; 404609, 4527598; 404671, 4527686; 404788, 4527856; 404817, 4527901; 404826, 4527940; 404847, 4527983; 404873, 4528016; 404887, 4528014; 404896, 4528008; 404856, 4527955; 404842, 4527932; 404842, 4527916; 404837, 4527882; 404819, 4527851; 404790, 4527825; 404742, 4527759; 404680, 4527670; 404630, 4527603; 404600, 4527558; 404537, 4527403; 404534, 4527370; 404518, 4527333; 404457, 4527269; 404397, 4527213; 404379, 4527179; 404351, 4527124; 404339, 4527084; 404327, 4526981; 404321, 4526967; 404298, 4526905; 404327, 4526903; 404341, 4526889; 404351, 4526900; 404369, 4526926; 404391, 4526964; 404418, 4526978; 404439, 4526978; 404452, 4526972; 404473, 4526947; 404504, 4526949; 404627, 4526966; 404662, 4526983; 404677, 4527004; 404688, 4527018; 404747, 4527109; 404745, 4527165; 404685, 4527227; 404623, 4527306; 404628, 4527389; 404668, 4527473; 404794, 4527545; 404869, 4527609; 404960, 4527661; 404964, 4527713; 404988, 4527771; 404995, 4527812; 405007, 4527819; 405021, 4527842; 405025, 4527833; 405015, 4527813; 405003, 4527799; 404993, 4527744; 404981, 4527718; 404980, 4527666; 405017, 4527667; 405053, 4527647; 405075, 4527630; 405089, 4527631; 405140, 4527709; 405183, 4527846; 405171, 4527916; 405165, 4527959; 405167, 4527974; 405187, 4527977; 405209, 4527851; 405177, 4527710; 405127, 4527653; 405125, 4527623; 405111, 4527606; 405082, 4527599; 405059, 4527606; 405032, 4527634; 404997, 4527646; 404900, 4527594; 404727, 4527447; 404675, 4527395; 404678, 4527319; 404705, 4527257; 404782, 4527192; 404804, 4527136; 404722, 4526997; 404675, 4526945; 404679, 4526927; 404667, 4526923; 404652, 4526934; 404460, 4526897; 404410, 4526865; 404386, 4526854; 404360, 4526812; 404342, 4526814; 404333, 4526799; 404319, 4526753; 404312, 4526708; 404318, 4526686; 404318, 4526661; 404310, 4526651; 404300, 4526658; 404296, 4526671; 404303, 4526730; 404304, 4526761; 404313, 4526807; 404311, 4526834; 404292, 4526877; returning to 404279, 4526903.

(viii) From USGS 1:24,000 scale quadrangle Tyee City. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 404211, 4526342; 404305, 4526400; 404370, 4526424; 404419, 4526445; 404531, 4526530; 404556, 4526562; 404582, 4526596; 404653, 4526642; 404689, 4526689; 404692, 4526707; 404698, 4526708; 404702, 4526697; 404712, 4526692; 404706, 4526673; 404684, 4526646; 404686, 4526636; 404696, 4526634; 404696, 4526627; 404659, 4526616; 404649, 4526603; 404623, 4526592; 404602, 4526569; 404580, 4526538; 404553, 4526514; 404480, 4526458; 404482, 4526444; 404473, 4526441; 404463, 4526441; 404430, 4526420; 404380, 4526402; 404379, 4526385; 404431, 4526403; 404471, 4526421; 404521, 4526433; 404589, 4526432; 404677, 4526433; 404727, 4526440; 404741, 4526453; 404749, 4526473; 404752, 4526500; 404759, 4526512; 404794, 4526550; 404867, 4526594; 404884, 4526635; 404921, 4526646; 404977, 4526653; 405047, 4526650; 405064, 4526657; 405082, 4526616; 405098, 4526574; 405131, 4526543; 405195, 4526490; 405193, 4526462; 405185, 4526451; 405171, 4526459; 405160, 4526473; 405138, 4526510; 405115, 4526532; 405089, 4526556; 405070, 4526580; 405057, 4526621; 405045, 4526633; 404986, 4526635; 404909, 4526622; 404893, 4526599; 404871, 4526577; 404806, 4526526; 404781, 4526503; 404770, 4526471; 404762, 4526439; 404750, 4526427; 404732, 4526416; 404682, 4526413; 404635, 4526415; 404599, 4526410; 404542, 4526411; 404509, 4526401; 404453, 4526381; 404403, 4526348;

404328, 4526296; 404283, 4526260; 404271, 4526261; 404247, 4526282; 404245, 4526300; 404255, 4526304; 404271, 4526300; 404362, 4526375; 404362, 4526395; 404326, 4526384; 404297, 4526363; 404266, 4526349; 404242, 4526333; 404234, 4526307; 404217, 4526318; returning to 404211, 4526342.

(ix) From USGS 1:24,000 scale quadrangle Tyee City. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 404159, 4525734; 404159, 4525748; 404181, 4525799; 404211, 4525818; 404249, 4525862; 404248, 4525896; 404237, 4525939; 404229, 4525979; 404240, 4525997; 404240, 4526016; 404226, 4526037; 404220, 4526056; 404230, 4526065; 404248, 4526069; 404248, 4526063; 404241, 4526050; 404244, 4526042; 404256, 4526003; 404262, 4526012; 404270, 4526030; 404279, 4526052; 404291, 4526063; 404294, 4526077; 404303, 4526076; 404302, 4526065; 404290, 4526049; 404282, 4526037; 404277, 4526013; 404298, 4526005; 404305, 4526023; 404313, 4526030; 404321, 4526042; 404330, 4526047; 404341, 4526048; 404352, 4526038; 404366, 4526040; 404382, 4526033; 404406, 4526019; 404403, 4526008; 404365, 4526029; 404345, 4526025; 404340, 4526034; 404331, 4526038; 404324, 4526024; 404312, 4526015; 404311, 4526001; 404303, 4525992; 404289, 4525994; 404275, 4525995; 404270, 4525978; 404275, 4525948; 404271, 4525923; 404286, 4525920; 404294, 4525897; 404257, 4525843; 404257, 4525835; 404213, 4525801; 404177, 4525751; 404197, 4525737; 404215, 4525718; 404207, 4525706; 404183, 4525724; returning to 404159, 4525734.

(x) From USGS 1:24,000 scale quadrangles Tyee City, Eureka, Arcata North, and Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 404222, 4525621; 404233, 4525683; 404286, 4525666; 404326, 4525712; 404420, 4525729; 404517, 4525742; 404587, 4525721; 404625, 4525721; 404653, 4525750; 404660, 4525799; 404660, 4525831; 404655, 4525869; 404666, 4525908; 404691, 4525984; 404736, 4526033; 404768, 4526042; 404840, 4526076; 404891, 4526105; 404946, 4526120; 405021, 4526120; 405078, 4526116; 405104, 4526101; 405138, 4526037; 405133, 4526008; 405133, 4525984; 405140, 4525965; 405155, 4525938; 405161, 4525918; 405161, 4525897; 405148, 4525861; 405118, 4525844; 405087, 4525840; 405050, 4525852; 405027, 4525887; 405012, 4525903; 404984, 4525903; 404942, 4525899; 404900, 4525884; 404861, 4525838; 404844, 4525797; 404847, 4525731; 404844, 4525704; 404823, 4525661; 404813, 4525610; 404819, 4525561; 404863, 4525511; 404947, 4525462; 404975, 4525451; 405013, 4525446; 405041, 4525430; 405084, 4525392; 405116, 4525387; 405179, 4525398; 405229, 4525398; 405282, 4525379; 405323, 4525359; 405372, 4525355; 405445, 4525370; 405490, 4525363; 405570, 4525337; 405605, 4525357; 405637, 4525391; 405686, 4525416; 405704, 4525443; 405706, 4525469; 405682, 4525524; 405643, 4525569; 405569, 4525625; 405567, 4525680; 405586, 4525707; 405602, 4525704; 405589, 4525674; 405589, 4525642; 405610, 4525629; 405663, 4525580; 405702, 4525537; 405725, 4525478; 405733, 4525427; 405680, 4525385; 405645, 4525354; 405617, 4525322; 405577, 4525312; 405532, 4525317; 405474, 4525339; 405428, 4525345; 405365, 4525332; 405310, 4525339; 405242, 4525366; 405191, 4525370; 405111, 4525358; 405064, 4525369; 405033, 4525402; 404986, 4525428; 404936, 4525443; 404906, 4525449; 404819, 4525502; 404800, 4525527; 404781, 4525585; 404783, 4525632; 404798, 4525678; 404819, 4525704; 404823, 4525725; 404821, 4525768; 404823, 4525810; 404838, 4525852; 404868, 4525886; 404897, 4525920; 404950, 4525935; 405018, 4525944; 405031, 4525933; 405046, 4525908; 405059, 4525872; 405084, 4525861; 405112, 4525863; 405131, 4525874; 405144, 4525904; 405137, 4525933; 405114, 4525961; 405097, 4525986; 405103, 4526024; 405106, 4526050; 405080, 4526080; 405052, 4526090; 405025, 4526092; 404980, 4526093; 404959, 4526078; 404933, 4526069; 404893, 4526054; 404808, 4526027; 404749, 4525997; 404713, 4525944; 404708, 4525918; 404708, 4525833; 404693, 4525734; 404687, 4525710; 404638, 4525676; 404604, 4525665; 404572, 4525680; 404521, 4525702; 404451, 4525693; 404375, 4525672; 404356, 4525644; 404345, 4525631; 404288, 4525608; returning to 404222, 4525621.

(xi) From USGS 1:24,000 scale quadrangles Tyee City, Eureka, and Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 403248, 4524430; 403254, 4524438; 403270, 4524435; 403311, 4524427; 403363, 4524406; 403440, 4524395; 403519, 4524392; 403550, 4524407; 403578, 4524414; 403649, 4524397; 403727, 4524374; 403760, 4524362; 403801, 4524371; 403818, 4524385; 403839, 4524397; 403868, 4524417; 403906, 4524432; 403937, 4524432; 404026, 4524424; 404037, 4524434; 404034, 4524448; 404014, 4524465; 404004, 4524475; 403985, 4524495; 403978, 4524505; 403957, 4524512; 403930, 4524520; 403899, 4524527; 403879, 4524535; 403857, 4524558; 403840, 4524573; 403801, 4524577; 403771, 4524569; 403751, 4524558; 403732, 4524534; 403712, 4524518; 403707, 4524513; 403674, 4524492; 403626, 4524490; 403588, 4524495; 403564, 4524514; 403549, 4524543; 403543, 4524563; 403554, 4524565; 403572, 4524537; 403590, 4524514; 403608, 4524509; 403643, 4524506; 403680, 4524512; 403707, 4524533; 403737, 4524561; 403751, 4524575; 403793, 4524591; 403829, 4524591; 403854, 4524581; 403875, 4524566; 403897, 4524545; 403923, 4524539; 403969, 4524525; 403996, 4524508; 404007, 4524492; 404020, 4524482; 404045, 4524470; 404057, 4524469; 404069, 4524482; 404089, 4524511; 404101, 4524542; 404100, 4524557; 404113, 4524580; 404138, 4524619; 404184, 4524650; 404217, 4524650; 404271, 4524642; 404311, 4524664; 404344, 4524685; 404367, 4524687; 404407, 4524678; 404459, 4524688; 404527, 4524713; 404546, 4524740; 404544, 4524779; 404518, 4524800; 404511, 4524828; 404516, 4524851; 404544, 4524873; 404586, 4524886; 404625, 4524873; 404667, 4524862; 404677, 4524870; 404677, 4524886; 404667, 4524918; 404670, 4524951; 404662, 4524970; 404604, 4525008; 404534, 4525037; 404513, 4525052; 404507, 4525060; 404504, 4525110; 404494, 4525124; 404466, 4525133; 404442, 4525147; 404373, 4525195; 404355, 4525211; 404332, 4525234; 404324, 4525265; 404319, 4525287; 404290, 4525327; 404263, 4525354; 404260, 4525385; 404268, 4525421; 404273, 4525461; 404268, 4525495; 404275, 4525525; 404294, 4525552; 404284, 4525597; 404298, 4525599; 404304, 4525589; 404306, 4525557; 404302, 4525537; 404288, 4525504; 404294, 4525476; 404287, 4525438; 404280, 4525390; 404280, 4525359; 404309, 4525331; 404339, 4525280; 404351, 4525244; 404372, 4525214; 404388, 4525205; 404419, 4525184; 404451, 4525160; 404493, 4525144; 404514, 4525134; 404523, 4525116; 404523, 4525094; 404527, 4525068; 404539, 4525059; 404563, 4525045; 404608, 4525031; 404659, 4525002; 404673, 4524991; 404684, 4524976; 404691, 4524948; 404691, 4524914; 404698, 4524892; 404704, 4524872; 404695, 4524849; 404680, 4524844; 404653, 4524845; 404615, 4524858; 404589, 4524863; 404575, 4524863; 404545, 4524849; 404537, 4524835; 404538, 4524823;

404553, 4524803; 404575, 4524782; 404575, 4524741; 404542, 4524694; 404488, 4524671; 404440, 4524659; 404393, 4524657; 404361, 4524661; 404343, 4524661; 404306, 4524635; 404266, 4524619; 404233, 4524626; 404187, 4524622; 404153, 4524602; 404137, 4524567; 404134, 4524524; 404114, 4524497; 404086, 4524451; 404086, 4524421; 404113, 4524410; 404159, 4524406; 404188, 4524404; 404239, 4524406; 404298, 4524397; 404339, 4524371; 404371, 4524338; 404389, 4524322; 404426, 4524306; 404455, 4524291; 404464, 4524291; 404479, 4524303; 404514, 4524330; 404558, 4524348; 404604, 4524344; 404646, 4524336; 404698, 4524337; 404746, 4524364; 404770, 4524375; 404805, 4524378; 404841, 4524369; 404875, 4524354; 404921, 4524354; 404955, 4524367; 404965, 4524382; 404963, 4524392; 404954, 4524399; 404942, 4524406; 404881, 4524439; 404862, 4524464; 404862, 4524510; 404865, 4524531; 404858, 4524550; 404839, 4524570; 404831, 4524598; 404832, 4524614; 404824, 4524618; 404808, 4524614; 404802, 4524627; 404818, 4524632; 404843, 4524629; 404857, 4524632; 404877, 4524655; 404901, 4524663; 404936, 4524664; 404945, 4524669; 404946, 4524688; 404959, 4524678; 404953, 4524659; 404933, 4524653; 404907, 4524655; 404893, 4524649; 404849, 4524610; 404850, 4524587; 404878, 4524551; 404884, 4524524; 404881, 4524471; 404890, 4524452; 404963, 4524418; 404979, 4524410; 404993, 4524403; 405008, 4524430; 405017, 4524454; 405013, 4524466; 404989, 4524509; 404968, 4524546; 404968, 4524575; 404980, 4524588; 404991, 4524577; 404986, 4524560; 404997, 4524535; 405014, 4524501; 405031, 4524481; 405041, 4524464; 405040, 4524442; 405058, 4524433; 405071, 4524428; 405084, 4524439; 405100, 4524465; 405115, 4524482; 405136, 4524488; 405152, 4524500; 405169, 4524525; 405190, 4524538; 405215, 4524544; 405230, 4524555; 405233, 4524571; 405238, 4524593; 405245, 4524597; 405267, 4524597; 405280, 4524594; 405296, 4524601; 405309, 4524598; 405319, 4524591; 405312, 4524570; 405310, 4524559; 405304, 4524560; 405303, 4524573; 405301, 4524584; 405293, 4524589; 405279, 4524584; 405254, 4524584; 405249, 4524577; 405246, 4524558; 405237, 4524542; 405222, 4524531; 405202, 4524526; 405188, 4524522; 405174, 4524505; 405155, 4524485; 405139, 4524477; 405121, 4524471; 405110, 4524463; 405110, 4524459; 405102, 4524434; 405081, 4524418; 405058, 4524415; 405034, 4524431; 405018, 4524421; 405006, 4524379; 404979, 4524358; 404969, 4524347; 404940, 4524331; 404886, 4524327; 404848, 4524340; 404827, 4524351; 404791, 4524355; 404768, 4524347; 404692, 4524306; 404645, 4524303; 404601, 4524310; 404558, 4524306; 404520, 4524289; 404495, 4524264; 404499, 4524247; 404511, 4524206; 404511, 4524183; 404506, 4524140; 404517, 4524107; 404537, 4524060; 404573, 4524020; 404604, 4524002; 404615, 4524013; 404645, 4524034; 404664, 4524042; 404687, 4524042; 404704, 4524034; 404712, 4524025; 404736, 4523999; 404735, 4523971; 404729, 4523945; 404723, 4523923; 404729, 4523910; 404746, 4523900; 404781, 4523899; 404815, 4523913; 404910, 4523952; 404993, 4523987; 405015, 4524006; 405013, 4524028; 405001, 4524048; 405000, 4524051; 404990, 4524069; 404993, 4524095; 405012, 4524110; 405042, 4524111; 405069, 4524120; 405087, 4524145; 405121, 4524173; 405160, 4524231; 405194, 4524272; 405211, 4524279; 405249, 4524290; 405304, 4524301; 405331, 4524318; 405340, 4524314; 405307, 4524285; 405281, 4524281; 405225, 4524264; 405198, 4524249; 405168, 4524199; 405142, 4524158; 405099, 4524129; 405082, 4524102; 405051, 4524090; 405026, 4524089; 405014, 4524078; 405015, 4524066; 405016, 4524060; 405017, 4524060; 405038, 4524045; 405041, 4523996; 405025, 4523983; 404984, 4523964; 404843, 4523902; 404795, 4523884; 404751, 4523877; 404718, 4523888; 404702, 4523910; 404699, 4523933; 404709, 4523955; 404714, 4523982; 404701, 4524000; 404684, 4524010; 404663, 4524010; 404638, 4524002; 404621, 4523976; 404634, 4523965; 404642, 4523948; 404642, 4523938; 404631, 4523913; 404618, 4523881; 404617, 4523851; 404624, 4523820; 404646, 4523781; 404680, 4523746; 404669, 4523736; 404650, 4523746; 404614, 4523799; 404600, 4523847; 404603, 4523886; 404622, 4523951; 404596, 4523978; 404541, 4524025; 404518, 4524070; 404496, 4524114; 404492, 4524150; 404495, 4524199; 404490, 4524232; 404431, 4524286; 404361, 4524319; 404347, 4524336; 404306, 4524369; 404273, 4524378; 404215, 4524383; 404087, 4524388; 403988, 4524403; 403896, 4524407; 403867, 4524388; 403825, 4524351; 403773, 4524341; 403722, 4524350; 403647, 4524375; 403575, 4524386; 403543, 4524375; 403495, 4524367; 403447, 4524371; 403378, 4524372; 403334, 4524386; 403266, 4524414; returning to 403248, 4524430.

(xii) From USGS 1:24,000 scale quadrangles Tyee City and Eureka. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 403498, 4525062; 403498, 4525079; 403514, 4525102; 403531, 4525112; 403552, 4525117; 403569, 4525115; 403688, 4525069; 403706, 4525077; 403704, 4525089; 403602, 4525135; 403597, 4525155; 403612, 4525163; 403633, 4525198; 403653, 4525213; 403683, 4525229; 403701, 4525262; 403704, 4525297; 403693, 4525338; 403698, 4525363; 403780, 4525436; 403881, 4525538; 403921, 4525619; 403929, 4525657; 403982, 4525672; 404020, 4525647; 404101, 4525626; 404167, 4525609; 404147, 4525593; 404127, 4525586; 404127, 4525571; 404137, 4525558; 404152, 4525530; 404144, 4525495; 404124, 4525469; 404091, 4525452; 404045, 4525462; 403992, 4525474; 403962, 4525474; 403926, 4525467; 403891, 4525444; 403777, 4525310; 403772, 4525279; 403782, 4525241; 403792, 4525201; 403800, 4525178; 403790, 4525125; 403780, 4525089; 403749, 4525056; 403714, 4525034; 403681, 4525034; 403567, 4525072; 403544, 4525072; 403536, 4525056; 403514, 4525041; returning to 403498, 4525062.

(xiii) From USGS 1:24,000 scale quadrangle Eureka. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 403167, 4524519; 403174, 4524547; 403189, 4524560; 403207, 4524568; 403265, 4524580; 403301, 4524595; 403334, 4524631; 403357, 4524692; 403362, 4524742; 403341, 4524811; 403336, 4524899; 403357, 4524993; 403367, 4525029; 403402, 4525079; 403407, 4525059; 403415, 4525034; 403427, 4525011; 403453, 4525001; 403476, 4524996; 403486, 4525021; 403498, 4525031; 403519, 4525029; 403529, 4525013; 403521, 4524988; 403503, 4524960; 403473, 4524950; 403445, 4524955; 403420, 4524968; 403389, 4524988; 403379, 4524958; 403369, 4524917; 403362, 4524861; 403367, 4524841; 403405, 4524839; 403430, 4524846; 403458, 4524882; 403493, 4524920; 403544, 4524935; 403584, 4524917; 403600, 4524872; 403572, 4524826; 403521, 4524798; 403511, 4524818; 403559, 4524851; 403572, 4524874; 403564, 4524899; 403552, 4524912; 403526, 4524904; 403508, 4524889; 403478, 4524869; 403453, 4524826; 403430, 4524816; 403402, 4524808; 403369, 4524811; 403377, 4524783; 403384, 4524735; 403382, 4524689; 403367, 4524644; 403336, 4524590; 403306, 4524565; 403275, 4524557; 403222, 4524545; 403197, 4524527; 403192, 4524509; 403197, 4524484;

403174, 4524487; returning to 403167, 4524519.

(xiv) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 405091, 4523686; 405091, 4523709; 405111, 4523708; 405126, 4523698; 405147, 4523680; 405150, 4523697; 405144, 4523708; 405138, 4523722; 405133, 4523735; 405133, 4523753; 405151, 4523772; 405181, 4523791; 405207, 4523807; 405232, 4523807; 405254, 4523814; 405263, 4523828; 405260, 4523853; 405253, 4523885; 405241, 4523894; 405226, 4523911; 405217, 4523931; 405217, 4523961; 405219, 4523992; 405220, 4524014; 405220, 4524028; 405234, 4524029; 405235, 4524000; 405239, 4523951; 405241, 4523926; 405260, 4523906; 405272, 4523886; 405281, 4523851; 405285, 4523831; 405276, 4523807; 405256, 4523791; 405231, 4523782; 405209, 4523780; 405164, 4523755; 405160, 4523735; 405167, 4523716; 405173, 4523691; 405163, 4523666; 405195, 4523635; 405207, 4523605; 405232, 4523526; 405242, 4523483; 405253, 4523471; 405273, 4523471; 405276, 4523486; 405276, 4523510; 405287, 4523533; 405294, 4523563; 405295, 4523580; 405301, 4523597; 405320, 4523610; 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(xv) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 407456, 4523277; 407456, 4523282; 407462, 4523297; 407483, 4523331; 407472, 4523341; 407469, 4523345; 407465, 4523351; 407463, 4523357; 407468, 4523361; 407475, 4523359; 407480, 4523354; 407484, 4523357; 407515, 4523395; 407526, 4523407; 407540, 4523413; 407563, 4523419; 407577, 4523412; 407587, 4523403; 407599, 4523398; 407614, 4523398; 407624, 4523392; 407636, 4523390; 407643, 4523387; 407658, 4523381; 407669, 4523375; 407677, 4523367; 407686, 4523368; 407702, 4523369; 407724, 4523369; 407740, 4523370; 407751, 4523369; 407765, 4523368; 407777, 4523364; 407790, 4523358; 407797, 4523348; 407796, 4523343; 407791, 4523337; 407802, 4523332; 407810, 4523339; 407820, 4523340; 407832, 4523337; 407838, 4523331; 407844, 4523326; 407848, 4523326; 407858, 4523326; 407873, 4523320; 407927, 4523299; 407971, 4523284; 407973, 4523278; 407971, 4523270; 407954, 4523252; 407927, 4523223; 407879, 4523151; 407856, 4523115; 407830, 4523105; 407808, 4523105; 407776, 4523107; 407756, 4523116; 407754, 4523121; 407746, 4523126; 407736, 4523125; 407641, 4523175; 407640, 4523181; 407629, 4523190; 407609, 4523202; 407602, 4523203; 407591, 4523200; 407582, 4523201; 407509, 4523240; 407479, 4523254; 407465, 4523269; returning to 407456, 4523277.

(xvi) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 408209, 4523323; 408215, 4523326; 408243, 4523285; 408271, 4523261; 408326, 4523212; 408327, 4523400; 408335, 4523400; 408335, 4523243; 408349, 4523245; 408359, 4523246; 408363, 4523249; 408367, 4523266; 408369, 4523282; 408376, 4523297; 408387, 4523315; 408394, 4523328; 408393, 4523345; 408385, 4523353; 408382, 4523361; 408386, 4523369; 408393, 4523381; 408397, 4523389; 408405, 4523390; 408410, 4523396; 408411, 4523400; 408408, 4523404; 408404, 4523411; 408401, 4523423; 408403, 4523432; 408396, 4523441; 408359, 4523464; 408353, 4523470; 408353, 4523477; 408363, 4523475; 408373, 4523466; 408410, 4523443; 408413, 4523435; 408412, 4523428; 408417, 4523421; 408424, 4523421; 408428, 4523427; 408435, 4523433; 408443, 4523434; 408455, 4523436; 408465, 4523431; 408474, 4523421; 408481, 4523417; 408486, 4523421; 408488, 4523433; 408483, 4523445; 408476, 4523452; 408467, 4523461; 408460, 4523463; 408456, 4523469; 408456, 4523476; 408444, 4523491; 408435, 4523501; 408433, 4523510; 408431, 4523521; 408444, 4523532; 408457, 4523537; 408464, 4523547; 408468, 4523557; 408468, 4523567; 408470, 4523574; 408479, 4523568; 408481, 4523558; 408474, 4523549; 408470, 4523541; 408470, 4523531; 408463, 4523528; 408453, 4523523; 408446, 4523517;

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(xvii) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 408660, 4523204; 408667, 4523217; 408668, 4523242; 408674, 4523231; 408673, 4523202; 408676, 4523194; 408689, 4523183; 408689, 4523172; 408682, 4523153; 408675, 4523137; 408676, 4523121; 408681, 4523107; 408687, 4523095; 408694, 4523080; 408694, 4523067; 408701, 4523051; 408713, 4523039; 408728, 4523031; 408712, 4523031; 408685, 4523046; 408676, 4523063; 408681, 4523085; 408671, 4523106; 408664, 4523140; 408674, 4523161; 408674, 4523180; 408662, 4523195; returning to 408660, 4523204.

(xviii) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 408793, 4522282; 408793, 4522296; 408825, 4522296; 408833, 4522299; 408837, 4522310; 408836, 4522332; 408837, 4522391; 408835, 4522418; 408840, 4522429; 408844, 4522442; 408852, 4522450; 408863, 4522457; 408866, 4522470; 408865, 4522485; 408865, 4522489; 408856, 4522499; 408848, 4522510; 408848, 4522523; 408844, 4522556; 408840, 4522588; 408833, 4522611; 408835, 4522635; 408833, 4522645; 408834, 4522681; 408842, 4522682; 408844, 4522664; 408849, 4522639; 408875, 4522638; 408897, 4522641; 408914, 4522643; 408919, 4522662; 408924, 4522681; 408935, 4522701; 408951, 4522718; 408950, 4522738; 408940, 4522755; 408926, 4522768; 408912, 4522791; 408910, 4522816; 408912, 4522838; 408923, 4522862; 408938, 4522878; 408950, 4522895; 408967, 4522927; 408965, 4522951; 408965, 4522982; 408968, 4522998; 408979, 4523015; 408980, 4523030; 408969, 4523034; 408948, 4523039; 408931, 4523045; 408918, 4523056; 408911, 4523066; 408911, 4523088; 408918, 4523111; 408918, 4523134; 408916, 4523154; 408922, 4523173; 408933, 4523186; 408942, 4523195; 408947, 4523213; 408939, 4523225; 408935, 4523238; 408933, 4523254; 408936, 4523273; 408946, 4523297; 408946, 4523315; 408948, 4523329; 408963, 4523352; 408962, 4523356; 408949, 4523354; 408920, 4523357; 408907, 4523372; 408907, 4523396; 408918, 4523417; 408923, 4523428; 408919, 4523434; 408905, 4523431; 408886, 4523431; 408866, 4523447; 408862, 4523480; 408865, 4523500; 408862, 4523514; 408859, 4523536; 408867, 4523548; 408872, 4523517; 408876, 4523505; 408877, 4523483; 408877, 4523453; 408895, 4523446; 408921, 4523451; 408941, 4523444; 408948, 4523432; 408943, 4523418; 408933, 4523396; 408926, 4523383; 408931, 4523375; 408950, 4523375; 408960, 4523378; 408976, 4523375; 408988, 4523365; 408988, 4523353; 408984, 4523343; 408973, 4523331; 408965, 4523310; 408960, 4523286; 408956, 4523255; 408955, 4523244; 408959, 4523233; 408966, 4523221; 408967, 4523207; 408965, 4523192; 408959, 4523182; 408950, 4523172; 408941, 4523161; 408938, 4523147; 408938, 4523133; 408939, 4523118; 408936, 4523097; 408938, 4523075; 408945, 4523064; 408966, 4523064; 408988, 4523062; 409003, 4523050; 409010, 4523037; 409011, 4523020; 409002, 4523004; 408992, 4522992; 408988, 4522978; 408987, 4522960; 408991, 4522950; 409012, 4522962; 409018, 4522973; 409015, 4522988; 409016, 4523007; 409029, 4523016; 409037, 4523024; 409046, 4523024; 409053, 4523037; 409051, 4523054; 409043, 4523075; 409030, 4523083; 409013, 4523089; 409002, 4523098; 408994, 4523110; 408992, 4523125; 408998, 4523139; 409021, 4523155; 409041, 4523166; 409043, 4523178; 409034, 4523189; 409035, 4523198; 409043, 4523198; 409049, 4523191; 409056, 4523176; 409049, 4523158; 409035, 4523147; 409018, 4523138; 409007, 4523124; 409007, 4523115; 409020, 4523101; 409031, 4523096; 409047, 4523088; 409057, 4523072; 409067, 4523046; 409064, 4523034; 409094, 4523071; 409208, 4523215; 409257, 4523257; 409260, 4523264; 409271, 4523270; 409272, 4523284; 409272, 4523312; 409284, 4523305; 409284, 4523266; 409277, 4523258; 409269, 4523250; 409216, 4523202; 409191, 4523170; 409111, 4523070; 409042, 4522982; 409290, 4523125; 409523, 4523257; 409534, 4523249; 409430, 4523189; 409262, 4523087; 409267, 4523076; 409267, 4523062; 409267, 4523049; 409270, 4523031; 409278, 4523026; 409286, 4523022; 409299, 4523016; 409305, 4523023; 409309, 4523035; 409310, 4523047; 409314, 4523062; 409319, 4523062; 409325, 4523062; 409326, 4523068; 409324, 4523074; 409326, 4523079; 409331, 4523070; 409331, 4523055; 409326, 4523041; 409331, 4523025; 409341, 4523014; 409356, 4523005; 409366, 4522997; 409375, 4522973; 409379, 4522960; 409379, 4522943; 409374, 4522934; 409375, 4522929; 409383, 4522929; 409381, 4522921; 409376, 4522914; 409381, 4522905; 409389, 4522905; 409396, 4522901; 409395, 4522895; 409384, 4522891; 409375, 4522880; 409367, 4522874; 409359, 4522878; 409353, 4522872; 409343, 4522872; 409333, 4522882; 409336, 4522900; 409331, 4522916; 409318, 4522917; 409308, 4522930; 409288, 4522927; 409281, 4522907; 409282, 4522874; 409278, 4522827; 409272, 4522806; 409270, 4522792; 409267, 4522783; 409261, 4522773; 409312, 4522791; 409388, 4522813; 409447, 4522839; 409449, 4522830; 409433, 4522821; 409377, 4522797; 409326, 4522785; 409326, 4522778; 409325, 4522764; 409318, 4522747; 409309, 4522736; 409298, 4522731;

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(xix) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 408827, 4521822; 408829, 4521942; 408843, 4521954; 408843, 4521975; 408843, 4522009; 408845, 4522060; 408845, 4522106; 408851, 4522108; 408854, 4522062; 408853, 4522015; 408853, 4521970; 408853, 4521951; 408872, 4521939; 408924, 4521913; 408962, 4521881; 409011, 4521849; 409066, 4521844; 409121, 4521841; 409164, 4521843; 409207, 4521848; 409259, 4521862; 409305, 4521866; 409322, 4521839; 409379, 4521833; 409431, 4521840; 409461, 4521827; 409545, 4521805; 409543, 4521570; 409520, 4521641; 409490, 4521729; 409460, 4521729; 409406, 4521743; 409376, 4521785; 409317, 4521785; 409291, 4521799; 409279, 4521824; 409249, 4521818; 409223, 4521781; 409178, 4521760; 409135, 4521759; 409101, 4521756; 409063, 4521752; 409020, 4521786; 408982, 4521820; 408911, 4521823; 408880, 4521831; returning to 408827, 4521822.

(xx) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 408824, 4521590; 408824, 4521640; 408825, 4521658; 408832, 4521672; 408843, 4521692; 408856, 4521723; 408874, 4521738; 408899, 4521738; 408914, 4521726; 408927, 4521705; 408940, 4521678; 408949, 4521649; 408959, 4521631; 408969, 4521621; 408982, 4521615; 409005, 4521615; 409027, 4521604; 409016, 4521599; 408839, 4521613; 408835, 4521597; returning to 408824, 4521590.

(xxi) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 405365, 4517762; 405372, 4517778; 405520, 4517852; 405888, 4518096; 406038, 4518193; 406162, 4518274; 406251, 4518332; 406342, 4518391; 406487, 4518485; 406790, 4518682; 406988, 4518812; 407152, 4518919; 407287, 4519007; 407490, 4519140; 407589, 4519191; 407724, 4519261; 407788, 4519302; 407816, 4519302; 407839, 4519293; 407861, 4519261; 407859, 4519254; 407846, 4519259; 407820, 4519286; 407805, 4519292; 407786, 4519287; 407728, 4519246; 407596, 4519179; 407526, 4519144; 407446, 4519099; 407284, 4518991; 407182, 4518928; 407085, 4518861; 406976, 4518791; 406930, 4518760; 406804, 4518673; 406819, 4518664; 406839, 4518649; 406862, 4518632; 406882, 4518617; 406906, 4518595; 406933, 4518577; 406955, 4518580; 406974, 4518587; 406998, 4518591; 407032, 4518590; 407062, 4518581; 407073, 4518570; 407089, 4518568; 407115, 4518574; 407140, 4518584; 407153, 4518587; 407162, 4518582; 407176, 4518568; 407193, 4518534; 407204, 4518516; 407223, 4518499; 407243, 4518482; 407263, 4518464; 407273, 4518444; 407298, 4518423; 407312, 4518402; 407317, 4518372; 407325, 4518329; 407331, 4518317; 407336, 4518304; 407343, 4518293; 407357, 4518273; 407374, 4518266; 407404, 4518252; 407421, 4518239; 407439, 4518209; 407447, 4518186; 407447, 4518177; 407434, 4518179; 407422, 4518204; 407407, 4518230; 407387, 4518243; 407364, 4518250; 407347, 4518259;

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(xxii) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 406574, 4517557; 406583, 4517571; 406601, 4517590; 406623, 4517598; 406653, 4517604; 406676, 4517602; 406693, 4517598; 406706, 4517594; 406715, 4517590; 406735, 4517588; 406757, 4517604; 406755, 4517624; 406734, 4517661; 406722, 4517698; 406731, 4517723; 406751, 4517753; 406765, 4517773; 406786, 4517793; 406795, 4517794; 406800, 4517782; 406800, 4517768; 406790, 4517749; 406796, 4517748; 406807, 4517765; 406825, 4517775; 406843, 4517776; 406861, 4517775; 406875, 4517775; 406897, 4517765; 406883, 4517749; 406888, 4517737; 406909, 4517734; 406932, 4517733; 406941, 4517726; 406917, 4517719; 406891, 4517714; 406873, 4517728; 406852, 4517739; 406845, 4517716; 406861, 4517718; 406875, 4517717; 406872, 4517707; 406862, 4517704; 406851, 4517693; 406862, 4517689; 406883, 4517678; 406901, 4517666; 406909, 4517655; 406926, 4517654; 406946, 4517644; 406960, 4517629; 406974, 4517625; 406986, 4517617; 406983, 4517601; 406991, 4517593; 406994, 4517571; 406994, 4517555; 407006, 4517562; 407007, 4517579; 407019, 4517593; 407044, 4517603; 407049, 4517596; 407040, 4517581; 407040, 4517568; 407041, 4517549; 407040, 4517530; 407028, 4517525; 407029, 4517498; 407014, 4517484; 407018, 4517468; 407008, 4517462; 407007, 4517444; 407007, 4517432; 407013, 4517414; 407011, 4517402; 407013, 4517396; 407030, 4517396; 407052, 4517392; 407062, 4517389; 407067, 4517377; 407067, 4517361; 407060, 4517343; 407035, 4517339; 407012, 4517338; 406986, 4517338; 406971, 4517344; 406959, 4517357; 406962, 4517371; 406972, 4517383; 406978, 4517403; 406978, 4517424; 406978, 4517444; 406978, 4517462; 406983, 4517469; 406980, 4517483; 406966, 4517494; 406949, 4517493; 406932, 4517500; 406924, 4517505; 406910, 4517499; 406889, 4517499; 406867, 4517515; 406848, 4517523; 406840, 4517512; 406825, 4517501; 406811, 4517518; 406810, 4517539; 406795, 4517555; 406784, 4517551; 406763, 4517556; 406752, 4517556; 406765, 4517517; 406783, 4517446; 406794, 4517410; 406817, 4517384; 406896, 4517344; 406983, 4517309; 407020, 4517310; 407049, 4517333; 407053, 4517329; 407051, 4517319; 407025, 4517299; 407010, 4517295; 406988, 4517297; 406944, 4517309; 406861, 4517348; 406820, 4517367; 406799, 4517382; 406785, 4517400; 406775, 4517428; 406763, 4517475; 406755, 4517511; 406735, 4517560; 406708, 4517585; 406683, 4517591; 406652, 4517593; 406614, 4517582; 406591, 4517558; 406581, 4517551; returning to 406574, 4517557.

(xxiii) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 406455, 4517395; 406458, 4517402; 406470, 4517401; 406477, 4517392; 406493, 4517382; 406512, 4517379; 406525, 4517388; 406537, 4517407; 406545, 4517421; 406551, 4517452; 406551, 4517470; 406552, 4517498; 406558, 4517527; 406568, 4517544; 406574, 4517541; 406567, 4517521; 406562, 4517477; 406563, 4517451; 406554, 4517421; 406547, 4517391; 406533, 4517368; 406506, 4517361; 406483, 4517370; 406464, 4517382; returning to 406455, 4517395.

(xxiv) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 406478, 4517065; 406493, 4517065; 406523, 4517064; 406555, 4517073; 406576, 4517093; 406592, 4517123; 406597, 4517143; 406596, 4517164; 406584, 4517198; 406558, 4517223; 406546, 4517240; 406543, 4517267; 406549, 4517293; 406562, 4517308; 406581, 4517318; 406595, 4517335; 406612, 4517374; 406622, 4517410; 406625, 4517451; 406627, 4517498; 406638, 4517514; 406652, 4517518; 406669, 4517502; 406684, 4517464; 406699, 4517394; 406709, 4517355; 406741, 4517320; 406802, 4517291; 406869, 4517272; 406912, 4517261; 406937, 4517250; 406978, 4517233; 407002, 4517232; 407048, 4517243; 407079, 4517253; 407111, 4517276; 407135, 4517306; 407151, 4517349; 407154, 4517391; 407154, 4517429; 407155, 4517456; 407176, 4517471; 407205, 4517471; 407229, 4517460; 407260, 4517439; 407279, 4517399; 407288, 4517331; 407300, 4517248; 407313, 4517232; 407335, 4517233; 407360, 4517241; 407377, 4517245; 407389, 4517249; 407391, 4517242; 407370, 4517231; 407341, 4517222; 407320, 4517206; 407322, 4517183; 407332, 4517164; 407334, 4517151; 407333, 4517135; 407344, 4517115; 407361, 4517098; 407379, 4517089; 407394, 4517089; 407425, 4517099; 407463, 4517107; 407540, 4517113; 407594, 4517110; 407635, 4517099; 407671, 4517083; 407702, 4517056; 407724, 4517032; 407744, 4516996; 407745, 4516952; 407743, 4516874; 407757, 4516822; 407763, 4516772; 407761, 4516749;

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407108, 4517260; 407069, 4517239; 407026, 4517226; 406997, 4517222; 406971, 4517224; 406944, 4517236; 406919, 4517245; 406886, 4517254; 406836, 4517271; 406788, 4517286; 406747, 4517305; 406721, 4517321; 406709, 4517337; 406695, 4517358; 406685, 4517388; 406677, 4517426; 406672, 4517460; 406666, 4517483; 406655, 4517498; 406649, 4517503; 406643, 4517498; 406639, 4517485; 406637, 4517461; 406637, 4517439; 406636, 4517409; 406627, 4517381; 406612, 4517344; 406598, 4517321; 406580, 4517306; 406563, 4517294; 406556, 4517278; 406557, 4517259; 406559, 4517246; 406577, 4517227; 406596, 4517204; 406608, 4517174; 406611, 4517165; 406700, 4517169; 406731, 4517156; 406762, 4517147; 406795, 4517118; 406789, 4517107; 406775, 4517117; 406750, 4517138; 406695, 4517155; 406612, 4517154; 406610, 4517149; 406605, 4517131; 406619, 4517116; 406645, 4517091; 406657, 4517069; 406672, 4517055; 406693, 4517041; 406694, 4517034; 406675, 4517036; 406659, 4517045; 406635, 4517046; 406629, 4517036; 406625, 4517018; 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406737, 4516914; 406689, 4516924; 406648, 4516940; 406625, 4516968; 406609, 4516995; 406604, 4517015; 406614, 4517036; 406617, 4517063; 406616, 4517093; 406596, 4517100; 406581, 4517078; 406541, 4517057; 406503, 4517053; 406480, 4517058; returning to 406478, 4517065.

(xxv) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 405813, 4517245; 405816, 4517250; 405826, 4517237; 405837, 4517224; 405928, 4517186; 405951, 4517171; 405959, 4517164; 405976, 4517143; 406004, 4517145; 406019, 4517149; 406019, 4517135; 406010, 4517105; 406005, 4517086; 405999, 4517070; 405992, 4517046; 405992, 4517030; 406004, 4517019; 406022, 4517018; 406045, 4517021; 406064, 4517034; 406084, 4517044; 406114, 4517049; 406132, 4517051; 406145, 4517046; 406162, 4517035; 406188, 4517013; 406198, 4516996; 406210, 4516994; 406211, 4516980; 406203, 4516973; 406200, 4516934; 406203, 4516879; 406201, 4516860; 406223, 4516835; 406234, 4516805; 406230, 4516793; 406248, 4516768; 406282, 4516711; 406319, 4516696; 406408, 4516682; 406449, 4516663; 406518, 4516641; 406574, 4516627; 406599, 4516602; 406609, 4516562; 406591, 4516501; 406570, 4516455; 406459, 4516384; 406401, 4516334; 406356, 4516286; 406348, 4516251; 406353, 4516233; 406403, 4516214; 406401, 4516206; 406350, 4516216; 406339, 4516232; 406334, 4516249; 406335, 4516276; 406345, 4516297; 406359, 4516315; 406398, 4516354; 406447, 4516400; 406522, 4516450; 406553, 4516470; 406586, 4516555; 406587, 4516581; 406574, 4516603; 406538, 4516619; 406437, 4516647; 406397, 4516665; 406322, 4516677; 406282, 4516687; 406257, 4516711; 406225, 4516768; 406216, 4516782; 406211, 4516778; 406202, 4516774; 406193, 4516776; 406191, 4516782; 406193, 4516790; 406178, 4516812; 406168, 4516825; 406164, 4516834; 406144, 4516876; 406139, 4516879; 406132, 4516879; 406130, 4516884; 406134, 4516888; 406137, 4516893;

406134, 4516914; 406134, 4516927; 406142, 4516972; 406142, 4516990; 406137, 4516996; 406131, 4516991; 406124, 4516995; 406126, 4517003; 406116, 4517012; 406099, 4517013; 406084, 4517013; 406074, 4517010; 406067, 4516999; 406050, 4516988; 406034, 4516986; 406012, 4516985; 405990, 4516991; 405979, 4517003; 405968, 4517017; 405966, 4517031; 405972, 4517062; 405979, 4517082; 405979, 4517087; 405986, 4517107; 405986, 4517131; 405977, 4517133; 405969, 4517139; 405949, 4517164; 405921, 4517183; 405885, 4517194; 405834, 4517218; 405824, 4517227; returning to 405813, 4517245.

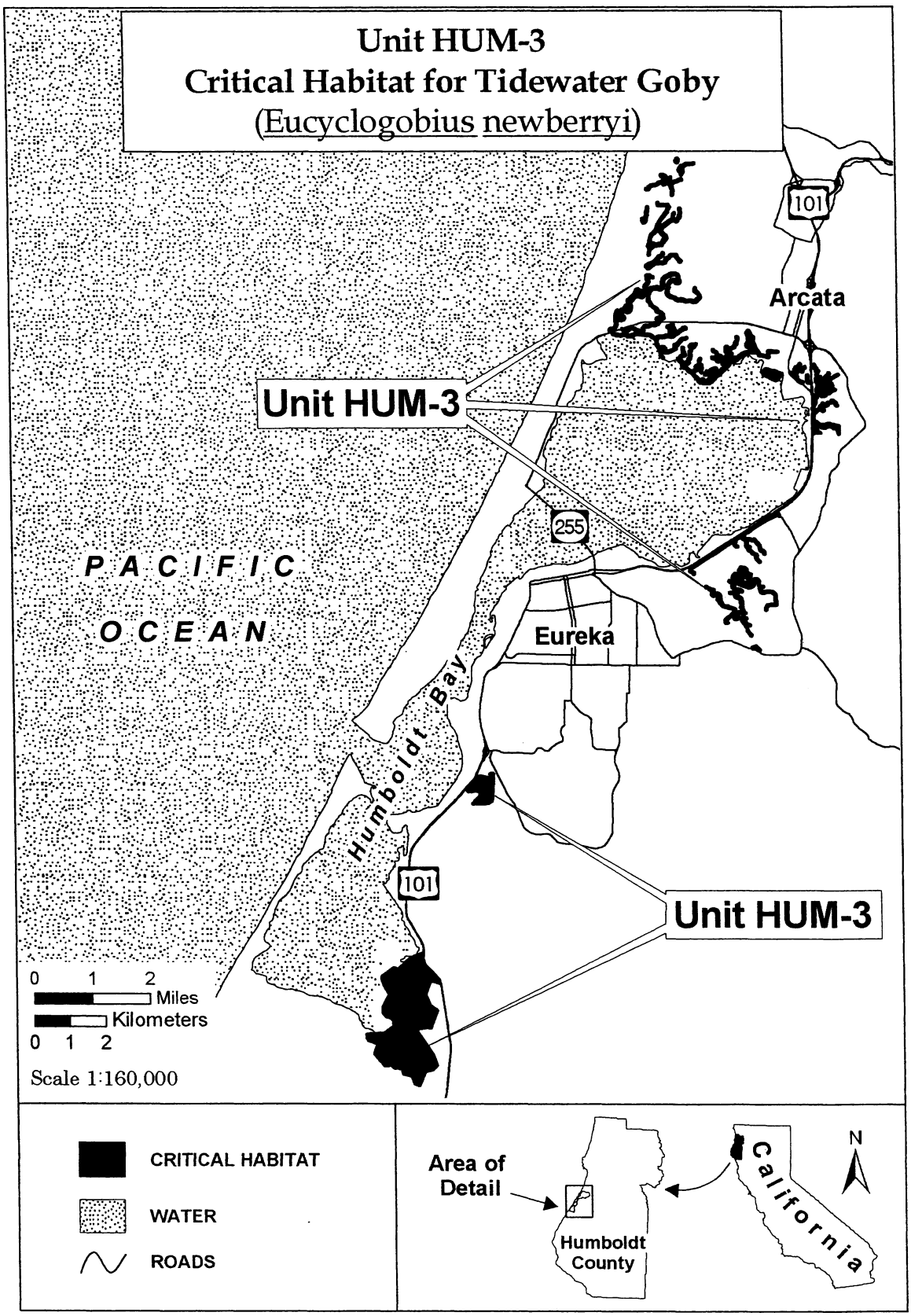
(xxvi) From USGS 1:24,000 scale quadrangle Arcata South. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 407085, 4515505; 407087, 4515512; 407130, 4515530; 407145, 4515540; 407173, 4515552; 407184, 4515539; 407203, 4515520; 407223, 4515509; 407236, 4515491; 407238, 4515481; 407244, 4515471; 407268, 4515463; 407278, 4515449; 407282, 4515436; 407272, 4515442; 407265, 4515454; 407245, 4515461; 407231, 4515476; 407226, 4515491; 407211, 4515506; 407190, 4515513; 407169, 4515516; 407155, 4515518; 407152, 4515510; 407139, 4515507; 407127, 4515502; 407113, 4515499; 407106, 4515498; 407099, 4515496; 407097, 4515490; 407098, 4515483; 407094, 4515481; 407088, 4515485; 407088, 4515490; 407088, 4515498; returning to 407085, 4515505.

(xxvii) From USGS 1:24,000 scale quadrangles Eureka and Fields Landing. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 399065, 4511443; 399073, 4511482; 399088, 4511516; 399110, 4511539; 399153, 4511567; 399203, 4511583; 399264, 4511622; 399286, 4511651; 399296, 4511673; 399356, 4511801; 399406, 4511839; 399422, 4511844; 399444, 4511846; 399672, 4511791; 399693, 4511796; 399721, 4511806; 399736, 4511816; 399738, 4511835; 399733, 4511864; 399717, 4511910; 399781, 4511918; 399776, 4511662; 399738, 4511155; 399643, 4511079; 399235, 4511068; 399406, 4511265; 399422, 4511318; 399429, 4511358; 399388, 4511425; 399364, 4511436; 399325, 4511440; 399315, 4511444; 399149, 4511407; 399109, 4511407; 399080, 4511422; returning to 399065, 4511443.

(xxviii) From USGS 1:24,000 scale quadrangle Fields Landing. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 396204, 4504399; 396220, 4504485; 396333, 4504495; 396700, 4504525; 396964, 4504736; 396961, 4504902; 396868, 4504978; 396753, 4505018; 396680, 4505107; 396673, 4505269; 396855, 4505633; 396706, 4505904; 396637, 4506093; 396657, 4506149; 396973, 4506376; 397092, 4506339; 397457, 4506666; 397761, 4506800; 397765, 4506657; 397817, 4506487; 397978, 4506317; 398219, 4506049; 398235, 4505961; 398020, 4506037; 397955, 4505986; 397823, 4505633; 397955, 4505312; 398163, 4505180; 397980, 4504676; 397910, 4504693; 397854, 4504693; 397547, 4504641; 398043, 4503896; 398135, 4503602; 398020, 4503486; 397810, 4503449; 397646, 4503052; 397527, 4503096; 397464, 4503316; 397212, 4503386; 397193, 4503531; 396973, 4503537; 396872, 4503619; 396708, 4503606; 396425, 4503934; 396513, 4504185; 396488, 4504244; 396369, 4504280; 396266, 4504313; returning to 396204, 4504399.

(xxix) Note: Map of Unit HUM–3 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(10) Unit HUM–4, Humboldt County, California.

(i) From USGS 1:24,000 scale quadrangles, Cannibal Island. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 393052, 4504207; 393102, 4504275; 393146, 4504303; 393119, 4504226; 393143, 4504186; 393184, 4504123; 393203, 4504065; 393203, 4504037; 393158, 4503967; 393129, 4503919; 393122, 4503876; 393131, 4503835; 393167, 4503811; 393283, 4503811; 393324, 4503806; 393374, 4503784; 393408, 4503743; 393412, 4503698; 393412, 4503618; 393412, 4503570; 393441, 4503549; 393583, 4503585; 393593, 4503570; 393403, 4503501; 393396, 4503534; 393374, 4503575; 393369, 4503628; 393372, 4503678; 393360, 4503719; 393324, 4503755; 393290, 4503772; 393158, 4503767; 393117, 4503765; 393081, 4503782; 393062, 4503823; 393054, 4503864; 393062, 4503909; 393090, 4503967; 393136, 4504008; 393167, 4504058; 393090, 4504198; 393074, 4504198; returning to 393052, 4504207.

(ii) From USGS 1:24,000 scale quadrangles, Cannibal Island. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 392678, 4504120; 392705, 4504134; 392705, 4504156; 392716, 4504160; 392724, 4504145; 392751, 4504139; 392780, 4504123; 392788, 4504107; 392780, 4504083; 392770, 4504058; 392772, 4504035; 392799, 4503999; 392824, 4503999; 392850, 4504003; 392874, 4504002; 392882, 4503994; 392885, 4503976; 392874, 4503937; 392859, 4503937; 392867, 4503967; 392859, 4503981; 392839, 4503978; 392797, 4503978; 392767, 4503994; 392749, 4504026; 392743, 4504048; 392746, 4504067; 392759, 4504091; 392761, 4504105; 392727, 4504120; 392714, 4504107; 392684, 4504099; returning to 392678, 4504120.

(iii) From USGS 1:24,000 scale quadrangles, Cannibal Island. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 392357, 4503825; 392357, 4503890; 392427, 4503892; 392410, 4503830; 392408, 4503789; 392432, 4503765; 392470, 4503770; 392492, 4503799; 392504, 4503842; 392526, 4503890; 392562, 4503919; 392603, 4503933; 392631, 4503928; 392720, 4503892; 392773, 4503890; 392819, 4503885; 392845, 4503871; 392869, 4503844; 392879, 4503806; 392874, 4503765; 392860, 4503715; 392862, 4503691; 392869, 4503664; 392884, 4503654; 392908, 4503645; 392949, 4503659; 392982, 4503676; 393030, 4503683; 393066, 4503674; 393102, 4503654; 393126, 4503621; 393131, 4503582; 393117, 4503532; 393098, 4503498; 393090, 4503469; 393090, 4503433; 393074, 4503407; 393030, 4503359; 393002, 4503368; 392970, 4503361; 392893, 4503479; 392824, 4503481; 392790, 4503469; 392761, 4503462; 392742, 4503424; 392768, 4503390; 392773, 4503373; 392773, 4503277; 392716, 4503140; 392696, 4503143; 392696, 4503152; 392752, 4503275; 392756, 4503306; 392747, 4503373; 392723, 4503414; 392737, 4503465; 392752, 4503484; 392792, 4503496; 392807, 4503513; 392913, 4503486; 392934, 4503457; 392961, 4503419; 392999, 4503402; 393045, 4503414; 393054, 4503450; 393069, 4503501; 393093, 4503556; 393088, 4503594; 393062, 4503626; 393011, 4503635; 392937, 4503614; 392869, 4503597; 392824, 4503640; 392809, 4503681; 392824, 4503734; 392833, 4503789; 392814, 4503823; 392788, 4503849; 392728, 4503859; 392636, 4503876; 392588, 4503876; 392562, 4503847; 392528, 4503779; 392497, 4503734; 392451, 4503722; 392410, 4503727; 392381, 4503743; 392360, 4503775; returning to 392357, 4503825.

(iv) From USGS 1:24,000 scale quadrangles, Cannibal Island. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 391919, 4503618; 391946, 4503641; 391966, 4503662; 391975, 4503643; 391991, 4503633; 392018, 4503619; 392046, 4503599; 392061, 4503604; 392084, 4503608; 392108, 4503598; 392129, 4503596; 392146, 4503583; 392175, 4503547; 392209, 4503507; 392263, 4503444; 392272, 4503416; 392267, 4503402; 392246, 4503386; 392224, 4503371; 392207, 4503350; 392213, 4503321; 392224, 4503286; 392232, 4503240; 392232, 4503208; 392243, 4503184; 392252, 4503171; 392271, 4503171; 392296, 4503177; 392314, 4503191; 392331, 4503204; 392355, 4503207; 392381, 4503201; 392404, 4503193; 392432, 4503184; 392448, 4503173; 392467, 4503152; 392467, 4503138; 392453, 4503144; 392434, 4503165; 392408, 4503175; 392380, 4503185; 392361, 4503193; 392346, 4503193; 392331, 4503184; 392306, 4503162; 392278, 4503153; 392243, 4503154; 392231, 4503171; 392212, 4503205; 392209, 4503255; 392188, 4503311; 392185, 4503342; 392189, 4503363; 392227, 4503398; 392246, 4503412; 392244, 4503432; 392134, 4503560; 392112, 4503567; 392082, 4503584; 392042, 4503575; 392023, 4503584; 391962, 4503625; 391942, 4503619; 391920, 4503608; returning to 391919, 4503618.

(v) From USGS 1:24,000 scale quadrangles, Cannibal Island. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 391651, 4503288; 391674, 4503278; 391699, 4503243; 391720, 4503213; 391720, 4503176; 391720, 4503121; 391768, 4503087; 391773, 4503064; 391763, 4503029; 391780, 4502984; 391830, 4502950; 391850, 4502901; 391879, 4502858; 391909, 4502870; 391954, 4502856; 391976, 4502860; 391981, 4502893; 391991, 4502922; 392026, 4502928; 392053, 4502927; 392071, 4502901; 392071, 4502868; 392080, 4502840; 392105, 4502829; 392121, 4502843; 392141, 4502885; 392130, 4502901; 392106, 4502901; 392071, 4502918; 392051, 4502942; 392036, 4502980; 392036, 4503020; 392049, 4503032; 392059, 4503015; 392058, 4502987; 392069, 4502953; 392100, 4502925; 392133, 4502920; 392155, 4502918; 392168, 4502890; 392150, 4502846; 392118, 4502803; 392074, 4502803; 392044, 4502835; 392041, 4502873; 392039, 4502896; 392019, 4502895; 392006, 4502870; 391991, 4502821; 391961, 4502821; 391924, 4502835; 391885, 4502829; 391848, 4502828; 391803, 4502920; 391788, 4502933; 391746, 4502963; 391726, 4503019; 391730, 4503061; 391701, 4503084; 391676, 4503121; 391684, 4503169; 391683, 4503211; 391654, 4503240; returning to 391651, 4503288.

(vi) From USGS 1:24,000 scale quadrangles, Cannibal Island. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 392724, 4502551; 392748, 4502590; 392799, 4502607; 392846, 4502615; 392877, 4502593; 392901, 4502547; 392935, 4502527; 392974, 4502527; 393001, 4502544; 393003, 4502602; 393028, 4502675; 393064, 4502717; 393118, 4502770; 393193, 4502821; 393242, 4502836; 393356, 4502865; 393407, 4502855; 393448, 4502814; 393436, 4502794; 393404, 4502804; 393392, 4502826; 393365, 4502838; 393273, 4502821; 393178, 4502780; 393127, 4502760; 393096, 4502704; 393052, 4502668; 393028, 4502576; 393025, 4502530; 393016, 4502515; 392955, 4502498; 392921, 4502510; 392884, 4502527; 392836, 4502593; 392807, 4502588; 392768, 4502571; 392756, 4502544; 392758, 4502508; 392768, 4502474; 392787, 4502440; 392826, 4502411; 392914, 4502386; 392940, 4502372; 392955, 4502338; 392955, 4502306; 392943, 4502253; 392909, 4502192; 392877, 4502136; 392860, 4502085; 392880, 4502051; 392875, 4502015; 392790, 4502019; 392785, 4502053; 392826, 4502078; 392853, 4502160; 392880, 4502202; 392916, 4502306; 392909, 4502350; 392833, 4502381; 392765, 4502403; 392741, 4502454; returning to 392724, 4502551.

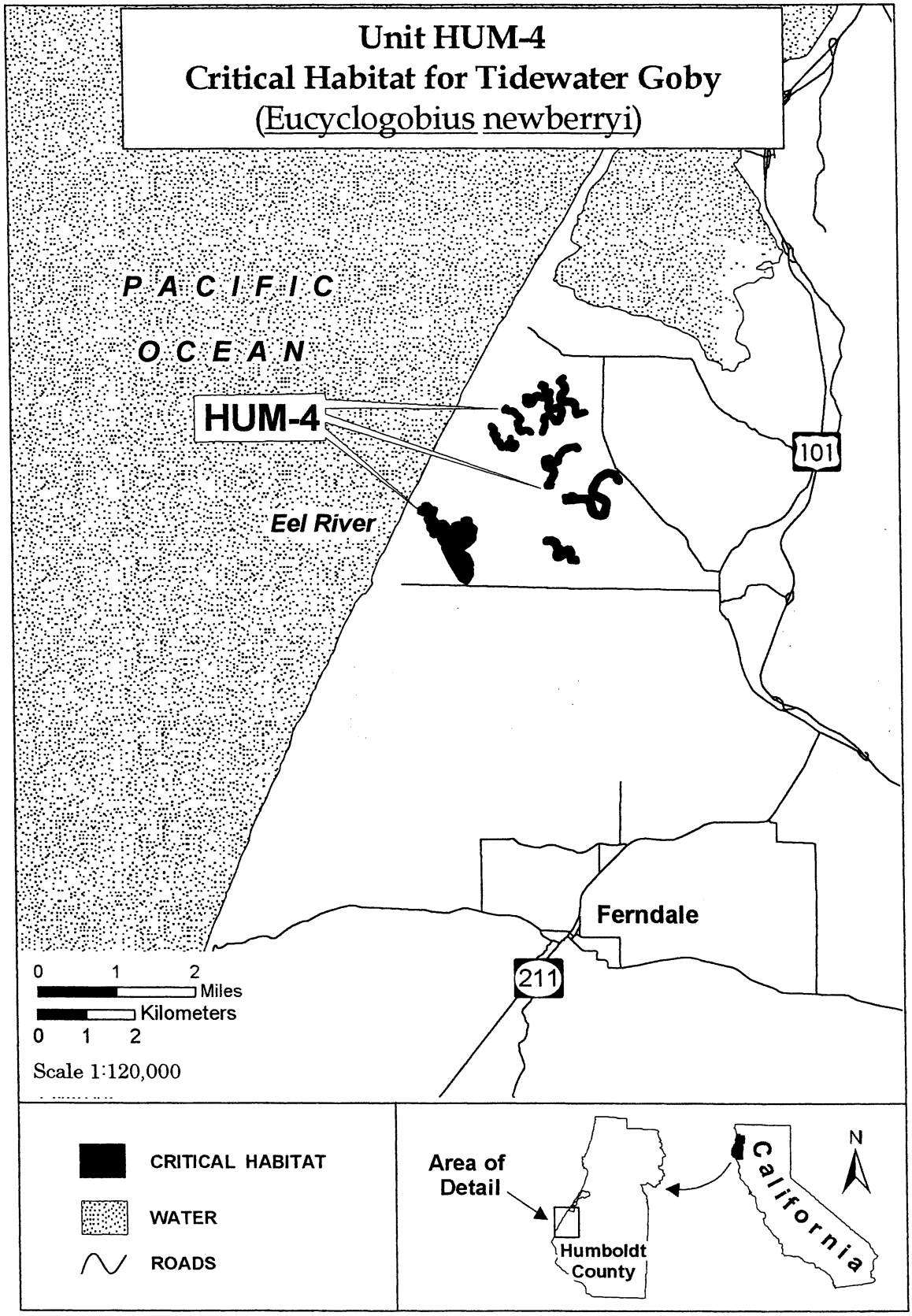
(vii) From USGS 1:24,000 scale quadrangles, Cannibal Island. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 393154, 4501798; 393227, 4501791; 393249, 4501813; 393285, 4501830; 393312, 4501808; 393317, 4501830; 393382, 4501791; 393548, 4501791; 393611, 4501786; 393672, 4501755; 393701, 4501711; 393730, 4501568; 393749, 4501521; 393761, 4501487; 393795, 4501456; 393832, 4501434; 393871, 4501429; 393922, 4501451; 393968, 4501568; 393985, 4501633; 393980, 4501665; 393970, 4501684; 393953, 4501704; 393744, 4501810; 393718, 4501830; 393698, 4501878; 393693, 4501920; 393715, 4502002; 393825, 4502187; 393861, 4502228; 393995, 4502311; 394048, 4502323; 394206, 4502289; 394225, 4502250; 394245, 4502214; 394274, 4502189; 394289, 4502153; 394289, 4502124; 394272, 4502112; 394240, 4502129; 394216, 4502158; 394216, 4502192; 394213, 4502214; 394170, 4502238; 394106, 4502262; 394046, 4502272; 394002, 4502248; 393929, 4502211; 393859, 4502163; 393774, 4502002; 393759, 4501956; 393749, 4501915; 393764, 4501871; 393934, 4501781; 394000, 4501738; 394034, 4501689; 394031, 4501638; 393987, 4501439; 393961, 4501402; 393880, 4501380; 393793, 4501393; 393727, 4501434; 393691, 4501478; 393664, 4501541; 393652, 4501616; 393628, 4501701; 393572, 4501725; 393409, 4501721; 393305, 4501716; 393161, 4501696; returning to 393154, 4501798.

(viii) From USGS 1:24,000 scale quadrangles, Cannibal Island. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 392754, 4500850; 392754, 4500887; 392781, 4500908; 392815, 4500908; 392872, 4500908; 392953, 4500871; 392987, 4500820; 392994, 4500793; 393011, 4500756; 393034, 4500736; 393068, 4500702; 393068, 4500645; 393027, 4500604; 393017, 4500581; 393041, 4500574; 393081, 4500614; 393149, 4500689; 393196, 4500716; 393243, 4500716; 393287, 4500658; 393290, 4500601; 393277, 4500537; 393284, 4500496; 393368, 4500507; 393381, 4500446; 393324, 4500453; 393274, 4500453; 393250, 4500456; 393236, 4500480; 393236, 4500540; 393250, 4500591; 393247, 4500631; 393230, 4500648; 393182, 4500648; 393135, 4500594; 393081, 4500544; 393044, 4500520; 393004, 4500520; 392967, 4500520; 392947, 4500557; 392947, 4500598; 392960, 4500638; 393000, 4500648; 393017, 4500672; 393000, 4500689; 392980, 4500695; 392960, 4500726; 392940, 4500773; 392923, 4500813; 392879, 4500840; 392852, 4500864; 392829, 4500864; 392791, 4500850; returning to 392754, 4500850.

(ix) From USGS 1:24,000 scale quadrangles, Cannibal Island. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 390162, 4501488; 390181, 4501544; 390239, 4501544; 390239, 4501568; 390250, 4501613; 390277, 4501632; 390311, 4501632; 390346, 4501592; 390375, 4501549; 390389, 4501514; 390423, 4501541; 390469, 4501533; 390437, 4501429; 390421, 4501365; 390434, 4501333; 390477, 4501288; 390514, 4501237; 390570, 4501240; 390607, 4501245; 390650, 4501245; 390677, 4501216; 390709, 4501179; 390762, 4501109; 390802, 4501069; 390839, 4501064; 390850, 4501117; 390863, 4501184; 390909, 4501219; 390964, 4501227; 391021, 4501232; 391053, 4501240; 391053, 4501296; 391116, 4501323; 391180, 4501315; 391191, 4501256; 391180, 4501208; 391223, 4501179; 391284, 4501131; 391276, 4501067; 391258, 4501016; 391258, 4500931; 391215, 4500877; 391146, 4500816; 391077, 4500768; 391002, 4500717; 390994, 4500640; 391123, 4500560; 391196, 4500393; 391183, 4500150; 391103, 4500023; 390997, 4500083; 390759, 4500488; 390701, 4500616; 390656, 4500728; 390658, 4500824; 390610, 4500832; 390581, 4500904; 390538, 4501008; 390511, 4501053; 390490, 4501008; 390450, 4500997; 390410, 4501019; 390410, 4501059; 390389, 4501107; 390349, 4501139; 390349, 4501165; 390346, 4501197; 390354, 4501251; 390314, 4501285; 390301, 4501325; 390303, 4501363; 390319, 4501416; 390319, 4501474; 390295, 4501485; 390277, 4501458; 390226, 4501458; returning to 390162, 4501488.

(x) Note: Map of Unit HUM–4 follows:

BILLING CODE 4310–55–P



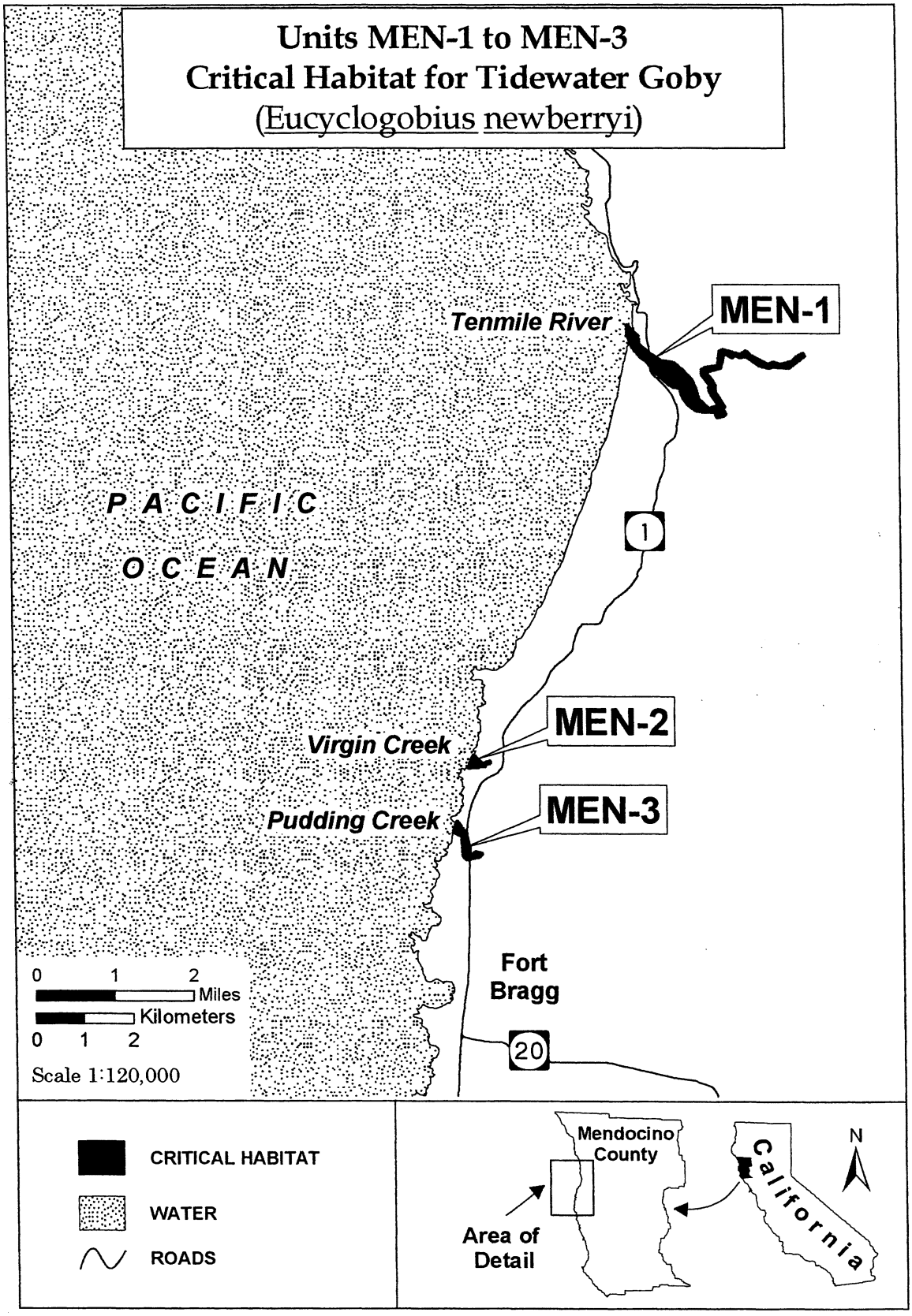
BILLING CODE 4310–55–C

(11) Unit MEN–1, Mendocino County, California.

(i) From USGS 1:24,000 scale quadrangles Inglenook and Covelo. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 434019, 4378674; 434159, 4378526; 434233, 4378461; 434247, 4378280; 434478, 4378076; 434692, 4377937; 434979, 4377882; 435336, 4377548; 435424, 4377344; 435480, 4377126; 435688, 4376927; 435897, 4376996; 435707, 4377288; 435693, 4377376; 435721, 4377427; 435563, 4377645; 435549, 4377742; 435633, 4377784; 435878, 4377831; 435915, 4378132; 435976, 4378169; 436337, 4378053; 436458, 4378136; 436536, 4378048; 436921, 4377849; 437014, 4377900; 437158, 4377844; 437408, 4377905; 437501, 4378007; 437644, 4378085; 437667, 4378039; 437348, 4377793; 437144, 4377798; 437009, 4377817; 436930, 4377784; 436731, 4377835; 436453, 4378039; 436332, 4378007; 436235, 4378053; 436179, 4378007; 435999, 4378104; 435925, 4377789; 435748, 4377742; 435619, 4377696; 435721, 4377571; 435813, 4377423; 435813, 4377293; 436003, 4376968; 435985, 4376913; 436031, 4376815; 435976, 4376774; 435855, 4376755; 435832, 4376802; 435938, 4376839; 435887, 4376885; 435781, 4376866; 435605, 4376857; 435424, 4376899; 435262, 4377015; 435169, 4377140; 435132, 4377219; 435095, 4377376; 434979, 4377390; 434854, 4377455; 434594, 4377687; 434427, 4377905; 434288, 4378016; 434159, 4378169; 434103, 4378280; 434024, 4378489; returning to 434019, 4378674.

(ii) Note: Map of Units MEN–1 through MEN–3 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(12) Unit MEN–2, Mendocino County, California.

(i) From USGS 1:24,000 scale quadrangle Fort Bragg. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 430656, 4369380; 430767, 4369639; 430910, 4369479; 430972, 4369449; 430976, 4369468; 431094, 4369506; 431096, 4369479; 431000, 4369454; 431000, 4369421; 430989, 4369407; 430950, 4369412; 430899, 4369412; 430865, 4369388; returning to 430656, 4369380.

(ii) Note: Map of Unit MEN–2 is provided on the map in paragraph (11)(ii) of this entry.

(13) Unit MEN–3, Mendocino County, California.

(i) From USGS 1:24,000 scale quadrangle Fort Bragg. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 430347, 4368031; 430419, 4368232; 430587, 4367989;430582, 4367872; 430631, 4367632; 430657, 4367494; 430697, 4367505; 430797, 4367598; 430912, 4367562; 430873, 4367497; 430797, 4367486; 430664, 4367452; 430595, 4367459; 430535, 4367532; 430524, 4367693; 430519, 4367942; returning to 430347, 4368031.

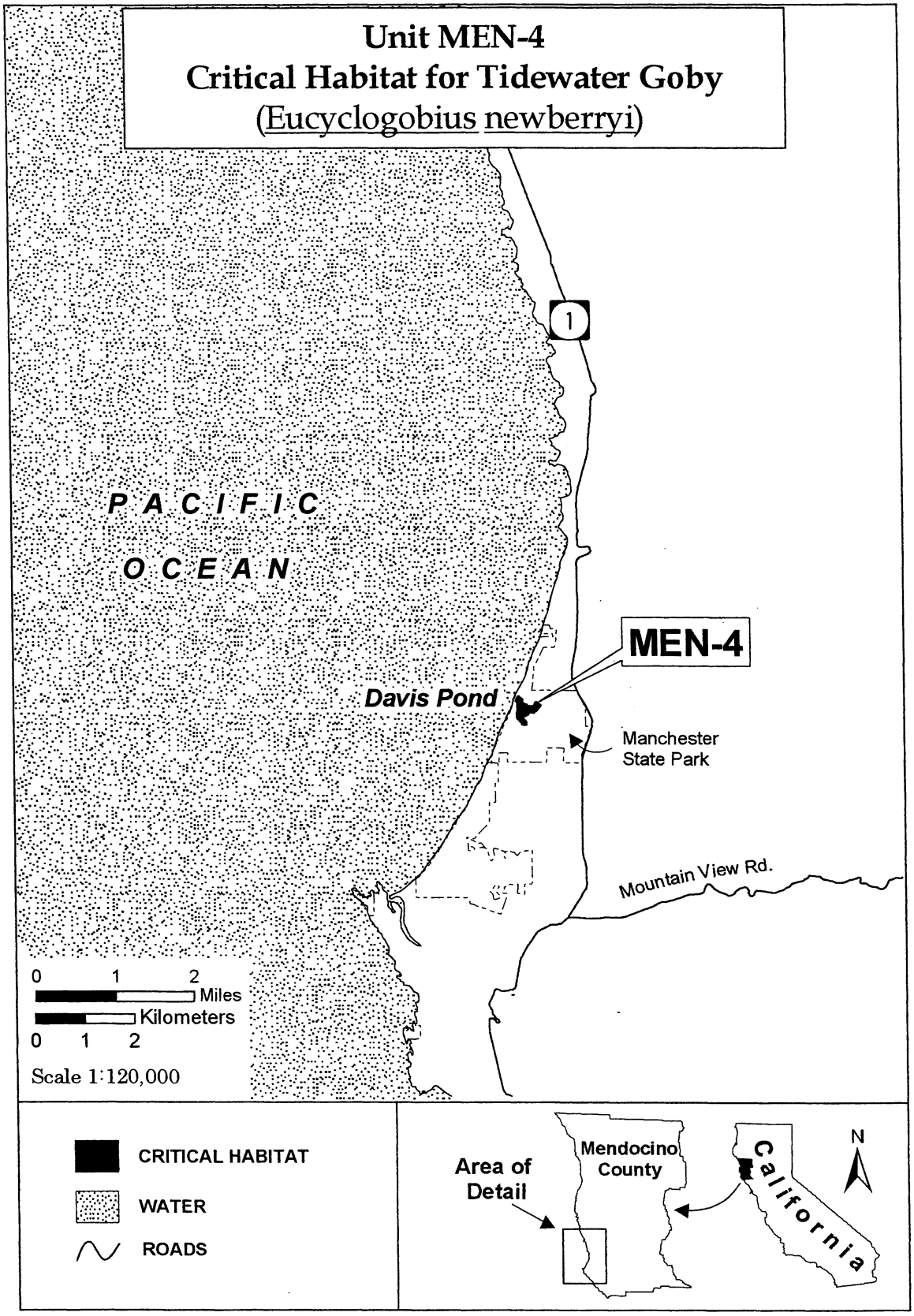
(ii) Note: Map of Unit MEN–3 is provided on the map in paragraph (11)(ii) of this entry.

(14) Unit MEN–4, Mendocino County, California.

(i) From USGS 1:24,000 scale quadrangle Point Arena. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 439145, 4316147; 439192, 4316229; 439254, 4316165; 439256, 4316086; 439350, 4316041; 439362, 4316012; 439390, 4316024; 439513, 4316022; 439550, 4316105; 439639, 4316044; 439513, 4315901; 439409, 4315918; 439385, 4315866; 439323, 4315822; 439232, 4315851; 439219, 4315807; 439348, 4315686; 439345, 4315644; 439279, 4315654; 439168, 4315782; 439190, 4316105; returning to 439145, 4316147.

(ii) Note: Map of Unit MEN–4 follows:

BILLING CODE 4310–55–P



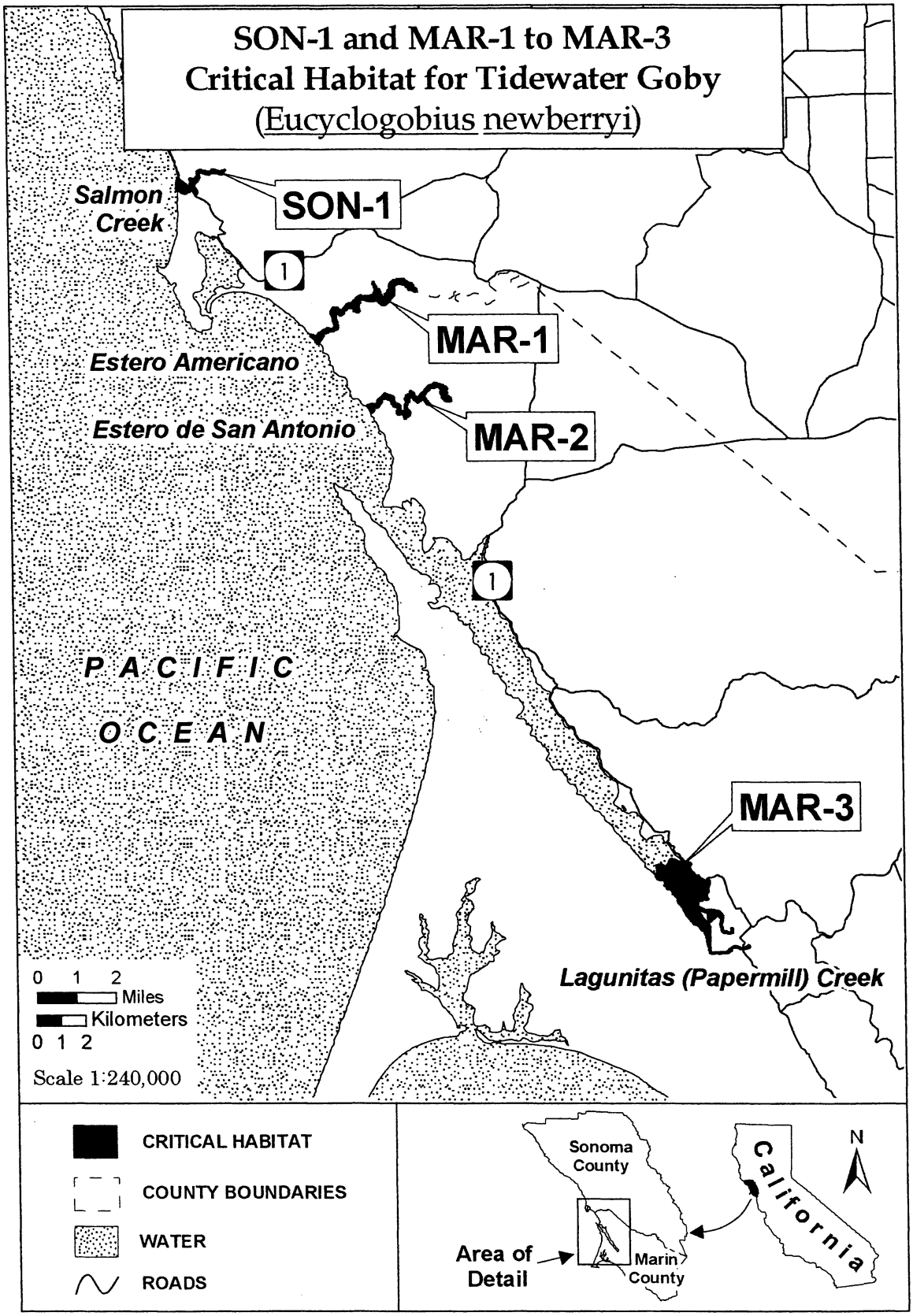
BILLING CODE 4310–55–C

(15) Unit SON–1, Sonoma County, California.

(i) From USGS 1:24,000 scale quadrangle Bodega Head. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 494029, 4245091; 494029, 4245106; 494036, 4245131; 494041, 4245198; 494050, 4245233; 494073, 4245274; 494080, 4245308; 494081, 4245316; 494073, 4245356; 494213, 4245202; 494304, 4245147; 494330, 4245161; 494341, 4245148; 494426, 4245084; 494451, 4245051; 494457, 4245031; 494458, 4245013; 494444, 4244966; 494449, 4244941; 494461, 4244924; 494471, 4244920; 494485, 4244921; 494549, 4244956; 494562, 4244956; 494569, 4244952; 494592, 4244913; 494602, 4244907; 494608, 4244931; 494609, 4244954; 494600, 4245040; 494601, 4245099; 494607, 4245125; 494623, 4245134; 494628, 4245199; 494625, 4245218; 494629, 4245237; 494620, 4245265; 494594, 4245320; 494593, 4245331; 494605, 4245344; 494628, 4245343; 494677, 4245310; 494703, 4245301; 494715, 4245302; 494746, 4245315; 494781, 4245340; 494815, 4245357; 494875, 4245365; 494881, 4245417; 494889, 4245435; 494907, 4245440; 494925, 4245435; 494924, 4245474; 494906, 4245525; 494897, 4245563; 494898, 4245597; 494905, 4245625; 494916, 4245639; 494931, 4245646; 494959, 4245647; 494969, 4245645; 494979, 4245653; 494988, 4245663; 495013, 4245674; 495036, 4245678; 495061, 4245677; 495081, 4245671; 495164, 4245635; 495262, 4245628; 495332, 4245612; 495382, 4245613; 495458, 4245624; 495476, 4245621; 495496, 4245673; 495503, 4245680; 495533, 4245699; 495573, 4245702; 495727, 4245656; 495813, 4245627; 495827, 4245616; 495853, 4245586; 495900, 4245620; 495918, 4245629; 495989, 4245658; 496042, 4245675; 496042, 4245667; 496033, 4245648; 495976, 4245573; 495937, 4245541; 495896, 4245514; 495879, 4245508; 495861, 4245505; 495846, 4245507; 495814, 4245522; 495787, 4245547; 495781, 4245562; 495759, 4245564; 495748, 4245571; 495723, 4245577; 495679, 4245569; 495661, 4245569; 495613, 4245587; 495591, 4245589; 495524, 4245584; 495468, 4245561; 495408, 4245529; 495372, 4245517; 495333, 4245519; 495313, 4245525; 495276, 4245527; 495243, 4245538; 495213, 4245553; 495155, 4245570; 495099, 4245606; 495033, 4245614; 495010, 4245623; 494990, 4245635; 494977, 4245628; 494961, 4245596; 494954, 4245561; 494956, 4245494; 494973, 4245403; 494973, 4245381; 494964, 4245333; 494949, 4245307; 494935, 4245291; 494922, 4245282; 494901, 4245243; 494864, 4245207; 494847, 4245196; 494810, 4245178; 494803, 4245154; 494785, 4245119; 494774, 4245104; 494779, 4245101; 494765, 4245074; 494755, 4245029; 494729, 4245001; 494720, 4244984; 494721, 4244960; 494740, 4244928; 494751, 4244917; 494797, 4244925; 494807, 4244920; 494817, 4244908; 494831, 4244855; 494837, 4244846; 494851, 4244836; 494864, 4244832; 494875, 4244821; 494871, 4244811; 494858, 4244803; 494856, 4244797; 494858, 4244786; 494877, 4244749; 494885, 4244717; 494864, 4244697; 494852, 4244674; 494830, 4244664; 494822, 4244665; 494811, 4244673; 494800, 4244698; 494798, 4244738; 494783, 4244774; 494769, 4244837; 494761, 4244845; 494743, 4244848; 494733, 4244860; 494722, 4244859; 494697, 4244843; 494687, 4244843; 494676, 4244847; 494645, 4244892; 494637, 4244898; 494613, 4244856; 494585, 4244822; 494556, 4244807; 494537, 4244790; 494454, 4244761; 494407, 4244738; 494377, 4244733; 494344, 4244733; 494300, 4244747; 494282, 4244762; 494224, 4244795; 494181, 4244836; 494164, 4244901; 494122, 4244924; 494104, 4244921; 494098, 4244912; 494092, 4244885; 494085, 4244825; 494042, 4244824; 494037, 4244931; 494037, 4245018; returning to 494029, 4245091.

(ii) Note: Map of Units SON–1 and MAR–1 through MAR–3 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(16) Unit MAR–1, Marin County, California.

(i) From USGS 1:24,000 scale quadrangles Bodega Head and Valley Ford. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 499504, 4238760; 499508, 4238800; 499544, 4238796; 499614, 4238765; 499677, 4238749; 499701, 4238735; 499736, 4238762; 499804, 4238825; 499878, 4238873; 499903, 4238902; 499936, 4238909; 500005, 4238953; 500027, 4238964; 500062, 4238972; 500063, 4238985; 500072, 4238994; 500100, 4239010; 500161, 4239021; 500178, 4239034; 500184, 4239047; 500198, 4239059; 500220, 4239069; 500240, 4239071; 500280, 4239066; 500327, 4239054; 500356, 4239032; 500372, 4239015; 500401, 4239022; 500461, 4239056; 500481, 4239078; 500498, 4239106; 500507, 4239129; 500505, 4239157; 500488, 4239281; 500455, 4239440; 500447, 4239534; 500437, 4239556; 500385, 4239650; 500373, 4239685; 500370, 4239722; 500370, 4239741; 500381, 4239770; 500400, 4239802; 500413, 4239834; 500423, 4239848; 500435, 4239857; 500442, 4239859; 500443, 4239878; 500452, 4239910; 500464, 4239937; 500475, 4239950; 500488, 4239952; 500503, 4239946; 500514, 4239928; 500526, 4239920; 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502158, 4240809; 502119, 4240886; 502104, 4240923; 502098, 4240980; 502114, 4240991; 502136, 4240976; 502169, 4240898; 502220, 4240806; 502244, 4240731; 502265, 4240626; 502278, 4240594; 502293, 4240580; 502315, 4240584; 502326, 4240599; 502327, 4240626; 502320, 4240691; 502322, 4240700; 502338, 4240702; 502371, 4240621; 502400, 4240576; 502405, 4240557; 502399, 4240509; 502399, 4240489; 502413, 4240468; 502434, 4240452; 502450, 4240428; 502466, 4240397; 502495, 4240363; 502519, 4240346; 502537, 4240338; 502557, 4240342; 502584, 4240363; 502595, 4240388; 502602, 4240418; 502605, 4240470; 502611, 4240479; 502718, 4240572; 502725, 4240593; 502723, 4240624; 502747, 4240642; 502754, 4240651; 502758, 4240669; 502767, 4240688; 502777, 4240705; 502797, 4240718; 502794, 4240800; 502795, 4240867; 502798, 4240896; 502808, 4240933; 502821, 4240957; 502873, 4240992; 502884, 4241002; 502891, 4241014; 502911, 4241029; 502933, 4241039; 502970, 4241050; 502985, 4241060; 503052, 4241081; 503082, 4241096; 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(ii) Note: Map of Unit MAR–1 is provided on the map in paragraph (15)(ii) of this entry.

(17) Unit MAR–2, Marin County, California.

(i) From USGS 1:24,000 scale quadrangle Valley Ford. Land bounded by the following UTM zone 10 NAD83

coordinates (E, N): 501844, 4235816; 501869, 4235829; 501901, 4235841; 501952, 4235843; 501975, 4235847; 502011, 4235864; 502034, 4235869; 502045, 4235867; 502058, 4235854; 502094, 4235857; 502155, 4235838; 502166, 4235832; 502185, 4235799; 502195, 4235787; 502209, 4235779; 502227, 4235790; 502243, 4235803; 502264, 4235828; 502260, 4235848; 502249, 4235874; 502238, 4235889; 502232, 4235915; 502237, 4235926; 502247, 4235933; 502257, 4235980; 502256, 4236020; 502264, 4236059; 502279, 4236074; 502285, 4236075; 502294, 4236087; 502311, 4236103; 502370, 4236146; 502433, 4236217; 502476, 4236246; 502492, 4236265; 502505, 4236290; 502517, 4236302; 502541, 4236310; 502566, 4236312; 502597, 4236307; 502617, 4236298; 502639, 4236278; 502660, 4236266; 502678, 4236265; 502726, 4236249; 502763, 4236251; 502786, 4236244; 502820, 4236221; 502854, 4236206; 502885, 4236185; 502899, 4236169; 502916, 4236138; 502922, 4236113; 502924, 4236033; 502954, 4235919; 502987, 4235904; 503034, 4235892; 503094, 4235861; 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(ii) Note: Map of Unit MAR–2 is provided on the map in paragraph (15)(ii) of this entry.

(18) Unit MAR–3, Marin County, California.

(i) From USGS 1:24,000 scale quadrangle Inverness. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 513514, 4216097;

513604, 4216208; 513584, 4216239; 513583, 4216271; 513625, 4216303; 513631, 4216312; 513619, 4216354; 513565, 4216417; 513558, 4216445; 513563, 4216473; 513569, 4216476; 513611, 4216470; 513644, 4216503; 513772, 4216500; 513830, 4216473; 513917, 4216413; 513956, 4216410; 513973, 4216431; 513982, 4216471; 513991, 4216493; 514025, 4216527; 514042, 4216554; 514108, 4216683; 514150, 4216742; 514170, 4216757; 514220, 4216753; 514364, 4216710; 514436, 4216662; 514458, 4216654; 514485, 4216622; 514695, 4216634; 514738, 4216644; 514826, 4216626; 514851, 4216613; 514891, 4216579; 514929, 4216557; 514938, 4216548; 514941, 4216524; 514889, 4216463; 514891, 4216417; 514873, 4216385; 514953, 4216265; 514968, 4216251; 514978, 4216230; 515061, 4216173; 515095, 4216115; 515134, 4216070; 515170, 4216051; 515245, 4216023; 515278, 4216002; 515326, 4215955; 515348, 4215915; 515357, 4215910; 515373, 4215919; 515394, 4215921; 515420, 4215916; 515450, 4215900; 515490, 4215873; 515512, 4215854; 515537, 4215818; 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515632, 4213261; 515602, 4213448; 515588, 4213495; 515577, 4213506; 515564, 4213552; 515555, 4213566; 515545, 4213621; 515513, 4213672; 515507, 4213692; 515511, 4213703; 515509, 4213713; 515480, 4213765; 515438, 4213793; 515418, 4213785; 515398, 4213786; 515294, 4213951; 515257, 4213989; 515218, 4214009; 515126, 4214013; 515083, 4214053; 515032, 4214113; 514826, 4214370; 514792, 4214415; 514768, 4214464; 514737, 4214497; 514724, 4214532; 514719, 4214565; 514703, 4214575; 514694, 4214605; 514653, 4214687; 514544, 4214841; 514516, 4214870; 514488, 4214908; 514454, 4214930; 514425, 4215011; 514427, 4215025; 514438, 4215029; 514430, 4215069; 514375, 4215180; 514361, 4215201; 514290, 4215270; 514261, 4215310; 514252, 4215309; 514238, 4215299; 514228, 4215308; 514225, 4215328; 514231, 4215413; 514221, 4215453; 514210, 4215469; 514194, 4215488; 514165, 4215499; 514121, 4215508; 514017, 4215512; 513988, 4215551; 513970, 4215628; 513965, 4215636; 513933, 4215641; 513870, 4215664; 513872, 4215685; 513878, 4215691; 513920, 4215712; 513924, 4215719; 513922, 4215741; 513903, 4215786; 513903, 4215802; 513905, 4215825; 513920, 4215877; 513919, 4215910; 513904, 4215922; 513884, 4215922; 513765, 4215908; 513738, 4215900; 513682, 4215900; 513653, 4215910; 513577, 4215954; 513558, 4215989; 513534, 4216071; returning to 513514, 4216097.

(ii) Note: Map of Unit MAR–3 is provided on the map in paragraph (15)(ii) of this entry.

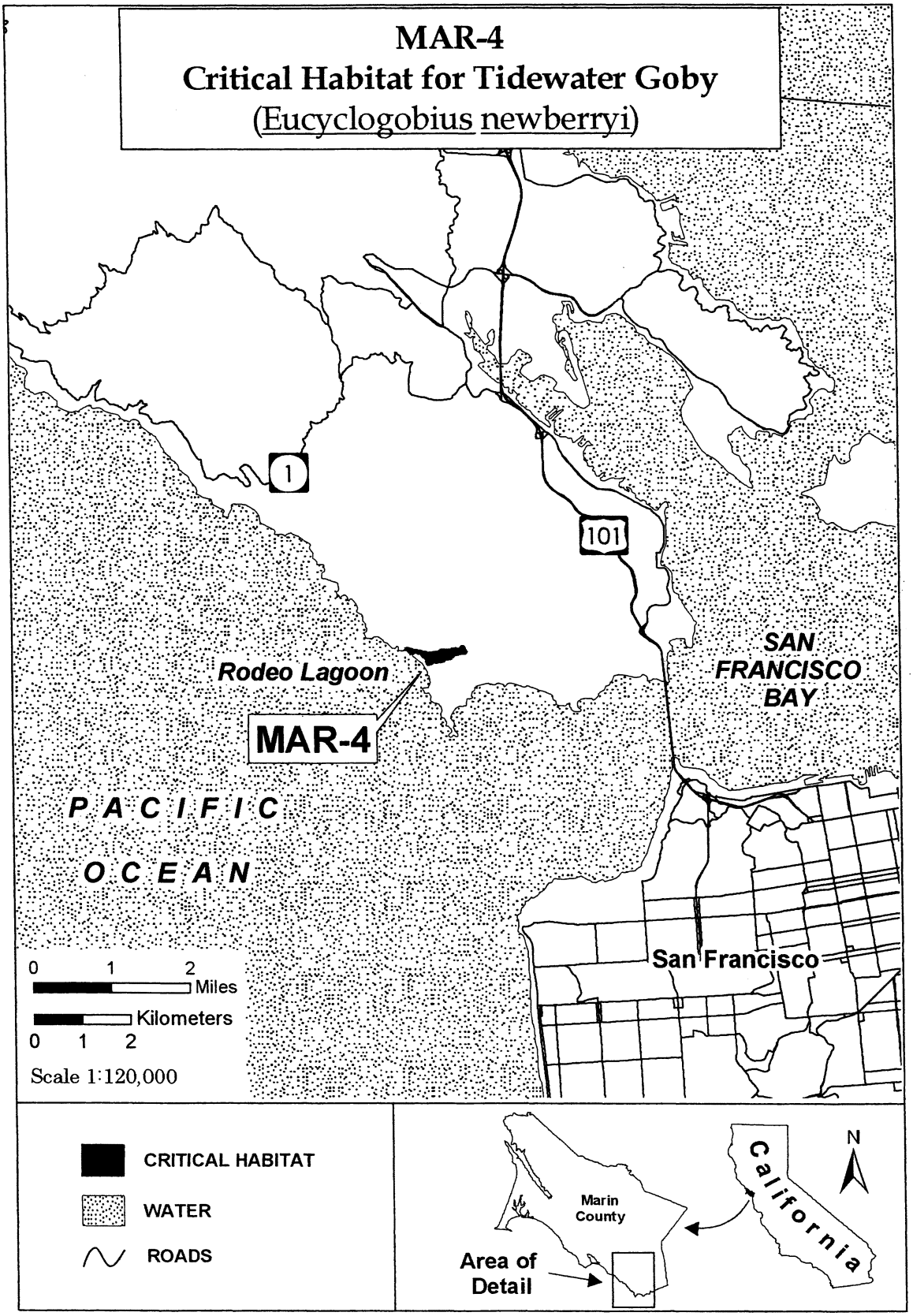
(19) Unit MAR–4, Marin County, California.

(i) From USGS 1:24,000 scale quadrangle Point Bonita. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 540461, 4187256; 540478, 4187263; 540497, 4187265; 540522, 4187261; 540558, 4187249; 540606, 4187242; 540637, 4187227; 540692, 4187224; 540716, 4187211; 540738, 4187212; 540797, 4187198; 540841, 4187197; 540908, 4187177; 540933, 4187165; 540960, 4187172; 541012, 4187168; 541039, 4187176; 541116, 4187175; 541129, 4187180;

541157, 4187206; 541177, 4187219; 541199, 4187225; 541320, 4187238; 541372, 4187230; 541384, 4187231; 541435, 4187247; 541521, 4187268; 541564, 4187257; 541591, 4187261; 541605, 4187268; 541649, 4187308; 541658, 4187309; 541669, 4187303; 541677, 4187291; 541702, 4187235; 541718, 4187190; 541716, 4187182; 541698, 4187171; 541614, 4187164; 541520, 4187142; 541501, 4187142; 541483, 4187137; 541407, 4187061; 541393, 4187058; 541379, 4187060; 541367, 4187056; 541315, 4187050; 541277, 4187033; 541269, 4187022; 541254, 4187011; 541227, 4187001; 541195, 4186993; 541106, 4186984; 541072, 4186990; 541049, 4186990; 541017, 4186963; 540991, 4186948; 540940, 4186941; 540927, 4186948; 540922, 4186958; 540907, 4187027; 540893, 4187060; 540879, 4187076; 540838, 4187110; 540823, 4187139; 540776, 4187161; 540758, 4187164; 540691, 4187189; 540644, 4187199; 540628, 4187211; 540619, 4187155; 540594, 4187167; 540557, 4187191; 540546, 4187209; 540521, 4187230; 540490, 4187247; returning to 540461, 4187256.

(ii) Note: Map of Unit MAR–4 follows:

BILLING CODE 4310–55–P



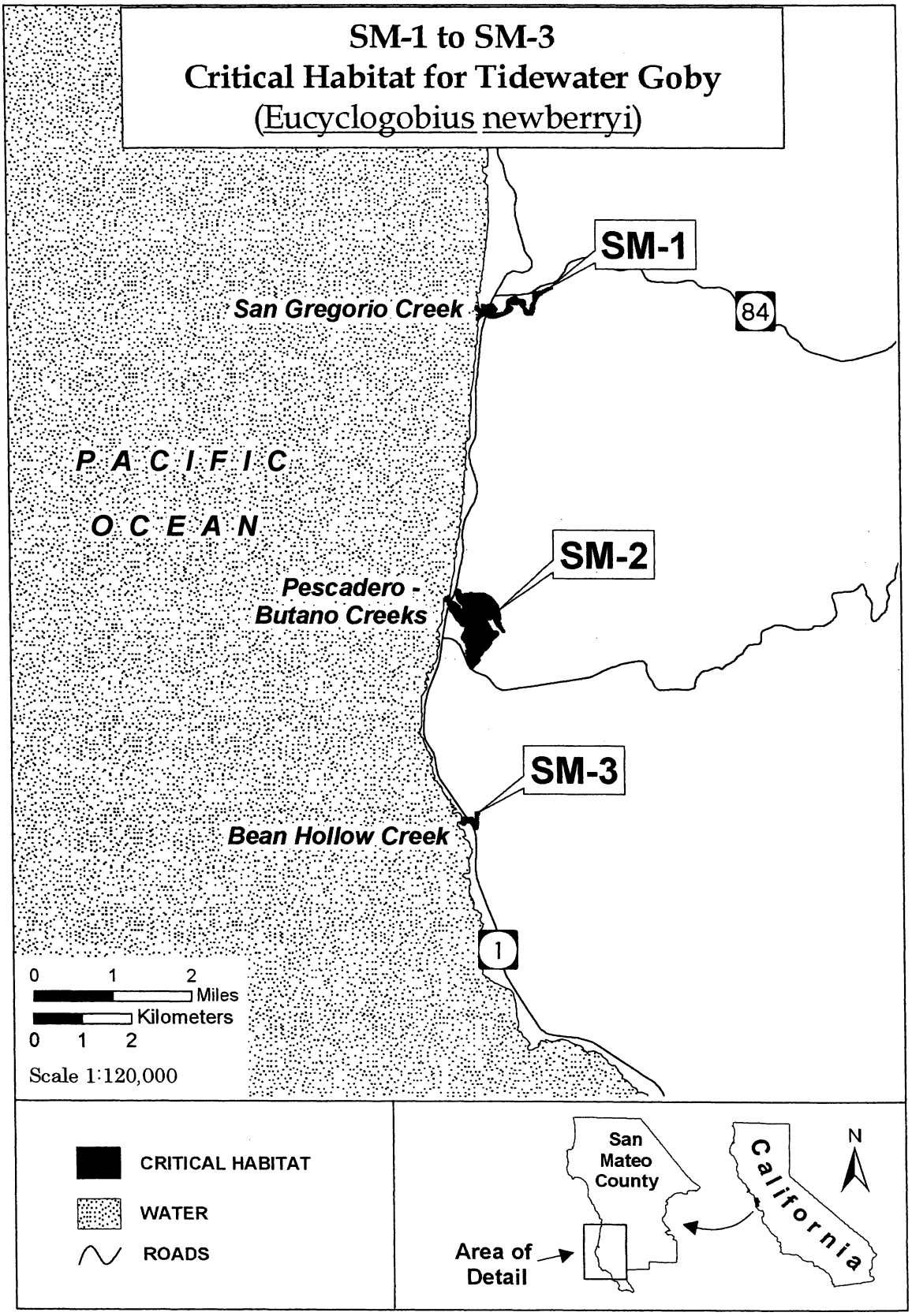
BILLING CODE 4310–55–C

(20) Unit SM–1, San Mateo County, California.

(i) From USGS 1:24,000 scale quadrangle San Gregorio. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 552769, 4130764; 552784, 4130813; 552806, 4130800; 552837, 4130766; 552869, 4130686; 552884, 4130681; 552903, 4130686; 552920, 4130694; 552922, 4130709; 552911, 4130785; 552902, 4130822; 552922, 4130836; 552970, 4130825; 553001, 4130812; 553002, 4130822; 553007, 4130831; 553023, 4130833; 553044, 4130845; 553055, 4130845; 553062, 4130833; 553033, 4130773; 553019, 4130747; 552990, 4130725; 552984, 4130712; 552986, 4130699; 552996, 4130680; 552994, 4130669; 553045, 4130645; 553053, 4130658; 553042, 4130666; 553031, 4130662; 553018, 4130666; 553014, 4130673; 553014, 4130685; 553029, 4130715; 553082, 4130729; 553095, 4130737; 553114, 4130758; 553104, 4130777; 553074, 4130796; 553064, 4130807; 553070, 4130823; 553087, 4130854; 553098, 4130853; 553127, 4130841; 553134, 4130834; 553164, 4130795; 553180, 4130782; 553192, 4130766; 553191, 4130751; 553175, 4130728; 553151, 4130709; 553105, 4130698; 553092, 4130688; 553065, 4130685; 553055, 4130679; 553064, 4130660; 553067, 4130638; 553129, 4130636; 553186, 4130647; 553246, 4130652; 553343, 4130671; 553365, 4130689; 553384, 4130713; 553395, 4130732; 553402, 4130752; 553430, 4130800; 553435, 4130825; 553429, 4130884; 553430, 4130910; 553441, 4130936; 553453, 4130944; 553467, 4130948; 553502, 4130945; 553508, 4130973; 553528, 4130987; 553549, 4130991; 553571, 4131006; 553586, 4131011; 553605, 4131002; 553659, 4130945; 553667, 4130948; 553723, 4130945; 553737, 4130947; 553753, 4130942; 553768, 4130928; 553780, 4130897; 553784, 4130877; 553777, 4130834; 553779, 4130818; 553776, 4130791; 553818, 4130733; 553862, 4130714; 553887, 4130720; 553893, 4130736; 553893, 4130747; 553919, 4130794; 553919, 4130845; 553929, 4130866; 553957, 4130889; 553968, 4130919; 553968, 4130976; 553972, 4131011; 553977, 4131026; 553974, 4131044; 553980, 4131056; 553980, 4131066; 553976, 4131079; 553951, 4131094; 553947, 4131102; 553959, 4131114; 553985, 4131130; 553993, 4131115; 553993, 4131101; 553988, 4131093; 553990, 4131079; 554001, 4131070; 554018, 4131066; 554040, 4131090; 554062, 4131105; 554119, 4131109; 554269, 4131178; 554316, 4131182; 554333, 4131195; 554351, 4131198; 554351, 4131196; 554335, 4131192; 554317, 4131179; 554288, 4131168; 554267, 4131164; 554208, 4131138; 554147, 4131083; 554077, 4131038; 554060, 4131018; 554043, 4130994; 554019, 4130938; 553999, 4130900; 553966, 4130851; 553964, 4130761; 553940, 4130687; 553915, 4130651; 553885, 4130640; 553858, 4130640; 553825, 4130650; 553796, 4130668; 553782, 4130691; 553778, 4130741; 553774, 4130763; 553739, 4130802; 553689, 4130875; 553674, 4130880; 553655, 4130880; 553595, 4130860; 553571, 4130860; 553542, 4130867; 553528, 4130882; 553496, 4130890; 553483, 4130887; 553469, 4130877; 553458, 4130860; 553466, 4130828; 553466, 4130811; 553525, 4130783; 553526, 4130769; 553516, 4130741; 553478, 4130715; 553457, 4130694; 553430, 4130682; 553407, 4130693; 553406, 4130691; 553427, 4130681; 553393, 4130665; 553379, 4130655; 553201, 4130593; 553153, 4130581; 553106, 4130582; 553063, 4130589; 552978, 4130631; 552944, 4130637; 552870, 4130605; 552858, 4130583; 552836, 4130558; 552806, 4130534; 552796, 4130562; 552814, 4130572; 552831, 4130587; 552845, 4130628; 552848, 4130683; 552812, 4130742; 552795, 4130760; 552781, 4130745; returning to 552769, 4130764.

(ii) Note: Map of Units SM–1 through SM–3 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(21) Unit SM–2, San Mateo County, California.

(i) From USGS 1:24,000 scale quadrangle San Gregorio. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 552093, 4124660; 552152, 4124706; 552208, 4124607; 552227, 4124591; 552243, 4124592; 552325, 4124545; 552363, 4124496; 552398, 4124421; 552447, 4124421; 552455, 4124442; 552467, 4124459; 552488, 4124471; 552450, 4124533; 552377, 4124608; 552346, 4124657; 552335, 4124723; 552321, 4124759; 552323, 4124841; 552354, 4124844; 552378, 4124827; 552397, 4124804; 552407, 4124755; 552427, 4124731; 552597, 4124774; 552629, 4124773; 552719, 4124759; 552869, 4124762; 552893, 4124753; 552993, 4124703; 553029, 4124682; 553080, 4124628; 553127, 4124563; 553153, 4124520; 553167, 4124484; 553187, 4124393; 553202, 4124352; 553210, 4124314; 553217, 4124262; 553193, 4124183; 553219, 4124140; 553217, 4124107; 553244, 4124048; 553299, 4123975; 553291, 4123974; 553283, 4123980; 553247, 4124020; 553193, 4124079; 553160, 4124113; 553090, 4124253; 553059, 4124264; 553043, 4124264; 553015, 4124246; 552988, 4124239; 552956, 4124241; 552929, 4124251; 552910, 4124268; 552904, 4124290; 552879, 4124333; 552822, 4124365; 552750, 4124346; 552794, 4124318; 552923, 4124211; 552939, 4124187; 552949, 4124149; 553065, 4123962; 553146, 4123962; 553167, 4123910; 553011, 4123777; 553011, 4123740; 553008, 4123719; 552983, 4123672; 552957, 4123643; 552869, 4123570; 552848, 4123540; 552830, 4123498; 552782, 4123479; 552779, 4123446; 552755, 4123403; 552782, 4123375; 552764, 4123347; 552691, 4123276; 552643, 4123214; 552613, 4123228; 552596, 4123246; 552575, 4123285; 552556, 4123361; 552537, 4123392; 552532, 4123420; 552548, 4123460; 552514, 4123531; 552519, 4123555; 552546, 4123582; 552538, 4123656; 552519, 4123697; 552511, 4123732; 552439, 4123832; 552435, 4123848; 552437, 4123872; 552479, 4123937; 552486, 4123961; 552533, 4124099; 552484, 4124100; 552447, 4124107; 552422, 4124127; 552410, 4124150; 552382, 4124180; 552343, 4124217; 552325, 4124244; 552294, 4124280; 552279, 4124320; 552239, 4124387; 552218, 4124395; 552203, 4124420; 552187, 4124528; 552156, 4124540; 552144, 4124553; 552149, 4124572; 552134, 4124599; 552104, 4124618; returning to 552093, 4124660.

(ii) Note: Map of Unit SM–2 is provided on the map in paragraph (20)(ii) of this entry.

(22) Unit SM–3, San Mateo County, California.

(i) From USGS 1:24,000 scale quadrangle Pigeon Point. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 552371, 4119927; 552402, 4119965; 552411, 4119992; 552409, 4120039; 552436, 4120046; 552446, 4120041; 552461, 4120039; 552483, 4120043; 552490, 4120040; 552498, 4120036; 552507, 4120016; 552533, 4120028; 552537, 4120034; 552560, 4120032; 552569, 4120040; 552589, 4120043; 552606, 4120035; 552637, 4119992; 552655, 4119973; 552683, 4120024; 552688, 4120146; 552701, 4120157; 552725, 4120160; 552741, 4120157; 552744, 4120134; 552741, 4120114; 552729, 4120090; 552723, 4119997; 552717, 4119970; 552724, 4119920; 552712, 4119843; 552702, 4119832; 552699, 4119819; 552690, 4119819; 552665, 4119838; 552657, 4119853; 552653, 4119871; 552624, 4119887; 552596, 4119949; 552581, 4119953; 552563, 4119975; 552548, 4120000; 552519, 4119990; 552522, 4119981; 552529, 4119976; 552532, 4119967; 552532, 4119958; 552529, 4119953; 552507, 4119957; 552477, 4119953; 552450, 4119940; 552444, 4119914; 552440, 4119907; 552423, 4119907; 552413, 4119910; 552398, 4119928; 552390, 4119932; returning to 552371, 4119927.

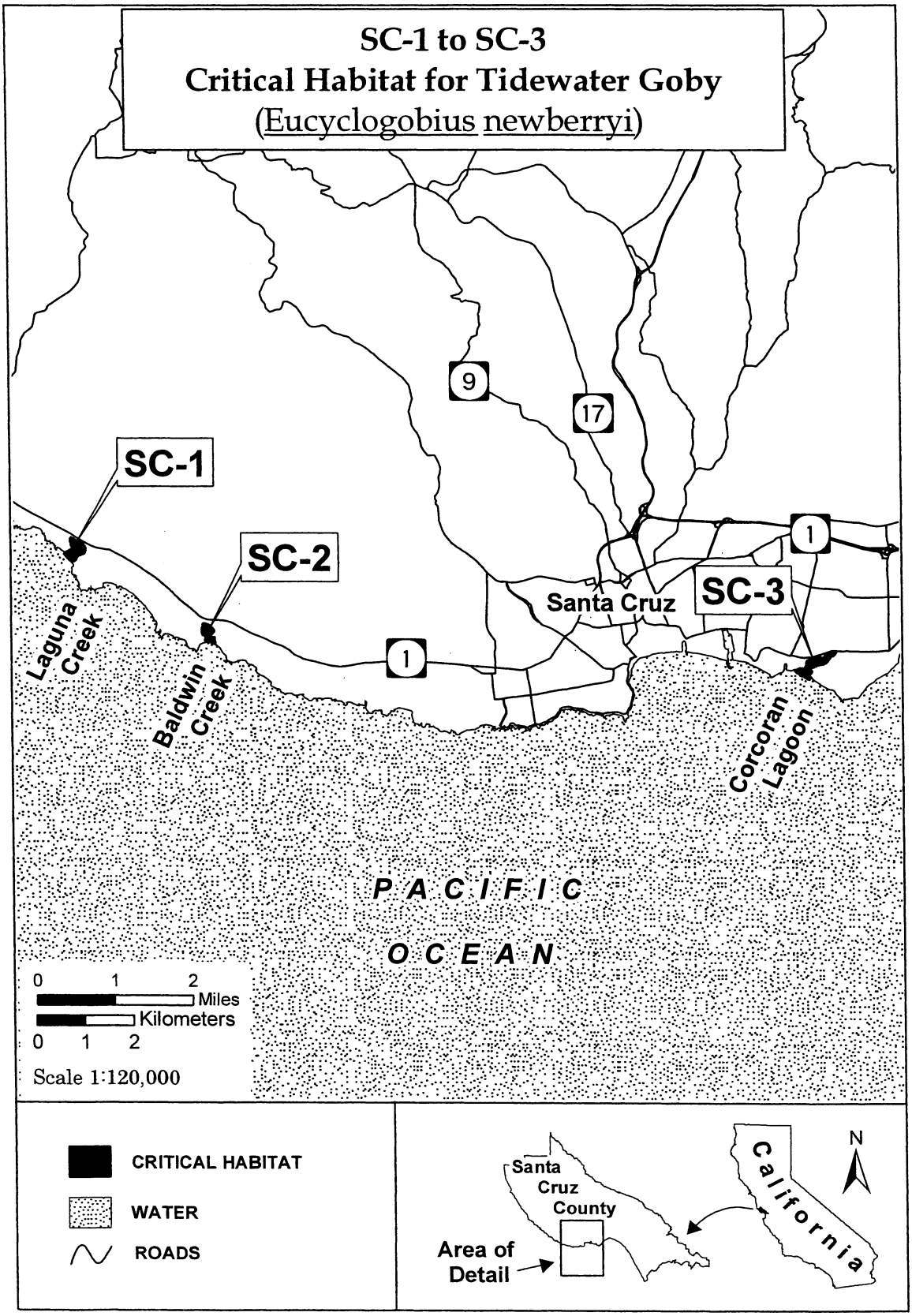
(ii) Note: Map of Unit SMEN–3 is provided on the map in paragraph (20)(ii) of this entry.

(23) Unit SC–1, Santa Cruz County, California.

(i) From USGS 1:24,000 scale quadrangle Santa Cruz. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 575050, 4093349; 575122, 4093391; 575122, 4093392; 575142, 4093406; 575179, 4093428; 575186, 4093431; 575194, 4093426; 575207, 4093421; 575221, 4093430; 575228, 4093440; 575233, 4093453; 575226, 4093467; 575203, 4093491; 575189, 4093516; 575180, 4093533; 575177, 4093546; 575175, 4093575; 575172, 4093616; 575172, 4093657; 575174, 4093688; 575437, 4093542; 575447, 4093510; 575461, 4093501; 575468, 4093490; 575471, 4093482; 575471, 4093452; 575471, 4093430; 575469, 4093412; 575462, 4093384; 575451, 4093363; 575429, 4093350; 575408, 4093342; 575379, 4093334; 575356, 4093328; 575341, 4093320; 575330, 4093309; 575312, 4093295; 575303, 4093272; 575287, 4093241; 575274, 4093224; 575264, 4093209; 575251, 4093203; 575235, 4093206; 575231, 4093207; 575220, 4093204; 575213, 4093197; 575207, 4093172; 575189, 4093186; 575186, 4093200; 575167, 4093210; 575139, 4093240; 575068, 4093327; returning to 575050, 4093349.

(ii) Note: Map of Units SC–1 through SC–3 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(24) Unit SC–2, Santa Cruz County, California.

(i) From USGS 1:24,000 scale quadrangle Santa Cruz. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 577882, 4091692; 577882, 4091713; 577882, 4091737; 577886, 4091758; 577894, 4091784; 577904, 4091804; 577908, 4091830; 577906, 4091840; 577903, 4091858; 577905, 4091866; 577913, 4091867; 577922, 4091862; 577922, 4091865; 577927, 4091871; 577933, 4091876; 577958, 4091870; 577982, 4091859; 577997, 4091852; 578011, 4091846; 578028, 4091831; 578063, 4091813; 578083, 4091801; 578108, 4091775; 578122, 4091750; 578126, 4091742; 578129, 4091738; 578130, 4091726; 578126, 4091708; 578116, 4091686; 578103, 4091670; 578083, 4091655; 578068, 4091641; 578063, 4091620; 578073, 4091597; 578080, 4091577; 578083, 4091568; 578084, 4091569; 578087, 4091564; 578094, 4091561; 578105, 4091570; 578111, 4091578; 578117, 4091583; 578126, 4091580; 578137, 4091574; 578147, 4091568; 578143, 4091563; 578141, 4091553; 578141, 4091542; 578142, 4091530; 578147, 4091513; 578151, 4091504; 578159, 4091444; 578158, 4091445; 578076, 4091483; 577988, 4091509; 577974, 4091504; 577961, 4091520; 577961, 4091536; 577966, 4091552; 577968, 4091571; 577965, 4091588; 577956, 4091603; 577941, 4091617; 577923, 4091635; 577910, 4091641; 577896, 4091659; 577885, 4091673; returning to 577882, 4091692.

(ii) Note: Map of Unit SC–2 is provided on the map in paragraph (23)(ii) of this entry.

(25) Unit SC–3, Santa Cruz County, California.

(i) From USGS 1:24,000 scale quadrangle Soquel. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 590179, 4090901; 590236, 4090929; 590236, 4090930; 590282, 4090945; 590313, 4090956; 590335, 4090952; 590350, 4090945; 590362, 4090937; 590375, 4090930; 590378, 4090927; 590380, 4090934; 590391, 4090956; 590400, 4090976; 590411, 4090978; 590412, 4090977; 590420, 4090993; 590424, 4091004; 590423, 4091011; 590425, 4091018; 590424, 4091018; 590423, 4091049; 590423, 4091065; 590425, 4091074; 590426, 4091079; 590429, 4091087; 590437, 4091096; 590448, 4091112; 590464, 4091125; 590480, 4091138; 590489, 4091143; 590497, 4091150; 590518, 4091158; 590549, 4091161; 590573, 4091153; 590581, 4091147; 590587, 4091146; 590601, 4091147; 590611, 4091146; 590620, 4091149; 590623, 4091152; 590629, 4091168; 590631, 4091183; 590643, 4091197; 590660, 4091205; 590683, 4091207; 590701, 4091194; 590718, 4091184; 590745, 4091164; 590763, 4091166; 590776, 4091162; 590791, 4091175; 590795, 4091180; 590800, 4091192; 590809, 4091208; 590817, 4091231; 590829, 4091245; 590855, 4091265; 590889, 4091279; 590909, 4091283; 590935, 4091291; 590950, 4091295; 590968, 4091298; 590984, 4091301; 591003, 4091304; 591012, 4091305; 591015, 4091305; 591021, 4091304; 591025, 4091302; 591027, 4091299; 591028, 4091294; 591027, 4091289; 591024, 4091284; 591018, 4091272; 591014, 4091260; 591005, 4091248; 590999, 4091240; 590990, 4091234; 590973, 4091227; 590957, 4091222; 590947, 4091218; 590938, 4091211; 590929, 4091206; 590919, 4091196; 590912, 4091188; 590905, 4091177; 590890, 4091164; 590878, 4091145; 590873, 4091136; 590865, 4091127; 590859, 4091118; 590854, 4091110; 590842, 4091096; 590836, 4091087; 590827, 4091080; 590819, 4091073; 590804, 4091062; 590794, 4091057; 590785, 4091053; 590755, 4091042; 590739, 4091039; 590719, 4091037; 590699, 4091033; 590672, 4091029; 590653, 4091024; 590636, 4091018; 590619, 4091011; 590604, 4091005; 590582, 4090991; 590566, 4090982; 590554, 4090977; 590542, 4090972; 590532, 4090972; 590524, 4090973; 590507, 4090980; 590496, 4090986; 590477, 4090999; 590468, 4091002; 590457, 4091003; 590446, 4091004; 590436, 4091010; 590428, 4091003; 590427, 4090993; 590425, 4090970; 590427, 4090970; 590460, 4090956; 590495, 4090941; 590530, 4090892; 590533, 4090873; 590502, 4090842; 590465, 4090818; 590459, 4090810; 590474, 4090794; 590480, 4090791; 590477, 4090718; 590430, 4090743; 590366, 4090776; 590323, 4090794; 590283, 4090828; 590242, 4090855; 590204, 4090874; returning to 590179, 4090901.

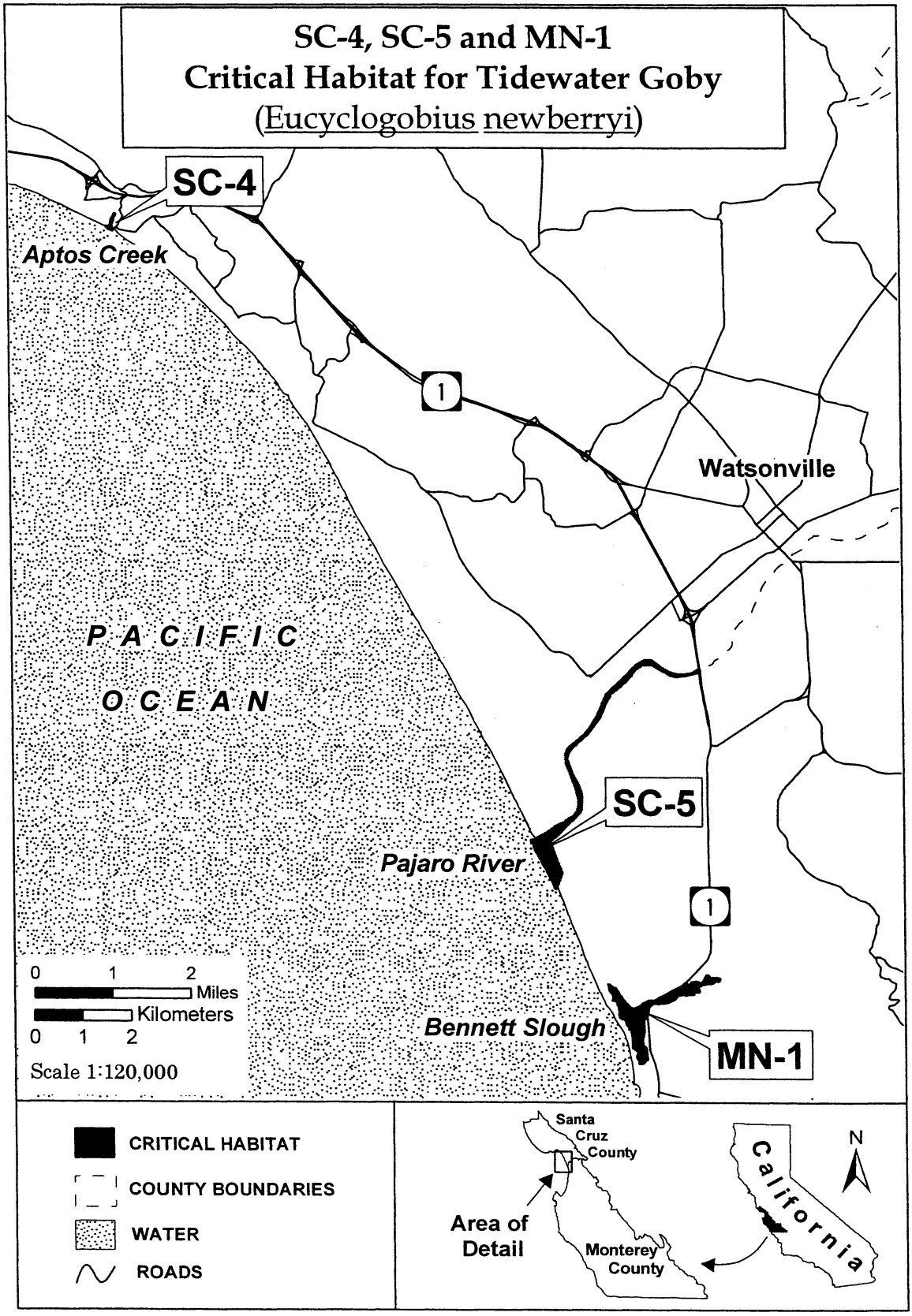
(ii) Note: Map of Unit SC–3 is provided on the map in paragraph (23)(ii) of this entry.

(26) Unit SC–4, Santa Cruz County, California.

(i) From USGS 1:24,000 scale quadrangle Soquel. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 597246, 4092023; 597317, 4092033; 597320, 4092041; 597331, 4092080; 597348, 4092134; 597363, 4092174; 597373, 4092199; 597378, 4092211; 597386, 4092225; 597396, 4092249; 597406, 4092262; 597412, 4092279; 597423, 4092294; 597429, 4092282; 597416, 4092251; 597402, 4092211; 597389, 4092165; 597381, 4092140; 597372, 4092109; 597361, 4092080; 597359, 4092059; 597359, 4092049; 597358, 4092042; 597360, 4092040; 597373, 4091945; 597351, 4091956; 597327, 4091965; 597310, 4091976; 597273, 4092007; returning to 597246, 4092023.

(ii) Note: Map of Unit SC–4, SC–5, and MN–1 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(27) Unit SC–5, Santa Cruz and Monterey Counties, California.

(i) From USGS 1:24,000 scale quadrangles Watsonville West and Moss Landing. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 605911, 4079111; 606162, 4079236; 606226, 4079281; 606361, 4079366; 606416, 4079419; 606517, 4079467; 606577, 4079500; 606717, 4079591; 606758, 4079610; 606799, 4079640; 606872, 4079760; 606899, 4079887; 606895, 4079983; 606875, 4080067; 606845, 4080174; 606820, 4080259; 606672, 4080641; 606643, 4080737; 606629, 4080919; 606631, 4080943; 606662, 4081020; 606737, 4081107; 606879, 4081225; 607000, 4081337; 607128, 4081485; 607218, 4081624; 607254, 4081690; 607346, 4081878; 607382, 4081974; 607445, 4082127; 607474, 4082175; 607528, 4082251; 607556, 4082275; 607765, 4082472; 607861, 4082567; 608079, 4082792; 608147, 4082847; 608282, 4082921; 608395, 4082922; 608595, 4082775; 608783, 4082658; 608883, 4082624; 609077, 4082620; 609255, 4082657; 609368, 4082708; 609375, 4082666; 609278, 4082633; 609137, 4082597; 608957, 4082582; 608884, 4082583; 608799, 4082604; 608730, 4082648; 608623, 4082704; 608418, 4082820; 608332, 4082826; 608241, 4082819; 608098, 4082739; 608020, 4082648; 607992, 4082604; 607858, 4082457; 607748, 4082360; 607606, 4082244; 607551, 4082207; 607554, 4082147; 607512, 4082084; 607476, 4082012; 607382, 4081813; 607334, 4081708; 607165, 4081477; 607075, 4081361; 607035, 4081316; 606828, 4081128; 606753, 4081051; 606698, 4080981; 606661, 4080886; 606657, 4080844; 606664, 4080807; 606743, 4080589; 606791, 4080489; 606893, 4080276; 606950, 4080145; 606963, 4080070; 606955, 4079974; 606947, 4079787; 606932, 4079740; 606900, 4079696; 606815, 4079589; 606672, 4079474; 606516, 4079318; 606445, 4079230; 606343, 4079151; 606304, 4079085; 606413, 4078742; 606426, 4078716; 606465, 4078622; 606499, 4078532; 606527, 4078444; 606525, 4078404; 606510, 4078342; 606420, 4078101; 606395, 4078140; 606354, 4078244; 606255, 4078416; 606218, 4078509; 606137, 4078641; 606080, 4078773; 605983, 4078937; 605936, 4079066; returning to 605911, 4079111.

(ii) Note: Map of Unit SC–5 is provided on the map in paragraph (26)(ii) of this entry.

(28) Unit MN–1, Monterey County, California.

(i) From USGS 1:24,000 scale quadrangle Moss Landing. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 607479, 4076078; 607484, 4076090; 607498, 4076089; 607529, 4076051; 607548, 4076043; 607563, 4076019; 607614, 4076009; 607664, 4075939; 607690, 4075882; 607715, 4075845; 607729, 4075835; 607765, 4075780; 607782, 4075742; 607812, 4075704; 607871, 4075651; 607909, 4075602; 607954, 4075586; 607997, 4075559; 608003, 4075571; 608095, 4075612; 608137, 4075638; 608191, 4075683; 608295, 4075738; 608324, 4075749; 608380, 4075742; 608433, 4075743; 608480, 4075770; 608516, 4075767; 608595, 4075832; 608670, 4075851; 608730, 4075908; 608780, 4075917; 608883, 4075966; 608963, 4075985; 609014, 4076006; 609042, 4076037; 609037, 4076049; 609013, 4076060; 609044, 4076094; 609091, 4076103; 609112, 4076082; 609143, 4076090; 609157, 4076088; 609189, 4076107; 609209, 4076135; 609217, 4076139; 609244, 4076120; 609275, 4076145; 609305, 4076143; 609358, 4076120; 609383, 4076127; 609404, 4076121; 609432, 4076149; 609503, 4076272; 609517, 4076283; 609538, 4076279; 609555, 4076242; 609578, 4076223; 609706, 4076239; 609760, 4076224; 609779, 4076203; 609772, 4076170; 609753, 4076155; 609723, 4076168; 609685, 4076167; 609634, 4076122; 609612, 4076120; 609599, 4076111; 609506, 4076108; 609466, 4076097; 609458, 4076097; 609442, 4076119; 609421, 4076115; 609420, 4076100; 609370, 4076068; 609357, 4076066; 609330, 4076024; 609311, 4076009; 609343, 4075983; 609352, 4075945; 609253, 4075939; 609243, 4075925; 609243, 4075893; 609227, 4075876; 609161, 4075881; 609129, 4075874; 609059, 4075870; 609031, 4075875; 608941, 4075867; 608898, 4075846; 608822, 4075769; 608732, 4075714; 608647, 4075693; 608547, 4075694; 608506, 4075687; 608402, 4075693; 608353, 4075656; 608310, 4075612; 608290, 4075582; 608286, 4075529; 608272, 4075483; 608276, 4075466; 608265, 4075456; 608242, 4075392; 608231, 4075376; 608212, 4075371; 608190, 4075328; 608188, 4075271; 608202, 4075096; 608174, 4074988; 608165, 4074913; 608166, 4074872; 608185, 4074802; 608203, 4074780; 608226, 4074768; 608242, 4074744; 608258, 4074610; 608252, 4074570; 608269, 4074527; 608281, 4074517; 608171, 4074429; 608104, 4074419; 608100, 4074483; 608083, 4074522; 608056, 4074561; 608053, 4074583; 608078, 4074657; 608074, 4074686; 608032, 4074719; 607975, 4074748; 607977, 4074840; 607971, 4074920; 607954, 4075047; 607939, 4075108; 607952, 4075166; 607977, 4075198; 608060, 4075233; 608126, 4075235; 608142, 4075229; 608140, 4075250; 608116, 4075255; 608060, 4075248; 607991, 4075229; 607968, 4075216; 607945, 4075190; 607915, 4075141; 607899, 4075150; 607880, 4075203; 607852, 4075240; 607821, 4075335; 607810, 4075348; 607763, 4075361; 607751, 4075370; 607720, 4075398; 607707, 4075421; 607704, 4075490; 607715, 4075546; 607696, 4075565; 607696, 4075616; 607674, 4075642; 607667, 4075662; 607669, 4075707; 607619, 4075744; 607571, 4075762; 607582, 4075819; 607578, 4075867; 607549, 4075918; 607530, 4075928; 607502, 4075961; 607490, 4076020; 607493, 4076054; returning to 607479, 4076078.

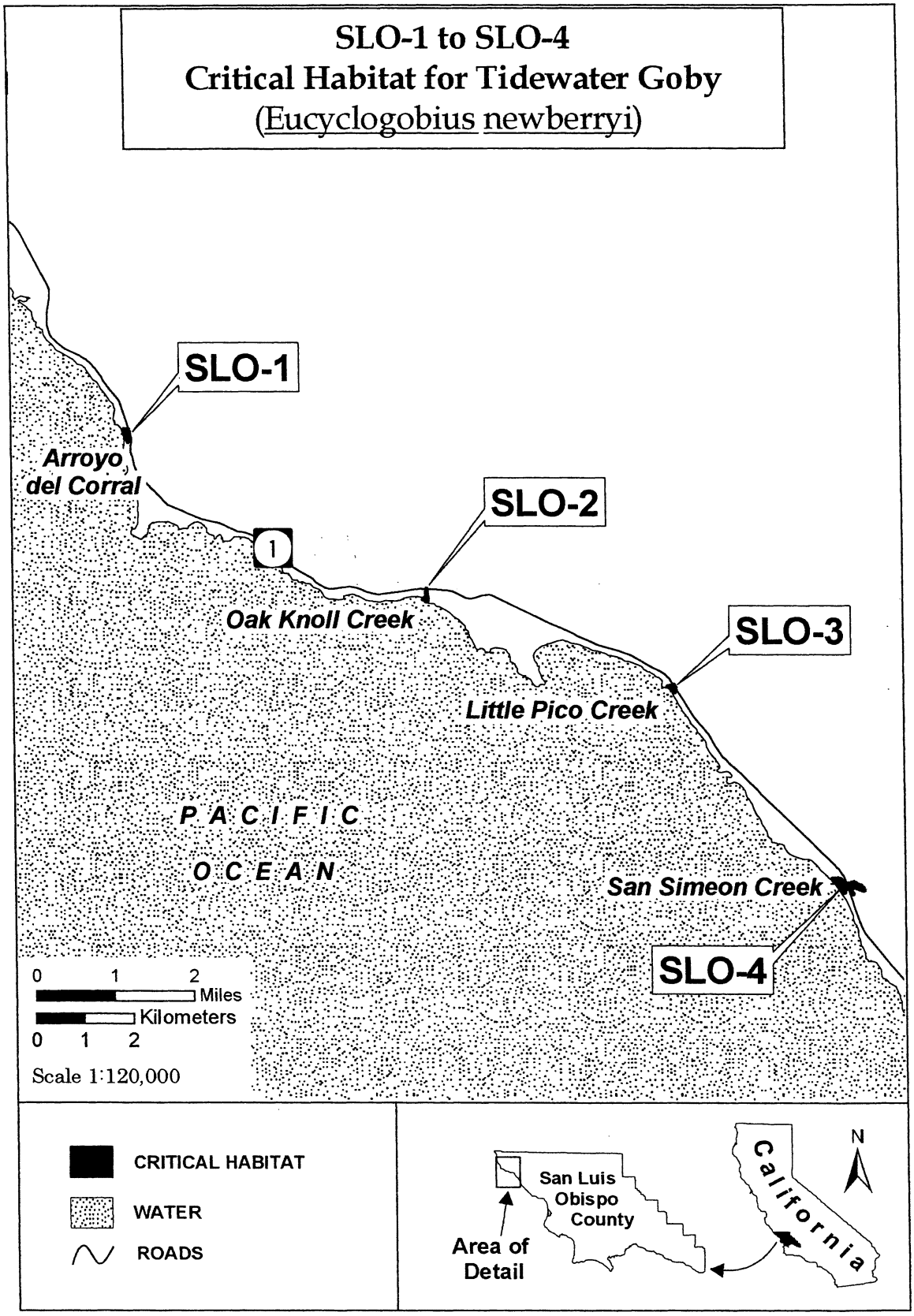
(ii) Note: Map of Unit MN–1 is provided on the map in paragraph (26)(ii) of this entry.

(29) Unit SLO–1, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangle Piedras Blancas. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 654950, 3950321; 654974, 3950315; 654982, 3950312; 654990, 3950310; 654996, 3950309; 654997, 3950309; 654998, 3950309; 654998, 3950310; 654999, 3950310; 655014, 3950305; 655018, 3950303; 655018, 3950310; 655014, 3950319; 655017, 3950328; 655026, 3950331; 655031, 3950331; 655039, 3950328; 655065, 3950249; 655066, 3950238; 655058, 3950233; 655048, 3950227; 655043, 3950217; 655042, 3950199; 655044, 3950183; 655048, 3950169; 655053, 3950162; 655057, 3950157; 655061, 3950151; 655065, 3950138; 655068, 3950128; 655076, 3950120; 655081, 3950111; 655081, 3950090; 655081, 3950083; 655068, 3950080; 655058, 3950077; 655052, 3950072; 655047, 3950069; 655041, 3950056; 655036, 3950067; 655032, 3950077; 655028, 3950090; 655025, 3950104; 655020, 3950111; 655020, 3950118; 655018, 3950124; 655018, 3950131; 655007, 3950129; 655006, 3950130; 655005, 3950130; 655004, 3950130; 655003, 3950130; 654997, 3950121; 654996, 3950121; 654996, 3950120; 654996, 3950115; 654994, 3950108; 654990, 3950103; 654990, 3950105; 654983, 3950122; 654985, 3950133; 654987, 3950145; 654985, 3950156; 654982, 3950192; 654978, 3950211; 654974, 3950231; 654973, 3950246; 654958, 3950299; returning to 654950, 3950321.

(ii) Note: Map of Units SLO–1 through SLO–4 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(30) Unit SLO–2, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangle San Simeon. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 661106, 3946736; 661136, 3946762; 661138, 3946761; 661154, 3946765; 661163, 3946776; 661162, 3946822; 661160, 3946859; 661160, 3946860; 661165, 3946889; 661168, 3946920; 661171, 3946938; 661172, 3946939; 661172, 3946940; 661173, 3946940; 661174, 3946940; 661175, 3946940; 661176, 3946940; 661176, 3946939; 661177, 3946939; 661177, 3946938; 661178, 3946946; 661187, 3946945; 661187, 3946940; 661190, 3946912; 661190, 3946884; 661192, 3946849; 661193, 3946836; 661194, 3946826; 661195, 3946809; 661200, 3946789; 661205, 3946777; 661207, 3946759; 661208, 3946746; 661205, 3946734; 661200, 3946728; 661198, 3946727; 661194, 3946723; 661191, 3946717; 661190, 3946711; 661193, 3946705; 661197, 3946699; 661197, 3946695; 661194, 3946690; 661195, 3946685; 661196, 3946682; 661182, 3946684; 661133, 3946718; returning to 661106, 3946736.

(ii) Note: Map of Unit SLO–2 is provided on the map in paragraph (29)(ii) of this entry.

(31) Unit SLO–3, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangle San Simeon. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 666127, 3944901; 666136, 3944903; 666152, 3944900; 666193, 3944908; 666235, 3944880; 666260, 3944893; 666263, 3944905; 666258, 3944930; 666258, 3944937; 666297, 3944877; 666294, 3944848; 666275, 3944773; 666254, 3944801; 666226, 3944828; 666172, 3944870; 666152, 3944892; returning to 666127, 3944901.

(ii) Note: Map of Unit SLO–3 is provided on the map in paragraph (29)(ii) of this entry.

(32) Unit SLO–4, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangles Pico Creek and Cambria. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 669487, 3940858; 669537, 3940865; 669549, 3940860; 669550, 3940860; 669551, 3940861; 669551, 3940862; 669551, 3940863; 669558, 3940865; 669574, 3940868; 669596, 3940871; 669606, 3940872; 669615, 3940872; 669625, 3940869; 669635, 3940866; 669641, 3940863; 669648, 3940859; 669655, 3940853; 669662, 3940850; 669669, 3940846; 669676, 3940839; 669685, 3940832; 669694, 3940814; 669705, 3940798; 669720, 3940774; 669737, 3940755; 669748, 3940744; 669753, 3940740; 669756, 3940738; 669765, 3940735; 669776, 3940736; 669785, 3940735; 669801, 3940730; 669815, 3940738; 669819, 3940742; 669823, 3940747; 669826, 3940754; 669830, 3940758; 669836, 3940761; 669840, 3940764; 669847, 3940765; 669851, 3940765; 669859, 3940765; 669864, 3940767; 669868, 3940768; 669885, 3940776; 669895, 3940780; 669904, 3940778; 669916, 3940781; 669926, 3940784; 669937, 3940786; 669948, 3940784; 669958, 3940779; 669969, 3940773; 669980, 3940763; 669989, 3940756; 670000, 3940750; 670012, 3940746; 670031, 3940741; 670041, 3940734; 670052, 3940727; 670069, 3940719; 670090, 3940712; 670098, 3940704; 670107, 3940697; 670113, 3940691; 670118, 3940683; 670126, 3940676; 670135, 3940668; 670137, 3940659; 670136, 3940652; 670135, 3940646; 670140, 3940642; 670144, 3940636; 670147, 3940629; 670154, 3940620; 670152, 3940618; 670152, 3940616; 670151, 3940613; 670131, 3940620; 670120, 3940628; 670120, 3940629; 670112, 3940625; 670102, 3940623; 670082, 3940627; 670069, 3940637; 670060, 3940645; 670050, 3940648; 670042, 3940658; 670040, 3940667; 670031, 3940666; 670022, 3940657; 670005, 3940658; 669988, 3940665; 669979, 3940674; 669973, 3940681; 669965, 3940681; 669943, 3940680; 669929, 3940684; 669913, 3940680; 669904, 3940670; 669900, 3940657; 669894, 3940653; 669881, 3940659; 669872, 3940670; 669861, 3940680; 669853, 3940680; 669860, 3940645; 669865, 3940630; 669871, 3940615; 669882, 3940606; 669886, 3940598; 669885, 3940590; 669886, 3940583; 669894, 3940570; 669914, 3940559; 669928, 3940548; 669935, 3940540; 669933, 3940533; 669923, 3940536; 669916, 3940542; 669908, 3940546; 669898, 3940551; 669889, 3940557; 669879, 3940562; 669876, 3940568; 669871, 3940577; 669866, 3940594; 669865, 3940613; 669860, 3940628; 669854, 3940643; 669850, 3940659; 669844, 3940675; 669842, 3940680; 669842, 3940681; 669842, 3940682; 669842, 3940683; 669843, 3940684; 669838, 3940694; 669828, 3940703; 669819, 3940707; 669810, 3940703; 669809, 3940703; 669804, 3940697; 669800, 3940691; 669796, 3940683; 669779, 3940659; 669769, 3940648; 669753, 3940628; 669743, 3940614; 669743, 3940602; 669743, 3940595; 669745, 3940584; 669744, 3940577; 669743, 3940570; 669731, 3940561; 669705, 3940611; 669665, 3940672; 669651, 3940695; 669651, 3940696; 669640, 3940712; 669586, 3940765; 669537, 3940814; 669504, 3940842; returning to 669487, 3940858.

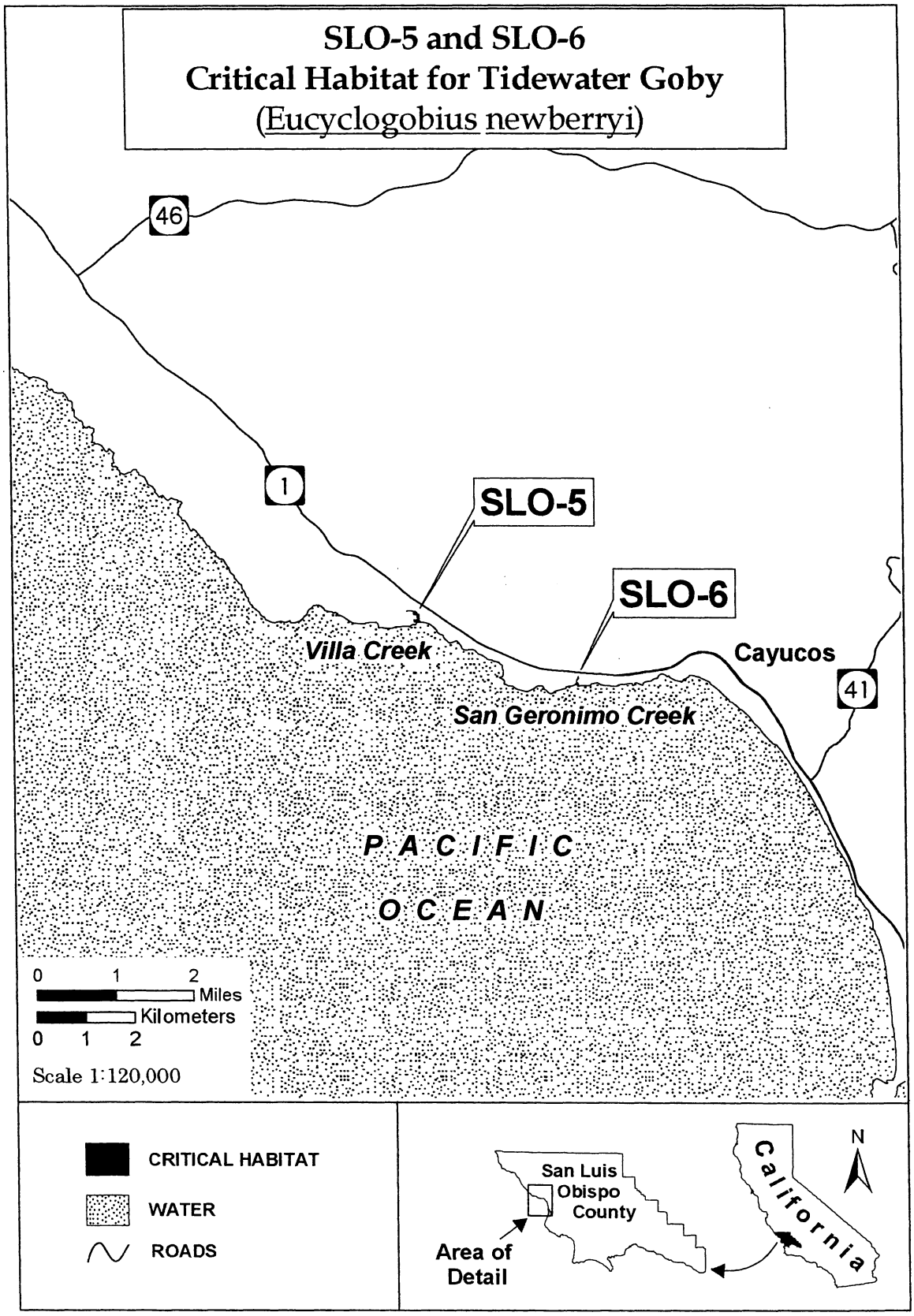
(ii) Note: Map of Unit SLO–4 is provided on the map in paragraph (29)(ii) of this entry.

(33) Unit SLO–5, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangle Cayucos. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 683953, 3926198; 683960, 3926205; 683980, 3926215; 683989, 3926218; 684058, 3926215; 684072, 3926209; 684105, 3926205; 684129, 3926198; 684168, 3926177; 684195, 3926145; 684206, 3926138; 684229, 3926116; 684237, 3926088; 684228, 3926074; 684232, 3926054; 684232, 3926033; 684224, 3926020; 684280, 3925950; 684232, 3925959; 684197, 3925958; 684178, 3925954; 684167, 3925958; 684135, 3925976; 684115, 3925983; 684106, 3925983; 684109, 3926014; 684123, 3926021; 684155, 3926025; 684180, 3926034; 684182, 3926053; 684170, 3926109; 684162, 3926125; 684124, 3926123; 684108, 3926128; 684097, 3926146; 684096, 3926185; 684062, 3926201; 684018, 3926207; 683993, 3926207; 683962, 3926192; returning to 683953, 3926198.

(ii) Note: Map of Units SLO–5 and SLO–6 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(34) Unit SLO–6, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangle Cayucos. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 687453, 3924653; 687454, 3924656; 687457, 3924661; 687465, 3924675; 687477, 3924685; 687487, 3924688; 687483, 3924691; 687479, 3924691; 687482, 3924700; 687481, 3924701; 687481, 3924702; 687480, 3924702; 687481, 3924703; 687478, 3924708; 687475, 3924719; 687473, 3924731; 687473, 3924738; 687474, 3924744; 687475, 3924745; 687476, 3924748; 687476, 3924749; 687484, 3924762; 687485, 3924762; 687490, 3924765; 687504, 3924774; 687517, 3924796; 687526, 3924818; 687527, 3924824; 687528, 3924826; 687529, 3924827; 687530, 3924828; 687531, 3924828; 687532, 3924827; 687533, 3924826; 687533, 3924825; 687533, 3924824; 687533, 3924823; 687532, 3924817; 687532, 3924816; 687522, 3924793; 687526, 3924794; 687530, 3924798; 687532, 3924805; 687534, 3924812; 687537, 3924813; 687536, 3924802; 687535, 3924794; 687535, 3924789; 687535, 3924785; 687532, 3924782; 687528, 3924784; 687525, 3924783; 687524, 3924778; 687522, 3924774; 687521, 3924770; 687519, 3924766; 687514, 3924765; 687509, 3924764; 687504, 3924761; 687500, 3924757; 687493, 3924753; 687484, 3924744; 687481, 3924741; 687480, 3924732; 687482, 3924723; 687485, 3924719; 687489, 3924715; 687494, 3924710; 687501, 3924707; 687506, 3924703; 687510, 3924698; 687513, 3924691; 687508, 3924690; 687503, 3924690; 687500, 3924689; 687510, 3924687; 687523, 3924678; 687531, 3924666; 687532, 3924663; 687533, 3924657; 687534, 3924651; 687534, 3924650; 687536, 3924646; 687536, 3924645; 687537, 3924643; 687534, 3924643; 687519, 3924641; 687499, 3924649; 687475, 3924655; 687456, 3924653; returning to 687453, 3924653.

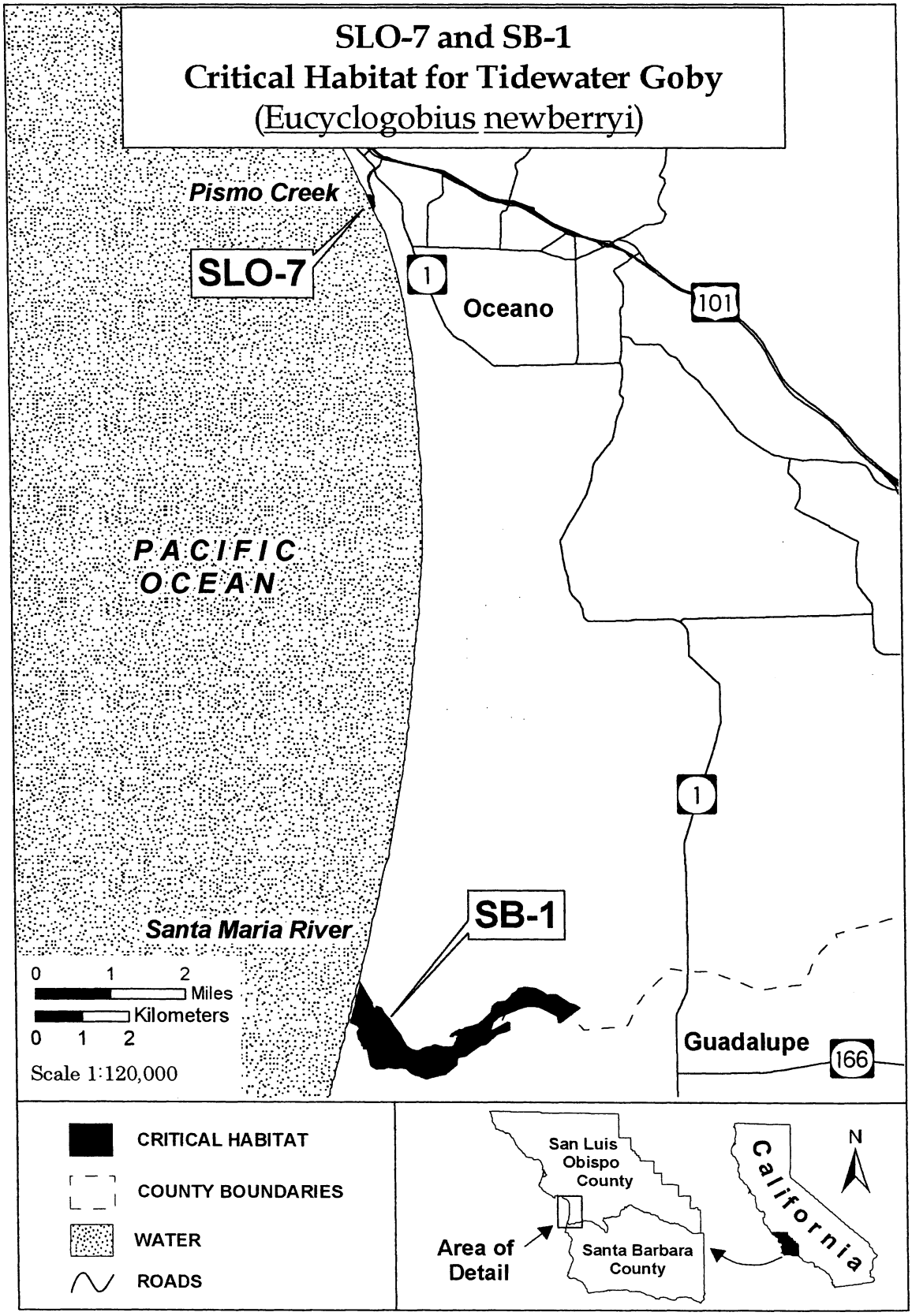
(ii) Note: Map of Unit SLO–5 is provided on the map in paragraph (33)(ii) of this entry.

(35) Unit SLO–7, San Luis Obispo County, California.

(i) From USGS 1:24,000 scale quadrangle Pismo Beach. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 714995, 3890262; 715095, 3890271; 715104, 3890261; 715109, 3890252; 715120, 3890240; 715127, 3890233; 715138, 3890227; 715149, 3890213; 715148, 3890223; 715145, 3890233; 715140, 3890238; 715136, 3890243; 715134, 3890254; 715132, 3890272; 715129, 3890286; 715125, 3890297; 715119, 3890324; 715116, 3890338; 715112, 3890351; 715108, 3890361; 715100, 3890375; 715095, 3890385; 715088, 3890392; 715082, 3890396; 715076, 3890399; 715069, 3890401; 715065, 3890405; 715061, 3890408; 715060, 3890415; 715058, 3890429; 715056, 3890444; 715053, 3890455; 715051, 3890473; 715048, 3890488; 715045, 3890504; 715042, 3890521; 715039, 3890539; 715035, 3890553; 715033, 3890566; 715032, 3890574; 715031, 3890588; 715031, 3890606; 715033, 3890623; 715033, 3890645; 715034, 3890667; 715041, 3890681; 715046, 3890692; 715055, 3890706; 715062, 3890722; 715067, 3890730; 715070, 3890736; 715074, 3890743; 715082, 3890752; 715093, 3890762; 715101, 3890768; 715119, 3890786; 715130, 3890799; 715145, 3890809; 715163, 3890821; 715178, 3890830; 715194, 3890837; 715205, 3890845; 715221, 3890859; 715236, 3890869; 715252, 3890885; 715262, 3890891; 715268, 3890896; 715276, 3890902; 715283, 3890912; 715289, 3890922; 715296, 3890932; 715305, 3890943; 715310, 3890953; 715317, 3890972; 715318, 3890984; 715319, 3891005; 715323, 3891027; 715326, 3891034; 715335, 3891032; 715336, 3891031; 715342, 3891028; 715347, 3891021; 715345, 3891004; 715340, 3890985; 715331, 3890962; 715321, 3890938; 715310, 3890916; 715296, 3890885; 715287, 3890864; 715277, 3890859; 715272, 3890854; 715258, 3890837; 715241, 3890825; 715232, 3890816; 715226, 3890810; 715212, 3890802; 715200, 3890802; 715186, 3890801; 715179, 3890795; 715169, 3890778; 715154, 3890761; 715142, 3890751; 715133, 3890737; 715127, 3890720; 715122, 3890708; 715117, 3890704; 715109, 3890684; 715103, 3890669; 715099, 3890654; 715092, 3890642; 715084, 3890623; 715080, 3890608; 715077, 3890585; 715075, 3890559; 715079, 3890539; 715083, 3890515; 715090, 3890484; 715097, 3890454; 715105, 3890425; 715111, 3890398; 715118, 3890380; 715129, 3890356; 715141, 3890327; 715153, 3890297; 715164, 3890254; 715170, 3890229; 715174, 3890208; 715177, 3890185; 715178, 3890165; 715176, 3890142; 715177, 3890130; 715176, 3890123; 715183, 3890106; 715187, 3890085; 715189, 3890067; 715193, 3890044; 715200, 3890028; 715137, 3889924; 715128, 3889946; 715121, 3889965; 715115, 3889981; 715110, 3889994; 715106, 3890007; 715102, 3890018; 715095, 3890036; 715090, 3890049; 715082, 3890067; 715076, 3890080; 715069, 3890095; 715062, 3890111; 715052, 3890126; 715044, 3890146; 715034, 3890166; 715029, 3890185; 715022, 3890203; 715013, 3890222; 715004, 3890241; returning to 714995, 3890262.

(ii) Note: Map of Units SLO–7 and SB–1 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(36) Unit SB–1, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangles Point Sal and Guadalupe. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 714486, 3872122; 714493, 3872165; 714530, 3872230; 714539, 3872329; 714554, 3872389; 714594, 3872480; 714613, 3872646; 714626, 3872708; 714651, 3872747; 714689, 3872903; 714703, 3873025; 714969, 3872560; 714988, 3872467; 715039, 3872436; 715055, 3872488; 715175, 3872451; 715237, 3872326; 715354, 3872192; 715434, 3872073; 715583, 3871865; 715637, 3871734; 715713, 3871614; 715807, 3871544; 715939, 3871505; 716019, 3871535; 716044, 3871566; 716102, 3871589; 716153, 3871603; 716222, 3871602; 716268, 3871649; 716299, 3871655; 716334, 3871652; 716452, 3871607; 716526, 3871594; 716558, 3871593; 716701, 3871615; 716807, 3871341; 716785, 3871204; 716542, 3870984; 716348, 3870951; 716245, 3870930; 716125, 3870887; 716029, 3870923; 715975, 3870952; 715899, 3870968; 715803, 3871010; 715682, 3871109; 715600, 3871122; 715455, 3871112; 715304, 3871140; 715197, 3871101; 715115, 3871098; 715046, 3871108; 714985, 3871140; 714935, 3871180; 714908, 3871224; 714839, 3871547; 714773, 3871548; 714762, 3871579; 714753, 3871608; 714720, 3871626; 714713, 3871685; 714656, 3871775; 714650, 3871830; 714624, 3871908; 714676, 3871989; 714646, 3872058; returning to 714486, 3872122.

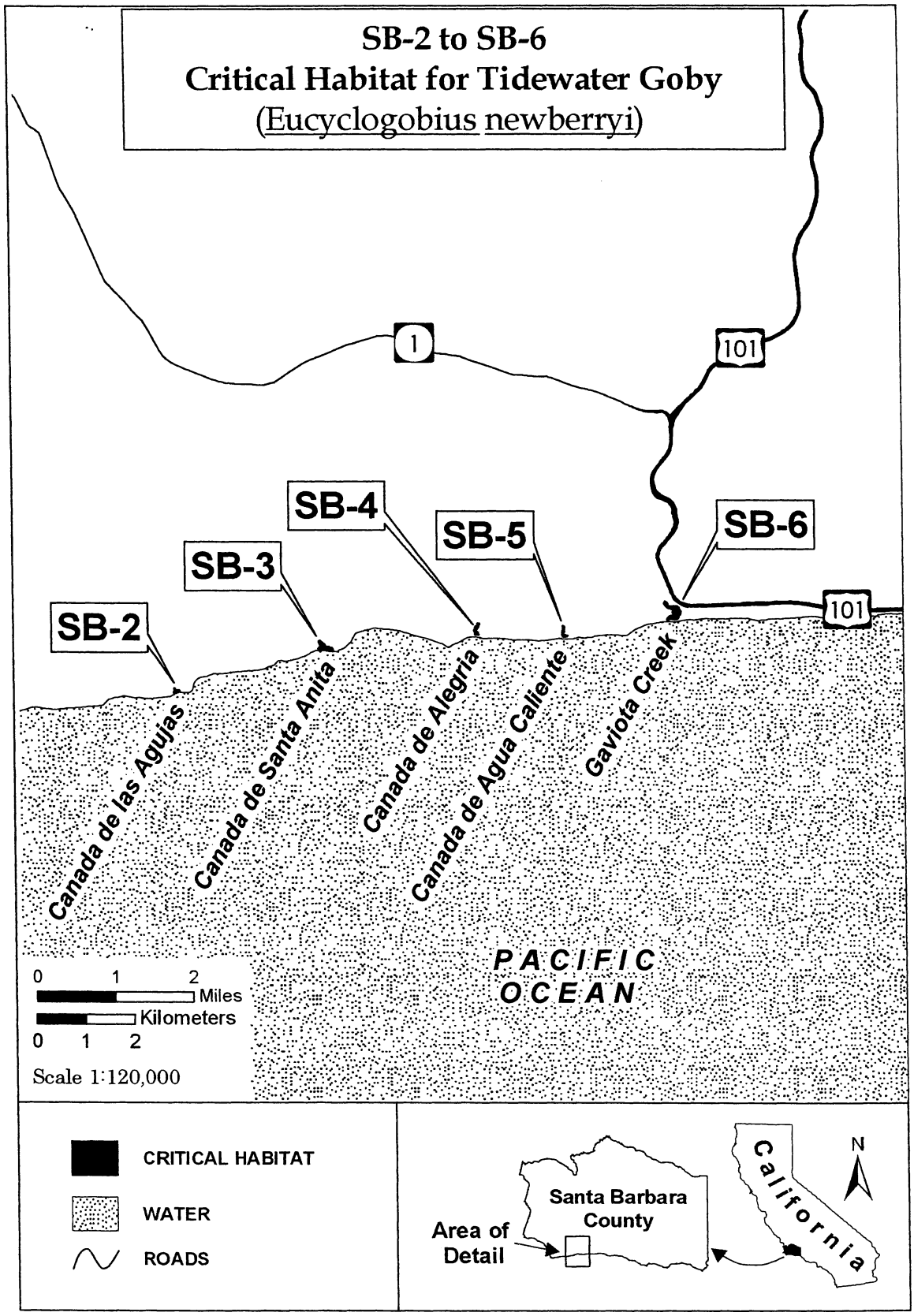
(ii) Note: Map of Unit SB–1 is provided on the map in paragraph (35)(ii) of this entry.

(37) Unit SB–2, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Point Conception. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 744289, 3816310; 744302, 3816318; 744310, 3816324; 744314, 3816329; 744320, 3816334; 744322, 3816336; 744326, 3816338; 744320, 3816343; 744314, 3816346; 744311, 3816351; 744310, 3816356; 744308, 3816361; 744308, 3816366; 744307, 3816371; 744306, 3816376; 744305, 3816383; 744304, 3816387; 744307, 3816387; 744312, 3816379; 744313, 3816373; 744314, 3816366; 744315, 3816359; 744315, 3816356; 744317, 3816352; 744320, 3816347; 744325, 3816346; 744330, 3816344; 744336, 3816342; 744339, 3816341; 744350, 3816340; 744358, 3816339; 744369, 3816340; 744373, 3816338; 744377, 3816336; 744383, 3816336; 744391, 3816337; 744397, 3816339; 744402, 3816338; 744407, 3816337; 744373, 3816328; 744350, 3816322; 744343, 3816320; 744335, 3816318; 744308, 3816313; 744298, 3816310; returning to 744289, 3816310.

(ii) Note: Map of Units SB–2 through SB–6 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(38) Unit SB–3, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Point Conception. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 747310, 3817233; 747358, 3817279; 747376, 3817283; 747396, 3817298; 747384, 3817307; 747357, 3817311; 747334, 3817326; 747324, 3817337; 747314, 3817372; 747318, 3817391; 747323, 3817394; 747338, 3817375; 747376, 3817348; 747386, 3817331; 747413, 3817305; 747435, 3817265; 747509, 3817255; 747522, 3817247; 747556, 3817236; 747588, 3817216; 747550, 3817228; 747506, 3817229; 747494, 3817235; 747346, 3817239; returning to 747310, 3817233.

(ii) Note: Map of Unit SB–2 is provided on the map in paragraph (37)(ii) of this entry.

(39) Unit SB–4, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Point Conception. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 750530, 3817616; 750546, 3817669; 750554, 3817688; 750582, 3817711; 750595, 3817736; 750602, 3817758; 750608, 3817758; 750598, 3817712; 750570, 3817678; 750570, 3817666; 750559, 3817649; 750559, 3817614; 750565, 3817606; 750567, 3817590; 750580, 3817583; 750585, 3817577; 750588, 3817572; 750582, 3817557; 750602, 3817534; 750563, 3817537; 750547, 3817533; 750553, 3817561; 750542, 3817580; 750540, 3817593; returning to 750530, 3817616.

(ii) Note: Map of Unit SB–2 is provided on the map in paragraph (37)(ii) of this entry.

(40) Unit SB–5, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Point Conception. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 752340, 3817567; 752343, 3817589; 752347, 3817598; 752351, 3817624; 752351, 3817636; 752357, 3817675; 752353, 3817702; 752366, 3817705; 752370, 3817675; 752364, 3817634; 752364, 3817623; 752360, 3817595; 752353, 3817577; 752354, 3817544; 752362, 3817533; 752363, 3817528; 752366, 3817524; 752380, 3817515; 752388, 3817512; 752427, 3817506; 752442, 3817500; 752435, 3817500; 752388, 3817494; 752363, 3817498; 752345, 3817533; 752341, 3817543; returning to 752340, 3817567.

(ii) Note: Map of Unit SB–5 is provided on the map in paragraph (37)(ii) of this entry.

(41) Unit SB–6, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Gaviota. Land bounded by the following UTM zone 10 NAD83 coordinates (E, N): 754473, 3818173; 754487, 3818216; 754512, 3818201; 754519, 3818189; 754526, 3818145; 754537, 3818130; 754567, 3818121; 754588, 3818106; 754643, 3818104; 754672, 3818114; 754733, 3818115; 754752, 3818107; 754778, 3818058; 754782, 3818039; 754797, 3818005; 754793, 3817977; 754787, 3817954; 754777, 3817948; 754768, 3817931; 754759, 3817922; 754756, 3817901; 754735, 3817880; 754733, 3817870; 754727, 3817868; 754718, 3817855; 754606, 3817863; 754568, 3817859; 754534, 3817850; 754531, 3817853; 754571, 3817881; 754575, 3817891; 754586, 3817901; 754597, 3817906; 754626, 3817916; 754643, 3817913; 754654, 3817916; 754687, 3817910; 754709, 3817914; 754707, 3817922; 754727, 3817941; 754703, 3817949; 754680, 3817949; 754669, 3817954; 754665, 3817960; 754666, 3817978; 754657, 3817995; 754655, 3818033; 754643, 3818075; 754629, 3818079; 754624, 3818085; 754625, 3818089; 754618, 3818091; 754564, 3818094; 754541, 3818104; 754479, 3818161; 754480, 3818169; returning to 754473, 3818173.

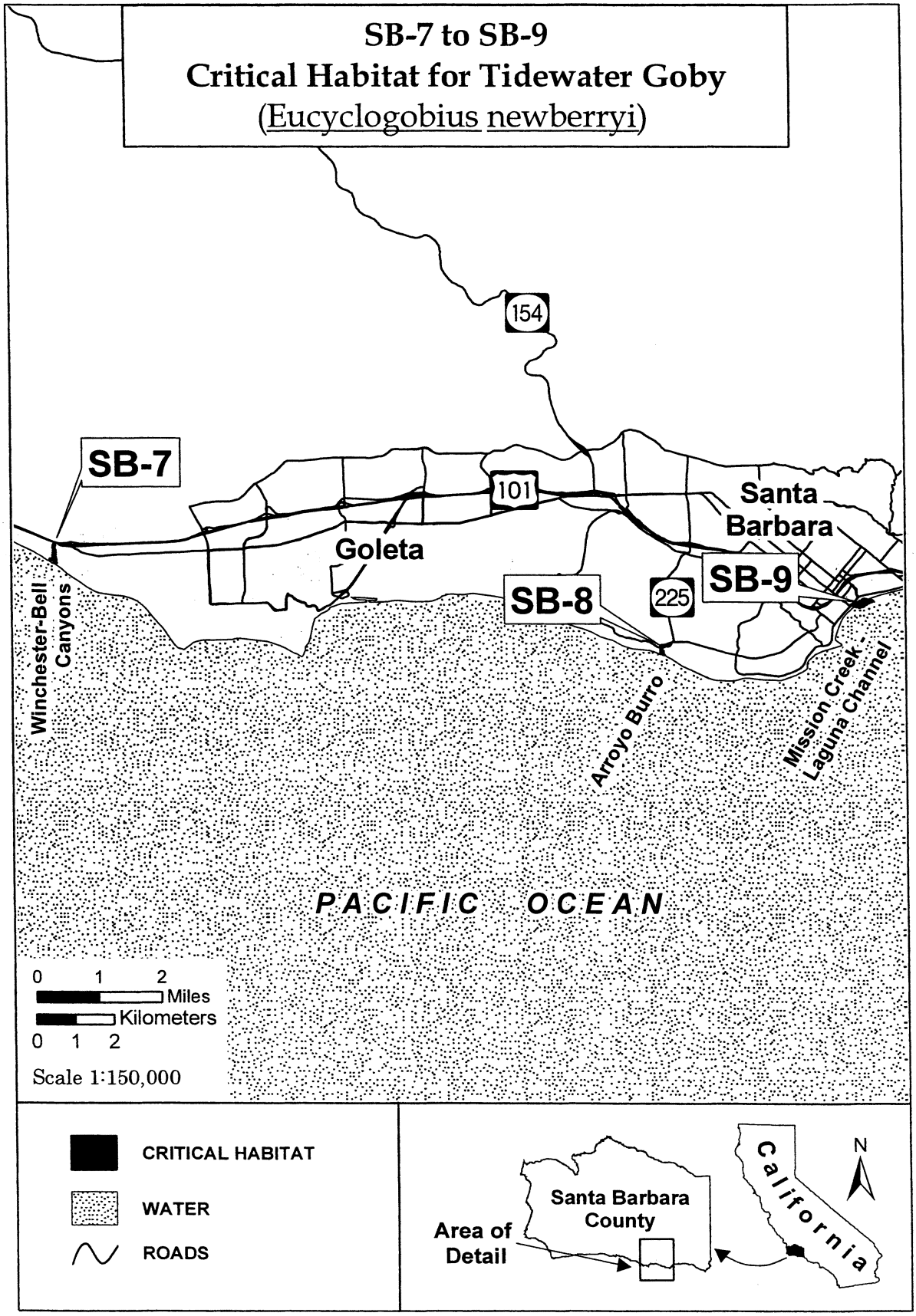
(ii) Note: Map of Unit SB–6 is provided on the map in paragraph (37)(ii) of this entry.

(42) Unit SB–7, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Dos Pueblos Canyon. Land bounded by the following UTM zone 11 NAD83 coordinates (E, N): 232224, 3813614; 232337, 3813596; 232345, 3813600; 232348, 3813614; 232342, 3813631; 232314, 3813641; 232303, 3813652; 232297, 3813683; 232307, 3813732; 232313, 3813743; 232321, 3813769; 232323, 3813789; 232318, 3813850; 232320, 3813928; 232340, 3813983; 232370, 3813973; 232363, 3813947; 232346, 3813948; 232329, 3813927; 232329, 3813905; 232339, 3813898; 232350, 3813875; 232355, 3813835; 232366, 3813794; 232370, 3813748; 232359, 3813698; 232353, 3813689; 232345, 3813688; 232363, 3813651; 232357, 3813646; 232363, 3813625; 232373, 3813614; 232373, 3813605; 232360, 3813572; 232383, 3813490; 232287, 3813570; returning to 232224, 3813614.

(ii) Note: Map of Unit SB–7 through SB–9 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(43) Unit SB–8, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Santa Barbara. Land bounded by the following UTM zone 11 NAD83 coordinates (E, N): 247839, 3810209; 247844, 3810255; 247848, 3810256; 247841, 3810295; 247851, 3810332; 247867, 3810357; 247884, 3810364; 247967, 3810388; 247988, 3810390; 248001, 3810387; 248032, 3810399; 248051, 3810400; 248079, 3810406; 248097, 3810417; 248108, 3810428; 248117, 3810441; 248118, 3810451; 248124, 3810453; 248122, 3810439; 248113, 3810425; 248100, 3810412; 248082, 3810401; 248068, 3810396; 248033, 3810393; 248002, 3810381; 247988, 3810384; 247969, 3810383; 247885, 3810357; 247877, 3810347; 247868, 3810332; 247876, 3810282; 247893, 3810265; 247900, 3810237; 247897, 3810226; 247933, 3810166; returning to 247839, 3810209.

(ii) Note: Map of Unit SB–8 is provided on the map in paragraph (42)(ii) of this entry.

(44) Unit SB–9, Santa Barbara County, California.

(i) From USGS 1:24,000 scale quadrangle Santa Barbara. Land bounded by the following UTM zone 11 NAD83 coordinates (E, N): 252846, 3811168; 252864, 3811187; 252923, 3811193; 252975, 3811204; 253049, 3811235; 253166, 3811297; 253182, 3811299; 253183, 3811277; 253187, 3811278; 253202, 3811303; 253199, 3811317; 253207, 3811319; 253209, 3811311; 253445, 3811254; 253412, 3811247; 253337, 3811217; 253311, 3811202; 253275, 3811190; 253256, 3811174; 253236, 3811170; 253226, 3811163; 253219, 3811147; 253195, 3811137; 253122, 3811115; 253088, 3811099; 252918, 3811155; 252928, 3811169; 252923, 3811172; 252908, 3811174; returning to 252846, 3811168.

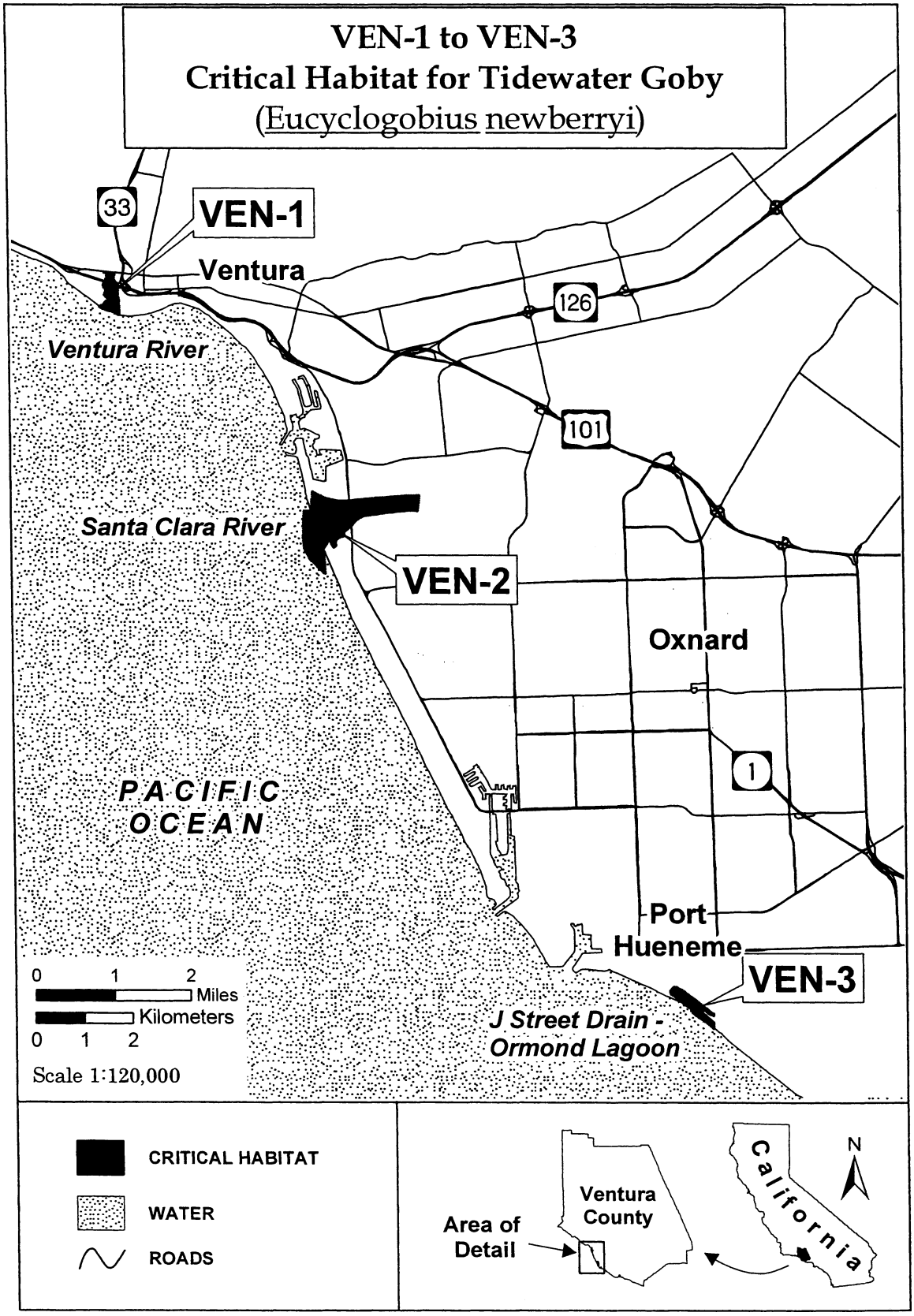
(ii) Note: Map of Unit SB–9 is provided on the map in paragraph (42)(ii) of this entry.

(45) Unit VEN–1, Ventura County, California.

(i) From USGS 1:24,000 scale quadrangle Ventura. Land bounded by the following UTM zone 11 NAD83 coordinates (E, N): 287223, 3795128; 287297, 3795133; 287329, 3795156; 287356, 3795190; 287377, 3795209; 287407, 3795228; 287424, 3795254; 287428, 3795275; 287423, 3795289; 287371, 3795326; 287361, 3795337; 287356, 3795349; 287354, 3795362; 287365, 3795411; 287383, 3795461; 287376, 3795489; 287364, 3795493; 287349, 3795520; 287341, 3795563; 287347, 3795595; 287357, 3795620; 287385, 3795609; 287392, 3795618; 287391, 3795629; 287398, 3795650; 287405, 3795682; 287419, 3795720; 287424, 3795745; 287423, 3795766; 287442, 3795795; 287436, 3795813; 287435, 3795806; 287423, 3795804; 287419, 3795818; 287379, 3795831; 287372, 3795843; 287571, 3795810; 287572, 3795798; 287586, 3795788; 287590, 3795779; 287581, 3795765; 287580, 3795748; 287569, 3795726; 287556, 3795683; 287576, 3795664; 287578, 3795617; 287588, 3795605; 287602, 3795595; 287634, 3795581; 287634, 3795510; 287632, 3795455; 287626, 3795410; 287625, 3795362; 287618, 3795309; 287632, 3795287; 287630, 3795263; 287632, 3795216; 287627, 3795163; 287626, 3795106; 287622, 3795028; 287625, 3794917; 287577, 3794954; 287470, 3795013; 287404, 3795023; 287293, 3795067; returning to 287223, 3795128.

(ii) Note: Map of Units VEN–1 through VEN–3 follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(46) Unit VEN–2, Ventura County, California.

(i) From USGS 1:24,000 scale quadrangle Oxnard. Land bounded by the following UTM zone 11 NAD83 coordinates (E, N): 291159, 3789957; 291223, 3790506; 291369, 3790503; 291384, 3790685; 291387, 3790730; 291415, 3790767; 291412, 3790821; 291419, 3790906; 291669, 3790758; 291809, 3790713; 291890, 3790691; 291995, 3790673; 292105, 3790669; 292514, 3790691; 292880, 3790694; 293336, 3790700; 293629, 3790695; 293448, 3790404; 292910, 3790378; 292682, 3790364; 292456, 3790341; 292380, 3790320; 292284, 3790262; 292160, 3790123; 292097, 3790078; 292034, 3790039; 292005, 3789999; 291995, 3789923; 291937, 3789922; 291862, 3789890; 291823, 3789847; 291809, 3789796; 291814, 3789722; 291781, 3789705; 291689, 3789886; 291558, 3789684; 291564, 3789160; 291272, 3789495; 291176, 3789721; returning to 291159, 3789957.

(ii) Note: Map of Unit VEN–2 is provided on the map in paragraph (45)(ii) of this entry.

(47) Unit VEN–3, Ventura County, California.

(i) From USGS 1:24,000 scale quadrangle Oxnard. Land bounded by the following UTM zone 11 NAD83 coordinates (E, N): 298163, 3779838; 298231, 3779920; 298245, 3779905; 298274, 3779893; 298310, 3779870; 298354, 3779843; 298335, 3779822; 298379, 3779795; 298443, 3779754; 298494, 3779730; 298528, 3779695; 298555, 3779675; 298592, 3779644; 298678, 3779570; 298699, 3779579; 298578, 3779686; 298385, 3779845; 298325, 3779874; 298289, 3779897; 298267, 3779918; 298269, 3779922; 298290, 3779914; 298338, 3779882; 298379, 3779865; 298393, 3779856; 298562, 3779713; 298614, 3779669; 298798, 3779514; 298880, 3779430; 299009, 3779320; 299029, 3779318; 299028, 3779279; 299001, 3779300; 298958, 3779309; 298863, 3779394; 298792, 3779416; 298790, 3779357; 299022, 3779125; 299018, 3779003; 298939, 3779085; 298884, 3779132; 298659, 3779308; 298603, 3779365; 298638, 3779430; 298164, 3779790; returning to 298163, 3779838.

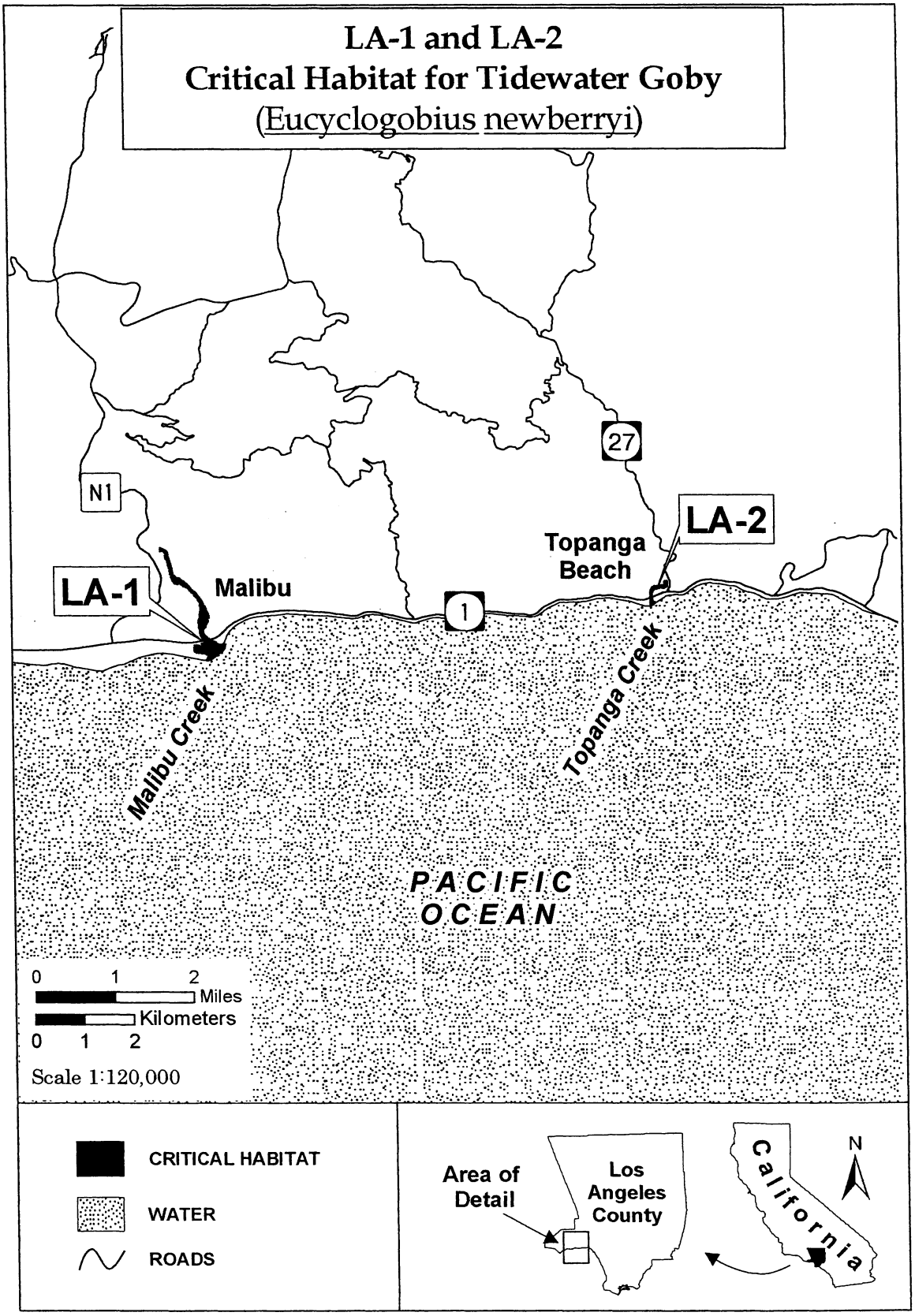
(ii) Note: Map of Unit VEN–3 is provided on the map in paragraph (45)(ii) of this entry.

(48) Unit LA–1, Los Angeles County, California.

(i) From USGS 1:24,000 scale quadrangle Malibu Beach. Land bounded by the following UTM zone 11 NAD83 coordinates (E, N): 343854, 3769197; 343855, 3769238; 343878, 3769230; 343927, 3769201; 343954, 3769178; 343968, 3769157; 343970, 3769141; 343966, 3769111; 343979, 3769096; 343980, 3769072; 344025, 3768898; 344034, 3768802; 344047, 3768729; 344054, 3768697; 344071, 3768661; 344079, 3768650; 344134, 3768608; 344162, 3768595; 344209, 3768580; 344224, 3768555; 344259, 3768529; 344278, 3768520; 344300, 3768489; 344324, 3768469; 344335, 3768450; 344393, 3768395; 344431, 3768343; 344499, 3768273; 344516, 3768245; 344552, 3768200; 344595, 3768138; 344644, 3768041; 344671, 3767978; 344710, 3767877; 344715, 3767848; 344735, 3767804; 344738, 3767775; 344745, 3767750; 344727, 3767736; 344724, 3767686; 344715, 3767665; 344675, 3767601; 344657, 3767564; 344613, 3767516; 344605, 3767490; 344605, 3767470; 344606, 3767425; 344613, 3767401; 344663, 3767338; 344688, 3767314; 344709, 3767297; 344732, 3767260; 344754, 3767249; 344787, 3767242; 344795, 3767231; 344811, 3767219; 344835, 3767224; 344861, 3767204; 344868, 3767186; 344886, 3767171; 344912, 3767158; 345030, 3767154; 345032, 3767118; 345025, 3767101; 344993, 3767067; 344983, 3767048; 344967, 3767027; 344926, 3766990; 344900, 3766951; 344815, 3766930; 344784, 3766918; 344753, 3766885; 344670, 3766849; 344660, 3766846; 344681, 3766899; 344724, 3766933; 344722, 3766964; 344680, 3766974; 344629, 3767002; 344606, 3767012; 344589, 3767003; 344548, 3767011; 344503, 3767018; 344449, 3767035; 344427, 3767050; 344414, 3767071; 344417, 3767121; 344431, 3767168; 344492, 3767156; 344536, 3767136; 344562, 3767136; 344597, 3767140; 344607, 3767146; 344581, 3767201; 344587, 3767205; 344612, 3767184; 344640, 3767179; 344650, 3767181; 344639, 3767234; 344617, 3767298; 344596, 3767334; 344579, 3767376; 344563, 3767443; 344567, 3767500; 344565, 3767521; 344556, 3767534; 344551, 3767568; 344554, 3767606; 344549, 3767633; 344545, 3767683; 344557, 3767730; 344577, 3767833; 344594, 3767899; 344599, 3767949; 344599, 3767985; 344592, 3768023; 344593, 3768082; 344574, 3768100; 344545, 3768164; 344527, 3768194; 344497, 3768232; 344481, 3768259; 344413, 3768328; 344375, 3768381; 344352, 3768405; 344310, 3768439; 344301, 3768439; 344276, 3768447; 344250, 3768468; 344220, 3768505; 344210, 3768511; 344198, 3768511; 344169, 3768497; 344152, 3768492; 344122, 3768500; 344105, 3768509; 344062, 3768572; 344040, 3768628; 344043, 3768668; 344032, 3768690; 344028, 3768708; 344011, 3768799; 344002, 3768895; 343975, 3768996; 343956, 3769033; 343941, 3769077; 343946, 3769149; 343936, 3769163; 343914, 3769182; 343886, 3769197; 343863, 3769200; returning to 343854, 3769197.

(ii) Note: Map of Units LA–1 and LA–2 follows:

BILLING CODE 4310–55–P



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(49) Unit LA–2, Los Angeles County, California.

(i) From USGS 1:24,000 scale quadrangle Topanga. Land bounded by the following UTM zone 11 NAD83 coordinates (E, N): 353851, 3767575; 353859, 3767610; 353860, 3767654; 353855, 3767659; 353856, 3767672; 353860, 3767720; 353880, 3767768; 353908, 3767818; 353919, 3767829; 353921, 3767837; 353942, 3767845; 354016, 3767844; 354041, 3767856; 354080, 3767864; 354109, 3767861; 354127, 3767851; 354139, 3767850; 354166, 3767854; 354179, 3767883; 354179, 3767917; 354187, 3767930; 354186, 3767938; 354203, 3767945; 354205, 3767873; 354198, 3767851; 354181, 3767831; 354156, 3767825; 354134, 3767824; 354088, 3767836; 354071, 3767836; 354051, 3767831; 354024, 3767819; 353969, 3767820; 353945, 3767792; 353933, 3767786; 353918, 3767769; 353904, 3767745; 353894, 3767733; 353876, 3767699; 353873, 3767653; 353875, 3767609; 353881, 3767598; 353879, 3767586; 353889, 3767512; 353906, 3767526; 353936, 3767510; 353887, 3767481; 353856, 3767475; 353856, 3767503; 353867, 3767505; 353862, 3767528; 353856, 3767538; 353857, 3767554; returning to 353851, 3767575.

(ii) Note: Map of Unit LA–2 is provided on the map in paragraph (48)(ii) of this entry.

* * * * *

Dated: November 14, 2006.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 06–9291 Filed 11–27–06; 8:45 am]

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